



# Levelling-up and Regeneration Act 2023

## 2023 CHAPTER 55

### PART 1

#### LEVELLING-UP MISSIONS

##### *Setting missions*

#### **1 Statement of levelling-up missions**

- (1) A Minister of the Crown must prepare, and lay before each House of Parliament, a statement of levelling-up missions.
- (2) A “statement of levelling-up missions” is a document which sets out—
  - (a) objectives which His Majesty’s Government intends to pursue to reduce geographical disparities in the United Kingdom significantly (“levelling-up missions”), within a period specified in the statement (the “mission period”), and
  - (b) details of how His Majesty’s Government proposes to measure progress in delivering those levelling-up missions (the “mission progress methodology and metrics”).
- (3) In the course of preparing a statement of levelling-up missions, the Minister of the Crown must have regard to—
  - (a) the importance of the levelling-up missions in the statement (taken as a whole) addressing both economic and social disparities in opportunities or outcomes, and
  - (b) the needs of rural areas.
- (4) The mission period for a statement of levelling-up missions must not—
  - (a) begin before the statement has been laid before each House of Parliament, nor
  - (b) be shorter than five years.

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- (5) A statement of levelling-up missions must specify a target date for the delivery of each of the levelling-up missions in it, which may be before or at the end of the mission period.
- (6) If different target dates are specified under [subsection \(5\)](#) for different levelling-up missions, the statement of levelling-up missions must give reasons for the different dates.
- (7) The first statement of levelling-up missions must come into effect before the end of the period of one month beginning with the day on which this section comes into force.
- (8) A statement of levelling-up missions comes into effect when—
  - (a) the statement has been laid before each House of Parliament and published by a Minister of the Crown, and
  - (b) the mission period in the statement begins.
- (9) Before the end of the mission period in a statement of levelling-up missions (“the old statement”), a Minister of the Crown must prepare a new statement of levelling-up missions, lay it before each House of Parliament and publish it.
- (10) The mission period in the new statement of levelling-up missions must begin no later than immediately after the end of the mission period in the old statement.
- (11) When the new statement of levelling-up missions comes into effect it replaces the old statement, which ceases to have effect.
- (12) References in this Part to the current statement of levelling-up missions are to the statement of levelling-up missions for the time being in effect.

#### Commencement Information

**II** [S. 1](#) in force at 26.12.2023, see [s. 255\(1\)\(b\)](#)

## 2 Statement of levelling-up missions: devolution

- (1) In the course of preparing a statement of levelling-up missions, a Minister of the Crown must—
  - (a) have regard to any role of the devolved legislatures and devolved authorities in connection with the levelling-up missions in the statement, and
  - (b) carry out such consultation as the Minister considers appropriate with the devolved authorities.
- (2) A Minister of the Crown must prepare a document which sets out how the Minister has complied with [subsection \(1\)\(a\)](#).
- (3) A Minister of the Crown must lay the document mentioned in [subsection \(2\)](#) before each House of Parliament, and publish it, at the same time as, or as soon as is reasonably practicable after, the statement of levelling-up missions is so laid and published.

#### Commencement Information

**I2** [S. 2](#) in force at 26.12.2023, see [s. 255\(1\)\(b\)](#)

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## Reporting on missions

### 3 Annual etc reports on delivery of levelling-up missions

- (1) A Minister of the Crown must prepare reports on the delivery of the levelling-up missions in the current statement of levelling-up missions, in accordance with this section.
- (2) In the course of preparing each report, the Minister of the Crown must have regard to the needs of rural areas.
- (3) Each report must—
  - (a) include the Minister’s assessment of the progress that has been made, in the period to which the report relates, in delivering each of the levelling-up missions in the current statement of levelling-up missions as it has effect at the end of that period,
  - (b) describe what has been done, in that period, by His Majesty’s Government to deliver each of those levelling-up missions, and
  - (c) set out what His Majesty’s Government plans to do in the future to deliver each of those levelling-up missions.
- (4) The Minister’s assessment under [subsection \(3\)\(a\)](#) must be carried out by reference to the mission progress methodology and metrics in the current statement of levelling-up missions as it has effect at the end of the period to which the report relates.
- (5) If His Majesty’s Government considers that it is no longer appropriate for it to pursue a levelling-up mission in the current statement of levelling-up missions, the report may state that His Majesty’s Government no longer intends to pursue that mission, instead of dealing with the matters mentioned in [subsection \(3\)](#) in relation to that mission.
- (6) If a report contains a statement under [subsection \(5\)](#), it must also set out the reasons for the statement being made.
- (7) In the course of preparing a report on the delivery of the levelling-up missions, a Minister of the Crown must carry out such consultation as the Minister considers appropriate with the devolved authorities.
- (8) The first report in relation to a statement of levelling-up missions must relate to the first 12 months of the mission period in the statement.
- (9) Subsequent reports in relation to a statement of levelling-up missions must relate to—
  - (a) the 12 month period immediately following the 12 month period in relation to which the previous report relating to the statement was prepared, or
  - (b) if shorter, the period—
    - (i) beginning immediately after the 12 month period in relation to which the previous report relating to the statement was prepared, and
    - (ii) ending at the end of the mission period in the statement.

#### Commencement Information

**I3** S. 3 in force at 26.12.2023, see [s. 255\(1\)\(b\)](#)

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#### 4 Reports: Parliamentary scrutiny and publication

- (1) A report under [section 3](#) must be laid before each House of Parliament before the end of the period of 120 days beginning immediately after the last day of the period to which the report relates.
- (2) After a report has been laid before Parliament under [subsection \(1\)](#), a Minister of the Crown must publish it as soon as is reasonably practicable.
- (3) In calculating the period of 120 days mentioned in [subsection \(1\)](#), no account is to be taken of any time during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) either House of Parliament is adjourned for more than 4 days.

#### Commencement Information

**I4** [S. 4](#) in force at 26.12.2023, see [s. 255\(1\)\(b\)](#)

#### *Revision of methodology and metrics or target dates*

#### 5 Changes to mission progress methodology and metrics or target dates

- (1) This section applies if a Minister of the Crown considers that the mission progress methodology and metrics, or the target date for the delivery of a levelling-up mission, in the current statement of levelling-up missions should be changed.
- (2) The Minister—
  - (a) may revise the current statement of levelling-up missions so as to change the mission progress methodology and metrics or (as the case may be) target date, and
  - (b) as soon as is reasonably practicable after doing so, must—
    - (i) publish a statement setting out the reasons for the mission progress methodology and metrics, or target date, being changed, and
    - (ii) lay the revised statement of levelling-up missions before each House of Parliament and then publish it.
- (3) In discharging functions under this section, a Minister of the Crown must have regard to the needs of rural areas.
- (4) The current statement of levelling-up missions has effect with the revisions made under [subsection \(2\)](#) on and after the day on which it is published after being laid before each House of Parliament.
- (5) Before making any revisions under [subsection \(2\)](#), a Minister of the Crown must—
  - (a) have regard to any role of the devolved legislatures and devolved authorities in connection with the levelling-up mission to which the revision relates, and
  - (b) carry out such consultation as the Minister considers appropriate with the devolved authorities.

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### Commencement Information

**I5** S. 5 in force at 26.12.2023, see s. 255(1)(b)

## *Review of missions*

### **6** **Reviews of statements of levelling-up missions**

- (1) A Minister of the Crown must review the current statement of levelling-up missions, in accordance with this section.
- (2) The first review of the current statement of levelling-up missions must be completed, and a report on that review published, within the period of five years beginning with the first day of the mission period in that statement.
- (3) Subsequent reviews of the current statement of levelling-up missions must be completed, and the report on the review published, within the period of five years beginning with the day on which the report on the previous review was published.
- (4) But a final review of the current statement of levelling-up missions must be completed, and the report on the review published, before a new statement is laid before each House of Parliament in accordance with [section 1\(9\)](#).
- (5) The purposes of a review under this section are to—
  - (a) consider whether His Majesty’s Government pursuing the levelling-up missions in the current statement of levelling-up missions is effectively contributing to the reduction of geographical disparities in the United Kingdom,
  - (b) conclude whether His Majesty’s Government should continue to pursue those levelling-up missions and, if not, what the levelling-up missions are instead to be, and
  - (c) consider whether there are any additional levelling-up missions which His Majesty’s Government should pursue.
- (6) In the course of carrying out a review under this section, a Minister of the Crown must—
  - (a) have regard to any role of the devolved legislatures and devolved authorities in connection with the levelling-up missions in the statement, and
  - (b) carry out such consultation as the Minister considers appropriate with the devolved authorities.
- (7) As soon as is reasonably practicable after the conclusion of a review under this section, a Minister of the Crown must lay a report on the review before each House of Parliament and then publish it.
- (8) The report on a review under this section must—
  - (a) state whether His Majesty’s Government considers that pursuing the levelling-up missions in the current statement of levelling-up missions is effectively contributing to the reduction of geographical disparities in the United Kingdom,

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- (b) state whether His Majesty’s Government has concluded that it should continue to pursue those levelling-up missions and, if not, what the levelling-up missions are instead to be,
  - (c) state whether there are any additional levelling-up missions which His Majesty’s Government considers it should pursue, and
  - (d) set out reasons for the statements under paragraphs (a) to (c).
- (9) Subsections (10) to (12) do not apply in relation to a report on the final review of the current statement of levelling-up missions.
- (10) If the report states that His Majesty’s Government has concluded that it should not continue to pursue the levelling-up missions in the current statement of levelling-up missions—
- (a) a Minister of the Crown must revise the statement—
    - (i) so that it instead contains the levelling-up missions that His Majesty’s Government is to pursue for the remaining mission period, and
    - (ii) to make any changes to the mission progress methodology and metrics that the Minister considers appropriate in consequence of doing so, and
  - (b) as soon as is reasonably practicable after revising it, the Minister must lay the revised statement before each House of Parliament and then publish it.
- (11) If the report states that His Majesty’s Government considers that it should pursue an additional levelling-up mission—
- (a) a Minister of the Crown must revise the current statement of levelling-up missions so as to—
    - (i) add the levelling-up mission, and
    - (ii) make any changes to the mission progress methodology and metrics that the Minister considers appropriate in consequence of doing so, and
  - (b) as soon as is reasonably practicable after revising it, the Minister must lay the revised statement before each House of Parliament and then publish it.
- (12) The current statement of levelling-up missions has effect with the revisions made under subsection (10)(a) or (11)(a) on and after the day on which the revised statement is published after being laid before each House of Parliament.
- (13) In carrying out functions under this section, a Minister of the Crown must have regard to—
- (a) the importance of the levelling-up missions in the statement of levelling-up missions (taken as a whole) addressing both economic and social disparities in opportunities or outcomes, and
  - (b) the needs of rural areas.

#### Commencement Information

**16** S. 6 in force at 26.12.2023, see s. 255(1)(b)

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## Levelling-up funding

### 7 Levelling Up Fund Round 3

- (1) Before the end of the period of three months beginning with the day on which this Act is passed, a Minister of the Crown must lay before each House of Parliament a statement on Levelling Up Fund Round 3.
- (2) A “statement on Levelling Up Fund Round 3” is a statement about the allocation of a third round of funding from the Levelling Up Fund.
- (3) The “Levelling Up Fund” is the programme run by His Majesty’s Government which is known as the Levelling Up Fund and was announced on 25 November 2020.

#### Commencement Information

**I7** S. 7 in force at Royal Assent, see [s. 255\(1\)\(a\)](#)

## General

### 8 Interpretation of Part 1

In this Part—

“current statement of levelling-up missions” has the meaning given by [section 1\(12\)](#);

“devolved authorities” means—

- (a) the Scottish Ministers,
- (b) the Welsh Ministers, and
- (c) the Northern Ireland departments;

“devolved legislatures” means—

- (a) the Scottish Parliament,
- (b) Senedd Cymru, and
- (c) the Northern Ireland Assembly;

“geographical disparities” means geographical disparities in economic, social or other opportunities or outcomes;

“His Majesty’s Government” means His Majesty’s Government in the United Kingdom;

“levelling-up mission” has the meaning given by [section 1\(2\)\(a\)](#);

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;

“mission period” has the meaning given by [section 1\(2\)\(a\)](#);

“mission progress methodology and metrics” has the meaning given by [section 1\(2\)\(b\)](#);

“statement of levelling-up missions” has the meaning given by [section 1\(2\)](#).

#### Commencement Information

**I8** S. 8 in force at 26.12.2023, see [s. 255\(1\)\(b\)](#)

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## PART 2

### LOCAL DEMOCRACY AND DEVOLUTION

#### CHAPTER 1

##### COMBINED COUNTY AUTHORITIES

###### *CCAs and their areas*

### 9 Combined county authorities and their areas

- (1) The Secretary of State may by regulations establish as a body corporate a combined county authority (a “CCA”) for an area that meets the following conditions.
- (2) Condition A is that the area is wholly within England and consists of—
  - (a) the whole of the area of a two-tier county council, and
  - (b) the whole of one or more of—
    - (i) the area of a two-tier county council,
    - (ii) the area of a unitary county council, or
    - (iii) the area of a unitary district council.
- (3) Condition B is that no part of the area forms part of—
  - (a) the area of another CCA,
  - (b) the area of a combined authority, or
  - (c) the integrated transport area of an Integrated Transport Authority.
- (4) Regulations under subsection (1) must specify the name by which the CCA is to be known.
- (5) In this Chapter—
 

“combined authority” means a combined authority established under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009;

“economic prosperity board” means an economic prosperity board established under section 88(1) of that Act;

“Integrated Transport Authority” means an Integrated Transport Authority for an integrated transport area;

“two-tier county council” means a county council whose area includes the areas of district councils;

“unitary county council” means a county council whose area does not include the areas of district councils;

“unitary district council” means a district council whose area does not form part of the area of a county council.

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#### Commencement Information

**19** S. 9 in force at 26.12.2023, see s. 255(2)(c)



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## Constitution of CCAs

### 10 Constitutional arrangements

- (1) The Secretary of State may by regulations make provision about the constitutional arrangements of a CCA.
- (2) “Constitutional arrangements” in relation to a CCA means—
  - (a) the membership of the CCA (including the number and appointment of members of the CCA and the remuneration of, and pensions or allowances payable to or in respect of, any member of the CCA);
  - (b) the voting powers of members of the CCA (including provision for different weight to be given to the vote of different descriptions of member);
  - (c) the executive arrangements of the CCA;
  - (d) the functions of any executive body of the CCA.
- (3) In subsection (2)(c) “executive arrangements” means—
  - (a) the appointment of an executive;
  - (b) the functions of the CCA which are the responsibility of an executive;
  - (c) the functions of the CCA which are the responsibility of an executive and which may be discharged by a committee of the CCA or by a body other than the CCA;
  - (d) arrangements relating to the review and scrutiny of the discharge of functions;
  - (e) access to information on the proceedings of an executive of the CCA;
  - (f) the disapplication of section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) in relation to an executive of the CCA or a committee of such an executive;
  - (g) the keeping of a record of any arrangements relating to the CCA and falling within paragraphs (a) to (f).
- (4) Regulations under subsection (1) which, by virtue of subsection (2)(a), include provision about the number and appointment of members of the CCA must provide—
  - (a) for the members of the CCA other than—
    - (i) the mayor (in the case of a mayoral CCA),
    - (ii) the CCA’s non-constituent members (see section 11), and
    - (iii) the CCA’s associate members (see section 12),to be appointed by the CCA’s constituent councils, and
  - (b) for each of the constituent councils to appoint at least one of its elected members as a member of the CCA.
- (5) The provision which may be made by regulations under subsection (1) by virtue of subsection (2)(d) includes—
  - (a) provision setting up or dissolving an executive body of a CCA, or merging two or more executive bodies of a CCA;
  - (b) provision conferring functions on, or removing functions from, an executive body of a CCA;
  - (c) provision transferring functions of a CCA to an executive body of the CCA, and transferring functions of an executive body of a CCA to the CCA.
- (6) Regulations under subsection (1) may not provide for the budget of a CCA to be agreed otherwise than by the CCA.

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- (7) The power to make regulations under subsection (1) is subject to—
- (a) sections 11 and 12 and regulations under section 13(1) (non-constituent and associate members), and
  - (b) sections 14(4) and 25(9) and (12) (procedure for CCA consents).
- (8) Regulations under subsection (1) may be made in relation to a CCA only with the consent of—
- (a) the constituent councils, and
  - (b) in the case of regulations in relation to an existing CCA, the CCA.
- (9) If the only provision made under subsection (1) in regulations under this Chapter is provision as a result of regulations under section 25(1) (changes to boundaries of a CCA’s area)—
- (a) subsection (8) does not apply to the regulations under this Chapter, and
  - (b) subsections (6) to (13) of section 25 apply in relation to the regulations as if they contained the provision made by the regulations under subsection (1) of that section.
- (10) If the only provision made under subsection (1) in regulations under this Chapter is provision as a result of regulations to which section 31 applies (procedure for direct conferral of general functions on mayor)—
- (a) subsection (8) does not apply to the regulations under this Chapter, and
  - (b) the regulations may be made only with the consent of the mayor for the CCA.
- (11) In this Chapter “constituent council”, in relation to a CCA or proposed CCA, means—
- (a) a county council for an area within the CCA’s area or proposed area, or
  - (b) a unitary district council for an area within the CCA’s area or proposed area.

#### Commencement Information

**I10** S. 10 in force at 26.12.2023, see s. 255(2)(c)

## 11 Non-constituent members of a CCA

- (1) A CCA may designate a body other than a constituent council as a nominating body for the purposes of this Chapter.
- (2) A nominating body may be designated under subsection (1) only if the body consents to the designation.
- (3) A nominating body of a CCA may nominate a representative of the body for appointment by the CCA as a member (a “non-constituent member”).
- (4) The non-constituent members of a CCA are to be non-voting members of that authority unless the voting members resolve otherwise.
- (5) A resolution under subsection (4) does not permit non-constituent members to vote on a decision whether the CCA should consent to the making of regulations under this Chapter.

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**Commencement Information**

**I11** S. 11 in force at 26.12.2023, see s. 255(2)(c)

**12 Associate members of a CCA**

- (1) A CCA may appoint an individual to be a member (“an associate member”) of the CCA.
- (2) The associate members of a CCA are to be non-voting members of the CCA.

**Commencement Information**

**I12** S. 12 in force at 26.12.2023, see s. 255(2)(c)

**13 Regulations about members**

- (1) The Secretary of State may by regulations make provision about—
  - (a) constituent members of a CCA;
  - (b) the mayor for the area of a CCA in the mayor’s capacity as a member of the CCA;
  - (c) nominating bodies of a CCA;
  - (d) non-constituent members of a CCA;
  - (e) associate members of a CCA.
- (2) The provision that may be made by regulations under subsection (1) includes, in particular, provision about—
  - (a) the cases in which a decision of a CCA requires a majority, or a particular kind of majority, of the votes of members of a particular kind;
  - (b) the process for the designation of a nominating body or the removal of such a designation;
  - (c) the number of nominating bodies that may be designated by a CCA;
  - (d) the number of non-constituent members that may be appointed by a nominating body of a CCA;
  - (e) the appointment, disqualification, resignation or removal of a non-constituent member;
  - (f) the appointment of a substitute member to act in place of a non-constituent member;
  - (g) the maximum number of non-constituent members of a CCA;
  - (h) the making by a nominating body of a CCA of payments towards the costs of the CCA;
  - (i) the things which may or may not be done by, or in relation to, a non-constituent member;
  - (j) the appointment, disqualification, resignation or removal of an associate member;
  - (k) the appointment of a substitute member to act in place of an associate member;
  - (l) the maximum number of associate members of a CCA;

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- (m) the things which may or may not be done by, or in relation to, an associate member.
- (3) Regulations under subsection (1) may confer a discretion on a CCA to determine any matter.
- (4) In this section “constituent member”, in relation to a CCA, means a member of the CCA (other than any mayor for the area of the CCA) appointed by a constituent council.

#### Commencement Information

**I13** S. 13 in force at 26.12.2023, see s. 255(2)(c)

## 14 Review of CCA’s constitutional arrangements

- (1) This section applies if regulations under section 10(1) (constitution of CCA) enable a CCA to make provision about its constitution (“constitutional provision”).
- (2) An appropriate person may carry out a review of the CCA’s constitutional provision if—
  - (a) an appropriate person proposes a review, and
  - (b) the CCA consents to the review.
- (3) If an appropriate person carries out a review under subsection (2), they may propose changes to the CCA’s constitutional provision as a result of the review for agreement by the CCA.
- (4) The question of whether to consent under subsection (2)(b) or to agree to changes proposed under subsection (3) is to be decided at a meeting of the CCA by a simple majority of the voting members of the CCA who are present at the meeting.
- (5) In the case of a mayoral CCA—
  - (a) a majority in favour of consenting under subsection (2)(b) does not need to include the mayor, but
  - (b) a majority in favour of changes proposed under subsection (3) must include the mayor.
- (6) The reference in subsection (4) to a voting member—
  - (a) includes a substitute member who may act in place of a voting member;
  - (b) does not include a non-constituent member.
- (7) In this section “appropriate person”, in relation to a CCA, means—
  - (a) a member of the CCA appointed by a constituent council, or
  - (b) the mayor for the area of the CCA, if it is a mayoral CCA (see section 27(8)).

#### Commencement Information

**I14** S. 14 in force at 26.12.2023, see s. 255(2)(c)

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## 15 Overview and scrutiny committees

- (1) Schedule 1 makes provision for CCAs to have overview and scrutiny committees and audit committees.
- (2) Provision made by regulations under section 10(1) is subject to that Schedule.

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### Commencement Information

I15 S. 15 in force at 26.12.2023, see s. 255(2)(c)

## 16 Funding

- (1) The Secretary of State may by regulations make provision—
  - (a) for the costs of a CCA to be met by its constituent councils, and
  - (b) about the basis on which the amount payable by each constituent council is to be determined.
- (2) Regulations under subsection (1) may be made in relation to a CCA only with the consent of—
  - (a) the constituent councils, and
  - (b) in the case of regulations in relation to an existing CCA, the CCA.
- (3) Subsection (1) is subject to regulations under section 13(1) (CCA membership).

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### Commencement Information

I16 S. 16 in force at 26.12.2023, see s. 255(2)(c)

## 17 Change of name

- (1) A CCA may, by a resolution in relation to which the requirements mentioned in subsection (2) are met, change the name by which it is known.
- (2) The requirements are—
  - (a) that the resolution is considered at a meeting of the CCA which is specially convened for the purpose,
  - (b) that particulars of the resolution were included in the notice of the meeting, and
  - (c) that the resolution is passed at the meeting by not less than two-thirds of the members of the CCA who vote on it.
- (3) A CCA which changes its name under this section must—
  - (a) send notice of the change to the Secretary of State, and
  - (b) publish the notice in such manner as the Secretary of State may direct.
- (4) A change of name under this section does not affect the rights or obligations of the CCA concerned or any other person, or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of name.

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#### Commencement Information

**I17** S. 17 in force at 26.12.2023, see s. 255(2)(c)

### Functions of CCAs

#### 18 Local authority functions

- (1) The Secretary of State may by regulations provide for a function of a county council or a district council that is exercisable in relation to an area which is within a CCA's area to be exercisable by the CCA in relation to the CCA's area.
- (2) The Secretary of State may make regulations under subsection (1) only if the Secretary of State considers that the function can appropriately be exercised by the CCA.
- (3) Regulations under subsection (1) may make provision for the function to be exercisable by the CCA either generally or subject to such conditions or limitations as may be specified in the regulations.
- (4) Regulations under subsection (1) which provide for a function of a county council or a unitary district council to be exercisable by a CCA may make provision for the function to be exercisable by the CCA instead of by the county council or unitary district council.
- (5) Regulations under subsection (1) which provide for a function of a county council or a district council to be exercisable by a CCA may make provision—
  - (a) for the function to be exercisable by the CCA concurrently with the county council or district council,
  - (b) for the function to be exercisable by the CCA and the county council or district council jointly, or
  - (c) for the function to be exercisable by the CCA jointly with the county council or district council but also continue to be exercisable by the council alone.
- (6) Regulations under subsection (1) may be made in relation to a CCA only with the consent of—
  - (a) the constituent councils, and
  - (b) in the case of regulations in relation to an existing CCA, the CCA.

#### Commencement Information

**I18** S. 18 in force at 26.12.2023, see s. 255(2)(c)

#### 19 Other public authority functions

- (1) The Secretary of State may by regulations—
  - (a) make provision for a function of a public authority that is exercisable in relation to a CCA's area to be a function of the CCA;
  - (b) make provision for conferring on a CCA in relation to its area a function corresponding to a function that a public authority has in relation to another area.

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- (2) Regulations under subsection (1) may include further provision about the exercise of the function including—
  - (a) provision for the function to be exercisable by the public authority or CCA subject to conditions or limitations specified in the regulations;
  - (b) provision as to joint working arrangements between the CCA and public authority in connection with the function (for example, provision for the function to be exercised by a joint committee).
- (3) The provision that may be included in regulations under subsection (1)(a) includes, in particular, provision—
  - (a) for the CCA to have the function instead of the public authority,
  - (b) for the function to be exercisable by the CCA concurrently with the public authority,
  - (c) for the function to be exercisable by the CCA and the public authority jointly, or
  - (d) for the function to be exercisable by the CCA jointly with the public authority but also continue to be exercisable by the public authority alone.
- (4) Regulations under subsection (1)(a) may, in particular, include provision to abolish the public authority in a case where, as a result of the regulations, it will no longer have any functions.
- (5) Regulations under subsection (1) may not provide for a regulatory function that is exercisable by a public authority in relation to the whole of England to be exercisable by a CCA in relation to its area if the regulated function is itself exercisable by the CCA by virtue of regulations under this section.
- (6) Subsection (7) applies where regulations under subsection (1) contain a reference to a document specified or described in the regulations (for example, in imposing a condition by virtue of subsection (2)(a) for an authority to have regard to, or to comply with, a statement of policy or standards set out in the document).
- (7) If it appears to the Secretary of State necessary or expedient for the reference to the document to be construed—
  - (a) as a reference to that document as amended from time to time, or
  - (b) as including a reference to a subsequent document that replaces that document, the regulations may make express provision to that effect.
- (8) See also section 18 of the Cities and Local Government Devolution Act 2016 (devolving health service functions) which contains further limitations.
- (9) In this section—
  - “function” (except in subsection (4)) does not include a power to make regulations or other instruments of a legislative character;
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
  - “public authority”—
    - (a) includes a Minister of the Crown or a government department;
    - (b) does not include a county council or a district council;
  - “regulated function” means the function of carrying out an activity to which a regulatory function relates;

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“regulatory function” has the meaning given by section 32 of the Legislative and Regulatory Reform Act 2006.

#### Commencement Information

**I19** S. 19 in force at 26.12.2023, see s. 255(2)(c)

## 20 Section 19 regulations: procedure

- (1) The Secretary of State may make regulations under section 19(1) only if—
  - (a) a proposal for the making of the regulations in relation to the CCA has been made to the Secretary of State—
    - (i) as part of a proposal under section 45, or
    - (ii) in accordance with section 47, or
  - (b) the appropriate consent is given and the Secretary of State considers that the making of the regulations is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area or areas to which the regulations relate.
- (2) For the purposes of subsection (1)(b), the appropriate consent is given to the making of regulations under section 19(1) only if—
  - (a) in the case of regulations relating to an existing CCA, each appropriate authority consents;
  - (b) in any other case, each constituent council consents.
- (3) The requirements in subsection (1) do not apply where the regulations are made under sections 19(1) and 30(1) in relation to an existing mayoral CCA and provide for a function—
  - (a) to be a function of the CCA, and
  - (b) to be a function exercisable only by the mayor.

See section 31 in relation to regulations of this kind.
- (4) The requirement in subsection (1)(b) for the appropriate consent to be given to the making of regulations under section 19(1) does not apply where—
  - (a) the regulations revoke (in whole or in part), or otherwise amend, previous regulations under section 19(1), and
  - (b) the only purpose of the regulations is to provide for a health service function of a CCA to cease to be exercisable by the CCA.
- (5) In subsection (4)(b) “health service function of a CCA” means a function which—
  - (a) relates to the health service, as defined by section 275(1) of the National Health Service Act 2006, and
  - (b) is exercisable by the CCA by virtue of regulations under section 19(1).
- (6) At the same time as laying a draft of a statutory instrument containing regulations under section 19(1) before Parliament, the Secretary of State must lay before Parliament a report explaining the effect of the regulations and why the Secretary of State considers it appropriate to make the regulations.
- (7) The report must include—
  - (a) a description of any consultation taken into account by the Secretary of State,



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- (b) information about any representations considered by the Secretary of State in connection with the regulations, and
  - (c) any other evidence or contextual information that the Secretary of State considers it appropriate to include.
- (8) For the purposes of this section “the appropriate authorities” are—
- (a) each constituent council, and
  - (b) in the case of regulations in relation to an existing CCA, the CCA.

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**Commencement Information**

**I20** S. 20 in force at 26.12.2023, see s. 255(2)(c)

## **21 Integrated Transport Authority and Passenger Transport Executive**

- (1) The Secretary of State may by regulations transfer functions of an Integrated Transport Authority (an “ITA”) to a CCA.
- (2) Regulations under subsection (1) may only be made in relation to functions exercisable by the ITA in relation to an area that becomes, or becomes part of, the CCA’s area by virtue of regulations under this Chapter.
- (3) The Secretary of State may by regulations provide for any function that is conferred or imposed on a Passenger Transport Executive by any enactment (whenever passed or made) to be exercisable by a CCA or the executive body of a CCA in relation to the CCA’s area.
- (4) Regulations under subsection (3) may make provision for any function that—
- (a) is conferred or imposed on an ITA by any enactment (whenever passed or made), and
  - (b) relates to the functions of a Passenger Transport Executive, to be exercisable by a CCA in relation to the CCA’s area.
- (5) Regulations under this section may be made in relation to a CCA only with the consent of—
- (a) the constituent councils, and
  - (b) in the case of regulations in relation to an existing CCA, the CCA.

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**Commencement Information**

**I21** S. 21 in force at 26.12.2023, see s. 255(2)(c)

## **22 Directions relating to highways and traffic functions**

- (1) The Secretary of State may by regulations confer on a CCA a power to give a direction about the exercise of an eligible power.
- (2) An “eligible power” means a power of a county council or a unitary district council which the council has—
- (a) as highway authority by virtue of section 1 of the Highways Act 1980, or

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- (b) as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984.
- (3) In this section references to a power do not include a reference to a duty.
- (4) A power of direction under this section must relate only to the exercise of an eligible power in—
  - (a) the area of the CCA, and
  - (b) the area of the authority subject to the direction.
- (5) A power of direction under this section must relate only to the exercise of an eligible power in respect of—
  - (a) a particular road (whether or not specified in the regulations), or
  - (b) a description of road (whether or not specified in the regulations).
- (6) In subsection (5) “road”—
  - (a) has the meaning given by section 142(1) of the Road Traffic Regulation Act 1984, and
  - (b) does not include any road which is the subject of a concession agreement under Part 1 of the New Roads and Street Works Act 1991.
- (7) A power of direction under this section must relate only to any one or more of—
  - (a) the provision of information about the exercise of an eligible power which the authority subject to the direction has or might reasonably be expected to acquire;
  - (b) the imposition on such an authority of requirements relating to procedures to be followed prior to the exercise of an eligible power;
  - (c) the imposition on such an authority of requirements relating to the obtaining of consent prior to the exercise of an eligible power;
  - (d) the imposition on such an authority of conditions subject to which an eligible power may be exercised (including conditions relating to the times at which, and the manner in which, an eligible power may be exercised);
  - (e) a requirement to exercise an eligible power (including a requirement to exercise an eligible power subject to conditions);
  - (f) a prohibition on the exercise of an eligible power.
- (8) A power of direction under this section may be conferred subject to conditions.
- (9) Any direction given by virtue of this section—
  - (a) must be given in writing and may be varied or revoked by a further direction in writing, and
  - (b) may make different provision for different cases and different provision for different areas.
- (10) If regulations under subsection (1) make provision for a direction by virtue of subsection (7)(e), the regulations must make provision for the direction not to have effect unless the CCA meets the cost of complying with the direction.
- (11) Except as provided for by section 24(7), regulations under subsection (1) may be made in relation to a CCA only with the consent of—
  - (a) the constituent councils, and
  - (b) in the case of regulations in relation to an existing CCA, the CCA.

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**Commencement Information**

**I22** S. 22 in force at 26.12.2023, see s. 255(2)(c)

## **23 Contravention of regulations under section 22**

- (1) Regulations under section 22(1) may provide that, if an authority exercises any power in contravention of a direction under such regulations, the CCA may take such steps as it considers appropriate to reverse or modify the effect of the exercise of the power.
- (2) For the purposes of subsection (1), the CCA has power to exercise any power of the authority subject to the direction on behalf of that authority.
- (3) Any reasonable expenses incurred by the CCA in taking any steps under subsection (1) are recoverable from the authority subject to the direction as a civil debt.

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**Commencement Information**

**I23** S. 23 in force at 26.12.2023, see s. 255(2)(c)

## **24 Designation of key route network roads**

- (1) A CCA may designate a highway or proposed highway in its area as a key route network road, or remove its designation as a key route network road, with the consent of—
  - (a) each constituent council in whose area the highway or proposed highway is, and
  - (b) in the case of a mayoral CCA, the mayor.
- (2) The Secretary of State may designate a highway or proposed highway in the area of a CCA as a key route network road, or remove its designation as a key route network road, if requested to do so by—
  - (a) the CCA,
  - (b) the mayor (if any) of the CCA, or
  - (c) a constituent council.
- (3) A designation or removal under this section must be in writing and must state when it comes into effect.
- (4) The Secretary of State must send a copy of a designation or removal under subsection (2) to the CCA in question at least 7 days before the date on which it comes into effect.
- (5) A CCA must publish each designation or removal under this section of a key route network road within its area before the date on which it comes into effect.
- (6) A CCA that has key route network roads in its area must keep a list or map (or both) accessible to the public showing those roads.
- (7) The requirements in section 22(11) and section 30(11)(a) do not apply to provision under section 22(1) and section 30(1) contained in the same instrument so far as that provision—

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- (a) confers a power of direction on an existing mayoral CCA regarding the exercise of an eligible power in respect of key route network roads in the area of that CCA,
  - (b) provides for that power of direction to be exercisable only by the mayor of the CCA, and
  - (c) is made with the consent of the mayor after the mayor has consulted the constituent councils.
- (8) When a mayor consents under [subsection \(7\)\(c\)](#), the mayor must give the Secretary of State—
- (a) a statement by the mayor that all of the constituent councils agree to the making of the regulations, or
  - (b) if the mayor is unable to make that statement, the reasons why the mayor considers the regulations should be made even though not all of the constituent councils agree to them being made.
- (9) In this section—
- “eligible power” has the meaning given by [section 22\(2\)](#);
  - “key route network road” means a highway or proposed highway designated for the time being under this section as a key route network road;
  - “proposed highway” means land on which, in accordance with plans made by a highway authority, that authority are for the time being constructing or intending to construct a highway shown in the plans.

#### Commencement Information

**I24** [S. 24](#) in force at 26.12.2023, see [s. 255\(2\)\(c\)](#)

### Changes to CCAs

## 25 Changes to boundaries of a CCA’s area

- (1) The Secretary of State may by regulations change the boundaries of a CCA’s area by—
- (a) adding a relevant local government area to an existing area of a CCA, or
  - (b) removing a relevant local government area from an existing area of a CCA.
- (2) In this section “relevant local government area” means—
- (a) the area of a two-tier county council,
  - (b) the area of a unitary county council, or
  - (c) the area of a unitary district council.
- (3) Regulations under [subsection \(1\)\(b\)](#)—
- (a) may transfer functions relating to the relevant local government area from the CCA to any other public authority;
  - (b) may provide for any function of the CCA relating to the area to be no longer exercisable in relation to that area.
- (4) In [subsection \(3\)\(a\)](#) “public authority” includes—
- (a) a Minister of the Crown within the meaning of the Ministers of the Crown Act 1975,

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- (b) a government department,
  - (c) a county council, and
  - (d) a district council.
- (5) Regulations may be made under subsection (1) only if the area to be created by the regulations meets conditions A and B in section 9.
- (6) Regulations under subsection (1) adding or removing a relevant local government area to or from an existing area of a mayoral CCA may be made only if—
- (a) the relevant council in relation to the relevant local government area consents, and
  - (b) the mayor for the area of the CCA consents.
- (7) Regulations under subsection (1) adding or removing a relevant local government area to or from an existing area of a CCA which is not a mayoral CCA may be made only if—
- (a) the relevant council in relation to the relevant local government area consents, and
  - (b) the CCA consents.
- (8) For the purposes of subsections (6)(a) and (7)(a), the “relevant council” in relation to a relevant local government area is—
- (a) if the local government area is the area of a county council, the county council;
  - (b) if the local government area is the area of a unitary district council, the unitary district council.
- (9) The question of whether to consent under subsection (7)(b) to regulations under subsection (1) is to be decided at a meeting of the CCA by a simple majority of the voting members of the authority who are present at the meeting.
- (10) Where regulations under subsection (1)(b) are made as a result of the duty in section 28(3)—
- (a) subsection (5) does not apply, and
  - (b) neither subsection (6) nor subsection (7) applies.
- (11) Subsection (12) applies if a CCA has made provision about its constitution under regulations under section 10(1).
- (12) A decision about any change to that provision as a result of regulations under subsection (1) is to be decided at a meeting of the CCA by a simple majority of the voting members of the CCA who are present at the meeting.
- (13) A reference in this section to a voting member—
- (a) includes a substitute member who may act in place of a voting member;
  - (b) does not include a non-constituent member.

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**Commencement Information**

**I25** S. 25 in force at 26.12.2023, see s. 255(2)(c)

## 26 Dissolution of a CCA’s area

- (1) The Secretary of State may by regulations—

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- (a) dissolve a CCA's area, and
  - (b) abolish the CCA for that area.
- (2) Regulations under subsection (1)—
- (a) may transfer functions from the CCA to any other public authority;
  - (b) may provide for any function of the CCA to be no longer exercisable in relation to the CCA's area.
- (3) In subsection (2)(a) “public authority” includes—
- (a) a Minister of the Crown within the meaning of the Ministers of the Crown Act 1975,
  - (b) a government department,
  - (c) a county council, and
  - (d) a district council.
- (4) Regulations may be made under subsection (1) only if—
- (a) a majority of the constituent councils consent to the making of the regulations, and
  - (b) in the case of regulations made in relation to a mayoral CCA, the mayor for the area of the CCA also consents to the making of the regulations.

#### Commencement Information

**I26** S. 26 in force at 26.12.2023, see s. 255(2)(c)

### *Mayors for CCA areas*

## **27 Power to provide for election of mayor**

- (1) The Secretary of State may by regulations provide for there to be a mayor for the area of a CCA.
- (2) A mayor for the area of a CCA is to be elected by the local government electors for that area in accordance with provision made by or under this Chapter.
- (3) In subsection (2) “local government elector” has the meaning given by section 270(1) of the Local Government Act 1972.
- (4) Schedule 2 makes further provision about the election of mayors for areas of CCAs.
- (5) A mayor for the area of a CCA is entitled to the style of “mayor”.
- (6) A mayor for the area of a CCA is by virtue of that office a member of, and the chair of, the CCA.
- (7) Regulations under subsection (1) providing for there to be a mayor for the area of a CCA may not be revoked by making further regulations under subsection (1); but this does not prevent the making of regulations under section 26(1) abolishing the CCA (together with the office of mayor).
- (8) In this Chapter “mayoral CCA” means a CCA for an area for which provision is made in regulations under subsection (1) for there to be a mayor.

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**Commencement Information**

**I27** S. 27 in force at Royal Assent, see [s. 255\(2\)\(a\)](#)

## **28 Requirements in connection with regulations under section 27**

- (1) The Secretary of State may make regulations under section [27\(1\)](#) in relation to a CCA's area if a proposal for there to be a mayor for the CCA's area has been made to the Secretary of State—
  - (a) as part of a proposal under section [45](#), or
  - (b) in accordance with section [47](#).
- (2) Regulations under section [27\(1\)](#) may also be made without any such proposal having been made if—
  - (a) the appropriate authorities consent, or
  - (b) in the case of an existing CCA, there are one or more non-consenting constituent councils but the CCA and at least two constituent councils consent.
- (3) Where regulations under section [27\(1\)](#) are made by virtue of subsection [\(2\)\(b\)](#) of this section, the Secretary of State must make regulations under section [25\(1\)\(b\)](#) to remove the area of each non-consenting constituent council from the existing area of the CCA.
- (4) For the purposes of this section “the appropriate authorities” are—
  - (a) the constituent councils, and
  - (b) in the case of regulations in relation to an existing CCA, the CCA.

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**Commencement Information**

**I28** S. 28 in force at 26.12.2023, see [s. 255\(2\)\(c\)](#)

## **29 Deputy mayors etc**

- (1) The mayor for the area of a CCA must appoint one of the members of the authority to be the mayor's deputy.
- (2) The deputy mayor holds office until the end of the term of office of the mayor, subject to subsection [\(3\)](#).
- (3) A person ceases to be the deputy mayor if at any time—
  - (a) the mayor removes the person from office,
  - (b) the person resigns as deputy mayor, or
  - (c) the person ceases to be a member of the CCA.
- (4) If a vacancy occurs in the office of deputy mayor, the mayor must appoint another member of the CCA to be deputy mayor.
- (5) The deputy mayor must act in place of the mayor if for any reason—
  - (a) the mayor is unable to act, or
  - (b) the office of mayor is vacant.
- (6) If for any reason—

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- (a) the mayor is unable to act or the office of mayor is vacant, and
  - (b) the deputy mayor is unable to act or the office of deputy mayor is vacant,
- the other members of the CCA must act together in place of the mayor, taking decisions by a simple majority.
- (7) In this Chapter “deputy mayor”, in relation to a mayoral CCA, means the person appointed under this section by the mayor for the authority’s area.
- (8) References in this section to a member of a CCA do not include a non-constituent or associate member.

#### Commencement Information

**I29** S. 29 in force at 26.12.2023, see s. 255(2)(c)

### 30 Functions of mayors: general

- (1) The Secretary of State may by regulations make provision for any function of a mayoral CCA to be a function exercisable only by the mayor.
- (2) In this Chapter references to “general functions”, in relation to a mayor for the area of a CCA, are to any functions exercisable by the mayor other than PCC functions (see section 33(3)).
- (3) The mayor may arrange—
- (a) for the deputy mayor to exercise any general function of the mayor,
  - (b) for another member or officer of the CCA to exercise any such function,
  - (c) so far as authorised by regulations made by the Secretary of State—
    - (i) for a person appointed as the deputy mayor for policing and crime by virtue of regulations under paragraph 3(1) of Schedule 3, or
    - (ii) for a committee of the CCA, consisting of members appointed by the mayor (whether or not members of the CCA),
 to exercise any such function.
- (4) The reference in subsection (3)(b) to a member of a CCA does not include a non-constituent or associate member.
- (5) Regulations under subsection (3)(c)(ii) may include provision—
- (a) about the membership of the committee;
  - (b) about the member of the committee who is to be its chair;
  - (c) about the appointment of members;
  - (d) about the voting powers of members (including provision for different weight to be given to the vote of different descriptions of member);
  - (e) about information held by the CCA that must, or must not, be disclosed to the committee for purposes connected to the exercise of the committee’s functions;
  - (f) applying (with or without modifications) sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (political balance on local authority committees etc).



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- (6) Regulations under subsection (3)(c) must provide that the committee must not consist solely of non-constituent or associate members.
- (7) Provision in regulations under subsection (1) for a function to be exercisable only by the mayor is subject to subsection (3); but the Secretary of State may by regulations provide that arrangements under subsection (3)—
  - (a) may authorise the exercise of general functions only of a description specified in the regulations, or
  - (b) may not authorise the exercise of general functions of a description so specified.
- (8) Any general function exercisable by the mayor for the area of a CCA by virtue of this Act is to be taken to be a function of the CCA exercisable—
  - (a) by the mayor individually, or
  - (b) in accordance with arrangements made by virtue of this section or section 32 or 34.
- (9) Regulations under this section may—
  - (a) include provision for general functions to be exercisable by the mayor subject to conditions or limitations specified in the regulations (including, for example, a condition for general functions to be exercisable only with the consent of the appropriate authorities (as defined by section 28(4)));
  - (b) provide for members or officers of a mayoral CCA to assist the mayor in the exercise of general functions;
  - (c) confer ancillary powers on the mayor for the purposes of the exercise of general functions;
  - (d) authorise the mayor to appoint one person as the mayor’s political adviser;
  - (e) provide for the terms and conditions of any such appointment;
  - (f) provide that functions that the mayoral CCA discharges in accordance with arrangements under section 101(1)(b) of the Local Government Act 1972 (discharge of local authority functions by another authority) are to be treated as general functions exercisable by the mayor (so far as authorised by the arrangements).
- (10) Provision under subsection (9)(c) may include provision conferring power on the mayor that is similar to any power exercisable by the mayoral CCA—
  - (a) under section 49 (general power of CCA), or
  - (b) under regulations made under section 52(1) (general power of competence), but the power conferred on the mayor may not include a power to borrow money.
- (11) Except as provided for by section 24(7), regulations under this section may be made only with the consent of—
  - (a) the appropriate authorities (as defined by section 28(4)), and
  - (b) in the case of regulations made in relation to an existing mayoral CCA, the mayor of the CCA.
- (12) Where regulations under this section are contained in the same instrument as regulations made by virtue of section 28(2)(b), a non-consenting constituent council is not to be treated as an appropriate authority for the purposes of subsection (11).

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- (13) The requirement in subsection (11) does not apply where the regulations are made under section 19(1) and subsection (1) of this section in relation to an existing mayoral CCA and provide for a function—
- (a) to be a function of the CCA, and
  - (b) to be a function exercisable only by the mayor.

See section 31 in relation to regulations of this kind.

#### Commencement Information

**I30** S. 30 in force at 26.12.2023, see s. 255(2)(c)

### 31 Procedure for direct conferral of general functions on mayor

- (1) This section applies in relation to regulations which are made under sections 19(1) and 30(1) in relation to an existing mayoral CCA and provide for a function—
- (a) to be a function of the CCA, and
  - (b) to be a function exercisable only by the mayor.
- (2) The Secretary of State may make the regulations only if a request for the making of the regulations has been made to the Secretary of State by the mayor.
- (3) Before submitting a request under this section, the mayor must consult the constituent councils.
- (4) A request under this section must contain—
- (a) a statement by the mayor that all of the constituent councils agree to the making of the regulations, or
  - (b) if the mayor is unable to make that statement, the reasons why the mayor considers the regulations should be made even though not all of the constituent councils agree to them being made.

#### Commencement Information

**I31** S. 31 in force at 26.12.2023, see s. 255(2)(c)

### 32 Joint exercise of general functions

- (1) The Secretary of State may by regulations make provision for, or in connection with, permitting arrangements under section 101(5) of the Local Government Act 1972 to be entered into in relation to general functions of a mayor for the area of a CCA.
- (2) Provision under subsection (1) may include provision—
- (a) for the mayor for the area of a CCA to be a party to the arrangements in place of, or jointly with, the CCA;
  - (b) about the membership of any joint committee;
  - (c) about the member of the joint committee who is to be its chair;
  - (d) about the appointment of members to a joint committee;

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- (e) about the voting powers of members of a joint committee (including provision for different weight to be given to the vote of different descriptions of member).
- (3) Provision under subsection (2)(b) to (d) may include provision for the mayor or other persons—
- (a) to determine the number of members;
  - (b) to have the power to appoint members (whether or not members of the CCA or a local authority that is a party to the arrangements).
- (4) Provision under subsection (2)(d) may include provision as to the circumstances in which appointments to a joint committee need not be made in accordance with sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (political balance on local authority committees etc).
- (5) In this section references to a joint committee are to a joint committee falling within section 101(5)(a) of the Local Government Act 1972 that is authorised to discharge, by virtue of regulations under this section, general functions of a mayor for the area of a CCA.

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**Commencement Information**

**I32** S. 32 in force at 26.12.2023, see s. 255(2)(c)

*Police and crime and fire and rescue functions*

**33 Functions of mayors: policing**

- (1) The Secretary of State may by regulations provide for the mayor for the area of a CCA to exercise functions of a police and crime commissioner in relation to that area.
- (2) The reference in subsection (1) to functions of a police and crime commissioner is to any functions conferred on police and crime commissioners by or under—
- (a) Part 1 of the Police Reform and Social Responsibility Act 2011, or
  - (b) any other Act (whenever passed).
- (3) In this Chapter references to “PCC functions”, in relation to a mayor for the area of a CCA, are to the functions of a police and crime commissioner that are exercisable by the mayor by virtue of subsection (1).
- (4) Regulations under subsection (1) may be made in relation to an existing mayoral CCA only with the consent of the mayor of the CCA.
- (5) If regulations are made under subsection (1) in relation to a CCA’s area—
- (a) the Secretary of State must by regulations provide that there is to be no police and crime commissioner for that area as from a specified date;
  - (b) the Secretary of State may by regulations provide that any election of a police and crime commissioner for that area that would otherwise take place (whether before or after the specified date) by virtue of section 50(1)(b) of the Police Reform and Social Responsibility Act 2011 is not to take place.
- (6) Regulations under subsection (5) may include provision—

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- (a) for the term of office of a police and crime commissioner to continue until the date specified in regulations under subsection (5)(a) (in spite of section 50(7)(b) of the Police Reform and Social Responsibility Act 2011);
  - (b) for an election to fill a vacancy in the office of a police and crime commissioner, which otherwise would take place under section 51 of that Act, not to take place if the vacancy occurs within a period of six months ending with the specified date.
- (7) Schedule 3 contains further provision in connection with regulations under this section.
- (8) Any PCC function exercisable by the mayor for the area of a CCA by virtue of this Act is to be taken to be a function of the CCA exercisable—
- (a) by the mayor acting individually, or
  - (b) by a person acting under arrangements with the mayor made in accordance with provision made under Schedule 3.

#### Commencement Information

**I33** S. 33 in force at 26.12.2023, see s. 255(2)(c)

### 34 Exercise of fire and rescue functions

- (1) This section applies to a mayor for the area of a CCA who—
- (a) by virtue of section 30(1), may exercise functions which are conferred on a fire and rescue authority in that name (“fire and rescue functions”), and
  - (b) by virtue of section 33(1), may exercise functions of a police and crime commissioner.
- (2) The Secretary of State may by regulations make provision—
- (a) authorising the mayor to arrange for the chief constable of the police force for the police area which corresponds to the area of the CCA to exercise fire and rescue functions exercisable by the mayor;
  - (b) authorising that chief constable to arrange for a person within subsection (4) to exercise the chief constable’s fire and rescue functions.
- (3) Regulations under subsection (2) may provide that arrangements made under the regulations—
- (a) may authorise the exercise of any functions mentioned in that subsection;
  - (b) may authorise the exercise of any functions mentioned in that subsection other than those specified or described in the regulations;
  - (c) may authorise the exercise of such of the functions mentioned in that subsection as are specified or described in the regulations.
- (4) The persons mentioned in subsection (2)(b) are—
- (a) members of the chief constable’s police force;
  - (b) the civilian staff of that police force, as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011;
  - (c) members of staff transferred to the chief constable under a scheme made by virtue of section 36(1);
  - (d) members of staff appointed by the chief constable under section 36(2).

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- (5) Provision in regulations under section 30(1) for a function to be exercisable only by the mayor for the area of a CCA is subject to provision made by virtue of subsection (2).
- (6) This section is subject to—
  - (a) section 35 (section 34 regulations: procedure), and
  - (b) section 37 of the Fire and Rescue Services Act 2004 (prohibition on employment of police in fire-fighting).
- (7) In this section “fire and rescue functions”, in relation to a chief constable, means—
  - (a) functions which are exercisable by the chief constable by virtue of provision made under subsection (2)(a), and
  - (b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment.

#### Commencement Information

**I34** S. 34 in force at 26.12.2023, see s. 255(2)(c)

### 35 Section 34 regulations: procedure

- (1) Regulations under section 34(2) may be made in relation to the mayor for the area of a CCA only if the mayor has requested the Secretary of State to make the regulations.
- (2) A request under subsection (1) must be accompanied by a report which contains—
  - (a) an assessment of why—
    - (i) it is in the interests of economy, efficiency and effectiveness for the regulations to be made, or
    - (ii) it is in the interests of public safety for the regulations to be made,
  - (b) a description of any public consultation which the mayor has carried out on the proposal for the regulations to be made,
  - (c) a summary of the responses to any such consultation, and
  - (d) a summary of the representations (if any) which the mayor has received about that proposal from the constituent members of the CCA.
- (3) Before making the request the mayor must publish, in such manner as the mayor thinks appropriate, the mayor’s response to the representations made or views expressed in response to any consultations on the proposal.
- (4) Subsections (5) to (7) apply if—
  - (a) the mayor for the area of a CCA makes a request under subsection (1) for the Secretary of State to make regulations under section 34(2), and
  - (b) at least two thirds of the constituent members of the CCA have indicated that they disagree with the proposal for the regulations to be made.
- (5) The mayor must, in providing the report under subsection (2), provide the Secretary of State with—
  - (a) copies of the representations (if any) made by the constituent members of the CCA about that proposal, and
  - (b) the mayor’s response to those representations and to the responses to any public consultation which the mayor has carried out on that proposal.

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- (6) The Secretary of State must—
- (a) obtain an independent assessment of that proposal, and
  - (b) in deciding whether to make the regulations, have regard to that assessment and to the material provided under subsection (5) (as well as the material provided under subsection (2)).
- (7) The Secretary of State must publish the independent assessment—
- (a) as soon as is reasonably practicable after making a determination in response to the proposal, and
  - (b) in such manner as the Secretary of State thinks appropriate.
- (8) Regulations under section 34(2) may be made only if it appears to the Secretary of State that—
- (a) it is in the interests of economy, efficiency and effectiveness for the regulations to be made, or
  - (b) it is in the interests of public safety for the regulations to be made.
- (9) The Secretary of State may not make regulations under section 34(2) in a case within subsection (8)(a) of this section if the Secretary of State thinks that the regulations would have an adverse effect on public safety.
- (10) The Secretary of State may, in making regulations under section 34(2) in relation to the mayor for the area of a CCA, give effect to the mayor’s proposal for the regulations with such modifications as the Secretary of State thinks appropriate.
- (11) Before making regulations which give effect to such a proposal with modifications, the Secretary of State must consult the mayor and the CCA on the modifications.
- (12) In this section “constituent member”, in relation to a CCA, means a member of the CCA appointed by a constituent council (but does not include the mayor for the area of the CCA).

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**Commencement Information**

**I35** S. 35 in force at 26.12.2023, see s. 255(2)(c)

**36 Section 34 regulations: further provision**

- (1) Regulations under section 34(2) may make provision for the making of a scheme to transfer property, rights and liabilities (including criminal liabilities)—
- (a) from a fire and rescue authority or the CCA to the chief constable, or
  - (b) from the chief constable to the CCA,
- (including provision corresponding to any provision made by section 17(4) to (6) of the Localism Act 2011).
- (2) A chief constable to whom regulations under section 34(2) apply may appoint staff for the purpose of the exercise of the chief constable’s fire and rescue functions.
- (3) A chief constable to whom regulations under section 34(2) apply may—
- (a) pay remuneration, allowances and gratuities to members of the chief constable’s fire and rescue staff;

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- (b) pay pensions to, or in respect of, persons who are or have been such members of staff;
  - (c) pay amounts for or towards the provision of pensions to, or in respect of, persons who are or have been such members of staff.
- (4) In subsection (3) “allowances”, in relation to a member of staff, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff.
- (5) Subject to subsections (6) to (8), a person who is employed pursuant to a transfer by virtue of subsection (1) or an appointment under subsection (2) may not at the same time be employed pursuant to an appointment by a chief constable of the police force for a police area under Schedule 2 to the Police Reform and Social Responsibility Act 2011.
- (6) Where regulations under section 34(2) are in force in relation to the chief constable of the police force for a police area, the person who is for the time being the police force’s chief finance officer is to be responsible for the proper administration of financial affairs relating to the exercise of the chief constable’s fire and rescue functions.
- (7) Subsection (5) does not prevent a person who is employed as a finance officer for fire functions from being at the same time employed as a finance officer for police functions.
- (8) In subsection (7)—
- “finance officer for fire functions” means a member of a chief constable’s fire and rescue staff who—
    - (a) is not a chief finance officer of the kind mentioned in subsection (6), and
    - (b) is employed to carry out duties relating to the proper administration of financial affairs relating to the exercise of the chief constable’s fire and rescue functions;
  - “finance officer for police functions” means a member of a chief constable’s civilian staff within the meaning of the Police Reform and Social Responsibility Act 2011 who—
    - (a) is not a chief finance officer of the kind mentioned in subsection (6), and
    - (b) is employed to carry out duties relating to the proper administration of a police force’s financial affairs.
- (9) Where regulations under section 34(2) are in force, the CCA to which the regulations apply must pay—
- (a) any damages or costs awarded against the chief constable to whom the regulations apply in any proceedings brought against the chief constable in respect of the acts or omissions of a member of the chief constable’s fire and rescue staff;
  - (b) any costs incurred by the chief constable in any such proceedings so far as not recovered by the chief constable in the proceedings;
  - (c) any sum required in connection with the settlement of any claim made against the chief constable in respect of the acts or omissions of a member of the chief constable’s fire and rescue staff, if the settlement is approved by the CCA.
- (10) Where regulations under section 34(2) are in force, the CCA to which the regulations apply may, in such cases and to such extent as appears to the CCA to be appropriate, pay—

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- (a) any damages or costs awarded against a member of the fire and rescue staff of the chief constable to whom the regulations apply in proceedings for any unlawful conduct of that member of staff;
- (b) costs incurred and not recovered by such a member of staff in such proceedings;
- (c) sums required in connection with the settlement of a claim that has or might have given rise to such proceedings.

(11) In this section—

“fire and rescue functions” has the same meaning as in section 34;

“fire and rescue staff”, in relation to a chief constable to whom regulations under section 34(2) apply, means—

- (a) staff transferred to the chief constable under a scheme made by virtue of subsection (1);
- (b) staff appointed by the chief constable under subsection (2).

#### Commencement Information

**I36** S. 36 in force at 26.12.2023, see s. 255(2)(c)

### 37 Section 34 regulations: exercise of fire and rescue functions

- (1) This section applies if—
- (a) regulations under section 34(2) make provision in relation to the area of a CCA, and
  - (b) by virtue of the regulations, fire and rescue functions exercisable by the mayor for the area of the CCA are exercisable by the chief constable of the police force for the police area which corresponds to that area.
- (2) The chief constable must secure that good value for money is obtained in exercising—
- (a) functions which are exercisable by the chief constable by virtue of the regulations, and
  - (b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment.
- (3) The chief constable must secure that other persons exercising functions by virtue of the regulations obtain good value for money in exercising those functions.
- (4) The mayor must—
- (a) secure the exercise of the duties which are exercisable by the chief constable or another person by virtue of the regulations,
  - (b) secure the exercise of the duties relating to fire and rescue services which are imposed on the chief constable by or by virtue of any enactment,
  - (c) secure that functions which are exercisable by the chief constable or another person by virtue of the regulations are exercised efficiently and effectively, and
  - (d) secure that functions relating to fire and rescue services which are conferred or imposed on the chief constable by or by virtue of any enactment are exercised efficiently and effectively.
- (5) The mayor must hold the chief constable to account for the exercise of such functions.



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**Commencement Information**

**I37** S. 37 in force at 26.12.2023, see s. 255(2)(c)

**38 Section 34 regulations: complaints and conduct matters etc**

- (1) If regulations are made under section 34(2) that enable arrangements to be made for the exercise of functions by members of a police force or the civilian staff of a police force, the Secretary of State may by regulations amend Part 2 of the Police Reform Act 2002 (persons serving with the police: complaints and conduct matters etc) in consequence of that provision.
- (2) If regulations are made under section 34(2) that enable arrangements to be made for the exercise of functions by members of staff transferred to a chief constable under a scheme made by virtue of section 36(1) or appointed by a chief constable under section 36(2), the Secretary of State may by regulations make provision of the type described in subsection (3) in relation to those members of staff.
- (3) The provision referred to in subsection (2) is—
  - (a) provision corresponding or similar to any provision made by or under Part 2 of the Police Reform Act 2002;
  - (b) provision applying (with or without modifications) any provision made by or under Part 2 of that Act.
- (4) The Secretary of State may by regulations, in consequence of any provision made under subsection (2), amend Part 2 of the Police Reform Act 2002.
- (5) Before making regulations under this section the Secretary of State must consult—
  - (a) the Police Advisory Board for England and Wales,
  - (b) the Director General of the Independent Office for Police Conduct,
  - (c) such persons as appear to the Secretary of State to represent the views of police and crime commissioners,
  - (d) such persons as appear to the Secretary of State to represent the views of fire and rescue authorities, and
  - (e) such other persons as the Secretary of State considers appropriate.

**Commencement Information**

**I38** S. 38 in force at 26.12.2023, see s. 255(2)(c)

**39 Section 34 regulations: application of fire and rescue provisions**

- (1) The Secretary of State may by regulations—
  - (a) apply (with or without modifications) any provision of a fire and rescue enactment in relation to a person within subsection (2);
  - (b) make, in relation to a person within subsection (2), provision corresponding or similar to any provision of a fire and rescue enactment.
- (2) Those persons are—

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- (a) a chief constable of a police force for a police area to whom regulations under section 34(2) apply,
  - (b) a member of staff transferred to such a chief constable under a scheme made by virtue of section 36(1),
  - (c) a member of staff appointed by such a chief constable under section 36(2),
  - (d) a member of such a chief constable’s police force by whom functions are exercisable by virtue of section 34(2)(b), and
  - (e) a member of the civilian staff of such a police force (as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011) by whom functions are exercisable by virtue of section 34(2)(b).
- (3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made under a fire and rescue enactment or make provision corresponding or similar to any such provision.
- (4) The Secretary of State may by regulations amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (1).
- (5) In this section “fire and rescue enactment” means an enactment relating to a fire and rescue authority (including, in particular, an enactment relating to an employee of such an authority or property of such an authority).
- (6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made.

#### Commencement Information

**I39** S. 39 in force at 26.12.2023, see s. 255(2)(c)

## 40 Section 34 regulations: application of local policing provisions

- (1) The Secretary of State may by regulations—
- (a) apply (with or without modifications) any provision of a local policing enactment in relation to a person within subsection (2);
  - (b) make, in relation to such a person, provision corresponding or similar to any provision of a local policing enactment.
- (2) Those persons are—
- (a) a mayor for the area of a CCA to whom regulations under section 34(2) apply,
  - (b) a chief constable to whom such regulations apply, and
  - (c) a panel established by virtue of regulations under paragraph 4 of Schedule 3 for such an area.
- (3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made under a local policing enactment or make provision corresponding or similar to any such provision.
- (4) The Secretary of State may by regulations amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (1).

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- (5) In this section “local policing enactment” means an enactment relating to a police and crime commissioner.
- (6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made.

#### Commencement Information

**I40** S. 40 in force at 26.12.2023, see s. 255(2)(c)

### *Financial matters relating to mayors*

#### **41 Mayors for CCA areas: financial matters**

- (1) The Secretary of State may by regulations make provision for the costs of a mayor for the area of a CCA that are incurred in, or in connection with, the exercise of mayoral functions to be met from precepts issued by the CCA under section 40 of the Local Government Finance Act 1992.
- (2) The function of issuing precepts under Chapter 4 of Part 1 of the Local Government Finance Act 1992 in respect of mayoral functions is to be a function exercisable only by the mayor acting on behalf of the CCA.
- (3) The Secretary of State may by regulations modify the application of Chapter 4 or 4ZA of Part 1 of the Local Government Finance Act 1992 so far as applying to cases where the precepting authority in question under that Chapter is a mayoral CCA.
- (4) Where the mayoral functions of a mayor include PCC functions—
  - (a) the provision made by virtue of subsection (3) must include provision to ensure that the council tax requirement calculated under section 42A of the Local Government Finance Act 1992 consists of separate components in respect of the mayor’s PCC functions and the mayor’s general functions, and
  - (b) the function of calculating the component in respect of the mayor’s PCC functions is itself to be treated as a PCC function for the purposes of this Part.
- (5) The Secretary of State may by regulations make provision—
  - (a) requiring the mayor to maintain a fund in relation to receipts arising, and liabilities incurred, in the exercise of general functions;
  - (b) about the preparation of an annual budget in relation to the exercise of general functions.

(For power to make corresponding provision in relation to PCC functions, see paragraph 7 of Schedule 3.)
- (6) Provision under subsection (5)(b) may in particular include provision for—
  - (a) the mayor to prepare a draft budget;
  - (b) the draft to be scrutinised by—
    - (i) the other members of the CCA, and
    - (ii) a committee of the CCA appointed in accordance with paragraph 1(1) of Schedule 1;

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- (c) the making of changes to the draft as a result of such scrutiny;
  - (d) the approval of the draft by the CCA (including a power to veto the draft in circumstances specified in the regulations and the consequences of any such veto);
  - (e) the basis on which such approval is to be given.
- (7) The reference in subsection (6)(b)(i) to a member of a CCA does not include a non-constituent or associate member.
- (8) In this section “mayoral functions”, in relation to a mayor, means—
- (a) the mayor’s general functions, and
  - (b) if the mayor exercises PCC functions, the mayor’s PCC functions.

#### Commencement Information

**I41** S. 41 in force at 26.12.2023, see s. 255(2)(c)

### *Alternative mayoral titles*

#### **42 Alternative mayoral titles**

- (1) At the first meeting of a mayoral CCA after regulations made under section 27(1) come into force, the CCA must, by a resolution in accordance with subsection (3)—
- (a) provide that the mayor for the area of the CCA is to be known by the title of mayor, or
  - (b) change the title by which the mayor for the area of the CCA is to be known to an alternative title mentioned in subsection (2).
- (2) The alternative titles are—
- (a) county commissioner;
  - (b) county governor;
  - (c) elected leader;
  - (d) governor;
  - (e) a title that the CCA considers more appropriate than the alternative titles mentioned in paragraphs (a) to (d), having regard to the title of other public office holders in the area of the CCA.
- (3) The following requirements must be met in relation to the resolution mentioned in subsection (1)—
- (a) particulars of the resolution must be included in the notice of the meeting,
  - (b) where the resolution includes a proposed alternative title mentioned in subsection (2)(e), the resolution must specify why the CCA considers that the title is more appropriate than the other alternative titles mentioned in subsection (2), and
  - (c) the resolution must be passed at the meeting by a simple majority of the members of the CCA who vote on it.
- (4) Subsections (5) and (6) apply where under this section a mayoral CCA changes the title by which the mayor for the area of the CCA is to be known to an alternative title.
- (5) The CCA must—

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- (a) send notice of the change to the Secretary of State,
  - (b) publish the notice in the area of the CCA in such manner as the CCA considers appropriate, and
  - (c) publish the notice in such other manner as the Secretary of State may direct.
- (6) Where this subsection applies—
- (a) a reference in any enactment (whenever passed or made) to the mayor for the area of the CCA is, unless the context otherwise requires, to be read as a reference to the alternative title by which the mayor is to be known, and
  - (b) references to mayor, mayoral (except in the expression “mayoral CCA”) and deputy mayor are to be construed accordingly.
- (7) A change of title under this section does not affect the rights or obligations of any person or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of title.
- (8) In this section a reference to a member of a CCA does not include a non-constituent member.
- (9) In this section “enactment”—
- (a) includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978, but
  - (b) does not include this section or section 43.

#### Commencement Information

I42 S. 42 in force at 26.12.2023, see s. 255(2)(c)

### 43 Alternative mayoral titles: further changes

- (1) This section applies where a mayoral CCA has—
- (a) by a resolution under section 42 or by a previous resolution under this section, changed the title by which the mayor for the area of the CCA is to be known to an alternative title,
  - (b) by a resolution under section 42, provided that the mayor for the area of the CCA is to be known by the title of mayor, or
  - (c) by a previous resolution under this section, provided that the mayor for the area of the CCA is no longer to be known by an alternative title.
- (2) The CCA may, by a resolution in accordance with this section—
- (a) in a subsection (1)(a) case—
    - (i) provide that the mayor is no longer to be known by the alternative title, or
    - (ii) change the title by which the mayor is to be known to an alternative title mentioned in subsection (3);
  - (b) in a subsection (1)(b) or (c) case, change the title by which the mayor is to be known to an alternative title mentioned in subsection (3).
- (3) The alternative titles mentioned in subsection (2) are as follows—
- (a) county commissioner;
  - (b) county governor;

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- (c) elected leader;
  - (d) governor;
  - (e) a title that the CCA considers more appropriate than the alternative titles mentioned in paragraphs (a) to (d), having regard to the title of other public office holders in the area of the CCA.
- (4) The following requirements must be met in relation to the resolution mentioned in subsection (2)—
- (a) the resolution must be considered at a relevant meeting of the CCA,
  - (b) particulars of the resolution must be included in the notice of the meeting,
  - (c) where the resolution includes a proposed alternative title mentioned in subsection (3)(e), the resolution must specify why the CCA considers that the title is more appropriate than the other alternative titles mentioned in subsection (3), and
  - (d) the resolution must be passed at the meeting by a simple majority of the members of the CCA who vote on it.
- (5) In subsection (4)(a) “relevant meeting” means the first meeting of the CCA held after a qualifying election for the return of the mayor, provided that the election is at least the third qualifying election since the resolution mentioned in subsection (1) was passed.
- (6) Where under this section an authority provides that the mayor for the area of the CCA is no longer to be known by an alternative title, the CCA must—
- (a) send notice of the change to the Secretary of State,
  - (b) publish the notice in the area of the CCA in such manner as the CCA considers appropriate,
  - (c) publish the notice in such other manner as the Secretary of State may direct.
- (7) Subsections (8) and (9) apply where under this section a CCA changes the title by which the mayor for the area of the CCA is to be known to an alternative title.
- (8) The authority must—
- (a) send notice of the change to the Secretary of State, and
  - (b) publish the notice in the area of the CCA in such manner as the CCA considers appropriate,
  - (c) publish the notice in such other manner as the Secretary of State may direct.
- (9) Where this subsection applies—
- (a) a reference in any enactment (whenever passed or made) to the mayor for the area of the CCA is, unless the context otherwise requires, to be read as a reference to the alternative title by which the mayor is to be known, and
  - (b) references to mayor, mayoral (except in the expression “mayoral CCA”) and deputy mayor are to be construed accordingly.
- (10) A change of title under this section does not affect the rights or obligations of any person, or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of title.
- (11) Where a mayoral CCA to which section 42 applies does not pass a resolution as required by subsection (1) of that section, the authority is to be treated for the purposes of this section as if, at the meeting mentioned in that subsection, it had passed the resolution mentioned in section 42(1)(a) (providing that the mayor is to be known by the title of mayor).

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(12) In this section a reference to a member of a CCA does not include a non-constituent member.

(13) In this section—

“enactment” has the same meaning as in section 42;

“qualifying election” means an election for the return of the mayor, other than—

(a) the first election for the return of the mayor, and

(b) an election caused by a vacancy in the office of the mayor occurring before expiry of the mayor’s term of office.

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**Commencement Information**

**I43** S. 43 in force at 26.12.2023, see s. 255(2)(c)

**44 Power to amend list of alternative titles**

(1) The Secretary of State may by regulations amend section 42(2) or 43(3) to add, modify or remove a reference to an alternative title or a description of an alternative title.

(2) In its application to subsection (1), section 252(1)(c) (power for regulations to make consequential etc provision) includes power to make consequential amendments to section 42 or 43.

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**Commencement Information**

**I44** S. 44 in force at 26.12.2023, see s. 255(2)(c)

*Requirements in connection with regulations about CCAs*

**45 Proposal for new CCA**

(1) One or more authorities to which this section applies may—

- (a) prepare a proposal for the establishment of a CCA for an area, and
- (b) submit the proposal to the Secretary of State.

(2) This section applies to the following authorities—

- (a) a county council whose area is within the proposed area;
- (b) a unitary district council whose area is within the proposed area;
- (c) an economic prosperity board the whole or any part of whose area is within the proposed area;
- (d) an Integrated Transport Authority the whole or any part of whose area is within the proposed area;
- (e) a combined authority the whole or any part of whose area is within the proposed area.

(3) In this section “the proposed area” means the area for which the CCA is proposed to be established.

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- (4) Before submitting a proposal under this section to the Secretary of State, the authority or authorities preparing the proposal must—
  - (a) carry out a public consultation across the proposed area on the proposal, and
  - (b) have regard to the results of the consultation in preparing the proposal for submission to the Secretary of State.
- (5) The requirements in subsection (4) may be satisfied by things done before the coming into force of this section.
- (6) If a proposal under this section is not submitted by all of the authorities to which this section applies, each authority which does not submit the proposal must consent to its submission to the Secretary of State.
- (7) A proposal under this section must specify the purposes to be achieved by the establishment of the CCA.
- (8) The Secretary of State may by regulations—
  - (a) make further provision about the matters which must be addressed by a proposal under this section;
  - (b) make provision about material which must be included in or submitted with a proposal under this section.

#### Commencement Information

**I45** S. 45 in force at Royal Assent, see [s. 255\(2\)\(a\)](#)

## 46 Requirements in connection with establishment of CCA

- (1) The Secretary of State may make regulations establishing a CCA for an area only if—
  - (a) the Secretary of State considers that to do so is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area,
  - (b) the Secretary of State considers that to do so is appropriate having regard to the need—
    - (i) to secure effective and convenient local government, and
    - (ii) to reflect the identities and interests of local communities,
  - (c) where a proposal for the establishment of the CCA has been submitted under section 45, the Secretary of State considers that its establishment will achieve the purposes specified under subsection (7) of that section,
  - (d) the constituent councils consent, and
  - (e) any consultation required by subsection (3) has been carried out.
- (2) If a proposal for the establishment of the CCA has been submitted under section 45, the Secretary of State must have regard to the proposal in making the regulations.
- (3) The Secretary of State must carry out a public consultation unless—
  - (a) a proposal has been prepared under section 45,
  - (b) a public consultation has been carried out in connection with the proposal and the Secretary of State has been provided with a summary of the consultation responses, and
  - (c) the Secretary of State considers that no further consultation is necessary.



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- (4) Subsection (5) applies where the Secretary of State is considering whether to make regulations establishing a CCA for an area and—
- (a) part of the area is separated from the rest of it by one or more local government areas that are not within the area, or
  - (b) a local government area that is not within the area is surrounded by local government areas that are within the area.
- (5) In deciding whether to make the regulations, the Secretary of State must have regard to the likely effect of the creation of the proposed CCA on the exercise of functions equivalent to those of the proposed CCA's functions in each local government area that is next to any part of the proposed CCA area.
- (6) In this Chapter “local government area” means the area of a county council or a district council.

#### Commencement Information

**I46** S. 46 in force at 26.12.2023, see s. 255(2)(c)

### 47 Proposal for changes to existing arrangements relating to CCA

- (1) One or more authorities to which this section applies may—
- (a) prepare a proposal for the making of regulations under section 10, 16, 18, 19, 21, 22, 25, 26, 27, 30 or 33 in relation to an existing CCA, and
  - (b) submit the proposal to the Secretary of State.
- (2) This section applies to the following authorities—
- (a) the CCA;
  - (b) a county council whose area is within the area of the CCA;
  - (c) a unitary district council whose area is within the area of the CCA;
  - (d) in the case of a proposal for the making of regulations under section 25 to add the area of a county council to the area of the CCA, that county council;
  - (e) in the case of a proposal for the making of regulations under section 25 to add the area of a unitary district council to the area of the CCA, that unitary district council.
- (3) Before submitting a proposal under this section to the Secretary of State, the authority or authorities preparing the proposal must—
- (a) carry out a public consultation across—
    - (i) the area of the CCA, and
    - (ii) in the case of a proposal for the making of regulations under section 25 to add a relevant local government area to the area of the CCA, that relevant local government area, and
  - (b) have regard to the results of the consultation in preparing the proposal for submission to the Secretary of State.
- (4) The requirements in subsection (3) may be satisfied by things done before the coming into force of this section.

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- (5) Before a proposal under this section for the making of regulations is submitted to the Secretary of State, each person who would have to consent to the making of the regulations must consent to the submission of the proposal.
- (6) If a proposal under this section is submitted to the Secretary of State by an authority, the authority is to be treated as having consented to its submission for the purposes of subsection (5).
- (7) In determining for the purposes of subsection (6) who would have to consent to the making of regulations under section 27, section 28(2)(b) (limited consent requirements) is to be disregarded.
- (8) A proposal under this section must specify the purposes to be achieved by the regulations which it proposes should be made.
- (9) The Secretary of State may by regulations—
  - (a) make further provision about the matters which must be addressed by a proposal under this section;
  - (b) make provision about material which must be included in or submitted with a proposal under this section.

#### Commencement Information

I47 S. 47 in force at 26.12.2023, see s. 255(2)(c)

## 48 Requirements for changes to existing arrangements relating to CCA

- (1) The Secretary of State may make regulations under section 10, 16, 18, 19, 21, 22, 25, 26, 27, 30 or 33 in relation to an existing CCA only if—
  - (a) the Secretary of State considers that to do so is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area,
  - (b) the Secretary of State considers that to do so is appropriate having regard to the need—
    - (i) to secure effective and convenient local government, and
    - (ii) to reflect the identities and interests of local communities,
  - (c) where a proposal for the making of the regulations has been submitted under section 47, the Secretary of State considers that making the regulations will achieve the purposes specified under subsection (8) of that section, and
  - (d) any consultation required by subsection (3) has been carried out.
- (2) If a proposal for the making of the regulations has been submitted under section 47, the Secretary of State must have regard to the proposal in making the regulations.
- (3) The Secretary of State must carry out a public consultation unless—
  - (a) a proposal has been prepared under section 47,
  - (b) a public consultation has been carried out in connection with the proposal and the Secretary of State has been provided with a summary of the consultation responses, and
  - (c) the Secretary of State considers that no further consultation is necessary.

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- (4) Subsection (5) applies where the Secretary of State is considering whether to make regulations under section 25 and—
- (a) part of the area to be created is separated from the rest of it by one or more local government areas that are not within the area, or
  - (b) a local government area that is not within the area to be created is surrounded by local government areas that are within the area.
- (5) In deciding whether to make the regulations under section 25, the Secretary of State must have regard to the likely effect of the change to the CCA's area on the exercise of functions equivalent to those of the CCA's functions in each local government area that is next to any part of the area to be created by the regulations.
- (6) This section does not apply to regulations under section 25(1)(b) that are made as a result of the duty in section 28(3).

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**Commencement Information**

**I48** S. 48 in force at 26.12.2023, see s. 255(2)(c)

*General powers of CCAs*

**49**      **General power of CCA**

- (1) A CCA may do—
- (a) anything it considers appropriate for the purposes of the carrying-out of any of its functions (its “functional purposes”),
  - (b) anything it considers appropriate for purposes incidental to its functional purposes,
  - (c) anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes,
  - (d) anything it considers to be connected with—
    - (i) any of its functions, or
    - (ii) anything it may do under paragraph (a), (b) or (c), and
  - (e) for a commercial purpose anything which it may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) Where subsection (1) confers power on a CCA to do something, it confers power (subject to section 50) to do it anywhere in the United Kingdom or elsewhere.
- (3) Power conferred on a CCA by subsection (1) is in addition to, and is not limited by, its other powers.
- (4) This section does not apply in relation to a CCA in respect of which regulations under section 52(1) have effect.

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**Commencement Information**

**I49** S. 49 in force at 26.12.2023, see s. 255(2)(c)

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## 50 Boundaries of power under section 49

- (1) Section 49(1) does not enable a CCA to do anything which it is unable to do by virtue of a relevant limitation which is expressed to apply—
  - (a) to its power under section 49(1),
  - (b) to all of its powers, or
  - (c) to all of its powers but with exceptions that do not include its power under section 49(1).
- (2) If exercise of a relevant power of a CCA is subject to restrictions, those restrictions apply also to exercise of the power conferred on it by section 49(1) so far as that power is overlapped by the relevant power.
- (3) Section 49(1) does not authorise a CCA to borrow money.
- (4) Section 49(1)(a) to (d) does not authorise a CCA to charge a person for anything done by it otherwise than for a commercial purpose (but see section 93 of the Local Government Act 2003 (power of CCAs and other best value authorities to charge for discretionary services)).
- (5) Section 49(1)(e) does not authorise a CCA to do things for a commercial purpose in relation to a person if a statutory provision requires it to do those things in relation to the person.
- (6) Where under section 49(1)(e) a CCA does things for a commercial purpose, it must do them through—
  - (a) a company within the meaning given by section 1(1) of the Companies Act 2006,
  - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
  - (c) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969.
- (7) In this section—
  - “relevant limitation” means a prohibition, restriction or other limitation imposed by a statutory provision;
  - “relevant power” means a power conferred by a statutory provision;
  - “statutory provision” means a provision of an Act or of an instrument made under an Act.

### Commencement Information

**I50** S. 50 in force at 26.12.2023, see s. 255(2)(c)

## 51 Power to make provision supplemental to section 49

- (1) The Secretary of State may by regulations make provision preventing CCAs from doing under section 49(1) anything which is specified, or is of a description specified, in the regulations.
- (2) The Secretary of State may by regulations provide for the exercise by CCAs of power conferred by section 49(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the regulations.

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- (3) The power under subsection (1) or (2) may be exercised in relation to—
  - (a) all CCAs,
  - (b) particular CCAs, or
  - (c) particular descriptions of CCAs.
- (4) Before making regulations under subsection (1) or (2) the Secretary of State must consult—
  - (a) such representatives of CCAs,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply to regulations under subsection (1) or (2) which are made only for the purpose of amending earlier such regulations—
  - (a) so as to extend the earlier regulations, or any provision of the earlier regulations, to a particular CCA or to CCAs of a particular description, or
  - (b) so that the earlier regulations, or any provision of the earlier regulations, ceases to apply to a particular CCA or to CCAs of a particular description.

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**Commencement Information**

**I51** S. 51 in force at 26.12.2023, see s. 255(2)(c)

## 52 General power of competence

- (1) The Secretary of State may by regulations provide for Chapter 1 of Part 1 of the Localism Act 2011 (which confers a general power of competence on local authorities) to have effect in relation to a CCA specified in the regulations as it has effect in relation to a local authority.
- (2) Regulations under subsection (1) may be made only with the consent of the appropriate authorities (as defined by section 28(4)).
- (3) Where regulations under subsection (1) are contained in the same instrument as regulations made by virtue of section 28(2)(b), a non-consenting constituent council is not to be treated as an appropriate authority for the purposes of subsection (2).

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**Commencement Information**

**I52** S. 52 in force at 26.12.2023, see s. 255(2)(c)

### *Supplementary*

## 53 Incidental etc provision

- (1) The Secretary of State may by regulations make incidental, consequential, transitional, transitory or supplementary provision for the purposes of, or in consequence of, regulations under this Chapter or for giving full effect to such regulations.

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- (2) Regulations under subsection (1) may not include provision amending or disapplying sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (political balance on local authority committees etc).

#### Commencement Information

**I53** S. 53 in force at 26.12.2023, see s. 255(2)(c)

## 54 Transfer of property, rights and liabilities

- (1) The Secretary of State may by regulations make provision for the transfer of property, rights and liabilities (including criminal liabilities) for the purposes of, or in consequence of, regulations under this Chapter or for giving full effect to such regulations.
- (2) Property, rights and liabilities may be transferred by—
- the regulations,
  - scheme made by the Secretary of State under the regulations, or
  - a scheme required to be made under the regulations by a person other than the Secretary of State.
- (3) A transfer by virtue of this section may have effect—
- whether or not the property, rights and liabilities would otherwise be capable of being transferred;
  - without any instrument or formality being required.
- (4) The rights and liabilities which may be transferred by virtue of this section include rights and liabilities in relation to a contract of employment.
- (5) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to the transfer by virtue of this section (whether or not the transfer is a relevant transfer for the purposes of those regulations).
- (6) Regulations under this section or a scheme made under them may define the property, rights and liabilities to be transferred by specifying or describing them.
- (7) Provision for the transfer of property, rights and liabilities made by virtue of this section may include provision—
- for the creation or imposition by the Secretary of State of new rights or liabilities in respect of anything transferred;
  - for the shared ownership or use of any property or facilities;
  - for the management or custody of transferred property;
  - for bodies to make agreements with respect to any property, income, rights, liabilities and expenses of, and any financial relations between, the parties to the agreement.
- (8) Provision for the transfer of property, rights and liabilities made by virtue of this section may include provision—
- for the continuing effect of things done by the transferor in relation to anything transferred;

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- (b) for the continuation of things (including legal proceedings) in the process of being done, by or on behalf of or in relation to the transferor in relation to anything transferred;
- (c) for references to the transferor in any agreement (whether written or not), instrument or other document in relation to anything transferred to be treated (so far as necessary for the purposes of or in consequence of the transfer) as references to the transferee.

#### Commencement Information

**I54** S. 54 in force at 26.12.2023, see s. 255(2)(c)

## 55 Guidance

- (1) The Secretary of State may give guidance about anything that could be done under or by virtue of this Chapter by an authority to whom this section applies.
- (2) An authority to whom this section applies must have regard to any guidance given under this section in exercising any function conferred or imposed by or by virtue of this Chapter.
- (3) Any guidance under this section must be given in writing and may be varied or revoked by further guidance in writing.
- (4) Any such guidance may make different provision for different cases and different provision for different areas.
- (5) This section applies to—
  - (a) a county council;
  - (b) a district council;
  - (c) an Integrated Transport Authority;
  - (d) a combined authority;
  - (e) a CCA.

#### Commencement Information

**I55** S. 55 in force at 26.12.2023, see s. 255(2)(c)

## 56 Consequential amendments

[Schedule 4](#) (combined county authorities: consequential amendments) has effect.

#### Commencement Information

**I56** S. 56 in force at 26.12.2023, see s. 255(2)(c)

## 57 Interpretation of Chapter

In this Chapter—

“associate member” has the meaning given by section [12\(1\)](#);

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- “CCA” has the meaning given by section 9(1);
- “combined authority” has the meaning given by section 9(5);
- “constituent council” has the meaning given by section 10(11);
- “deputy mayor” has the meaning given by section 29(7);
- “economic prosperity board” has the meaning given by section 9(5);
- “fire and rescue authority” means a fire and rescue authority under the Fire and Rescue Services Act 2004;
- “general functions” has the meaning given by section 30(2);
- “Integrated Transport Authority” has the meaning given by section 9(5);
- “local government area” has the meaning given by section 46(6);
- “mayor”, in relation to the area of a CCA, means the mayor for the area of the CCA by virtue of regulations under section 27(1);
- “mayoral CCA” has the meaning given by section 27(8);
- “nominating body” means a body designated under section 11(1);
- “non-constituent member” has the meaning given by section 11(3);
- “PCC functions” has the meaning given by section 33(3);
- “two-tier county council” has the meaning given by section 9(5);
- “unitary county council” has the meaning given by section 9(5);
- “unitary district council” has the meaning given by section 9(5).

#### Commencement Information

I57 S. 57 in force at 26.12.2023, see s. 255(2)(c)

## CHAPTER 2

### OTHER PROVISION

#### *Combined authorities*

#### 58 Review of combined authority’s constitutional arrangements

After section 104C of the Local Democracy, Economic Development and Construction Act 2009 (inserted by section 64(8)) insert—

##### “104D Review of combined authority’s constitutional arrangements

- (1) This section applies if an order under section 104(1) (constitution of combined authority) enables a combined authority to make provision about its constitution (“constitutional provision”).
- (2) An appropriate person may carry out a review of the combined authority’s constitutional provision if—
  - (a) an appropriate person proposes a review, and
  - (b) the combined authority consents to the review.



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- (3) If an appropriate person carries out a review under subsection (2), they may propose changes to the combined authority’s constitutional provision as a result of the review for agreement by the authority.
- (4) The question of whether to consent under subsection (2)(b) or to agree to changes proposed under subsection (3) is to be decided at a meeting of the combined authority by a simple majority of the voting members of the authority who are present at the meeting.
- (5) In the case of a mayoral combined authority—
  - (a) a majority in favour of consenting under subsection (2)(b) does not need to include the mayor, but
  - (b) a majority in favour of changes proposed under subsection (3) must include the mayor.
- (6) The reference in subsection (4) to a voting member—
  - (a) includes a substitute member who may act in place of a voting member;
  - (b) does not include a non-constituent member.
- (7) Subsection (4) applies instead of—
  - (a) any provision of an order under section 104(1) made before the coming into force of this section which is about the procedure applying to a decision on a question of a kind mentioned in subsection (4), and
  - (b) any constitutional provision of a combined authority about such procedure.
- (8) In this section “appropriate person”, in relation to a combined authority, means—
  - (a) a member of the authority appointed by a county council the whole or any part of whose area is within the area of the authority,
  - (b) a member of the authority appointed by a district council whose area is within the area of the authority, or
  - (c) the mayor for the area of the authority (if it is a mayoral combined authority).”

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**Commencement Information**

**I58** S. 58 in force at 26.12.2023, see s. 255(2)(d)

## 59 Consent to changes to combined authority’s area

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- (2) In section 104 (constitution of combined authority), after subsection (11) insert—
  - “(11A) If the only provision made under this section in an order under this Part is provision as a result of an order under section 106 (changes to boundaries of combined authority’s area)—
    - (a) subsection (10) does not apply to the order under this Part, and
    - (b) subsections (3A) to (3H) of section 106 apply in relation to the order as if it contained the provision made by the order under section 106.”

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**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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(3) Section 106 (changes to boundaries of combined authority’s area) is amended in accordance with subsections (4) to (9).

(4) For subsection (3A) substitute—

“(3A) An order under this section adding or removing a local government area to or from an existing area of a mayoral combined authority may be made only if—

- (a) the relevant council in relation to the local government area consents, and
- (b) the mayor for the area of the combined authority consents.

(3AA) An order under this section adding or removing a local government area to or from an existing area of a combined authority which is not a mayoral combined authority may be made only if—

- (a) the relevant council in relation to the local government area consents, and
- (b) the combined authority consents.”

(5) In subsection (3B), for “subsection (3A)(a)” substitute “subsections (3A)(a) and (3AA)(a)”.

(6) In subsection (3C), after “subsection (3A)(a)” insert “or (3AA)(a)”.

(7) After subsection (3C) insert—

“(3CA) The question of whether to consent under subsection (3AA)(b) to an order under this section is to be decided at a meeting of the combined authority by a simple majority of the voting members of the authority who are present at the meeting.

(3CB) Subsection (3CA) applies instead of—

- (a) any provision of an order under section 104(1) made before the coming into force of that subsection which is about the procedure applying to a decision on a question of the kind mentioned in that subsection, and
- (b) any provision made by a combined authority about its constitution under such an order about such procedure.”

(8) For subsection (3D) substitute—

“(3D) Where an order under subsection (1)(b) is made as a result of the duty in section 105B(5) or 107B(4)—

- (a) subsection (2) does not apply, and
- (b) neither subsection (3A) nor subsection (3AA) applies.”

(9) After subsection (3D) insert—

“(3E) Subsection (3F) applies if a combined authority has made provision about its constitution under an order under section 104(1).

(3F) A decision about any change to that provision as a result of an order under this section is to be decided at a meeting of the combined authority by a simple majority of the voting members of the authority who are present at the meeting.

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(3G) Subsection (3F) applies instead of—

- (a) any provision of an order under section 104(1) made before the coming into force of that subsection which is about the procedure applying to a decision on a question of the kind mentioned in that subsection, and
- (b) any provision made by a combined authority about its constitution under such an order about such procedure.

(3H) A reference in this section to a voting member—

- (a) includes a substitute member who may act in place of a voting member;
- (b) does not include a non-constituent member.”

#### Commencement Information

**I59** S. 59 in force at Royal Assent, see [s. 255\(2\)\(e\)](#)

## 60 Changes to mayoral combined authority’s area: additional requirements

- (1) An order under section 106 of the Local Democracy, Economic Development and Construction Act 2009 which adds a local government area to an existing area of a mayoral combined authority may only be made during the relevant period if the consultation requirements in subsection (2) are met.
- (2) The consultation requirements are as follows—
  - (a) the Secretary of State has consulted the Local Government Boundary Commission for England,
  - (b) the mayor for the area of the combined authority has consulted the residents of the local government area which is to be added to that area, and
  - (c) the mayor has given the Secretary of State a report providing information about the consultation carried out under paragraph (b), and the Secretary of State has laid the report before Parliament.
- (3) In this section, “the relevant period” means the period of 9 months beginning with the day on which this Act is passed.

#### Commencement Information

**I60** S. 60 in force at Royal Assent, see [s. 255\(2\)\(e\)](#)

## 61 Consent to conferral of general functions on mayor

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- (2) In section 104 (constitution of combined authority), after subsection (11A) (inserted by section [59\(2\)](#)) insert—
 

“(11B) If the only provision made under this section in an order under this Part is provision as a result of an order to which section 107DA (procedure for direct conferral of general functions on mayor) applies—

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- (a) subsection (10) does not apply to the order under this Part, and
- (b) the order may be made only with the consent of the mayor for the combined authority.”

(3) In section 105B (section 105A orders: procedure), after subsection (5) insert—

“(5A) The requirements in subsection (1) do not apply where the order is made under sections 105A and 107D in relation to an existing mayoral combined authority and provides for a function—

- (a) to be a function of the combined authority, and
- (b) to be a function exercisable only by the mayor.

See section 107DA in relation to an order of this kind.”

(4) In section 107D (functions of mayors: general), after subsection (10) insert—

“(11) The requirement in subsection (9) does not apply where the order is made under section 105A and this section in relation to an existing mayoral combined authority and provides for a function—

- (a) to be a function of the combined authority, and
- (b) to be a function exercisable only by the mayor.

See section 107DA in relation to an order of this kind.”

(5) After section 107D insert—

**“107DA Procedure for direct conferral of general functions on mayor**

(1) This section applies in relation to an order which is made under sections 105A and 107D in relation to an existing mayoral combined authority and provides for a function—

- (a) to be a function of the combined authority, and
- (b) to be a function exercisable only by the mayor.

(2) The Secretary of State may make the order only if a request for the making of the order has been made to the Secretary of State by the mayor.

(3) Before submitting a request under this section, the mayor must consult the constituent councils.

(4) A request under this section must contain—

- (a) a statement by the mayor that all of the constituent councils agree to the making of the order, or
- (b) if the mayor is unable to make that statement, the reasons why the mayor considers the order should be made even though not all of the constituent councils agree to it being made.

(5) In this section “constituent council” means—

- (a) a county council the whole or any part of whose area is within the area of the combined authority, or
- (b) a district council whose area is within the area of the combined authority.”

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#### Commencement Information

**I61** S. 61 in force at 26.12.2023, see [s. 255\(2\)\(f\)](#)

### 62 Consent to conferral of police and crime commissioner functions on mayor

(1) Section 107F of the Local Democracy, Economic Development and Construction Act 2009 (functions of mayors: policing) is amended as follows.

(2) For subsection (4) substitute—

“(4) An order under subsection (1) may be made in relation to an existing mayoral combined authority only with the consent of the mayor of the authority.”

(3) Omit subsection (9).

#### Commencement Information

**I62** S. 62 in force at Royal Assent, see [s. 255\(2\)\(g\)](#)

### 63 Functions in respect of key route network roads

(1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.

(2) In section 104, in subsection (10), for “An” substitute “Except as provided for by [section 107ZA\(7\)](#), an”.

(3) In section 107D, in subsection (9), for “An” substitute “Except as provided for by [section 107ZA\(7\)](#), an”.

(4) After section 107 insert—

*“Combined authorities: key route network roads*

#### **107ZA Designation of key route network roads**

(1) A combined authority may designate a highway or proposed highway in its area as a key route network road, or remove its designation as a key route network road, with the consent of—

- (a) each constituent council in whose area the highway or proposed highway is, and
- (b) in the case of a mayoral combined authority, the mayor.

(2) The Secretary of State may designate a highway or proposed highway in the area of a combined authority as a key route network road, or remove its designation as a key route network road, if requested to do so by—

- (a) the combined authority,
- (b) the mayor (if any) of the combined authority, or
- (c) a constituent council.

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- (3) A designation or removal under this section must be in writing and must state when it comes into effect.
- (4) The Secretary of State must send a copy of a designation or removal under [subsection \(2\)](#) to the combined authority in question at least 7 days before the date on which it comes into effect.
- (5) A combined authority must publish each designation or removal under this section of a key route network road within its area before the date on which it comes into effect.
- (6) A combined authority that has key route network roads in its area must keep a list or map (or both) accessible to the public showing those roads.
- (7) The requirements in section 104(10) and section 107D(9)(a) do not apply to provision under section 104(1)(d) and section 107D(1) contained in the same instrument so far as that provision—
  - (a) confers a power of direction on an existing mayoral combined authority regarding the exercise of an eligible power in respect of key route network roads in the area of that combined authority,
  - (b) provides for that power of direction to be exercisable only by the mayor of the combined authority, and
  - (c) is made with the consent of the mayor after the mayor has consulted the constituent councils.
- (8) When a mayor consents under [subsection \(7\)\(c\)](#), the mayor must give the Secretary of State—
  - (a) a statement by the mayor that all of the constituent councils agree to the making of the order, or
  - (b) if the mayor is unable to make that statement, the reasons why the mayor considers the order should be made even though not all of the constituent councils agree to it being made.
- (9) In this section—
  - “constituent council” has the meaning given in section 104(11);
  - “eligible power” has the meaning given by section 88(2) of the Local Transport Act 2008;
  - “key route network road” means a highway or proposed highway designated for the time being under this section as a key route network road;
  - “proposed highway” means land on which, in accordance with plans made by a highway authority, that authority are for the time being constructing or intending to construct a highway shown in the plans.”

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#### Commencement Information

**I63** S. 63 in force at 26.12.2023, see [s. 255\(2\)\(h\)](#)

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## 64 Membership of combined authority

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- (2) Section 104 (constitution of combined authority) is amended in accordance with subsections (3) to (7).
- (3) In subsection (2), for “85” substitute “85(1) to (3)”.
- (4) For subsection (2A) substitute—
  - “(2A) But—
    - (a) section 84 of that Act, in its application to a combined authority by virtue of subsection (1)(a), is subject to—
      - (i) sections 104A and 104B and regulations under section 104C (combined authority membership), and
      - (ii) sections 104D(4) and 106(3CA) and (3F) (procedure for combined authority consents), and
    - (b) section 85(1) of that Act, in its application to a combined authority by virtue of subsection (2), is subject to subsections (2AA) and (2B).”
- (5) After subsection (2A) insert—
  - “(2AA) Section 85(1)(a) has effect as if it required an order which includes provision about the number and appointment of members of a combined authority to provide for the authority’s members, other than—
    - (a) the mayor (in the case of a mayoral combined authority),
    - (b) the authority’s non-constituent members (see section 104A), and
    - (c) the authority’s associate members (see section 104B),
 to be appointed by the authority’s constituent councils.”
- (6) Omit subsection (2C).
- (7) In subsection (11), for “subsection (10)” substitute “this section”.
- (8) After section 104 insert—

### “104A Non-constituent members of a combined authority

- (1) A combined authority may designate a body other than a constituent council as a nominating body for the purposes of this Part.
- (2) A body may be designated under subsection (1) only if the body consents to the designation.
- (3) A nominating body of a combined authority may nominate a representative of the body for appointment by the authority as a member (a “non-constituent member”).
- (4) The non-constituent members of a combined authority are to be non-voting members of that authority unless the voting members resolve otherwise.
- (5) A resolution under subsection (4) does not permit non-constituent members to vote on a decision whether the combined authority should consent to the making of an order under this Part.

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- (6) This section is subject to regulations under section 104C(4) (disapplication of this section).
- (7) In this section “constituent council”, in relation to a combined authority, means—
  - (a) a county council the whole or any part of whose area is within the area of the authority, or
  - (b) a district council whose area is within the area of the authority.

#### **104B Associate members of a combined authority**

- (1) A combined authority may appoint an individual to be a member (“an associate member”) of the combined authority.
- (2) The associate members of a combined authority are to be non-voting members of the authority.
- (3) This section is subject to regulations under section 104C(4) (disapplication of this section).

#### **104C Regulations about members**

- (1) The Secretary of State may by regulations make provision about—
  - (a) constituent members of a combined authority;
  - (b) the mayor for the area of a combined authority in the mayor’s capacity as a member of the authority;
  - (c) nominating bodies of a combined authority;
  - (d) non-constituent members of a combined authority;
  - (e) associate members of a combined authority.
- (2) The provision that may be made by regulations under subsection (1) includes, in particular, provision about—
  - (a) the cases in which a decision of a combined authority requires a majority, or a particular kind of majority, of the votes of members of a particular kind;
  - (b) the process for the designation of a nominating body or the removal of such a designation;
  - (c) the number of nominating bodies that may be designated by a combined authority;
  - (d) the number of non-constituent members that may be appointed by a combined authority;
  - (e) the appointment, disqualification, resignation or removal of a non-constituent member;
  - (f) the appointment of a substitute member to act in place of a non-constituent member;
  - (g) the maximum number of non-constituent members of a combined authority;
  - (h) the making by a nominating body of a combined authority of payments towards the costs of the authority;



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- (i) the things which may or may not be done by, or in relation to, a non-constituent member;
  - (j) the appointment, disqualification, resignation or removal of an associate member;
  - (k) the appointment of a substitute member to act in place of an associate member;
  - (l) the maximum number of associate members of a combined authority;
  - (m) the things which may or may not be done by, or in relation to, an associate member.
- (3) Regulations under subsection (1) may confer a discretion on a combined authority to determine any matter.
- (4) The Secretary of State may by regulations provide, in relation to a combined authority established by an order which came into force before the coming into force of this section—
- (a) for the relevant provisions about membership not to apply in relation to the authority, or
  - (b) for the authority to determine whether the relevant provisions about membership are to apply in relation to the authority.
- (5) In subsection (4) “the relevant provisions about membership” means—
- (a) the amendments to section 104 made by section 64(2) to (7) of the Levelling-up and Regeneration Act 2023, and
  - (b) sections 104A and 104B.
- (6) Regulations under subsection (1) or (4) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (7) In this section “constituent member”, in relation to a combined authority, means a member of the authority (other than any mayor for the area of the authority) appointed by—
- (a) a county council the whole or any part of whose area is within the area of the authority, or
  - (b) a district council whose area is within the area of the authority.”
- (9) In section 105 (constitution of combined authority), after subsection (3) insert—
- “(3ZA) But section 92, in its application to a combined authority by virtue of subsection (3), is subject to regulations under section 104C(1) (combined authority membership).”
- (10) In section 107C (deputy mayors etc), after subsection (6) insert—
- “(6A) References in this section to a member of a combined authority do not include a non-constituent or associate member.”
- (11) In section 107D (functions of mayors: general)—
- (a) after subsection (3) insert—
- “(3A) The reference in subsection (3)(b) to a member of a combined authority does not include a non-constituent or associate member.”, and
- (b) after subsection (4) insert—

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“(4A) An order under subsection (3)(c) must provide that the committee must not consist solely of non-constituent or associate members.”

(12) In section 107G (mayors for combined authority areas: financial provision), after subsection (6) insert—

“(6A) The reference in subsection (6)(b)(i) to a member of a combined authority does not include a non-constituent or associate member.”

(13) In section 120 (interpretation), at the appropriate places insert—

““associate member” has the meaning given by section 104B(1);”;

““nominating body” means a body designated under section 104A(1);” and

““non-constituent member” has the meaning given by section 104A(3);”.

#### Commencement Information

**I64** S. 64 in force at 26.12.2023, see s. 255(2)(h)

## 65 Proposal for establishment of combined authority

(1) The Local Democracy, Economic Development and Construction Act 2009 is amended in accordance with subsections (2) to (8).

(2) Omit sections 108 (review by authorities: new combined authority) and 109 (preparation and publication of scheme: new combined authority).

(3) Before section 110 insert—

### “109A Proposal for new combined authority

(1) One or more authorities to which this section applies may—

(a) prepare a proposal for the establishment of a combined authority for an area, and

(b) submit the proposal to the Secretary of State.

(2) This section applies to the following authorities—

(a) a county council the whole or any part of whose area is within the proposed area;

(b) a district council whose area is within the proposed area;

(c) an EPB the whole or any part of whose area is within the proposed area;

(d) an ITA the whole or any part of whose area is within the proposed area;

(e) a combined county authority the whole or any part of whose area is within the proposed area.

(3) In this section—

“combined county authority” means a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023;

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“the proposed area” means the area for which the combined authority is proposed to be established.

- (4) Before submitting a proposal under this section to the Secretary of State, the authority or authorities preparing the proposal must—
- (a) carry out a public consultation across the proposed area on the proposal, and
  - (b) have regard to the results of the consultation in preparing the proposal for submission to the Secretary of State.
- (5) The requirements in subsection (4) may be satisfied by things done before the coming into force of this section.
- (6) If a proposal under this section is not submitted by all of the authorities to which this section applies, each authority which does not submit the proposal must consent to its submission to the Secretary of State.
- (7) A proposal under this section must specify the purposes to be achieved by the establishment of the combined authority.
- (8) The Secretary of State may by regulations—
- (a) make further provision about the matters which must be addressed by a proposal under this section;
  - (b) make provision about material which must be included in or submitted with a proposal under this section.
- (9) Regulations under [subsection \(8\)](#) may make incidental, supplementary, consequential, transitional, transitory or saving provision.”
- (4) Section 110 (requirements in connection with establishment of combined authority) is amended in accordance with subsections (5) to (8).
- (5) In subsection (1), for paragraph (a) substitute—
- “(a) the Secretary of State considers that to do so is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area,
  - (aa) the Secretary of State considers that to do so is appropriate having regard to the need—
    - (i) to secure effective and convenient local government, and
    - (ii) to reflect the identities and interests of local communities,
  - (ab) where a proposal for the establishment of the combined authority has been submitted under section 109A, the Secretary of State considers that its establishment will achieve the purposes specified under [subsection \(7\)](#) of that section,”.
- (6) For subsection (1A) substitute—
- “(1A) If a proposal for the establishment of the combined authority has been submitted under section 109A, the Secretary of State must have regard to the proposal in making the order.”
- (7) In subsection (2), for paragraphs (a) and (b) (and the “and” at the end of paragraph (b)) substitute—
- “(a) a proposal has been prepared under section 109A,

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- (b) a public consultation has been carried out in connection with the proposal and the Secretary of State has been provided with a summary of the consultation responses, and”.
- (8) Omit subsection (4).
- (9) This section does not affect—
  - (a) the operation of section 108 of the Local Democracy, Economic Development and Construction Act 2009 in relation to a review that began before this section came into force, or
  - (b) the operation of section 109 of that Act in relation to the preparation and publication of a scheme following such a review.
- (10) The amendments made by subsections (5) to (8) do not apply to section 110 of that Act as it has effect in relation to—
  - (a) the making of an order in response to a scheme under section 109 of that Act, or
  - (b) the making of an order otherwise than in response to a scheme, where a draft of the statutory instrument containing the order was laid before Parliament before the coming into force of this section.

#### Commencement Information

**I65** S. 65 in force at 26.12.2023, see s. 255(2)(h)

## 66 Proposal for changes to existing combined arrangements

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended in accordance with subsections (2) to (9).
- (2) Omit sections 111 (review by authorities: existing combined authority) and 112 (preparation and publication of scheme: existing combined authority).
- (3) Before section 113 insert—

### “112A Proposal for changes to existing combined arrangements

- (1) One or more authorities to which this section applies may—
  - (a) prepare a proposal for the making of an order under section 104, 105, 105A, 106, 107, 107A, 107D or 107F in relation to an existing combined authority, and
  - (b) submit the proposal to the Secretary of State.
- (2) This section applies to the following authorities—
  - (a) the combined authority;
  - (b) a county council the whole or any part of whose area is within the area of the combined authority;
  - (c) a district council whose area is within the area of the combined authority;
  - (d) in the case of a proposal for the making of an order under section 106 to add all or part of the area of a county council to the area of the combined authority, that county council;

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- (e) in the case of a proposal for the making of an order under section 106 to add the area of a district council to the area of the combined authority, that district council.
- (3) Before submitting a proposal under this section to the Secretary of State, the authority or authorities preparing the proposal must—
    - (a) carry out a public consultation across—
      - (i) the area of the combined authority, and
      - (ii) in the case of a proposal for the making of an order under section 106 to add a local government area to the area of the combined authority, that local government area, and
    - (b) have regard to the results of the consultation in preparing the proposal for submission to the Secretary of State.
  - (4) The requirements in subsection (3) may be satisfied by things done before the coming into force of this section.
  - (5) Before a proposal under this section for the making of an order is submitted to the Secretary of State, each person who would have to consent to the making of the order must consent to the submission of the proposal.
  - (6) If a proposal under this section is submitted to the Secretary of State by an authority, the authority is to be treated as having consented to its submission for the purposes of subsection (5).
  - (7) In determining for the purposes of subsection (5) who would have to consent to the making of an order under section 105A, subsections (3) and (4) of section 105B (limited consent requirements) are to be disregarded.
  - (8) In determining for the purposes of subsection (5) who would have to consent to the making of an order under section 107A, section 107B(3)(b) (limited consent requirements) is to be disregarded.
  - (9) A proposal under this section must specify the purposes to be achieved by the order which it proposes should be made.
  - (10) The Secretary of State may by regulations—
    - (a) make further provision about the matters which must be addressed by a proposal under this section;
    - (b) make provision about material which must be included in or submitted with a proposal under this section.
  - (11) Regulations under subsection (10) may make incidental, supplementary, consequential, transitional, transitory or saving provision.”
- (4) Section 113 (requirements in connection with changes to existing combined arrangements) is amended in accordance with subsections (5) to (9).
  - (5) In subsection (1), for “106 or 107” substitute “105A, 106, 107, 107A, 107D or 107F”.
  - (6) In subsection (1), for paragraph (a) (and the “and” at the end of that paragraph) substitute—
    - “(a) the Secretary of State considers that to do so is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area,

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- (aa) the Secretary of State considers that to do so is appropriate having regard to the need—
    - (i) to secure effective and convenient local government, and
    - (ii) to reflect the identities and interests of local communities,
  - (ab) where a proposal for the making of the order has been submitted under section 112A, the Secretary of State considers that making the order will achieve the purposes specified under [subsection \(9\)](#) of that section, and”.
- (7) For subsection (1A) substitute—
- “(1A) If a proposal for the making of the order has been submitted under section 112A, the Secretary of State must have regard to the proposal in making the order.”
- (8) In subsection (2), for paragraphs (a) and (b) (and the “and” at the end of paragraph (b)) substitute—
- “(a) a proposal has been prepared under section 112A,
- (b) a public consultation has been carried out in connection with the proposal and the Secretary of State has been provided with a summary of the consultation responses, and”.
- (9) Omit subsection (3).
- (10) This section does not affect—
- (a) the operation of section 111 of the Local Democracy, Economic Development and Construction Act 2009 in relation to a review that began before this section came into force, or
  - (b) the operation of section 112 of that Act in relation to the preparation and publication of a scheme following such a review.
- (11) The amendments made by subsections [\(5\)](#) to [\(9\)](#) do not apply to section 113 of that Act as it has effect in relation to—
- (a) the making of an order in response to a scheme under section 112 of that Act, or
  - (b) the making of an order otherwise than in response to a scheme, where a draft of the statutory instrument containing the order was laid before Parliament before the coming into force of this section.
- (12) The requirement to consult under section 113(2) of the Local Democracy, Economic Development and Construction Act 2009, as amended by this section, may be satisfied by consultation before (as well as after) the passing of this Act.

#### Commencement Information

**I66** S. 66 in force at Royal Assent, see [s. 255\(2\)\(i\)](#)

## 67 Consequential amendments relating to section [65](#) and [66](#)

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- (2) In section 105B (section 105A orders: procedure)—

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- (a) in subsection (1)—
    - (i) in paragraph (a), for “by the appropriate authorities,” substitute “—
      - (i) as part of a proposal under section 109A, or
      - (ii) in accordance with section 112A,” and
    - (ii) in paragraph (b), for the words from “the exercise” to the end of the paragraph substitute “the economic, social and environmental well-being of some or all of the people who live or work in the area or areas to which the order relates”, and
  - (b) omit subsection (11).
- (3) In section 107B (requirements in connection with orders under section 107A)—
- (a) in subsection (1), for “by the appropriate authorities,” substitute “—
    - (a) as part of a proposal under section 109A, or
    - (b) in accordance with section 112A,” and
  - (b) omit subsection (2).
- (4) The amendments made by this section do not affect the operation of section 105B or 107B of the Local Democracy, Economic Development and Construction Act 2009 in relation to a proposal under that section made before the coming into force of this section.

#### Commencement Information

**I67** S. 67 in force at 26.12.2023, see s. 255(2)(j)

## 68 Regulations applying to combined authorities

- (1) Section 117 of the Local Democracy, Economic Development and Construction Act 2009 (orders under Part 6) is amended as follows.
- (2) In the heading, after “Orders” insert “and regulations”.
- (3) In subsection (1), after “Orders” insert “and regulations”.
- (4) In subsection (1A), after “An order” insert “or regulations”.
- (5) After subsection (3) insert—
  - “(3A) A statutory instrument that contains (whether alone or with any other provisions) regulations under section 104C(1), 104C(4), or 107K(1) may not be made unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
  - (3B) A statutory instrument that—
    - (a) contains regulations under section 109A(8) or 112A(10), and
    - (b) is not by virtue of subsection (3A) subject to a requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,
 is subject to annulment by resolution of either House of Parliament.”
- (6) In subsection (4), after “Part” insert “or of regulations under section 104C(1) or (4)”.

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#### Commencement Information

**I68** S. 68 in force at 26.12.2023, see s. 255(2)(j)

### 69 Combined authorities and combined county authorities: power to borrow

In section 23 of the Local Government Act 2003 (meaning of “local authority” for the purposes of Part 1), after subsection (10) insert—

“(10A) If a draft of a statutory instrument containing regulations under subsection (5) or (8A) would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.”

#### Commencement Information

**I69** S. 69 in force at 26.12.2023, see s. 255(2)(j)

### 70 Payment of allowances to committee members

(1) In Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009 (combined authorities: overview and scrutiny committees and audit committees)—

(a) in paragraph 3(2) (power by order to make further provision about overview and scrutiny committees), after paragraph (a) insert—

“(aa) about the payment of allowances to members of such a committee who are members of a constituent council;”, and

(b) in paragraph 4(3) (power by order to make further provision about audit committees), after paragraph (b) insert—

“(c) the payment of allowances to members of the committee who are members of a constituent council (within the meaning of paragraph 3).”

(2) In Schedule 5C to that Act (mayors for combined authority areas: police and crime commissioner functions), after paragraph 5 insert—

“5A The Secretary of State may by order make provision about the payment of allowances to members of a police and crime panel established by virtue of an order under paragraph 4 who are members of a constituent council (within the meaning of paragraph 3 of Schedule 5A).”

#### Commencement Information

**I70** S. 70 in force at 26.12.2023, see s. 255(2)(j)



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### *Local authority governance*

## 71 Timing for changes in governance arrangements

- (1) The Local Government Act 2000 is amended as follows.
- (2) In section 9KC (resolution of local authority)—
- (a) in subsection (4)—
    - (i) the words from “Resolution B is approved” to the end of the subsection become paragraph (a), and
    - (ii) at the end of that paragraph insert “, or
      - (b) subsection (4A) applies and Resolution B is passed in accordance with subsection (4E).”, and
  - (b) after subsection (4) insert—
 

“(4A) This subsection applies where Resolution B—

    - (a) makes a change in governance arrangements—
      - (i) under section 9K for the local authority to start to operate executive arrangements, or
      - (ii) under section 9KA for the local authority to vary its executive arrangements so that they provide for a mayor and cabinet executive, and
    - (b) has not been approved in a referendum held in accordance with this Chapter.

(4B) Where subsection (4A) applies, the local authority may submit a proposal to the Secretary of State for consent to pass Resolution B before the end of the period of 5 years beginning with the date Resolution A is passed.

(4C) A proposal must specify—

    - (a) the change in governance arrangements to be made by Resolution B, and
    - (b) how the change is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area of the local authority.

(4D) The Secretary of State may consent to a proposal only if the Secretary of State considers that the change in governance arrangements is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area of the local authority.

(4E) If the Secretary of State consents to a proposal, the local authority may pass Resolution B—

    - (a) before the end of the 5 year period beginning with the date Resolution A is passed, but
    - (b) not later than the end of the 3 year period beginning with the date consent is given.

(4F) The Secretary of State may by regulations make further provision about—

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- (a) the matters which must be addressed by a proposal under this section, and
  - (b) how a proposal is to be considered by the Secretary of State.”
- (3) In section 9MF (further provision with respect to referendums)—
- (a) in subsection (1)—
    - (i) the words from “subsection (2)” to the end of the subsection become paragraph (a), and
    - (ii) at the end of that paragraph insert “, or
      - (b) subsection (3A) applies and Referendum B is held in accordance with subsection (3E).”, and
  - (b) after subsection (3) insert—
    - “(3A) This subsection applies if Referendum B is held under section 9M to approve a change in governance arrangements—
      - (a) under section 9K for the local authority to start to operate executive arrangements, or
      - (b) under section 9KA for the local authority to vary its executive arrangements so that they provide for a mayor and cabinet executive.
    - (3B) Where subsection (3A) applies, the local authority may submit a proposal to the Secretary of State for consent to hold Referendum B within the period of 10 years beginning with the date of Referendum A.
    - (3C) A proposal must specify—
      - (a) the change in governance arrangements that is subject to approval in Referendum B, and
      - (b) how the change is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area of the local authority.
    - (3D) The Secretary of State may consent to a proposal only if the Secretary of State considers that the change in governance arrangements is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area of the local authority.
    - (3E) If the Secretary of State consents to a proposal, the local authority may hold Referendum B—
      - (a) within the 10 year period beginning with the date of Referendum A, but
      - (b) not later than the end of the 3 year period beginning with the date consent is given.
    - (3F) The Secretary of State may by regulations make further provision about—
      - (a) the matters which must be addressed by a proposal under this section, and
      - (b) how a proposal is to be considered by the Secretary of State.”

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### Commencement Information

**I71** S. 71 in force at Royal Assent, see [s. 255\(2\)\(k\)](#)

## 72 Transfer of functions: changes in governance arrangements

(1) The Local Government Act 2000 is amended in accordance with subsections (2) to (5).

(2) In section 9KC (resolution of local authority), after subsection (5) insert—

“(6) See sections [9NC](#) and [9ND](#) (transfer of functions: changes in governance arrangements) for further provision about when a resolution under this section may be passed.”

(3) In section 9MB (requirement to hold and give effect to referendum)—

(a) in subsection (4)—

(i) the words from “within the period” to the end of the subsection become paragraph (a), and

(ii) at the end of that paragraph insert “, or

(b) where [paragraph \(b\)](#) of section [9ND\(7\)](#) (transfer of functions: changes in governance arrangements) applies, within the period of 28 days beginning with the day when the regulations mentioned in that subsection are amended or revoked.”, and

(b) after subsection (5) insert—

“(6) See section [9ND](#) for further provision about referendums under section 9M.”

(4) In section 9MF (further provision with respect to referendums), after subsection (6) insert—

“(7) See section [9ND](#) (transfer of functions: changes in governance arrangements) for further provision about referendums under section 9MC.”

(5) After section 9NB insert—

*“Transfer of functions: changes in governance arrangements*

### **9NC Transfer of functions: changes in governance arrangements not subject to a referendum**

(1) This section applies where—

(a) the Secretary of State has made regulations under section 16 of the Cities and Local Government Devolution Act 2016 (power to transfer etc public authority functions to certain local authorities) that provide for a function to be exercisable by a local authority,

(b) the local authority proposes to pass a resolution under section 9KC to make a relevant change in governance arrangements, and

(c) that change is not—

(i) subject to approval in a referendum under section 9M, or

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- (ii) required to be implemented by the local authority in accordance with section 9MF(4) (referendums under sections 9MC to 9ME).
- (2) The local authority may not pass the resolution unless the local authority complies with this section.
- (3) The local authority must notify the Secretary of State of the proposed change in governance arrangements.
- (4) Where the Secretary of State receives such a notification, the Secretary of State must consider whether, as a result of the proposed change in governance arrangements, the regulations mentioned in subsection (1)(a) should be amended or revoked (see section 17(1) of the Cities and Local Government Devolution Act 2016).
- (5) The Secretary of State must notify the local authority of the decision under subsection (4).
- (6) If the Secretary of State considers that the regulations should be amended or revoked, the local authority may not pass the resolution until the regulations have been so amended or revoked.
- (7) If the Secretary of State considers that the regulations should not be amended or revoked, the local authority may pass the resolution.
- (8) In this section—
- “function” has the same meaning as in section 16 of the Cities and Local Government Devolution Act 2016;
- “relevant change in governance arrangements” means—
- (a) a change under section 9K for the local authority to cease to operate executive arrangements, or
- (b) a change under section 9KA for the local authority to vary its executive arrangements so that they provide for a leader and cabinet executive.
- (9) This section is subject to section 9KC(3) and (4) (timing of change in governance arrangements).

#### **9ND Transfer of functions: changes in governance arrangements subject to a referendum**

- (1) This section applies where—
- (a) the Secretary of State has made regulations under section 16 of the Cities and Local Government Devolution Act 2016 (power to transfer etc public authority functions to certain local authorities) that provide for a function to be exercisable by a local authority,
- (b) the local authority proposes to pass a resolution under section 9KC to make a relevant change in governance arrangements, and
- (c) that change is subject to approval in a referendum under section 9M.
- (2) This section also applies where—

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- (a) the Secretary of State has made regulations under section 16 of the Cities and Local Government Devolution Act 2016 that provide for a function to be exercisable by a local authority, and
  - (b) the local authority is required by regulations under section 9MC (referendum following petition) to hold a referendum on whether the authority should make a relevant change in governance arrangements.
- (3) The local authority may not—
- (a) hold the referendum mentioned in subsection (1)(c) or (2)(b), or
  - (b) pass a resolution which makes the proposed change in governance arrangements,
- unless the local authority complies with this section.
- (4) The local authority must notify the Secretary of State of the proposed change in governance arrangements.
- (5) Where the Secretary of State receives such a notification, the Secretary of State must consider whether, as a result of the proposed change in governance arrangements, the regulations mentioned in subsection (1)(a) or (2)(a) should be amended or revoked (see section 17(1) of the Cities and Local Government Devolution Act 2016).
- (6) The Secretary of State must notify the local authority of the decision under subsection (5).
- (7) If the Secretary of State considers that the regulations should be amended or revoked—
- (a) the local authority may hold the referendum mentioned in subsection (1)(c) or (2)(b), but
  - (b) if the result of the referendum is to approve the proposals, the local authority may not pass a resolution which makes the proposed change in governance arrangements until the regulations have been so amended or revoked.
- (8) If the Secretary of State considers that the regulations should not be amended or revoked, the local authority may hold the referendum mentioned in subsection (1)(c) or (2)(b) and (if the result of the referendum is to approve the proposals) pass the resolution.
- (9) In this section “function” and “relevant change in governance arrangements” have the same meaning as in section 9NC.
- (10) This section is subject to sections 9KC(3) and (4), 9MB and 9MF (timing of change in governance arrangements etc).”
- (6) In section 17 of the Cities and Local Government Devolution Act 2016 (section 16: procedure etc)—
- (a) in subsection (1)—
    - (i) omit the “and” at the end of paragraph (a), and
    - (ii) after paragraph (b) insert “, and
    - (c) where subsection (4A) applies to the regulations, the Secretary of State has had regard to the matters in subsection (4B).”, and
  - (b) after subsection (4) insert—

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- “(4A) This subsection applies to regulations under section 16 that—
- (a) revoke or otherwise amend previous regulations under that section, and
  - (b) are made in response to a notification from a local authority under section 9NC(3) or 9ND(4) of the Local Government Act 2000 (transfer of functions: changes in governance arrangements) of a proposed change in governance arrangements.
- (4B) The matters mentioned in subsection (1)(c) are—
- (a) the circumstances of the area of the local authority, and
  - (b) the likely impact of the change in governance arrangements on—
    - (i) the economic, social and environmental well-being of some or all of the people who live or work in the area of the local authority, and
    - (ii) the accountability and decision-making of the local authority.”

#### Commencement Information

I72 S. 72 in force at Royal Assent, see s. 255(2)(k)

### 73 Power to transfer etc public authority functions to certain local authorities

In section 17 of the Cities and Local Government Devolution Act 2016 (procedure for making regulations under section 16)—

- (a) in subsection (1)(b), for “the exercise of statutory functions” substitute “the economic, social and environmental well-being of some or all of the people who live or work”, and
- (b) before subsection (5) insert—

“(4C) The requirement in subsection (1)(b) does not apply to the making of regulations under section 16 where subsection (4A) applies to those regulations.”

#### Commencement Information

I73 S. 73 in force at 26.12.2023, see s. 255(2)(l)

### *Police and crime commissioners and the Mayor’s Office for Policing and Crime*

### 74 Participation of police and crime commissioners at certain local authority committees

In section 102(9) of the Local Government Act 1972 (appointment of committees), for “to which the commissioner is appointed in accordance with this section”, substitute “described in subsection (6)”.

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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### Commencement Information

**I74** S. 74 in force at 26.12.2023, see s. 255(2)(l)

## PROSPECTIVE

### 75 Disposal of land

In section 123 of the Local Government Act 1972 (disposal of land by principal councils), after subsection (2B) insert—

“(2C) Police and crime commissioners and the Mayor’s Office for Policing and Crime are to be treated as principal councils for the purposes of this section.”

### Commencement Information

**I75** S. 75 not in force at Royal Assent, see s. 255(2)(m)

### *Alternative mayoral titles*

### 76 Combined authorities: alternative mayoral titles

After section 107G of the Local Democracy, Economic Development and Construction Act 2009 insert—

#### “107H Alternative mayoral titles: new mayoral combined authorities

- (1) This section applies to a mayoral combined authority where the order made under section 107A (power to provide for election of mayor) in relation to the authority comes into force on or after the date on which this section comes into force.
- (2) At the first meeting of the authority after the order made under section 107A comes into force, the authority must, by a resolution in accordance with subsection (4)—
  - (a) provide that the mayor for the area of the authority is to be known by the title of mayor, or
  - (b) change the title by which the mayor for the area of the authority is to be known to an alternative title mentioned in subsection (3).
- (3) The alternative titles are—
  - (a) county commissioner;
  - (b) county governor;
  - (c) elected leader;
  - (d) governor;
  - (e) a title that the authority considers more appropriate than the alternative titles mentioned in paragraphs (a) to (d), having regard to the title of other public office holders in the area of the authority.

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- (4) The following requirements must be met in relation to the resolution mentioned in subsection (2)—
- (a) particulars of the resolution must be included in the notice of the meeting,
  - (b) where the resolution includes a proposed alternative title mentioned in subsection (3)(e), the resolution must specify why the authority considers that the title is more appropriate than the other alternative titles mentioned in subsection (3), and
  - (c) the resolution must be passed at the meeting by a simple majority of the members of the authority who vote on it.
- (5) Subsections (6) and (7) apply where under this section a mayoral combined authority changes the title by which the mayor for the area of the authority is to be known to an alternative title.
- (6) The authority must—
- (a) send notice of the change to the Secretary of State,
  - (b) publish the notice in the area of the authority in such manner as the authority considers appropriate, and
  - (c) publish the notice in such other manner as the Secretary of State may direct.
- (7) Where this subsection applies—
- (a) a reference in any enactment (whenever passed or made) to the mayor for the area of the authority is, unless the context otherwise requires, to be read as a reference to the alternative title by which the mayor is to be known, and
  - (b) references to mayor, mayoral (except in the expression “mayoral combined authority”) and deputy mayor are to be construed accordingly.
- (8) A change of title under this section does not affect the rights or obligations of any person or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of title.
- (9) In this section a reference to a member of a combined authority does not include a non-constituent member.
- (10) In this section “enactment”—
- (a) includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978, but
  - (b) does not include this section or sections 107I and 107J.

### **107I Alternative mayoral titles: existing mayoral combined authorities**

- (1) This section applies to a mayoral combined authority where the order made under section 107A (power to provide for election of mayor) in relation to the authority comes into force before the date on which this section comes into force.
- (2) The authority may, by a resolution in accordance with subsection (3), change the title by which the mayor for the area of the authority is to be known to one of the following alternative titles—



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- (a) county commissioner;
  - (b) county governor;
  - (c) elected leader;
  - (d) governor;
  - (e) a title that the authority considers more appropriate than the alternative titles mentioned in paragraphs (a) to (d), having regard to the title of other public office holders in the area of the authority.
- (3) The following requirements must be met in relation to the resolution—
  - (a) the resolution must be considered at the first meeting of the authority held after a qualifying election for the return of the mayor,
  - (b) particulars of the resolution must be included in the notice of the meeting,
  - (c) where the resolution includes a proposed alternative title mentioned in subsection (2)(e), the resolution must specify why the authority considers that the title is more appropriate than the other alternative titles mentioned in subsection (2), and
  - (d) the resolution must be passed at the meeting by a simple majority of the members of the authority who vote on it.
- (4) Subsections (5) and (6) apply where under this section a mayoral combined authority changes the title by which the mayor for the area of the authority is to be known to an alternative title.
- (5) The authority must—
  - (a) send notice of the change to the Secretary of State,
  - (b) publish the notice in the area of the authority in such manner as the authority considers appropriate, and
  - (c) publish the notice in such other manner as the Secretary of State may direct.
- (6) Where this subsection applies—
  - (a) a reference in any enactment (whenever passed or made) to the mayor for the area of the authority is, unless the context otherwise requires, to be read as a reference to the alternative title by which the mayor is to be known, and
  - (b) references to mayor, mayoral (except in the expression “mayoral combined authority”) and deputy mayor are to be construed accordingly.
- (7) A change of title under this section does not affect the rights or obligations of any person or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of title.
- (8) In this section a reference to a member of a combined authority does not include a non-constituent member.
- (9) In this section—
  - “enactment” has the same meaning as in section 107H;
  - “qualifying election” means an election for the return of the mayor, other than—
    - (a) the first election for the return of the mayor, and

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(b) an election caused by a vacancy in the office of the mayor occurring before expiry of the mayor’s term of office.

(10) This section is subject to section 107J.

### **107J Alternative mayoral titles: further changes**

- (1) This section applies where a mayoral combined authority has—
- (a) by a resolution under section 107H or 107I or by a previous resolution under this section, changed the title by which the mayor for the area of the authority is to be known to an alternative title,
  - (b) by a resolution under section 107H, provided that the mayor for the area of the authority is to be known by the title of mayor, or
  - (c) by a previous resolution under this section, provided that the mayor for the area of the authority is no longer to be known by an alternative title.
- (2) The authority may, by a resolution in accordance with subsection (4)—
- (a) in a subsection (1)(a) case—
    - (i) provide that the mayor is no longer to be known by the alternative title, or
    - (ii) change the title by which the mayor is to be known to an alternative title mentioned in subsection (3);
  - (b) in a subsection (1)(b) or (c) case, change the title by which the mayor is to be known to an alternative title mentioned in subsection (3).
- (3) The alternative titles are—
- (a) county commissioner;
  - (b) county governor;
  - (c) elected leader;
  - (d) governor;
  - (e) a title that the authority considers more appropriate than the alternative titles mentioned in paragraphs (a) to (d), having regard to the title of other public office holders in the area of the authority.
- (4) The following requirements must be met in relation to the resolution mentioned in subsection (2)—
- (a) the resolution must be considered at a relevant meeting of the authority,
  - (b) particulars of the resolution must be included in the notice of the meeting,
  - (c) where the resolution includes a proposed alternative title mentioned in subsection (3)(e), the resolution must specify why the authority considers that the title is more appropriate than the other alternative titles mentioned in subsection (3), and
  - (d) the resolution must be passed at the meeting by a simple majority of the members of the authority who vote on it.
- (5) In subsection (4)(a) “relevant meeting” means the first meeting of the authority held after a qualifying election for the return of the mayor, provided that the election is at least the third qualifying election since the resolution mentioned in subsection (1) was passed.

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- (6) Where under this section an authority provides that the mayor for the area of the authority is no longer to be known by an alternative title, the authority must—
- (a) send notice of the change to the Secretary of State,
  - (b) publish the notice in the area of the authority in such manner as the authority considers appropriate, and
  - (c) publish the notice in such other manner as the Secretary of State may direct.
- (7) Subsections (8) and (9) apply where under this section an authority changes the title by which the mayor for the area of the authority is to be known to an alternative title.
- (8) The authority must—
- (a) send notice of the change to the Secretary of State,
  - (b) publish the notice in the area of the authority in such manner as the authority considers appropriate, and
  - (c) publish the notice in such other manner as the Secretary of State may direct.
- (9) Where this subsection applies—
- (a) a reference in any enactment (whenever passed or made) to the mayor for the area of the authority is, unless the context otherwise requires, to be read as a reference to the alternative title by which the mayor is to be known, and
  - (b) references to mayor, mayoral (except in the expression “mayoral combined authority”) and deputy mayor are to be construed accordingly.
- (10) A change of title under this section does not affect the rights or obligations of any person, or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of title.
- (11) Where a combined authority to which section 107H applies does not pass a resolution as required by subsection (2) of that section, the authority is to be treated for the purposes of this section as if, at the meeting mentioned in that subsection, it had passed the resolution mentioned in section 107H(2)(a) (providing that the mayor is to be known by the title of mayor).
- (12) In this section a reference to a member of a combined authority does not include a non-constituent member.
- (13) In this section—
- “enactment” has the same meaning as in section 107H;
  - “qualifying election” has the same meaning as in section 107I.

### **107K Power to amend list of alternative titles**

- (1) The Secretary of State may by regulations amend section 107H(3), 107I(2) or 107J(3) to add, modify or remove a reference to an alternative title or a description of an alternative title.

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- (2) Regulations under subsection (1) may make incidental, supplementary, consequential, transitional, transitory or saving provision, including provision which makes consequential amendments to section 107H, 107I or 107J.”

#### Commencement Information

**I76** S. 76 in force at 26.12.2023, see s. 255(2)(n)

### 77 Local authorities in England: alternative mayoral titles

- (1) The Local Government Act 2000 is amended as follows.  
 (2) After section 9HE insert—

#### “9HF Alternative mayoral titles

- (1) A local authority within subsection (8) may, by a resolution in accordance with subsection (2), change the title by which the elected mayor of the authority is to be known to one of the following alternative titles—
- (a) county commissioner;
  - (b) county governor;
  - (c) elected leader;
  - (d) governor;
  - (e) a title that the authority considers more appropriate than the alternative titles mentioned in paragraphs (a) to (d), having regard to the title of other public office holders in the area of the authority.
- (2) The following requirements must be met in relation to the resolution—
- (a) the resolution must be considered at a relevant meeting of the authority,
  - (b) particulars of the resolution must be included in the notice of the meeting,
  - (c) where the resolution includes a proposed alternative title mentioned in subsection (1)(e), the resolution must specify why the authority considers that the title is more appropriate than the other alternative titles mentioned in subsection (1), and
  - (d) the resolution must be passed at the meeting by a simple majority of the members of the authority who vote on it.
- (3) In subsection (2)(a) “relevant meeting” means—
- (a) in the case of a local authority within subsection (8)(a), the first meeting of the authority held after a qualifying election for the return of the elected mayor,
  - (b) in the case of a local authority within subsection (8)(b), the meeting of the authority at which the resolution under section 9KC (resolution of local authority) is passed, and
  - (c) in the case of a local authority within subsection (8)(c), the first meeting of the authority held after the referendum mentioned in section 9N is held.

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- (4) Subsections (5) and (6) apply where under this section a local authority changes the title by which the elected mayor of the authority is to be known to an alternative title.
- (5) The authority must—
- (a) send notice of the change to the Secretary of State,
  - (b) publish the notice in the area of the authority in such manner as the authority considers appropriate, and
  - (c) publish the notice in such other manner as the Secretary of State may direct.
- (6) Where this subsection applies—
- (a) a reference in any enactment (whenever passed or made) to the elected mayor of the authority is, unless the context otherwise requires, to be read as a reference to the alternative title by which the elected mayor is to be known, and
  - (b) references to mayor, mayoral and deputy mayor are to be construed accordingly.
- (7) A change of title under this section does not affect the rights or obligations of any person or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of title.
- (8) A local authority is within this subsection if—
- (a) it operates a mayor and cabinet executive,
  - (b) it passes a resolution in accordance with section 9KC (resolution of local authority) to make a change in governance arrangements which provides for the authority to operate a mayor and cabinet executive, or
  - (c) it holds a referendum by virtue of an order under section 9N (referendum on change to mayor and cabinet executive) and the proposal for the authority to operate a mayor and cabinet executive is approved in that referendum.
- (9) The Secretary of State may by regulations amend subsection (1) to add, modify or remove a reference to an alternative title or a description of an alternative title.
- (10) In this section—
- “enactment”—
- (a) includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978, but
  - (b) does not include this section or section 9HG;
- “qualifying election” means an election for the return of the elected mayor, other than—
- (a) the first election for the return of the elected mayor, and
  - (b) an election caused by a vacancy in the office of the elected mayor occurring before expiry of the elected mayor’s term of office.
- (11) This section is subject to section 9HG.

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### 9HG Alternative mayoral titles: further changes

- (1) This section applies where a local authority has—
  - (a) by a resolution under section 9HF or by a previous resolution under this section, changed the title by which the elected mayor of the authority is to be known to an alternative title, or
  - (b) by a previous resolution under this section, provided that the elected mayor of the authority is no longer to be known by an alternative title.
- (2) The authority may, by a resolution in accordance with subsection (4)—
  - (a) in a subsection (1)(a) case—
    - (i) provide that the elected mayor is no longer to be known by the alternative title, or
    - (ii) change the title by which the elected mayor is to be known to an alternative title mentioned in subsection (3);
  - (b) in a subsection (1)(b) case, change the title by which the elected mayor is to be known to an alternative title mentioned in subsection (3).
- (3) The alternative titles are—
  - (a) county commissioner;
  - (b) county governor;
  - (c) elected leader;
  - (d) governor;
  - (e) a title that the authority considers more appropriate than the alternative titles mentioned in paragraphs (a) to (d), having regard to the title of other public office holders in the area of the authority.
- (4) The following requirements must be met in relation to the resolution mentioned in subsection (2)—
  - (a) the resolution must be considered at a relevant meeting of the authority,
  - (b) particulars of the resolution must be included in the notice of the meeting,
  - (c) where the resolution includes a proposed alternative title mentioned in subsection (3)(e), the resolution must specify why the authority considers that the title is more appropriate than the other alternative titles mentioned in subsection (3), and
  - (d) the resolution must be passed at the meeting by a simple majority of the members of the authority who vote on it.
- (5) In subsection (4)(a) “relevant meeting” means the first meeting of the authority held after a qualifying election for the return of the elected mayor, provided that the election is at least the third qualifying election since the resolution mentioned in subsection (1) was passed.
- (6) Where under this section a local authority provides that the elected mayor of the authority is no longer to be known by an alternative title, the authority must—
  - (a) send notice of the change to the Secretary of State,

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- (b) publish the notice in the area of the authority in such manner as the authority considers appropriate, and
  - (c) publish the notice in such other manner as the Secretary of State may direct.
- (7) Subsections (8) and (9) apply where under this section a local authority changes the title by which the elected mayor of the authority is to be known to an alternative title.
- (8) The authority must—
- (a) send notice of the change to the Secretary of State,
  - (b) publish the notice in the area of the authority in such manner as the authority considers appropriate, and
  - (c) publish the notice in such other manner as the Secretary of State may direct.
- (9) Where this subsection applies—
- (a) a reference in any enactment (whenever passed or made) to the elected mayor of the authority is, unless the context otherwise requires, to be read as a reference to the alternative title by which the elected mayor is to be known, and
  - (b) references to mayor, mayoral and deputy mayor are to be construed accordingly.
- (10) A change of title under this section does not affect the rights or obligations of any person, or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of title.
- (11) The Secretary of State may by regulations amend subsection (3) to add, modify or remove a reference to an alternative title or a description of an alternative title.
- (12) In this section “enactment” and “qualifying election” have the same meaning as in section 9HF.”
- (3) In section 105(6) (orders and regulations), after “9HE,” insert “9HF(9), 9HG(11),”.

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**Commencement Information**

**I77** S. 77 in force at Royal Assent, see [s. 255\(2\)\(o\)](#)

*Local government capital finance*

**78 Capital finance risk management**

- (1) The Local Government Act 2003 is amended as follows.
- (2) After section 12 (power to invest) insert—

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## *“Risk management: England*

### **12A Risk-mitigation directions**

- (1) The Secretary of State may give one or more risk-mitigation directions to a local authority in England, for the purpose of reducing or mitigating the financial risk to the authority, if—
  - (a) a trigger event has occurred in relation to the local authority, and
  - (b) the Secretary of State is satisfied that the direction is, or (as the case may be) directions are, appropriate and proportionate to the level of that financial risk.
- (2) A “trigger event” occurs if (and when)—
  - (a) a risk threshold is breached by the local authority (see [section 12B](#));
  - (b) a report is made by the chief finance officer of the local authority under section 114(3) of the Local Government Finance Act 1988 (report to effect that authority’s expenditure is likely to exceed available resources); or
  - (c) the Secretary of State—
    - (i) gives a direction under section 16(2)(b) (request for expenditure to be, or not be, treated as capital) in respect of the local authority, or
    - (ii) makes a grant to the local authority under an enactment, for the purpose of preventing circumstances arising that would require such a report to be made.
- (3) The following are “risk-mitigation directions”—
  - (a) a direction that sets limits in relation to the borrowing of money by the local authority;
  - (b) a direction that requires the local authority to take action specified in the direction.
- (4) A direction under [subsection \(3\)\(a\)](#)—
  - (a) may set different limits in relation to different kinds of borrowing;
  - (b) must specify the period for which any limit has effect.
- (5) A direction under [subsection \(3\)\(b\)](#)—
  - (a) may (amongst other things) require the local authority to take action to divest itself of a specified asset;
  - (b) must specify the time by which any specified action must be taken.
- (6) In deciding whether or not to exercise a power to give a direction under this section, the Secretary of State must have regard to—
  - (a) the likely impact of the direction on the provision of services to the public by or on behalf of the local authority;
  - (b) the duty imposed on the local authority by section 3(1) of the Local Government Act 1999 (best value duty).
- (7) In deciding whether or not to exercise a power to give a direction under this section, the Secretary of State may, in particular, take account of the likely



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impact of that decision on the implementation of any central government policy, project or programme.

- (8) The Secretary of State may not give a risk-mitigation direction unless the Secretary of State—
- (a) has given the local authority notice of the proposed direction, and of the right of the local authority to make written representations to the Secretary of State about it within the period specified in the notice, and
  - (b) has considered any representations made by the local authority to the Secretary of State within that period.
- (9) In this section, “financial risk”, in relation to a local authority, means the risk that the expenditure of the local authority (including expenditure it proposes to incur) in the current or any future financial year is likely to exceed, or further exceed, the resources (including sums borrowed) available to it to meet that expenditure.
- (10) This section is subject to [section 12C](#) (restriction of power to give risk-mitigation directions).

## 12B Risk thresholds

- (1) For the purposes of [section 12A\(2\)\(a\)](#), a risk threshold is breached by a local authority in England if (and when) a capital risk metric for the local authority breaches the specified threshold for that metric.
- (2) Each of the following is a “capital risk metric”—
  - (a) the total of a local authority’s debt (including credit arrangements) as compared to the financial resources at the disposal of the authority;
  - (b) the proportion of the total of a local authority’s capital assets which is investments made, or held, wholly or mainly in order to generate financial return;
  - (c) the proportion of the total of a local authority’s debt (including credit arrangements) in relation to which the counter-party is not central government or a local authority;
  - (d) the amount of minimum revenue provision charged by a local authority to a revenue account for a financial year;
  - (e) any other metric specified by regulations made by the Secretary of State.
- (3) The Secretary of State may, by regulations, make further provision—
  - (a) specifying whether the specified threshold for a particular metric is breached by a failure to reach that threshold or by that threshold being exceeded;
  - (b) about how the metrics specified in, or under, [subsection \(2\)](#) are to be calculated for the purpose of determining whether the specified threshold for that metric has been breached.
- (4) Before making regulations under [subsection \(2\)\(e\)](#), the Secretary of State must consult all local authorities in England.
- (5) In this section—

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“capital asset” has the meaning given by section 9;

“minimum revenue provision” has the meaning given by regulation 27 of the Local Authorities (Capital Finance and Accounting)(England) Regulations 2003 (S.I. 2003/3146);

“specified” means specified, or determined in a manner specified, in regulations made by the Secretary of State.

- (6) Regulations may require a specified threshold to be determined having regard to guidance issued under section 21(1A) (accounting practices).

### 12C Restriction of power to give risk-mitigation directions

- (1) If, after the power to give risk-mitigation directions becomes exercisable under [section 12A\(1\)](#) in relation to a local authority—

- (a) at least 12 months have elapsed since the Secretary of State last became aware of a trigger event having occurred in relation to the authority,
- (b) any risk-mitigation direction given to the authority has been complied with or revoked, and
- (c) the Secretary of State is satisfied no further risk-mitigation direction is likely to be required in the foreseeable future for the purpose of reducing or mitigating the financial risk to the authority,

the Secretary of State must give the local authority a notice to that effect (“a cessation notice”).

- (2) Where a cessation notice is given, the power conferred by [section 12A\(1\)](#) is no longer exercisable, in relation to that authority, by reason of any trigger event of which the Secretary of State was aware at the time that notice was given.
- (3) In this section “risk-mitigation direction”, “trigger event” and “financial risk” have the same meaning as in [section 12A](#).

### 12D Duty to cooperate with independent expert

- (1) This section applies where—
- (a) a trigger event has occurred in relation to a local authority in England,
  - (b) [section 12C\(2\)](#) does not apply to prevent the power conferred by [section 12A\(1\)](#) being exercisable, in relation to that authority, by reason of that event, and
  - (c) the Secretary of State has appointed an independent expert to review the level of the financial risk to the local authority.
- (2) The local authority must, so far as reasonably practicable, co-operate with the independent expert in any way that the independent expert considers necessary or expedient for the purposes of the conduct of the review.
- (3) In this section—
- “financial risk” has the same meaning as in [section 12A](#);
- “independent expert” means a person—
- (a) who is independent of the local authority and the Secretary of State, and

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- (b) who has relevant experience or knowledge which is relevant to the matter in question;  
 “trigger event” has the same meaning as in [section 12A](#).”
- (3) In section 2 (control of borrowing), in subsection (1)—
- (a) after paragraph (b) insert “, or”, and
  - (b) after that paragraph insert—
    - “(c) any limit for the time being applicable to it under section 12A.”
- (4) In section 5 (temporary borrowing)—
- (a) in subsection (1), after “section 4” insert “or 12A”, and
  - (b) in subsection (2), after “section 4(2)” insert “or 12A”.
- (5) In section 8 (control of credit arrangements), in subsection (1)—
- (a) after paragraph (b) insert “, or”, and
  - (b) after that paragraph insert—
    - “(c) any limit for the time being applicable to it under section 12A.”
- (6) In section 12 (power to invest), at the end insert—
- “This is subject to a direction under section 12A (risk-mitigation directions).”
- (7) In section 19 (application to parish and community councils), in subsection (1) for “9 to 13” substitute “9 to 12, 13”.
- (8) In section 23 (meaning of “local authority” in Chapter 3 of Part 1), in subsection (4), after “1 to 8,” insert “[12A](#) to [12D](#),”.

#### Commencement Information

**I78** S. 78 not in force at Royal Assent, see [s. 255\(2\)\(p\)](#)

**I79** S. 78 in force at 31.1.2024 by [S.I. 2024/92](#), [reg. 2\(a\)](#)

### Council tax

#### 79 Long-term empty dwellings: England

- (1) In section 11B of the Local Government Finance Act 1992 (higher amount for long-term empty dwellings: England)—
- (a) after subsection (1C) insert—
    - “(1D) In exercising its functions under this section a billing authority must have regard to any guidance issued by the Secretary of State.”;
  - (b) in subsection (8), for “2 years” substitute “1 year”.
- (2) The amendments made by [subsection \(1\)](#) have effect for financial years beginning on or after 1 April 2024 (and, in relation to the amendment made by [subsection \(1\)\(b\)](#), it does not matter whether the period mentioned in section 11B(8) of the Local Government Finance Act 1992 begins before [this section](#) comes into force).

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### Commencement Information

**180** S. 79 in force at Royal Assent, see [s. 255\(2\)\(q\)](#)

## 80 Dwellings occupied periodically: England

- (1) The Local Government Finance Act 1992 is amended in accordance with [subsections \(2\) and \(3\)](#).
- (2) After section 11B (higher amount for long-term empty dwellings: England) insert—

### “11C Higher amount for dwellings occupied periodically: England

- (1) For any financial year, a billing authority in England may by determination provide in relation to its area, or such part of its area as it may specify in the determination, that if on any day the conditions mentioned in [subsection \(2\)](#) are satisfied in respect of a dwelling—
  - (a) the discount under section 11(2)(a) does not apply, and
  - (b) the amount of council tax payable in respect of that dwelling and that day is increased by such percentage of not more than 100 as it may specify in the determination.
- (2) The conditions are—
  - (a) there is no resident of the dwelling, and
  - (b) the dwelling is substantially furnished.
- (3) A billing authority’s first determination under this section must be made at least one year before the beginning of the financial year to which it relates.
- (4) In exercising its functions under this section a billing authority must have regard to any guidance issued by the Secretary of State.
- (5) Where a determination under this section has effect in relation to a class of dwellings—
  - (a) the billing authority may not make a determination under section 11A(3), (4) or (4A) in relation to that class, and
  - (b) any determination that has been made under section 11A(3), (4) or (4A) ceases to have effect in relation to that class.
- (6) A billing authority may make a determination varying or revoking a determination under this section for a financial year, but only before the beginning of the year.
- (7) Where a billing authority makes a determination under this section it must publish a notice of the determination in at least one newspaper circulating in the area.
- (8) The notice must be published before the end of the period of 21 days beginning with the date of the determination.
- (9) The validity of the determination is not affected by a failure to comply with [subsection \(7\) or \(8\)](#).

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### 11D Section 11C: regulations

- (1) The Secretary of State may by regulations prescribe one or more classes of dwelling in relation to which a billing authority may not make a determination under [section 11C](#).
  - (2) A class of dwellings may be prescribed under [subsection \(1\)](#) by reference to such factors as the Secretary of State thinks fit and may, amongst other factors, be prescribed by reference to—
    - (a) the physical characteristics of, or other matters relating to, dwellings;
    - (b) the circumstances of, or other matters relating to, any person who is liable to the amount of council tax concerned.
  - (3) The Secretary of State may by regulations specify a different percentage limit for the limit which is for the time being specified in [section 11C\(1\)\(b\)](#).
  - (4) A statutory instrument containing regulations made under [subsection \(3\)](#) may not be made unless a draft of the instrument has been approved by resolution of the House of Commons.”
- (3) In consequence of the amendment made by subsection (2)—
- (a) in section 11 (discounts), in subsection (2), after “11B” insert “, 11C”;
  - (b) in section 11A (discounts: special provision for England), in subsection (4C), at the end insert “and 11C(5)”;
  - (c) in section 13 (reduced amounts), in subsection (3), after “11B” insert “, 11C”;
  - (d) in section 66 (judicial review), in subsection (2)(b), after “11B” insert “, 11C”;
  - (e) in section 67 (functions to be discharged only by authority), in subsection (2) (a), after “11B” insert “, 11C”;
  - (f) in section 113 (orders and regulations), in subsection (3), after “under section” insert “11D(3),”;
  - (g) in Schedule 2 (administration), in paragraph 4(7), after “: England,” insert “11C(1)(b) (higher amount for dwellings occupied periodically: England),”.
- (4) A determination for the purposes of section 11C of the Local Government Finance Act 1992 as inserted by [subsection \(2\)](#) may not relate to a financial year beginning before 1 April 2024 (but this does not affect the requirement for the determination to be made at least one year before the beginning of the financial year to which it relates).

#### Commencement Information

**181** S. 80 in force at Royal Assent, see [s. 255\(2\)\(q\)](#)

### Street names

## 81 Alteration of street names: England

- (1) In this section “local authority” means—
  - (a) a district council in England;
  - (b) a county council in England for an area for which there is no district council;
  - (c) a London borough council;

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- (d) the Common Council of the City of London.
- (2) A local authority within [subsection \(1\)\(a\)](#) or [\(b\)](#) may, by order, alter the name of a street, or any part of a street, in its area if the alteration has the necessary support.
- (3) Where a local authority has altered the name of a street, or any part of a street, under [subsection \(2\)](#), it may cause the altered name to be painted or otherwise marked on a conspicuous part of any building or other erection.
- (4) Any person who then wilfully, and without the consent of the local authority, obliterates, defaces, obscures, removes or alters the altered name painted or otherwise marked under [subsection \(3\)](#) is liable to a penalty not exceeding level 1 on the standard scale.
- (5) A local authority within [subsection \(1\)\(c\)](#) or [\(d\)](#) may exercise the power conferred by section 6(1) of the London Building Acts (Amendment) Act 1939 (assigning of names to streets etc) to make an order altering the name of a street, or any part of a street, in its area only if the alteration has the necessary support.
- (6) An alteration has the necessary support for the purposes of this section only if—
- (a) it has sufficient local support, and
  - (b) where it is an alteration of a specified kind, it has any other support specified as a pre-condition for alterations of that kind.
- (7) Regulations may provide that sufficient local support, or support of a kind specified under [subsection \(6\)\(b\)](#), can only be established in the way, or in one of the alternative ways, specified in the regulations.
- (8) Regulations under [subsection \(7\)](#) may (amongst other things)—
- (a) make provision enabling a referendum to be held by a local authority, on a question determined by it in accordance with the regulations, for the purposes of establishing whether an alteration has sufficient local support, including provision about the conduct and timing of a referendum and who is entitled to vote;
  - (b) provide that, where a local authority holds a referendum in accordance with regulations made by virtue of [paragraph \(a\)](#), the alteration may not be made unless one or both of the following apply—
    - (i) a specified percentage or number of those entitled to vote in the referendum exercise that right;
    - (ii) a specified majority of those who vote indicate their support for the alteration;
  - (c) provide that, where a local authority has run a process (“the first process”) for the purposes of this section which failed to establish that an alteration of the name of a street (or a part of a street) had sufficient local support, the local authority may not run another such process within a specified period in respect of—
    - (i) if the first process related to the name of a whole street, an alteration of the name of the same street or any part of it;
    - (ii) if the first process related to the name of a part of a street (“the original part”), an alteration of the name of the whole street, of the original part or of any other part which includes some or all of the original part.
- (9) A local authority must have regard to any guidance published by the Secretary of State about—

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- (a) the things to be done before a local authority decides to take steps to establish if an alteration has the necessary support for the purposes of this section;
  - (b) the exercise of other functions conferred on a local authority by or under this section.
- (10) No local Act operates to enable a local authority within [subsection \(1\)\(a\)](#) or [\(b\)](#) to alter the name of a street, or part of a street, in its area.
- (11) In this section—
- “regulations” means regulations made by the Secretary of State;
  - “specified” means specified in regulations;
  - “street” has the meaning given by section 48(1) of the New Roads and Street Works Act 1991.
- (12) [Schedule 5](#) contains amendments which are consequential on this section.

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**Commencement Information**

**I82** S. 81 not in force at Royal Assent, see [s. 255\(2\)\(r\)](#)

**I83** S. 81 in force at 31.1.2024 by [S.I. 2024/92](#), [reg. 2\(b\)](#)

*Other provision*

**82 Powers of parish councils**

After section 19 of the Local Government Act 1894 (provisions as to small parishes), insert—

**“19A Powers under other enactments**

- (1) Nothing in this Part affects any powers, duties or liabilities conferred on a parish council by or under any other enactment (whenever passed or made).
- (2) This section does not apply in relation to community councils (see section 179(4) of the Local Government Act 1972).”

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**Commencement Information**

**I84** S. 82 in force at 26.12.2023, see [s. 255\(2\)\(s\)](#)

**83 The Common Council of the City of London: removal of voting restrictions**

- (1) In section 618 of the Housing Act 1985 (the Common Council of the City of London), omit subsections (3) and (4).
- (2) In section 224 of the Housing Act 1996 (the Common Council of the City of London), omit subsections (3) and (4).

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#### Commencement Information

**185** S. 83 in force at 26.12.2023, see s. 255(2)(s)

## PART 3

### PLANNING

VALID FROM 31/03/2024

## CHAPTER 1

### PLANNING DATA

#### 84 Power in relation to the processing of planning data

- (1) Regulations made by an appropriate authority under this Chapter (“planning data regulations”) may make provision requiring a relevant planning authority, in processing such of its planning data as is specified or described in the regulations, to comply with any approved data standards which are applicable.
- (2) “Planning data”, in relation to a relevant planning authority, means any information which is provided to, or processed by, the authority—
  - (a) for the purposes of a function under a relevant planning enactment, or
  - (b) for any other purpose relating to planning or development in England.
- (3) “Approved data standards”, in relation to planning data, are such written standards, containing technical specifications or other requirements in relation to the data, or in relation to providing or processing the data, as may be published by an appropriate authority from time to time.
- (4) A devolved authority may only publish approved data standards in relation to planning data about which the devolved authority acting alone could make planning data regulations.

#### Commencement Information

**186** S. 84 not in force at Royal Assent, see s. 255(3)(b)

#### 85 Power in relation to the provision of planning data

- (1) A relevant planning authority may by publishing a notice require a person, or persons of a particular description, in providing to the authority such planning data as is specified or described in planning data regulations, to provide the data—
  - (a) in any form and manner, or
  - (b) in a particular form and manner,
 which complies with any approved data standards which are applicable.



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- (2) A relevant planning authority may not impose a requirement under [subsection \(1\)](#)—
- (a) on the Crown,
  - (b) on a court or tribunal, or
  - (c) in relation to the provision of planning data for the purposes of, or in contemplation of, legal proceedings before a court or tribunal.
- (3) If a relevant planning authority imposes a requirement under [subsection \(1\)](#) on a person, provision in a relevant planning enactment does not apply to the extent that it requires or permits the person to provide the planning data to the authority in a form or manner which is inconsistent with the requirement imposed under [subsection \(1\)](#).
- (4) Subsections [\(5\)](#) to [\(7\)](#) apply if—
- (a) in providing planning data to a relevant planning authority, a person fails to comply with a requirement imposed under [subsection \(1\)](#), and
  - (b) the authority does not consider that the person has a reasonable excuse for the failure.
- (5) The authority may serve a notice on the person rejecting for such purposes as may be specified in the notice—
- (a) all or any part of the planning data, and
  - (b) if the authority considers it appropriate to do so, any other information provided with the planning data or any document in or with which the planning data is provided.
- (6) Any planning data, other information or document rejected under [subsection \(5\)](#) is to be treated as not having been provided to the authority for the purposes specified in the notice.
- (7) If the planning data, other information or document is subsequently provided to the authority in a form and manner which complies with the requirement under [subsection \(1\)](#), the authority may treat the planning data, other information or document as having been provided at the time that it would have been provided had it not been rejected under [subsection \(5\)](#).
- (8) Planning data regulations may include provision about how the powers in this section are to be exercised, including provision about—
- (a) the provision or publication of notices or other documents;
  - (b) the form and content of notices or other documents (and, for these purposes, the regulations may confer a discretion on a relevant planning authority);
  - (c) time limits;
  - (d) any other procedural matters.

#### Commencement Information

**187** S. 85 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

### **86 Power to require certain planning data to be made publicly available**

- (1) Planning data regulations may make provision requiring a relevant planning authority to make such of its planning data as is specified or described in the regulations available to the public under an approved open licence.

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- (2) The power under [subsection \(1\)](#) does not include power to require a relevant planning authority to make planning data available in breach of—
- (a) any obligation of confidence owed by the authority, or
  - (b) any other restriction on making the planning data available (however imposed).
- (3) An “approved open licence”, in relation to a planning authority’s planning data, means a licence—
- (a) which sets out terms and conditions under which the planning data may be used by the public free of charge, and
  - (b) which is in such form and has such content as is, for the time being, specified or described in a document published by the Secretary of State.

#### Commencement Information

**188** S. 86 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

PROSPECTIVE

### 87 Power to require use of approved planning data software in England

- (1) Planning data regulations made by the Secretary of State may make provision restricting or preventing a relevant planning authority in England from using or creating, or having any right in relation to, planning data software which—
- (a) is specified or described in the regulations for the purposes of this subsection, but
  - (b) is not approved in writing by the Secretary of State.
- (2) “Planning data software” means software which is capable of being used for the purposes of enabling or facilitating the provision of planning data to, or the processing of planning data by, relevant planning authorities.

#### Commencement Information

**189** S. 87 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

PROSPECTIVE

### 88 Disclosure of planning data does not infringe copyright in certain cases

- (1) A relevant planning authority that makes planning data available to a person does not, in doing so, infringe copyright if making the data available is necessary for the purposes of enabling or facilitating—
- (a) the development of planning data software which is to be submitted for approval under [section 87\(1\)](#), or

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(b) the upgrade, modification or maintenance of, or the provision of technical support in respect of, planning data software which is approved under [section 87\(1\)](#).

(2) The person to whom the planning data is made available does not infringe any copyright by using it for the purpose mentioned in subsection (1) for which it is made available.

#### Commencement Information

**I90** S. 88 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

### 89 Requirements to consult devolved administrations

(1) The Secretary of State may only make planning data regulations which contain provision—

- (a) within Scottish devolved legislative competence, or
- (b) which could be made by the Scottish Ministers,

with the consent of the Scottish Ministers, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence.

(2) The Secretary of State may only make planning data regulations which contain provision that confers a function on, or modifies or removes a function of, the Scottish Ministers after consulting the Scottish Ministers, unless—

- (a) that provision is contained in regulations which require the consent of the Scottish Ministers by virtue of subsection (1), or
- (b) that provision is merely incidental to, or consequential on, provision that would be outside Scottish devolved legislative competence.

(3) Provision is “within Scottish devolved legislative competence” where, if the provision were included in an Act of the Scottish Parliament, it would be within the legislative competence of that Parliament.

(4) The Secretary of State may only make planning data regulations which contain provision within Welsh devolved legislative competence with the consent of the Welsh Ministers, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence.

(5) The Secretary of State may only make planning data regulations which contain provision that could be made by the Welsh Ministers or that confers a function on, or modifies or removes a function of, the Welsh Ministers or a devolved Welsh authority after consulting the Welsh Ministers, unless—

- (a) that provision is contained in regulations which require the consent of the Welsh Ministers by virtue of subsection (4), or
- (b) that provision is merely incidental to, or consequential on, provision that would be outside Welsh devolved legislative competence.

(6) “Devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).

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- (7) Provision is “within Welsh devolved legislative competence” where, if the provision were included in an Act of Senedd Cymru, it would be within the legislative competence of the Senedd (including any provision that could be made only with the consent of a Minister of the Crown).
- (8) The Secretary of State may only make planning data regulations which contain provision within Northern Ireland devolved legislative competence with the consent of the relevant Northern Ireland department, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence.
- (9) The Secretary of State may only make planning data regulations which contain provision that could be made by a Northern Ireland department or that confers a function on, or modifies or removes a function of, a Northern Ireland department after consulting the relevant Northern Ireland department, unless—
- (a) that provision is contained in regulations which require the consent of the relevant Northern Ireland department by virtue of subsection (8), or
  - (b) that provision is merely incidental to, or consequential on, provision that would be outside Northern Ireland devolved legislative competence.
- (10) The “relevant Northern Ireland department” is such Northern Ireland department as the Secretary of State considers appropriate having regard to the provision which is to be contained in the regulations concerned.
- (11) Provision is within “Northern Ireland devolved legislative competence” where the provision—
- (a) would be within the legislative competence of the Northern Ireland Assembly, if contained in an Act of that Assembly, and
  - (b) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State.
- (12) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

#### Commencement Information

**I91** S. 89 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

## 90 Planning data regulations made by devolved authorities

[Schedule 13](#) contains restrictions on the exercise of the powers under this Chapter by devolved authorities.

#### Commencement Information

**I92** S. 90 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

## 91 Interpretation of Chapter

In this Chapter—

“appropriate authority” means—

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- (a) the Secretary of State,
  - (b) a devolved authority, or
  - (c) the Secretary of State acting jointly with one or more devolved authorities;
- “approved data standards” has the meaning given in [section 84\(3\)](#);
- “devolved authority” means—
- (a) the Scottish Ministers,
  - (b) the Welsh Ministers, or
  - (c) a Northern Ireland department;
- “planning data” has the meaning given in [section 84\(2\)](#);
- “planning data regulations” has the meaning give in [section 84\(1\)](#);
- “planning data software” has the meaning given in [section 87\(2\)](#);
- “process”, in relation to information, means to perform an operation or set of operations on information, or on sets of information, such as—
- (a) collection, recording, organisation, structuring or storage,
  - (b) adaptation or alteration,
  - (c) retrieval, consultation or use,
  - (d) disclosure by transmission, dissemination or otherwise making available,
  - (e) alignment or combination, or
  - (f) restriction, erasure or destruction;
- “provided” includes submitted, issued, served, notified and published (and related expressions are to be construed accordingly);
- “public authority” means any person certain of whose functions are of a public nature;
- “relevant planning authority” means—
- (a) a local planning authority (within the meaning given in [section 15LH](#) of PCPA 2004),
  - (b) a minerals and waste planning authority (within the meaning given in [section 15LH](#) of PCPA 2004),
  - (c) a hazardous substances authority (within the meaning given in the Hazardous Substances Act) in relation to land in England,
  - (d) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009,
  - (e) a combined county authority established under section 9 of this Act,
  - (f) the Greater London Authority,
  - (g) the Mayor of London,
  - (h) a Mayoral development corporation in relation to which a decision of the Mayor under any of subsections (2) to (5) of section 202 of the Localism Act 2011 has effect,
  - (i) an urban development corporation established, for an area in England, under section 135 of the Local Government, Planning and Land Act 1980,
  - (j) a development corporation established, in relation to a site in England, under section 3 of the New Towns Act 1981,
  - (k) the Secretary of State when exercising a function under a relevant planning enactment,

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- (l) a Panel or person who, pursuant to a decision of the Secretary of State under section 61(2) of the Planning Act 2008, is to handle an application for an order granting development consent,
  - (m) a public authority that has functions under [Part 6](#) of this Act, or
  - (n) any other public authority prescribed by planning data regulations that has functions relating to—
    - (i) planning or development in England, or
    - (ii) nationally significant infrastructure projects (within the meaning given in the Planning Act 2008);
- “relevant planning enactment” means any enactment comprised in or made under—
- (a) the Local Government, Planning and Land Act 1980, so far as relating to planning or development in England,
  - (b) the New Towns Act 1981, so far as relating to planning or development in England,
  - (c) TCPA 1990,
  - (d) the Listed Buildings Act,
  - (e) the Hazardous Substances Act,
  - (f) the Planning (Consequential Provisions) Act 1990,
  - (g) Part 8 of GLAA 1999,
  - (h) PCPA 2004,
  - (i) the Planning Act 2008,
  - (j) the Localism Act 2011, so far as relating to planning or development in England,
  - (k) this Part or [Part 4](#) or [Part 6](#) of this Act, or
  - (l) any other enactment prescribed by planning data regulations to the extent that it confers functions on a public authority relating to—
    - (i) planning or development in England, or
    - (ii) nationally significant infrastructure projects (within the meaning given in the Planning Act 2008).

#### Commencement Information

**I93** S. 91 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Levelling-up and Regeneration Act 2023 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## CHAPTER 2

### DEVELOPMENT PLANS ETC

#### *Development plans and national policy*

PROSPECTIVE

#### 92 Development plans: content

(1) Section 38 of PCPA 2004 (development plan) is amended as follows.

(2) In subsection (1), for “(2)” substitute “(2A)”.

(3) For subsections (2) and (3) substitute—

“(2A) For the purposes of any area in England the development plan is—

- (a) each spatial development strategy that is operative in relation to that area,
- (b) each local plan which has effect in relation to that area,
- (c) each minerals and waste plan which has effect in relation to that area,
- (d) each supplementary plan which has effect in relation to that area,
- (e) each neighbourhood development plan which has been made in relation to that area, and
- (f) each policies map for that area.”

(4) For subsection (9) substitute—

“(9A) In subsection (2A)—

- (a) “spatial development strategy”, “local plan”, “minerals and waste plan” and “supplementary plan” have the same meaning as in Part 2 (see, in particular, section 15LH), and
- (b) policies map must be construed in accordance with section 15LD.”

#### Commencement Information

**I94** S. 92 not in force at Royal Assent, see s. 255(3)(b)

PROSPECTIVE

#### 93 Role of development plan and national policy in England

(1) Section 38 of PCPA 2004 (development plan) is amended as follows.

(2) After subsection (5) insert—

“(5A) For the purposes of any area in England, subsections (5B) and (5C) apply if, for the purposes of any determination to be made under the planning Acts, regard is to be had to—

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- (a) the development plan, and
- (b) any national development management policies.

(5B) Subject to subsections (5) and (5C), the determination must be made in accordance with the development plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise.

(5C) If to any extent the development plan conflicts with a national development management policy, the conflict must be resolved in favour of the national development management policy.”

(3) In subsection (6), for “IF” substitute “For the purposes of any area in Wales, if”.

(4) After subsection (9A) (inserted by section 92(4) of this Act) insert—

“(9B) National development management policy must be construed in accordance with section 38ZA.”

(5) Schedule 6 amends various Acts relating to planning so that they provide that, in making a determination, regard is to be had to the development plan and any national development management policies.

#### Commencement Information

I95 S. 93 not in force at Royal Assent, see s. 255(3)(b)

## 94 National development management policies: meaning

After section 38 of PCPA 2004 insert—

### “38ZA Meaning of “national development management policy”

- (1) A “national development management policy” is a policy (however expressed) of the Secretary of State in relation to the development or use of land in England, or any part of England, which the Secretary of State by direction designates as a national development management policy.
- (2) The Secretary of State may—
  - (a) revoke a direction under subsection (1);
  - (b) modify a national development management policy.
- (3) The Secretary of State must have regard to the need to mitigate, and adapt to, climate change—
  - (a) in preparing a policy which is to be designated as a national development management policy, or
  - (b) in modifying a national development management policy.
- (4) Before making or revoking a direction under subsection (1), or modifying a national development management policy, the Secretary of State must ensure that such consultation with, and participation by, the public or any bodies or persons as the Secretary of State thinks appropriate takes place.



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- (5) The only cases in which no consultation or participation need take place under [subsection \(4\)](#) are those where the Secretary of State thinks that none is appropriate because—
- (a) a proposed modification of a national development management policy does not materially affect the policy or only corrects an obvious error or omission, or
  - (b) it is necessary, or expedient, for the Secretary of State to act urgently.”

#### Commencement Information

**I96** S. 94 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

**I97** S. 94 in force at 31.1.2024 by [S.I. 2024/92](#), [reg. 2\(c\)](#)

PROSPECTIVE

### *Spatial development strategy for London*

#### **95 Contents of the spatial development strategy**

- (1) Section 334 of GLAA 1999 (the spatial development strategy) is amended as follows.
- (2) For subsections (2) to (6) substitute—
- “(2A) The spatial development strategy must include a statement of the Mayor’s policies (however expressed), in relation to the development and use of land in Greater London, which are—
- (a) of strategic importance to Greater London, and
  - (b) designed to achieve objectives that relate to the particular characteristics or circumstances of Greater London.
- (2B) The spatial development strategy may specify or describe infrastructure the provision of which the Mayor considers to be of strategic importance to Greater London for the purposes of—
- (a) supporting or facilitating development in Greater London,
  - (b) mitigating, or adapting to, climate change, or
  - (c) promoting or improving the economic, social or environmental well-being of Greater London.
- (2C) The spatial development strategy may specify or describe affordable housing the provision of which the Mayor considers to be of strategic importance to Greater London.
- (2D) For the purposes of subsections [\(2A\)](#) to [\(2C\)](#) a matter—
- (a) may be of strategic importance to Greater London if it does not affect the whole area of Greater London, but
  - (b) is not to be regarded as being of strategic importance to Greater London, unless it is of strategic importance to more than one London borough.

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(2E) The Secretary of State may, by regulations under section 343 below, prescribe further matters the spatial development strategy may, or must, deal with.”

(3) After subsection (8) insert—

“(9) The spatial development strategy must be designed to secure that the use and development of land in Greater London contribute to the mitigation of, and adaptation to, climate change.

(10) The spatial development strategy must take account of any local nature recovery strategy, under section 104 of the Environment Act 2021, that relates to an area in Greater London, including in particular—

(a) the areas identified in the strategy as areas which—

(i) are, or could become, of particular importance for biodiversity, or

(ii) are areas where the recovery or enhancement of biodiversity could make a particular contribution to other environmental benefits,

(b) the priorities set out in the strategy for recovering or enhancing biodiversity, and

(c) the proposals set out in the strategy as to potential measures relating to those priorities.

(11) The spatial development strategy must not—

(a) include anything that is not permitted or required by or under subsections (2A) to (8),

(b) specify particular sites where development should take place, or

(c) be inconsistent with or (in substance) repeat any national development management policy.”

#### Commencement Information

**I98** S. 95 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

## 96 Adjustment of terminology

(1) In section 337 of GLAA 1999 (publication of spatial development strategy)—

(a) for the heading substitute “Adoption.”;

(b) in subsection (1), for “publish” substitute “adopt”;

(c) after that subsection insert—

“(1A) The Mayor adopts the strategy by publishing it together with a statement that it has been adopted.”;

(d) in subsection (2), for “published” substitute “adopted”;

(e) in subsection (4), for “published”, in both places it occurs, substitute “adopted”;

(f) in subsection (5), for “publication” substitute “adoption”;

(g) in subsection (6), for “published” substitute “adopted”;

(h) in subsection (7), for “publish” substitute “adopt”;

(i) in subsection (8), for “publish” substitute “adopt”;

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- (j) in subsection (9), for “published” substitute “adopted”.
- (2) Also in GLAA 1999—
- (a) in section 41(1)(c), for “published” substitute “adopted”;
  - (b) in section 43(5)(a), for “published”, in both places it occurs, substitute “adopted”;
  - (c) in section 334(1), for “publish” substitute “adopt”;
  - (d) in section 336—
    - (i) in subsection (1), for “publishes” substitute “adopts”;
    - (ii) in subsection (4), for “publish” substitute “adopt”;
  - (e) in section 338(1), for “publishing” substitute “adopting”;
  - (f) in section 341—
    - (i) in subsection (1), for “publish” substitute “adopt”;
    - (ii) in subsection (2), for “publish” substitute “adopt”;
    - (iii) in subsection (3), for “publication”, in both places it occurs, substitute “adoption”;
  - (g) in section 343(1)(c), after “publication,” insert “adoption,”.
- (3) In section 74(1C)(b) of TCPA 1990, for “published” substitute “adopted”.
- (4) Any reference in an enactment to a strategy, or alteration or replacement of a strategy, adopted under Part 8 of GLAA 1999 (or the adoption of it) includes reference to a strategy, alteration or replacement published under that Part before this section comes into force (or the publication of it).

#### Commencement Information

**I99** S. 96 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

PROSPECTIVE

### *Local planning*

#### **97 Plan making**

[Schedule 7](#) contains provision for, and in connection with, joint spatial development strategies, local plans, minerals and waste plans and supplementary plans.

#### Commencement Information

**I100** S. 97 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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PROSPECTIVE

### Neighbourhood planning

#### 98 Contents of a neighbourhood development plan

(1) Section 38B of PCPA 2004 (provision that may be made by neighbourhood development plans) is amended as follows.

(2) Before subsection (1) insert—

“(A1) A neighbourhood development plan may include—

- (a) policies (however expressed) in relation to the amount, type and location of, and timetable for, development in the neighbourhood area in the period for which the plan has effect;
- (b) other policies (however expressed) in relation to the use or development of land in the neighbourhood area which are designed to achieve objectives that relate to the particular characteristics or circumstances of that area, any part of that area or one or more specific sites in that area;
- (c) details of any infrastructure requirements, or requirements for affordable housing, to which development in accordance with the policies, included in the plan under paragraph (a) or (b), would give rise;
- (d) requirements with respect to design that relate to development, or development of a particular description, throughout the neighbourhood area, in any part of that area or at one or more specific sites in that area, which the qualifying body considers should be met for planning permission for the development to be granted.”

(3) After subsection (2A) insert—

“(2B) So far as the qualifying body considers appropriate, having regard to the subject matter of the neighbourhood development plan, the plan must—

- (a) be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change, and
- (b) take account of any local nature recovery strategy, under section 104 of the Environment Act 2021, that relates to all or part of the neighbourhood area, including in particular—
  - (i) the areas identified in the strategy as areas which—
    - (A) are, or could become, of particular importance for biodiversity, or
    - (B) are areas where the recovery or enhancement of biodiversity could make a particular contribution to other environmental benefits,
  - (ii) the priorities set out in the strategy for recovering or enhancing biodiversity, and
  - (iii) the proposals set out in the strategy as to potential measures relating to those priorities.

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(2C) The neighbourhood development plan must not—

- (a) include anything that is not permitted or required by or under subsections (A1) to (2A) or regulations under subsection (4), or
- (b) be inconsistent with or (in substance) repeat any national development management policy.”

(4) In subsection (4)(b), after “requiring” insert “or permitting”.

#### Commencement Information

**I101** S. 98 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

### 99 Neighbourhood development plans and orders: basic conditions

(1) In paragraph 8(2) of Schedule 4B to TCPA 1990 (basic conditions for making neighbourhood development order or neighbourhood plan)—

- (a) for paragraph (e) substitute—
  - “(ea) the making of the order would not have the effect of preventing development from taking place which—
    - (i) is proposed in the development plan for the area of the authority (or any part of that area), and
    - (ii) if it took place, would provide housing,”;
- (b) after paragraph (f) (but before the “and” at the end of that paragraph) insert—
  - “(fa) any requirements imposed in relation to the order by or under [Part 6](#) of the Levelling-up and Regeneration Act 2023 (environmental outcomes reports) have been complied with,”.

(2) In section 38C(5) of PCPA 2004 (neighbourhood development plans: modifications of Schedule 4B to TCPA 1990), in paragraph (d), for the words from “if” to the end substitute “if—

- (i) sub-paragraphs (2)(b) and (c) were omitted,
- (ii) in sub-paragraph (2), for paragraph (ea) there were substituted—
  - “(ea) the making of the neighbourhood development plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made,”, and
- (iii) sub-paragraphs (3) to (5) were omitted.”

(3) In paragraph 11(2) of Schedule A2 to PCPA 2004 (modification of neighbourhood development plans: basic conditions)—

- (a) for paragraph (c) substitute—
  - “(ca) the making of the plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the draft plan were not to be made,”;

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- (b) after paragraph (d) (but before the “and” at the end of that paragraph) insert—
- “(da) any requirements imposed in relation to the plan by or under [Part 6](#) of the Levelling-up and Regeneration Act 2023 (environmental outcomes reports) have been complied with.”.

#### Commencement Information

**I102** S. 99 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

PROSPECTIVE

### *Requirement to assist with plan making*

#### **100 Requirement to assist with certain plan making**

In Part 3 of PCPA 2004 (development), after section 39 (sustainable development) insert—

*“Assistance with certain parts of development plan etc*

#### **39A Power to require assistance with certain plan making**

- (1) Subsection (2) applies if a plan-making authority notifies a prescribed public body in writing that the authority requires the body, under this section, to assist the authority in relation to the preparation or revision of a relevant plan by the authority.
- (2) The prescribed public body must do everything that the plan-making authority reasonably requires of the body to assist the authority in relation to the preparation or revision of the relevant plan.
- (3) The Secretary of State may by regulations make provision as to—
  - (a) what a plan-making authority must, may or may not require a prescribed public body to do under [subsection \(2\)](#);
  - (b) the procedure to be followed in doing anything under this section;
  - (c) the determination of the time by or at which anything must be done under this section;
  - (d) the form and content of a notification under [subsection \(1\)](#) or of any other document or information provided under this section.
- (4) A “plan-making authority” is a body which, or other person who, is to prepare or revise (whether acting alone or jointly) a relevant plan.
- (5) Each of the following is a “relevant plan”—
  - (a) a local plan, a minerals and waste plan, a supplementary plan or policies map under Part 2;
  - (b) a spatial development strategy under Part 8 of the Greater London Authority Act 1999 or Part 2 of this Act;

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- (c) an infrastructure delivery strategy under Part 10A of the Planning Act 2008;
  - (d) a marine plan under the Marine and Coastal Access Act 2009 for the English inshore region, the English offshore region or any part of either of those regions.
- (6) A “prescribed public body” is a body which, or other person who, is prescribed or of a prescribed description and certain of whose functions are of a public nature.
- (7) References in this section to the preparation or revision of a relevant plan include any activities that could reasonably be considered to prepare the way for the preparation or revision of the plan.
- (8) In this section—
- “the English inshore region” and “the English offshore region” have the same meaning as in the Marine and Coastal Access Act 2009;
  - “revision”, in relation to a relevant plan, includes any alteration, amendment, replacement or other modification (and related expressions are to be read accordingly).”

#### Commencement Information

**I103** S. 100 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

PROSPECTIVE

#### *Minor and consequential amendments*

### **101** Minor and consequential amendments in connection with [Chapter 2](#)

[Schedule 8](#) contains minor and consequential amendments in connection with [Chapter 2](#).

#### Commencement Information

**I104** S. 101 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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VALID FROM 25/04/2024

## CHAPTER 3

### HERITAGE

PROSPECTIVE

#### 102 Regard to certain heritage assets in exercise of planning functions

(1) After section 58A of TCPA 1990 insert—

*“Regard to certain heritage assets*

##### **58B Duty of regard to certain heritage assets in granting permissions**

- (1) In considering whether to grant planning permission or permission in principle for the development of land in England which affects a relevant asset or its setting, the local planning authority or (as the case may be) the Secretary of State must have special regard to the desirability of preserving or enhancing the asset or its setting.
- (2) For the purposes of subsection (1), preserving or enhancing a relevant asset or its setting includes preserving or enhancing any feature, quality or characteristic of the asset or setting that contributes to the significance of the asset.
- (3) For the purposes of this section—
  - (a) anything within an entry in the first column of the following table is a “relevant asset”, and
  - (b) “significance”, in relation to a relevant asset, has the meaning given by the corresponding entry in the second column of the table.

TABLE

<i>“relevant asset”</i>	<i>“significance”</i>
a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979 (see section 1(11) of that Act)	the national importance referred to in section 1(3) of that Act
a garden or other area of land included in a register maintained by the Historic Buildings and Monuments Commission for England under section 8C of the Historic Buildings and Ancient Monuments Act 1953	the special historic interest referred to in subsection (1) of that section



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<i>“relevant asset”</i>	<i>“significance”</i>
a site designated as a restricted area under section 1 of the Protection of Wrecks Act 1973	the historical, archaeological or artistic importance referred to in subsection (1) (b) of that section
a World Heritage Site (that is to say, a property appearing on the World Heritage List kept under paragraph (2) of article 11 of the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage adopted at Paris on 16 November 1972)	the outstanding universal value referred to in that paragraph
<p>(4) The reference in subsection (1) to a local planning authority includes the Mayor of London in relation to the grant of planning permission by Mayoral development order.</p> <p>(5) Nothing in this section applies in relation to neighbourhood development orders (except as provided in Schedule 4B) or street vote development orders (except as provided by SVDO regulations within the meaning given by section 61QM).”</p> <p>(2) In paragraph 8 of Schedule 4B to TCPA 1990 (matters to be considered in examining draft neighbourhood development order)—</p> <p>(a) in sub-paragraph (2)—</p> <p style="padding-left: 40px;">(i) in paragraph (b), after “preserving” insert “or enhancing”;</p> <p style="padding-left: 40px;">(ii) after paragraph (c) insert—</p> <p style="padding-left: 80px;">“(ca) having special regard to the desirability of preserving or enhancing anything that is a relevant asset for the purposes of section 58B or its setting, it is appropriate to make the order.”;</p> <p>(b) after sub-paragraph (4) insert—</p> <p style="padding-left: 40px;">“(4A) Sub-paragraph (2)(ca) applies in relation to anything that is a relevant asset for the purposes of section 58B only in so far as the order grants planning permission for development that affects the asset or its setting.</p> <p style="padding-left: 40px;">(4B) Subsections (2) and (3)(b) of section 58B apply for the purposes of sub-paragraphs (2)(ca) and (4A) as they apply for the purposes of that section.”</p> <p>(3) In section 16 of the Listed Buildings Act (decisions on applications for listed building consent), after subsection (2) insert—</p> <p style="padding-left: 40px;">“(2A) In relation to a listed building in England, “preserving” in subsection (2) is to be read as “preserving or enhancing”.”</p> <p>(4) In section 66 of the Listed Buildings Act (duty to have regard to listed buildings in the exercise of certain planning functions)—</p> <p>(a) after subsection (1) insert—</p>	

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“(1A) The reference in subsection (1) to a local planning authority includes the Mayor of London in relation to the grant of planning permission by Mayoral development order.”;

(b) after subsection (2) insert—

“(2A) In relation to development in England, or the exercise of powers in England, “preserving” in subsection (1) or (2) is to be read as “preserving or enhancing”.”

#### Commencement Information

**I105** S. 102 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

### 103 Temporary stop notices in relation to listed buildings

(1) The Listed Buildings Act is amended as follows.

(2) After section 44A insert—

#### “44AA Temporary stop notices in England

- (1) This section applies where it appears to a local planning authority in England that—
  - (a) works have been or are being executed to a listed building in their area, and
  - (b) the works are such as to involve a contravention of section 9(1) or (2).
- (2) The authority may issue a temporary stop notice if, having regard to the effect of the works on the character of the building as one of special architectural or historic interest, they consider it is expedient that the works (or part of them) be stopped immediately.
- (3) A temporary stop notice must be in writing and must—
  - (a) specify the works in question,
  - (b) prohibit execution of the works (or so much of them as is specified in the notice),
  - (c) set out the authority’s reasons for issuing the notice, and
  - (d) include a statement of the effect of section 44AB.
- (4) A temporary stop notice may be served on a person who appears to the authority—
  - (a) to be executing the works or causing them to be executed,
  - (b) to have an interest in the building, or
  - (c) to be an occupier of the building.
- (5) The authority must display a copy of the notice on the building; and the copy must specify the date on which it is first displayed.
- (6) A temporary stop notice takes effect when the copy of it is first displayed in accordance with subsection (5).

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- (7) A temporary stop notice ceases to have effect—
- (a) at the end of the period of 56 days beginning with the day on which the copy of it is first displayed in accordance with subsection (5), or
  - (b) if the notice specifies a shorter period beginning with that day, at the end of that period.
- (8) But if the authority withdraws the notice before the time when it would otherwise cease to have effect under subsection (7), the notice ceases to have effect on its withdrawal.
- (9) A local planning authority may not issue a subsequent temporary stop notice in relation to the same works unless the authority have, since issuing the previous notice, taken other enforcement action in relation to the contravention referred to in subsection (1)(b).
- (10) The reference in subsection (9) to taking other enforcement action includes a reference to obtaining an injunction under section 44A.
- (11) A temporary stop notice does not prohibit the execution of works of such description, or the execution of works in such circumstances, as the Secretary of State may by regulations prescribe.

#### **44AB Temporary stop notices in England: offence**

- (1) A person is guilty of an offence if the person contravenes, or causes or permits a contravention of, a temporary stop notice—
- (a) which has been served on the person under section 44AA(4), or
  - (b) a copy of which has been displayed in accordance with section 44AA(5).
- (2) An offence under this section may be charged by reference to a day or to some longer period; and accordingly, a person may, in relation to the same temporary stop notice, be convicted of more than one offence under this section by reference to different periods.
- (3) In proceedings against a person for an offence under this section, it is a defence for the person to show that the person did not know, and could not reasonably have been expected to know, of the existence of the temporary stop notice.
- (4) In proceedings against a person for an offence under this section, it is also a defence for the person to show—
- (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building,
  - (b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter,
  - (c) that the works carried out were limited to the minimum measures immediately necessary, and
  - (d) that notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.

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(5) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

(6) In determining the amount of a fine to be imposed on a person convicted under this section, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.

#### **44AC Temporary stop notices in England: compensation**

(1) A person who, on the day when a temporary stop notice is first displayed in accordance with section 44AA(5), has an interest in the building is, on making a claim to the local planning authority within the prescribed time and in the prescribed manner, entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.

(2) But subsection (1) applies only if—

- (a) the works specified in the notice are not such as to involve a contravention of section 9(1) or (2), or
- (b) the authority withdraws the notice other than following the grant of listed building consent, after the day mentioned in subsection (1), which authorises the works.

(3) The loss or damage in respect of which compensation is payable under this section includes a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the notice.

(4) No compensation is payable under this section in the case of loss or damage suffered by a claimant if—

- (a) the claimant was required to provide information under a relevant provision, and
- (b) the loss or damage could have been avoided if the claimant had provided the information or had otherwise co-operated with the planning authority when responding to the notice.

(5) In subsection (4)(a), each of the following is a relevant provision—

- (a) section 16 of the Local Government (Miscellaneous Provisions) Act 1976, and
- (b) section 330 of the principal Act.”

(3) In section 31 (general provisions as to compensation for depreciation under Part 1 of the Act), in subsection (2), after “29” insert “, 44AC”.

(4) In the heading of section 44B (temporary stop notices in relation to listed buildings in Wales), at the end insert “in Wales”.

(5) In section 44C (offence in relation to temporary stop notices in Wales)—

- (a) in the heading, after “notices” insert “in Wales”;
- (b) in subsection (1)(a), after “person” insert “under section 44B(4)”.

(6) In the heading of section 44D (compensation in relation to temporary stop notices in Wales), after “notices” insert “in Wales”.

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(7) In section 45 (concurrent enforcement functions in London of the Historic Buildings and Monuments Commission)—

- (a) after “43” insert “and 44AA to 44AC”;
- (b) after “those provisions” insert “, and in any provision of this Act referring to anything done under those provisions,”.

(8) In section 46 (concurrent enforcement functions of the Secretary of State)—

- (a) after subsection (1) insert—

“(1A) If it appears to the Secretary of State to be expedient that a temporary stop notice should be issued in respect of any land in England, the Secretary of State may issue such a notice.”;

- (b) in subsection (2), after “(1)” insert “or (1A)”;
- (c) after subsection (3) insert—

“(3A) A temporary stop notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority under section 44AA.”

(9) In section 82A(2) (exceptions from Crown application), after paragraph (f) insert—

“(fza) section 44AB;”.

(10) In section 88 (rights of entry)—

- (a) after subsection (3) insert—

“(3ZA) Any person duly authorised in writing by the Secretary of State, a local planning authority in England or, where the authorisation relates to a building situated in Greater London, the Commission may at any reasonable time enter any land for any of the following purposes—

- (a) securing the display of a temporary stop notice issued under section 44AA;
- (b) ascertaining whether a temporary stop notice issued under that section is being complied with;
- (c) considering any claim for compensation under section 44AC.”;

- (b) in subsection (3A)—

(i) in paragraph (a), for “(see section 44B)” substitute “issued under section 44B”;

(ii) in paragraph (b), after “notice” insert “issued under that section”;

- (c) in subsection (4), after “29” insert “, 44AC”.

(11) In section 88B (supplementary provision about rights of entry), after subsection (1) insert—

“(1ZA) Subsection (1) does not apply to a person authorised under section 88(3ZA) who intends to enter the land for either of the purposes mentioned in paragraphs (a) and (b) of that subsection.”

(12) In Schedule 2 (lapse of building preservation notices)—

- (a) in paragraph 2, after “43” insert “, 44AB”;
- (b) after paragraph 4 insert—

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- “4A Any temporary stop notice served under section 44AA(4) by the local planning authority with respect to the building while the building preservation notice was in force ceases to have effect.”;
- (c) in paragraph 5, after “served” insert “under section 44B(4)”.

#### Commencement Information

**I106** S. 103 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

PROSPECTIVE

### 104 Urgent works to listed buildings: occupied buildings and recovery of costs

- (1) The Listed Buildings Act is amended as follows.
- (2) In section 54 (urgent works to preserve listed buildings)—
- (a) omit subsection (4);
  - (b) in subsection (5A), omit “in Wales”;
  - (c) after subsection (7) insert—
    - “(8) Section 6 of the Local Land Charges Act 1975 (general charge registrable pending specific charge) applies in relation to expenditure incurred in executing works under this section as if—
    - (a) the Commission and the Secretary of State were local authorities, and
    - (b) the giving of a notice under section 55 were the making of an order.”
- (3) In section 55 (recovery of expenses of urgent works)—
- (a) after subsection (2) insert—
    - “(2A) A notice given under subsection (2) in relation to a building in England is a local land charge.”;
  - (b) in subsection (5A)—
    - (i) after “Where” insert “the Secretary of State or”;
    - (ii) after “local authority” insert “or the Commission”;
  - (c) in subsection (5B)—
    - (i) for the words from “In” to “when the” substitute “As from the time when a”;
    - (ii) for “the Welsh Ministers may prescribe” substitute “may be prescribed”;
  - (d) after subsection (5B) insert—
    - “(5BA) An order under subsection (5B) may be made—
    - (a) by the Secretary of State, in relation to buildings in England;
    - (b) by the Welsh Ministers, in relation to buildings in Wales.”;
  - (e) in subsection (5C), for “that time” substitute “the time mentioned in subsection (5B)”;
  - (f) after subsection (5G) insert—

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“(5H) If, after a notice is given under subsection (2) in relation to a building in England, there is a change in the owner of the building, a fresh notice may be given to the new owner at any time before the first notice becomes operative (and the provisions of this section apply again in relation to the fresh notice).

(5I) If a notice is given to the new owner under subsection (5H), the first notice referred to in that subsection ceases to have effect.”

#### Commencement Information

**I107** S. 104 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

PROSPECTIVE

### 105 Removal of compensation for building preservation notice

- (1) The Listed Buildings Act is amended as follows.
- (2) In section 3 (temporary listing in England: building preservation notices), after subsection (1) insert—

“(1A) Before serving a building preservation notice under this section, the local planning authority must consult with the Commission.

(1B) Subsection (1A) does not apply where the Commission proposes to serve a building preservation notice under this section (see subsection (8)).”

- (3) In section 29 (compensation for loss or damage caused by service of building preservation notice where building not listed)—
  - (a) in the heading, after “damage” insert “in Wales”;
  - (b) omit subsection (1);
  - (c) in subsection (1A), omit “also”.
- (4) The amendments made by subsection (3) do not apply in relation to a building preservation notice that has come into force before that subsection comes into force.

#### Commencement Information

**I108** S. 105 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

## CHAPTER 4

### GRANT AND IMPLEMENTATION OF PLANNING PERMISSION

#### 106 Street votes

- (1) TCPA 1990 is amended in accordance with subsection (2).

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(2) After section 61Q (community right to build orders) insert—

*“Street vote development orders*

**61QA Street vote development orders**

- (1) A process may be initiated by or on behalf of a qualifying group for the purpose of requiring the Secretary of State to make a street vote development order.
- (2) A “street vote development order” is an order which grants planning permission in relation to a particular street area specified in the order—
  - (a) for development specified in the order, or
  - (b) for development of any description or class specified in the order.

**61QB Qualifying groups**

- (1) A “qualifying group”, in relation to a street vote development order, is a group of individuals—
  - (a) each of whom on the prescribed date meet the conditions in subsection (2), and
  - (b) comprised of at least—
    - (i) the prescribed number, or
    - (ii) the prescribed proportion of persons of a prescribed description.
- (2) The conditions are that the individual—
  - (a) is entitled to vote in—
    - (i) an Authority election, where any part of the street area to which the street vote development order would relate is within the City of London, or
    - (ii) an election of councillors of any relevant council (other than the City of London) any part of whose area is within the street area to which the street vote development order would relate,
  - (b) has a qualifying address for that election which is in the street area that the street vote development order would relate to, and
  - (c) does not have an anonymous entry in the register of local government electors.
- (3) A “relevant council” means—
  - (a) a district council,
  - (b) a London borough council,
  - (c) a metropolitan district council, or
  - (d) a county council in relation to any area in England for which there is no district council.
- (4) For the purposes of this section—
  - (a) “anonymous entry” is to be construed in accordance with section 9B of the Representation of the People Act 1983;



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- (b) “Authority election” has the meaning given by section 203(1) of the Representation of the People Act 1983;
- (c) the Inner Temple and the Middle Temple are to be treated as forming part of the City of London;
- (d) “qualifying address” has the meaning given by section 9 of the Representation of the People Act 1983.

### **61QC Meaning of “street area”**

- (1) A “street area” means an area in England—
  - (a) which is of a prescribed description, and
  - (b) no part of which is within an excluded area.
- (2) An “excluded area” means—
  - (a) a National Park or the Broads;
  - (b) an area comprising a world heritage property and its buffer zone as identified in accordance with the Operational Guidelines for the Implementation of the World Heritage Convention as published from time to time;
  - (c) an area notified as a site of special scientific interest under section 28 of the Wildlife and Countryside Act 1981;
  - (d) an area designated as an area of outstanding natural beauty under section 82 of the Countryside and Rights of Way Act 2000;
  - (e) an area identified as green belt land, local green space or metropolitan open land in a development plan;
  - (f) a European site within the meaning given by regulation 8 of the Conservation of Habitats and Species Regulations 2017 ([S.I. 2017/1012](#));
  - (g) such other area as may be specified or described in regulations made by the Secretary of State.
- (3) In this section, “a world heritage property” means a property appearing on the World Heritage List (published in accordance with Article 11 of the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage adopted on 16 November 1972).

### **61QD Process for making street vote development orders**

- (1) The Secretary of State must make regulations (“SVDO regulations”) which make provision about the preparation and making of a street vote development order.
- (2) SVDO regulations must, in particular, make provision—
  - (a) for the appointment by the Secretary of State of a person to—
    - (i) handle proposals made under [section 61QA\(1\)](#) (“street vote proposals”) or specified aspects of those proposals,
    - (ii) carry out the independent examination of such proposals, and
    - (iii) to make street vote development orders on the Secretary of State’s behalf,(and for the above purposes the same or different persons may be appointed);

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- (b) as to the circumstances in which a street vote development order may be made and in particular must make provision requiring a referendum under section 61QE to be held before an order may be made.
- (3) SVDO regulations may, in particular, include provision as to—
- (a) the functions of a qualifying group in relation to a street vote proposal and how those functions are to be discharged (including provision for a member of the group or another prescribed person to be responsible for discharging them);
  - (b) the form and content of a street vote proposal;
  - (c) the information and documents (if any) which must accompany a street vote proposal;
  - (d) the circumstances and the way in which a proposal may be withdrawn;
  - (e) the steps that must be taken, and the conditions that must be met, before a proposal falls to be considered by an appointed person;
  - (f) the circumstances in which an appointed person may or must decline to consider or reject a proposal;
  - (g) the steps that must be taken, and the conditions that must be met, before a proposal falls to be independently examined;
  - (h) the functions of the independent examination in relation to the proposal;
  - (i) the circumstances in which an appointed person may terminate the independent examination (including provision as to the procedure for doing so);
  - (j) the procedure to be followed at an examination (including provision regarding the procedure to be followed at any hearing or inquiry or provision designating the hearing or inquiry as a statutory inquiry for the purposes of section 9 of the Tribunals and Inquiries Act 1992);
  - (k) the power to summons witnesses at any inquiry (including by applying, with or without modifications, section 250(3) and (4) of the Local Government Act 1972);
  - (l) the award of costs in connection with an examination;
  - (m) the steps to be taken following the independent examination (including provision for prescribed modifications to be made to the draft street vote development order);
  - (n) the payment by a local planning authority of remuneration and expenses relating to the examination;
  - (o) the functions of local planning authorities, or other authorities, in connection with street vote development orders (including provision regulating the arrangements of authorities for the discharge of those functions);
  - (p) cases where there are two or more local planning authorities any of whose area falls within the area of the street area that the proposal relates to (including provision modifying functions of the local planning authorities under the regulations in such cases or provision applying, with or without modifications, any provision of Part 6 of the Local Government Act 1972 in cases where the provision would not otherwise apply);
  - (q) requirements about the giving of notice and publicity;

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- (r) the information and documents that are to be made available to the public;
- (s) consultation with and participation by the public or prescribed persons;
- (t) the making and consideration of representations;
- (u) the determination of the time by or at which anything must be done in connection with street vote development orders;
- (v) the provision by any person of prescribed information or documents or prescribed descriptions of information or documents in connection with a street vote development order;
- (w) the making of reasonable charges for anything done in connection with street vote development orders;
- (x) when a court may entertain proceedings for questioning prescribed decisions to act or any other prescribed matter.

### 61QE Referendums

- (1) SVDO regulations may make provision about referendums held in connection with street vote development orders and may, in particular, include provision—
  - (a) as to the circumstances in which an appointed person or the Secretary of State may direct relevant councils to carry out a referendum in relation to a street vote development order;
  - (b) the functions of such councils in relation to the referendum;
  - (c) dealing with any case where there are two or more relevant councils any of whose area falls within the area in which a referendum is to take place (including provision for only one council to carry out functions in relation to the referendum in such a case);
  - (d) prescribing a date by which the referendum must be held or before which it cannot be held;
  - (e) as to the question to be asked in the referendum and any explanatory material in relation to that question;
  - (f) as to voter eligibility for the referendum;
  - (g) as to the publicity to be given in connection with the referendum;
  - (h) as to the provision of prescribed information to voters in connection with the referendum (including information about any infrastructure levy or community infrastructure levy which is chargeable in respect of development under a street vote development order);
  - (i) about the limitation of expenditure in connection with the referendum;
  - (j) as to the conduct of the referendum;
  - (k) as to when, where and how voting in the referendum is to take place;
  - (l) as to how the votes cast are to be counted;
  - (m) about certification as to the number of persons voting in the referendum and as to the number of those persons voting in favour of a street vote development order;
  - (n) about the combination of polls at the referendum with polls at another referendum or at any election;

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- (o) as to the threshold of votes that must be met before a street vote development order may be made.
- (2) For the purposes of making provision within subsection (1), SVDO regulations may apply or incorporate (with or without modifications) any provision made by or under any enactment relating to elections or referendums.
- (3) But where the regulations apply or incorporate (with or without modifications) any provision that creates an offence, the regulations may not impose a penalty greater than is provided for in respect of that provision.
- (4) Before making provision within this section, the Secretary of State must consult the Electoral Commission.
- (5) In this section “enactment” means an enactment, whenever passed or made.

#### **61QF Regulations: general provision**

SVDO regulations may—

- (a) provide for exemptions (including exemptions which are subject to prescribed conditions);
- (b) confer a function, including a function involving the exercise of a discretion, on any person.

#### **61QG Provision that may be made by a street vote development order**

- (1) A street vote development order may make provision in relation to—
  - (a) all land in the street area specified in the order,
  - (b) any part of that land, or
  - (c) a site in that area specified in the order.
- (2) A street vote development order may only provide for the granting of planning permission for any development that—
  - (a) is prescribed development or development of a prescribed description or class,
  - (b) is not excluded development, and
  - (c) satisfies any further prescribed conditions.
- (3) A street vote development order may make different provision for different purposes.

#### **61QH Meaning of “excluded development”**

The following development is excluded development for the purposes of [section 61QG\(2\)\(b\)](#)—

- (a) development of a scheduled monument within the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979;
- (b) Schedule 1 development as defined by regulation 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ([S.I. 2017/571](#));

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- (c) development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008);
- (d) development of a listed building within the meaning given by section 1(5) of the Planning (Listed Buildings and Conservation) Areas Act 1990;
- (e) development consisting of the winning and working of minerals;
- (f) such other development as may be specified or described in regulations made by the Secretary of State.

### **61QI Permission granted by street vote development orders**

- (1) The granting of planning permission by a street vote development order is subject to—
  - (a) any prescribed conditions or limitations or conditions or limitations of a prescribed description, and
  - (b) such other conditions or limitations as may be specified in the order (but see subsections (4) and (5)).
- (2) The conditions that may be specified include a condition that unless a relevant obligation is entered into—
  - (a) the development authorised by the planning permission or any description of such development must not be begun, or
  - (b) anything created in the course of the development authorised by the planning permission may not be occupied or used for any purpose.
- (3) A relevant obligation for the purposes of subsection (2) includes an obligation which involves the payment of money or affects any estate or interest in, or rights over, land.
- (4) But an order may only specify a condition that a person enter into an obligation under section 106 if the obligation—
  - (a) is necessary to make the development specified in the order acceptable in planning terms,
  - (b) is directly related to the development,
  - (c) is fairly and reasonably related in scale and kind to the development, and
  - (d) satisfies such other requirements as may be specified in regulations made by the Secretary of State.
- (5) The Secretary of State may by regulations provide that—
  - (a) conditions or limitations of a prescribed description may not be imposed under subsection (1)(b),
  - (b) conditions or limitations of a prescribed description may only be imposed under subsection (1)(b) in circumstances of a prescribed description, or
  - (c) no conditions or limitations may be imposed under subsection (1)(b) in circumstances of a prescribed description.
- (6) A condition or limitation prescribed under subsection (1)(a) may confer a function on any person, including a function involving the exercise of a discretion.

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- (7) If—
- (a) planning permission granted by a street vote development order for any development is withdrawn by the revocation of the order under [section 61QJ](#), and
  - (b) the revocation is made after the development has begun but before it has been completed,
- the development may, despite the withdrawal of the permission, be completed.
- (8) But an order under [section 61QJ](#) revoking a street vote development order may provide that [subsection \(7\)](#) is not to apply in relation to development specified in the order under that section.
- (9) In this section “relevant obligation” means—
- (a) an obligation under section 106 (planning obligations), or
  - (b) an agreement under section 278 of the Highways Act 1980 (agreements as to execution of works).

#### **61QJ Revocation or modification of street vote development orders**

- (1) The Secretary of State may by order revoke or modify a street vote development order.
- (2) A local planning authority may, with the consent of the Secretary of State, by order revoke a street vote development order relating to a street area any part of which falls within the area of that authority.
- (3) If a street vote development order is revoked, the person revoking the order must state the reasons for the revocation.
- (4) An appointed person may at any time by order modify a street vote development order for the purpose of correcting errors.
- (5) A modification of a street vote development order is to be done by replacing the order with a new one containing the modification.
- (6) Regulations may make provision in connection with the revocation or modification of a street vote development order.
- (7) The regulations may, in particular, include provision as to—
  - (a) the giving of notice and publicity in connection with a revocation or modification;
  - (b) the information and documents relating to a revocation or modification that are to be made available to the public;
  - (c) the making of reasonable charges for anything provided as a result of the regulations;
  - (d) consultation with and participation by the public in relation to a revocation or modification;
  - (e) the making and consideration of representations about a revocation or modification (including the time by which representations must be made).

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### **61QK Financial assistance in relation to street votes**

- (1) The Secretary of State may do anything that the Secretary of State considers appropriate—
  - (a) for the purpose of publicising or promoting the making of street vote development orders and the benefits expected to arise from their making, or
  - (b) for the purpose of giving advice or assistance to anyone in relation to the making of street vote proposals or the doing of anything else for the purposes of, or in connection with, such proposals or street vote development orders.
- (2) The things that the Secretary of State may do under this section include, in particular—
  - (a) the provision of financial assistance (or the making of arrangements for its provision) to any body or other person, and
  - (b) the making of agreements or other arrangements with any body or other person (under which payments may be made to the person).
- (3) In this section—
  - (a) the reference to giving advice or assistance includes providing training or education;
  - (b) any reference to the provision of financial assistance is to the provision of financial assistance by any means (including the making of a loan and the giving of a guarantee or indemnity).

### **61QL Street votes: connected modifications**

The Secretary of State may by regulations make provision modifying the application of Schedule 7A (biodiversity gain in England) in relation to planning permission granted by a street vote development order.

### **61QM Interpretation**

In sections 61QA to 61QL—

- “an appointed person” means a person appointed in accordance with section 61QD(2)(a);
- “excluded development” has the meaning given by section 61QH;
- “qualifying group” has the meaning given by section 61QB;
- “relevant council” has the meaning given by section 61QB(3);
- “street area” has the meaning given by section 61QC;
- “street vote development order” has the meaning given by section 61QA(2);
- “street vote proposal” has the meaning given by section 61QD(2)(a)(i);
- “SVDO regulations” has the meaning given by section 61QD(1).”

- (3) Schedule 9 contains minor and consequential amendments in connection with this section.

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Levelling-up and Regeneration Act 2023 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I109** S. 106 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

**I110** S. 106 in force at 31.1.2024 for specified purposes by [S.I. 2024/92](#), [reg. 2\(d\)](#)

### 107 Street votes: community infrastructure levy

(1) The Planning Act 2008 is amended as follows.

(2) In section 211(10) (amount of levy)—

- (a) at the beginning insert “Except where subsection (11) applies,”, and
- (b) from “, 213” to the end substitute “to 213 and 214(1) and (2) apply in relation to a revision of a charging schedule as they apply in relation to a charging schedule.”

(3) After section 211(10) insert—

“(11) Where the only provision made by a charging schedule or a revision of a charging schedule is provision for the purpose of determining the amount of CIL chargeable in respect of street vote development—

- (a) sections 212 to 213 and 214(1) and (2) do not apply in relation to the charging schedule or the revision of the charging schedule, and
- (b) CIL regulations may make provision about procedural requirements that must be met before the charging schedule or revision may take effect.

(12) “Street vote development” means development of land for which planning permission is granted by a street vote development order made under section 61QA of TCPA 1990.”

(4) After section 212(11) (charging schedule: examination) insert—

“(12) For exceptions to this section see section 211(11).”

(5) After section 212A(7) (charging schedule: examiner’s recommendations) insert—

“(8) For exceptions to this section see section 211(11).”

(6) After section 213(5) (charging schedule: approval) insert—

“(6) For exceptions to this section see section 211(11).”

(7) After section 214(6) (charging schedule: effect) insert—

“(7) For exceptions to subsections (1) and (2) of this section see section 211(11).”

(8) After section 214 (charging schedule: effect) insert—

#### “214A Secretary of State: power to require review of certain charging schedules

(1) This section applies where—

- (a) a charging schedule makes provision for the purpose of determining the amount of CIL chargeable in respect of street vote development, and



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- (b) section 211(11) applied in relation to the charging schedule or the revision of the charging schedule in connection with making such provision.
  - (2) The Secretary of State may direct a charging authority to review the charging schedule if the Secretary of State considers that—
    - (a) the economic viability of street vote development in the charging authority’s area is significantly impaired, or
    - (b) there is a substantial risk that it will become significantly impaired, as a result of the CIL which is or will be chargeable in respect of street vote development in that area.
  - (3) If a charging authority is directed to review its charging schedule under subsection (2), it must—
    - (a) consider whether to revise the charging schedule under section 211(9), and
    - (b) notify the Secretary of State of its decision with reasons.
  - (4) If the charging authority decides to revise the charging schedule, it must do so within a reasonable time.
  - (5) If a charging authority has not complied with a direction given under subsection (2) within a reasonable time and to a standard which the Secretary of State considers adequate, the Secretary of State may appoint a person to do so on behalf of the charging authority.
  - (6) If a person appointed under subsection (5) decides that the charging schedule should be revised, the charging authority must revise the schedule accordingly within a reasonable time.
  - (7) If the charging authority fails to revise the charging schedule in accordance with subsection (4) or (6), the Secretary of State may appoint a person to do so on behalf of the charging authority.
  - (8) CIL regulations may make provision about—
    - (a) procedures for appointing a person under subsection (5) or (7),
    - (b) conditions which must be met before such an appointment may be made,
    - (c) procedures which must be followed by the person in complying with a direction given under subsection (2) or revising the charging schedule under subsection (7),
    - (d) circumstances in which the person may be replaced,
    - (e) duties of a charging authority where a person is appointed to act on its behalf under subsection (5) or (7),
    - (f) liability for costs incurred as a result of the appointment of the person, and
    - (g) what constitutes a reasonable time under subsections (4) to (6).
  - (9) In this section “street vote development” has the meaning given by section 211(12).”
- (9) In section 216(2) (application), after paragraph (f) insert—

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“(fa) where the CIL is chargeable in respect of street vote development, affordable housing.”

(10) After section 216(7) insert—

“(8) In this section—

“affordable housing” means—

- (a) social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, and
- (b) any other description of housing that CIL regulations may specify;

“street vote development” has the meaning given by section 211(12).”

#### Commencement Information

**I111** S. 107 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

**I112** S. 107 in force at 31.1.2024 for specified purposes by [S.I. 2024/92](#), [reg. 2\(e\)](#)

### 108 Street votes: modifications of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017

The Secretary of State may by regulations make provision modifying the application of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ([S.I. 2017/517](#)) in relation to the grant of planning permission by a street vote development order.

#### Commencement Information

**I113** S. 108 in force at 26.12.2023, see [s. 255\(3\)\(a\)](#)

### 109 Crown development

(1) TCPA 1990 is amended as follows.

(2) After section 293A insert—

#### “293B Urgent Crown development: applications to the Secretary of State

(1) This section applies where—

- (a) the appropriate authority intends to make a relevant application, and
- (b) the authority considers—
  - (i) that the development to which the application relates is of national importance, and
  - (ii) that it is necessary that the development is carried out as a matter of urgency.

(2) The appropriate authority may make the application to the Secretary of State under this section.

(3) In this section, “relevant application” means—

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- (a) an application for planning permission for the development of land in England, or
  - (b) an application for approval of a matter that, as defined in section 92, is a reserved matter in the case of an outline planning permission for the development of land in England,but does not include an application of the kind described in section 73(1) or an application of a description excluded by regulations.
- (4) An application under this section must include—
  - (a) such information, documents or other matters as may be required by a development order, and
  - (b) a statement of the appropriate authority’s grounds for making the application.
- (5) As soon as practicable after receiving the application, the Secretary of State must give notice to the appropriate authority either agreeing or refusing to determine the application.
- (6) The Secretary of State may only agree to determine the application if the Secretary of State considers that—
  - (a) the development to which the application relates is of national importance, and
  - (b) it is necessary that the development is carried out as a matter of urgency.
- (7) The Secretary of State must send a copy of a notice given under subsection (5) to the local planning authority to whom the application could otherwise have been made.
- (8) The Secretary of State may by notice require the appropriate authority to provide such further information as is necessary for the purposes of—
  - (a) deciding whether to agree or to refuse to determine the application;
  - (b) determining the application.
- (9) A development order may make provision—
  - (a) as to the form and manner in which an application must be made;
  - (b) requiring notice to be given of an application;
  - (c) as to the form, content and service of a notice required under [paragraph \(b\)](#);
  - (d) requiring that an application be publicised in such manner as the order may specify.
- (10) A development order which makes provision under subsection (9) may include provision to ensure that the imposition of any requirement under that subsection does not result in the public disclosure of sensitive information.
- (11) For the purposes of subsection (10), information is “sensitive” if the Secretary of State directs that—
  - (a) it relates to matters of national security or measures taken or to be taken to ensure the security of any premises or property, and
  - (b) its public disclosure would be contrary to the national interest.

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- (12) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.
- (13) The Secretary of State may give directions requiring a local planning authority to do things in relation to an application made under [section 293B](#) that could otherwise have been made to that authority.
- (14) Directions under subsection (13)—
  - (a) may relate to a particular application or to applications more generally;
  - (b) may be given to a particular authority or to authorities more generally.

### **293C Urgent Crown development: determination of applications by the Secretary of State**

- (1) This section applies where —
  - (a) the appropriate authority has made a relevant application to the Secretary of State under [section 293B](#), and
  - (b) the Secretary of State has given notice under [section 293B\(5\)](#) agreeing to determine the application.
- (2) Before determining the application, the Secretary of State must consult the following persons about the application—
  - (a) the local planning authority to which the application could otherwise have been made, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (3) A development order may make provision as to the consultation required by subsection (2) including—
  - (a) provision requiring the Secretary of State to consult other specified persons (or persons of a specified description);
  - (b) provision as to the manner in which persons may be consulted;
  - (c) different provision for different cases or classes of development.
- (4) The Secretary of State may—
  - (a) grant the application, either unconditionally or subject to such conditions as the Secretary of State thinks fit, or
  - (b) refuse it.
- (5) The Secretary of State must notify the local planning authority to whom the application could otherwise have been made of the Secretary of State’s decision on the application.
- (6) The decision of the Secretary of State on the application is final.
- (7) Section 73A applies, with any necessary modifications, to an application for planning permission under [section 293B](#) as it applies to an application for planning permission which is to be determined by the local planning authority under Part 3.
- (8) The following provisions do not apply for the purposes of determining an application for planning permission under [section 293B](#)—
  - (a) [section 58B\(1\)](#) of this Act;

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- (b) sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **293D Crown development: applications to the Secretary of State**

- (1) This section applies where—
  - (a) the appropriate authority intends to make a relevant application, and
  - (b) the authority considers that the development to which it relates is of national importance.
- (2) The appropriate authority may make the application to the Secretary of State under this section.
- (3) In this section and section 293E, “relevant application” means—
  - (a) an application for planning permission, or permission in principle, for the development of land in England, or
  - (b) an application for approval of a matter that, as defined by section 92, is a reserved matter in the case of an outline planning permission for the development of land in England,but does not include an application of the kind described in section 73(1) or an application of a description excluded by regulations.
- (4) After receiving the application, the Secretary of State must give a notice to the appropriate authority stating whether the Secretary of State considers the development to be of national importance.
- (5) If the Secretary of State considers the development to be of national importance, the Secretary of State must proceed to determine the application.
- (6) If the Secretary of State considers that the development is not of national importance, the Secretary of State may take the steps referred to in either subsection (7) or, where it applies, subsection (9).
- (7) The Secretary of State may—
  - (a) refer the application to the local planning authority to whom it could otherwise have been made, and
  - (b) direct that the application—
    - (i) is to be treated as having been made to the authority (and not to the Secretary of State under this section), and
    - (ii) is to be determined by that authority accordingly.
- (8) Subsection (9) applies where—
  - (a) the application could otherwise have been made to the Secretary of State under section 62A, and
  - (b) the appropriate authority has given notice to the Secretary of State that the authority consents to the application being treated as having been made to the Secretary of State under that section.
- (9) The Secretary of State may—
  - (a) direct that the application is to be treated as having been made to the Secretary of State under section 62A (and not to the Secretary of State under this section), and
  - (b) determine the application accordingly.

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### **293E Crown development: connected applications to the Secretary of State**

- (1) This section applies where—
  - (a) the appropriate authority makes an application to the Secretary of State under section 293D, and
  - (b) the Secretary of State gives a notice to the appropriate authority under section 293D(4) stating that the development to which it relates is considered by the Secretary of State to be of national importance.
- (2) The appropriate authority may make an application (“a connected application”) under the planning Acts to the Secretary of State where the requirements of subsection (3) are met.
- (3) The requirements are that—
  - (a) the application is—
    - (i) for listed building consent under the Planning (Listed Buildings and Conservation Areas) Act 1990,
    - (ii) for hazardous substances consent under the Planning (Hazardous Substances) Act 1990, or
    - (iii) of a prescribed description,
  - (b) it is considered by the person making the application to be connected to an application under section 293D,
  - (c) it is neither a relevant application nor an application of the kind described in section 73(1), and
  - (d) it relates to land in England.
- (4) If a connected application is made under subsection (2), but the Secretary of State considers that it is not connected with the relevant application concerned, the Secretary of State may—
  - (a) refer the connected application to the local planning authority, or hazardous substances authority, to whom it could otherwise have been made, and
  - (b) direct that the connected application—
    - (i) is to be treated as having been made to that authority (and not to the Secretary of State under this section), and
    - (ii) is to be determined by that authority accordingly.

### **293F Applications under section 293D or 293E: supplementary matters**

- (1) The decision of the Secretary of State on an application made under section 293D or 293E is final.
- (2) The Secretary of State may give directions requiring a local planning authority or hazardous substances authority to do things in relation to an application made under section 293D or 293E that could otherwise have been made to that authority.
- (3) Directions under subsection (2)—
  - (a) may relate to a particular application or to applications more generally;

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- (b) may be given to a particular authority or to authorities more generally.

### **293G Notifying parish councils of applications under section 293D(2)**

- (1) If an application is made to the Secretary of State under section 293D(2) and a parish council would be entitled under paragraph 8 of Schedule 1 to be notified of the application were it made to the local planning authority, the Secretary of State must notify the council of—
- (a) the application, and
  - (b) any alteration of the application accepted by the Secretary of State.
- (2) Paragraph 8(4) and (5) of Schedule 1 apply in relation to duties of the Secretary of State under subsection (1) as they apply to duties of a local planning authority under paragraph 8(1) or (3B) of that Schedule.

### **293H Provisions applying to applications made under section 293D or 293E**

- (1) Sections 62(3) and (4), 65(5), 70 to 70C, 72(1) and (5) and 73A apply, with any necessary modifications, to an application for planning permission made to the Secretary of State under section 293D as they apply to an application for planning permission which is to be determined by the local planning authority.
- (2) Any requirements imposed by a development order by virtue of section 62, 65 or 71 or paragraph 8(6) of Schedule 1, or by regulations under paragraph 14(3) or 16 of Schedule 7A, may be applied by a development order, with or without modifications, to an application for planning permission made to the Secretary of State under section 293D.
- (3) Sections 65(5) and 70 to 70C apply, with any necessary modifications, to an application for permission in principle made to the Secretary of State under section 293D as they apply to an application for permission in principle which is to be determined by the local planning authority.
- (4) Any requirements imposed by a development order by virtue of section 62(1), (2) or (8), 65 or 71 or paragraph 8(6) of Schedule 1 may be applied by a development order, with or without modifications, to an application for permission in principle made to the Secretary of State under section 293D.
- (5) Where an application is made to the Secretary of State under section 293E instead of to the authority to whom it could otherwise have been made, a development order may (with or without modifications) apply to the application any enactment that relates to applications of that kind when made to that authority.
- (6) A development order which makes provision under this section to apply to an application under section 293D or 293E (with or without modifications) any requirement to disclose information may include provision to secure that the requirement would not result in the public disclosure of sensitive information.
- (7) For the purposes of subsection (6), information is “sensitive” if the Secretary of State directs that—
- (a) it relates to matters of national security or measures taken or to be taken to ensure the security of any premises or property, and

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- (b) its public disclosure would be contrary to the national interest.

### **293I Deciding applications made under section 293D or 293E**

- (1) An application made to the Secretary of State under section 293D or 293E (“a direct application”) is to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State, subject to section 293J.
- (2) Where a person has been appointed under subsection (1) or this subsection to determine a direct application then, at any time before the person has determined the application, the Secretary of State may—
  - (a) revoke the person’s appointment;
  - (b) appoint another person to determine the application instead.
- (3) A person appointed under this section to determine a direct application has the same powers and duties that the Secretary of State has under section 293H.
- (4) Where a direct application is determined by a person appointed under this section, the person’s decision is to be treated as that of the Secretary of State.
- (5) Except as provided by Part 12, the validity of that decision is not to be questioned in any proceedings whatsoever.
- (6) It is not a ground of application to the High Court under section 288 that a direct application ought to have been determined by the Secretary of State and not by a person appointed under this section unless the applicant challenges the person’s power to determine the direct application before the person’s decision on the direct application is given.
- (7) Where any enactment (other than this section and section 319A)—
  - (a) refers (or is to be read as referring) to the Secretary of State in a context relating to or capable of relating to a direct application (otherwise than by referring to the application having been made to the Secretary of State), or
  - (b) refers (or is to be read as referring) to anything (other than the making of the application) done or authorised or required to be done by, to or before the Secretary of State in connection with any such application,
 then, so far as the context permits, the enactment is to be read, in relation to an application determined or to be determined by a person appointed under this section, as if the reference to the Secretary of State were or included a reference to that person.

### **293J Applications under section 293D or 293E: determination by the Secretary of State**

- (1) The Secretary of State may direct that an application made to the Secretary of State under section 293D or 293E (“a direct application”) is to be determined by the Secretary of State instead of by a person appointed under section 293I.
- (2) Where a direction is given under subsection (1), the Secretary of State must serve a copy of the direction on—
  - (a) the person, if any, appointed under section 293I to determine the application concerned,



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- (b) the applicant, and
    - (c) the local planning authority.
  - (3) Where a direct application is to be determined by the Secretary of State in consequence of a direction under subsection (1)—
    - (a) in determining the application, the Secretary of State may take into account any report made to the Secretary of State by any person previously appointed to determine the application, and
    - (b) subject to that, the provisions of the planning Acts which are relevant to the application apply to it as if section 293I had never applied to it.
  - (4) The Secretary of State may by a further direction revoke a direction under subsection (1) at any time before the determination of the direct application concerned.
  - (5) Where a direction is given under subsection (4), the Secretary of State must serve a copy of the direction on—
    - (a) the person, if any, previously appointed under section 293I to determine the application concerned,
    - (b) the applicant, and
    - (c) the local planning authority.
  - (6) Where a direction is given under subsection (4) in relation to a direct application—
    - (a) anything done by or on behalf of the Secretary of State in connection with the application which might have been done by a person appointed under section 293I to determine the application is, unless the person appointed under section 293I to determine the application directs otherwise, to be treated as having been done by that person, and
    - (b) subject to that, section 293I applies to the application as if no direction under subsection (1) had been given in relation to the application.”
- (3) [Schedule 10](#) contains consequential amendments.

**Commencement Information**

**I114** [S. 109](#) in force at 26.12.2023 for specified purposes, see [s. 255\(3\)\(a\)](#)

PROSPECTIVE

**110 Material variations in planning permission**

- (1) TCPA 1990 is amended as follows.
- (2) After section 73A insert—

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### **“73B Applications for permission not substantially different from existing permission**

- (1) An application for planning permission in respect of land in England is to be determined in accordance with this section if the applicant—
  - (a) requests that it be so determined,
  - (b) makes a proposal as to the conditions (if any) subject to which permission should be granted, and
  - (c) identifies an existing planning permission by reference to which the application is to be considered (“the existing permission”).
- (2) The existing permission must not have been granted—
  - (a) under section 73, section 73A or this section, or
  - (b) other than on application.
- (3) The applicant may also identify, for the purposes of an application to be determined in accordance with this section, a planning permission—
  - (a) that was granted under section 73 or this section by reference to the existing permission, or
  - (b) that forms part of a sequence of planning permissions granted under section 73 or this section, the first of which was granted by reference to the existing permission.
- (4) A development order must set out how an applicant is to do as mentioned in subsections (1) and (3).
- (5) Planning permission may be granted in accordance with this section only if the local planning authority is satisfied that its effect will not be substantially different from that of the existing permission.
- (6) Planning permission may not be granted in accordance with this section in a way that differs from the existing permission as to the time by which a condition requires—
  - (a) development to be started, or
  - (b) an application for approval of reserved matters (within the meaning of section 92) to be made.
- (7) In determining an application in accordance with this section, the local planning authority must limit its consideration to those respects in which the permission being applied for would, if granted in accordance with the proposal under subsection (1)(b), differ in effect from—
  - (a) the existing permission, and
  - (b) each planning permission (if any) identified in accordance with subsection (3).

Section 70(2) is subject to this subsection.

- (8) If the local planning authority decides not to grant planning permission in accordance with this section, it must refuse the application.
- (9) For the purposes of this section, the effect of a planning permission is to be assessed by reference to both the development it authorises and any conditions to which it is subject.

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- (10) In assessing the effect of an existing planning permission for the purposes of subsection (5) (but not for the purposes of subsection (7)), any change to the permission made under section 96A is to be disregarded.
- (11) The following provisions apply in relation to the condition under paragraph 13 of Schedule 7A (biodiversity gain condition)—
- (a) nothing in this section authorises the disapplication of the condition;
  - (b) the condition is to be disregarded for the purposes of subsections (1)(b), (5) and (7);
  - (c) where—
    - (i) the existing planning permission is subject to the condition,
    - (ii) a biodiversity gain plan (“the earlier biodiversity gain plan”) was approved for the purposes of the condition as it attaches to that permission,
    - (iii) planning permission is granted in accordance with this section, and
    - (iv) that planning permission is consistent with the post-development biodiversity value of the onsite habitat as specified in the earlier biodiversity gain plan,the earlier biodiversity gain plan is to be regarded as approved for the purposes of the condition as it attaches to the planning permission granted in accordance with this section.
- (12) Nothing in this section authorises the disapplication of the condition under section 90B (condition relating to development progress reports in England).
- (13) In relation to an application for planning permission that is made to, or is to be determined by, the Secretary of State, a reference in this section to the local planning authority is to be read as a reference to the Secretary of State.
- (14) The preceding provisions of this section apply in relation to an application for permission in principle as if—
- (a) each reference to planning permission were a reference to permission in principle, and
  - (b) the provisions of this section relating to conditions were omitted.
- (15) Permission in principle granted in accordance with this section is to be taken, for the purposes of section 70(2ZZC), as having come into force when the existing permission in principle identified under subsection (1)(c) came into force.”
- (3) In section 62A (applications that may be made directly to the Secretary of State)—
- (a) in subsection (2), after “73(1)” insert “, an application that is to be determined in accordance with section 73B”;
  - (b) in subsection (3)(d), after “73(1)” insert “nor an application that is to be determined in accordance with section 73B”.
- (4) In section 70A (power to decline to determine application similar to an earlier one)—
- (a) in subsection (8), for “subsection (9)” substitute “subsections (9) to (11)”;
  - (b) at the end insert—

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“(10) An application that is to be determined in accordance with section 73B is not similar to an earlier application that was not determined in accordance with that section.

(11) An application that is to be determined in accordance with section 73B is similar to an earlier application that was determined in accordance with that section only if the local planning authority think that the difference of effect referred to in subsection (7) of that section is (both in kind and in degree) the same or substantially the same in the case of both applications.”

(5) In section 70B (power to decline to determine application similar to a pending one)—

(a) in subsection (5), at the beginning insert “Subject to subsections (5A) and (5B),”;

(b) after subsection (5) insert—

“(5A) An application that is to be determined in accordance with section 73B is not similar to another application that is not to be determined in accordance with that section.

(5B) An application that is to be determined in accordance with section 73B is similar to another application that is to be determined in accordance with that section only if the local planning authority think that the difference of effect referred to in subsection (7) of that section is (both in kind and in degree) the same or substantially the same in the case of both applications.”

#### Commencement Information

**I115** S. 110 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

VALID FROM 31/03/2024

### 111 Development commencement notices

(1) TCPA 1990 is amended as follows.

(2) After section 93 insert—

*“Commencement of development: England*

#### **93G Commencement notices**

(1) This section applies where—

- (a) planning permission has been granted under section 70 or 73 for the development of any land in England, and
- (b) the development is of a prescribed description.

(2) Before the development is begun, the person proposing to carry it out must give a notice (a “commencement notice”) to the local planning authority

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specifying the date on which the person expects the development to be begun.

- (3) Once a person has given a commencement notice, the person—
    - (a) may give a further commencement notice substituting a new date for the date previously given, and
    - (b) must do so if the development is not commenced on the date previously given.
  - (4) A commencement notice must—
    - (a) include such information as may be prescribed, and
    - (b) be in such form and be given in such manner as may be prescribed.
  - (5) Where it appears to the local planning authority that a person has failed to comply with the requirements of subsection (2) or (3)(b), they may serve a notice on any relevant person requiring the relevant person to give the authority such of the information prescribed under subsection (4)(a) as the notice may specify.
  - (6) In subsection (5) “relevant person” means—
    - (a) the person to whom the requirements of subsection (2) or (3)(b) applied, and
    - (b) any person who is the owner or occupier of the land to which the planning permission relates or who has any other interest in that land.
  - (7) A person on whom a notice under subsection (5) is served is guilty of an offence if they fail to give the information required by the notice within the period of 21 days beginning with the day on which it was served.
  - (8) It is a defence for a person charged with an offence under subsection (7) to prove that they had a reasonable excuse for failing to provide the information required.
  - (9) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
  - (10) When granting planning permission under section 70 or 73 for the development of any land in England, a local planning authority must by notice inform the applicant of—
    - (a) the requirements of subsections (2) and (3)(b), and
    - (b) the consequences of non-compliance with those requirements.”
- (3) In section 56 (time when development begins), in subsection (3), after “92,” insert “93G.”
- (4) In section 69 (register of applications etc)—
  - (a) in subsection (1), after paragraph (f) (inserted by section 114(4)(a)) insert—  
“(g) commencement notices under section 93G.”;
  - (b) in subsection (2), after paragraph (c) (inserted by section 114(4)(b)) insert—  
“(d) such information as is prescribed with respect to commencement notices under section 93G that are given to the local planning authority.”

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### Commencement Information

**I116** S. 111 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

## 112 Completion notices

- (1) TCPA 1990 is amended as follows.
- (2) After section 93G insert—

*“Termination of planning permission: England*

### 93H Completion notices

- (1) This section applies where—
  - (a) a planning permission relating to land in England is by virtue of section 91 or 92 subject to a condition that the development to which the permission relates must begin before the expiration of a particular period, and development has been begun within that period but has not been completed,
  - (b) development has begun in accordance with a simplified planning zone scheme in England but has not been completed by the time the area ceases to be a simplified planning zone,
  - (c) development has begun in accordance with planning permission under an enterprise zone scheme in England but has not been completed by the time the area ceases to be an enterprise zone,
  - (d) a planning permission under a neighbourhood development order is subject to a condition that the development to which the permission relates must begin before the expiration of a particular period, and development has begun within that period but has not been completed, or
  - (e) a planning permission under a street vote development order is subject to a condition that the development to which the permission relates must begin before the expiration of a particular period, and development has begun within that period but has not been completed.
- (2) If the local planning authority are of the opinion that the development will not be completed within a reasonable period, they may serve a notice (a “completion notice”) stating that the planning permission will cease to have effect at a specified time (the “completion notice deadline”).
- (3) The completion notice deadline must be—
  - (a) at least 12 months after the completion notice was served, and
  - (b) if the notice was served in a case within subsection (1)(a) or (d) before the end of the period referred to in that provision, at least 12 months after the end of that period.
- (4) A completion notice must include—
  - (a) prescribed information in relation to the right of appeal against the notice, and
  - (b) any other prescribed information.

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- (5) A completion notice must be served on—
  - (a) the owner of the land,
  - (b) if different, the occupier of the land, and
  - (c) a person not falling within paragraph (a) or (b) with an interest in the land, being an interest which, in the opinion of the local planning authority, is materially affected by the notice.
- (6) The local planning authority may withdraw a completion notice at any time before the completion notice deadline.
- (7) If they do so they must immediately give notice of the withdrawal to every person who was served with the completion notice.
- (8) If it appears to the Secretary of State to be expedient that a completion notice should be served in respect of any land in England, the Secretary of State may, after consulting the local planning authority, serve such a notice.

### **93I Appeals against completion notices**

- (1) Where a completion notice is served by a local planning authority under section 93H, any of the following may appeal to the Secretary of State against it (whether or not the notice was served on them)—
  - (a) the owner of the land,
  - (b) a person not within paragraph (a) with an interest in the land, and
  - (c) a person who occupies the land by virtue of a licence.
- (2) An appeal may be brought on any of the following grounds—
  - (a) that the appellant considers that the development will be completed within a reasonable period;
  - (b) that the completion notice deadline is an unreasonable one;
  - (c) that the notice was not served on the persons on whom it was required to be served under section 93H(5).
- (3) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under this section.
- (4) The regulations may in particular include provision—
  - (a) as to the period within which an appeal must be brought;
  - (b) as to how an appeal is made;
  - (c) as to the information to be supplied by the appellant;
  - (d) as to how a local planning authority must respond to an appeal and the information to be supplied by the authority;
  - (e) for the purpose of securing that the appeal is brought to the attention of persons in the locality of the development.
- (5) On an appeal under this section the Secretary of State may—
  - (a) quash the completion notice,
  - (b) vary the completion notice by substituting a later completion notice deadline, or
  - (c) uphold the notice with the original completion notice deadline.

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- (6) On an appeal under this section the Secretary of State may also correct any defect, error or misdescription in the completion notice if satisfied that the correction will not cause injustice to the appellant or the local planning authority.
- (7) If, on an appeal made on the ground referred to in subsection (1)(c), the Secretary of State determines that the completion notice was not served on a person on whom it should have been served, the notice need not be quashed if it appears to the Secretary of State that neither that person nor the appellant has been substantially prejudiced by that fact.
- (8) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) applies in relation to any proceedings before the Secretary of State on an appeal under this section as if those proceedings were an inquiry held by the Secretary of State under section 250.

### 93J Effect of completion notices

- (1) The planning permission to which a completion notice relates becomes invalid at the completion notice deadline (whether as originally specified or substituted on appeal under section 93I).
- (2) Where an appeal is brought under section 93H the completion notice is of no effect pending the final determination or withdrawal of the appeal.
- (3) Subsection (1) does not affect any planning permission so far as relating to development carried out under it before the completion notice deadline.”
- (3) [Schedule 11](#) contains consequential amendments.
- (4) The amendments made by this section and [Schedule 11](#) apply in relation to planning permission granted before, as well as to planning permission granted after, the coming into force of this section.
- (5) But a completion notice may not be served under section 93H of TCPA 1990 in a case where—
  - (a) before the coming into force of this section, a completion notice was served under section 94(2) of TCPA 1990, and
  - (b) that completion notice is awaiting confirmation under section 95 of TCPA 1990.

#### Commencement Information

**I117** [S. 112](#) in force at 26.12.2023 for specified purposes, see [s. 255\(3\)\(a\)](#)

### 113 Power to decline to determine applications in cases of earlier non-implementation etc

- (1) TCPA 1990 is amended as follows.
- (2) After section 70C insert—



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### **“70D Power to decline to determine applications in cases of earlier non-implementation etc**

- (1) A local planning authority in England may decline to determine an application for planning permission for the development of any land if—
  - (a) the development is development of a prescribed description,
  - (b) the application is made by—
    - (i) a person who has previously made an application for planning permission for development of land all or any part of which is in the local planning authority’s area at the time the current application is made (“the earlier application”), or
    - (ii) a person who has a connection of a prescribed description with the development to which the earlier application related (“the earlier development”),
  - (c) the earlier development was of a description prescribed under paragraph (a), and
  - (d) subsection (2) or (3) applies to the earlier development.
- (2) This subsection applies to the earlier development if the earlier development has not begun.
- (3) This subsection applies to the earlier development if—
  - (a) the earlier development has begun but has not been substantially completed, and
  - (b) the local planning authority is of the opinion that the carrying out of the earlier development has been unreasonably slow.
- (4) In forming an opinion as to whether the carrying out of the earlier development has been unreasonably slow, the local planning authority must have regard to all the circumstances, including in particular—
  - (a) in a case where a commencement notice under section 93G has been given, whether the development—
    - (i) was begun by the date specified in the notice, and
    - (ii) was carried out in accordance with any timescales specified in it,
  - (b) whether a completion notice was served in respect of the earlier development under section 93H or (before the coming into force of section 93H) section 94 or 96 and, if so, whether the permission granted became invalid under section 93J or (as the case may be) section 95, and
  - (c) any prescribed circumstances.
- (5) Where a person applies to a local planning authority for planning permission for development of a description prescribed under subsection (1)(a), the authority may by notice require the person to provide such information, being information of a prescribed description, as the authority may specify in the notice for the purpose of its functions under this section.
- (6) If a person does not comply with a notice under subsection (5) within the period of 21 days beginning with the day on which the notice was served, the local planning authority may decline to determine the application.

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- (7) If a person to whom a notice under subsection (5) is given—
- (a) makes a statement purporting to comply with the notice which the person knows to be false or misleading in a material particular, or
  - (b) recklessly makes such a statement which is false or misleading in a material particular,
- the person is guilty of an offence.
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine.
- (9) Subsection (1) does not permit a local planning authority to decline to determine an application for planning permission to which section 73, 73A or 73B applies.”
- (3) In section 56 (time when development begins), in subsection (3), after “61D(5) and (7),” insert “70D,”.
- (4) In section 76C (provisions applying to applications under section 62A), in subsection (1), for “70C” substitute “70D”.
- (5) In section 78 (right to appeal), in subsection (2)(aa), after “or 70C” insert “or 70D”.
- (6) In section 174 (appeal against enforcement notice), in subsection (2AA)(b) (as substituted by section 118 of this Act), for “or 70C” substitute “, 70C or 70D”.

#### Commencement Information

**I118** S. 113 in force at 26.12.2023 for specified purposes, see s. 255(3)(a)

## 114 Condition relating to development progress reports

- (1) TCPA 1990 is amended as follows.
- (2) In section 56(3) (time when development begun), after “89,” insert “90B,”.
- (3) Before section 91 (including the italic heading before that section) insert—

*“Development progress reports*

### **90B Condition relating to development progress reports in England**

- (1) This section applies where relevant planning permission is granted for relevant residential development in England.
- (2) The relevant planning permission must be granted subject to a condition that a development progress report must be provided to the local planning authority in whose area the development is to be carried out for each reporting period.
- (3) The first reporting period in relation to the development is to be a period—
  - (a) beginning at a prescribed time or by reference to a prescribed event, and
  - (b) during which the development is begun.

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- (4) A new reporting period is to begin immediately after the end of a reporting period which is not the last reporting period.
- (5) A reporting period which is not the last reporting period is to be a period of 12 months.
- (6) The last reporting period is to be a period ending with the day on which the development is completed (subject to any provision made under [subsection \(9\)](#)).
- (7) A “development progress report”, in relation to relevant residential development, means a report which sets out—
  - (a) the progress that has been made, and that remains to be made, towards completing the dwellings the creation of which the development is to involve, as at the end of the reporting period to which the report relates,
  - (b) the progress which is predicted to be made towards completing those dwellings over each subsequent reporting period up to and including the last reporting period, and
  - (c) such other information as may be prescribed in regulations under [subsection \(9\)](#).
- (8) If relevant planning permission is granted without the condition required by [subsection \(2\)](#), it is to be treated as having been granted subject to that condition.
- (9) The Secretary of State may by regulations make provision—
  - (a) about the form and content of development progress reports;
  - (b) about when and how development progress reports are to be provided to local planning authorities;
  - (c) about who may or must provide development progress reports to local planning authorities;
  - (d) about the provision of development progress reports and other information to local planning authorities where there is a change in circumstances in connection with relevant residential development, such as (for example) where the development is no longer intended to be completed in accordance with—
    - (i) the relevant planning permission;
    - (ii) a previous development progress report;
    - (iii) any timescales specified in a commencement notice given under section 93G;
  - (e) about when a condition under [subsection \(2\)](#) is to be treated as being discharged;
  - (f) about when relevant residential development is to be treated as being completed for the purposes of this section.
- (10) In this section—

“relevant planning permission” means planning permission other than—

  - (a) planning permission granted by a development order;
  - (b) planning permission granted for development carried out before the grant of that permission;

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- (c) planning permission granted for a limited period;
  - (d) planning permission granted by an enterprise zone scheme;
  - (e) planning permission granted by a simplified planning zone scheme;
- “relevant residential development” means development which—
- (a) involves the creation of one or more dwellings, and
  - (b) is of a prescribed description.”
- (4) In section 69 (register of applications etc)—
- (a) in subsection (1), after paragraph (e) insert—  
 “(f) development progress reports under section 90B;”;
  - (b) in subsection (2), after paragraph (b) insert—  
 “(c) such information as is prescribed with respect to development progress reports under section 90B that are provided to the local planning authority;”.
- (5) In section 70 (determination of applications: general considerations), in subsection (1) (a), after “sections” insert “90B,”.
- (6) In section 73 (determination of applications to develop land after non-compliance), before subsection (4) insert—  
 “(2E) Nothing in this section authorises the disapplication of the condition under section 90B (condition relating to development progress reports in England).”
- (7) In section 96A (power to make non-material changes to planning permission), before subsection (4) insert—  
 “(3B) The conditions referred to in subsection (3)(b) do not include the condition under section 90B (condition relating to development progress reports in England).”
- (8) In section 97 (revocation or modification of planning permission), at the end insert—  
 “(9) Subsection (1) does not permit the revocation or modification of the condition under section 90B (condition relating to development progress reports in England).”
- (9) In section 100ZA(13)(c) (restrictions on power to impose planning conditions in England), as amended by paragraph 3(12) of Schedule 14 to the Environment Act 2021, at the end insert “or the condition under section 90B (condition relating to development progress reports in England)”.
- (10) Until paragraph 3(12) of Schedule 14 to the Environment Act 2021 comes into force, section 100ZA(13)(c) has effect as if at the end there were inserted “but do not include the condition under section 90B (condition relating to development progress reports in England)”.

#### **Commencement Information**

**I119** S. 114 in force at 26.12.2023 for specified purposes, see s. 255(3)(a)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.  
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## CHAPTER 5

### ENFORCEMENT OF PLANNING CONTROLS

VALID FROM 25/04/2024

#### 115 Time limits for enforcement

- (1) In section 171B of TCPA 1990 (time limits), in subsection (1), for the words from “four years” to the end substitute—
- “(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed, and
  - (b) in the case of a breach of planning control in Wales, four years beginning with the date on which the operations were substantially completed.”
- (2) In that section, in subsection (2), for the words from “four years” to the end substitute—
- “(a) in the case of a breach of planning control in England, ten years beginning with the date of the breach, and
  - (b) in the case of a breach of planning control in Wales, four years beginning with the date of the breach.”

#### Commencement Information

**I120** S. 115 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

VALID FROM 25/04/2024

#### 116 Duration of temporary stop notices

- (1) Section 171E of TCPA 1990 (temporary stop notices) is amended as follows.
- (2) In subsection (7)(a), for “period of 28 days” substitute “relevant period”.
- (3) After subsection (7) insert—
- “(8) In subsection (7)(a), “relevant period” means—
- (a) in the case of a notice issued by a local planning authority in England, 56 days;
  - (b) in the case of a notice issued by a local planning authority in Wales, 28 days.”

#### Commencement Information

**I121** S. 116 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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VALID FROM 25/04/2024

## 117 Enforcement warning notices

- (1) TCPA 1990 is amended as follows.
- (2) In section 171A (expressions used in connection with enforcement), in subsection (2) —
  - (a) before paragraph (a) insert—
    - “(za) the issue of an enforcement warning notice in relation to land in England under section 172ZA;”;
  - (b) in paragraph (aa), for “(defined in section 173ZA)” substitute “in relation to land in Wales under section 173ZA”.
- (3) Before section 172A insert—

### “172ZA Enforcement warning notice: England

- (1) The local planning authority may issue a notice (an “enforcement warning notice”) where it appears to them that—
  - (a) there has been a breach of planning control in respect of any land in England, and
  - (b) there is a reasonable prospect that, if an application for planning permission in respect of the development concerned were made, planning permission would be granted.
- (2) The notice must—
  - (a) state the matters that appear to the authority to constitute the breach of planning control, and
  - (b) state that, unless an application for planning permission is made within a period specified in the notice, further enforcement action may be taken.
- (3) A copy of the notice must be served—
  - (a) on the owner and the occupier of the land to which it relates, and
  - (b) on any other person having an interest in the land, being an interest that, in the opinion of the authority, would be materially affected by the taking of any further enforcement action.
- (4) The issue of an enforcement warning notice does not affect any other power exercisable in respect of any breach of planning control.”
- (4) In section 188 (register of enforcement and stop notices and other enforcement action) in subsection (1)—
  - (a) after paragraph (za) insert—
    - “(zb) to enforcement warning notices under section 172ZA (enforcement warning notice: England);”;
  - (b) in paragraph (aa), at the end insert “under section 173ZA (enforcement warning notice: Wales)”.
- (5) In that section, in subsection (2)—

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- (a) in paragraph (a), for “enforcement warning notice” substitute “enforcement warning notice under section 172ZA or 173ZA”;
- (b) in paragraph (b), after “enforcement notices” insert “and enforcement warning notices under section 172ZA”.

### Commencement Information

**I122** S. 117 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

VALID FROM 25/04/2024

### 118 Restriction on appeals against enforcement notices

In section 174 of TCPA 1990 (appeal against enforcement notice), for subsections (2A) and (2B) substitute —

“(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—

- (a) the land to which the enforcement notice relates is in England, and
- (b) the enforcement notice was issued at a time after the making of an application for planning permission that was related to the enforcement notice.

(2AA) For the purposes of [subsection \(2A\)](#)—

- (a) an application for planning permission for the development of any land is related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control;
- (b) an application for planning permission that the local planning authority or the Secretary of State declined to determine under section 70A, 70B or 70C is to be ignored.

(2AB) But [subsection \(2A\)](#) does not apply if—

- (a) the application for planning permission has ceased to be under consideration, and
- (b) the enforcement notice was issued after the end of the period of two years beginning with the day on which the application ceased to be under consideration.

(2AC) For the purposes of [subsection \(2AB\)](#), an application for planning permission has ceased to be under consideration if—

- (a) the application was refused, or granted subject to conditions, and, in the case of an application determined by the local planning authority, the applicant did not appeal under section 78(1)(a);
- (b) the applicant did not appeal in the circumstances mentioned in section 78(2) and the application was not subsequently refused;
- (c) the applicant appealed under section 78(1)(a) or section 78(2) and—
  - (i) the appeal was dismissed,

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- (ii) the application was on appeal granted subject to conditions, or subject to different conditions, or
- (iii) the Secretary of State declined under section 79(6) to determine the appeal.

(2B) For the purposes of [subsection \(2AB\)](#), the day on which the application ceased to be under consideration is—

- (a) in a case within [subsection \(2AC\)\(a\)](#), the day on which the right to appeal arose;
- (b) in a case within [subsection \(2AC\)\(b\)](#), the day after the end of the prescribed period referred to in [section 78\(2\)](#);
- (c) in a case within [subsection \(2AC\)\(c\)\(i\)](#), the day on which the appeal was dismissed;
- (d) in a case within [subsection \(2AC\)\(c\)\(ii\)](#), the day on which the appeal was determined;
- (e) in a case within [subsection \(2AC\)\(c\)\(iii\)](#) relating to an appeal under [section 78\(1\)\(a\)](#), the day on which the right to appeal arose;
- (f) in a case within [subsection \(2AC\)\(c\)\(iii\)](#) relating to an appeal under [section 78\(2\)](#), the day after the end of the prescribed period referred to in [section 78\(2\)](#).”

#### Commencement Information

**1123** S. 118 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

VALID FROM 25/04/2024

#### 119 Undue delays in appeals

- (1) TCPA 1990 is amended as follows.
- (2) In section 176 (determination of appeals relating to enforcement notices), at the end insert—
  - “(6) If at any time before or during the determination of an appeal against an enforcement notice issued by a local planning authority in England it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, the Secretary of State may—
    - (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are so specified for the expedition of the appeal, and
    - (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.”
- (3) In section 195 (appeals relating to certificates of lawfulness), after subsection (3) insert—
  - “(3A) Where the local planning authority referred to in subsection (1) is in England, if at any time before or during the determination of an appeal under subsection (1)(a) or (b) it appears to the Secretary of State that the appellant



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is responsible for undue delay in the progress of the appeal, the Secretary of State may—

- (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are so specified for the expedition of the appeal, and
- (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.”

(4) In Schedule 6 (determination of certain appeals by person appointed by Secretary of State), in paragraph 2 (powers and duties of appointed person)—

- (a) in sub-paragraph (1)(b) for “and (5)” substitute “, (5) and (6)”;
- (b) in sub-paragraph (1)(c), for “and (3)” substitute “, (3) and (3A)”.

#### Commencement Information

**I124** S. 119 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

VALID FROM 25/04/2024

#### 120 Penalties for non-compliance

(1) In section 187A of TCPA 1990 (enforcement of conditions), in subsection (12), for the words from “to a fine” to the end substitute—

- “(a) to a fine, if the land is in England, or
- (b) to a fine not exceeding level 3 on the standard scale, if the land is in Wales.”

(2) In section 216 of TCPA 1990 (penalty for non-compliance with section 215 notice)—

- (a) in subsection (2), for the words from “to a fine” to the end substitute—
  - “(a) to a fine, if the land is England, or
  - (b) to a fine not exceeding level 3 on the standard scale, if the land is in Wales.”;
- (b) in subsection (6), for “one-tenth of level 3 on the standard scale” substitute “the relevant amount”;
- (c) after subsection (6) insert—

“(6A) In subsection (6) “the relevant amount” means—

- (a) if the land is in England, one-tenth of the greater of—
  - (i) £5000, or
  - (ii) level 4 on the standard scale;
- (b) if the land is in Wales, one-tenth of level 3 on the standard scale.”

#### Commencement Information

**I125** S. 120 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

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**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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## 121 Power to provide relief from enforcement of planning conditions

After section 196D of TCPA 1990 insert—

### *“Relief from enforcement*

#### **196E Power to provide relief from enforcement of planning conditions**

- (1) The Secretary of State may by regulations provide that a local planning authority in England may not take, or is subject to specified restrictions in how it may take, relevant enforcement measures in relation to any actual or apparent failure to comply with a relevant planning condition.
- (2) The Secretary of State may make regulations under subsection (1) only if the Secretary of State considers that it is appropriate to make the regulations for the purposes of national defence or preventing or responding to civil emergency or significant disruption to the economy of the United Kingdom or any part of the United Kingdom.
- (3) The power in subsection (1) may only be exercised in respect of an actual or apparent failure which occurs during a specified period of not more than one year (the “relief period”) or which is apprehended during the relief period to so occur (but see subsections (7) and (8)).
- (4) A “relevant enforcement measure” is anything which may be done by a local planning authority in England for the purposes of investigating, preventing, remedying or penalising an actual or apparent failure to comply with a relevant planning condition.
- (5) A relevant enforcement measure includes, in particular—
  - (a) the exercise of a power under—
    - (i) section 171BA (power to apply for planning enforcement order);
    - (ii) section 187B (power to apply to court for injunction);
    - (iii) section 196A (power to enter without a warrant);
    - (iv) section 196B (power to apply for, and enter under, warrant);
  - (b) the issue of—
    - (i) a planning contravention notice under section 171C,
    - (ii) a temporary stop notice under section 171E,
    - (iii) an enforcement notice under section 172,
    - (iv) an enforcement warning notice under section 172ZA,
    - (v) a stop notice under section 183, or
    - (vi) a breach of condition notice under section 187A.
- (6) A “relevant planning condition” is a condition or limitation subject to which planning permission for development of land in England is granted, but does not include a condition under—
  - (a) section 90A and Schedule 7A (condition relating to biodiversity gain);
  - (b) section 90B (condition relating to development progress reports);
  - (c) section 91 (condition limiting duration of planning permission);
  - (d) section 92 (conditions for outline planning permission).

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- (7) Regulations under [subsection \(1\)](#) may make provision as to the treatment of an actual or apparent failure to comply with a relevant planning condition, which—
- (a) starts before, but continues after, the start of the relief period, or
  - (b) starts during, but continues after, that period.
- (8) Regulations under [subsection \(1\)](#) may provide that an actual or apparent failure to comply with a relevant planning condition is not to be treated as occurring during the relief period, if the failure—
- (a) occurs wholly during the period, and
  - (b) is not remedied by a specified time after the period.
- (9) Regulations under [subsection \(1\)](#) may make provision that, where anything relating to the taking of a relevant enforcement measure is to be or may be done by a time during the relief period, it is to be or may be instead done by a specified time after that period.
- (10) Regulations under [subsection \(1\)](#) may—
- (a) apply in relation to all, or only specified, local planning authorities in England;
  - (b) apply in relation to all, or only specified, relevant planning conditions;
  - (c) apply in relation to all, or only specified, relevant enforcement measures;
  - (d) prevent the taking of relevant enforcement measures indefinitely or only for a specified period of time.
- (11) In this section, “specified” means specified or described in regulations under [subsection \(1\)](#).”

#### Commencement Information

**I126** [S. 121](#) in force at 26.12.2023, see [s. 255\(3\)\(a\)](#)

## CHAPTER 6

### OTHER PROVISION

VALID FROM 25/04/2024

#### **122 Consultation before applying for planning permission**

In section 122 of the Localism Act 2011 (consultation before applying for planning permission in England), omit subsections (3) and (4) (which provide for the expiry of sections 61W to 61Y of TCPA 1990).

#### Commencement Information

**I127** [S. 122](#) not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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## 123 Duty in relation to self-build and custom housebuilding

(1) In section 2A of the Self-build and Custom Housebuilding Act 2015 (duty to grant planning permissions etc)—

- (a) in subsection (2)—
  - (i) omit “suitable”;
  - (ii) for “in respect of enough serviced plots” substitute “for the carrying out of self-build and custom housebuilding on enough serviced plots”;
  - (iii) for “arising in” substitute “in respect of”;
- (b) after subsection (5) insert—

“(5A) Regulations may make provision specifying descriptions of planning permissions or permissions in principle that are, or are not, to be treated as development permission for the carrying out of self-build and custom housebuilding for the purposes of this section.”;

- (c) in subsection (6), for paragraph (a) substitute—
  - “(a) the demand for self-build and custom housebuilding in an authority’s area in respect of a base period is the aggregate of—
    - (i) the demand for self-build and custom housebuilding arising in the authority’s area in the base period; and
    - (ii) any demand for self-build and custom housebuilding that arose in the authority’s area in an earlier base period and in relation to which—
      - (A) the time allowed for complying with the duty in subsection (2) expired during the base period in question, and
      - (B) the duty in subsection (2) has not been met;
  - (aa) the demand for self-build and custom housebuilding arising in an authority’s area in a base period is evidenced by the number of entries added during that period to the register under section 1 kept by the authority;”;
- (d) omit subsection (6)(c);
- (e) in subsection (9)(b), for “arising in” substitute “in respect of”.

(2) In section 4 of the Self-build and Custom Housebuilding Act 2015 (regulations), in subsection (2), before paragraph (za) insert—

“(zza) section 2A(5A),”.

### Commencement Information

**I128** S. 123 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

**I129** S. 123 in force at 31.1.2024 by [S.I. 2024/92, reg. 2\(f\)](#)

VALID FROM 25/04/2024

## 124 Powers as to form and content of planning applications

(1) Before section 327A of TCPA 1990 insert—

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### **“327ZA Planning applications in England: powers as to form and content**

- (1) Subsections (2) to (3) apply to a relevant power to make provision about—
  - (a) the form or manner in which a planning application is to be made, or
  - (b) the form or manner in which an associated document is to be provided.
- (2) The power includes power to make provision requiring or allowing the application to be made, or the associated document to be provided—
  - (a) by particular electronic means, or
  - (b) by electronic means that satisfy particular technical standards or specifications.
- (3) The power includes power to make provision requiring or allowing the authority to which a planning application is (or is to be) made to waive a requirement of a sort described in subsection (2).
- (4) Subsection (5) applies to a relevant power to make provision about the content of a planning application or associated document.
- (5) The power includes power to make provision requiring the application or associated document, or any particular content of it, to be prepared or endorsed by a person with particular qualifications or experience.
- (6) Subsection (7) applies to any power within subsection (1) or (4).
- (7) The power may be exercised by making provision referring (and giving effect) to such material of a particular description as is published from time to time by the Secretary of State on a government website together with a statement that it has effect for the purposes of the provision in question.
- (8) Provision that may be made by virtue of subsection (7) includes, for example, provision requiring or allowing a planning application to be made (or an associated document to be provided) using such a form, or in accordance with such specifications, as are published from time to time as mentioned in that subsection.
- (9) In this section, a “relevant power to make provision” about a certain matter is a power of the Secretary of State under this Act to make subordinate provision about that matter, if and so far as the power is exercisable in relation to England.
- (10) It is irrelevant for the purposes of subsection (9) in what terms a power is conferred (and, in particular, whether it relates specifically to the matter in question or is a more general power capable of exercise in relation to that matter).
- (11) In this section—

“associated document” means any document or other material that—

  - (a) accompanies, relates to, or is or is to be subject of, a planning application, and

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- (b) is required by or under this Act to be provided by or on behalf of the person making the application;  
 “planning application” means—
- (a) an application under, or for the purposes of, any provision of Part 3 or 8 of this Act or any subordinate provision made under that Part, or
- (b) an application under section 191 or 192,  
 but does not include an application made in legal proceedings;  
 “provided” includes prepared, submitted, issued, served, notified and published;  
 “subordinate provision” means provision in an order or in regulations.”
- (2) In section 62(2A) of TCPA 1990 (powers relating to applications for planning permission to include certain applications under conditions), before paragraph (a) insert—
- “(za) applications for any consent, agreement or approval required by a condition under section 61C(1)(b).”
- (3) In paragraph 14 of Schedule 7A to TCPA 1990 (biodiversity gain plans) at the end insert—
- “(4) Section 327ZA applies to the power conferred by sub-paragraph (3) as if a biodiversity gain plan were an “associated document” within the meaning of that section.”
- (4) In section 17 of the Listed Buildings Act (conditions of listed building consent), after subsection (3) insert—
- “(4) Regulations under this Act in relation to England may, in relation to applications made pursuant to a condition attached to listed building consent, make any provision corresponding to provision that may be made in relation to applications for such consent under section 10(3).”
- (5) In section 89 of the Listed Buildings Act (application of general provisions of TCPA 1990)—
- (a) in subsection (1), after the entry for section 323A insert—
- “section 327ZA (powers as to form and content of applications in England);”;
- (b) before subsection (1A) insert—
- “(1ZC) In section 327ZA of the principal Act as applied by this section, references to a planning application are to be read as references to an application under, or for the purposes of, any provision of Chapter 2 of Part 1 of this Act or any subordinate provision made under that Chapter (but are not to be read as including an application made in legal proceedings).”
- (6) In section 10 of the Hazardous Substances Act (conditions of hazardous substance consent), after subsection (3) insert—
- “(4) Regulations in relation to England may, in relation to applications made pursuant to a condition attached to hazardous substance consent, make

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any provision corresponding to provision that may be made in relation to applications for such consent under section 7.”

(7) In section 37 of the Hazardous Substances Act (application of general provisions of TCPA 1990)—

(a) in subsection (2), after the entry for section 323A insert—

“section 327ZA (powers as to form and content of applications in England);”;

(b) at the end insert—

“(5) In section 327ZA of the principal Act as applied by this section, references to a planning application are to be read as references to an application under, or for the purposes of, any provision of this Act or any subordinate provision made under this Act (but are not to be read as including an application made in legal proceedings).”

#### Commencement Information

**I130** S. 124 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

PROSPECTIVE

### 125 Additional powers in relation to planning obligations

In section 106A of TCPA 1990 (modification and discharge of planning obligations), after subsection (9) insert—

“(9A) Regulations may make provision for, or in connection with—

- (a) requirements which must be met in order for a planning obligation in respect of land in England to be modified or discharged; and
- (b) circumstances in which a planning obligation in respect of land in England may not be modified or discharged.”

#### Commencement Information

**I131** S. 125 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

### 126 Fees for certain services in relation to nationally significant infrastructure projects

(1) After section 54 of the Planning Act 2008 (rights of entry: Crown land) insert—

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## “CHAPTER 4

### FEES

#### **54A Power to provide for fees for certain services in relation to nationally significant infrastructure projects**

- (1) The Secretary of State may make regulations for and in connection with the charging of fees by prescribed public authorities in relation to the provision of relevant services.
- (2) A “relevant service” means any advice, information or other assistance (including a response to a consultation) provided in connection with—
  - (a) an application or proposed application—
    - (i) for an order granting development consent, or
    - (ii) to make a change to, or revoke, such an order, or
  - (b) any other prescribed matter relating to nationally significant infrastructure projects.
- (3) The regulations under [subsection \(1\)](#) may in particular make provision—
  - (a) about when a fee (including a supplementary fee) may, and may not, be charged;
  - (b) about the amount which may be charged;
  - (c) about what may, and may not, be taken into account in calculating the amount charged;
  - (d) about who is liable to pay a fee charged;
  - (e) about when a fee charged is payable;
  - (f) about the recovery of fees charged;
  - (g) about waiver, reduction or repayment of fees;
  - (h) about the effect of paying or failing to pay fees charged (including provision permitting a public authority prescribed under [subsection \(1\)](#) to withhold a relevant service that they would otherwise be required to provide under an enactment until any outstanding fees for that service are paid);
  - (i) for the supply of information for any purpose of the regulations;
  - (j) conferring a function, including a function involving the exercise of a discretion, on any person.
- (4) A public authority prescribed under [subsection \(1\)](#) must have regard to any guidance published by the Secretary of State in relation to the exercise of its functions under the regulations.
- (5) In this section, “public authority” means any person certain of whose functions are of a public nature.”

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#### **Commencement Information**

**I132** [S. 126](#) in force at 26.12.2023, see [s. 255\(3\)\(a\)](#)



**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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## 127 Power to shorten deadline for examination of development consent order applications

(1) Section 98 of the Planning Act 2008 (timetable for examining, and reporting on, application for development consent order) is amended as follows.

(2) After subsection (4) insert—

“(4A) The Secretary of State may set a date for a deadline under subsection (1) that is earlier than the date for the time being set.”

(3) In subsection (6), after “subsection (4)” insert “or (4A)”.

### Commencement Information

**I133** S. 127 in force at 26.12.2023, see s. 255(3)(a)

## 128 Additional powers in relation to non-material changes to development consent orders

In paragraph 2 of Schedule 6 to the Planning Act 2008 (non-material changes), after sub-paragraph (1) insert—

“(1A) The Secretary of State may by regulations make provision about—

- (a) the decision-making process in relation to the exercise of the power conferred by sub-paragraph (1);
- (b) the making of the decision as to whether to exercise that power;
- (c) the effect of a decision to exercise that power.

This is subject to sub-paragraph (2).

(1B) The power to make regulations under sub-paragraph (1A) includes power to allow a person to exercise a discretion.”

### Commencement Information

**I134** S. 128 in force at 26.12.2023, see s. 255(3)(a)

## 129 Hazardous substances consent: connected applications to the Secretary of State

In section 62A of TCPA 1990 (when application may be made directly to the Secretary of State), in subsection (3)(a)—

- (a) in sub-paragraph (i) omit “or”;
- (b) after that sub-paragraph insert—

“(ia) an application for hazardous substances consent under the Planning (Hazardous Substances) Act 1990, or”.

### Commencement Information

**I135** S. 129 not in force at Royal Assent, see s. 255(3)(b)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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**I136** S. 129 in force at 31.1.2024 by S.I. 2024/92, reg. 2(g)

### 130 Regulations and orders under the Planning Acts

- (1) In section 333 of TCPA 1990 (regulations and orders)—
  - (a) after subsection (2A) insert—
 

“(2B) Regulations made under this Act may make consequential, supplementary, incidental, transitional, transitory or saving provision.”;
  - (b) after subsection (7) insert—
 

“(8) Orders made under this Act by statutory instrument may make consequential, supplementary, incidental, transitional, transitory or saving provision.”
- (2) In section 238 of TCPA 1990 (consecrated land), in subsection (5)(c), for the words from “contain” to the end substitute “in particular by virtue of section 333(2B) include provision as to the closing of registers”.
- (3) In TCPA 1990, omit the following—
  - (a) section 61Z2(3);
  - (b) section 106ZB(2)(a);
  - (c) in section 116(2), the words “and incidental or supplementary provision”;
  - (d) section 202G(4);
  - (e) section 303(6)(a);
  - (f) section 303ZA(4)(a);
  - (g) section 319A(10)(a);
  - (h) section 319B(10)(a);
  - (i) in Schedule 4D, paragraph 1(3).
- (4) In section 93 of the Listed Buildings Act (regulations and orders), for subsection (6) substitute—
 

“(6) Regulations made under this Act and orders made under this Act by statutory instrument may make consequential, supplementary, incidental, transitional, transitory or saving provision.”
- (5) In the Listed Buildings Act, omit the following—
  - (a) section 88D(9)(a);
  - (b) section 88E(9)(a).
- (6) In section 40 of the Hazardous Substances Act (regulations)—
  - (a) in the heading, after “Regulations” insert “and orders”;
  - (b) after subsection (4) insert—
 

“(5) Regulations made under this Act and orders made under this Act by statutory instrument may make consequential, supplementary, incidental, transitional, transitory or saving provision.”
- (7) In section 5 of the Hazardous Substances Act (power to prescribe hazardous substances), in subsection (3), for “to make such transitional provision” substitute “under section 40(5) for regulations under this section to make transitional provision”.

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(8) In the Hazardous Substances Act, omit the following—

(a) section 21A(9)(a);

(b) section 21B(9)(a).

#### Commencement Information

**I137** S. 130 in force at 26.12.2023, see s. 255(3)(a)

### 131 Power for appointees to vary determinations as to procedure

In paragraph 2 of Schedule 6 to TCPA 1990 (powers and duties of appointed persons), in sub-paragraph (10)—

(a) for “does not apply” substitute “applies”;

(b) at the end insert “only for the purposes of subsection (4) of that section”.

#### Commencement Information

**I138** S. 131 in force at 26.12.2023, see s. 255(3)(a)

### 132 Pre-consolidation amendment of planning, development and compulsory purchase legislation

(1) The Secretary of State may by regulations make such amendments and modifications of the relevant enactments as in the Secretary of State’s opinion facilitate, or are otherwise desirable in connection with, the consolidation of some or all of those enactments.

(2) “Relevant enactments” means—

(a) the enactments listed in [subsection \(3\)](#), and

(b) any other enactments, whenever passed or made, so far as relating to—

(i) planning or development, or

(ii) the compulsory purchase of land (including compensation for such purchases).

(3) The enactments referred to in [subsection \(2\)\(a\)](#) are—

the Land Clauses Consolidation Act 1845;

the Railway Clauses Consolidation Act 1845;

sections 9, 13, 76 and 77 of the National Parks and Access to the Countryside Act 1949;

the Land Compensation Act 1961;

the Compulsory Purchase Act 1965;

the Agriculture Act 1967;

the Civic Amenities Act 1967;

the Land Compensation Act 1973;

sections 13 to 16 of (and Schedule 1 to) the Local Government (Miscellaneous Provisions) Act 1976;

Parts 13, 14, 16 and 18 of the Local Government, Planning and Land Act 1980;

the Compulsory Purchase (Vesting Declarations) Act 1981;

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the Acquisition of Land Act 1981;  
the New Towns Act 1981;  
Part 3 of the Housing Act 1988;  
TCPA 1990;  
the Listed Buildings Act;  
the Hazardous Substances Act;  
the Planning and Compensation Act 1991;  
Part 3 and section 96 of (and Schedule 14 to) the Environment Act 1995;  
GLAA 1999;  
PCPA 2004;  
the Planning Act 2008;  
the Planning and Energy Act 2008;  
Chapter 3 of Part 5, Part 6 and Chapter 2 of Part 8 of the Localism Act 2011;  
Parts 6 and 7 of the Housing and Planning Act 2016;  
section 15 of the Neighbourhood Planning Act 2017;  
Parts 3 to 9 of this Act.

- (4) For the purposes of this section, “amend” includes repeal and revoke (and similar terms are to be read accordingly).
- (5) Subsection (6) applies where, in the Secretary of State’s opinion, an amendment or modification made by regulations under this section facilitates or is otherwise desirable in connection with the consolidation of certain relevant enactments.
- (6) The regulations must provide that the amendment or modification comes into force immediately before an Act consolidating those relevant enactments comes into force.
- (7) Regulations under this section must not make any provision which is within—
- (a) Scottish devolved legislative competence,
  - (b) Welsh devolved legislative competence, or
  - (c) Northern Ireland devolved legislative competence,
- unless that provision is a restatement of provision or is merely incidental to, or consequential on, provision that would be outside that legislative competence.
- (8) For the purposes of subsection (7)—
- (a) provision is within “Scottish devolved legislative competence” where, if it were included in an Act of the Scottish Parliament, it would be within the legislative competence of that Parliament;
  - (b) provision is within “Welsh devolved legislative competence” where, if it were included in an Act of Senedd Cymru, it would be within the legislative competence of the Senedd (including any provision that could be made only with the consent of a Minister of the Crown);
  - (c) provision is within “Northern Ireland devolved legislative competence” where the provision—
    - (i) would be within the legislative competence of the Northern Ireland Assembly, if it were included in an Act of that Assembly, and
    - (ii) would not, if it were included in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State.

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- (9) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

#### Commencement Information

**I139** S. 132 in force at 26.12.2023, see s. 255(3)(a)

### 133 Participation in certain proceedings conducted by, or on behalf of, the Secretary of State

- (1) The Secretary of State may, to the extent not otherwise able to do so, require or permit a person who takes part in relevant proceedings conducted by the Secretary of State to do so (wholly or partly) remotely.
- (2) The references in [subsection \(1\)](#) to the Secretary of State include references to a person appointed by the Secretary of State.
- (3) “Relevant proceedings” means any inquiry, hearing, examination, meeting or other proceedings under an Act (whenever passed or made) which relate to planning, development or the compulsory purchase of land.
- (4) Relevant proceedings include, in particular—
- any proceedings to which section 319A of TCPA 1990 applies (see subsections (7) to (10) of that section);
  - any proceedings under section 20 of, or paragraph 6 of Schedule 3 to, the Listed Buildings Act;
  - any proceedings under section 21 of, or paragraph 6 of the Schedule to, the Hazardous Substances Act;
  - any proceedings under section 13A of, or paragraph 4A of Schedule 1 to, the Acquisition of Land Act 1981;
  - any proceedings under Part 10A or Part 11 of the Planning Act 2008;
  - an examination under Part 2 of PCPA 2004;
  - an examination under Chapter 2 or 3 of Part 6 of the Planning Act 2008 (including any meetings under Chapter 4 of that Part) in relation to an application for an order granting development consent;
  - an examination under Schedule 4B to the TCPA 1990 in relation to a draft neighbourhood development order.
- (5) For the purposes of this section a person takes part in relevant proceedings remotely if they take part through—
- a live telephone link,
  - a live television link, or
  - any other arrangement which does not involve the person attending the proceedings in person.

#### Commencement Information

**I140** S. 133 in force at 26.12.2023, see s. 255(3)(a)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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## PROSPECTIVE

### 134 Power of certain bodies to charge fees for advice in relation to applications under the Planning Acts

After section 303ZA of the TCPA 1990 (fees for appeals) insert—

#### “303ZB Power of certain bodies to charge fees for advice in relation to applications under the planning Acts

- (1) A prescribed body may charge fees for the provision of advice, information or assistance (including the provision of a response to a consultation) in connection with an application within [subsection \(2\)](#) that relates to land in England.
- (2) An application is within this subsection if it is an application, proposed application or proposal for a permission, approval or consent under, or for the purposes of, the planning Acts.
- (3) A prescribed body may not charge fees under [subsection \(1\)](#) in respect of—
  - (a) a response to a consultation that a qualifying neighbourhood body is required to carry out under an enactment;
  - (b) the provision of prescribed advice, information or assistance or advice, information or assistance of a prescribed description.
- (4) In subsection [\(3\)\(a\)](#), a “qualifying neighbourhood body” means—
  - (a) a qualifying body within the meaning given by section 61E(6) (and includes a community organisation which is to be regarded as such a qualifying body by virtue of paragraph 4(2) of Schedule 4C), or
  - (b) a qualifying body within the meaning given by section 38A(12) of the Planning and Compulsory Purchase Act 2004.
- (5) A prescribed body may charge fees under [subsection \(1\)](#) only in accordance with a statement published on its website which—
  - (a) describes the advice, information or assistance in respect of which fees are charged,
  - (b) sets out the fees (or, if applicable, the method by which the fees are to be calculated), and
  - (c) refers to any provision in an enactment pursuant to which the advice, information or assistance is provided.
- (6) Subsections [\(7\)](#) and [\(8\)](#) apply where a prescribed body decides to charge fees under [subsection \(1\)](#) for advice, information or assistance which the body provides pursuant to a provision in an enactment.
- (7) If a person fails to pay the fee charged under [subsection \(1\)](#), the prescribed body may, notwithstanding any requirement to provide the advice, information or assistance, withhold the advice, information or assistance until the fee is paid.
- (8) The prescribed body must secure that, taking one financial year with another, the income from the fees charged under [subsection \(1\)](#) does not exceed the cost of providing the advice, information or assistance.

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- (9) A financial year is the period of 12 months beginning with 1 April.
- (10) Before making regulations under this section, the Secretary of State must consult—
- (a) any body likely to be affected by the regulations, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (11) In this section, “fees” include charges (however described).”

#### Commencement Information

**I141** S. 134 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

### 135 Biodiversity net gain: pre-development biodiversity value and habitat enhancement

In Schedule 7A to the TCPA 1990 (biodiversity gain in England)—

- (a) in paragraph 5(4), after “6” insert “, 6A, 6B”;
- (b) after paragraph 6 insert—
 

“6A If—

  - (a) a person carries on activities on land on or after 25 August 2023 in accordance with a planning permission (other than the planning permission referred to in paragraph 5(1)),
  - (b) on the relevant date, development for which that other planning permission was granted—
    - (i) has not been begun, or
    - (ii) has been begun but has not been completed, and
  - (c) as a result of the activities the biodiversity value of the onsite habitat referred to in paragraph 5(1) is lower on the relevant date than it would otherwise have been,

the pre-development biodiversity value of the onsite habitat is to be taken to be its biodiversity value immediately before the carrying on of the activities.

6B (1) This paragraph applies where there is insufficient evidence of the biodiversity value of an onsite habitat immediately before the carrying on of the activities referred to in paragraph 6 or 6A.

(2) The biodiversity value of the onsite habitat immediately before the carrying on of the activities referred to in paragraph 6 or 6A is to be taken to be the highest biodiversity value of the onsite habitat which is reasonably supported by any available evidence relating to the onsite habitat.”;
- (c) in paragraph 10—
  - (i) in sub-paragraph (1), after “habitat enhancement” insert “of an offsite habitat”;
  - (ii) after sub-paragraph (1) insert—

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“(1A) For the purposes of sub-paragraph (1) (and without prejudice to paragraphs 3 and 4(1)), a habitat enhancement is calculated as the amount by which the projected value of the offsite habitat as at the end of the maintenance period referred to in section 100(2)(b) of the Environment Act 2021 exceeds its pre-enhancement biodiversity value.

(1B) The pre-enhancement biodiversity value of an offsite habitat is the biodiversity value of the offsite habitat on the relevant date.

(1C) The relevant date is—

- (a) the date on which the application is made to register the land subject to the habitat enhancement in the biodiversity gain site register, or
- (b) such other date as may be specified in the conservation covenant or planning obligation.

(1D) But if—

- (a) a person carries on activities on an offsite habitat on or after 25 August 2023 otherwise than in accordance with—
  - (i) planning permission, or
  - (ii) any other permission of a kind specified by the Secretary of State by regulations, and
- (b) as a result of the activities the biodiversity value of the offsite habitat is lower on the relevant date than it would otherwise have been,

the pre-enhancement biodiversity value of the offsite habitat is to be taken to be its biodiversity value immediately before the carrying on of the activities.”;

- (d) in paragraph 12(1), after the definition of “onsite habitat” insert—
  - ““offsite habitat” means habitat which is not onsite habitat.”

#### Commencement Information

**I142** S. 135 not in force at Royal Assent, see **s. 255(3)(b)**

**I143** S. 135 in force at 12.2.2024 by **S.I. 2024/92, reg. 3**

### 136 Development affecting ancient woodland

(1) Before the end of the period of three months beginning with the day on which this Act is passed, the Secretary of State must vary the Town and Country Planning (Consultation) (England) Direction 2021 (“the 2021 Direction”) so that it applies in relation to applications for planning permission for development affecting ancient woodland.

(2) In subsection (1) “ancient woodland” means an area in England which has been continuously wooded since at least the end of the year 1600 A.D.



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(3) This section does not affect whether or how the Secretary of State may withdraw or vary the 2021 Direction after it has been varied as mentioned in subsection (1).

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**Commencement Information**

**I144** S. 136 in force at 26.12.2023, see [s. 255\(3\)\(a\)](#)

## PART 4

### INFRASTRUCTURE LEVY AND COMMUNITY INFRASTRUCTURE LEVY

PROSPECTIVE

#### 137 Infrastructure Levy: England

[Schedule 12](#) makes provision for, and in connection with, the imposition, in England, of a charge to be known as Infrastructure Levy.

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**Commencement Information**

**I145** S. 137 not in force at Royal Assent, see [s. 255\(4\)](#)

PROSPECTIVE

#### 138 Power to designate Homes and Communities Agency as a charging authority

In section 14 of the Housing and Regeneration Act 2008 (contents of designation orders), after subsection (6) insert—

“(6A) The order may provide that where the HCA is the local planning authority for the whole or any part of the designated area it is to be a charging authority under section 204B(3)(b) of the Planning Act 2008 (Infrastructure Levy) for the whole or any part of that area—

- (a) for all or specified purposes,
- (b) in relation to all or specified kinds of development, and
- (c) in place of any person or body who would otherwise be the charging authority for that area, for those purposes, and in relation to those kinds of development.”

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**Commencement Information**

**I146** S. 138 not in force at Royal Assent, see [s. 255\(4\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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PROSPECTIVE

### 139 Restriction of Community Infrastructure Levy to Greater London and Wales

- (1) Part 11 of the Planning Act 2008 (Community Infrastructure Levy) is amended as follows.
- (2) In the Part heading, at the end insert “: Greater London and Wales”.
- (3) In section 205 (the levy)—
  - (a) in subsection (1), after “imposition” insert “, in Greater London and Wales,”;
  - (b) in subsection (3), in the Table, omit the second entry.
- (4) In section 206 (the charge)—
  - (a) in subsection (1), after “A charging authority” insert “in Greater London or Wales”;
  - (b) for subsection (3) substitute—
 

“(3) The Mayor of London is the charging authority for Greater London.”;
  - (c) in subsection (4)—
    - (i) in the words before paragraph (a), for “, or in the case of Greater London one of the charging authorities,” substitute “in Wales”;
    - (ii) in the words before paragraph (a), omit “, (3)(b) or (c)”;
    - (iii) in paragraph (a), at the end insert “in Wales, and”;
    - (iv) omit paragraphs (c) to (e);
  - (d) in subsection (5)—
    - (i) omit paragraph (a) (together with the “and” at the end of that paragraph);
    - (ii) in paragraph (b) omit “in relation to Wales”;
  - (e) omit subsection (6).
- (5) Omit section 207 (joint committees).
- (6) In section 223(1) (relationship with other powers), before paragraph (a) insert—
 

“(za) Part 10A (Infrastructure Levy: England) (including any power conferred by IL regulations under that Part),”.

#### Commencement Information

**I147** S. 139 not in force at Royal Assent, see [s. 255\(4\)](#)

### 140 Enforcement of Community Infrastructure Levy

- (1) In section 218 of the Planning Act 2008 (enforcement), for subsections (11) and (12) substitute—
 

“(11) Regulations under this section creating a criminal offence may not provide for—

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- (a) imprisonment for a term exceeding the maximum term for summary offences, on summary conviction for an offence triable summarily only,
- (b) imprisonment for a term exceeding the general limit in a magistrates' court, on summary conviction for an offence triable either way, or
- (c) imprisonment for a term exceeding 2 years, on conviction on indictment.

(12) In subsection (11)(a), “the maximum term for summary offences” means—

- (a) in relation to an offence committed before the time when section 281(5) of the Criminal Justice Act 2003 comes into force, 6 months;
- (b) in relation to an offence committed after that time, 51 weeks.”

#### Commencement Information

**I148** S. 140 not in force at Royal Assent, see [s. 255\(4\)](#)

**I149** S. 140 in force at 31.1.2024 by [S.I. 2024/92](#), [reg. 2\(h\)](#)

PROSPECTIVE

## PART 5

### COMMUNITY LAND AUCTION PILOTS

#### *Community land auction arrangements*

#### **141 Community land auction arrangements and their purpose**

- (1) In making CLA regulations the Secretary of State must aim to ensure that the overall purpose of community land auction arrangements is to ensure that costs incurred in—
  - (a) supporting the development of an area, and
  - (b) achieving any purpose specified under [section 143\(7\)](#), [section 144\(3\)](#) or [section 145\(3\)](#),
 can be funded (wholly or partly) by owners or developers of land.
- (2) “CLA regulations” means regulations made under this Part by the Secretary of State.
- (3) A “community land auction arrangement” means an arrangement provided for in CLA regulations under which—
  - (a) a local planning authority is to invite anyone who has a freehold or leasehold interest in land in the authority’s area to offer to grant a CLA option over the land, with a view to the land being allocated for development in the next local plan for the authority’s area,
  - (b) any CLA option granted under the arrangement ceases to have effect if the land subject to the option is not so allocated when that plan is adopted or approved (unless the option has already been exercised or been withdrawn or otherwise ceased to have effect), and

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- (c) the local planning authority may—
  - (i) exercise the CLA option and dispose of the interest in the land to a person who proposes to develop the land,
  - (ii) exercise the CLA option with a view to developing the land itself, or
  - (iii) dispose of the CLA option to a person who proposes to exercise it and then develop the land.
- (4) A “CLA option”, in relation to land, means an option to acquire a freehold or leasehold interest in the land which—
  - (a) subject to CLA regulations under paragraph (c), can be—
    - (i) exercised by the local planning authority in whose area the land is situated, or
    - (ii) disposed of by that authority to any other person, on such terms as the authority considers appropriate,
  - (b) is granted under a community land auction arrangement, and
  - (c) meets any requirements imposed by CLA regulations.
- (5) CLA regulations under subsection (4)(c) may, in particular, include provision about—
  - (a) how long a CLA option must be capable of being exercised for;
  - (b) when, or the circumstances in which, a CLA option may or must be capable of being exercised;
  - (c) when, or the circumstances in which, a CLA option may or must cease to have effect;
  - (d) when, or the circumstances in which, a CLA option may or must be withdrawn;
  - (e) when, the circumstances in which or the terms on which, a CLA option may or must be disposed of;
  - (f) sums that are to be paid under or in connection with a CLA option (including provision permitting or requiring such sums to be adjusted to reflect changes in the value of money);
  - (g) the form and content of a CLA option.

#### Commencement Information

**1150** S. 141 not in force at Royal Assent, see [s. 255\(4\)](#)

## 142 Power to permit community land auction arrangements

- (1) This section applies where—
  - (a) CLA regulations provide that a local planning authority which is to prepare a local plan may put in place a community land auction arrangement in relation to that plan,
  - (b) the local planning authority resolves to do so (and that resolution has not been rescinded), and
  - (c) the community land auction arrangement has not come to an end.
- (2) The local plan may only allocate land in the authority’s area for development—
  - (a) if the land is subject to a CLA option or a CLA option has already been exercised in relation to it, or

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- (b) in circumstances which are prescribed by CLA regulations.
- (3) Any financial benefit that the local planning authority has derived, or will or could derive, from a CLA option may be taken into account—
  - (a) in deciding whether to allocate land which is subject to the option, or in relation to which the option has been exercised, for development in the local plan;
  - (b) in deciding whether the local plan is sound in an examination under Part 2 of PCPA 2004.
- (4) CLA regulations may make provision about how, or to what extent, any financial benefit may be taken into account under subsection (3) (including provision about how any financial benefit is to be weighed against any other considerations which may be relevant to whether the land should be allocated for development in the local plan or to whether the plan is sound).
- (5) References in this section to a local plan do not include references to a joint local plan (but see [section 147](#) in relation to the application of this Part in relation to joint local plans).

#### Commencement Information

**1151** S. 142 not in force at Royal Assent, see [s. 255\(4\)](#)

### CLA receipts

#### 143 Application of CLA receipts

- (1) CLA regulations must require a local planning authority which receives sums that represent financial benefit derived from CLA options over land in its area (“CLA receipts”) to apply them, or cause them to be applied, to—
  - (a) support the development of an area by funding the provision, improvement, replacement, operation or maintenance of infrastructure, or
  - (b) fund the operation of community land auction arrangements in relation to its area.
- (2) Subsection (1) is subject to the following provisions of this section and sections [144\(1\)](#) to [\(3\)](#) and [145\(2\)](#) and [\(3\)](#).
- (3) CLA regulations may make provision about the extent to which the CLA receipts received by a local planning authority may or must be applied to funding the provision, improvement, replacement, operation or maintenance of infrastructure of a particular description.
- (4) In this section (except subsection [\(6\)](#)) and sections [144\(2\)](#), [145\(2\)](#) and [146](#) “infrastructure” includes—
  - (a) roads and other transport facilities,
  - (b) flood defences,
  - (c) schools and other educational facilities,
  - (d) medical facilities,
  - (e) sporting and recreational facilities,

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- (f) open spaces,
  - (g) affordable housing,
  - (h) facilities and equipment for emergency and rescue services,
  - (i) facilities and spaces which—
    - (i) preserve or improve the natural environment, or
    - (ii) enable or facilitate enjoyment of the natural environment, and
  - (j) facilities and spaces for the mitigation of, and adaptation to, climate change.
- (5) In [subsection \(4\)\(g\)](#) “affordable housing” means—
- (a) social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, and
  - (b) any other description of housing that CLA regulations may specify.
- (6) CLA regulations may amend this section so as to—
- (a) add, remove or vary an entry in the list of matters included within the meaning of “infrastructure”;
  - (b) list matters excluded from the meaning of “infrastructure”.
- (7) CLA regulations may make provision about circumstances in which local planning authorities may apply a specified amount of CLA receipts, or cause a specified amount of CLA receipts to be applied, towards specified purposes which are not mentioned in [subsection \(1\)](#).
- (8) CLA regulations may specify—
- (a) works, installations and other facilities whose provision, improvement or replacement may or is to be, or may not be, funded by CLA receipts,
  - (b) maintenance activities and operational activities (including operational activities of a promotional kind) in connection with infrastructure that may or are to be, or may not be, funded by CLA receipts,
  - (c) things within [subsection \(1\)\(b\)](#) that may or are to be, or may not be, funded by CLA receipts,
  - (d) things within [section 144\(2\)](#) that may or are to be, or may not be, funded by CLA receipts passed to a person in discharge of a duty under [section 144\(1\)](#),
  - (e) things within [section 145\(2\)](#) that may or are to be, or may not be, funded by CLA receipts to which provision under [section 145\(2\)](#) relates,
  - (f) criteria for determining the areas that may benefit from funding by CLA receipts, and
  - (g) what is to be, or not to be, treated as funding.
- (9) The regulations may—
- (a) require local planning authorities in relation to which [section 142](#) applies to prepare and publish a list of what is to be, or may be, wholly or partly funded by CLA receipts;
  - (b) include provision about the procedure to be followed in preparing a list (which may include provision for consultation or for the appointment of an independent person or both);
  - (c) include provision about the circumstances in which a local planning authority may and may not apply CLA receipts to anything not included on the list;
  - (d) permit or require the list to be prepared and published as part of a CLA infrastructure delivery strategy (see [section 146](#)).

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- (10) In making provision about funding the regulations may, in particular—
- (a) permit CLA receipts to be used to reimburse expenditure already incurred;
  - (b) permit CLA receipts to be reserved for expenditure that may be incurred in the future;
  - (c) permit CLA receipts to be applied (either generally or subject to limits set by or determined in accordance with the regulations) to administrative expenses in connection with infrastructure or anything within [section 144\(2\)\(a\)\(ii\)](#) or [section 145\(2\)\(b\)](#) or otherwise in connection with a community land auction arrangement;
  - (d) include provision for the giving of loans, guarantees or indemnities;
  - (e) make provision about the application of CLA receipts where anything to which they were to be applied no longer requires funding.
- (11) The regulations may—
- (a) require a local planning authority to account separately, and in accordance with the regulations, for CLA receipts received or due;
  - (b) require a local planning authority to monitor the use made and to be made of CLA receipts in its area;
  - (c) require a local planning authority to report on actual or expected collection and application of CLA receipts;
  - (d) permit a local planning authority to cause money to be applied in respect of things done outside its area;
  - (e) permit a local planning authority or other body to spend or retain money;
  - (f) permit a local planning authority to pass money to another body (and in paragraphs (a) to (e) a reference to a local planning authority includes a reference to a body to which a local planning authority passes money in reliance on this paragraph).
- (12) For the purposes of [subsection \(1\)](#) a financial benefit is derived from a CLA option if it arises as a consequence of the local planning authority—
- (a) exercising the option and developing or disposing of the land which was subject to it, or
  - (b) disposing of the option.

#### Commencement Information

**I152** S. 143 not in force at Royal Assent, see [s. 255\(4\)](#)

### 144 Duty to pass CLA receipts to other persons

- (1) CLA regulations may require a local planning authority that receives CLA receipts in respect of development in an area to pass them to a person other than the authority.
- (2) CLA regulations imposing a duty under [subsection \(1\)](#) must contain provision to secure that any CLA receipts passed to a person in discharge of the duty are used to—
  - (a) support the development of the area to which the duty relates, or of any part of that area, by funding—
    - (i) the provision, improvement, replacement, operation or maintenance of infrastructure, or

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- (ii) anything else that is concerned with addressing demands that development places on an area, or
  - (b) fund the operation of community land auction arrangements in relation to land in the local planning authority's area.
- (3) CLA regulations may make provision about circumstances in which a specified amount of the CLA receipts may be used for specified purposes which are not mentioned in [subsection \(2\)](#).
- (4) A duty under [subsection \(1\)](#) may relate to—
- (a) the whole of a local planning authority's area or the whole of the combined area of two or more local planning authorities, or
  - (b) part only of such an area or combined area.
- (5) CLA regulations may make provision about the persons to whom CLA receipts may or must, or may not, be passed in discharge of a duty under [subsection \(1\)](#).
- (6) A duty under [subsection \(1\)](#) may relate—
- (a) to all CLA receipts (if any) received in respect of the area to which the duty relates, or
  - (b) such part of those CLA receipts as is specified in, or determined under or in accordance with, CLA regulations.
- (7) CLA regulations may make provision in connection with the timing of payments in discharge of a duty under [subsection \(1\)](#).
- (8) CLA regulations may, in relation to CLA receipts passed to a person in discharge of a duty under [subsection \(1\)](#), make provision about—
- (a) accounting for the CLA receipts,
  - (b) monitoring their use,
  - (c) reporting on their use,
  - (d) responsibilities of local planning authorities for things done by the person in connection with the CLA receipts,
  - (e) recovery of the CLA receipts, and any income or profits accruing in respect of them or from their application, in cases where—
    - (i) anything to be funded by them has not been provided, or
    - (ii) they have been misapplied,
 including recovery of sums or other assets representing them or any such income or profits, and
  - (f) use of anything recovered in cases where—
    - (i) anything to be funded by the CLA receipts has not been provided, or
    - (ii) the CLA receipts have been misapplied.
- (9) This section does not limit [section 143\(11\)\(f\)](#).

#### Commencement Information

**I153** S. 144 not in force at Royal Assent, see [s. 255\(4\)](#)



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## 145 Use of CLA receipts in an area to which section 144(1) duty does not relate

- (1) Subsection (2) applies where—
  - (a) there is an area to which a particular duty under section 144(1) relates, and
  - (b) there is also an area to which that duty does not relate (“the uncovered area”).
- (2) CLA regulations may provide that the local planning authority that receives CLA receipts in respect of development in the uncovered area may apply the CLA receipts, or cause them to be applied, to—
  - (a) support development by funding the provision, improvement, replacement, operation or maintenance of infrastructure,
  - (b) support development of the uncovered area, or of any part of that area, by funding anything else that is concerned with addressing demands that development places on an area, or
  - (c) funding the operation of community land auction arrangements in relation to the local planning authority’s area.
- (3) The regulations may make provision about circumstances in which the authority may apply a specified amount of CLA receipts, or cause a specified amount of CLA receipts to be applied, towards specified purposes which are not mentioned in subsection (2).
- (4) Provision under subsection (2)(a) or (b) may relate to the whole, or part only, of the uncovered area.
- (5) Provision under subsection (2) may relate—
  - (a) to all CLA receipts (if any) received in respect of the area to which the provision relates, or
  - (b) such part of those CLA receipts as is specified in, or determined under or in accordance with, CLA regulations.

### Commencement Information

**I154** S. 145 not in force at Royal Assent, see s. 255(4)

## 146 CLA infrastructure delivery strategy

- (1) CLA regulations may require a local planning authority in relation to which section 142 applies to prepare and publish a CLA infrastructure delivery strategy.
- (2) A CLA infrastructure delivery strategy is a document which—
  - (a) sets out the strategic plans (however expressed) of the local planning authority in relation to the application of CLA receipts, and
  - (b) includes such other information as may be prescribed by CLA regulations.
- (3) A CLA infrastructure delivery strategy may and, if required by CLA regulations, must set out the plans (however expressed) of the local planning authority in relation to the provision, improvement, replacement, operation and maintenance of infrastructure in the authority’s area.
- (4) A local planning authority may at any time prepare and publish a revision to, or replacement of, its CLA infrastructure delivery strategy.

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- (5) CLA regulations may make provision for the independent examination of—
- (a) CLA infrastructure delivery strategies, and
  - (b) revisions to, or replacements of, such strategies.
- (6) The regulations may make provision for an examination to be combined with—
- (a) an examination under Part 2 of PCPA 2004 in relation to a local plan, or
  - (b) an examination under Part 10A of the Planning Act 2008 in relation to an infrastructure delivery strategy under that Part.
- (7) The regulations may, in particular, make provision—
- (a) about who is to carry out the examination;
  - (b) about what the examiner must, may or may not consider;
  - (c) about the procedure to be followed;
  - (d) about recommendations, or other consequences, arising from or in connection with the examination;
  - (e) about circumstances in which an examination is not required;
  - (f) applying, or corresponding to, any provision made by or under Part 10A of the Planning Act 2008 relating to an examination in relation to a charging schedule or infrastructure delivery strategy under that Part (with or without modifications).
- (8) A local planning authority which is required to prepare and publish a CLA infrastructure delivery strategy must have regard to any guidance published by the Secretary of State in relation to the preparation, publication, revision or replacement of CLA infrastructure delivery strategies.
- (9) CLA regulations may make provision about—
- (a) the form and content of CLA infrastructure delivery strategies;
  - (b) the publication of CLA infrastructure delivery strategies and any related documents;
  - (c) the procedures to be followed in relation to the preparation, revision or replacement of CLA infrastructure delivery strategies;
  - (d) the timing of any steps in connection with the preparation, publication, revision or replacement of CLA infrastructure delivery strategies;
  - (e) the evidence required to inform the preparation of CLA infrastructure delivery strategies;
  - (f) consultation in connection with CLA infrastructure delivery strategies;
  - (g) the preparation of joint CLA infrastructure delivery strategies;
  - (h) the period of time for which CLA infrastructure delivery strategies are valid.

#### Commencement Information

**I155** S. 146 not in force at Royal Assent, see [s. 255\(4\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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## General

### 147 Power to provide for authorities making joint local plans

- (1) CLA regulations may make provision applying any provision made by or under this Part in relation to local planning authorities whose next local plan is to be a joint local plan, with or without modifications.
- (2) Where CLA regulations make provision under subsection (1) which permits local planning authorities that are to make a joint local plan to put in place a community land auction arrangement jointly, it must include provision about how CLA receipts deriving from that arrangement are to be shared between the authorities.

#### Commencement Information

**I156** S. 147 not in force at Royal Assent, see [s. 255\(4\)](#)

### 148 Parliamentary scrutiny of pilot

- (1) The Secretary of State must prepare a report which—
  - (a) assesses the effectiveness of the operation of this Part in delivering the overall purpose mentioned in [section 141\(1\)](#), and
  - (b) contains such other information about, or assessments as to the effect of, community land auction arrangements as the Secretary of State considers appropriate.
- (2) The Secretary of State must lay the report before each House of Parliament before the later of—
  - (a) the end of the period of 24 months beginning with the day on which this Part expires in accordance with [section 150](#), and
  - (b) the end of the period of 24 months beginning with the day on which the final community land auction arrangement comes to an end.
- (3) The “final community land auction arrangement” means the last community land auction arrangement to come to an end.
- (4) After the report has been laid before each House of Parliament under [subsection \(2\)](#), the Secretary of State must publish it as soon as is reasonably practicable.
- (5) In calculating a period of 24 months mentioned in [subsection \(2\)](#), no account is to be taken of any time during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) either House of Parliament is adjourned for more than 4 days.

#### Commencement Information

**I157** S. 148 not in force at Royal Assent, see [s. 255\(4\)](#)

### 149 CLA regulations: further provision and guidance

- (1) CLA regulations may make provision—

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- (a) about the leasehold interests in relation to which a community land auction arrangement may, may not or must be capable of applying;
  - (b) permitting a local planning authority to exclude land from a community land auction arrangement and disapply [section 142\(2\)](#) in relation to that land;
  - (c) about the procedures to be followed under, or in connection with, a community land auction arrangement;
  - (d) about the provision or publication of information under, or in connection with, a community land auction arrangement;
  - (e) about how, when or the circumstances in which anything must be done under, or in connection with, a community land auction arrangement;
  - (f) about the treatment of anyone who has an interest in or over land which is subject to a CLA option;
  - (g) about when a community land auction arrangement is to be taken to be put in place or to come to an end;
  - (h) about how [section 106](#) of TCPA 1990 (planning obligations) is to be used, or is not to be used, where [section 142](#) applies or has applied (including provision about the circumstances in which a planning obligation under that section may constitute a reason for granting planning permission);
  - (i) about the exercise of any other power relating to planning or development;
  - (j) about anything else relating to planning or development.
- (2) The Secretary of State may give guidance to a local planning authority or other authority about, or in connection with, community land auction arrangements (including guidance about how any power relating to planning or development is to be exercised in circumstances which include, or may include, a community land auction arrangement); and authorities must have regard to the guidance.
- (3) Provision may be made under [subsection \(1\)\(h\)](#) to [\(j\)](#), and guidance may be given under [subsection \(2\)](#), only if the Secretary of State thinks it necessary or expedient for—
- (a) delivering the overall purpose mentioned in [section 141\(1\)](#),
  - (b) enhancing the effectiveness, or increasing the use, of CLA regulations or community land auction arrangements,
  - (c) preventing agreements, undertakings or other transactions from being used to undermine or circumvent CLA regulations or community land auction arrangements,
  - (d) preventing agreements, undertakings or other transactions from being used to achieve a purpose that the Secretary of State thinks would better be achieved through the application of CLA regulations or community land auction arrangements, or
  - (e) preventing or restricting the imposition of burdens, the making of agreements or the giving of undertakings, in addition to those in connection with CLA regulations or community land auction arrangements.
- (4) CLA regulations may—
- (a) confer functions on any person, including functions involving the exercise of a discretion;
  - (b) make consequential, supplementary or incidental provision under [section 252\(1\)\(c\)](#) which disapplies, or modifies the effect of, any provision made by or under an Act of Parliament (whenever passed or made).

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### Commencement Information

**I158** S. 149 not in force at Royal Assent, see [s. 255\(4\)](#)

## 150 Expiry of Part 5

- (1) This Part, other than [section 148](#) and this section, expires at the end of the period of 10 years beginning with the date on which CLA regulations are first made.
- (2) Subsection (1) does not affect—
  - (a) any community land auction arrangement which is put in place before the expiry of this Part (whether or not it comes to an end before this Part expires);
  - (b) any CLA option, or allocation of land for development in a local plan, that is made under a community land auction arrangement which is put in place before the expiry of this Part (whether or not it comes to an end before this Part expires);
  - (c) the treatment of any CLA receipts after the expiry of this Part.
- (3) Subsections (1) and (2) are subject to such transitional, transitory or saving provision as may be made by CLA regulations in connection with the expiry of this Part.

### Commencement Information

**I159** S. 150 not in force at Royal Assent, see [s. 255\(4\)](#)

## 151 Interpretation of Part 5

In this Part—

“CLA option” has the meaning given by [section 141\(4\)](#);

“CLA receipts” has the meaning given by [section 143\(1\)](#);

“CLA regulations” has the meaning given by [section 141\(2\)](#);

“community land auction arrangement” has the meaning given by [section 141\(3\)](#);

“joint local plan” and “local plan” have the same meaning as in Part 2 of PCPA 2004 (see, in particular, section 15LH of that Act);

“local planning authority” means a local planning authority for the purposes of Part 2 of PCPA 2004 (see, in particular, [section 15LF](#) of that Act) other than—

- (a) a joint committee constituted under [section 15J](#) of that Act,
- (b) an urban development corporation, a development corporation established under the New Towns Act 1981 or a Mayoral development corporation, or
- (c) the Homes and Communities Agency,

and references to the area of a local planning authority are to the area for which the authority is the local planning authority in accordance with Part 2 of PCPA 2004.

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### Commencement Information

**I160** S. 151 not in force at Royal Assent, see [s. 255\(4\)](#)

## PART 6

### ENVIRONMENTAL OUTCOMES REPORTS

#### *Setting environmental outcomes*

### 152 Power to specify environmental outcomes

- (1) Regulations made by an appropriate authority under this Part (“EOR regulations”) may specify outcomes relating to environmental protection in the United Kingdom or a relevant offshore area that are to be “specified environmental outcomes” for the purposes of this Part.
- (2) “Environmental protection” means—
  - (a) protection of the natural environment, cultural heritage and the landscape from the effects of human activity (including, amongst other things, the protection of chalk streams from abstraction and pollution);
  - (b) protection of people from the effects of human activity on the natural environment, cultural heritage and the landscape;
  - (c) maintenance, restoration or enhancement of the natural environment, cultural heritage or the landscape;
  - (d) monitoring, assessing, considering, advising or reporting on anything in paragraphs (a) to (c).
- (3) The “natural environment” means—
  - (a) plants, wild animals and other living organisms,
  - (b) their habitats (including, amongst other things, chalk streams),
  - (c) land (except buildings or other structures), air and water,
 and the natural systems, cycles and processes through which they interact.
- (4) “Cultural heritage” means any building, structure, other feature of the natural or built environment or site, which is of historic, architectural, archaeological or artistic interest.
- (5) Before making any EOR regulations which contain provision about what the specified environmental outcomes are to be, an appropriate authority must have regard to—
  - (a) in the case of regulations made by the Secretary of State acting alone or jointly with a devolved authority, the current environmental improvement plan (within the meaning of Part 1 of the Environment Act 2021),
  - (b) in the case of regulations made by the Scottish Ministers acting alone, the current environmental policy strategy (within the meaning of section 47 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 ([asp 4](#))),

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- (c) in the case of regulations made by the Welsh Ministers acting alone, the current national natural resources policy (within the meaning of section 9 of the Environment (Wales) Act 2016), or
- (d) in the case of regulations made by a Northern Ireland department acting alone, the current environmental improvement plan (within the meaning of Schedule 2 to the Environment Act 2021).

#### Commencement Information

**I161** S. 152 in force at 26.12.2023, see s. 255(5)

### *Power to require environmental outcomes reports*

## **153 Environmental outcomes reports for relevant consents and relevant plans**

- (1) EOR regulations may make provision requiring an environmental outcomes report to be prepared in relation to a proposed relevant consent or a proposed relevant plan.
- (2) Where an environmental outcomes report is required to be prepared in relation to a proposed relevant consent—
  - (a) the proposed relevant consent may not be given, unless an environmental outcomes report has been prepared in relation to it, and
  - (b) that report must be taken into account or given effect, in accordance with EOR regulations, in determining whether and on what terms the proposed consent is to be given.
- (3) Where an environmental outcomes report is required to be prepared in relation to a proposed relevant plan—
  - (a) no step may be taken which would have the effect of bringing the proposed relevant plan into effect, unless an environmental outcomes report has been prepared in relation to it, and
  - (b) that report must be taken into account or given effect, in accordance with EOR regulations, in determining whether and on what terms the proposed relevant plan is to have effect.
- (4) An “environmental outcomes report”, in relation to a proposed relevant consent or proposed relevant plan, means a written report which assesses—
  - (a) the extent to which the proposed relevant consent or proposed relevant plan would, or is likely to, impact on the delivery of specified environmental outcomes,
  - (b) any proposals for increasing the extent to which a specified environmental outcome is delivered,
  - (c) any steps that may be proposed for the purposes of—
    - (i) avoiding the effects of a specified environmental outcome not being delivered to any extent;
    - (ii) so far as the effects of a specified environmental outcome not being delivered to any extent cannot be avoided, mitigating those effects;
    - (iii) so far as the effects of a specified environmental outcome not being delivered to any extent cannot be avoided or mitigated, compensating for the specified environmental outcome not being delivered, and

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- (d) any proposals about how—
  - (i) the impact of the proposed relevant consent or proposed relevant plan on the delivery of a specified environmental outcome, or
  - (ii) the taking of any proposed steps of the kind mentioned in [paragraph \(c\)](#),  
should be monitored or secured.
- (5) The reference in [subsection \(4\)\(c\)](#) to steps includes—
  - (a) reasonable alternatives to the relevant consent, to the project to which the relevant consent relates or to any element of either, or (as the case may be)
  - (b) reasonable alternatives to the relevant plan or any element of it.
- (6) Subsection (2) does not apply in relation to a relevant consent where—
  - (a) the requirement for the consent is imposed under [subsection \(4\)](#) of [section 154](#), and
  - (b) the consent is to be given or refused in an environmental outcomes report in accordance with provision under [subsection \(5\)](#) of that section.
- (7) EOR regulations may include provision about or in connection with—
  - (a) what is to be taken to constitute the giving of a relevant consent for the purposes of [subsection \(2\)](#);
  - (b) the proposed relevant consents and proposed relevant plans for which an environmental outcomes report is, or may be, required;
  - (c) in relation to proposed relevant consents and proposed relevant plans for which an environmental outcomes report may be required, the circumstances in which a report is required;
  - (d) an environmental outcomes report not needing to assess the extent to which a proposed relevant consent or proposed relevant plan would, or is likely to, impact on the delivery of a specified environmental outcome, where an adequate assessment of the impact on delivery of the outcome has in effect already been, or is to be, carried out in a different environmental outcomes report;
  - (e) what proposals an environmental outcomes report may or must deal with under [subsection \(4\)\(b\)](#), (c) and (d);
  - (f) how any of the assessments mentioned in [subsection \(4\)](#) are to be carried out;
  - (g) the information to be included in, and the content and form of, an environmental outcomes report, including provision requiring, or permitting a public authority to require, a report to deal with matters in addition to those provided for in [subsection \(4\)](#);
  - (h) how, and to what extent, environmental outcomes reports are to be taken into account or given effect by public authorities in considering, and making decisions in relation to, relevant consents or relevant plans;
  - (i) the carrying out of any proposals assessed in an environmental outcomes report under [subsection \(4\)\(b\)](#), (c) and (d).

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**Commencement Information**

**I162** [S. 153](#) in force at 26.12.2023, see [s. 255\(5\)](#)



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### *Defining the consents and plans to which this Part applies*

#### **154 Power to define “relevant consent” and “relevant plan” etc**

- (1) EOR regulations may provide that a consent of a description specified in the regulations (a “category 1 consent”) is to be a “relevant consent” for the purposes of this Part in all cases.
- (2) EOR regulations may provide that a consent of a description specified in the regulations (a “category 2 consent”) is to be a “relevant consent” for the purposes of this Part only if certain criteria specified in EOR regulations are met.
- (3) EOR regulations may make provision about, or in connection with, how, when and by whom it is to be determined whether criteria are met, such that a category 2 consent is a relevant consent.
- (4) EOR regulations may impose a requirement for a consent in relation to a project, which is to be a category 1 consent or a category 2 consent.
- (5) EOR regulations may make provision about, or in connection with, how a consent which is required under [subsection \(4\)](#) is to be given, including provision for it to be given (or refused) by an environmental outcomes report.
- (6) “Relevant plan” means a plan or programme which—
  - (a) relates, or may relate, to a project or to environmental protection in the United Kingdom or a relevant offshore area, and
  - (b) is specified or described in EOR regulations for the purposes of this subsection.
- (7) References in this Part to a proposed relevant consent or proposed relevant plan include references to a proposed variation or modification of, or revision to, a relevant consent or relevant plan (however described).
- (8) “Consent” means any consent, approval, permission, authorisation, confirmation or decision (however described, given or made) that is required, or otherwise provided for, by or under any enactment in relation to a project.
- (9) “Project” means a project in the United Kingdom or a relevant offshore area involving—
  - (a) construction, engineering, demolition, dismantling or decommissioning,
  - (b) the installation, depositing or removal of any thing,
  - (c) the exploitation of natural resources by any means,
  - (d) a change in the use of land, a building or other structure, or
  - (e) any other activity capable of affecting the natural environment, cultural heritage or landscape.

#### **Commencement Information**

**I163** [S. 154](#) in force at 26.12.2023, see [s. 255\(5\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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### *Assessment and monitoring*

#### **155 Assessing and monitoring impact on outcomes etc**

- (1) EOR regulations may make provision about, or in connection with, how the extent to which a relevant consent or relevant plan actually affects the delivery of a specified environmental outcome is to be assessed or monitored.
- (2) EOR regulations may make provision about, or in connection with, how the carrying out of any proposals assessed in an environmental outcomes report under [section 153\(4\)\(b\)](#), [\(c\)](#) or [\(d\)](#), or requirements under [subsection \(3\)](#), is to be assessed or monitored.
- (3) EOR regulations may make provision requiring action to be taken, if an assessment or monitoring under [subsection \(1\)](#) or [\(2\)](#) determines that is appropriate for the purposes of—
  - (a) increasing the extent to which a specified environmental outcome is delivered,
  - (b) mitigating or remedying the effects of a specified environmental outcome not being delivered to any extent, or
  - (c) compensating for a specified environmental outcome not being delivered to any extent.

#### **Commencement Information**

**I164** [S. 155](#) in force at 26.12.2023, see [s. 255\(5\)](#)

### *Safeguards, devolution and exemptions*

#### **156 Safeguards: non-regression, international obligations and public engagement**

- (1) An appropriate authority may make EOR regulations only if satisfied that making the regulations will not result in environmental law providing an overall level of environmental protection that is less than that provided by environmental law at the time this Act is passed.
- (2) EOR regulations may not contain provision that is inconsistent with the implementation of the international obligations of the United Kingdom relating to the assessment of the environmental impact of relevant plans and relevant consents.
- (3) In exercising functions under this Part, an appropriate authority must seek to ensure that (so far as would not otherwise be the case) arrangements will exist under which the public will be informed of any proposed relevant consent or proposed relevant plan in sufficient detail, and at a sufficiently early stage, to enable adequate public engagement to take place.
- (4) In this section—
 

“adequate public engagement” means such engagement with the public, in relation to a proposed relevant consent or proposed relevant plan, as the appropriate authority considers appropriate;

“environmental law” means environmental law (within the meaning of Part 1 of the Environment Act 2021 but disregarding section 46(3) and (4) of that Act), whether or not the environmental law is in force.

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### Commencement Information

**I165** S. 156 in force at 26.12.2023, see s. 255(5)

## 157 Requirements to consult devolved administrations

- (1) The Secretary of State may only make EOR regulations which contain provision—
  - (a) within Scottish devolved legislative competence, or
  - (b) which could be made by the Scottish Ministers,with the consent of the Scottish Ministers, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence.
- (2) The Secretary of State may only make EOR regulations which contain provision that confers a function on, or modifies or removes a function of, the Scottish Ministers after consulting the Scottish Ministers, unless—
  - (a) that provision is contained in regulations which require the consent of the Scottish Ministers by virtue of subsection (1), or
  - (b) that provision is merely incidental to, or consequential on, provision that would be outside Scottish devolved legislative competence.
- (3) Provision is “within Scottish devolved legislative competence” where, if the provision were included in an Act of the Scottish Parliament, it would be within the legislative competence of that Parliament.
- (4) The Secretary of State may only make EOR regulations which contain provision within Welsh devolved legislative competence with the consent of the Welsh Ministers, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence.
- (5) The Secretary of State may only make EOR regulations which contain provision that could be made by the Welsh Ministers or that confers a function on, or modifies or removes a function of, the Welsh Ministers or a devolved Welsh authority after consulting the Welsh Ministers, unless—
  - (a) that provision is contained in regulations which require the consent of the Welsh Ministers by virtue of subsection (4), or
  - (b) that provision is merely incidental to, or consequential on, provision that would be outside Welsh devolved legislative competence.
- (6) “Devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).
- (7) Provision is “within Welsh devolved legislative competence” where, if the provision were included in an Act of Senedd Cymru, it would be within the legislative competence of the Senedd (including any provision that could be made only with the consent of a Minister of the Crown).
- (8) The Secretary of State may only make EOR regulations which contain provision within Northern Ireland devolved legislative competence with the consent of the relevant Northern Ireland department, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence.

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- (9) The Secretary of State may only make EOR regulations which contain provision that could be made by a Northern Ireland department or that confers a function on, or modifies or removes a function of, a Northern Ireland department after consulting the relevant Northern Ireland department, unless—
- (a) that provision is contained in regulations which require the consent of the relevant Northern Ireland department by virtue of subsection (8), or
  - (b) that provision is merely incidental to, or consequential on, provision that would be outside Northern Ireland devolved legislative competence.
- (10) The “relevant Northern Ireland department” is such Northern Ireland department as the Secretary of State considers appropriate having regard to the provision which is to be contained in the regulations concerned.
- (11) Provision is within “Northern Ireland devolved legislative competence” where the provision—
- (a) would be within the legislative competence of the Northern Ireland Assembly, if contained in an Act of that Assembly, and
  - (b) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State.
- (12) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

#### Commencement Information

**I166** S. 157 in force at 26.12.2023, see s. 255(5)

### 158 EOR regulations: devolved authorities

[Schedule 13](#) contains restrictions on the exercise of the powers under this Part by devolved authorities.

#### Commencement Information

**I167** S. 158 in force at 26.12.2023, see s. 255(5)

### 159 Exemptions for national defence and civil emergency etc

- (1) The Secretary of State may direct that no environmental outcomes report is required to be prepared in relation to a proposed relevant consent which is solely for the purposes of national defence or preventing or responding to civil emergency.
- (2) EOR regulations may provide for further circumstances in which the Secretary of State is to be able to direct that no environmental outcomes report is required to be prepared.
- (3) A direction under this section may provide that provision in EOR regulations specified in the direction applies (subject to any modifications specified in the direction), despite the fact that no environmental outcomes report is required to be prepared.
- (4) The Secretary of State may modify or revoke a direction under this section.

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### Commencement Information

**I168** S. 159 in force at 26.12.2023, see s. 255(5)

## Enforcement

### 160 Enforcement

- (1) EOR regulations may make provision about, or in connection with, the enforcement of requirements imposed by or under this Part.
- (2) EOR regulations under this section may, in particular, include provision—
  - (a) creating a criminal offence (but may not create a criminal offence punishable with imprisonment);
  - (b) conferring a power on any court or tribunal;
  - (c) for the imposition of civil sanctions and appeals against such sanctions;
  - (d) conferring a power of entry (whether or not on the authority of a warrant);
  - (e) conferring a power of inspection, search, seizure or detention (whether or not on the authority of a warrant);
  - (f) authorising, or making provision for the authorisation of, the use of reasonable force in connection with a power mentioned in paragraph (d) or (e);
  - (g) applying, or corresponding to, any provision, made by or under any enactment, relating to enforcement in connection with a category 1 consent or a category 2 consent (with or without modifications).
- (3) EOR regulations under [subsection \(2\)\(c\)](#) may make provision for the imposition of civil sanctions whether or not the conduct in respect of which the sanction is imposed constitutes an offence.
- (4) In this section “civil sanction” means a sanction of a kind for which provision may be made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (fixed monetary penalties, discretionary requirements, stop notices, enforcement undertakings).

### Commencement Information

**I169** S. 160 in force at 26.12.2023, see s. 255(5)

## Reporting

### 161 Reporting

- (1) EOR regulations may make provision requiring a public authority to report on, or provide information in relation to, the delivery of specified environmental outcomes.
- (2) EOR regulations may, in particular, include provision about or in connection with—
  - (a) the information to be included in, and the content and form of, a report required under [subsection \(1\)](#);

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- (b) the content and form of information required to be provided under [subsection \(1\)](#);
- (c) when, or the circumstances in which, the information or report must be provided;
- (d) the publication of the information or report;
- (e) who the information or report is to be provided to;
- (f) a report being combined with another document which is to be prepared under any enactment.

#### Commencement Information

**I170** [S. 161](#) in force at 26.12.2023, see [s. 255\(5\)](#)

### General

#### 162 Public consultation etc

- (1) An appropriate authority must consult the public before making EOR regulations which contain provision—
  - (a) under [section 152\(1\)](#) (specified environmental outcomes);
  - (b) amending, repealing or revoking relevant existing environmental assessment legislation.
- (2) An appropriate authority must consult such persons as the appropriate authority considers appropriate—
  - (a) before making EOR regulations which contain provision under—
    - (i) [section 154\(1\) to \(6\)](#) (consents and plans subject to this Part);
    - (ii) [section 159\(2\)](#) (power to provide for further exemptions by Secretary of State direction);
    - (iii) [section 160](#) (enforcement);
    - (iv) [section 164](#) (interaction with existing environmental assessment legislation and the Habitats Regulations);
  - (b) before issuing, modifying or withdrawing any guidance under [section 163](#), which relates to—
    - (i) how the likely impact of a proposed relevant consent or proposed relevant plan on the delivery of a specified environmental outcome should be assessed, or
    - (ii) how the extent to which a relevant consent or relevant plan actually affects the delivery of a specified environmental outcome should be assessed or monitored.
- (3) EOR regulations may require a public authority to respond, or to respond in a particular way or by a particular time, to a consultation under [subsection \(1\)](#) or [\(2\)](#).
- (4) The requirements to consult in [subsections \(1\)](#) and [\(2\)](#) may be met by consultation carried out before the subsection concerned comes into force.

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### Commencement Information

**I171** S. 162 in force at 26.12.2023, see s. 255(5)

## 163 Guidance

- (1) A public authority carrying out a function under this Part, other than under regulations made by a devolved authority acting alone, must have regard to any guidance issued by the Secretary of State in relation to the function.
- (2) A public authority carrying out a function under regulations made under this Part by the Secretary of State acting jointly with one or more devolved authorities must have regard to any guidance issued by the Secretary of State or any of those devolved authorities in relation to the function.
- (3) Before issuing guidance under subsection (2)—
  - (a) the Secretary of State must—
    - (i) obtain the consent of the Scottish Ministers so far as the guidance relates to a matter provision about which would be within Scottish devolved legislative competence by virtue of section 157(3) or which could be made by the Scottish Ministers;
    - (ii) obtain the consent of the Welsh Ministers so far as the guidance relates to a matter provision about which would be within Welsh devolved legislative competence (see section 157(7));
    - (iii) obtain the consent of the relevant Northern Ireland department so far as the guidance relates to a matter provision about which would be within Northern Ireland devolved legislative competence (see section 157(11));
  - (b) the Scottish Ministers must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would not be within Scottish devolved legislative competence by virtue of section 157(3) or which could not be made by the Scottish Ministers;
  - (c) the Welsh Ministers must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would be outside Welsh devolved legislative competence (see section 157(7));
  - (d) a Northern Ireland department must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would be outside Northern Ireland devolved legislative competence (see section 157(11)).
- (4) The “relevant Northern Ireland department” is such Northern Ireland department as the Secretary of State considers appropriate having regard to the material which is to be contained in the guidance concerned.
- (5) A public authority carrying out a function under regulations made under this Part by a devolved authority acting alone must have regard to any guidance issued by the devolved authority in relation to the function.
- (6) A public authority carrying out a function under existing environmental assessment legislation listed in Part 1 of Schedule 14 (other than a function under Schedule 3 to the Harbours Act 1964 so far as relating to environmental impact assessments in

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Scotland) must have regard to any guidance issued by the Secretary of State in relation to the function.

- (7) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 2 of Schedule 14](#) must have regard to any guidance issued by the Scottish Ministers in relation to the function.
- (8) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 3 of Schedule 14](#) must have regard to any guidance issued by the Welsh Ministers in relation to the function.
- (9) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 4 of Schedule 14](#) must have regard to any guidance issued by a Northern Ireland department in relation to the function.
- (10) EOR regulations may require any person carrying out a function under EOR regulations to have regard to guidance issued by an appropriate authority in relation to the function, failing which the function is not to be regarded as having been validly carried out.

#### Commencement Information

**I172** [S. 163](#) in force at 26.12.2023, see [s. 255\(5\)](#)

### 164 Interaction with existing environmental assessment legislation and the Habitats Regulations

- (1) EOR regulations may make provision about, or in connection with, the interaction of this Part with existing environmental assessment legislation or the Habitats Regulations.
- (2) EOR regulations under this section may, in particular, include provision—
  - (a) treating anything done, or omitted to be done, in relation to an environmental outcomes report as satisfying or failing to satisfy a requirement under relevant existing environmental assessment legislation or the relevant Habitats Regulations;
  - (b) treating anything done, or omitted to be done, under existing environmental assessment legislation or the Habitats Regulations as satisfying or failing to satisfy a requirement imposed by or under this Part;
  - (c) about the co-ordination of things done under this Part and things done under existing environmental assessment legislation or the Habitats Regulations;
  - (d) disapplying or otherwise modifying any provision of relevant existing environmental assessment legislation or the relevant Habitats Regulations where preparation of an environmental outcomes report is required under this Part;
  - (e) disapplying or otherwise modifying any provision of this Part or EOR regulations where something is done, or required to be done, under existing environmental assessment legislation or the Habitats Regulations.
- (3) EOR regulations under this section may amend, repeal or revoke relevant existing environmental assessment legislation.
- (4) In this section—



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“the Habitats Regulations” means—

- (a) regulation 5 of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (S.I. 2001/1754);
- (b) regulation 24 and Part 6 of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012);
- (c) regulations 27 to 37 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 (S.I. 2017/1013);
- (d) the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716);
- (e) the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (S.R. (N.I.) 1995/380);

“the relevant Habitats Regulations” means—

- (a) in relation to EOR regulations made by the Secretary of State acting alone or jointly with one or more devolved authorities, the legislation listed in the definition of “the Habitats Regulations”;
- (b) in relation to EOR regulations made by the Scottish Ministers acting alone, the legislation listed in paragraph (d) of that definition;
- (c) in relation to EOR regulations made by the Welsh Ministers acting alone, the legislation listed in the definition of “the Habitats Regulations” so far as it applies in relation to Wales;
- (d) in relation to EOR regulations made by a Northern Ireland department acting alone, the legislation listed in paragraph (e) of that definition.

#### Commencement Information

I173 S. 164 in force at 26.12.2023, see s. 255(5)

### 165 Consequential repeal of power to make provision for environmental assessment

- (1) TCPA 1990 is amended as follows.
- (2) Omit section 71A (assessment of environmental effects).
- (3) In section 293A (urgent Crown development: application), in subsection (4), omit paragraph (a).

#### Commencement Information

I174 S. 165 in force at 26.12.2023, see s. 255(5)

### 166 EOR regulations: further provision

- (1) EOR regulations may make provision about or in connection with—
  - (a) the procedure to be followed in relation to anything done under this Part, including the time by which anything must be done;
  - (b) who is to prepare an environmental outcomes report, including provision permitting a public authority to determine who is to do so or the qualifications or experience a person must have to do so;

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- (c) requiring a public authority to assist with any assessment or monitoring under this Part;
  - (d) the publication of, and consultation and public engagement in connection with, environmental outcomes reports and other relevant documents;
  - (e) the information to be included in, and the content and form of, any relevant document;
  - (f) the persons to whom an environmental outcomes report or other relevant document is to be given, and how it is to be given;
  - (g) the collection or provision of information in connection with this Part;
  - (h) the rejection of a relevant document, or information provided in connection with this Part, if it is not provided in accordance with [Chapter 1](#) of [Part 3](#) (planning data), including provision requiring a document or information to be rejected;
  - (i) how, and to what extent, any failure to comply with a requirement imposed by or under this Part is to be taken into account by public authorities in considering, and making decisions in relation to, relevant consents or relevant plans;
  - (j) appeals against, or reviews of, decisions of a public authority about matters for, or in respect of, which provision is made by EOR regulations or existing environmental assessment legislation.
- (2) EOR regulations may—
- (a) provide for the charging of fees or other charges;
  - (b) confer a function, including a function involving the exercise of a discretion, on any person;
  - (c) make consequential, supplementary or incidental provision under [section 252\(1\)\(c\)](#) which amends, repeals or revokes any legislation (whenever passed or made).
- (3) In [subsection \(2\)\(c\)](#) “legislation” means any provision made by or under—
- (a) an Act,
  - (b) an Act or Measure of Senedd Cymru,
  - (c) an Act of the Scottish Parliament,
  - (d) Northern Ireland legislation, or
  - (e) [<sup>F1</sup>assimilated direct legislation].

#### Textual Amendments

**F1** Words in [s. 166\(3\)\(e\)](#) substituted (comes into force at the end of 2023) by [Levelling Up and Regeneration Act 2023 \(c. 55\)](#), [ss. 248, 255\(10\)\(b\)](#) (with [s. 247](#))

#### Commencement Information

**I175** S. 166 in force at 26.12.2023, see [s. 255\(5\)](#)

## 167 Interpretation of [Part 6](#)

- (1) “Existing environmental assessment legislation” means the legislation listed in [Schedule 14](#).
- (2) “Relevant existing environmental assessment legislation” means—

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- (a) in relation to EOR regulations made by the Secretary of State acting alone or jointly with one or more devolved authorities, the legislation listed in [Schedule 14](#);
- (b) in relation to EOR regulations made by the Scottish Ministers acting alone, the legislation listed in [Part 2](#) of that Schedule;
- (c) in relation to EOR regulations made by the Welsh Ministers acting alone, the legislation listed in [Part 3](#) of that Schedule;
- (d) in relation to EOR regulations made by a Northern Ireland department acting alone, the legislation listed in [Part 4](#) of that Schedule.

(3) In this Part—

“appropriate authority” means—

- (a) the Secretary of State,
- (b) a devolved authority, or
- (c) the Secretary of State acting jointly with one or more devolved authorities;

“category 1 consent” and “category 2 consent” have the meaning given by [section 154\(1\)](#) and [\(2\)](#);

“cultural heritage” has the meaning given by [section 152\(4\)](#);

“devolved authority” means—

- (a) the Scottish Ministers,
- (b) the Welsh Ministers, or
- (c) a Northern Ireland department;

“environmental outcomes report” has the meaning given by [section 153\(4\)](#);

“environmental protection” has the meaning given by [section 152\(2\)](#);

“EOR regulations” has the meaning given by [section 152\(1\)](#);

“existing environmental assessment legislation” has the meaning given by [subsection \(1\)](#);

“natural environment” has the meaning given by [section 152\(3\)](#);

“project” has the meaning given by [section 154\(9\)](#);

“proposed”, in relation to a relevant consent or relevant plan, is to be construed in accordance with [section 154\(7\)](#);

“public authority” means—

- (a) any person with functions under, or functions in respect of which provision is made by, existing environmental assessment legislation when this Act is passed;
- (b) any public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal;

“relevant consent” has the meaning given by [section 154](#);

“relevant document” means a document or information for, or in respect of, which provision is made by EOR regulations or existing environmental assessment legislation;

“relevant existing environmental assessment legislation” has the meaning given by [subsection \(2\)](#);

“relevant offshore area” means any area in—

- (a) the territorial sea adjacent to the United Kingdom,
- (b) any area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964, or

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- (c) any area designated by Order in Council under section 41(3) of the Marine and Coastal Access Act 2009;  
 “relevant plan” has the meaning given by [section 154\(6\)](#);  
 “specified environmental outcome” has the meaning given by [section 152\(1\)](#).

#### Commencement Information

**I176** [S. 167](#) in force at 26.12.2023, see [s. 255\(5\)](#)

## PART 7

### NUTRIENT POLLUTION STANDARDS

#### 168 Nutrient pollution standards to apply to certain sewage disposal works

- (1) After section 96A of the Water Industry Act 1991 insert—

##### “96B Nutrient pollution standards to apply to certain sewage disposal works

- (1) A sewerage undertaker whose area is wholly or mainly in England must—
- (a) in the case of each nitrogen significant plant comprised in its sewerage system—
    - (i) secure that, by the upgrade date, the plant will be able to meet the nitrogen nutrient pollution standard, and
    - (ii) on and after the upgrade date, secure that the plant meets that standard;
  - (b) in the case of each phosphorus significant plant comprised in its sewerage system—
    - (i) secure that, by the upgrade date, the plant will be able to meet the phosphorus nutrient pollution standard, and
    - (ii) on and after the upgrade date, secure that the plant meets that standard.
- (2) In carrying out the duty under subsection (1), a sewerage undertaker must consider whether nature-based solutions, technologies and facilities relating to sewerage and water could be used to meet the standard.
- (3) “Nitrogen significant plant” means a plant in England that—
- (a) discharges treated effluent into a nitrogen sensitive catchment area, and
  - (b) is not an exempt plant in relation to the nitrogen nutrient pollution standard.
- (4) “Phosphorus significant plant” means a plant in England that—
- (a) discharges treated effluent into a phosphorus sensitive catchment area, and

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- (b) is not an exempt plant in relation to the phosphorus nutrient pollution standard.

### 96C Sensitive catchment areas

- (1) Where the Secretary of State considers that a habitats site that is wholly or partly in England is in an unfavourable condition by virtue of pollution from nutrients in water comprising nitrogen or compounds of nitrogen, the Secretary of State may designate the catchment area for the habitats site as a nitrogen sensitive catchment area.
- (2) Where the Secretary of State considers that a habitats site that is wholly or partly in England is in an unfavourable condition by virtue of pollution from nutrients in water comprising phosphorus or compounds of phosphorus, the Secretary of State may designate the catchment area for the habitats site as a phosphorus sensitive catchment area.
- (3) In determining—
  - (a) whether a habitats site is in an unfavourable condition by virtue of pollution from nutrients comprising nitrogen, phosphorus or compounds of nitrogen or phosphorus,
  - (b) the catchment area for a habitats site, or
  - (c) whether to exercise the power in subsection (4)(e),
 the Secretary of State may take into account, in particular, advice from, or guidance published by, Natural England, the Environment Agency or the Joint Nature Conservation Committee.
- (4) A designation under subsection (1) or (2)—
  - (a) must be in writing,
  - (b) must be published as soon as practicable after being made,
  - (c) takes effect—
    - (i) on the day specified in the designation, or
    - (ii) if none is specified, on the day on which it is made, (the “designation date”),
  - (d) if it takes effect after the end of the initial period, must specify the upgrade date (see section 96E(1)(b)), and
  - (e) may specify the concentration that applies to a plant (which discharges into the catchment area) in relation to a nutrient pollution standard instead of the standard concentration.
- (5) A date specified under subsection (4)(d) as the upgrade date must be at least 7 years after the designation date.
- (6) Before specifying a concentration under subsection (4)(e), the Secretary of State must consult the Environment Agency.
- (7) A concentration specified under subsection (4)(e) ceases to have effect if, after the day on which the designation is made, the plant becomes an exempt plant.
- (8) A designation under this section may not be revoked; and it is immaterial for the purposes of the continued designation of an area whether subsection (1) or (2) continues to be satisfied in relation to it.

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- (9) In this section “catchment area”, in relation to a habitats site, means the area where water, if released, would drain into the site.

### 96D Exempt sewage disposal works

- (1) A plant is exempt in relation to a nutrient pollution standard if—
- (a) it has a capacity of less than a population equivalent of 2000 when the designation of the associated catchment area takes effect,
  - (b) it has been designated by the Secretary of State as exempt in relation to the standard, or
  - (c) it is exempt in relation to the standard under regulations under subsection (8).

This is subject to subsection (2).

- (2) The Secretary of State may designate a plant as not being exempt in relation to a nutrient pollution standard, unless—
- (a) the plant has a capacity of less than a population equivalent of 250, and
  - (b) the designation takes effect after the designation of the associated catchment area takes effect.
- (3) A designation under subsection (1)(b) or (2)—
- (a) must be in writing,
  - (b) must be published as soon as practicable after being made, and
  - (c) takes effect—
    - (i) on the day specified in the designation, or
    - (ii) if none is specified, on the day on which it is made.
- (4) A designation under subsection (2) that takes effect after the designation of the associated catchment area takes effect must specify the upgrade date (see section 96E(2)(a)).
- The upgrade date must be at least 7 years after the designation under subsection (2) takes effect.
- (5) A designation under subsection (2) may specify the concentration that applies to a plant in relation to a nutrient pollution standard instead of the standard concentration.
- (6) Before specifying a concentration under subsection (5), the Secretary of State must consult the Environment Agency.
- (7) A concentration specified under subsection (5) ceases to have effect if, after the day on which the designation is made, the plant again becomes an exempt plant.
- (8) The Secretary of State may by regulations specify plants or descriptions of plant that are to be exempt in relation to a nutrient pollution standard.
- (9) Subsections (10) and (11) apply where a plant that is exempt under regulations under subsection (8) can, by virtue of the regulations, cease to be exempt.

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- (10) The regulations must specify or provide for determining the upgrade date (see section 96E(2)(b)) in relation to any plant that ceases, by virtue of the regulations, to be an exempt plant in relation to a standard after the designation of the associated catchment area takes effect.

The upgrade date must be at least 7 years after the plant ceases to be exempt in relation to the standard.

- (11) The regulations may provide for the Secretary of State to specify the concentration that applies to a plant that ceases, by virtue of the regulations, to be an exempt plant in relation to a nutrient pollution standard instead of the standard concentration; and, if such provision is made, the regulations must—
- (a) require that the Secretary of State consult the Environment Agency before specifying a concentration;
  - (b) provide for any specified concentration to cease to have effect if, after the day on which the plant ceases to be an exempt plant, the plant again becomes an exempt plant.
- (12) A designation under subsection (2) in relation to a plant and a nutrient pollution standard is of no effect if the plant ceases, by virtue of regulations under subsection (8), to be exempt in relation to the standard before, or at the same time as, the designation would otherwise take effect.
- (13) In this section “population equivalent” has the meaning given by regulation 2(1) of the Urban Waste Water Treatment (England and Wales) Regulations 1994 (S.I. 1994/2841).
- (14) References in this section to the designation of an associated catchment area are to its designation as a sensitive catchment area.

### 96E Upgrade date

- (1) The upgrade date, in relation to a nutrient significant plant, is, unless subsection (2) or (3) applies—
- (a) 1 April 2030, if the designation of the associated catchment area takes effect during the initial period;
  - (b) the date specified under section 96C(4)(d), if the designation of the associated catchment area takes effect after the end of the initial period.
- (2) But, if the plant becomes a nutrient significant plant after the designation of the associated catchment area takes effect, the upgrade date is—
- (a) the date specified under section 96D(4), where it becomes a nutrient significant plant by virtue of a designation under section 96D(2);
  - (b) the date specified by or determined under provision made by virtue of section 96D(10), where it becomes a nutrient significant plant on ceasing, by virtue of regulations under section 96D(8), to be exempt.
- (3) Where the associated catchment area has ceased to be a catchment permitting area and a date has been specified under section 96H(4)(c), that date is the upgrade date.
- (4) “The initial period” means the period of 3 months beginning with the date on which the Levelling-up and Regeneration Act 2023 is passed.

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- (5) References in this section to the designation of an associated catchment area are to its designation as a sensitive catchment area.

### 96F Nutrient pollution standards

- (1) A nitrogen significant plant meets the nitrogen nutrient pollution standard if—
- (a) where the associated catchment area is not a catchment permitting area (see section 96G), the concentration of total nitrogen in treated effluent that the plant discharges is not more than—
    - (i) 10 mg/l, or
    - (ii) where a different concentration applies to the plant under section 96C(4)(e) or 96D(5) or by virtue of regulations made under section 96D(11), that concentration;
  - (b) where the associated catchment area is a catchment permitting area, the sewerage undertaker is complying with any condition in the environmental permit for the plant imposed in pursuance of section 96G(3)(b).
- (2) A phosphorus significant plant meets the phosphorus nutrient pollution standard if—
- (a) where the associated catchment area is not a catchment permitting area, the concentration of total phosphorus in treated effluent that the plant discharges is not more than—
    - (i) 0.25 mg/l, or
    - (ii) where a different concentration applies to the plant under section 96C(4)(e) or 96D(5) or by virtue of regulations made under section 96D(11), that concentration;
  - (b) where the associated catchment area is a catchment permitting area, the sewerage undertaker is complying with any condition in the environmental permit for the plant imposed in pursuance of section 96G(3)(b).
- (3) “Treated effluent”, in relation to a plant, means any effluent discharged by the plant, other than anything discharged—
- (a) from a storm overflow, or
  - (b) by an emergency discharge.
- (4) For the purposes of subsection (3), in relation to a plant—
- (a) “storm overflow” means any structure or apparatus comprised in the plant which, when the capacity of relevant parts of the sewerage system is exceeded, relieves them by discharging the excess contents into inland waters, underground strata or the sea, where—
 

“relevant parts of the sewerage system” means—

    - (a) storage tanks at the plant, and
    - (b) other parts of the sewerage system downstream of the plant;

“the sewerage system” means the undertaker’s sewerage system of which the plant forms part;
  - (b) “emergency discharge” means a discharge in circumstances where the plant’s normal treatment process has failed because of—



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- (i) electrical power failure, or
  - (ii) mechanical breakdown of duty and standby pumps.
- (5) Regulations made by the Secretary of State may specify how the concentration of total nitrogen or concentration of total phosphorus in treated effluent is to be determined.
- (6) Regulations under subsection (5) may, in particular—
- (a) make provision for requiring regular sampling of the treated effluent that a plant discharges to ascertain the concentration of total nitrogen or concentration of total phosphorus;
  - (b) make provision for regarding a nutrient pollution standard as being met by a plant if, for example—
    - (i) it is met, with at least the frequency specified in the regulations, in samples taken in accordance with the regulations, or
    - (ii) the average concentration, calculated in accordance with the regulations, of total nitrogen or of total phosphorus in samples taken in accordance with the regulations would meet the standard;
  - (c) make provision for determining generally, or in a particular case, whether anything is, or is not, to be regarded as treated effluent discharged by a plant;
  - (d) make provision in relation to section 96G, including—
    - (i) the determination of compliance with conditions in environmental permits imposed in pursuance of section 96G(3)(b);
    - (ii) in connection with any kind of plant;
  - (e) confer any function on the Secretary of State, the Authority, the Environment Agency, statutory undertakers or any other person;
  - (f) make different provision for different purposes or different areas (including different plants within an area).

### **96G Nutrient pollution standards determined through environmental permitting**

- (1) The Secretary of State may designate a sensitive catchment area as a catchment permitting area.
- (2) In determining whether to make a designation under subsection (1) or to revoke such a designation under section 96H(3)(c), the Secretary of State may take into account, in particular, advice from, or guidance published by, the Environment Agency or Natural England.
- (3) Where the Secretary of State makes a designation under subsection (1), the Environment Agency must—
  - (a) review the environmental permits for the plants that discharge treated effluent into the catchment permitting area that are—
    - (i) nutrient significant plants, and

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- (ii) such other plants that the Environment Agency considers appropriate (including such plants within an area that may be determined by the Environment Agency), and
  - (b) impose conditions on those permits relating to nutrients in treated effluent discharged by those plants—
    - (i) under Chapter 3 of Part 2 of the Environmental Permitting (England and Wales) Regulations 2016, and
    - (ii) for the relevant purpose.
- (4) The “relevant purpose” is ensuring that, on and after the applicable date, the overall effect on the habitats site associated with the catchment permitting area of nutrients in treated effluent discharged by all the plants that discharge treated effluent into the catchment permitting area is less significant or the same as the overall effect on the site of nutrients in treated effluent that would be discharged by those plants if—
  - (a) the standard concentration applied to nutrient significant plants, and
  - (b) the nutrient significant plants were (on that basis) meeting the nutrient pollution standard on and after the applicable date.
- (5) For that purpose, a condition imposed on an environmental permit in pursuance of subsection (3)(b) may, in particular—
  - (a) require, or have the effect of requiring, that the concentration of nutrients in treated effluent discharged by a plant is higher or lower than, or equal to, the standard concentration;
  - (b) relate to any or all of the plants mentioned in subsection (3)(a), including the concentration of nutrients in treated effluent discharged by those plants.
- (6) In subsection (4)—
  - (a) the “applicable date” means—
    - (i) where the designation under section 96C(1) or (2) of the area that is the catchment permitting area takes effect during the initial period, 1 April 2030, or
    - (ii) where that designation takes effect after the initial period, the date specified under section 96C(4)(d) in that designation;
  - (b) a habitats site is “associated” with a catchment permitting area if water released into the area would drain into the site.
- (7) The duty in subsection (3) applies in relation to the grant of an environmental permit for a plant that discharges (or will discharge) treated effluent into the catchment permitting area as if—
  - (a) paragraph (a) were omitted, and
  - (b) in paragraph (b)—
    - (i) for “those permits” there were substituted “the permit”;
    - (ii) for “those plants” there were substituted “the plant”;
    - (iii) for “Chapter 3” there were substituted “Chapter 2”.
- (8) It is for the Environment Agency to determine the overall effect on a habitats site of nutrients in treated effluent.
- (9) Regulations made by the Secretary of State may specify how such determinations are to be made.

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- (10) In this section “nutrients”, in relation to an area designated under—
- (a) section 96C(1), means nutrients in water comprising nitrogen or compounds of nitrogen;
  - (b) section 96C(2), means nutrients in water comprising phosphorus or compounds of phosphorus.

### **96H Section 96G: procedure and revocations**

- (1) A designation under section 96G(1) or revocation of such a designation under subsection (3)(c)—
  - (a) must be in writing,
  - (b) must be published as soon as practicable after being made, and
  - (c) takes effect in accordance with subsection (3) or (4) (as appropriate).
- (2) A designation under section 96G(1) may be made at the same time, or at any time after the time, that the designation under section 96C(1) or (2) of the area as a sensitive catchment area is made.
- (3) A designation under section 96G(1)—
  - (a) if made before the time that the designation under section 96C(1) or (2) takes effect, takes effect at the same time as that designation;
  - (b) if made after the time that the designation under section 96C(1) or (2) takes effect, takes effect on the day specified in it;
  - (c) may be revoked.
- (4) A revocation under subsection (3)(c)—
  - (a) takes effect—
    - (i) on the day specified in the revocation, or
    - (ii) if none is specified, on the day on which it is made;
  - (b) has no effect in relation to the designation of the area under section 96C(1) or (2);
  - (c) may specify the upgrade date that is to apply in relation to nutrient significant plants (see section 96E(3)).
- (5) In determining whether an upgrade date should be specified under subsection (4)(c), the Secretary of State may take into account, in particular, advice from, or guidance published by, Natural England or the Environment Agency.

### **96I Information about catchment areas and nutrient significant plants**

- (1) The Secretary of State must maintain and publish online a map showing—
  - (a) all the nitrogen sensitive catchment areas, and
  - (b) all the phosphorus sensitive catchment areas.
- (2) As soon as practicable after making a designation under section 96C (sensitive catchment areas), the Secretary of State must publish the revised map online.
- (3) The Secretary of State must maintain and publish online a document listing—
  - (a) all plants that are or have been—
    - (i) nitrogen significant plants, or

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- (ii) phosphorus significant plants;
  - (b) in relation to each plant listed under paragraph (a)—
    - (i) the upgrade date that applies for the time being;
    - (ii) if the plant becomes, or ceases to be, an exempt plant in relation to the related nutrient pollution standard, that fact and the date on which it occurred;
    - (iii) where the associated catchment area for a plant is not a catchment permitting area, the figure specified in section 96F(1)(a)(i) or (2)(a)(i), under section 96C(4)(e) or 96D(5) or by virtue of regulations made under section 96D(11) (total nitrogen concentration or total phosphorus concentration) that applies to the plant;
    - (iv) where a direction relating to the plant and the related nutrient pollution standard is made or revoked under regulation 85C or 110B of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012) (disapplication of assumption that the plant will meet the standard on and after the upgrade date or applicable date), that fact and the date on which the direction or revocation takes effect;
  - (c) all catchment permitting areas.
- (4) Where any change occurs in the information required to be listed, the Secretary of State must, as soon as practicable, publish a revised document online.

#### **96J Section 96B: enforcement and interaction with other provisions**

- (1) The duty of a sewerage undertaker under section 96B is enforceable under section 18—
  - (a) by the Secretary of State, or
  - (b) with the consent of, or in accordance with a general authorisation given by, the Secretary of State, by the Authority.
- (2) The Environment Agency must exercise its functions (whether under environmental permitting regulations or otherwise) so as to secure compliance by sewerage undertakers with the duty imposed by section 96B; those functions include, in particular, functions of determining—
  - (a) whether to grant or vary any permit under environmental permitting regulations, or
  - (b) any conditions to be included in any such permit.
- (3) The Environment Agency must exercise its functions under the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 (S.I. 2015/810) so as to secure compliance by sewerage undertakers with the duties imposed by those regulations to prevent and remediate environmental damage (within the meaning of those regulations) that is treated as occurring by regulation 9A of those regulations (nutrient significant sewage disposal works: environmental damage).
- (4) Nothing in section 96B or 96G or this section affects—

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- (a) any other obligation of a sewerage undertaker relating to nutrient levels in treated effluent of a plant, or any remedy available in respect of contravention of any such obligation;
- (b) any power to impose an obligation relating to nutrient levels in treated effluent of a plant (including by means of a condition included in a permit under environmental permitting regulations); and, in particular, nothing in those sections or this section is to be taken to preclude any such power being exercised so as to require a lower concentration of total nitrogen or lower concentration of total phosphorus in treated effluent of a plant than section 96B requires.

### **96K Powers to amend sections 96D and 96F**

- (1) The Secretary of State may by regulations amend any plant capacity for the time being specified in section 96D(1)(a) or (2)(a).
- (2) Regulations under subsection (1) may not have effect in relation to an area that is a sensitive catchment area when the regulations are made.
- (3) Subject to that, regulations under subsection (1)—
  - (a) may, in particular, amend section 96D so that different plant capacities are specified in relation to the nitrogen nutrient pollution standard and the phosphorus nutrient pollution standard;
  - (b) may, where different plant capacities will apply for different purposes or different areas as a result of regulations under subsection (1), amend section 96D so as to specify those capacities and the purposes or areas for which they apply.
- (4) The Secretary of State may by regulations—
  - (a) amend section 96F(1)(a)(i) so as to substitute a different concentration of total nitrogen;
  - (b) amend section 96F(2)(a)(i) so as to substitute a different concentration of total phosphorus.
- (5) Regulations under subsection (4) may not have effect in relation to an area that is a sensitive catchment area when the regulations are made.
- (6) Where, as a result of the regulations, different concentrations will apply for different purposes or different areas (including different plants within an area), the regulations may amend section 96F(1)(a)(i) or (2)(a)(i) to specify those concentrations and the purposes or areas for (or plants within an area to) which they apply.
- (7) A statutory instrument containing regulations under subsection (1) or (4) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (8) If a draft of a statutory instrument containing regulations under subsection (1) or (4) would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

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### 96L Sections 96B to 96K, 96M and 96N: interpretation

- (1) This section applies for the purposes of sections 96B to 96K, 96M and 96N.
- (2) In those sections (and this section)—
- “associated catchment area”—
- (a) in relation to a plant that is a nitrogen significant plant or is exempt in relation to the nitrogen nutrient pollution standard, means the nitrogen sensitive catchment area into which it discharges;
  - (b) in relation to a plant that is a phosphorus significant plant or is exempt in relation to the phosphorus nutrient pollution standard, means the phosphorus sensitive catchment area into which it discharges;
- “catchment permitting area” means a sensitive catchment area designated under section 96G(1) for the time being;
- “environmental permit” means a permit granted under Chapter 2 of Part 2 of the Environmental Permitting (England and Wales) Regulations 2016; and a reference to a condition imposed on such a permit is to be construed in accordance with those regulations;
- “environmental permitting regulations” means—
- (a) the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154) (as they have effect from time to time), or
  - (b) any other provision made after the Levelling-up and Regeneration Act 2023 is passed that is, or could have been, made under section 2 of the Pollution Prevention and Control Act 1999;
- “exempt plant”, in relation to a nutrient pollution standard, has the meaning given by section 96D;
- “habitats site” means a European site within the meaning of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012) (see regulation 8);
- “the initial period” has the meaning given by section 96E(4);
- “nitrogen nutrient pollution standard”, in relation to references to a nitrogen significant plant meeting the standard, has the meaning given by section 96F(1);
- “nitrogen sensitive catchment area” means an area designated under section 96C(1);
- “nitrogen significant plant” has the meaning given by section 96B(3);
- “nutrient pollution standard” means the nitrogen nutrient pollution standard or the phosphorus nutrient pollution standard;
- “nutrient significant plant” means—
- (a) a nitrogen significant plant, or
  - (b) a phosphorus significant plant;
- “phosphorus nutrient pollution standard”, in relation to references to a phosphorus significant plant meeting the standard, has the meaning given by section 96F(2);

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“phosphorus sensitive catchment area” means an area designated under section 96C(2);

“phosphorus significant plant” has the meaning given by section 96B(4);

“plant” means a sewage disposal works;

“related nutrient pollution standard”, in relation to a sensitive catchment area or a plant, means—

(a) if (or so far as) the area is a nitrogen sensitive catchment area or the plant is a nitrogen significant plant, the nitrogen nutrient pollution standard;

(b) if (or so far as) the area is a phosphorus sensitive catchment area or the plant is a phosphorus significant plant, the phosphorus nutrient pollution standard;

“sensitive catchment area” means—

(a) a nitrogen sensitive catchment area, or

(b) a phosphorus sensitive catchment area;

“standard concentration”, in relation to the nutrient pollution standard that applies to a plant, means the concentration specified in section 96F(1)(a)(i) or (2)(a)(i) on the date that the designation of the associated catchment area as a sensitive catchment area takes effect;

“treated effluent” has the meaning given by section 96F(3);

“upgrade date”, in relation to a plant that discharges into a sensitive catchment area, has the meaning given by section 96E.

- (3) References to a plant discharging into a sensitive catchment area are to the plant discharging treated effluent into the area.
- (4) References to the sewerage system of a sewerage undertaker have the meaning given by section 17BA(7).

#### **96M New and altered plants: modifications**

- (1) The Secretary of State may by regulations provide for sections 96B to 96L to apply with prescribed modifications in relation to any plant that, after the Levelling-up and Regeneration Act 2023 is passed—
- (a) operates for the first time, or
- (b) is altered.

This is subject to subsection (3).

- (2) Regulations under this section may in particular provide for sections 96C(5) and 96D(4) and (10) to apply as if they specified periods other than 7 years.
- (3) But regulations under this section may not modify section 96F(1) or (2) or section 96G(4) so as to apply a higher concentration of total nitrogen or higher concentration of total phosphorus than would otherwise apply.

#### **96N Setting and enforcing nutrient pollution standards**

- (1) The Secretary of State may by regulations make provision about the setting and enforcing of nutrient pollution standards.

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- (2) The Secretary of State may only exercise the power under subsection (1) if the Secretary of State considers that the provisions about the setting and enforcing of nutrient pollution standards will be at least as effective as the provision already in force under sections 96B to 96M, the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 (S.I. 810/2015) or this section as a result of the exercise of this power, including in relation to—
- (a) overall environmental protection (within the meaning of section 45 of the Environment Act 2021),
  - (b) nutrient pollution levels discharged by plants or across catchment areas,
  - (c) enforcement, or
  - (d) costs.
- (3) The regulations may, in particular—
- (a) amend, repeal, revoke or otherwise modify—
    - (i) sections 96B to 96M,
    - (ii) the Environmental Damage (Prevention and Remediation) (England) Regulations 2015, or
    - (iii) provision made under this section;
  - (b) provide for a sewerage undertaker’s compliance with the duty under section 96B (or an equivalent) to be determined by reference to matters other than the concentration of nitrogen or phosphorous in treated effluent discharged by a plant;
  - (c) include provision applying or corresponding to any provision in sections 96B to 96M (with or without modifications);
  - (d) include provision about the establishment of schemes involving sewerage undertakers and others for the purpose of encouraging or requiring sewerage undertakers to arrange or contribute to action in respect of the effect of nitrogen or phosphorous (from any source) on a habitats site;
  - (e) make different provision for different purposes or different areas.”
- (2) In section 213 of the Water Industry Act 1991 (powers to make regulations), in subsection (1), insert “96K, 96N,”—
- (a) if this subsection comes into force before section 82(2) of the Environment Act 2021, before “or 105A”;
  - (b) otherwise, before “105A”.

#### Commencement Information

I177 S. 168 in force at 26.12.2023, see s. 255(6)

## 169 Planning: assessments of effects on certain sites

Schedule 15 amends the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012) to require certain assumptions to be made in certain circumstances about nutrient pollution standards (see section 168).



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### Commencement Information

**I178** S. 169 in force at 26.12.2023, see s. 255(6)

## 170 Remediation

(1) The Environmental Damage (Prevention and Remediation) (England) Regulations 2015 (S.I. 2015/810) are amended as follows.

(2) After regulation 9 insert—

### “9A Nutrient significant sewage disposal works: environmental damage

(1) This regulation applies where a sewerage undertaker whose sewerage system includes a nutrient significant plant fails to secure that the plant is able to meet the related nutrient pollution standard by the upgrade date.

(2) Any excess nutrient pollution is to be treated for the purposes of these regulations as damage to the related habitats site that is environmental damage caused by an activity of the sewerage undertaker that—

- (a) requires a permit under the Environmental Permitting (England and Wales) Regulations 2016, and
- (b) falls within Schedule 2.

(3) In paragraph (2)—

“excess nutrient pollution”, in relation to a nutrient significant plant and a related nutrient pollution standard, means the amount by which the total nutrient pollution discharged in treated effluent by the plant during the period—

- (a) beginning with the upgrade date, and
- (b) ending with the day the plant first meets the related nutrient pollution standard,

exceeds the total nutrient pollution that it would have discharged in treated effluent during that period had it met the related nutrient pollution standard on and after the upgrade date;

“total nutrient pollution” means—

- (a) in relation to the nitrogen nutrient pollution standard, total nitrogen, and
- (b) in relation to the phosphorus nutrient pollution standard, total phosphorus.

(4) Where—

- (a) the nutrient significant plant referred to in paragraph (1) is a plant that discharges treated effluent into a catchment permitting area (see section 96G of the Water Industry Act 1991), and
- (b) the sewerage undertaker has failed to comply with a condition in the environmental permit for the plant imposed in pursuance of subsection (3)(b) of that section,

the definition of “excess nutrient pollution” in paragraph (3) is subject to the following modifications.

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- (5) In a case where the condition relates to the total nutrient pollution discharged by the plant specifically, references in that definition to the “upgrade date” are to be read as the “applicable date”.
- (6) In a case where the condition relates to the total nutrient pollution discharged by all plants that discharge into the associated catchment area, that definition is to be read as if—
- (a) in the words before paragraph (a), after “by the plant” there were inserted “and all other plants that discharged into the associated catchment area for that plant”,
  - (b) in paragraph (a), for “upgrade date” there were substituted “applicable date”, and
  - (c) in the words after paragraph (b)—
    - (i) for “that it” there were substituted “that both it and those other plants”, and
    - (ii) for “upgrade date” there were substituted “applicable date”.
- (7) For the purposes of paragraph (3) as modified by paragraph (5) or (6), the “applicable date” is to be determined in accordance with section 96G(6)(a) of the Water Industry Act 1991.
- (8) It is for the Environment Agency to determine the excess nutrient pollution discharged by a plant and in doing so the Environment Agency may have regard to—
- (a) the concentration of total nitrogen or concentration of total phosphorus determined for the purposes of section 96F of the Water Industry Act 1991 (see in particular subsection (5) of that section), and
  - (b) the volume of treated effluent discharged by the plant, as determined by the Environment Agency.
- (9) [Schedule 2ZA](#) sets out modifications of these regulations that apply where this regulation applies.
- (10) In this regulation—
- “related habitats site”, in relation to a nutrient significant plant, means the habitats site by reference to which the associated catchment area is designated under section 96C of the Water Industry Act 1991;
- “sewerage system”, in relation to a sewerage undertaker, has the meaning given by section 17BA(7) of the Water Industry Act 1991.
- (11) For the purposes of this regulation, the following terms have the meanings given by section 96L of the Water Industry Act 1991—
- “associated catchment area”;
- “catchment permitting area”;
- “environmental permit”;
- “habitats site”;
- “nitrogen nutrient pollution standard”;
- “nutrient significant plant”;
- “phosphorus nutrient pollution standard”;
- “plant”;

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“related nutrient pollution standard”;

“sensitive catchment area”;

“treated effluent”;

“upgrade date”;

and references to a nutrient significant plant meeting the related nutrient pollution standard are to be read in accordance with section 96F(1) or (2) of that Act.”

(3) After Schedule 2 insert—

#### “SCHEDULE 2ZA

Regulation 9A

##### MODIFICATIONS WHERE REGULATION 9A APPLIES

- 1 In relation to anything that is treated as environmental damage by regulation 9A, these regulations apply with the following modifications.
- 2 Regulation 17 does not apply.
- 3 Regulation 18 applies as if—
  - (a) the opening words of paragraph (1) provided “Where excess nutrient pollution is treated as environmental damage by regulation 9A(2), the enforcing authority must notify the responsible operator—”;
  - (b) for paragraph (a) there were substituted—
    - “(a) of the environmental damage;”.
- 4 Regulation 18A applies with the omission of paragraph (2).
- 5 Regulation 19(3) applies as if for paragraphs (a) to (e) (but not the “or” immediately following paragraph (e)) there were substituted—
  - “(a) the responsible operator did not fail to secure that the nutrient significant plant in question is able to meet the related nutrient pollution standard by the upgrade date;
  - (b) the determination by the Environment Agency of the excess nutrient pollution mentioned in regulation 9A(2) was unreasonable;”.
- 6 Regulation 25(2) applies as if—
  - (a) for paragraph (a) there were substituted—
    - “(a) determining the excess nutrient pollution mentioned in regulation 9A(2);”;
  - (b) paragraph (b) were omitted.”

#### Commencement Information

I179 S. 170 in force at 26.12.2023, see s. 255(6)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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VALID FROM 31/03/2024

## PART 8

### DEVELOPMENT CORPORATIONS

#### *Local authority proposals and oversight*

#### **171 Locally-led urban development corporations**

(1) Section 134 of the Local Government, Planning and Land Act 1980 (urban development areas) is amended as set out in subsections (2) and (3).

(2) After subsection (1A) insert—

“(1B) The Secretary of State may, by order made by statutory instrument, designate any area of land in England as an urban development area if—

- (a) a proposal has been made to the Secretary of State under section 134A(1) in relation to the area of land, and
- (b) the Secretary of State is satisfied that it would be expedient in the local interest—
  - (i) to designate the area of land as an urban development area, and
  - (ii) to establish a development corporation for the area in consequence of the proposal.”

(3) After section 134 of the Local Government, Planning and Land Act 1980 insert—

#### **“134A Local authority proposal for designation of locally-led urban development area in England**

(1) A local authority in England, or two or more local authorities in England acting jointly, may propose to the Secretary of State that the Secretary of State should designate an area of land (the “proposal area”) as an urban development area under section 134(1B).

(2) A proposal under subsection (1) (a “locally-led proposal”) must—

- (a) state the proposing authority’s proposals as to—
  - (i) the name of the development corporation that would be established as a result of the proposal, and
  - (ii) which local authority or local authorities should be designated as the oversight authority for that development corporation, and
- (b) include a map of the proposal area.

(3) A locally-led proposal may also include proposals about any other matter about which the Secretary of State would be able to make provision in respect of the development corporation by order or regulations under this Part.

(4) A locally-led proposal may relate to separate parcels of land.

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- (5) A local authority may make a locally-led proposal only if—
- (a) the proposal area falls wholly within the area of the local authority, or
  - (b) where it makes the proposal jointly with one or more other local authorities, the proposal area falls—
    - (i) wholly or partly within the area of each of them, and
    - (ii) wholly within their combined areas.
- (6) A proposing authority may make a locally-led proposal only if—
- (a) the proposing authority has consulted the persons mentioned in subsection (7),
  - (b) the proposing authority has had regard to any comments made in response by the consultees, and
  - (c) if those comments include comments by a local authority or the Greater London Authority that the proposing authority does not accept, the proposing authority has published a statement giving the reasons for the non-acceptance.
- (7) The persons referred to in subsection (6)(a) are—
- (a) persons who appear to the proposing authority to represent those living in, or in the vicinity of, the proposal area;
  - (b) persons who appear to the proposing authority to represent businesses with any premises in, or in the vicinity of, the proposal area;
  - (c) each Member of Parliament whose parliamentary constituency includes any part of the proposal area;
  - (d) each local authority for an area which falls wholly or partly within the proposal area (other than the proposing authority or a constituent council of the proposing authority);
  - (e) in relation to an area in Greater London, the Greater London Authority;
  - (f) any other person whom the proposing authority considers it appropriate to consult.
- (8) A local authority may be proposed as an oversight authority under subsection (2)(a)(ii) only if the proposal area is wholly or partly within the area of the local authority.
- (9) Where the proposing authority proposes, under subsection (2)(a)(ii), that two or more local authorities should be designated as the oversight authority, it may also propose—
- (a) that a specified function of an oversight authority should be exercisable by one of those local authorities, or
  - (b) that a specified function of an oversight authority should be exercisable by two or more of those local authorities jointly.

For this purpose, “specified” means specified in the proposal.

- (10) In this section—
- “local authority” means—
- (a) a district council,

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- (b) a county council,
  - (c) a London borough council, or
  - (d) the Common Council;
- “locally-led proposal” has the meaning given by subsection (2);  
“proposing authority” means—
- (a) the local authority which makes a locally-led proposal, or
  - (b) if two or more local authorities make such a proposal, those authorities acting jointly;
- and where the proposing authority consists of two or more authorities acting jointly, each is a “constituent council” of the proposing authority.”

(4) Section 135 (urban development corporations) is amended as set out in subsections (5) and (6).

(5) In subsection (1A), after “in England” insert “designated under section 134(1)”.

(6) After subsection (4) insert—

“(4A) Subsections (4B) and (4C) apply where the Secretary of State makes an order under this section establishing a locally-led urban development corporation in consequence of a proposal under section 134A(1).

(4B) The order must—

- (a) establish the corporation with the proposed name,
- (b) give effect to any proposal made by virtue of section 134A(3) as to the number of members to be prescribed under paragraph 1A(2) of Schedule 26,
- (c) designate as the oversight authority the local authority or local authorities proposed as such, and
- (d) give effect to any proposal made by virtue of section 134A(9) (allocation of functions where oversight authority consists of more than one local authority).

(4C) The Secretary of State must exercise other functions under this Act so as to give effect to any other proposals made by virtue of section 134A(3).”

(7) After section 135 insert—

#### “135A Oversight of locally-led urban development area

(1) The Secretary of State may by regulations make provision about how an oversight authority is to oversee the regeneration of a locally-led urban development area.

(2) Regulations under subsection (1) may, for example—

- (a) provide that an oversight authority is to exercise specified functions under this Part of this Act, other than a power to make regulations or other instruments of a legislative character, which would otherwise be exercisable by the Secretary of State, the Treasury or any other Minister of the Crown;
- (b) provide that an oversight authority is to exercise such functions subject to specified conditions or limitations;

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- (c) provide that specified functions under this Part of this Act may be exercised only with the consent of an oversight authority;
- (d) make provision about the membership of a locally-led urban development corporation;
- (e) modify provisions of this Part of this Act;
- (f) make different provision for different purposes;
- (g) make incidental, supplementary or consequential provision.

(3) In this section “specified” means specified by regulations under this section.

(4) Regulations under this section are to be made by statutory instrument.

(5) A statutory instrument containing regulations under this section may not be made until approved by a resolution of each House of Parliament.”

#### Commencement Information

**I180** S. 171 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

## 172 Development corporations for locally-led new towns

(1) The New Towns Act 1981 is amended as follows.

(2) After section 1 insert—

### “1ZA Local authority proposal for designation of locally-led new town in England

- (1) A local authority in England, or two or more local authorities in England acting jointly, may propose to the Secretary of State that the Secretary of State should designate an area of land (the “proposal area”) as the site of a proposed new town.
- (2) A proposal under subsection (1) (a “locally-led proposal”) must—
  - (a) state the proposing authority’s proposals as to—
    - (i) the name of the development corporation that would be established as a result of the proposal, and
    - (ii) which local authority or local authorities should be designated as the oversight authority for that development corporation, and
  - (b) include a map of the proposal area.
- (3) A locally-led proposal may also include proposals about any other matter about which the Secretary of State would be able to make provision in respect of the development corporation by order or regulations under this Act.
- (4) A local authority may make a locally-led proposal only if—
  - (a) the proposal area falls wholly within the area of the local authority, or

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- (b) where it makes the proposal jointly with one or more other local authorities, the proposal area falls—
  - (i) wholly or partly within the area of each of them, and
  - (ii) wholly within their combined areas.
- (5) A proposing authority may make a locally-led proposal only if—
  - (a) the proposing authority has consulted the persons mentioned in subsection (6),
  - (b) the proposing authority has had regard to any comments made in response by the consultees, and
  - (c) those comments include comments by a local authority or the Greater London Authority that the proposing authority does not accept, the proposing authority has published a statement giving the reasons for the non-acceptance.
- (6) The persons referred to in subsection (5)(a) are—
  - (a) persons who appear to the proposing authority to represent those living in, or in the vicinity of, the proposal area;
  - (b) persons who appear to the proposing authority to represent businesses with any premises in, or in the vicinity of, the proposal area;
  - (c) each Member of Parliament whose parliamentary constituency includes any part of the proposal area;
  - (d) each local authority for an area which falls wholly or partly within the proposal area (other than the proposing authority or a constituent council of the proposing authority);
  - (e) in relation to an area in Greater London, the Greater London Authority;
  - (f) any other person whom the proposing authority considers it appropriate to consult.
- (7) A local authority may be proposed as the oversight authority under subsection (2)(a)(ii) only if the proposal area is wholly or partly within the area of the local authority.
- (8) Where the proposing authority proposes, under subsection (2)(a)(ii), that two or more local authorities should be designated as the oversight authority, it may also propose—
  - (a) that a specified function should be exercisable by one of those local authorities, or
  - (b) that a specified function should be exercisable by two or more of those local authorities jointly.

For this purpose, “specified” means specified in the proposal.

- (9) In this section—
  - “local authority” means—
    - (a) a district council,
    - (b) a county council, or
    - (c) a London borough council;
  - “locally-led proposal” has the meaning given by subsection (2);



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“proposing authority” means—

- (a) the local authority which makes a locally-led proposal, or
- (b) if two or more local authorities make such a proposal, those authorities acting jointly;

and where the proposing authority consists of two or more authorities acting jointly, each is a “constituent council” of the proposing authority.

### **1ZB Designation of locally-led new town in England**

- (1) This section applies where a proposal has been made to the Secretary of State under section [1ZA\(1\)](#) in relation to an area of land in England.
- (2) The Secretary of State may make an order under this section designating the area as the site of a proposed new town if satisfied that it would be expedient in the local interest that the area should be developed as a new town by a corporation established under this Act in consequence of the proposal.
- (3) Subsections (3) and (5) of section 1 apply to an order under this section as they apply to an order under that section.”

(3) In section 3 (establishment of development corporations for new towns)—

- (a) in subsection (1), after “1” insert “or [1ZB](#)”;
- (b) in subsection (2A), after “in England” insert “designated under section 1”;
- (c) after subsection (2A) insert—

“(2B) Subsections [\(2C\)](#) and [\(2D\)](#) apply where the Secretary of State makes an order under this section establishing a development corporation for a locally-led new town in consequence of a proposal under section [1ZA\(1\)](#).

(2C) The order must—

- (a) establish the corporation with the proposed name,
- (b) give effect to any proposal made by virtue of section [1ZA\(3\)](#) as to the number of members to be prescribed under subsection [\(2ZB\)](#),
- (c) designate as the oversight authority the local authority or local authorities proposed as such, and
- (d) give effect to any proposal made by virtue of section [1ZA\(8\)](#) (allocation of functions where oversight authority consists of more than one local authority).

(2D) The Secretary of State must exercise other functions under this Act so as to give effect to any other proposals made by virtue of section [1ZA\(3\)](#).”

(4) In section 77 (regulations and orders), in each of subsections (3), (3B) and (3C), after “1,” insert “[1ZB](#),”.

#### **Commencement Information**

**1181** S. 172 not in force at Royal Assent, see [s. 255\(7\)](#)

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PROSPECTIVE

### 173 Minor and consequential amendments

[Schedule 16](#) makes minor and consequential amendments in connection with sections [171](#) and [172](#).

#### Commencement Information

**I182** S. 173 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

#### *Planning functions*

### 174 Planning functions of urban development corporations

- (1) The Local Government, Planning and Land Act 1980 is amended as follows.
- (2) In section 149 (urban development corporation as planning authority)—
  - (a) after subsection (1) insert—
 

“(1A) If the Secretary of State so provides by order, an urban development corporation for an area in England shall be the local planning authority for the whole or any portion of its area for such purposes of Part 2 or 3 of the Planning and Compulsory Purchase Act 2004 as may be prescribed.”;
  - (b) in subsection (2), for “The order” substitute “An order under subsection (1) or (1A)”;
  - (c) after subsection (2) insert—
 

“(2A) If the Secretary of State so provides by order, an urban development corporation, other than a locally-led urban development corporation, for an area in England shall be the minerals and waste planning authority for the whole or any portion of its area for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004.”;
  - (d) in subsection (3)—
    - (i) in paragraph (a), omit “of the 1990 Act and the Planning (Listed Buildings and Conservation Areas) Act 1990”;
    - (ii) in paragraph (b), omit “of those Acts”;
  - (e) after subsection (3) insert—
 

“(3A) A provision mentioned in paragraph [1](#), [3](#) or [5](#) of Part 1 of Schedule 29 may be specified under subsection (3)(a) only in relation to an urban development corporation for an area in England.”;
  - (f) after subsection (4) insert—
 

“(4A) If the Secretary of State so provides by order, an urban development corporation for an area in England shall have, in the whole or any

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portion of its area, the functions conferred on the relevant planning authority by Schedule 8 to the Electricity Act 1989 so far as it applies to applications for consent under section 37 of that Act.”

(3) After section 149 insert—

**“149A Arrangements for discharge of, or assistance with, planning functions in England**

- (1) Subsection (2) applies in relation to any function that an urban development corporation has by virtue of an order under section 149(1).
  - (2) The corporation may make arrangements for the discharge of the function by the council (if any) which would have the function but for the order.
  - (3) Where arrangements are in force under sub-paragraph (2) for the discharge of a function by a council—
    - (a) the council may arrange for the discharge of the function by a committee, sub-committee or officer of the council, and
    - (b) section 101(2) of the Local Government Act 1972 (delegation by committees and sub-committees) applies in relation to the function as it applies in relation to functions of the council.
  - (4) Arrangements under subsection (2) for the discharge of a function do not prevent the urban development corporation from exercising the function.
  - (5) Subsection (6) applies in relation to any function that an urban development corporation has by virtue of an order under section 149(1A) or (2A).
  - (6) The corporation may seek assistance in connection with the discharge of the function from the council (if any) which would have the function but for the order; and that council may give such assistance.
  - (7) In this section, “council” means a county council, district council or London borough council or the Common Council.”
- (4) In Part 1 of Schedule 29 (planning enactments conferring functions capable of being assigned to urban development corporations)—
- (a) at the beginning insert—
 

“1 Section 17 of the Land Compensation Act 1961.”;
  - (b) the paragraph referring to enactments in TCPA 1990 becomes paragraph 2;
  - (c) after that paragraph insert—
 

“3 Sections 171BA, 171E, 172ZA, 172A, 191, 192, 225, 225A, 225C, 225F to 225H, 225J and 225K of the 1990 Act.”;
  - (d) the paragraph referring to enactments in the Listed Buildings Act becomes paragraph 4;
  - (e) after that paragraph insert—
 

“5 Section 44AA of the Planning (Listed Buildings and Conservation Areas) Act 1990.”

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### Commencement Information

**I183** S. 174 not in force at Royal Assent, see [s. 255\(7\)](#)

## 175 Planning functions of new town development corporations

- (1) The New Towns Act 1981 is amended as follows.
- (2) After section 7 insert—

### “7A Development corporation as planning authority in England

- (1) This section applies in relation to a development corporation established for the purposes of a new town in England.
- (2) The Secretary of State may provide by order for the corporation to be the local planning authority for the specified area—
  - (a) for such purposes of Part 3 of the Town and Country Planning Act 1990, and in relation to such kinds of development, as are specified, or
  - (b) for such purposes of Part 2 or 3 of the Planning and Compulsory Purchase Act 2004 as are specified.
- (3) An order under subsection (2) may provide—
  - (a) that any enactment relating to local planning authorities is not to apply to the corporation, or
  - (b) that any such enactment which applies to the corporation is to apply to it subject to such modifications as are specified.
- (4) The Secretary of State may provide by order—
  - (a) for the corporation to have, in the specified area, the functions conferred by such of the enactments mentioned in Part 1 of Schedule 29 to the Local Government, Planning and Land Act 1980 as are specified;
  - (b) for such of the enactments mentioned in Part 2 of that Schedule as are specified in the order to have effect, in relation to the corporation and to land in the specified area, subject to the modifications set out in that Part;
  - (c) for such of the provisions of that Part 2 as apply for the purposes of the order to be read, for those purposes, as if—
    - (i) any reference to an urban development corporation were a reference to a development corporation established under section 3 of this Act, and
    - (ii) any reference to regenerating an area were a reference to developing a new town.
- (5) An order under subsection (4) may provide—
  - (a) that any enactment relating to local planning authorities applies to the corporation for the purposes of any enactment specified in Schedule 29 to the Local Government, Planning and Land Act 1980 which relates to land in the specified area by virtue of the order;

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(b) that any enactment so applied to the corporation applies to it subject to modifications specified in the order.

- (6) The Secretary of State may, if the corporation is not a locally-led development corporation, provide by order for the corporation to be the minerals and waste planning authority for the specified area for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004.
- (7) The Secretary of State may provide by order that the corporation is to have, in the specified area, the functions conferred on the relevant planning authority by Schedule 8 to the Electricity Act 1989 so far as it applies to applications for consent under section 37 of that Act.
- (8) The area specified under any of the preceding subsections must be the whole, or part, of the area of the new town.
- (9) An order under this section may include supplementary or transitional provision or savings.
- (10) In this section “specified” means specified in an order under this section.

#### **7B Arrangements for discharge of, or assistance with, planning functions in England**

- (1) Subsection (2) applies in relation to any function that a development corporation has by virtue of an order under section 7A(2)(a).
  - (2) The corporation may make arrangements for the discharge of the function by the council (if any) which would have the function but for the order.
  - (3) Where arrangements are in force under subsection (2) for the discharge of a function by a council—
    - (a) the council may arrange for the discharge of the function by a committee, sub-committee or officer of the council, and
    - (b) section 101(2) of the Local Government Act 1972 (delegation by committees and sub-committees) applies in relation to the function as it applies in relation to functions of the council.
  - (4) Arrangements under subsection (2) for the discharge of a function do not prevent the development corporation from exercising the function.
  - (5) Subsection (6) applies in relation to any function that a development corporation has by virtue of an order under section 7A(2)(b) or (6).
  - (6) The corporation may seek assistance in connection with the discharge of the function from the council (if any) which would have the function but for the order; and that council may give such assistance.
  - (7) In this section, “council” means a county council, district council or London borough council.”
- (3) In Schedule 3 (constitution and proceedings of development corporations), after paragraph 10 insert—

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*“Delegation of planning functions*

- 10A (1) This paragraph applies in relation to any function conferred on the corporation by virtue of an order under section 7A (planning functions of corporations in England).
- (2) The corporation may appoint committees and such committees may appoint sub-committees.
- (3) Anything which is authorised or required to be done by the corporation—
- (a) may be done by any member of the corporation or of its staff who is authorised for the purpose either generally or specifically;
  - (b) may be done by a committee or sub-committee which is so authorised.
- (4) The corporation may—
- (a) determine the quorum of a committee or sub-committee;
  - (b) make such arrangements as it thinks appropriate relating to the meetings and procedure of a committee or sub-committee.
- (5) Anything done for the purposes of sub-paragraph (4) is subject to directions given by the Secretary of State.
- (6) The validity of anything done by a committee or sub-committee is not affected by—
- (a) any vacancy among its members;
  - (b) any defect in the appointment of any of its members.
- 10B (1) This paragraph has effect in relation to the membership of committees and sub-committees appointed under paragraph 10A.
- (2) A committee may consist of—
- (a) such members of the corporation as it appoints;
  - (b) such other persons as the corporation (with the consent of the Secretary of State) appoints.
- (3) A sub-committee of a committee may consist of—
- (a) such members of the committee as it appoints;
  - (b) such persons who are members of another committee of the corporation (whether or not they are members of the corporation) as the committee appoints;
  - (c) such other persons as the corporation (with the consent of the Secretary of State) appoints.
- (4) The membership of a committee or sub-committee—
- (a) must always include at least one person who is a member of the corporation;
  - (b) must not include any person who is a member of the staff of the corporation.”

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Levelling-up and Regeneration Act 2023 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I184** S. 175 not in force at Royal Assent, see [s. 255\(7\)](#)

### 176 Mayoral development corporation as minerals and waste planning authority

- (1) The Localism Act 2011 is amended as follows.
- (2) In section 202 (functions in relation to Town and Country Planning), after subsection (3) insert—
  - “(3A) The Mayor may decide that the MDC is to be the minerals and waste planning authority, for the whole or any portion of the area, for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004.”
- (3) In section 203 (arrangements for discharge of, or assistance with, planning functions), in subsection (4), after “2004” insert “, or the minerals and waste planning authority for the purposes of Part 2 of that Act,”.
- (4) In section 204 (removal or restriction of planning functions), in subsection (2), after “(3)” insert “, (3A)”.

#### Commencement Information

**I185** S. 176 not in force at Royal Assent, see [s. 255\(7\)](#)

### 177 Minor and consequential amendments

[Schedule 17](#) makes amendments consequential on sections [174](#) and [175](#), and other minor amendments in connection with the planning functions of development corporations.

#### Commencement Information

**I186** S. 177 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

#### *Membership*

### 178 Removal of restrictions on membership of urban development corporations and new town development corporations

- (1) In Schedule 26 to the Local Government, Planning and Land Act 1980 (constitution and proceedings etc of urban development corporations)—
  - (a) in paragraph 1, for the words from “such number” to the end substitute “the number of other members determined in accordance with paragraph [1A](#)”;
  - (b) after that paragraph insert—

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“1A (1) In the case of a corporation established by the Scottish Ministers or the Welsh Ministers—

- (a) the number of other members must be prescribed by order under section 135, and
- (b) the prescribed number must be—
  - (i) not less than 5, and
  - (ii) not more than 11.

(2) In the case of a locally-led urban development corporation—

- (a) the number of other members must be prescribed by order under section 135, and
- (b) the prescribed number must be not less than 5.

(3) In any other case, the number of other members must be not less than 5.”

(2) In section 3 of the New Towns Act 1981 (establishment of development corporations)

—

(a) in subsection (2), for paragraph (c) substitute—

“(c) at least one other member.”;

(b) after subsection (2) insert—

“(2ZA) In the case of a development corporation established by an order under this section made by the Welsh Ministers—

- (a) the number of members other than the chairman and deputy chairman must be prescribed by the order, and
- (b) the prescribed number is not to exceed 11.

(2ZB) In the case of a locally-led development corporation, the number of members other than the chairman and deputy chairman must be prescribed by the order.”

(3) Nothing in this section affects any provision of an order made before this section comes into force.

#### Commencement Information

**I187** S. 178 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

### Finance

#### **179 Removal of limits on borrowing of urban development corporations and new town development corporations**

(1) In paragraph 8 of Schedule 31 to the Local Government, Planning and Land Act 1980 (aggregate limit on borrowing of urban development corporations)—



**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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(a) in sub-paragraph (1), after “sub-paragraph (2) below” insert “(save as excepted by sub-paragraph (2A))”;

(b) after sub-paragraph (2) insert—

“(2A) But no sum which is—

(a) borrowed by, or issued in fulfilment of a guarantee of a debt of, a corporation for an urban development area in England, and

(b) borrowed or issued on or after the date on which section 179 of the Levelling-up and Regeneration Act 2023 comes into force,

is to count for the purposes of sub-paragraph (2)(a) or (b).”

(2) In section 60 of the New Towns Act 1981 (aggregate limit on borrowing of new town development corporations)—

(a) in subsection (1), after “sums” insert “(save as excepted by subsection (1A))”;

(b) after subsection (1) insert—

“(1A) No sum which—

(a) is advanced to, or borrowed by, a development corporation established for the purposes of a new town in England, and

(b) is advanced or borrowed on or after the date on which section 179 of the Levelling-up and Regeneration Act 2023 comes into force,

is to count for the purposes of subsection (1)(a) or (d).”

#### Commencement Information

**I188** S. 179 not in force at Royal Assent, see [s. 255\(7\)](#)

## PART 9

### COMPULSORY PURCHASE

#### *Powers*

#### **180 Acquisition by local authorities for purposes of regeneration**

In section 226 of TCPA 1990 (power of local authority to acquire land compulsorily for development and other planning purposes), after subsection (1A) insert—

“(1B) In the application of subsections (1) and (1A) in England, “improvement” includes regeneration.”

#### Commencement Information

**I189** S. 180 not in force at Royal Assent, see [s. 255\(7\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Levelling-up and Regeneration Act 2023 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**1190** S. 180 in force at 31.1.2024 by S.I. 2024/92, reg. 2(i)

### Procedure

## 181 Online publicity

- (1) The Acquisition of Land Act 1981 is amended as follows.
- (2) In section 7(1) (definitions), after the definition of “acquiring authority” insert—
  - ““appropriate website”, in relation to a notice about a proposed compulsory purchase, means a website which members of the public could reasonably be expected to find on searching on the internet for information about the scheme or project that underlies the proposed purchase.”.
- (3) In section 11 (requirement to publish notice of compulsory purchase order in newspaper)—
  - (a) for the heading substitute “Public notices”;
  - (b) in subsection (1)—
    - (i) the words from “in two” to “situated” become paragraph (a);
    - (ii) at the end insert “, and
    - (b) for a period of at least 21 days ending with the day specified under subsection (2)(d), publish a notice in the prescribed form on an appropriate website.”;
  - (c) in subsection (2)—
    - (i) in the words before paragraph (a), for “notice” substitute “notices”;
    - (ii) omit the “and” at the end of paragraph (c);
    - (iii) after paragraph (c) insert—
      - “(ca) specify a website on which those copies may be viewed, and”;
    - (iv) for paragraph (d) substitute—
      - “(d) specify the final day for making objections to the order, and the manner in which objections can be made.”;
  - (d) after subsection (2) insert—
    - “(2A) If the confirming authority is satisfied that, because of special circumstances, it is impracticable for the acquiring authority to make the copies referred to in subsection (2)(c) available for inspection at an appropriate place, the confirming authority may direct that the requirement in subsection (2)(c) (together with that in section 12(1)(ba)) is not to apply.”;
  - (e) in subsection (4)(b), omit the words from “(but” to “affixed”.
- (4) In section 12(1) (requirement to serve notice on certain affected persons)—
  - (a) omit the “and” at the end of paragraph (b);
  - (b) after paragraph (b) insert—
    - “(ba) (subject to section 11(2A)) naming a place within the locality where a copy of the order and of the map referred to in it may be inspected,

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- (bb) specifying a website on which those copies may be viewed, and”;
  - (c) for paragraph (c) substitute—
    - “(c) specifying the final day for making objections to the order, and the manner in which objections can be made.”
- (5) After section 12 insert—

#### “12A Final day for making objections

- (1) For the purposes of sections 11 and 12, the day specified as the final day for making objections must be the last day, or a day after the last day, of the period of 21 days beginning with the first day at the beginning of which the acquiring authority expects that all of the following conditions will be satisfied.
- (2) The conditions are that—
  - (a) a notice has been published for the first time as required by section 11(1)(a),
  - (b) publication as required by section 11(1)(b) has begun,
  - (c) a notice has been affixed as required by section 11(3), and
  - (d) a notice has been served on every qualifying person as required by section 12(1).”
- (6) In section 15 (notices after confirmation of compulsory purchase order)—
  - (a) in subsection (3)—
    - (i) the words from “in one” to “situated” become paragraph (a);
    - (ii) at the end of that paragraph insert “, and
      - (b) on an appropriate website, until the end of the period of 6 weeks beginning with the day on which the authority takes the final step needed to comply with subsection (1)(a).”;
  - (b) in subsection (3A), for “(3)” substitute “(3)(a)”;
  - (c) in subsection (3B)—
    - (i) for “(3)” substitute “(3)(a)”;
    - (ii) after “(3A),” insert “or with subsection (3)(b).”;
  - (d) in subsection (4), after paragraph (c) insert—
    - “(ca) specifying a website on which those copies may be viewed;”;
  - (e) after subsection (4) insert—
    - “(4A) If the confirming authority is satisfied that, because of special circumstances, it is impracticable for the acquiring authority to make the copies referred to in subsection (4)(c) available for inspection at an appropriate place, the confirming authority may direct that the requirement in subsection (4)(c) is not to apply.”
- (7) In section 22 (requirement to publish notice of certificate under Part 3 of the Act)—
  - (a) the words from “in one” to “situated” become paragraph (a);
  - (b) at the end of that paragraph insert “, and
    - (b) on an appropriate website, until the end of the period of 6 weeks beginning with the day on which the certificate is given.”.

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- (8) In paragraph 9 of Schedule 3 (requirement to publish notice of certificate under that Schedule)—
- (a) the words from “in one” to “situated” become paragraph (a);
  - (b) at the end of that paragraph insert “, and
    - (b) on an appropriate website, until the end of the period of 6 weeks beginning with the day on which the certificate is given,”.

#### Commencement Information

**I191** S. 181 not in force at Royal Assent, see [s. 255\(7\)](#)

**I192** [S. 181](#) in force at 31.1.2024 for specified purposes by [S.I. 2024/92](#), [reg. 2\(j\)](#)

VALID FROM 31/03/2024

#### 182 Confirmation proceedings

- (1) The Acquisition of Land Act 1981 is amended as follows.
- (2) In section 13A (confirmation proceedings for contested orders), for subsections (2) to (6) substitute—
- “(1A) The confirming authority must cause a public local inquiry to be held if—
- (a) the order is subject to special parliamentary procedure, or
  - (b) in the case of an order to which section 16 applies, a certificate has been given under subsection (2) of that section.
- (1B) If subsection (1A) does not apply, the confirming authority must either—
- (a) cause a public local inquiry to be held, or
  - (b) follow the representations procedure.
- (1C) In deciding between those options, the confirming authority must have regard to the scale and complexity of what is proposed by the order.
- (1D) The representations procedure is a procedure to be prescribed.
- (1E) The regulations prescribing the procedure must include—
- (a) provision enabling each person who has made a remaining objection to make representations—
    - (i) in writing to the confirming authority, or
    - (ii) if the person so requests, at a hearing, and
  - (b) provision enabling the acquiring authority, and any other person the confirming authority thinks appropriate, to make representations—
    - (i) in writing to the confirming authority, or
    - (ii) if applicable, at a hearing held as mentioned in paragraph (a)(ii).
- (1F) The regulations may provide for hearings to be held by the confirming authority or by a person appointed by the confirming authority.

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Levelling-up and Regeneration Act 2023 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(1G) In subsection (1E), “representations” means representations as to whether the order should be confirmed.

(1H) Before confirming the order, the confirming authority must consider—

- (a) each remaining objection;
- (b) if a public local inquiry was held, the report of the person who held it;
- (c) if the representations procedure was followed and the confirming authority held a hearing, the representations made at the hearing;
- (d) if the representations procedure was followed and a person appointed by the confirming authority held a hearing, the report of that person;
- (e) if the representations procedure was followed and written representations were made, those representations.

(1I) The confirming authority may confirm the order with or without modifications.”

(3) In section 13B (supplementary provision about written representations procedure)—

- (a) in the heading, omit “Written”;
- (b) in each of the following provisions, omit “written”—
  - (i) subsection (1);
  - (ii) subsection (2);
  - (iii) subsection (4);
  - (iv) subsection (6);
  - (v) subsection (7);
- (c) in subsection (7), for “13A(6)” substitute “13A(1D)”.

(4) In section 13C (confirmation of compulsory purchase order in stages), in subsection (3), for “13A(2) or (3)” substitute “13A(1A) or (1B)”.

(5) In section 14D(3) (functions of inspector appointed by confirming authority), in paragraph (c), for the words from “13A(3)(a)” to the end substitute “13A”.

#### Commencement Information

**I193** S. 182 not in force at Royal Assent, see [s. 255\(7\)](#)

VALID FROM 31/03/2024

#### 183 Conditional confirmation

- (1) The Acquisition of Land Act 1981 is amended as set out in subsections (2) and (3).
- (2) After section 13B insert—

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### “13BA Conditional confirmation

- (1) The confirming authority may confirm a compulsory purchase order conditionally.
  - (2) The effect of conditional confirmation is that the order—
    - (a) does not become operative until the confirming authority has decided, on an application by the acquiring authority, that certain conditions have been met, and
    - (b) expires if the confirming authority—
      - (i) has not received an application for the purposes of subsection (2)(a) by a certain time, or
      - (ii) having received such an application by that time, decides that the conditions have not been met.
  - (3) The conditions and the time are to be specified by the confirming authority when it confirms the order.
  - (4) The procedure to be followed in relation to an application under this section is to be prescribed.
  - (5) The regulations prescribing the procedure must include provision for each relevant objector—
    - (a) to be given notice of the application (or for steps to be taken with a view to notifying them), and
    - (b) to have the opportunity to make written representations in response to the application.
  - (6) In subsection (5), “relevant objector” means a person who made an objection to the order that—
    - (a) was a remaining objection for the purposes of section 13A, and
    - (b) had not been withdrawn by the time the order was confirmed.
  - (7) The regulations may include provision as to the giving of reasons for the decision on the application.
  - (8) Subsections (2) to (6) of section 13B apply to proceedings on an application under this section as they apply to the representations procedure.”
- (3) In section 15 (notices after confirmation of compulsory purchase order)—
- (a) in subsection (2)(b), for “date when the order becomes operative” substitute “day on which the authority takes the final step needed to comply with subsection (1)(a)”;
  - (b) in subsection (3), at the beginning insert “Unless the order was confirmed conditionally,”;
  - (c) in subsection (4), after paragraph (b) insert—
    - “(ba) if the order was confirmed conditionally, stating the conditions and time specified under section 13BA(3);”;
  - (d) after subsection (4A) (inserted by section 181(6)) insert—

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“(4B) If the order was confirmed conditionally and the confirming authority decides under section 13BA that the conditions have been met, the acquiring authority must serve—

- (a) a copy of the order, and
- (b) a fulfilment notice,

on each person on whom a notice was required to be served under section 12.

(4C) Where subsection (4B) applies, the acquiring authority must also—

- (a) affix a fulfilment notice to a conspicuous object or objects on or near the land comprised in the order, and
- (b) publish a fulfilment notice—
  - (i) in one or more local newspapers circulating in the locality in which the land comprised in the order is situated, and
  - (ii) on an appropriate website, until the end of the period of 6 weeks beginning with the day on which the acquiring authority takes the final step needed to comply with subsection (4B).

(4D) The acquiring authority must comply with subsections (4B) and (4C)(a) and (b)(i) before the end of—

- (a) the period of 6 weeks beginning with the day on which the decision under section 13BA is made, or
- (b) such longer period beginning with that day as may be agreed in writing between the acquiring authority and the confirming authority.

(4E) If the acquiring authority fails to comply with those provisions before the end of that period, or fails to comply with subsection (4C)(b)(ii), the confirming authority may—

- (a) take any steps that the acquiring authority was required but has failed to take to comply, and
- (b) recover the reasonable costs of doing so from the acquiring authority

(4F) A fulfilment notice is a notice—

- (a) stating that the conditions subject to which the order was confirmed have been met and that the order will therefore become operative, and
- (b) annexing the information that was contained in the confirmation notice.”;

(e) in subsection (5), after “notice” insert “or fulfilment notice”;

(f) in subsection (6)—

(i) after “notice” insert “, and any fulfilment notice.”;

(ii) for “it” substitute “each such notice”.

(4) Schedule 18 contains, and makes provision in connection with, amendments in consequence of this section and paragraph 3 of Schedule 19.

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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#### Commencement Information

**1194** S. 183 not in force at Royal Assent, see [s. 255\(7\)](#)

### 184 Corresponding provision for purchases by Ministers

[Schedule 19](#) makes provision in relation to compulsory purchases by Ministers corresponding to the preceding provisions of this Part.

#### Commencement Information

**1195** S. 184 not in force at Royal Assent, see [s. 255\(7\)](#)

**1196** S. 184 in force at 31.1.2024 for specified purposes by [S.I. 2024/92](#), [reg. 2\(k\)](#)

### 185 Time limits for implementation

- (1) In the Acquisition of Land Act 1981—  
 (a) after section 13C insert—

#### “13D Power to extend time limit for implementation

(1) The confirming authority may, when it confirms a compulsory purchase order, include provision in the order specifying a period longer than three years for the purposes of section 4 of the Compulsory Purchase Act 1965 (time limit for notice to treat) and section 5A of the Compulsory Purchase (Vesting Declarations) Act 1981 (time limit for general vesting declaration).

(2) No such provision is to be included by the acquiring authority in the order submitted for confirmation.”;

- (b) in paragraph 1 of Schedule 1 (preliminary provision about compulsory purchase by Ministers), after sub-paragraph (3) insert—

“(3A) The order may, in particular, include provision specifying a period longer than three years for the purposes of section 4 of the Compulsory Purchase Act 1965 (time limit for notice to treat) and section 5A of the Compulsory Purchase (Vesting Declarations) Act 1981 (time limit for general vesting declaration).”

- (2) In the Compulsory Purchase Act 1965—

- (a) in section 4 (time limit for notice to treat)—

(i) the existing text becomes subsection (1);

(ii) in that subsection, for “period of 3 years” substitute “applicable period”;

- (iii) after that subsection insert—

“(2) The applicable period is—

(a) 3 years, or

(b) such longer period as is specified in the order for the purposes of this section.”;



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- (b) in section 4A (extension of time limit during challenge), in subsection (1), for “three year period mentioned in” substitute “applicable period for the purposes of”.
- (3) In the Compulsory Purchase (Vesting Declarations) Act 1981—
- (a) in section 5A (time limit for general vesting declaration)—
    - (i) the existing text becomes subsection (1);
    - (ii) in that subsection, for “period of 3 years” substitute “applicable period”;
    - (iii) after that subsection insert—
      - “(2) The applicable period is—
      - (a) 3 years, or
      - (b) such longer period as is specified in the order for the purposes of this section.”;
  - (b) in section 5B (extension of time limit during challenge), in subsection (1), for “three year period mentioned in” substitute “applicable period for the purposes of”.
- (4) In section 582 of the Housing Act 1985 (suspension of recovery of possession of certain premises when compulsory purchase order made)—
- (a) in subsection (2)(a), for “third anniversary of” substitute “final day of the period of three years beginning with”;
  - (b) after subsection (6) insert—
    - “(6A) If the compulsory purchase order specifies a period longer than three years under section 13D of the Acquisition of Land Act 1981, the references in this section to the period of three years are to be read as references to the period specified in the order.”

#### Commencement Information

**I197** S. 185 not in force at Royal Assent, see [s. 255\(7\)](#)

**I198** S. 185 in force at 31.1.2024 by [S.I. 2024/92](#), [reg. 2\(1\)](#) (with [reg. 6\(1\)](#))

## 186 Agreement to vary vesting date

- (1) The Compulsory Purchase (Vesting Declarations) Act 1981 is amended as set out in subsections (2) to (6).
- (2) In section 7 (constructive notice to treat), in subsection (1), at the beginning insert “Subject to section [8A](#),”.
- (3) In section 8 (vesting, entry and possession), in subsection (1), for “section” substitute “sections [8A](#) and”.
- (4) After section 8 insert—

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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### “8A Postponement of vesting by agreement

- (1) The acquiring authority may agree in writing with the owner of any interest which is to vest in the authority under section 8 that the interest is to vest on a date after the vesting date.
- (2) If such an agreement is in force on the vesting date, sections 7 and 8 operate in relation to the interest as if the vesting date were—
  - (a) the agreed date, or
  - (b) any date subsequently agreed under subsection (1).
- (3) If an interest subject to an agreement under this section entitles the owner to possession of the land concerned, the right to enter upon and take possession of the land given by section 8 does not arise until the interest vests in accordance with this section.”
- (5) In section 10 (compensation), after subsection (1) insert—
 

“(1A) But if an agreement under section 8A is in force in relation to an interest in the land when the land becomes vested apart from that interest, subsection (1) does not give rise to any liability in relation to the interest until it becomes vested.”
- (6) In paragraph 5 of Schedule A1 (definitions for the purposes of the Schedule)—
  - (a) the existing text become sub-paragraph (1);
  - (b) in that sub-paragraph, in the definition of “original vesting date”, after “is” insert “, subject to sub-paragraph (2),”;
  - (c) after that sub-paragraph insert—
 

“(2) If an agreement under section 8A is in force in respect of the interest which gives the owner the ability to sell the land proposed to be acquired, the “original vesting date” is the date on which the interest is to vest as a result of the agreement.”
- (7) In section 5A of the Land Compensation Act 1961 (valuation date)—
  - (a) in subsection (4), after “date is” insert “, subject to subsection (4A),”;
  - (b) after subsection (4) insert—
 

“(4A) If an interest in land vests in accordance with an agreement under section 8A of that Act (postponement of vesting), the relevant valuation date in respect of that interest is the earlier of—

    - (a) the date on which it vests, and
    - (b) the date when the assessment is made.”;
  - (c) in subsection (5B)(b), after “is” insert “, as a result of Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (counter-notices in respect of divided land),”.

#### Commencement Information

**I199** S. 186 not in force at Royal Assent, see s. 255(7)

**I200** S. 186 in force at 31.1.2024 by S.I. 2024/92, reg. 2(m) (with reg. 6(2))

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## 187 Common standards for compulsory purchase data

- (1) The Secretary of State may, by regulations, make provision requiring an acquiring authority, in preparing, holding or providing such of its relevant compulsory purchase data as is specified or described in the regulations, to comply with any approved data standards which are applicable.
- (2) “Acquiring authority” means any person who is, or may be, authorised under an enactment to acquire land compulsorily.
- (3) “Approved data standards”, in relation to relevant compulsory purchase data, are such written standards, containing technical specifications or other requirements in relation to the data, or in relation to preparing, holding or providing the data, as may be published by the Secretary of State from time to time.
- (4) “Relevant compulsory purchase data” means information that is, or is to be, contained in relevant compulsory purchase documentation.
- (5) “Relevant compulsory purchase documentation” means an order or notice or any other documentation that is, or is to be, prepared by an acquiring authority (acting as such) under or for the purposes of relevant compulsory purchase legislation.
- (6) “Relevant compulsory purchase legislation” means provision made by or under—
  - (a) the Land Compensation Act 1961,
  - (b) the Compulsory Purchase Act 1965,
  - (c) the Land Compensation Act 1973,
  - (d) sections 10 to 16 of, and Schedules 4 and 5 to, the New Towns Act 1981,
  - (e) the Compulsory Purchase (Vesting Declarations) Act 1981,
  - (f) the Acquisition of Land Act 1981,
  - (g) section 9 of the Tribunals and Inquiries Act 1992,
  - (h) Part 7 of the Housing and Planning Act 2016, or
  - (i) Chapter 1 of Part 2 of the Neighbourhood Planning Act 2017.
- (7) “Providing”, in subsection (1), includes submitting, issuing, serving, notifying and publishing.

### Commencement Information

**I201** S. 187 not in force at Royal Assent, see [s. 255\(7\)](#)

**I202** S. 187 in force at 31.1.2024 by [S.I. 2024/92](#), [reg. 2\(n\)](#)

## Compensation

### 188 ‘No-scheme’ principle: minor amendments

- (1) In section 6D of the Land Compensation Act 1961 (no-scheme principle)—
  - (a) in subsection (3), for “regeneration or redevelopment” substitute “development”;
  - (b) in subsection (4)(a), for “regeneration or redevelopment” substitute “development for which the land is acquired”;
  - (c) after subsection (6) insert—

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“(7) In this section and section 6E, “development” includes re-development, regeneration and improvement.”

(2) In section 6E of that Act (further provision about inclusion of transport projects in “scheme” for purposes of no-scheme principle)—

- (a) in subsection (2)(a), for “regeneration or redevelopment” substitute “the development of land in the vicinity of land comprised in the relevant transport project”;
- (b) in subsection (2)(c), omit “for regeneration or redevelopment”;
- (c) in subsection (3), for “8 September 2016” substitute “the relevant date”;
- (d) after subsection (3) insert—

“(3A) The “relevant date” is—

- (a) 8 September 2016, in a case where the land is acquired for regeneration or redevelopment and regeneration or redevelopment was part of the published justification for the relevant transport project;
- (b) in any other case, the first day after the period of three months beginning with the day on which section 188 of the Levelling-up and Regeneration Bill comes into force.”

#### Commencement Information

**I203** S. 188 not in force at Royal Assent, see [s. 255\(7\)](#)

**I204** S. 188 in force at 31.1.2024 by [S.I. 2024/92, reg. 2\(o\)](#)

PROSPECTIVE

### 189 Prospects of planning permission for alternative development

(1) The Land Compensation Act 1961 is amended as follows.

(2) In section 14 (taking account of actual or prospective planning permission in valuing land)—

- (a) in subsection (2), for paragraph (b) substitute—
  - “(b) of the prospect of planning permission being granted on or after that date for development, whether on the relevant land or other land, other than development for which planning permission is in force at the relevant valuation date.”;
- (b) for subsections (3) and (4) substitute—

“(2A) If a description of development is certified under section 17 as appropriate alternative development in relation to the relevant land (or any part of it), it is to be taken as certain for the purposes of subsection (2)(b) that—

- (a) planning permission for development of that description would be (or would have been) granted on the relevant valuation date, and
- (b) the permission would be (or would have been) granted in accordance with any indication given under section 17(5B).

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- (2B) In relation to any other development, the prospects of planning permission are to be assessed for the purposes of subsection (2)(b)—
- (a) on the assumptions set out in subsection (5), and
  - (b) otherwise, in the circumstances known to the market at the relevant valuation date.”;
- (c) in subsection (5), in the words before paragraph (a), for “subsections (2)(b) and (4)(b)” substitute “subsection (2B)(a) (and in section 17(1B)(a))”;
  - (d) in subsection (9), in the words before paragraph (a), for the words from “to” to “15(1)(b)” substitute “in subsection (2) to planning permission that is in force”.
- (3) In section 17 (certification of appropriate alternative development)—
- (a) in subsection (1), for the words from “containing” to the end substitute “stating that a certain description of development is appropriate alternative development in relation to the acquisition”;
  - (b) after subsection (1) insert—
 

“(1A) Development is “appropriate alternative development” for this purpose if it is development—

    - (a) on the land in which the interest referred to in subsection (1) subsists (whether alone or together with other land),
    - (b) for which planning permission is not in force at the relevant planning date, and
    - (c) in respect of which the following test is met.

(1B) The test is whether, had an application for planning permission for the development been determined on the relevant planning date, the local planning authority would have been more likely than not to grant the permission—

    - (a) on the assumptions set out in section 14(5),
    - (b) on the assumption that it would act lawfully, and
    - (c) otherwise, in the circumstances known to the market at the relevant planning date.

(1C) For the purposes of subsections (1A) and (1B), the “relevant planning date” is—

    - (a) the relevant valuation date, or
    - (b) if earlier, the date on which the application under this section is determined.”;
  - (c) in subsection (3), for paragraphs (a) and (b) substitute—
 

“(ba) must set out the applicant’s reasons for considering that the description of development given in the application is appropriate alternative development, and”;
  - (d) for subsections (5) to (8) substitute—
 

“(5A) The local planning authority may issue a certificate under this section in respect of—

    - (a) the description of development given in the application for the certificate, or

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- (b) a description of development less extensive than, but otherwise falling within, the description given in the application.
- (5B) A certificate under this section must give a general indication of—
- (a) any conditions to which planning permission for the development would have been subject, and
  - (b) any pre-condition for granting the permission (for example, entry into an obligation) that would have had to be met.
- (5C) The test to be applied for the purposes of subsection (5B) is whether the local planning authority would have been more likely than not to impose such conditions, or insist on such a pre-condition, on the assumptions, and otherwise in the circumstances, referred to in subsection (1B).”;
- (e) in subsection (10)—
    - (i) for “there must be taken into account any expenses reasonably” substitute “no account is to be taken of any expenses”;
    - (ii) omit the words from “where” to “favour”.
- (4) In section 18 (appeals to Upper Tribunal)—
- (a) in subsection (2)—
    - (i) after paragraph (a) (but before the “and” at the end) insert—
      - “(aa) must consider those matters as if, in subsections (1B) and (5C), the references to the local planning authority were references to a reasonable planning authority.”;
    - (ii) in paragraph (b), after sub-paragraph (ii) insert—
      - “(iia) cancel it, or”;
  - (b) after subsection (2) insert—
    - “(2A) Where the local planning authority have rejected an application for a certificate under section 17, the person who applied for the certificate may appeal to the Upper Tribunal against the rejection.
- (2B) On an appeal under subsection (2A)—
- (a) paragraphs (a) and (aa) of subsection (2) apply as on an appeal under subsection (1), and,
  - (b) the Upper Tribunal must—
    - (i) confirm the rejection, or
    - (ii) issue a certificate,
 as the Upper Tribunal may consider appropriate.”;
  - (c) in subsection (3), for the words from “the preceding” to the end substitute “subsection (2A) applies as if the local planning authority have rejected the application”;
  - (d) after subsection (3) insert—
    - “(4) The references in sections 14(2A) and 17(5A) and (5B) to a certificate under section 17 include a certificate issued, or as varied, by the Upper Tribunal under this section.”
- (5) In section 19 (applications by surveyors)—

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- (a) in subsection (3), for “paragraphs (a) and (b)” substitute “paragraph (ba)”;
  - (b) after that subsection insert—

“(4) In the application of section 18 by virtue of subsection (1)—

- (a) subsection (1)(a) of that section is to be read as if it included the surveyor, and
- (b) subsection (2A) of that section is to be read as if the reference to the person who applied for the certificate included the person entitled to the interest.”

- (6) In section 20(a) (power to prescribe time limit for issuing certificate under section 17), for the words from “time” to the end substitute “period within which an application under that section is to be determined”.

- (7) In section 22 (interpretation of Part 3), after subsection (2) insert—

“(2A) The completion of the acquisition or purchase referred to in the applicable paragraph of subsection (2) does not affect the continued application of that subsection.”

#### Commencement Information

**I205** S. 189 not in force at Royal Assent, see [s. 255\(7\)](#)

VALID FROM 31/03/2024

### 190 Power to require prospects of planning permission to be ignored

- (1) In the Acquisition of Land Act 1981—

- (a) in section 7(3) (regulations subject to negative procedure), before “paragraph 4A” insert “section [15A\(11\)](#) or”;
  - (b) in section 14A (confirmation by acquiring authority), after subsection (2) insert—

“(2A) Nor does it apply to an order directing that compensation is to be assessed in accordance with section [14A](#) of the Land Compensation Act 1961 (see section [15A](#)).”;

- (c) after section 15 insert—

*“Special provision about compensation*

#### **15A Directions applying section [14A](#) of the Land Compensation Act 1961**

- (1) Subsection (2) applies if—

- (a) an acquiring authority submits a compulsory purchase order for confirmation, and
- (b) the authorising enactment is listed in [Schedule 2A](#).

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- (2) The acquiring authority may include in the order a direction that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961 (cases where prospect of planning permission to be ignored); and if it does so the following provisions of this section apply.
- (3) The acquiring authority must submit to the confirming authority a statement of commitments together with the order.
- (4) A “statement of commitments” is a statement of the acquiring authority’s intentions as to what will be done with the project land should the acquisition proceed, so far as the authority relies on those intentions in contending that the direction is justified in the public interest.
- (5) If the authorising enactment is listed in any of paragraphs 2 to 7 of Schedule 2A, those intentions must include the provision of a certain number of units of affordable housing.
- (6) The statement under section 12(1)(a) must include a statement of the effect of the direction; and paragraphs (ba) and (bb) of the same subsection apply in respect of the statement of commitments as they apply in respect of the compulsory purchase order.
- (7) The confirming authority may permit the acquiring authority to amend the statement of commitments before the decision whether to confirm the order is made.
- (8) But the confirming authority may do so—
  - (a) only if satisfied that the amendment would not be unfair to any person who made or could have made a relevant objection for the purposes of section 13, and
  - (b) if the authorising enactment is listed in any of paragraphs 2 to 7 of Schedule 2A, only if the statement of commitments as amended will still comply with subsection (5).
- (9) If the confirming authority decides to confirm the order in accordance with the applicable provisions of this Part—
  - (a) it may confirm the order with the direction included if satisfied that the direction is justified in the public interest;
  - (b) otherwise, it must modify the order so as to remove the direction.
- (10) If the order is confirmed with the direction included, a confirmation notice under section 15 must (in addition to the matters set out in subsection (4) of that section)—
  - (a) state the effect of the direction,
  - (b) explain how the statement of commitments may be viewed, and
  - (c) explain that additional compensation may become payable if the statement of commitments is not fulfilled.
- (11) In this section—



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“the authorising enactment” means the enactment that confers the power to make the compulsory purchase to which the order in question relates;

“the project land” means—

- (a) the land proposed to be acquired further to the compulsory purchase order, and
- (b) any other land that the acquiring authority intends to be used in connection with that land;

“unit of affordable housing” means a building or part of a building that is constructed or adapted for use as a separate dwelling and—

- (a) in the case of a building in England, is to be used as—
  - (i) social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, or
  - (ii) housing of any other description that is prescribed, or
- (b) in the case of a building in Wales, is to be used as housing of a description that is prescribed.”;
- (d) after Schedule 2 insert—

#### “SCHEDULE 2A

Section 15A

#### ENACTMENTS ELIGIBLE FOR DIRECTIONS APPLYING SECTION 14A OF THE LAND COMPENSATION ACT 1961

##### **Enactments authorising acquisitions for purposes including housing**

- 1 Section 21A(1)(c) and (2)(c) of the Welsh Development Agency Act 1975 (acquisition by Welsh Ministers of land in England for Welsh development purposes).
- 2 Section 142 of the Local Government, Planning and Land Act 1980 (acquisition by urban development corporation).
- 3 Section 17 of the Housing Act 1985 (acquisition by local housing authority).
- 4 Section 226 of the Town and Country Planning Act 1990 (acquisition by local authority for development or planning purposes).
- 5 Section 333ZA of the Greater London Authority Act 1999 (acquisition by Greater London Authority for housing or regeneration purposes).
- 6 Section 9 of the Housing and Regeneration Act 2008 (acquisition by the Homes and Communities Agency).
- 7 Section 207 of the Localism Act 2011 (acquisition by mayoral development corporation).

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### Enactments authorising acquisitions for purposes of the NHS

- 8 Paragraph 46 of Schedule 4 to the Health and Social Care (Community Health and Standards) Act 2003 (acquisition by NHS foundation trust).
- 9 Paragraph 27 of Schedule 4 to the National Health Service Act 2006 (acquisition by NHS trust).
- 10 In the National Health Service (Wales) Act 2006—
- (a) paragraph 20 of Schedule 2 (acquisition by local health board);
  - (b) paragraph 27 of Schedule 3 (acquisition by NHS trust).

### Enactment authorising acquisitions for educational purposes

- 11 Section 530 of the Education Act 1996 (acquisition by local authority for purposes of educational institution or function).”

(2) In the Land Compensation Act 1961—

- (a) after section 14 insert—

#### “14A Cases where prospect of planning permission to be ignored

- (1) The following provisions apply in relation to an acquisition if the compulsory purchase order authorising the acquisition directs that compensation is to be assessed in accordance with this section.
  - (2) Section 14 does not apply.
  - (3) In assessing the value of land in accordance with rule (2) in section 5, it is to be assumed that no planning permission would be granted for development on the relevant land (whether alone or together with other land).
  - (4) Subsection (3) does not prevent account being taken of planning permission that has already been granted.
  - (5) Subsection (3) does not apply in relation to development consisting of the use as two or more separate dwellings of any building previously used as a single dwelling.
  - (6) [Schedule 2A](#) provides for the payment of additional compensation in respect of the acquisition in certain circumstances.”;
- (b) in section 32 (interest from entry on land), after subsection (2) insert—
- “(3) This section does not apply in relation to additional compensation payable under [Schedule 2A](#).”;
- (c) after the second Schedule insert—

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## “SCHEDULE 2A

Section 14A(6)

## ADDITIONAL COMPENSATION WHERE SECTION 14A APPLIED

**Directions for additional compensation**

- 1 (1) This paragraph applies if—
  - (a) an interest in land has been acquired further to a compulsory purchase order, and
  - (b) the order directed that compensation was to be assessed in accordance with section 14A.
- (2) The confirming authority must, on an application by an eligible person, make a direction for additional compensation if it appears to the confirming authority that the following conditions are met.
- (3) Those conditions are—
  - (a) that the statement of commitments has not been fulfilled,
  - (b) either—
    - (i) that the period of 10 years beginning with the date on which the compulsory purchase order became operative has expired, or
    - (ii) that there is no longer any realistic prospect of the statement of commitments being fulfilled within that period, and
  - (c) that the initial direction would not have been confirmed on the basis of a statement of commitments reflecting what has in fact been done with the project land since its acquisition.
- (4) In sub-paragraph (3)—
 

“the statement of commitments” means the statement of commitments submitted in connection with the compulsory purchase order under section 15A(3) of the Acquisition of Land Act 1981 (and if the statement was amended after its submission, means the statement as amended);

“the initial direction” means the direction referred to in sub-paragraph (1)(b) (and that direction was “confirmed” when the compulsory purchase order was confirmed with the inclusion of the direction);

“the project land” means the land treated as the project land for the purposes of the statement of commitments;

and that statement is “fulfilled” if what is done with that land after its acquisition is materially in accordance with the statement.
- (5) The effect of a direction for additional compensation is that each eligible person may make a claim to the acquiring authority

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for any additional compensation in respect of the acquisition payable to the person under this Schedule.

- (6) A person is an “eligible person” for the purposes of this Schedule if the person was entitled to compensation in respect of the acquisition (and see also paragraph 4(1)).

#### **Amount of additional compensation**

- 2 (1) Additional compensation in respect of an acquisition is payable to an eligible person only if, in relation to that person, the alternative amount is greater than the original amount.
- (2) The amount payable is the difference between the two amounts.
- (3) The “original amount” is the amount of compensation awarded or agreed to be paid to the person in respect of the acquisition.
- (4) The “alternative amount” is the amount of compensation that would have been assessed as due to the person in respect of the acquisition had compensation been assessed without the application of section 14A.
- (5) If the original amount was agreed, the relevant valuation date for the purposes of the assessment imagined under sub-paragraph (4) is the date on which the agreement was concluded.
- (6) In relation to the determination of an amount of additional compensation under this Schedule, section 17(2)(b) applies as if its reference to the amount of compensation were to the amount of additional compensation.
- (7) A certificate issued under section 17 (or 18) after the award or agreement referred to in sub-paragraph (3) is to have effect for the purposes of the assessment imagined under sub-paragraph (4) as if it had been issued before that assessment.
- (8) Any amount of compensation that is or would be attributable to disturbance, severance or injurious affection is to be ignored for the purposes of sub-paragraphs (3) and (4).

#### **Time limit for application for direction**

- 3 An application under paragraph 1(2) may not be made after the expiry of the period of 13 years beginning with the date on which the compulsory purchase order became operative.

#### **Mortgages**

- 4 (1) For the purposes of this Schedule an “eligible person” includes a person who would have been entitled to compensation in respect of the acquisition but for the existence of a mortgage (but the mortgage is in that case still to be taken into account in determining the original and alternative amounts under paragraph 2).

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- (2) An amount agreed or awarded to be paid to a mortgagee under section 15 or 16 of the Compulsory Purchase Act 1965 in respect of the acquisition is to be treated for the purposes of this Schedule as compensation in respect of the acquisition.
- (3) The reference in sub-paragraph (2) to an amount paid under section 15 or 16 of the Compulsory Purchase Act 1965 (“the applicable section”) includes an amount paid under section 52ZA or 52ZB of the Land Compensation Act 1973 and taken into account by virtue of section 52ZC(7)(d) of that Act for the purposes of the applicable section.
- (4) Additional compensation payable under this Schedule to a person in the person’s capacity as a mortgagee (or to a person exercising rights of a mortgagee) is to be applied towards the discharge of the sums secured by the mortgage.
- (5) If there is no remaining sum secured by the mortgage, the additional compensation that would be payable as described in sub-paragraph (4) is instead payable to the person who is an eligible person by virtue of the interest that was subject to the mortgage.
- (6) If the additional compensation that would be payable as described in sub-paragraph (4) exceeds the total of the remaining sums secured by the mortgage, the amount of the excess is instead payable to the person who is an eligible person by virtue of the interest that was subject to the mortgage.

#### Successors-in-title

- 5 (1) This paragraph applies if, had the compensation to which an eligible person was entitled in respect of the acquisition remained unpaid, the right to be paid it would now vest in some other person (assuming that it remained enforceable and any obligations in respect of the right had been complied with).
- (2) If the eligible person is still alive or in existence, the rights that the eligible person would have under this Schedule are exercisable by the other person and not by the eligible person.
- (3) If the eligible person is no longer alive or in existence, the rights that the eligible person would have under this Schedule if that person were still alive or in existence are exercisable by the other person.
- (4) The right exercisable by the other person under sub-paragraph (2) or (3) is subject to any restriction, condition or other incident to which the right vested in that person as imagined under sub-paragraph (1) would be subject.
- (5) Additional compensation paid to the other person by virtue of sub-paragraph (2) or (3) must be dealt with by the person in any way in which the person would have to deal with compensation

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paid to that person further to the right vested in that person as imagined under sub-paragraph (1).

- (6) If a person is an eligible person by virtue of paragraph 4(1), the reference in sub-paragraph (1) to compensation to which the person was entitled is to be read as a reference to the compensation to which the person would have been entitled but for the mortgage.

### Consequential losses

- 6 (1) The relevant authority may by regulations provide for additional compensation payable on a claim under paragraph 1(5) to include (in addition to any amount payable under paragraph 2) an amount to make good qualifying losses.
- (2) “Qualifying losses” are financial losses shown to have been suffered by an eligible person, or a person entitled to exercise the rights of the eligible person under paragraph 5, as a result of the compensation initially payable to the eligible person in respect of the acquisition being of the original amount rather than the alternative amount.
- (3) In the case of an eligible person who is so by virtue of an interest that was subject to a mortgage, the reference in sub-paragraph (2) to compensation payable to the eligible person is to be taken to include compensation payable to the mortgagee of that interest.
- (4) Regulations under this paragraph may limit the qualifying losses in respect of which additional compensation is payable under the regulations by reference to—
- (a) a description of loss,
  - (b) an amount, or
  - (c) any other circumstance.

### Procedure etc

- 7 (1) The relevant authority may by regulations make provision—
- (a) about the procedure for applications under paragraph 1(2) or claims under paragraph 1(5) (including provision about the costs of such applications or claims);
  - (b) about steps that must be taken by the acquiring authority or the confirming authority for the purposes of publicising or giving notice of a direction for additional compensation;
  - (c) for interest to be applied to amounts of additional compensation that are payable;
  - (d) about how or when additional compensation (and any interest) is to be paid.

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(2) Regulations under this paragraph about costs of claims under paragraph 1(5)—

- (a) may modify or disapply section 29 of the Tribunals, Courts and Enforcement Act 2007 (costs or expenses) or provisions in Tribunal Procedure Rules relating to costs;
- (b) may apply (with or without modifications) section 4 of this Act;

and section 4 of this Act does not apply in relation to such a claim unless so applied.

### Regulations

8 (1) For the purposes of this Schedule “the relevant authority” is—

- (a) the Secretary of State, in relation to England;
- (b) the Welsh Ministers, in relation to Wales.

(2) Regulations under this Schedule may make—

- (a) consequential, supplementary, incidental, transitional or saving provision;
- (b) different provision for different purposes.

(3) Regulations under this Schedule are to be made by statutory instrument.

(4) A statutory instrument containing such regulations is subject to annulment in pursuance of—

- (a) a resolution of either House of Parliament, in the case of regulations made by the Secretary of State, or
- (b) a resolution of Senedd Cymru, in the case of regulations made by the Welsh Ministers.

### Interpretation

9 (1) In this Schedule—

- (a) “the confirming authority” means—
  - (i) the person who confirmed the compulsory purchase order, or
  - (ii) any successor to that person’s function of confirming compulsory purchase orders of the type in question;
- (b) references to “the acquisition” or “the compulsory purchase order” are to the acquisition or order by virtue of which paragraph 1 applies;
- (c) references to the acquisition of an interest in land include—
  - (i) the creation of such an interest, and
  - (ii) the acquisition or creation of a right in or over land;

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and references to interests in land are to be read accordingly.

- (2) In the case of a compulsory purchase order made under section 10(1) of, and Part 1 of Schedule 4 to, the New Towns Act 1981 (compulsory acquisition by new town development corporation in usual cases), the reference in paragraph 1(4) to section 15A(3) of the Acquisition of Land Act 1981 is to be read as a reference to paragraph 5A(2) of Schedule 4 to the New Towns Act 1981.
- (3) In the case of a compulsory purchase order made under section 13(1)(a) of, and Part 1 of Schedule 5 to, the New Towns Act 1981 (compulsory acquisition by new town development corporation of statutory undertakers' operational land)—
  - (a) the reference in paragraph 1(4) to section 15A(3) of the Acquisition of Land Act 1981 is to be read as a reference to paragraph 5A(2) of Schedule 5 to the New Towns Act 1981, and
  - (b) the references in paragraph 1(4) and subparagraph (1)(a) to the confirmation of the order are to be read as references to the making of the order.
- (4) In the case of a compulsory purchase order made under section 21A(1)(b) or (2)(b) of the Welsh Development Agency Act 1975 (compulsory acquisition by Welsh Ministers of land in Wales for Welsh development purposes)—
  - (a) the reference in paragraph 1(4) to submission under section 15A(3) of the Acquisition of Land Act 1981 is to be read as a reference to preparation under paragraph 3B(2) of Schedule 4 to the Welsh Development Agency Act 1975, and
  - (b) the references in paragraph 1(4) and subparagraph (1)(a) to the confirmation of the order are to be read as references to the making of the order.
- (5) If—
  - (a) an interest in land is acquired further to section 154(2) of the Town and Country Planning Act 1990 (deemed compulsory acquisition further to blight notice), and
  - (b) the land falls within paragraph 22 of Schedule 13 to that Act (land blighted by compulsory purchase order),

the interest is to be treated for the purposes of this Schedule as having been acquired further to the compulsory purchase order by virtue of which the land falls within that paragraph.”

(3) In the New Towns Act 1981—

- (a) in Schedule 4 (procedure for compulsory acquisition by new town development corporation in usual cases), after paragraph 5 insert—

“5A (1) A development corporation submitting an order to the Secretary of State under this Part of this Schedule may include in the order a direction that compensation is to be assessed in accordance



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with section 14A of the Land Compensation Act 1961 (cases where prospect of planning permission to be ignored); and if it does so the following provisions of this paragraph apply.

- (2) The corporation must submit a statement of commitments together with the order.
- (3) A “statement of commitments” is a statement of the corporation’s intentions as to what will be done with the project land should the acquisition proceed, so far as the corporation relies on those intentions in contending that the direction is justified in the public interest.
- (4) Those intentions must include the provision of a certain number of units of affordable housing.
- (5) The notice under paragraph 2(1) must—
  - (a) state the effect of the direction, and
  - (b) name a place where a copy of the statement of commitments may be seen at any reasonable hour.
- (6) The Secretary of State may permit the corporation to amend the statement of commitments before the decision whether to confirm the order is made.
- (7) But the Secretary of State may do so—
  - (a) only if satisfied that the amendment would not be unfair to any person who duly made or could duly have made an objection for the purposes of paragraph 4, and
  - (b) only if the statement of commitments as amended will still comply with sub-paragraph (4).
- (8) If the Secretary of State decides to confirm the order under paragraph 3, the Secretary of State—
  - (a) may confirm the order with the direction included if satisfied that the direction is justified in the public interest;
  - (b) otherwise, must modify the order so as to remove the direction.
- (9) If the order is confirmed with the direction included, the notice under paragraph 5 must—
  - (a) state the effect of the direction,
  - (b) explain how the statement of commitments may be viewed, and
  - (c) explain that additional compensation may become payable if the statement of commitments is not fulfilled.
- (10) In this paragraph—

“the project land” means—

  - (a) the land proposed to be acquired further to the compulsory purchase order, and
  - (b) any other land that the corporation intends to be used in connection with that land;

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“unit of affordable housing” means a building or part of a building that is constructed or adapted for use as a separate dwelling and—

- (a) in the case of a building in England, is to be used as—
    - (i) social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, or
    - (ii) housing of any other description that is set out in regulations made by the Secretary of State, or
  - (b) in the case of a building in Wales, is to be used as housing of a description that is set out in regulations made by the Welsh Ministers.”;
- (b) in Schedule 5 (procedure for compulsory acquisition by new town development corporation of statutory undertaker’s operational land), after paragraph 5 insert—
- “5A (1) A development corporation making an application under this Part of this Schedule may include in the application a request for a direction that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961 (cases where prospect of planning permission to be ignored); and if it does so the following provisions of this paragraph apply.
- (2) The corporation must submit a statement of commitments together with the application.
- (3) A “statement of commitments” is a statement of the corporation’s intentions as to what will be done with the project land should the acquisition proceed, so far as the corporation relies on those intentions in contending that the direction would be justified in the public interest.
- (4) Those intentions must include the provision of a certain number of units of affordable housing.
- (5) The notice under paragraph 2 must—
- (a) state that the request has been made and what the effect of the direction would be, and
  - (b) name a place where a copy of the statement of commitments may be seen at all reasonable hours.
- (6) The Secretary of State and the appropriate Minister may permit the corporation to amend the statement of commitments before the decision whether to make an order on the application is made.
- (7) But they may do so—
- (a) only if satisfied that the amendment would not be unfair to any person who duly made or could duly have made an objection for the purposes of paragraph 3, and
  - (b) only if the statement of commitments as amended will still comply with sub-paragraph (4).

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- (8) If the Secretary of State and the appropriate Minister decide to make an order on the application under paragraph 3, they may include the direction in the order only if satisfied that the direction is justified in the public interest.
- (9) If an order is made with the direction included, the notice under paragraph 5 must—
- (a) state the effect of the direction,
  - (b) explain how the statement of commitments may be viewed, and
  - (c) explain that additional compensation may become payable if the statement of commitments is not fulfilled.
- (10) In this paragraph—
- “the project land” means—
- (a) the land proposed to be acquired further to the compulsory purchase order, and
  - (b) any other land that the corporation intends to be used in connection with that land;
- “unit of affordable housing” means a building or part of a building that is constructed or adapted for use as a separate dwelling and—
- (a) in the case of a building in England, is to be used as—
    - (i) social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, or
    - (ii) housing of any other description that is set out in regulations made by the Secretary of State, or
  - (b) in the case of a building in Wales, is to be used as housing of a description that is set out in regulations made by the Welsh Ministers.”
- (4) In Part 1 of Schedule 4 to the Welsh Development Agency Act 1975 (procedure for compulsory acquisition under that Act), after paragraph 3A insert—
- “3B (1) Where the Welsh Ministers prepare a compulsory purchase order in draft under section 21A(1)(b) or (2)(b), they may include in the draft order a direction that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961 (cases where prospect of planning permission to be ignored); and if they do so the following provisions of this paragraph apply.
- (2) The Welsh Ministers must prepare a statement of commitments together with the draft order.
  - (3) A “statement of commitments” is a statement of the Welsh Ministers’ intentions as to what will be done with the project land should the acquisition proceed, so far as they rely on those intentions in contending that the direction is justified in the public interest.

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- (4) Those intentions must include the provision of a certain number of units of affordable housing.
- (5) The statement under paragraph 3(1)(a) of Schedule 1 to the 1981 Act must include a statement of the effect of the direction; and paragraphs (ba) and (bb) of the same sub-paragraph apply in respect of the statement of commitments as they apply in respect of the draft order.
- (6) The Welsh Ministers may amend the statement of commitments before the compulsory purchase order is made.
- (7) But they may do so—
  - (a) only if satisfied that the amendment would not be unfair to any person who made or could have made a relevant objection for the purposes of paragraph 4 of Schedule 1 to the 1981 Act, and
  - (b) only if the statement of commitments as amended will still comply with sub-paragraph (4).
- (8) If the Welsh Ministers decide to make the compulsory purchase order in accordance with the applicable provisions of Schedule 1 to the 1981 Act—
  - (a) they may make the order with the direction included if satisfied that the direction is justified in the public interest;
  - (b) otherwise, they must modify the draft of the order so as to remove the direction.
- (9) If the order is made with the direction included, a making notice under paragraph 6 of Schedule 1 to the 1981 Act must (in addition to the matters set out in sub-paragraph (4) of that paragraph)—
  - (a) state the effect of the direction,
  - (b) explain how the statement of commitments may be viewed, and
  - (c) explain that additional compensation may become payable if the statement of commitments is not fulfilled.
- (10) In this paragraph—

“the project land” means—

  - (a) the land proposed to be acquired further to the compulsory purchase order, and
  - (b) any other land that the Welsh Ministers intend to be used in connection with that land;

“unit of affordable housing” means a building or part of a building that is constructed or adapted for use as a separate dwelling and—

  - (a) in the case of a building in Wales, is to be used as housing of a description that is set out in regulations made by the Welsh Ministers, or
  - (b) in the case of a building in England, is to be used as—
    - (i) social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, or
    - (ii) housing of any other description that is set out in regulations made by the Secretary of State.

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(11) A statutory instrument containing regulations under sub-paragraph (10) is subject to annulment in pursuance of a resolution of—

- (a) Senedd Cymru, in the case of regulations made by the Welsh Ministers, or
- (b) either House of Parliament, in the case of regulations made by the Secretary of State.”

(5) In section 157 of TCPA 1990 (special provisions as to compensation for acquisitions further to blight notices), before subsection (1) insert—

“(A1) Where—

- (a) an interest in land is acquired in pursuance of a blight notice,
- (b) the interest is one in respect of which a compulsory purchase order is in force, and
- (c) the order directs that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961,

the compensation payable for the acquisition is to be assessed in accordance with that direction and as if the notice to treat deemed to have been served in respect of the interest under section 154 had been served in pursuance of the compulsory purchase order.”

#### Commencement Information

**I206** S. 190 not in force at Royal Assent, see [s. 255\(7\)](#)

VALID FROM 31/03/2024

## PART 10

### LETTING BY LOCAL AUTHORITIES OF VACANT HIGH-STREET PREMISES

PROSPECTIVE

#### *Significant concepts*

#### **191 Designated high streets and town centres**

- (1) A local authority may designate a street in its area as a high street for the purposes of this Part if it considers that the street is important to the local economy because of a concentration of high-street uses of premises on the street.
- (2) A local authority may designate an area within its area as a town centre for the purposes of this Part if—
  - (a) the built environment of the area is characterised principally by a network of streets, and
  - (b) the authority considers that the area is important to the local economy because of a concentration of high-street uses of premises in the area.

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- (3) A street or area is not to be designated, however, if the authority considers that its importance derives principally from goods or services purchased in the course of business.
- (4) A designation under this section may be varied or withdrawn at any time.
- (5) A local authority must maintain and make available to the public a list describing, and a map showing, any designations under this section that are in force in its area.
- (6) A designation under this section is a local land charge.
- (7) In this Part—
  - “designated high street” means a street for the time being designated under subsection (1);
  - “designated town centre” means an area for the time being designated under subsection (2).

#### **Commencement Information**

**I207** S. 191 not in force at Royal Assent, see [s. 255\(7\)](#)

### **192 High-street uses and premises**

- (1) For the purposes of this Part, any use of premises that falls within any of the following sub-paragraphs is a “high-street use”—
  - (a) use as a shop or office;
  - (b) use for the provision of services to persons who include visiting members of the public;
  - (c) use as a restaurant, bar, public house, café or other establishment selling food or drink for immediate consumption;
  - (d) use for public entertainment or recreation;
  - (e) use as a communal hall or meeting-place;
  - (f) use for manufacturing or other industrial processes of a sort that can (in each case) reasonably be carried on in proximity to, and compatibly with, the preceding uses.
- (2) For the purposes of this Part, premises are “qualifying high-street premises” if—
  - (a) they are situated on a designated high street or in a designated town centre, and
  - (b) the local authority considers them to be suitable for a high-street use.
- (3) But premises are not “qualifying high-street premises” if they are, or when last used were, used wholly or mainly as a warehouse.
- (4) For the purposes of this Part, “suitable high-street use”, in relation to premises, means a high-street use for which the local authority considers the premises to be suitable.
- (5) In considering the uses for which premises are suitable, a local authority is to have regard to any works that it expects—
  - (a) the landlord would be required to carry out, or
  - (b) the tenant would be permitted to, and likely to, carry out,

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if a contract was entered into under section 204 and a tenancy was granted further to it.

#### Commencement Information

**I208** S. 192 not in force at Royal Assent, see [s. 255\(7\)](#)

### 193 Vacancy condition

- (1) For the purposes of this Part, the “vacancy condition” is satisfied in relation to premises on a given day if—
- (a) the premises are unoccupied on that day, and
  - (b) either—
    - (i) the premises were unoccupied for the whole of the period of one year ending with the previous day, or
    - (ii) during the period of two years ending with the previous day, the premises were unoccupied on at least 366 days.
- (2) For the purposes of subsection (1), premises are occupied on a day during which they begin or cease to be occupied.
- (3) Days before the day on which this section comes into force are to count for the purposes of subsection (1)(b).
- (4) Occupation by a person living in premises that are not designed or adapted for residential use is not to count as occupation for the purposes of this section.
- (5) Regulations may amend this section so as to alter the circumstances in which the “vacancy condition” is satisfied in relation to premises.
- (6) Those circumstances must relate to the time during which premises are or have been unoccupied.
- (7) A state of affairs does not amount to the occupation of premises for the purposes of this section unless it involves the use of the premises for activity that—
- (a) is substantial,
  - (b) is sustained, and
  - (c) involves the regular presence of people at the premises.

#### Commencement Information

**I209** S. 193 not in force at Royal Assent, see [s. 255\(7\)](#)

### 194 Local benefit condition

For the purposes of this Part, the “local benefit condition” is satisfied in relation to premises if the local authority considers that the occupation of the premises for a suitable high-street use would be beneficial to the local economy, society or environment.

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#### Commencement Information

**I210** S. 194 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

### *Procedure preliminary to letting*

#### **195 Initial notice**

- (1) On any day on which it appears to a local authority that the vacancy condition and the local benefit condition are met in relation to qualifying high-street premises in its area, the authority may serve a notice under this section (an “initial letting notice”) on the landlord of the premises.
- (2) An initial letting notice expires (if it has not been withdrawn)—
  - (a) when a final letting notice in relation to the premises takes effect, or
  - (b) at the end of the period of ten weeks beginning with the day on which the initial letting notice takes effect.

#### Commencement Information

**I211** S. 195 not in force at Royal Assent, see [s. 255\(7\)](#)

#### **196 Restriction on letting while initial notice in force**

- (1) While an initial letting notice is in force in relation to premises, the landlord of the premises may not—
  - (a) grant, or agree to grant, a tenancy of, or licence to occupy, the premises, or
  - (b) enter into any other agreement resulting in another person becoming entitled to possess or occupy the premises (except as a result of the transfer or extinction of the landlord’s interest),
 without the written consent of the local authority that served the notice.
- (2) The local authority must give or refuse consent under subsection (1) within a reasonable time after it is sought.
- (3) Subsection (1) does not apply to the grant of a tenancy pursuant to an obligation that bound the landlord before the initial letting notice took effect.
- (4) An obligation that is conditional on the service of an initial letting notice in relation to the premises is to be disregarded for the purposes of subsection (3).
- (5) A tenancy or licence granted, or other agreement entered into, without consent required by subsection (1) is void.
- (6) But subsection (5) is to be treated as never having applied to a tenancy, licence or agreement if—
  - (a) either—



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- (i) the initial letting notice expires without a final letting notice having taken effect, or
  - (ii) a final letting notice served further to the initial letting notice expires without a contract having been entered into under section 204, and
- (b) the parties to the tenancy, licence or agreement have, until the expiry, conducted themselves towards each other on the basis that the tenancy, licence or agreement is valid.

#### Commencement Information

I212 S. 196 not in force at Royal Assent, see s. 255(7)

### 197 Circumstances in which letting to be permitted

- (1) The local authority must give consent under section 196(1) to—
- (a) the grant of, or an agreement to grant, a tenancy, or
  - (b) the grant of a licence to occupy the premises,
- if the conditions in subsection (2) are met.
- (2) The conditions are that—
- (a) the term of the proposed tenancy, or the period of occupation under the proposed licence, would begin within the period of eight weeks beginning with the day on which the initial letting notice took effect,
  - (b) that term or period would be at least one year, and
  - (c) the local authority is satisfied that the tenancy or licence would be likely to lead to the occupation of the premises for a high-street use.
- (3) For the purposes of subsection (2)(b), a term or period is to be taken to be less than one year if the lessor or licensor has a right to terminate it within the period of one year beginning with the day on which it starts, unless that right arises only on default by the tenant or licensee.
- (4) Consent granted further to the duty in subsection (1) is to be treated as not having been given if—
- (a) the proposed tenancy or licence is not granted, or
  - (b) the term of the tenancy, or period of occupation under the licence, does not begin,
- within the period referred to in subsection (2)(a).

#### Commencement Information

I213 S. 197 not in force at Royal Assent, see s. 255(7)

### 198 Final notice

- (1) A local authority may serve a notice under this section (a “final letting notice”) on the landlord of qualifying high-street premises on any day on which—
- (a) an initial letting notice served by the authority is in force in relation to the premises,

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- (b) the period of eight weeks beginning with the day on which that notice took effect has elapsed, and
- (c) either—
  - (i) no tenancy or licence has been granted, or other agreement entered into, with the consent of the authority under section 196 or in circumstances where consent was not needed because of subsection (3) of that section, or
  - (ii) the authority is satisfied that any tenancy, licence or agreement so granted or entered into is consistent with the contemplated exercise of its powers under section 204.
- (2) But the notice must be served in time for it to take effect before the initial letting notice expires.
- (3) A final letting notice expires (if it has not been withdrawn or revoked on appeal, and subject to sections 201(6) and 202(6)) at the end of the period of 14 weeks beginning with the day on which it takes effect.

#### **Commencement Information**

**I214** S. 198 not in force at Royal Assent, see s. 255(7)

### **199 Restriction on letting while final notice in force**

- (1) While a final letting notice is in force in relation to premises, the landlord of the premises may not—
  - (a) grant, or agree to grant, a tenancy of, or licence to occupy, the premises, or
  - (b) enter into any other agreement resulting in another person becoming entitled to possess or occupy the premises (except as a result of the transfer or extinction of the landlord's interest),
 without the written consent of the local authority that served the notice.
- (2) The local authority must give or refuse consent under subsection (1) within a reasonable time after it is sought.
- (3) Subsection (1) does not apply to the grant of a tenancy pursuant to an obligation that bound the landlord before the initial letting notice preceding the final letting notice took effect.
- (4) An obligation that is conditional on the service of an initial letting notice or final letting notice in relation to the premises is to be disregarded for the purposes of subsection (3).
- (5) A tenancy granted, or agreement entered into, without consent required by subsection (1) is void.
- (6) But subsection (5) is to be treated as never having applied to a tenancy, licence or agreement if—
  - (a) the final letting notice expires without a contract having been entered into under section 204, and
  - (b) the parties to the tenancy, licence or agreement have, until that expiry, conducted themselves towards each other on the basis that the tenancy, licence or agreement is valid.

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#### Commencement Information

**I215** S. 199 not in force at Royal Assent, see [s. 255\(7\)](#)

### **200 Restriction on works while final notice in force**

- (1) While a final letting notice is in force in relation to premises, the landlord of the premises may not carry out, or permit the carrying out of, any works to the premises without the written consent of the local authority that served the notice.
- (2) In subsection (1), “works to the premises” include the alteration or removal of any fixtures or fittings on the premises.
- (3) Subsection (1) does not apply to works that are—
  - (a) urgently necessary for repair or preservation, or
  - (b) necessary to fulfil an obligation of the landlord, other than one voluntarily assumed after the initial letting notice preceding the final letting notice took effect.
- (4) The local authority must—
  - (a) give or refuse consent under subsection (1) within a reasonable time after it is sought, and
  - (b) must give such consent unless there are reasonable grounds for refusing it, concerning the exercise or contemplated exercise of the authority’s powers under the following provisions of this Part in relation to the premises.
- (5) A person who contravenes subsection (1) without reasonable excuse commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Commencement Information

**I216** S. 200 not in force at Royal Assent, see [s. 255\(7\)](#)

### **201 Counter-notice**

- (1) The landlord of premises in relation to which a final letting notice has been served may give a counter-notice to the local authority that served the final letting notice.
- (2) A counter-notice must be received by the local authority before the end of the period of 14 days beginning with the day on which the final letting notice takes effect.
- (3) A counter-notice must—
  - (a) state that, if the final letting notice is not withdrawn, the landlord intends to appeal against it, and
  - (b) specify the ground (which must be a permissible ground) on which the appeal would be brought.
- (4) The permissible grounds of appeal are set out in Part 1 of [Schedule 20](#) (and they are to be interpreted and applied in accordance with Part 2 of that Schedule).
- (5) Regulations may amend that Schedule so as to—

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- (a) add a ground of appeal;
- (b) make provision about the interpretation or application of a ground so added;
- (c) amend or remove a ground so added or provision so made.

(6) The period referred to in section 198(3), as it applies to a particular final letting notice, is extended by 28 days if a counter-notice is served in relation to the final letting notice.

#### **Commencement Information**

**I217** S. 201 not in force at Royal Assent, see [s. 255\(7\)](#)

## **202 Appeals**

- (1) This section applies if—
- (a) a counter-notice is given under section 201, and
  - (b) the landlord of the premises to which it relates is not, within the period of 14 days beginning with the day on which the counter-notice was received by the local authority, notified by the authority of the withdrawal of the final letting notice.
- (2) The landlord may appeal against the final letting notice to the county court.
- (3) An appeal must be brought on the ground specified in the counter-notice.
- (4) An appeal must be brought within the period of 28 days beginning with the day on which the counter-notice was received by the local authority.
- (5) In disposing of an appeal under this section, the county court must either revoke or confirm the final letting notice.
- (6) The period referred to in section 198(3), as it applies to a particular final letting notice, is extended by one day (in addition to those referred to in section 201(6)) for each day in the period—
- (a) beginning with the day on which an appeal against the notice is brought, and
  - (b) ending with the day on which the appeal is finally determined, withdrawn or abandoned.
- (7) For the purposes of subsection (6)(b), an appeal is not finally determined until the decision on the appeal, or on any further appeal, may not be overturned on a further appeal (ignoring the possibility of an appeal out of time with permission).

#### **Commencement Information**

**I218** S. 202 not in force at Royal Assent, see [s. 255\(7\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.  
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### Procedure for letting

#### 203 Rental auctions

- (1) A local authority may arrange for a rental auction to be carried out in respect of qualifying high-street premises if—
  - (a) a final letting notice served by the authority is in force in relation to the premises,
  - (b) it is no longer possible for that notice to be revoked on appeal (whether because of the expiry of the period referred to in section 201(2) or 202(4) or the final determination, withdrawal or abandonment of an appeal), and
  - (c) either—
    - (i) no tenancy or licence has been granted, or other agreement entered into, with the consent of the authority under section 199 or in circumstances where consent was not needed because of subsection (3) of that section, or
    - (ii) the authority is satisfied that any tenancy, licence or agreement so granted or entered into is consistent with the contemplated exercise of its powers under section 204.
- (2) A “rental auction” is a process for finding persons who would be willing to take a tenancy of the premises further to a contract under section 204 and ascertaining the consideration that they would be willing to give in order to do so.
- (3) Regulations must make provision about the process.
- (4) The regulations must provide for the suitable high-street use of the premises to be specified by the local authority ahead of the auction.
- (5) The regulations must provide for the identification of a person as the “successful bidder” following a rental auction, except in cases where the regulations provide for there to be no successful bidder.
- (6) The regulations may, in particular, provide for a person who took part in the auction but would not otherwise be the successful bidder to be treated as the successful bidder if—
  - (a) the landlord of the premises so proposes or agrees, or
  - (b) it appears to the local authority that it will not be reasonably practicable to enter into a contract under section 204 with the person who would otherwise be the successful bidder.
- (7) The regulations may include provision about with whom, and on what terms, the local authority can enter into arrangements for the auction.
- (8) The regulations may allow local authorities to make choices as to procedure.
- (9) To the extent that the local authority has a choice as to procedure, the local authority must have regard to any representations made by the landlord.

#### Commencement Information

**I219** S. 203 not in force at Royal Assent, see s. 255(7)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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PROSPECTIVE

## 204 Power to contract for tenancy

- (1) Subsection (2) applies if—
  - (a) a final letting notice served by the authority is in force in relation to the premises,
  - (b) the period of 42 days beginning with the day on which that notice took effect has elapsed,
  - (c) a rental auction has been carried out in respect of qualifying high-street premises, and
  - (d) the condition in section 203(1)(c) is still met.
- (2) The local authority that served the notice may enter into a tenancy contract with the successful bidder in the auction (as identified in accordance with regulations under section 203).
- (3) A “tenancy contract” is a contract under which—
  - (a) the landlord of the premises agrees to grant, and
  - (b) the successful bidder agrees to take,
 a short-term tenancy of the premises (including a contract under which those things are agreed subject to conditions).
- (4) A contract entered into under this section has effect as if it was entered into by the landlord of the premises instead of the local authority.
- (5) A local authority is to act under this section in its own name, but with an indication that it is acting so as to bind the landlord rather than itself.
- (6) As soon as possible after entering into a contract under this section, the local authority must provide a signed copy of it to the landlord.

### Commencement Information

**I220** S. 204 not in force at Royal Assent, see [s. 255\(7\)](#)

## 205 Terms of contract for tenancy

- (1) This section applies in relation to a contract entered into under section 204.
- (2) The contract must set out the terms of the agreed tenancy (as to which see section 206).
- (3) The contract may identify the physical extent of the premises in greater detail than that in which the premises were identified for the purposes of sections 195 to 203.
- (4) The contract may (subject to regulations under subsection (6)) include—
  - (a) provision allowing the tenant to carry out pre-tenancy works (and to enter land for the purpose);
  - (b) provision making that ability subject to the consent of the landlord (and about the giving of such consent);

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- (c) provision requiring the landlord to carry out pre-tenancy works (whether in or outside the premises) before the term of the agreed tenancy begins;
  - (d) provision about the remedies available to the tenant if the landlord fails to carry out pre-tenancy works as so required.
- (5) “Pre-tenancy works” means works carried out (whether in or outside the premises) before the term of the agreed tenancy begins in contemplation of the use of the premises by the tenant once the term begins.
- (6) Regulations may—
- (a) impose restrictions or conditions on the ability to include provision within subsection (4) in the contract;
  - (b) provide for circumstances in which provision within subsection (4) must be included in the contract;
  - (c) make other provision about the terms of the contract.
- (7) In making regulations under subsection (6), the Secretary of State must have regard to the terms on which contracts for the grant of short-term tenancies are typically entered into on a commercial basis.
- (8) In deciding (so far as it has discretion to do so) on the terms of the contract, the local authority must have regard to any representations made by the landlord.
- (9) In this section—
- “the agreed tenancy” means the tenancy the grant of which is agreed in the contract;
  - “the premises” means the premises that are to be demised by the agreed tenancy;
  - “the tenant” means the prospective tenant under the agreed tenancy;
  - “the landlord” means the landlord of the premises.

#### Commencement Information

I221 S. 205 not in force at Royal Assent, see [s. 255\(7\)](#)

## 206 Terms of tenancy

- (1) This section applies in relation to a tenancy the grant of which is agreed in a contract entered into under section 204.
- (2) If the interest of the landlord in the premises is such that the landlord could not grant a tenancy the term of which ended after a particular time, the term of the tenancy must not end after that time.
- (3) The tenancy must include terms requiring that the premises be used wholly or mainly for the suitable high-street use specified by the local authority ahead of the rental auction that preceded the contract.
- (4) If the rental auction involved the successful bidder indicating the amount of premium or rent that the successful bidder would be willing to pay, the premium or rent payable under the tenancy must, unless the landlord agrees otherwise, be of the amount indicated (subject to any term of the tenancy about review or deduction of rent).

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- (5) The terms of the tenancy may include provision granting to the tenant interests or rights in or over land outside the premises in connection with tenant’s use of the premises.
- (6) The terms of the tenancy must include provision satisfying each of the descriptions set out in [Schedule 21](#).
- (7) Regulations may—
  - (a) provide exceptions from subsection (6);
  - (b) provide further detail about the provision that is to be included in the terms of the tenancy by virtue of subsection (6);
  - (c) make other provision about the terms of the tenancy.
- (8) In making regulations under subsection (7), the Secretary of State must have regard to the terms on which short-term tenancies are typically granted on a commercial basis.
- (9) In deciding (so far as it has discretion to do so) on the terms of the tenancy, the local authority must have regard to any representations made by the landlord.
- (10) In this section—
 

“the premises” means the premises which are to be demised by the tenancy;

“the landlord” means the landlord of the premises.

#### **Commencement Information**

**I222** S. 206 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

### **207 Power to grant tenancy in default**

- (1) This section applies if—
  - (a) a local authority has entered into a contract under section [204](#), and
  - (b) the landlord of the premises to which the contract relates fails to grant a tenancy as required by the contract.
- (2) The local authority may grant the tenancy that the landlord should have granted.
- (3) A tenancy granted under this section has effect as if it was granted by the landlord instead of the local authority; and the local authority may do anything that the landlord could do in order to make an effective grant.
- (4) A local authority is to act under this section in its own name, but with an indication that it is acting so as to bind the landlord rather than itself.
- (5) As soon as possible after granting a tenancy under this section, the local authority must provide a signed copy of the instrument by which the tenancy was granted to the landlord.



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#### Commencement Information

I223 S. 207 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

### 208 Deemed consent of superior lessor or mortgagee

A contract entered into under section 204, and a tenancy granted further to such a contract, are deemed to have been entered into or granted with the express consent of—

- (a) any person who is (or will be when the tenancy is granted) a superior lessor of the land in which the premises in question are comprised, and
- (b) any mortgagee of that land.

#### Commencement Information

I224 S. 208 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

### 209 Exclusion of security of tenure

A tenancy granted further to a contract entered into under section 204 is excluded from sections 24 to 28 of the Landlord and Tenant Act 1954.

#### Commencement Information

I225 S. 209 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

#### *Powers to obtain information*

### 210 Power to require provision of information

- (1) This section applies in relation to premises that are situated on a designated high street or within a designated town centre.
- (2) The local authority for the area in which the premises are situated may, in writing, require any interested person to give information about the premises to the authority.
- (3) In subsection (2), “interested person” means a person who appears to the local authority to have an interest in the land in which the premises are comprised.

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- (4) For the purposes of subsection (2), information about premises includes information about—
  - (a) the occupation of the premises,
  - (b) matters affecting the premises,
  - (c) persons interested in the premises, and
  - (d) their interests in the premises.
- (5) A requirement under subsection (2) must state the time by which and manner in which the information is required to be given.
- (6) The power conferred by subsection (2) may be exercised only for the purpose of obtaining information about the premises that the local authority thinks is likely to be necessary or expedient for the exercise of its functions under this Part in relation to the premises.
- (7) A person commits an offence if the person—
  - (a) fails without reasonable excuse to comply with a requirement under subsection (2), or
  - (b) in response to such a requirement, gives information that—
    - (i) is false, and
    - (ii) the person knows or should reasonably know to be false.
- (8) A person who commits an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Commencement Information

**I226** S. 210 not in force at Royal Assent, see [s. 255\(7\)](#)

### 211 Power to enter and survey land

- (1) This section applies in relation to premises that are situated on a designated high street or within a designated town centre.
- (2) A person authorised in writing by the local authority for the area in which the premises are situated may—
  - (a) enter and survey the premises, and
  - (b) enter on any other land in order to gain access to the premises for the purposes of paragraph (a).
- (3) In the following provisions of this section, “the power” means the power conferred by subsection (2).
- (4) The power may be exercised only for the purpose of obtaining information about the premises that the authority thinks is likely to be necessary or expedient for the exercise of its functions under this Part in relation to the premises.
- (5) The power may be exercised only if the local authority has given, or made all reasonable efforts to give, written notice to—
  - (a) the landlord of the premises, for the purposes of subsection (2)(a), or
  - (b) the person who appears to the local authority to be in possession of, or entitled to possession of, the land, for the purposes of subsection (2)(b),

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at least 14 days before the day on which the power is first exercised in relation to the premises or other land in question.

- (6) The power may be exercised only at a reasonable time.
- (7) The power may not be exercised in a way that involves the use of force, except on the authority of a warrant issued by a justice of the peace.
- (8) Such a warrant—
  - (a) may be issued only on an application supported by evidence given on oath,
  - (b) may be issued only if the justice of the peace is satisfied that reasonable efforts have been made to exercise the power without the use of force, and
  - (c) must specify the number of occasions on which it can be relied.
- (9) A person exercising the power must produce—
  - (a) evidence of the authorisation referred to in subsection (2), and
  - (b) a copy of any warrant issued under subsection (7),if so requested by any person who appears to have control over the premises or other land.
- (10) If no person who appears to have control over the premises or other land is present when the power is exercised, the person exercising the power must leave the premises or land as secure against trespassers as when the person entered.

#### Commencement Information

**I227** S. 211 not in force at Royal Assent, see [s. 255\(7\)](#)

### 212 Offences in connection with section 211

- (1) A person who, without reasonable excuse, obstructs a person in the exercise of the power conferred by section 211(2) is guilty of an offence.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person commits an offence if the person discloses confidential information, obtained in the exercise of the power conferred by section 211(2), for purposes other than those for which the power was exercised.
- (4) A person who commits an offence under subsection (3) is liable—
  - (a) on summary conviction, to a fine, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (5) In subsection (3), “confidential information” means information—
  - (a) which constitutes a trade secret, or
  - (b) the disclosure of which would or would be likely to prejudice the commercial interests of any person.

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#### Commencement Information

**I228** S. 212 not in force at Royal Assent, see [s. 255\(7\)](#)

### 213 Power to extend time limits

- (1) Subsection (2) applies if it appears to the county court that, because of—
  - (a) a failure to comply with a requirement under section 210(2),
  - (b) the giving of false information in response to such a requirement, or
  - (c) obstruction of a person in the exercise of the power conferred by section 211(2),a local authority has been impeded in deciding whether or how to exercise its functions under this Part in relation to premises in respect of which an initial letting notice or final letting notice is in force.
- (2) The court may order that the period referred to in section 195(2)(b) or 198(3), as applicable in relation to the notice, is to be extended by such number of days as appears to the court to be appropriate in view of the impediment.
- (3) The court may act under this section only on an application by the local authority.

#### Commencement Information

**I229** S. 213 not in force at Royal Assent, see [s. 255\(7\)](#)

#### *General and supplementary provision*

### 214 Further provision about letting notices

- (1) In this section, references to letting notices are to initial letting notices and final letting notices.
- (2) Regulations must make provision about—
  - (a) the form and content of letting notices,
  - (b) the service of letting notices, and
  - (c) when letting notices take effect.
- (3) In making regulations under subsection (2)(a), the Secretary of State must seek to secure that letting notices—
  - (a) identify the premises to which they relate and their suitable high-street use,
  - (b) explain the reasons for the service of the notice, and
  - (c) explain the consequences under this Part of the notice having been served,in such detail as is adequate in order for the recipient of the notice to be able to decide how to act in response to it.
- (4) For the purposes of this Part, an authority serves a letting notice on the day on which it takes the last step that it needs to take in order for the notice to be served in accordance with regulations under subsection (2)(b).

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- (5) In making regulations under subsection (2)(c), the Secretary of State must seek to secure that, in the ordinary course of events (taking into account the method of service employed), it is likely that the landlord will become aware of the notice by the time it takes effect.
- (6) A letting notice served by a local authority may be withdrawn by the authority at any time.
- (7) A letting notice—
  - (a) is not affected by any change in the landlord of the premises in relation to which it has been served, and
  - (b) is a local land charge.
- (8) Regulations may provide for copies of letting notices to be served on—
  - (a) persons with interests in the affected premises that are superior to the landlord's interest;
  - (b) mortgagees of the affected premises.

#### Commencement Information

**I230** S. 214 not in force at Royal Assent, see [s. 255\(7\)](#)

### 215 Other formalities

Regulations may make provision about the manner of, or procedure to be followed in connection with—

- (a) making, varying or withdrawing a designation under section 191;
- (b) seeking, giving or refusing consent under section 196 or 199;
- (c) giving a counter-notice under section 201;
- (d) making representations under section 203(9), 205(8) or 206(9);
- (e) making a requirement under section 210;
- (f) giving notice under section 211(5).

#### Commencement Information

**I231** S. 215 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

### 216 Compensation

- (1) A person interested in land is entitled to compensation for damage as a result of the exercise of the power conferred by section 211.
- (2) Such compensation is payable by the local authority that authorised the exercise of the power.
- (3) Any disputes relating to compensation under this section are to be determined by the Upper Tribunal.

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- (4) The provisions of section 4 of the Land Compensation Act 1961 apply to the determination of such disputes, with any necessary modifications.
- (5) Except as provided by subsection (1), no compensation is payable in respect of the exercise of the powers conferred by this Part.

#### Commencement Information

**I232** S. 216 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

### 217 Power to modify or disapply enactments applicable to letting

- (1) Subsection (2) applies to an enactment which imposes obligations on a lessor or prospective lessor of premises in relation to—
  - (a) the letting of the premises, or
  - (b) the premises while let.
- (2) Regulations may provide for the enactment to—
  - (a) apply with modifications, or
  - (b) not to apply,
 in relation to a tenancy granted (or to be granted) further to a contract entered into under section 204, or the premises demised by such a tenancy.
- (3) In this section “enactment” includes an enactment comprised in subordinate legislation, within the meaning given by section 21(1) of the Interpretation Act 1978.

#### Commencement Information

**I233** S. 217 not in force at Royal Assent, see [s. 255\(7\)](#)

PROSPECTIVE

### 218 Interpretation of Part 10

- (1) The following provisions apply for the purposes of this Part.
- (2) Each of the following is a local authority—
  - (a) a district council in England,
  - (b) a county council in England for any area for which there is no district council,
  - (c) a London borough council,
  - (d) the Common Council of the City of London, and
  - (e) the Council of the Isles of Scilly.
- (3) “Premises” means—
  - (a) the whole of a building that is designed or adapted to be used as a whole, or

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- (b) any part of a building that—
  - (i) is designed or adapted to be used separately from the other parts, or
  - (ii) could with reasonable adaptation be so used.
- (4) Premises are situated on a street if the building comprising or containing the premises—
  - (a) directly adjoins the street, or
  - (b) is separated from the street only by the curtilage of the building.
- (5) “Street” means a street, within the meaning given by section 48(1) of the New Roads and Street Works Act 1991, to which the public have access on foot (whether by right or permission); and includes any part of a street.
- (6) “The landlord”, in relation to premises, means a person who—
  - (a) is entitled to possession of the premises, and
  - (b) has sufficient interest in the premises to be capable of granting a tenancy of the premises of at least one year in duration.
- (7) For the purposes of subsection (6) as it applies in relation to—
  - (a) the service of a final letting notice in the circumstances described in section 198(1)(c)(ii), and
  - (b) the operation of this Part following the service of such a notice, the tenancy, licence or agreement referred to in section 198(1)(c)(ii) is to be ignored.
- (8) “Short-term tenancy” means a tenancy for a term of at least one year but not exceeding five years.
- (9) References to the terms of a contract or tenancy include covenants, conditions and grants.
- (10) “Mortgagee” is to be read as if any charge or lien for securing money or money’s worth was a “mortgage”.
- (11) References to regulations are to regulations made by the Secretary of State.

#### Commencement Information

**I234** S. 218 not in force at Royal Assent, see [s. 255\(7\)](#)

## PART 11

### INFORMATION ABOUT INTERESTS AND DEALINGS IN LAND

#### 219 Power to require provision of certain classes of information

- (1) Regulations may require the provision of information that is within the scope of a permitted purpose.
- (2) So far as the regulations are to extend to England and Wales, the permitted purposes are—
  - (a) the beneficial ownership purpose (see section 220),

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- (b) the contractual control purpose (see section 221), and
  - (c) the national security purpose (see section 222).
- (3) So far as the regulations are to extend to Scotland or Northern Ireland, the only permitted purpose is the national security purpose.
- (4) Regulations under this section must, for each requirement they impose, specify—
- (a) the person on whom the requirement falls,
  - (b) the occurrence or circumstances that gives or give rise to the requirement,
  - (c) the time limit for complying with the requirement, and
  - (d) the person to whom the required information is to be provided.
- (5) The occurrence or circumstances specified under subsection (4)(b)—
- (a) must, in the case of a requirement to provide information within the scope of the national security purpose, and
  - (b) in any other case may,
- be (or include) the giving of a notice in accordance with the regulations to the person on whom the requirement falls.
- (6) In relation to such cases, the regulations may also make provision deeming notice to have been given at a certain time in certain circumstances.
- (7) The person specified under subsection (4)(d) must be—
- (a) the Chief Land Registrar, or
  - (b) another person exercising public functions on behalf of the Crown.
- (8) Regulations under this section may—
- (a) make provision about how information is to be provided (including provision requiring it to be provided by electronic means specified in the regulations);
  - (b) provide for, or make provision about, the application of the regulations to persons outside, or information held outside, the United Kingdom;
  - (c) relate to things done or arising before the coming into force of this section.

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**Commencement Information**

**I235** S. 219 in force at Royal Assent, see s. 255(8)

## **220 The beneficial ownership purpose**

- (1) Information is within the scope of the beneficial ownership purpose if it appears to the Secretary of State that the information would be useful for the purpose of—
- (a) identifying persons who are beneficial owners of land in England or Wales, or
  - (b) understanding the relationship of those persons with the land that they beneficially own.
- (2) For the purposes of this section, a person beneficially owns land if either of the following subsections applies.
- (3) This subsection applies where—
- (a) the land is owned by a body corporate or partnership, and



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- (b) the person is, in relation to that body corporate or partnership, a beneficial owner within the meaning given by regulation 5 of the Money Laundering Regulations.
- (4) This subsection applies where—
- (a) the land is owned as part of—
    - (i) a trust, foundation or similar legal arrangement, or
    - (ii) the estate of a deceased person in the course of administration, and
  - (b) the person is, in relation to that trust, foundation, arrangement or estate, a beneficial owner within the meaning given by regulation 6 of the Money Laundering Regulations.
- (5) In this section—
- (a) expressions that are also used in regulation 5 or 6 of the Money Laundering Regulations have the same meaning as in that regulation;
  - (b) references to ownership of land (except references to beneficial ownership) are to the legal ownership of a freehold or leasehold estate in the land;
  - (c) “the Money Laundering Regulations” means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692).

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**Commencement Information**

**I236** S. 220 in force at Royal Assent, see [s. 255\(8\)](#)

## **221 The contractual control purpose**

- (1) Information is within the scope of the contractual control purpose if it appears to the Secretary of State that the information would be useful for the purpose of understanding relevant contractual rights.
- (2) For the purposes of subsection (1), understanding relevant contractual rights includes identifying the persons holding them and understanding the circumstances in which they were created or acquired.
- (3) “Relevant contractual rights” are rights that—
- (a) arise under a contract,
  - (b) relate to the development, use or disposal of land in England or Wales, and
  - (c) are held for the purposes of an undertaking.
- (4) In this section—
- “contract” includes a deed (whether or not made for consideration);
  - “undertaking” includes—
    - (a) a business,
    - (b) a charity or similar endeavour, and
    - (c) the exercise of functions of a public nature.

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**Commencement Information**

**I237** S. 221 in force at Royal Assent, see [s. 255\(8\)](#)

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

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## 222 The national security purpose

- (1) Information is within the scope of the national security purpose if—
  - (a) the information relates to land that is within subsection (2),
  - (b) the information is within subsection (3), and
  - (c) it appears to the Secretary of State that requiring the provision of the information under section 219 would be justified in the interests of national security.
- (2) Land is within this subsection if it appears to the Secretary of State that a threat to national security arises in connection with the location of the land or anything situated or done on it.
- (3) Information is within this subsection if it appears to the Secretary of State that the information would be useful for the purpose of—
  - (a) identifying persons who—
    - (i) own relevant interests in the land,
    - (ii) have relevant rights concerning the land, or
    - (iii) have the ability, or are in a position that may involve the ability, to control or influence (directly or indirectly) the owner of a relevant interest in the land, or a person with a relevant right concerning the land, in the exercise of that ownership or right, or
  - (b) understanding the relationship of those persons with the land.
- (4) In subsection (3)—
  - (a) references to ownership include legal and beneficial ownership;
  - (b) “control or influence” includes control or influence by reason of interests or rights in or under a company, partnership, trust, foundation, or legal structure or arrangement similar to any of those.

### Commencement Information

**I238** S. 222 in force at Royal Assent, see [s. 255\(8\)](#)

## 223 Requirements may include transactional information

- (1) The information that may (if it falls within the scope of a permitted purpose) be required to be provided under [section 219](#) includes transactional information about instruments, contracts or other arrangements—
  - (a) creating, altering, extinguishing, evidencing, or transferring relevant interests in land, or
  - (b) conferring, amending, assigning, terminating or otherwise modifying relevant rights concerning land.
- (2) “Transactional information” means—
  - (a) details of the parties to a transaction;
  - (b) details of persons on whose behalf or for whose benefit the parties to a transaction are or were acting;
  - (c) details of the terms of a transaction;
  - (d) details of persons providing professional services in relation to a transaction;

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- (e) details of the source of any money paid or other consideration given in connection with a transaction;
  - (f) copies of documents giving effect to or evidencing a transaction.
- (3) “Transaction”, in subsection (2), means an instrument, contract or other arrangement within subsection (1).

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**Commencement Information**

**I239** S. 223 in force at Royal Assent, see [s. 255\(8\)](#)

## 224 Use of information

- (1) Regulations may provide for—
- (a) the retention of information provided further to a requirement imposed under [section 219](#);
  - (b) the sharing of such information with persons exercising functions of a public nature, for use for the purposes of such functions;
  - (c) the publication of such information.
- (2) In the case of a requirement to provide information within the scope of the national security purpose, regulations under subsection (1) may be made so as to apply to information provided further to the requirement only so far as appears to the Secretary of State to be justified in the interests of national security.
- (3) Regulations may provide for the payment of fees—
- (a) by persons providing information further to a requirement imposed under [section 219](#), and
  - (b) to the person to whom the information is provided, in respect of any functions conferred on that person under subsection (1).
- (4) No civil liability is to arise from the sharing or publication of information under regulations under this section by reason of any inaccuracy or omission in the information as provided further to a requirement imposed under [section 219](#).

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**Commencement Information**

**I240** S. 224 in force at Royal Assent, see [s. 255\(8\)](#)

## 225 Offences

- (1) A person who, without reasonable excuse, fails to comply with a requirement imposed under [section 219](#) commits an offence.
- (2) A person commits an offence if—
- (a) the person provides information in response to a requirement imposed under [section 219](#),
  - (b) the information is false or misleading in a material particular, and
  - (c) the person knows that the information is false or misleading or is reckless as to whether it is.

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- (3) But an offence under this section is committed under the law of a given jurisdiction only if the requirement in question is imposed by regulations extending to that jurisdiction.
- (4) A person who commits an offence under subsection (1) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (5) In subsection (4)(a), “the maximum term for summary offences” means—
- (a) if the offence is committed before the time when section 281(5) of the Criminal Justice Act 2003 comes into force, 6 months;
  - (b) if the offence is committed after that time, 51 weeks.
- (6) A person guilty of an offence under subsection (2) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).
- (7) If—
- (a) an entity within subsection (8) commits an offence under this section, and
  - (b) a person who is, or is purporting to act as, a relevant officer of the entity authorises or permits, participates in, or fails to take all reasonable steps to prevent the commission of the offence,
- that person also commits the offence.
- (8) The entities within this subsection are those specified in the first column of the following table; and “relevant officer”, in relation to such an entity, means a person acting in a capacity specified in the corresponding entry in the second column.

Entity	“Relevant officer”
A company.	A director, manager, secretary or similar officer.
A partnership.	A partner.
A body corporate (other than a company) or unincorporated body whose affairs are managed by a governing body.	A member of the governing body.
A body corporate (other than a company) or unincorporated body	A member.

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Entity	“Relevant officer”
whose affairs are managed by its members.	

- (9) An offence under this section committed under the law of Scotland by a person outside Scotland may be prosecuted in—
- (a) a sheriff court district in which the person is apprehended or in custody, or
  - (b) a sheriff court district determined by the Lord Advocate,
- as if the offence had been committed in that district (and in that event the offence is for all incidental or consequential purposes deemed to have been committed in that district).
- (10) In subsection (9), “sheriff court district” is to be read in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995.

#### Commencement Information

I241 S. 225 in force at Royal Assent, see [s. 255\(8\)](#)

## 226 Enforcement of requirements

- (1) Regulations may make provision to prevent a relevant registration act from being carried out in relation to a relevant interest in land or relevant right concerning land in relation to which a requirement imposed under section 219 has not been complied with.
- (2) For the purposes of subsection (1), a relevant registration act is any act that would or could be carried out in relation to the register of title kept under the Land Registration Act 2002.
- (3) Regulations under subsection (1) may—
- (a) amend the Land Registration Act 2002;
  - (b) make consequential amendments of any other enactment.

#### Commencement Information

I242 S. 226 in force at Royal Assent, see [s. 255\(8\)](#)

## 227 Interpretation of Part 11

In this Part—

“person” includes any entity that has legal personality under the law by which it is governed;

“regulations” means regulations made by the Secretary of State;

“relevant interest in land” means an estate, interest, right or power in or over land in the United Kingdom, except an advowson, franchise or manor;

“relevant right concerning land” means a right or power, arising under a contract or otherwise, that is not a relevant interest in land but concerns the ownership, control or use of land in the United Kingdom.

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### Commencement Information

**I243** S. 227 in force at Royal Assent, see [s. 255\(8\)](#)

## PART 12

### MISCELLANEOUS

#### 228 Registration of short-term rental properties

- (1) The Secretary of State must by regulations make provision requiring or permitting the registration of specified short-term rental properties in England.
- (2) “Short-term rental property” means—
  - (a) a dwelling, or part of a dwelling, which is provided by a person (“the host”) to another person (“the guest”)—
    - (i) for use by the guest as accommodation other than the guest’s only or principal residence,
    - (ii) in return for payment (whether or not by the guest), and
    - (iii) in the course of a trade or business carried on by the host, and
  - (b) any dwelling or premises, or part of a dwelling or premises, not falling within paragraph (a) which is specified for the purposes of this paragraph.
- (3) The Secretary of State must consult the public before making the first regulations under this section.
- (4) The requirement in [subsection \(3\)](#) may be satisfied by consultation undertaken before the coming into force of this section.
- (5) Regulations under this section may, in particular, include provision about or in connection with—
  - (a) who may, or must, maintain the register or registers provided for under this section;
  - (b) who may, or must, register a specified short-term rental property on any register provided for under this section;
  - (c) conditions that must be satisfied for a specified short-term rental property to be registered or conditions that may be placed upon a specified short-term rental property’s registration (including provision about the circumstances in which such conditions may be varied);
  - (d) the circumstances in which the registration of a specified short-term rental property may be revoked;
  - (e) procedural requirements relating to the registration of a specified short-term rental property, the variation of any conditions placed on the registration or the revocation of the registration;
  - (f) appeals against decisions made in relation to the registration of a specified short-term rental property;
  - (g) the form or content of—
    - (i) a register provided for under this section,
    - (ii) an application for registration on such a register, or

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- (iii) any other document provided for under this section;
  - (h) how the registration of a specified short-term rental property may or must be publicised;
  - (i) the collection, provision or publication of information in connection with regulations under this section;
  - (j) exemptions from some or all of the requirements imposed by regulations under this section;
  - (k) prohibiting the provision of a short-term rental property or anything done wholly or partly for the purposes of promoting such a property to the public or a section of the public, in the course of a trade or business, where the property is not registered or another requirement imposed by regulations under this section has not been met;
  - (l) the enforcement of requirements or prohibitions imposed by regulations made under this section.
- (6) Provision under [subsection \(5\)\(l\)](#) may, in particular, include provision—
- (a) conferring a power on a court or tribunal;
  - (b) for the imposition of civil sanctions and appeals against such sanctions.
- (7) Regulations under this section may make provision for the imposition of civil sanctions whether or not the conduct in respect of which the sanction is imposed constitutes an offence.
- (8) Regulations under this section may—
- (a) provide for the charging of fees or other charges;
  - (b) confer a function, including a function involving the exercise of a discretion, on any person;
  - (c) relate to all or only part of England (and still discharge the duty in [subsection \(1\)](#)).
- (9) In this section—
- “civil sanction” means a sanction of a kind for which provision may be made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (fixed monetary penalties, discretionary requirements, stop notices, enforcement undertakings);
- “premises” includes any place and, in particular, includes—
- (a) any vehicle or vessel;
  - (b) any tent or moveable structure;
- “specified” means specified or described in regulations made under this section.

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#### Commencement Information

**I244** [S. 228](#) in force at 26.12.2023, see [s. 255\(9\)\(b\)](#)

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VALID FROM 31/03/2024

## 229 Pavement licences

Schedule 22 makes—

- (a) provision to make the regime for pavement licences under sections 1 to 9 of the Business and Planning Act 2020 permanent, and
- (b) other provision relating to pavement licences.

### Commencement Information

**I245** S. 229 not in force at Royal Assent, see [s. 255\(9\)\(a\)](#)

PROSPECTIVE

## 230 Historic environment records

- (1) A relevant authority must maintain an historic environment record for its area.
- (2) An “historic environment record” is a system for storing and making available to the public information about—
  - (a) any of the following in the area—
    - (i) a listed building within the meaning given by section 1(5) of the Listed Buildings Act;
    - (ii) a conservation area within the meaning given by section 91(1) of that Act;
    - (iii) a scheduled monument within the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979;
    - (iv) a garden or other area of land included in a register maintained by the Historic Buildings and Monuments Commission for England under section 8C of the Historic Buildings and Ancient Monuments Act 1953;
    - (v) a site designated as a restricted area under section 1 of the Protection of Wrecks Act 1973;
    - (vi) a World Heritage Site (that is to say, a property appearing on the World Heritage List kept under Article 11(2) of the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage adopted at Paris on 16 November 1972);
    - (vii) anything of a description specified in regulations under subsection (3),
  - (b) other sites in the area which the authority considers to be of historic, architectural, archaeological or artistic interest,
  - (c) objects found in the area in the course of archaeological investigations which the authority considers to be of such interest, and
  - (d) historical, architectural, archaeological or scientific investigations or studies relating to—
    - (i) anything within paragraphs (a) to (c), or



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- (ii) the development, preservation or present character of any part of the area.
- (3) The Secretary of State may, by regulations, specify for the purposes of subsection (2)(a)(vii) a description of object, structure or site that—
- (a) is designated, registered or similarly recognised under an enactment, and
  - (b) appears to the Secretary of State to be so wholly or partly because of historic, architectural, archaeological or artistic importance.
- (4) Subsection (1) requires information to be included in an historic environment record only so far as the relevant authority—
- (a) has the information, and
  - (b) considers it suitable for inclusion in the record.
- (5) A relevant authority must take such steps as it considers reasonable to—
- (a) obtain information for inclusion in its historic environment record, and
  - (b) keep information included in its historic environment record up to date.
- (6) The Secretary of State may by regulations make provision—
- (a) about how information is to be stored or made available as described in subsection (2);
  - (b) for and in connection with the charging of fees by relevant authorities in respect of—
    - (i) the provision of advice or assistance to persons making use, or proposing to make use, of an historic environment record;
    - (ii) the provision of documents copied or derived from an historic environment record.
- (7) Regulations under subsection (6)(a) may, in particular, make provision requiring or enabling information to be stored or made available in accordance with such standards or specifications as are published by the Secretary of State from time to time.
- (8) The relevant authorities for the purposes of this section are—
- (a) each county council in England,
  - (b) each district council for an area in England for which there is no county council,
  - (c) each London borough council,
  - (d) the Common Council of the City of London,
  - (e) the Council of the Isles of Scilly,
  - (f) each National Park authority for a National Park in England, and
  - (g) the Broads Authority.
- (9) For the purposes of this section—
- (a) the area of the Common Council includes the Inner Temple and the Middle Temple,
  - (b) an area comprising a National Park for which there is a National Park authority is the area of that authority and no other relevant authority, and
  - (c) the area comprising the Broads, as defined by section 2(3) of the Norfolk and Suffolk Broads Act 1988, is the area of the Broads Authority and no other relevant authority.

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#### Commencement Information

**I246** S. 230 not in force at Royal Assent, see [s. 255\(9\)\(a\)](#)

### 231 Review of governance etc of RICS

- (1) The Secretary of State may, from time to time, appoint an independent person to carry out a review of—
  - (a) the governance of the Royal Institution of Chartered Surveyors,
  - (b) the effectiveness of the Institution in meeting its objectives, and
  - (c) any other matter specified in the appointment.
- (2) A matter may be specified under [subsection \(1\)\(c\)](#) only if the Secretary of State considers that the matter is connected with—
  - (a) the governance of the Institution, or
  - (b) the effectiveness of the Institution in meeting its objectives.
- (3) On completion of a review, the appointed person must make a written report to the Secretary of State—
  - (a) setting out the result of the review, and
  - (b) making such recommendations (if any) as the person considers.
- (4) The Secretary of State must publish a copy of the report.
- (5) In [this section](#) “independent” means appearing to the Secretary of State to be independent of—
  - (a) the Secretary of State, and
  - (b) the Royal Institution of Chartered Surveyors.

#### Commencement Information

**I247** [S. 231](#) in force at 26.12.2023, see [s. 255\(9\)\(b\)](#)

PROSPECTIVE

### 232 Marine licensing

- (1) The Marine and Coastal Access Act 2009 is amended in accordance with subsections [\(2\)](#) to [\(7\)](#).
- (2) In section 72A (further fees chargeable where the Welsh Ministers are the appropriate licensing authority)—
  - (a) in the heading, from “Welsh” to the end substitute “appropriate licensing authority is the Secretary of State, the Scottish Ministers or the Welsh Ministers”;
  - (b) in subsection (1), for the words from “Welsh” to the end substitute “appropriate licensing authority in relation to a marine licence granted under this Part is the Secretary of State, the Scottish Ministers or the Welsh Ministers.”;

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- (c) in subsection (2)(c), insert at the beginning “where the Welsh Ministers are the licensing authority,”;
  - (d) after subsection (2) insert—
    - “(2A) Where the licensing authority is the Secretary of State or the Scottish Ministers, the authority may charge a fee for dealing with—
      - (a) a variation of the licence under section 72(3) (whether or not on an application), or
      - (b) a transfer and variation of the licence under section 72(7).”;
  - (e) in subsection (4), for “subsection (2)” substitute “subsections (2) and (2A)”;
  - (f) in subsection (6)—
    - (i) the words from “an application” to “72” become paragraph (a),
    - (ii) at the beginning of that paragraph insert “where the Welsh Ministers are the licensing authority,”;
    - (iii) after that paragraph insert “, or
      - (b) where the licensing authority is the Secretary of State or the Scottish Ministers, an application for a variation of a licence under section 72(3) or a transfer and variation of a licence under section 72(7).”;
    - (iv) in the closing words, after “licensee” insert “or (as the case may be) other applicant”; and
  - (g) in subsection (9), after “licensee” insert “or other applicant”.
- (3) In section 98 (delegation of functions), in subsection (6)—
- (a) in paragraph (ca), for “Welsh Ministers are the licensing authority” substitute “licensing authority is the Secretary of State, the Scottish Ministers or the Welsh Ministers”;
  - (b) in paragraph (ha), for “Welsh Ministers are the licensing authority” substitute “licensing authority is the Secretary of State, the Scottish Ministers or the Welsh Ministers”;
  - (c) in paragraph (hb), for “Welsh Ministers are the licensing authority” substitute “licensing authority is the Secretary of State, the Scottish Ministers or the Welsh Ministers”.
- (4) In section 107A (deposits on account of fees payable)—
- (a) in the heading, after “the” insert “Secretary of State, the Scottish Ministers or the”;
  - (b) in subsection (1), from “Welsh” to the end substitute “appropriate licensing authority is the Secretary of State, the Scottish Ministers or the Welsh Ministers.”
- (5) In section 107B (supplementary provision about fees)—
- (a) in the heading, after “the” insert “Secretary of State, the Scottish Ministers or the”;
  - (b) in subsection (1), from “Welsh” to the end substitute “appropriate licensing authority is the Secretary of State, the Scottish Ministers or the Welsh Ministers.”
- (6) In section 108 (appeals against notices), in subsection (2A), at the beginning insert “The Secretary of State, the Scottish Ministers or”.

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- (7) In section 110A (fees: oil and gas activities for which marine licence needed), in subsection (4)—
- (a) after “67,” insert “72(3), 72(7) or 72A(2)(a) or (b),”;
  - (b) after “67(2)” insert “or 72A(4)”;
  - (c) after “67(5)” insert “or 72A(6)”.
- (8) The amendments made to the Marine and Coastal Access Act 2009 by sections 77 to 80 of the [Environment \(Wales\) Act 2016 \(anaw 3\)](#) extend to Scotland and Northern Ireland (as well as England and Wales).
- (9) The Public Bodies (Marine Management Organisation) (Fees) Order 2014 ([S.I. 2014/2555](#)) is revoked.

#### Commencement Information

**I248** S. 232 not in force at Royal Assent, see [s. 255\(9\)\(a\)](#)

### 233 Power to replace Health and Safety Executive as building safety regulator

- (1) The Secretary of State may by regulations make provision for a body (“the new regulator”) to replace the Health and Safety Executive as the building safety regulator for the purposes of the Building Safety Act 2022.
- (2) The new regulator may be—
- (a) a body established by the regulations, or
  - (b) another body specified in the regulations.
- (3) The Secretary of State may by regulations make further provision in connection with subsection (1), including provision—
- (a) conferring the functions of the Health and Safety Executive as the building safety regulator on to the new regulator;
  - (b) establishing or modifying the constitutional arrangements of the new regulator;
  - (c) establishing or modifying the funding arrangements of the new regulator;
  - (d) conferring a power on the Secretary of State to give directions to the new regulator.
- (4) Regulations under this section may amend, repeal or revoke any provision made by or under—
- (a) the Health and Safety at Work etc. Act 1974;
  - (b) the Building Act 1984;
  - (c) TCPA 1990;
  - (d) section 54 of PCPA 2004;
  - (e) the Building Safety Act 2022.
- (5) No regulations may be made under this section after the end of the period of 24 months beginning with the day on which the final report of the Grenfell Tower Inquiry is presented to Parliament in accordance with section 26 of the Inquiries Act 2005.
- (6) In this section—

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“constitutional arrangements”, in relation to the new regulator, include matters relating to—

- (a) the name and status of the body;
- (b) the chair, members and staff of the body (including qualifications and procedures for appointment and functions);
- (c) the body’s powers to employ staff;
- (d) remuneration, allowances and pensions for the body’s members and staff;
- (e) governing procedures and arrangements (including the role and membership of committees and sub-committees);
- (f) reports and accounts (including audit);

“funding arrangements”, in relation to the new regulator, include provision for it to be funded by a Minister of the Crown and the extent of such funding;

“Grenfell Tower Inquiry” means the public inquiry into the fire at Grenfell Tower on 14 June 2017 as set up on 15 August 2017 for the purposes of section 5 of the Inquiries Act 2005;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

#### Commencement Information

**I249** S. 233 in force at 26.12.2023, see s. 255(9)(b)

### 234 Transfer schemes in connection with regulations under section 233

- (1) The Secretary of State may, in connection with regulations under section 233(1), make one or more schemes for the transfer of property, rights and liabilities (“transfer schemes”).
- (2) A transfer scheme in connection with regulations under section 233(1) may provide for the transfer of property, rights or liabilities to the new regulator from the Health and Safety Executive.
- (3) The things that may be transferred under a transfer scheme include—
  - (a) property, rights and liabilities that could not otherwise be transferred;
  - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
  - (c) criminal liabilities.
- (4) A transfer scheme may—
  - (a) create rights, or impose liabilities, in relation to property or rights transferred;
  - (b) make provision about the continuing effect of things done by, on behalf of or in relation to the Health and Safety Executive in respect of anything transferred;
  - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the Health and Safety Executive in respect of anything transferred;
  - (d) make provision for references to the Health and Safety Executive in an instrument or other document in respect of anything transferred to be treated as references to the new regulator;
  - (e) make provision for the shared ownership or use of property;

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- (f) make provision which is the same as or similar to the TUPE regulations;
  - (g) make other consequential, supplementary, incidental or transitional provision.
- (5) A transfer scheme may provide—
- (a) for modifications by agreement;
  - (b) for modifications to have effect from the date when the original scheme came into effect.
- (6) In subsection (4)(f), “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (7) For the purposes of this section—
- (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
  - (b) references to the transfer of property include the grant of a lease.
- (8) For the purposes of subsection (7)(a)—
- (a) an individual who holds employment in the civil service of the State is to be treated as employed by virtue of a contract of employment, and
  - (b) the terms of the individual’s employment in the civil service of the State are to be treated as constituting the terms of the contract of employment.
- (9) In this section “new regulator” has the meaning given in section 233(1).

#### Commencement Information

**I250** S. 234 in force at 26.12.2023, see s. 255(9)(b)

PROSPECTIVE

### 235 Transfer of land by local authorities

(1) In Schedule 1 to the Academies Act 2010 (Academies: land), after paragraph 9 insert—

#### *“Compulsory transfer to trustees*

- 9A (1) This paragraph applies where Conditions A to D are met.
- (2) Condition A is that a local authority make premises (“the new premises”) available to be used by an Academy school.
  - (3) Condition B is that the new premises are made available as an alternative to premises (“the existing premises”) which have previously been used by—
    - (a) the Academy school, or
    - (b) a maintained school, Academy or sixth form college that has been or is to be discontinued and that the Academy school replaces.
  - (4) Condition C is that the existing premises are held on trust by a person or persons (“the trustees”) for the purposes of (as the case may be)—
    - (a) the Academy school, or

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- (b) the discontinued maintained school, Academy or sixth form college.
- (5) Condition D is that the trustees—
- (a) having sold the existing premises, pay to the local authority a sum that—
- (i) is just, having regard to the value of the local authority’s interest in the new premises, but
- (ii) does not exceed the total of the proceeds of sale and any interest that has accrued to the trustees on those proceeds, or
- (b) if the local authority agree to accept the trustees’ interest in the existing premises, transfer that interest to the local authority.
- (6) The local authority must transfer their interest in the new premises to the trustees to be held by them on trust for the purposes of the Academy school.
- (7) The local authority must pay to the trustees to whom the transfer is made their reasonable costs in connection with the transfer.
- (8) Any question relating to the duty in sub-paragraph (6) may, if not agreed by the local authority and the trustees, be referred by the local authority or the trustees to the adjudicator (see section 25 of the School Standards and Framework Act 1998).
- (9) The questions referred to in sub-paragraph (8) include in particular—
- (a) the extent of the premises an interest in which is to be transferred by the local authority,
- (b) whether a sum proposed by any person to be paid by the trustees as specified in sub-paragraph (5)(a) is just having regard to the value of the local authority’s interest in the new premises,
- (c) the amount of any interest that has accrued to the trustees on proceeds of sale as referred to in sub-paragraph (5)(a)(ii), and
- (d) the identity of the trustees to or by whom a payment or transfer should be made.
- (10) The local authority and the trustees respectively must provide to the adjudicator any information the adjudicator may request from them for the purpose of exercising the functions the adjudicator has by virtue of this paragraph.
- (11) Any sum paid to the local authority as referred to in sub-paragraph (5)
- (a) is to be treated for the purposes of section 14 of the School Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school, Academy or sixth form college referred to in sub-paragraph (3) (a) or (b).
- (12) In this paragraph, references to premises do not include playing fields.”
- (2) In section 25 of the School Standards and Framework Act 1998 (adjudicators), in subsection (2), after “2006” insert “or paragraph 9A of Schedule 1 to the Academies Act 2010”.

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(3) In Schedule 5 to that Act (adjudicators), in paragraph 5(1), after “2006” insert “or paragraph 9A of Schedule 1 to the Academies Act 2010”.

(4) In Part 2 of Schedule 22 to that Act (maintained schools: disposals on discontinuance), in paragraph 5, after sub-paragraph (1A) insert—

“(1B) This paragraph also does not apply where the school mentioned in sub-paragraph (1)(a) is (with or without other schools) to be replaced by an Academy school in circumstances where paragraph 9A(1) of Schedule 1 to the Academies Act 2010 applies.”

#### Commencement Information

**I251** S. 235 not in force at Royal Assent, see [s. 255\(9\)\(a\)](#)

### 236 Open access mapping

(1) The Countryside and Rights of Way Act 2000 is amended as follows.

(2) After section 9 (maps in conclusive form) insert—

#### “9A Review of maps (England)

(1) This section applies where a map has been issued in conclusive form for the purposes of this Part in respect of any area in England.

(2) Natural England must before 1 January 2031, to the extent that they consider appropriate, carry out a review of whether—

- (a) any land shown on that map as open country or registered common land is open country or registered common land at the time of the review, and
- (b) any land in that area which is not so shown ought to be so shown.

(3) Regulations may require Natural England to carry out subsequent reviews, in respect of such matters and in respect of such circumstances as may be prescribed.”

(3) In section 10 (review of maps)—

- (a) at the end of the heading insert “(Wales)”;
- (b) in subsection (1), after “area” insert “in Wales”;
- (c) in subsection (2), for paragraphs (a) and (b) substitute—
  - “(a) in the case of the first review, not more than ten years after the issue of the map in conclusive form, and
  - (b) in the case of subsequent reviews, not more than fifteen years after the previous review.”

(4) In section 11 (regulations relating to maps)—

- (a) in subsection (2), after paragraph (j) insert—
  - “(ja) the procedure to be followed on a review under section 9A (including provision as to the period within which, and the



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manner in which, representations may be made to Natural England in relation to such a review),”;

(b) after subsection (3) insert—

“(3A) Regulations made by virtue of subsection (2)(ja) may make provision—

- (a) for appeals in relation to a review, including by making provision applying, or corresponding to, any provision of, or made under, Schedule 1A to the National Parks and Access to the Countryside Act 1949 (coastal access reports) (with or without modifications);
- (b) enabling Natural England to make a determination in preparing a map on a review that any boundary of an area of open country is to be treated as coinciding with a particular physical feature (whether the effect is to include other land as open country or to exclude part of an area of open country).”

#### Commencement Information

**I252** S. 236 in force at 26.12.2023, see s. 255(9)(b)

PROSPECTIVE

#### 237 Childcare: use of non-domestic premises

- (1) In section 96 of the Childcare Act 2006 (meaning of early years provision etc), in each of subsections (4) and (8) omit “, where at least half of the provision is on domestic premises”.
- (2) [Schedule 23](#) amends the Childcare Act 2006 to make provision relating to the registration of persons providing childminding wholly on non-domestic premises.

#### Commencement Information

**I253** S. 237 not in force at Royal Assent, see s. 255(9)(a)

PROSPECTIVE

#### 238 Childcare: number of providers

In section 96 of the Childcare Act 2006 (meaning of early years provision etc), in each of subsections (5) and (9), for “three” substitute “four”.

#### Commencement Information

**I254** S. 238 not in force at Royal Assent, see s. 255(9)(a)

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### 239 Amendments of Schedule 7B to the Government of Wales Act 2006

- (1) Schedule 7B to the Government of Wales Act 2006 (general restrictions on legislative competence of Senedd Cymru) is amended in accordance with subsections (2) and (3).
- (2) In paragraph 9(8)(b) (exceptions to restrictions relating to reserved authorities)—
- (a) omit the “or” at the end of paragraph (vi);
  - (b) after paragraph (vii) insert “; or  
(viii) Chapter 1 of Part 3 or Part 6 of the Levelling-up and Regeneration Act 2023.”
- (3) In paragraph 11(6)(b) (exceptions to restrictions relating to Ministers of the Crown)—
- (a) omit the “or” at the end of the first paragraph (ix);
  - (b) for the second paragraph (ix) substitute—
    - “(x) the Trade (Australia and New Zealand) Act 2023; or
    - (xi) Chapter 1 of Part 3 or Part 6 of the Levelling-up and Regeneration Act 2023.”
- (4) In the Procurement Act 2023—
- (a) in section 118 (concurrent powers and the Government of Wales Act 2006), for paragraphs (c) and (d) substitute—
    - “(c) at the end of paragraph 11(6)(b)(x), omit “or”, and
    - (d) in paragraph 11(6)(b)(xi), at the end insert “, or  
(xii) the Procurement Act 2023.””
  - (b) in Schedule 11 (repeals and revocations), for paragraph 1 substitute—
 

“1 In Schedule 7B to the Government of Wales Act 2006 (general restrictions on devolved competence)—

    - (a) paragraph 9(9)(d) (as inserted by the Trade (Australia and New Zealand) Act 2023), and
    - (b) paragraph 11(6)(b)(x) (as inserted by the Levelling-up and Regeneration Act 2023).”

#### Commencement Information

I255 S. 239 in force at 26.12.2023, see s. 255(9)(b)

### 240 Blue plaques in England

In paragraph 4 of Schedule 2 to the Local Government Act 1985 (Listed Buildings, Conservation Areas and Ancient Monuments), for “Greater London” substitute “any area in England”.

#### Commencement Information

I256 S. 240 in force at 26.12.2023, see s. 255(9)(b)

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## 241 Powers of local authority in relation to the provision of childcare

In section 8 of the Childcare Act 2006 (powers of local authority in relation to the provision of childcare)—

- (a) in subsection (1)(c) omit “subject to subsection (3),”;
- (b) omit subsections (3) to (5).

### Commencement Information

**I257** S. 241 in force at 26.12.2023, see s. 255(9)(b)

## 242 Report on enforcement of the Vagrancy Act 1824

- (1) The Secretary of State must prepare and publish a report on the impact of the enforcement of sections 3 and 4 of the Vagrancy Act 1824 on the levelling-up missions (within the meaning given by section 1(2)(a)).
- (2) The report must be published within the period of 12 months beginning with the day on which this section comes into force.
- (3) This section ceases to have effect on the day on which section 81 of the Police, Crime, Sentencing and Courts Act 2022 (repeal of the Vagrancy Act 1824 etc) comes into force.

### Commencement Information

**I258** S. 242 in force at 26.12.2023, see s. 255(9)(b)

## 243 Qualifying leases under the Building Safety Act 2022

- (1) The Building Safety Act 2022 is amended in accordance with subsections (2) to (4).
- (2) In section 119 (meaning of “qualifying lease”) after subsection (3) insert—
  - “(3A) A connected replacement lease (see section 119A) is also a “qualifying lease”.”
- (3) After section 119 insert—

### “119A Meaning of “connected replacement lease”

- (1) For the purposes of section 119 (and this section) a lease (the “new lease”) is a “connected replacement lease” if—
  - (a) the new lease is a lease of a single dwelling in a relevant building,
  - (b) the tenant under the new lease is liable to pay a service charge,
  - (c) the new lease was granted on or after 14 February 2022,
  - (d) the new lease replaces—
    - (i) one other lease, which is a qualifying lease (whether under section 119(2) or (3A)), or
    - (ii) two or more other leases, at least one of which is a qualifying lease (whether under section 119(2) or (3A)), and

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- (e) there is continuity in the property let.
- (2) For the purposes of subsection (1)(d), the new lease replaces another lease if—
    - (a) the term of the new lease begins during the term of the other lease, and the new lease is granted in substitution of the other lease, or
    - (b) the term of the new lease begins at the end of the term of the other lease (regardless of when the lease is granted).
  - (3) For the purposes of subsection (2)(a), the circumstances in which the new lease is granted in substitution of another lease include circumstances where—
    - (a) the new lease is granted by way of a surrender and regrant of the other lease (including a deemed surrender and regrant, whether deemed under an enactment or otherwise);
    - (b) the new lease is granted under—
      - (i) section 24 of the Landlord and Tenant Act 1954 (renewed business leases),
      - (ii) section 14 of, or Schedule 1 to, the Leasehold Reform Act 1967 (extension of leases of houses), or
      - (iii) section 56 of the Leasehold Reform, Housing and Urban Development Act 1993 (extension of leases of flats),
 in a case where that provision of that Act applies by virtue of the other lease.
  - (4) For the purposes of subsection (1)(e) there is continuity in the property let if—
    - (a) the newly let property is exactly the same as the already let property,
    - (b) the newly let property consists of some or all of the already let property, together with other property (whether or not that other property was previously let) (a “property combination”), or
    - (c) the newly let property consists of some, but not all, of the already let property (but no other property) (a “property reduction”).
  - (5) But there is no continuity in the property let by virtue of a property reduction if, as respects any lease in the relevant chain of qualifying leases, there was continuity in the property let by virtue of a property combination.
  - (6) For that purpose, the “relevant” chain of qualifying leases is the chain of qualifying leases of which the new lease would be part were it a connected replacement lease.
  - (7) For the purposes of subsection (1)(e) there is also continuity in the property let if the new lease is granted to rectify any error in the lease, or any lease, which the new lease replaces.
  - (8) Where a dwelling is at any time on or after 14 February 2022 let under two or more leases to which subsection (1)(a) and (b) apply, any of the leases which is superior to any of the other leases is not a connected replacement lease.
  - (9) For the purposes of sections 122 to 125 and Schedule 8, all of the leases in a chain of qualifying leases are to be treated as a single qualifying lease which has a term that—
    - (a) began when the term of the initial qualifying lease in that chain began, and

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- (b) ends when the term of the current connected replacement lease in that chain ends.
- (10) The Secretary of State may by regulations make provision about the meaning of “connected replacement lease” (including provision changing the meaning).
- (11) The provision that may be made in regulations under this section includes—
- (a) provision which amends this section;
  - (b) provision which has retrospective effect.
- (12) Provision in regulations under this section made by virtue of section 168(2)
- (a) (consequential provision etc) may (in particular) amend this Act.
- (13) In this section—
- “already let property”, in relation to a new lease, means the property let by the lease or leases which the new lease replaces;
- “chain of qualifying leases” means—
- (a) an initial qualifying lease which is the preceding qualifying lease in relation to a connected replacement lease (the “first replacement lease”),
  - (b) the first replacement lease, and
  - (c) any other connected replacement lease if the preceding qualifying lease in relation to it is—
    - (i) the first replacement lease, or
    - (ii) any other connected replacement lease which is in the chain of qualifying leases;
- and a chain of qualifying leases may accordingly consist of different leases at different times (if further connected replacement leases are granted);
- “current connected replacement lease”, in relation to a particular time, means a connected replacement lease during the term of which that time falls;
- “initial qualifying lease” means a lease which is a qualifying lease under section 119(2);
- “new lease” has the meaning given in subsection (1);
- “newly let property” means the property let by the new lease;
- “preceding qualifying lease”, in relation to the new lease, means—
- (a) in a case within subsection (1)(d)(i), the lease which the new lease replaces;
  - (b) in a case within subsection (1)(d)(ii), a lease which—
    - (i) the new lease replaces, and
    - (ii) is a qualifying lease.
- (14) The definitions in section 119(4) also apply for the purposes of this section.”
- (4) In section 168(6)(a) (affirmative procedure for regulations), after “74,” insert “119A,”.
- (5) The amendments made by this section are to be treated as having come into force on 28 June 2022.

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### Commencement Information

**I259** [S. 243](#) in force at 26.12.2023, see [s. 255\(9\)\(b\)](#)

PROSPECTIVE

## 244 Road user charging schemes in London

(1) Schedule 23 to GLAA 1999 (road user charging) is amended as follows.

(2) After paragraph 1(3) insert—

“(3A) Any reference in this Schedule to national obligations is a reference to obligations imposed by or under any enactment on a Minister of the Crown.”

(3) After paragraph 3 insert—

*“Proposals relating to certain TfL schemes: opt out*

3A (1) This paragraph applies where Transport for London proposes to—

- (a) make a TfL scheme the purpose, or one of the purposes, of which is the improvement of air quality, or
- (b) significantly vary a TfL scheme where the purpose, or one of the purposes, of the variation is the improvement of air quality.

(2) Transport for London must publish a draft order containing the proposed TfL scheme or the proposed variations to the TfL scheme.

(3) The draft order must be in such form as the Authority may determine.

(4) Transport for London may not make the order and submit it to the Authority in accordance with paragraph 4(1) otherwise than in accordance with [sub-paragraph \(8\)](#).

(5) A relevant London borough council may, within the opt-out period, give notice that it wants to opt out of the scheme (an “opt-out notice”).

(6) An opt-out notice must be given to—

- (a) Transport for London, and
- (b) the Secretary of State.

(7) A London borough council is “relevant” if—

- (a) any of the council’s area falls within the charging area of the proposed TfL scheme or of the TfL scheme after the proposed variations have been made, and
- (b) the principal purpose of the scheme applying in the council’s area is the improvement of air quality.

(8) After the opt-out period has ended—

- (a) if [sub-paragraph \(9\)](#) applies, Transport for London may make the order and submit it to the Authority in accordance with paragraph 4(1);

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- (b) if [sub-paragraph \(10\)](#) applies, Transport for London may make the order and submit it to the Authority in accordance with paragraph 4(1) only if Transport for London first modifies the order so that the proposed TfL scheme, or the TfL scheme after the proposed variations have been made, will not apply to the area of each eligible council which has given, and not withdrawn, an opt-out notice.
- (9) This sub-paragraph applies if—
  - (a) no opt-out notice has been given within the opt-out period or any opt-out notices that have been given within that period have been withdrawn, or
  - (b) one or more opt-out notices have been given within the opt-out period and have not been withdrawn, but each of them was given by a London borough council that is an ineligible council (whether or not that council was an ineligible council at the time the opt-out notice was given) and in each case either—
    - (i) the council did not submit an alternative plan, within the opt-out period, to the Secretary of State under paragraph [3B](#), or
    - (ii) the council did so submit an alternative plan and the plan has been rejected under that paragraph.
- (10) This sub-paragraph applies if—
  - (a) one or more opt-out notices have been given within the opt-out period and have not been withdrawn,
  - (b) in the case of any opt-out notice that was given by a London borough council that is an ineligible council (whether or not that council was an ineligible council at the time the opt-out notice was given)—
    - (i) the council did not submit an alternative plan, within the opt-out period, to the Secretary of State under paragraph [3B](#), or
    - (ii) the council did so submit an alternative plan and the plan has been rejected under that paragraph, and
  - (c) one or more of the opt-out notices that have been given, and not withdrawn, was given by a London borough council that is an eligible council (whether or not that council was an eligible council at the time the opt-out notice was given).
- (11) A relevant London borough council is an “eligible council” if it has complied with any duty imposed on it under or by virtue of Part 4 of the Environment Act 1995 and—
  - (a) no part of the council’s area is designated, or is required to be designated, as an air quality management area under section 83 of the Environment Act 1995 (designation of air quality management areas), or
  - (b) if any part of the council’s area is so designated, or required to be so designated, the council has an alternative plan that has been approved by the Secretary of State under paragraph [3B](#).
- (12) In this paragraph and paragraph [3B](#)—

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“alternative plan” means a plan for improving air quality in the area of the London borough council which does not involve the TfL scheme applying to any of the area of the London borough council;

“eligible council” has the meaning given by [sub-paragraph \(11\)](#) and “ineligible council” is to be read accordingly;

“opt-out notice” has the meaning given by [sub-paragraph \(5\)](#);

“opt-out period” means the period of 10 weeks beginning with the day on which the draft order containing the proposed TfL scheme, or the proposed variations to the TfL scheme, is published in accordance with [sub-paragraph \(2\)](#);

“relevant London borough council” has the meaning given by [sub-paragraph \(7\)](#).

- 3B (1) This paragraph applies where [paragraph 3A](#) applies and a relevant London borough council—
- (a) gives an opt-out notice, within the opt-out period, in relation to the TfL scheme and does not withdraw it, and
  - (b) submits an alternative plan to the Secretary of State within that period.
- (2) The London borough council must—
- (a) notify Transport for London that the council has submitted the alternative plan, and
  - (b) provide Transport for London with a copy of it.
- (3) The Secretary of State must, before the end of the review period, by notice to the London borough council and Transport for London—
- (a) approve the alternative plan, or
  - (b) reject the alternative plan.
- (4) Subject to [sub-paragraph \(5\)](#), the Secretary of State must approve the alternative plan if the Secretary of State is satisfied that it is likely to achieve and maintain improvements in relation to air quality standards and objectives, in every part of the London borough council’s area that is designated, or is required to be designated, as mentioned in [paragraph 3A\(11\)\(a\)](#), that are similar to those that the proposed TfL scheme, or the TfL scheme after the proposed variations have been made, is likely to achieve if it applies to the area of the council.
- (5) The Secretary of State is not required to approve the alternative plan if the Secretary of State considers that the plan is inconsistent, or could be inconsistent, with national policies or obligations relating to air quality.
- (6) At any time during the review period before the Secretary of State approves or rejects the alternative plan under [sub-paragraph \(3\)](#), the Secretary of State may invite the London borough council to modify the plan for the purposes of securing that—
- (a) the Secretary of State can be satisfied as mentioned in [sub-paragraph \(4\)](#), or
  - (b) the plan is consistent with national policies or obligations relating to air quality,



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and if the council modifies the plan, sub-paragraphs (3) to (5) apply in relation to the plan as modified.

- (7) The review period is the period of 16 weeks beginning with the day after the day on which the opt-out period ends.
- (8) The Secretary of State may on one or more occasions extend the review period.
- (9) The Secretary of State must give notice of any extension under [sub-paragraph \(8\)](#) to—
- (a) each London borough council that has—
    - (i) given an opt-out notice, within the opt-out period, in relation to the TfL scheme and not withdrawn it, and
    - (ii) submitted an alternative plan to the Secretary of State within that period, and
  - (b) Transport for London.
- (10) Where a London borough council’s alternative plan has been approved under this paragraph, the Mayor may issue a direction to the council requiring it to take such steps as may be specified in the direction for the purpose of securing that the alternative plan is implemented.
- (11) The power to give a direction under [sub-paragraph \(10\)](#) may only be exercised by the Mayor after consultation with the London borough council concerned.
- (12) Where the Mayor issues a direction to a London borough council under [sub-paragraph \(10\)](#), the council must comply with the direction.
- (13) In [sub-paragraph \(4\)](#) the reference to air quality standards and objectives is to air quality standards and objectives within the meaning of Part 4 of the Environment Act 1995.”
- (4) After paragraph 4(2) insert—
- “(2A) Where an order has been modified in accordance with [paragraph 3A\(8\)\(b\)](#) before being made and submitted by Transport for London under this paragraph, the Authority must—
- (a) require Transport for London to publish its proposals for the TfL scheme, or the proposed variations to the TfL scheme, and to consider objections to the proposals, and
  - (b) consult or require Transport for London to consult—
    - (i) any London borough council any of whose area falls within the charging area of the proposed TfL scheme or of the TfL scheme after the proposed variations have been made,
    - (ii) the Secretary of State, and
    - (iii) such other persons as the Authority considers appropriate.
- (2B) In a case not falling within [sub-paragraph \(2A\)](#), the Authority may—
- (a) consult, or require an authority making a charging scheme to consult, other persons;

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(b) require such an authority to publish its proposals for the scheme and to consider objections to the proposals.”

(5) In paragraph 4(3)—

- (a) in the opening words, for “The” substitute “In any case, the”;
- (b) omit paragraphs (a) and (aa).

(6) After paragraph 4 insert—

*“Secretary of State’s intervention power in relation to certain schemes*

4A (1) This paragraph applies where—

- (a) the Secretary of State has been consulted under paragraph 4(2A)(b)(ii) about an order containing a proposal for a TfL scheme or proposed variations to a TfL scheme, and
- (b) the Authority has—
  - (i) made any modifications to the order under paragraph 4(3)(d) that it considers appropriate, or
  - (ii) decided not to make any such modifications.

(2) The Authority may not confirm the order under paragraph 4(1) unless—

- (a) the Authority has published the order, and
- (b) the condition in [sub-paragraph \(3\)](#) has been met.

(3) The condition in this sub-paragraph is met if—

- (a) the period of 60 days beginning with the day on which the order is published (the “confirmation period”) expires without the Secretary of State giving the Authority a direction in relation to the order under [sub-paragraph \(4\)](#), or
- (b) before the end of the confirmation period the Secretary of State gives the Authority a direction in relation to the order under [sub-paragraph \(4\)](#) and the Authority has modified the order in accordance with the direction.

(4) Where the Secretary of State considers that as a result of the order being modified in accordance with [paragraph 3A\(8\)\(b\)](#)—

- (a) the proposed TfL scheme contained in the order would or could be inconsistent with national policies or obligations relating to air quality, or
- (b) the TfL scheme after the proposed variations contained in the order have been made would or could be inconsistent with such policies or obligations,

the Secretary of State may, within the confirmation period, direct the Authority to make modifications to the order so as to prevent the inconsistency by expanding the charging area of the proposed TfL scheme contained in the order, or the TfL scheme after the proposed variations contained in the order have been made, to include any of the area of a London borough council to which the scheme would not otherwise apply by virtue of the modification in accordance with [paragraph 3A\(8\)\(b\)](#).”

(7) In paragraph 34B(1), after “functions” insert “, or the Secretary of State’s functions”.

(8) In paragraph 38—

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- (a) after “sub-paragraphs” insert “(2A), (2B),”;
- (b) at the end insert “, but does not apply to a variation to a TfL scheme made as a result of a modification to an order under [paragraph 4A\(3\)\(b\)](#)”.

#### Commencement Information

**I260** S. 244 not in force at Royal Assent, see [s. 255\(9\)\(a\)](#)

## 245 Protected landscapes

- (1) The National Parks and Access to the Countryside Act 1949 is amended in accordance with subsections [\(2\)](#) and [\(3\)](#).
- (2) In section 4A (application of Part 2 of Act to Wales), after subsection (2) insert—
  - “(3) Subsection (1) does not apply in relation to section 11A(1A) or (1B) (duty to further statutory purposes of National Parks in England).”
- (3) In section 11A (duty to have regard to purposes of National Parks)—
  - (a) in the heading, for “to have regard” substitute “in relation”;
  - (b) after subsection (1), insert—
    - “(1A) In exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a relevant authority other than a devolved Welsh authority must seek to further the purposes specified in section 5(1) and if it appears that there is a conflict between those purposes, must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.
    - (1B) In exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a devolved Welsh authority must have regard to the purposes specified in section 5(1) and if it appears that there is a conflict between those purposes, must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.”;
  - (c) in subsection (2), after “Park”, in the first place it occurs, insert “in Wales”;
  - (d) after that subsection, insert—
    - “(2A) The Secretary of State may by regulations make provision about how a relevant authority is to comply with the duty under [subsection \(1A\)](#) (including provision about things that the authority may, must or must not do to comply with the duty).”;
  - (e) after subsection (5), insert—
    - “(5A) In this section, “devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see, in particular, section 157A of that Act).”
- (4) After section 66 of the Environment Act 1995 (national park management plans), insert—

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### “66A National Park Management Plans (England): further provision

- (1) The Secretary of State may by regulations make provision—
  - (a) requiring a National Park Management Plan for a park in England to contribute to the meeting of any target set under Chapter 1 of Part 1 of the Environment Act 2021;
  - (b) setting out how such a Management Plan must contribute to the meeting of such targets;
  - (c) setting out how such a Management Plan must further the purposes specified in section 5(1) of the National Parks and Access to the Countryside Act 1949.
- (2) The Secretary of State may by regulations make provision—
  - (a) requiring a relevant authority other than a devolved Welsh authority to contribute to the preparation, implementation or review of a National Park Management Plan for a park in England;
  - (b) setting out how such a relevant authority may or must do so.
- (3) In this section—
 

“devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see, in particular, section 157A of that Act);

“relevant authority” has the same meaning as in section 11A of the National Parks and Access to the Countryside Act 1949.

### 66B Regulations under section 66A: procedure etc

- (1) The power to make regulations under section 66A—
  - (a) is exercisable by statutory instrument;
  - (b) includes power to make different provision for different purposes or different areas;
  - (c) includes power to make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (2) A statutory instrument containing regulations under section 66A is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (5) The Countryside and Rights of Way Act 2000 is amended in accordance with subsections (6) to (10).
- (6) In section 85 (general duty of public bodies etc)—
  - (a) before subsection (1), insert—
 

“(A1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

(A2) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a devolved Welsh authority must have regard to the purpose

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of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”;

- (b) in subsection (1), after “beauty”, in the first place it occurs, insert “in Wales”;
- (c) after that subsection, insert—

“(1A) The Secretary of State may by regulations make provision about how a relevant authority is to comply with the duty under [subsection \(A1\)](#) (including provision about things that the authority may, must or must not do to comply with the duty).”;

- (d) in subsection (3), after “(2)—” insert—
  - ““devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see, in particular, section 157A of that Act);”.

(7) In section 87 (general purposes and powers)—

- (a) before subsection (1) insert—

“(A1) It is the duty of a conservation board established in relation to an area in England, in the exercise of their functions, to seek to further—

- (a) the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, and
- (b) the purpose of increasing the understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty,

but if it appears to the board that there is a conflict between those purposes, they are to attach greater weight to the purpose mentioned in paragraph (a).”;

- (b) in subsection (1), after “board”, in the first place it occurs, insert “established in relation to an area in Wales”;
- (c) in subsection (2), for the words from “while” to “(1)” substitute “whilst fulfilling their duties under subsection (A1) or (1) (as the case may be)”.

(8) In section 90 (supplementary provisions relating to management plans), after subsection (2) insert—

“(2A) The Secretary of State may by regulations make provision—

- (a) requiring a plan under section 89 relating to an area of outstanding natural beauty in England to contribute to the meeting of any target set under Chapter 1 of Part 1 of the Environment Act 2021;
- (b) setting out how such a plan must contribute to the meeting of such targets;
- (c) setting out how a plan under section 89 relating to an area of outstanding natural beauty in England must further the purpose of conserving and enhancing the natural beauty of that area.”

(9) After that section insert—

#### “90A Duty of public bodies etc in relation to management plans

(1) The Secretary of State may by regulations make provision—

- (a) requiring a relevant authority other than a devolved Welsh authority to contribute to the preparation, implementation or review of a plan

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under section 89 relating to an area of outstanding natural beauty in England;

(b) setting out how such a relevant authority may or must do so.

(2) In this section—

“devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see, in particular, section 157A of that Act);

“relevant authority” has the same meaning as in section 85.”

(10) After section 91 insert—

#### “91A Regulations under Part 4

(1) A power to make regulations under this Part—

- (a) is exercisable by statutory instrument;
- (b) includes power to make different provision for different purposes or different areas;
- (c) includes power to make consequential, incidental, supplementary, transitional, transitory or saving provision.

(2) Regulations under this Part are to be made by statutory instrument.

(3) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.”

(11) The Norfolk and Suffolk Broads Act 1988 is amended in accordance with subsections (12) to (15).

(12) In section 3 (the Broads Plan), after subsection (6) insert—

“(7) The Secretary of State may by regulations make provision—

- (a) requiring the Broads Plan to contribute to the meeting of any target set under Chapter 1 of Part 1 of the Environment Act 2021;
- (b) setting out how the Broads Plan must contribute to the meeting of such targets;
- (c) setting out how the Broads Plan must further the purposes mentioned in subsection (8).

(8) The purposes are the purposes of—

- (a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
- (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and
- (c) protecting the interests of navigation.”

(13) In section 17A (general duty of public bodies etc)—

- (a) in subsection (1), for “shall have regard to” substitute “must seek to further”;
- (b) after that subsection insert—

“(1A) The Secretary of State may by regulations make provision about how a relevant authority is to comply with the duty under subsection (1) (including provision about things that the authority may, must or must not do to comply with the duty).”

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(14) After that section insert—

**“17B Duty of public bodies etc to contribute to the Broads Plan**

- (1) The Secretary of State may by regulations make provision—
- (a) requiring a relevant authority other than a devolved Welsh authority to contribute to the implementation or review of the Broads Plan;
  - (b) setting out how such a relevant authority may or must do so.
- (2) In this section—
- “devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see, in particular, section 157A of that Act);
- “relevant authority” has the same meaning as in section 17A.”

- (15) In section 24 (orders and byelaws)—
- (a) in the heading, after “orders” insert “, regulations”;
  - (b) in subsection (1), after “orders” insert “or regulations”;
  - (c) in subsection (3), after “orders” insert “, regulations”.

**Commencement Information**

**I261** S. 245 in force at 26.12.2023, see s. 255(9)(b)

**PART 13**

**GENERAL**

**246 Data protection**

- (1) This section applies to a duty or power, to disclose or use information, imposed or conferred by or under any provision of this Act, other than section 86 (in relation to which see subsection (2) of that section).
- (2) A duty or power to which this section applies does not operate to require or authorise the disclosure or use of information which would contravene the data protection legislation (but the duty or power is to be taken into account in determining whether the disclosure or use would contravene that legislation).
- (3) In this section “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

**Commencement Information**

**I262** S. 246 in force at Royal Assent, see s. 255(10)(a)

**247 Crown application**

- (1) This Act binds the Crown, subject to subsections (2) to (4).

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- (2) The amendments made by this Act bind the Crown only to the extent that the provisions amended bind the Crown.
- (3) [Part 10](#) does not apply in relation to land that is Crown land for the purposes of Part 13 of TCPA 1990 (see section 293 of that Act).
- (4) [Part 11](#) does not apply in relation to land belonging to His Majesty in right of His private estates (as construed in accordance with section 1 of the Crown Private Estates Act 1862).

#### Commencement Information

**I263** S. 247 in force at Royal Assent, see [s. 255\(10\)\(a\)](#)

### 248 Amendments of references to “retained direct EU legislation”

In [section 166\(3\)\(e\)](#) for “retained direct EU legislation” substitute “assimilated direct legislation”

#### Commencement Information

**I264** S. 248 in force at the end of 2023, see [s. 255\(10\)\(b\)](#)

### 249 Abbreviated references to certain Acts

In this Act—

- “GLAA 1999” means the Greater London Authority Act 1999;
- “the Hazardous Substances Act” means the Planning (Hazardous Substances) Act 1990;
- “the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990;
- “PCPA 2004” means the Planning and Compulsory Purchase Act 2004;
- “TCPA 1990” means the Town and Country Planning Act 1990.

#### Commencement Information

**I265** S. 249 in force at Royal Assent, see [s. 255\(10\)\(a\)](#)

### 250 Power to make consequential provision

- (1) The Secretary of State may by regulations make provision that is consequential on this Act or any provision made under it.
- (2) Regulations under this section may amend, repeal or revoke provision made by this Act or any provision made by or under primary legislation passed—
  - (a) before this Act, or
  - (b) in the same session of Parliament as this Act.
- (3) In this section “primary legislation” means—



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- (a) an Act,
- (b) an Act or Measure of Senedd Cymru,
- (c) an Act of the Scottish Parliament, or
- (d) Northern Ireland legislation.

#### Commencement Information

**I266** S. 250 in force at Royal Assent, see [s. 255\(10\)\(a\)](#)

### 251 Power to address conflicts with the Historic Environment (Wales) Act 2023

- (1) The Secretary of State may by regulations amend this Act, or any Act amended by this Act, in consequence of a relevant amending provision of the Historic Environment (Wales) Act 2023 (“HEWA 2023”) coming into force before a provision of this Act.
- (2) That power includes, in relation to an Act amended by this Act, the power to make amendments to serve in place of those contained in this Act.
- (3) Amendments made in reliance on subsection (2) must produce in substance the same effect in relation to England as the amendments contained in this Act would produce if the relevant amending provision of HEWA 2023 were ignored.
- (4) In this section—
  - “amend” includes repeal, and related terms are to be read accordingly;
  - a “relevant amending provision” of HEWA 2023 means a provision of that Act that amends an enactment that—
    - (a) is amended by this Act, or
    - (b) relates to an enactment amended by this Act.

#### Commencement Information

**I267** S. 251 in force at Royal Assent, see [s. 255\(10\)\(a\)](#)

### 252 Regulations

- (1) A power to make regulations under this Act includes power to make—
  - (a) different provision for different purposes;
  - (b) different provision for different areas;
  - (c) consequential, incidental, supplementary, transitional, transitory or saving provision.
- (2) A power to make regulations under [Chapter 1](#) of [Part 2](#), in the case of regulations other than regulations under [section 13\(1\)](#) or regulations mentioned in subsection (8)(a) to (c), includes power to make provision amending, applying (with or without modifications), disapplying, repealing or revoking any enactment whenever passed or made.
- (3) Regulations under this Act are to be made by statutory instrument.

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- (4) A statutory instrument containing regulations that fall within [subsection \(5\)](#) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Regulations fall within this subsection if they contain provision (whether alone or with other provision)—
- (a) under Chapter 1 of [Part 2](#), other than provision of the kind mentioned in [subsection \(8\)\(a\) to \(c\)](#);
  - (b) under [section 81\(6\)\(b\)](#);
  - (c) under [section 132](#);
  - (d) under [Part 5](#) other than [section 142\(1\)\(a\)](#);
  - (e) under [section 217](#);
  - (f) under [Part 11](#);
  - (g) under [section 228](#);
  - (h) under [section 233](#);
  - (i) which—
    - (i) amends or repeals any provision of primary legislation, and
    - (ii) is not made under [section 251](#) or under [section 250](#) in consequence of regulations under [section 251](#).
- (6) A statutory instrument containing regulations which fall within [subsection \(8\)](#) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Subsection (6) does not apply if a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (8) Regulations fall within this subsection if they contain provision (whether alone or with other provision)—
- (a) under [section 45\(8\)](#) or [47\(9\)](#);
  - (b) under [section 51\(1\)](#) made only for the purpose mentioned in [section 51\(5\)\(b\)](#);
  - (c) under [section 51\(2\)](#) made only for that purpose or for imposing conditions on the doing of things for a commercial purpose;
  - (d) under [section 81](#), other than [section 81\(6\)\(b\)](#);
  - (e) under [section 108](#);
  - (f) under [section 142\(1\)\(a\)](#);
  - (g) under [section 187](#);
  - (h) under [Part 10](#);
  - (i) under [section 230\(2\)\(a\)\(vii\)](#) or [\(6\)\(a\)](#);
  - (j) under [section 250](#);
  - (k) under [section 251](#).
- (9) Subsections (3) to (8) do not apply to regulations under [Chapter 1](#) of [Part 3](#) or [Part 6](#).
- (10) [Schedule 24](#) contains provision about regulations made under [Chapter 1](#) of [Part 3](#) or [Part 6](#).
- (11) If a draft of a statutory instrument containing regulations under [Chapter 1](#) of [Part 2](#) or [section 228](#) would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

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(12) This section does not apply to regulations under [section 255](#).

(13) In this section “primary legislation” means—

- (a) an Act,
- (b) an Act or Measure of Senedd Cymru,
- (c) an Act of the Scottish Parliament, or
- (d) Northern Ireland legislation.

#### Commencement Information

**I268** S. 252 in force at Royal Assent, see [s. 255\(10\)\(a\)](#)

### 253 Financial provisions

- (1) There is to be paid out of money provided by Parliament any expenditure incurred under or by virtue of this Act by a Minister of the Crown or another public authority.
- (2) There is to be paid out of the National Loans Fund, the Consolidated Fund or money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of the National Loans Fund, the Consolidated Fund or money so provided.

#### Commencement Information

**I269** S. 253 in force at Royal Assent, see [s. 255\(10\)\(a\)](#)

### 254 Extent

- (1) [Part 1](#) extends to England and Wales, Scotland and Northern Ireland.
- (2) [Part 2](#) extends to England and Wales only.
- (3) In [Part 3](#)—
  - (a) [Chapter 1](#) (including [Schedule 13](#) so far as it relates to [Chapter 1](#) of [Part 3](#)) extends to England and Wales, Scotland and Northern Ireland;
  - (b) an amendment or repeal made by [Chapters 2](#) to [6](#) has the same extent as the provision amended or repealed;
  - (c) [sections 108](#) and [132](#) extend to England and Wales, Scotland and Northern Ireland;
  - (d) [section 133](#) extends to England and Wales and Scotland;
  - (e) [section 136](#) extends to England and Wales only.
- (4) [Parts 4](#) and [5](#) extend to England and Wales only.
- (5) [Part 6](#) (including [Schedule 13](#) so far as it relates to [Part 6](#)) extends to England and Wales, Scotland and Northern Ireland.
- (6) [Part 7](#) extends to England and Wales only.
- (7) An amendment or repeal made by [Part 8](#) has the same extent as the provision amended or repealed.

**Status:** Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Levelling-up and Regeneration Act 2023 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (8) Parts 9 and 10 extend to England and Wales only.
- (9) Part 11 extends to England and Wales, Scotland and Northern Ireland.
- (10) In Part 12—
- (a) sections 228, 229 (and Schedule 22), 230, 233 to 236, 237 (and Schedule 23), 238, 240, 241, 243 and 245 extend to England and Wales only;
  - (b) sections 231, 232, 239 and 242 extend to England and Wales, Scotland and Northern Ireland;
  - (c) section 244 extends to England and Wales and Scotland.
- (11) This Part extends to England and Wales, Scotland and Northern Ireland.

#### Commencement Information

**I270** S. 254 in force at Royal Assent, see s. 255(10)(a)

### 255 Commencement and transitional provision

- (1) In Part 1—
- (a) section 7 comes into force on the day on which this Act is passed, and
  - (b) the remaining provisions come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (2) In Part 2—
- (a) sections 27 and 45 come into force on the day on which this Act is passed;
  - (b) in Schedule 4—
    - (i) if a provision amended by any of paragraphs 218, 222, 223 and 224 has not come into force before the end of the period mentioned in paragraph (c), that paragraph comes into force when the provision that it amends comes into force (but otherwise it comes into force at the end of that period);
    - (ii) paragraphs 226 to 230 come into force on such day as the Secretary of State may by regulations appoint;
  - (c) the remaining provisions of Chapter 1 come into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (d) section 58 comes into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (e) sections 59 and 60 come into force on the day on which this Act is passed;
  - (f) section 61 comes into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (g) section 62 comes into force on the day on which this Act is passed;
  - (h) sections 63 to 65 come into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (i) section 66 comes into force on the day on which this Act is passed;
  - (j) sections 67 to 70 come into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (k) sections 71 and 72 come into force on the day on which this Act is passed;

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- (l) sections 73 and 74 comes into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (m) section 75 comes into force on such day as the Secretary of State may by regulations appoint;
  - (n) section 76 comes into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (o) section 77 comes into force on the day on which this Act is passed;
  - (p) section 78 comes into force on such day as the Secretary of State may by regulations appoint;
  - (q) sections 79 and 80 come into force on the day on which this Act is passed;
  - (r) section 81 (and Schedule 5) come into force on such day as the Secretary of State may by regulations appoint;
  - (s) sections 82 and 83 come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) In Part 3—
- (a) sections 108, 109 (so far as it confers a power to make regulations or to make a development order), 112, 113 and 114 (so far as conferring a power to make regulations), 121, 126 to 128, 130 to 133 and 136 come into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (b) sections 109, 112, 113 and 114 (so far as not already commenced by virtue of paragraph (a)), Schedule 13 (so far as it relates to Chapter 1 of Part 3) and the other provisions come into force on such day as the Secretary of State may by regulations appoint.
- (4) Parts 4 and 5 come into force on such day as the Secretary of State may by regulations appoint.
- (5) Part 6 (including Schedule 13 so far as it relates to Part 6) comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (6) Part 7 comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (7) Parts 8 to 10 come into force on such day as the Secretary of State may by regulations appoint.
- (8) Part 11 comes into force on the day on which this Act is passed.
- (9) In Part 12—
- (a) sections 229 (and Schedule 22), 230, 232, 235, 237 (and Schedule 23), 238 and 244 come into force on such day as the Secretary of State may by regulations appoint;
  - (b) sections 228, 231, 233, 234, 236, 239 to 243 and 245 come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (10) In this Part—
- (a) sections 246, 247 and 249 to 256 come into force on the day on which this Act is passed;
  - (b) section 248 comes into force at the end of 2023.

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- (11) A power under [this section](#) to appoint a day may be exercised to appoint different days for different purposes or areas.
- (12) The Secretary of State may by regulations make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.
- (13) The power to make regulations under [subsection \(12\)](#) includes power to—
- (a) make different provision for different purposes;
  - (b) make different provision for different areas;
  - (c) confer a discretion on the Secretary of State to determine how something is treated under provision made under that subsection.
- (14) Regulations under [this section](#) are to be made by statutory instrument.

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**Commencement Information**

**I271** S. 255 in force at Royal Assent, see [s. 255\(10\)\(a\)](#)

## 256 Short title

This Act may be cited as the Levelling-up and Regeneration Act 2023.

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**Commencement Information**

**I272** S. 256 in force at Royal Assent, see [s. 255\(10\)\(a\)](#)

**Status:**

Point in time view as at 12/02/2024. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

Levelling-up and Regeneration Act 2023 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.