

Infrastructure Act 2015

2015 CHAPTER 7

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An Act to make provision for strategic highways companies and the funding of transport services by land; to make provision for the control of invasive non-native species; to make provision about nationally significant infrastructure projects; to make provision about town and country planning; to make provision about the Homes and Communities Agency and Mayoral development corporations; to make provision about the Greater London Authority so far as it exercises functions for the purposes of housing and regeneration; to make provision about Her Majesty's Land Registry and local land charges; to make provision to enable building regulations to provide for off-site carbon abatement measures; to make provision for giving members of communities the right to buy stakes in local renewable electricity generation facilities; to make provision about maximising economic recovery of petroleum in the United Kingdom; to provide for a levy to be charged on holders of certain energy licences; to enable Her Majesty's Revenue and Customs to exercise functions in connection with the Extractive Industries Transparency Initiative; to make provision about onshore petroleum and geothermal energy; to make provision about renewable heat incentives; to make provision about the reimbursement of persons who have paid for electricity connections; to make provision to enable the Public Works Loan Commissioners to be abolished; and for connected purposes.

[12th February 2015]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extent

Preamble: United Kingdom

PART 1

STRATEGIC HIGHWAYS COMPANIES

Appointment as highway authorities

✔ Law In Force

1 Appointment of strategic highways companies

- (1) The Secretary of State may by order in accordance with this Part appoint one or more companies as a highway authority.
- (2) A company may only be appointed under this section if it is—
 - (a) limited by shares, and
 - (b) wholly owned by the Secretary of State.
- (3) The appointment of a company terminates (in addition to termination by revocation of the order making the appointment) if the company ceases to be wholly owned by the Secretary of State.
- (4) A company appointed under this section is called a “strategic highways company”.
- (5) In this section, “company” means a company registered under the Companies Act 2006.
- (6) Schedule 1 (which contains consequential and supplemental amendments) has effect.

Commencement

Pt 1 s. 1(1)-(6): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 1(1)-(6): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

✔ Law In Force

2 Areas and highways in an appointment

- (1) The appointment of a strategic highways company must specify—
 - (a) an area, consisting of the whole or any part of England, in respect of which the company is appointed, and
 - (b) highways in that area for which the company is to be the highway authority.
- (2) Highways may be specified under subsection (1)(b) by name or description.
- (3) Highways specified under subsection (1)(b) must be highways for which the Secretary of State or another strategic highways company is the highway authority immediately before the appointment has effect.
- (4) In the case of a strategic highways company appointed for an area adjacent to Wales, the highways specified under subsection (1)(b) may (subject to subsection (3)) include highways in Wales.
- (5) Where—
 - (a) the appointment of a strategic highways company is varied, and

(b) by virtue of that variation the company ceases to be the highway authority for one or more highways,
the Secretary of State becomes the highway authority for those highways (to the extent that he or she would not otherwise be so).

(6) Where the appointment of a strategic highways company terminates, the Secretary of State becomes the highway authority for any highway for which the strategic highways company is highway authority (whether by virtue of the appointment or otherwise) immediately before the termination.

(7) Subsections (5) and (6) are subject to the appointment of another strategic highways company.

Commencement

Pt 1 s. 2(1)-(7): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 2(1)-(7): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Functions

Law In Force

3 Road Investment Strategy

(1) The Secretary of State may at any time—

- (a) set a Road Investment Strategy for a strategic highways company, or
- (b) vary a Strategy which has already been set.

(2) A Road Investment Strategy is to relate to such period as the Secretary of State considers appropriate.

(3) A Road Investment Strategy must specify—

- (a) the objectives to be achieved by the company during the period to which it relates, and
- (b) the financial resources to be provided by the Secretary of State for the purpose of achieving those objectives.

(4) The objectives to be achieved may include—

- (a) activities to be performed;
- (b) results to be achieved;
- (c) standards to be met.

(5) In setting or varying a Road Investment Strategy, the Secretary of State must have regard, in particular, to the effect of the Strategy on—

- (a) the environment, and
- (b) the safety of users of highways.

(6) The Secretary of State and the company must comply with the Road Investment Strategy.

(7) If a strategic highways company does not have a Road Investment Strategy currently in place, the Secretary of State must—

- (a) lay before Parliament a report explaining why a Strategy has not been set, and
- (b) set a Road Investment Strategy as soon as may be reasonably practicable.

(8) Schedule 2 (which contains provision about the procedure for setting or varying a Road Investment Strategy) has effect.

Commencement

Pt 1 s. 3(1)-(8): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 3(1)-(8): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Law In Force

4 Route strategies

(1) The Secretary of State must from time to time direct a strategic highways company to prepare proposals for the management and development of particular highways in respect of which the company is appointed (“a route strategy”).

(2) A route strategy must relate to such period as the Secretary of State may direct.

(3) The strategic highways company must—

- (a) comply with a direction given to it under subsection (1), and
- (b) publish the route strategy in such manner as the company considers appropriate.

(4) A direction under subsection (1) must be published by the Secretary of State in such manner as he or she considers appropriate.

Commencement

Pt 1 s. 4(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 4(1)-(4): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Exercise of functions

✔ Law In Force

5 General duties

(1) A strategic highways company must, in exercising its functions, co-operate in so far as reasonably practicable with other persons exercising functions which relate to—

- (a) highways, or
- (b) planning.

(2) A strategic highways company must also, in exercising its functions, have regard to the effect of the exercise of those functions on—

- (a) the environment, and
- (b) the safety of users of highways.

Commencement

Pt 1 s. 5(1)-(2)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 5(1)-(2)(b): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

✔ Law In Force

6 Directions and guidance

(1) The Secretary of State may from time to time give a strategic highways company directions or guidance as to the manner in which it is to exercise its functions.

(2) Directions under subsection (1) may provide, in particular, that a function is only to be exercised—

- (a) after consultation with the Secretary of State, or
- (b) with the consent of the Secretary of State.

(3) In exercising its functions, a strategic highways company must—

- (a) comply with a direction, and
- (b) have regard to guidance,

given to it under subsection (1).

(4) Directions and guidance under subsection (1) must be published by the Secretary of State in such manner as he or she considers appropriate.

Commencement

Pt 1 s. 6(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 6(1)-(4): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

✔ Law In Force

7 Delegation of functions

- (1) A strategic highways company may authorise another person to exercise a function it has under any enactment, if the function is prescribed by regulations made by the Secretary of State.
- (2) An authorisation may authorise the exercise of a function—
 - (a) wholly or to any other extent;
 - (b) generally or only in some cases or areas;
 - (c) unconditionally or subject to conditions.
- (3) An authorisation—
 - (a) does not prevent the company or any other person from exercising the function to which the authorisation relates,
 - (b) may be for a period not exceeding ten years, and
 - (c) may be revoked at any time.
- (4) The strategic highways company may—
 - (a) enter into a contract with an authorised person in connection with the exercise by that person of a function;
 - (b) make payments to an authorised person in that connection.
- (5) Where an authorisation is revoked at a time when a contract in connection with the exercise of a function is subsisting, the authorised person is entitled to treat the contract as repudiated by the company (and not as frustrated by reason of the revocation).
- (6) Regulations under this section may not prescribe a function if it is—
 - (a) a power of entry, or
 - (b) a power or duty to make subordinate legislation.
- (7) Where a function of the Secretary of State is transferred to a strategic highways company under this Part and is, immediately before the transfer, authorised to be exercised by another person by an order under section 69 of the Deregulation and Contracting Out Act 1994—
 - (a) the authorisation is to have effect as if it had been given by the transferee company under this section, and
 - (b) if the function is not prescribed under subsection (1), it is to be regarded as having been so prescribed.
- (8) Where a function of a strategic highways company is transferred to another such company under this Part and is, immediately before the transfer, authorised to be exercised by another person under this section, the authorisation is to have effect as if it had been given by the transferee company under this section.

Commencement

Pt 1 s. 7(1)-(8): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 7(1)-(8): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

✔ Law In Force

8 Exercise of delegated functions

- (1) A function to which an authorisation under section 7 relates may be exercised by—
 - (a) the authorised person, or
 - (b) an employee of that person.
- (2) Anything done by, or in relation to, the authorised person or that person's employee in connection with the exercise of a function is to be treated as done by, or in relation to, the company.
- (3) Subsection (2)—
 - (a) does not affect the rights and liabilities of the strategic highways company and the authorised person as between one another,
 - (b) does not make the strategic highways company liable under section 6 of the Human Rights Act 1998 in respect of any act (within the meaning of that section) of the authorised person or an employee of the authorised person if the act is of a private nature,
 - (c) does not prevent any civil proceedings which could otherwise be brought by or against the authorised person from being brought, and
 - (d) does not apply for the purposes of any criminal proceedings brought in respect of anything done by the authorised person or that person's employee.
- (4) Schedule 15 to the Deregulation and Contracting Out Act 1994 (restrictions on disclosure of information) applies to an authorisation under section 7 as it applies to an authorisation of the Secretary of State under Part 2 of that Act (contracting out).
- (5) In this section—
 - (a) “employee”, in relation to a body corporate, includes a director or other officer of the body;
 - (b) references to anything done include anything omitted to be done;
 - (c) references to the exercise of a function include the purported exercise of a function.

Commencement

Pt 1 s. 8(1)-(5)(c): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 8(1)-(5)(c): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Oversight

✔ Law In Force

9 Watchdog

- (1) The Passengers' Council must carry out activities to protect and promote the interests of users of highways for which a strategic highways company is the highway authority.

- (2) Those activities may include investigating, publishing reports or giving advice to the Secretary of State on—
- (a) how a strategic highways company's exercise of its functions or achievement of its objectives under a Road Investment Strategy affects users of highways for which it is the highway authority, and
 - (b) any other matters—
 - (i) relating to highways for which a strategic highways company is the highway authority, and
 - (ii) which the Council considers to be of interest to users of such highways.
- (3) The Secretary of State may by regulations provide that those activities may not relate to a matter—
- (a) to the extent specified;
 - (b) subject to compliance with specified conditions.
- (4) The Secretary of State must consult the Council before making regulations under subsection (3).
- (5) The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Council under this section.
- (6) The Council may by agreement with a local highway authority carry out activities to protect and promote the interests of users of highways for which the authority is the highway authority.
- (7) Those activities may include investigating, publishing reports or giving advice to the local highway authority on any matters—
- (a) relating to highways for which the authority is the highway authority, and
 - (b) which the authority and the Council consider to be of interest to users of such highways.
- (8) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert—

“The Passengers' Council.”

Commencement

Pt 1 s. 9(1)-(8): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 9(1)-(8): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Law In Force

10 Monitor

- (1) The [Office of Rail and Road]¹ must carry out activities to monitor how a strategic highways company exercises its functions.
- (2) Those activities may include investigating, publishing reports or giving advice to the Secretary of State on—

- (a) whether, how and at what cost a strategic highways company has achieved its objectives under a Road Investment Strategy,
 - (b) objectives for a future Road Investment Strategy, and
 - (c) the effect of directions and guidance given by the Secretary of State to a strategic highways company under this Part.
- (3) The Office may direct a strategic highways company to provide such information as the Office considers necessary for the purpose of carrying out activities under subsection (1).
- (4) A direction under subsection (3) may specify the form and manner in which the information is to be provided.
- (5) A direction under subsection (3) may not require—
- (a) production of a document which the strategic highways company could not be compelled to produce in civil proceedings, or
 - (b) provision of information which the company could not be compelled to give in evidence in such proceedings.
- (6) The strategic highways company must comply with a direction under subsection (3).
- (7) The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Office under this section.
- (8) The Secretary of State must lay a report published by the Office under this section before Parliament.
- (9) In Part 2 (Office of Rail Regulation) of the Railways and Transport Safety Act 2003, after section 15 insert—

“15A Change of name

- (1) The Secretary of State may by regulations make provision for the body established by section 15 to be known by a different name.
- (2) Regulations under this section may amend this Act or any other enactment, whenever passed or made.
- (3) Regulations under this section are to be made by statutory instrument.
- (4) A statutory instrument which contains regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

Notes

- ¹ Words substituted by Office of Rail Regulation (Change of Name) Regulations 2015/1682 Sch.1(1) para.4(x) (October 16, 2015)

Commencement

Pt 1 s. 10(1)-(9): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 10(1)-(9): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

✔ Law In Force

11 Monitor: compliance and fines

(1) If the [Office of Rail and Road]¹ is satisfied that a strategic highways company has contravened or is contravening—

- (a) section 3(6) (compliance with the Road Investment Strategy), or
- (b) section 6(3) (compliance with directions and regard to guidance),

the Office may take one or more of the steps mentioned in subsection (2).

(2) The Office may—

- (a) give notice to the company as to the contravention and the steps the company must take in order to remedy it;
- (b) require the company to pay a fine to the Secretary of State.

Notes

¹ Words substituted by Office of Rail Regulation (Change of Name) Regulations 2015/1682 Sch.1(1) para.4(x) (October 16, 2015)

Commencement

Pt 1 s. 11(1)-(2)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 11(1)-(2)(b): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

✔ Law In Force

12 Monitor: general duties

(1) The [Office of Rail and Road]¹ must exercise its functions under sections 10 and 11 in the way that it considers most likely to promote—

- (a) the performance, and
- (b) the efficiency,

of the strategic highways company.

(2) The Office must also, in exercising those functions, have regard to—

- (a) the interests of users of highways,
- (b) the safety of users of highways,
- (c) the economic impact of the way in which the strategic highways company achieves its objectives,
- (d) the environmental impact of the way in which the strategic highways company achieves its objectives,
- (e) the long-term maintenance and management of highways, and
- (f) the principles in subsection (3).

(3) The principles are that—

- (a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and
- (b) regulatory activities should be targeted only at cases in which action is needed.

Notes

- ¹ Words substituted by Office of Rail Regulation (Change of Name) Regulations 2015/1682 Sch.1(1) para.4(x) (October 16, 2015)

Commencement

Pt 1 s. 12(1)-(3)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 12(1)-(3)(b): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Law In Force

13 Monitor: guidance

- (1) The Secretary of State may from time to time give the [Office of Rail and Road]¹ guidance as to the manner in which it is to carry out its activities under section 10.
- (2) The Secretary of State and the Treasury, acting jointly, must give the Office guidance as to the circumstances in which the payment of a fine under section 11 should be required.
- (3) The Office must have regard to guidance given to it under this section.
- (4) Guidance under this section must be published by the Secretary of State in such manner as he or she considers appropriate.

Notes

- ¹ Words substituted by Office of Rail Regulation (Change of Name) Regulations 2015/1682 Sch.1(1) para.4(x) (October 16, 2015)

Commencement

Pt 1 s. 13(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 13(1)-(4): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

✔ Law In Force

14 Periodic reports by the Secretary of State

- (1) The Secretary of State must from time to time prepare and publish reports on the manner in which a strategic highways company exercises its functions.
- (2) The Secretary of State must lay a report prepared under subsection (1) before Parliament.

Commencement

Pt 1 s. 14(1)-(2): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 14(1)-(2): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Transfers of property etc

✔ Law In Force

15 Transfer schemes

- (1) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities—
 - (a) from the Secretary of State to one or more of the following—
 - (i) a strategic highways company, or
 - (ii) a proposed strategic highways company;
 - (b) from a strategic highways company or a former strategic highways company to one or more of the following—
 - (i) the Secretary of State,
 - (ii) a strategic highways company, or
 - (iii) a proposed strategic highways company.
- (2) In making a transfer scheme the Secretary of State must have regard to—
 - (a) the functions, or the proposed functions, of the transferee under any enactment, and
 - (b) the terms of appointment, or proposed terms of appointment, of a strategic highways company, or a proposed strategic highways company, to which the scheme relates.
- (3) Schedule 3 (which contains more provision about transfer schemes) has effect.
- (4) In this section and Schedule 3—

“proposed strategic highways company” means a company which the Secretary of State proposes to appoint as a strategic highways company;

“former strategic highways company” means a company in respect of which such an appointment has terminated.

Commencement

Pt 1 s. 15(1)-(4) definition of "former strategic highways company": February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 15(1)-(4) definition of "former strategic highways company": England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Law In Force

16 Tax consequences of transfers

(1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to—

- (a) any property, rights or liabilities which are transferred by virtue of a transfer to which this section applies, or
- (b) anything done for the purposes of, or in relation to, or in consequence of, a transfer to which this section applies.

(2) This section applies to—

- (a) a transfer of property, rights and liabilities in accordance with a scheme under section 15, or
- (b) a transfer occurring under section 263 of the Highways Act 1980 (vesting of highway in highways authority) by virtue of the appointment of a strategic highway company under section 1 or the variation or termination of such an appointment.

(3) The provision that may be made under subsection (1)(a) includes, in particular, provision for—

- (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
- (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
- (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.

(4) The provision that may be made under subsection (1)(b) includes, in particular, provision for—

- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;
- (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or to be treated in a specified way;
- (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.

(5) In this section—

- (a) "relevant tax" means income tax, corporation tax, capital gains tax or stamp duty;

(b) “tax provision” means a provision of an enactment about a relevant tax.

(6) References in this section to the transfer of property, rights or liabilities in accordance with a scheme under section 15 include references to—

(a) the creation of interests, rights or liabilities under the scheme, and

(b) the modification of interests, rights or liabilities under the scheme,

(and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).

Commencement

Pt 1 s. 16(1)-(6)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 16(1)-(6)(b): United Kingdom (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Finance

☑ Law In Force

17 Financial assistance

(1) The Secretary of State may provide financial assistance—

(a) to a strategic highways company, for the purpose of any of its functions, or

(b) to any other person, for the promotion or improvement of transport services by land in England.

(2) Financial assistance may be provided in such form and on such terms as the Secretary of State considers appropriate.

(3) The form in which financial assistance may be provided includes in particular—

(a) grants,

(b) loans, or

(c) guarantees.

(4) The terms on which financial assistance may be provided include in particular—

(a) in the case of a grant or a loan, terms as to repayment;

(b) in the case of a guarantee, terms as to reimbursement.

(5) Subsection (1) does not affect any other power of the Secretary of State to provide financial assistance.

(6) Subsection (1)(b) does not authorise the Secretary of State to provide financial assistance that he or she may provide under section 6 of the Railways Act 2005 (financial assistance relating to rail services).

(7) In section 17(1)(e) of the Ministry of Transport Act 1919 (power to make advances for the promotion and improvement of transport services by land or water), after “by land” insert “in Wales”.

Commencement

Pt 1 s. 17(1)-(7): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 17(1)-(7): England, Wales (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Supplemental and general

✔ Law In Force

18 Transfer of additional functions

(1) The Secretary of State may by regulations provide that a transferable function of the Secretary of State, other than an excluded function, is transferred to a strategic highways company.

(2) A transferable function is a function under any enactment which relates to—

- (a) highways, or
- (b) planning.

(3) An excluded function is a function which—

- (a) is exercisable by statutory instrument;
- (b) relates to giving consent (however expressed) to the proposed exercise of a function by any other—
 - (i) highway authority (within the meaning of the Highways Act 1980);
 - (ii) traffic authority (within the meaning of the Road Traffic Regulation Act 1984).

(4) Regulations under this section may provide for the function to be exercisable—

- (a) concurrently with the Secretary of State;
- (b) only with the consent of the Secretary of State;
- (c) subject to such other conditions as the Secretary of State considers appropriate.

(5) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).

Commencement

Pt 1 s. 18(1)-(5): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 18(1)-(5): United Kingdom (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Law In Force

19 Consequential and transitional provision etc

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

- (a) consequential, supplementary or incidental provision, or
- (b) transitional or transitory provision or savings,

in connection with an order under section 1 or any other provision made by or under this Part.

(2) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).

Commencement

Pt 1 s. 19(1)-(2): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 19(1)-(2): United Kingdom (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

Law In Force

20 Interpretation of Part 1

In this Part—

- “enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978;
- “highway” has the same meaning as in the Highways Act 1980;
- “local highway authority” has the same meaning as in that Act;
- “users of highways” includes cyclists and pedestrians..

Commencement

Pt 1 s. 20 definition of "enactment"- definition of "users of highways": February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Pt 1 s. 20 definition of "enactment"- definition of "users of highways": United Kingdom (an amendment or repeal, other than the amendment made by s.17(7), has the same extent as the provision to which it relates)

PART 2

CYCLING AND WALKING INVESTMENT STRATEGIES

✔ Law In Force

21 Cycling and Walking Investment Strategies

- (1) The Secretary of State may at any time—
 - (a) set a Cycling and Walking Investment Strategy for England, or
 - (b) vary a Strategy which has already been set.
- (2) A Cycling and Walking Investment Strategy is to relate to such period as the Secretary of State considers appropriate; but a Strategy for a period of more than five years must be reviewed at least once every five years.
- (3) A Cycling and Walking Investment Strategy must specify—
 - (a) objectives to be achieved during the period to which it relates, and
 - (b) the financial resources to be made available by the Secretary of State for the purpose of achieving those objectives.
- (4) The objectives to be achieved may include—
 - (a) activities to be performed;
 - (b) results to be achieved;
 - (c) standards to be met.
- (5) Before setting or varying a Cycling and Walking Investment Strategy the Secretary of State must consult such persons as he or she considers appropriate.
- (6) In considering whether to vary a Cycling and Walking Investment Strategy the Secretary of State must have regard to the desirability of maintaining certainty and stability in respect of Cycling and Walking Investment Strategies.
- (7) A Cycling and Walking Investment Strategy must be published in such manner as the Secretary of State considers appropriate.
- (8) Where a Cycling and Walking Investment Strategy has been published the Secretary of State must from time to time lay before Parliament a report on progress towards meeting its objectives.
- (9) If a Cycling and Walking Investment Strategy is not currently in place, the Secretary of State must—
 - (a) lay before Parliament a report explaining why a Strategy has not been set, and
 - (b) set a Strategy as soon as may be reasonably practicable.

Commencement

Pt 2 s. 21(1)-(9)(b): July 31, 2015 (SI 2015/1543 reg. 2)

Extent

Pt 2 s. 21(1)-(9)(b): England, Wales

PART 3

POWERS OF BRITISH TRANSPORT POLICE FORCE

✔ Law In Force

22 Powers of British Transport Police Force

(1) In section 100 of the Anti-terrorism, Crime and Security Act 2001 (jurisdiction of transport police)—

- (a) in subsection (2)(b), after “personal injury” insert “or damage to property”, and
- (b) omit subsection (3)(a).

(2) In section 172 of the Road Traffic Act 1988 (duty to give information as to identity of driver etc in certain circumstances), in subsection (2)(a), after “chief officer of police” insert “or the Chief Constable of the British Transport Police Force”.

Commencement

Pt 3 s. 22(1)-(2): April 12, 2015 (2015 c. 7 Pt 8 s. 57(3))

Extent

Pt 3 s. 22(1)-(1)(b): England, Wales

Pt 3 s. 22(2): England, Wales, Scotland

PART 4

ENVIRONMENTAL CONTROL OF ANIMAL AND PLANT SPECIES

✔ Law In Force

23 Environmental control of animal and plant species

(1) The Wildlife and Countryside Act 1981 is amended as follows.

(2) In section 14 (introduction of new species etc), after subsection (4) insert—

“(4A) Schedule 9A contains provision about species control agreements and orders and related matters.”

(3) After Schedule 9 insert—

SCHEDULE 9A**SPECIES CONTROL AGREEMENTS AND ORDERS (ENGLAND AND WALES)****Section 14(4A)****PART 1****OVERVIEW AND INTERPRETATION****1 Overview**

- (1) This Schedule provides for—
- (a) species control agreements between environmental authorities and owners of premises, and
 - (b) species control orders made by environmental authorities, and for related matters.
- (2) A species control agreement or species control order may relate to—
- (a) an invasive non-native species of animal or plant, or
 - (b) a species of animal that is no longer normally present in Great Britain.
- This is subject to the other provisions of this Schedule.
- (3) The following definitions apply for the purposes of this Schedule.

2 Definitions relating to species

- (1) “Species” means any kind of animal or plant.
- (2) A species is “invasive” if, uncontrolled, it would be likely to have a significant adverse impact on—
- (a) biodiversity,
 - (b) other environmental interests, or
 - (c) social or economic interests.
- (3) A species is “non-native” if—
- (a) it is listed in Part 1 or 2 of Schedule 9, or
 - (b) in the case of a species of animal, it is a species—
 - (i) whose natural range does not include any part of Great Britain, and
 - (ii) which has been introduced into Great Britain or is present in Great Britain because of other human activity.
- (4) References to a species being “present” on premises include its being present at any stage in its life-cycle (for example, as eggs or seeds).
- (5) A species of animal is “no longer normally present in Great Britain” if—
- (a) it is a species listed in Part 1B of Schedule 9, or
 - (b) it is a species—
 - (i) whose natural range includes all or any part of Great Britain, and
 - (ii) which has ceased to be ordinarily resident in, or a regular visitor to, Great Britain in a wild state.

3 Environmental authorities

- (1) “Environmental authority”, in relation to premises in England, means—
 - (a) the Secretary of State,
 - (b) the Environment Agency,
 - (c) Natural England, and
 - (d) the Forestry Commissioners.
- (2) “Environmental authority”, in relation to premises in Wales, means—
 - (a) the Welsh Ministers, and
 - (b) the Natural Resources Body for Wales.

4 Owners and dwellings

- (1) “Owner”, in relation to premises consisting of land, means—
 - (a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion,
 - (b) a person in possession under a lease, or
 - (c) a person who for the time being exercises powers of management or control over the land.
- (2) “Dwelling” means a building or structure, or part of a building or structure, occupied wholly or mainly as a dwelling.

5 Operations

- (1) “Species control operations” are operations to do one or more of the following—
 - (a) eradicate a species from premises;
 - (b) control a species on premises;
 - (c) prevent a species from returning to premises.
- (2) References to “carrying out” operations include arranging for operations to be carried out.

PART 2

SPECIES CONTROL AGREEMENTS

6 Making of species control agreements

- (1) An environmental authority may enter into a “species control agreement” with an owner of any premises where the authority considers that there is present on the premises—
 - (a) an invasive non-native species, or
 - (b) a species of animal that is no longer normally present in Great Britain.
- (2) Under a species control agreement the parties agree to the carrying out of species control operations.
- (3) Before entering into a species control agreement with an owner, an environmental authority must be satisfied that—

- (a) the provisions of the agreement are proportionate to the objective to be achieved, and
 - (b) in a case where there is more than one owner, the owner with whom the agreement is entered into is the most appropriate one.
- (4) Before entering into a species control agreement relating to animals of a species that is no longer normally present in Great Britain, the environmental authority must also be satisfied that—
- (a) the animals are present on the premises otherwise than under and in accordance with the terms of a licence under section 16(4)(c),
 - (b) the animals on the premises are having a significant adverse impact on—
 - (i) biodiversity,
 - (ii) other environmental interests, or
 - (iii) social or economic interests, and
 - (c) there is no appropriate alternative way of obviating that impact.
- (5) A species control agreement may not be entered into in relation to premises consisting of a dwelling except where the environmental authority is the Secretary of State or the Welsh Ministers.

7 Content of species control agreements

- (1) A species control agreement must provide for—
- (a) the species control operations to be carried out,
 - (b) the party who is to carry them out, and
 - (c) the time by which they are to be carried out.
- (2) A species control agreement may contain such supplementary provision as the parties consider appropriate.
- (3) That may include provision as to—
- (a) how species control operations are to be carried out,
 - (b) payment to be made by either party to the other, or to another person, in respect of the species control operations to be carried out, or
 - (c) any species control operations that must not be carried out.

8 Notice of compliance

Where an environmental authority considers that an owner of premises has complied with all the requirements in a species control agreement to carry out species control operations, the authority must give the owner notice to that effect.

9 Liability

An environmental authority is not liable to a person with an interest in the premises, other than the owner with whom a species control agreement is entered into, for anything done by the authority pursuant to the agreement.

PART 3
SPECIES CONTROL ORDERS

When a species control order may be made

10

(1) An environmental authority may make a species control order in relation to premises if—

- (a) it considers that there is present on the premises—
 - (i) an invasive non-native species, or
 - (ii) a species of animal that is no longer normally present in Great Britain, and
- (b) any of the following circumstances apply.

(2) The circumstances are—

- (a) the environmental authority considers that an owner has failed to comply with a species control agreement entered into with the environmental authority and, having been given notice to that effect and a reasonable opportunity to rectify the failure, has not done so;
- (b) the environmental authority has offered to enter into a species control agreement with an owner but—
 - (i) the owner has refused to enter into any kind of species control agreement, or
 - (ii) no species control agreement has been entered into in respect of the premises by the end of the period of 42 days beginning with the day after the offer was made and the authority considers it unlikely that the owner will enter any kind of such agreement;
- (c) the environmental authority considers that the making of the order is urgently necessary;
- (d) the environmental authority has been unable to identify an owner, having—
 - (i) placed on the premises a conspicuous notice of its desire to enter into a species control agreement, and
 - (ii) waited for 5 days after the day on which the notice was placed.

(3) Before making a species control order, an environmental authority must be satisfied that the provisions of the order are proportionate to the objective to be achieved.

(4) Before making a species control order relating to animals of a species that is no longer normally present in Great Britain, the environmental authority must also be satisfied that—

- (a) the animals are present on the premises otherwise than under and in accordance with the terms of a licence under section 16(4)(c),
- (b) the animals on the premises are having a significant adverse impact on—
 - (i) biodiversity,
 - (ii) other environmental interests, or
 - (iii) social or economic interests, and
- (c) there is no appropriate alternative way of obviating that impact.

(5) A species control order may not be made in relation to premises consisting of a dwelling except by the Secretary of State or the Welsh Ministers.

What an order must do

11

(1) A species control order under paragraph 10(2)(a) or (b) (failure to comply with or enter into agreement) must contain provision—

- (a) requiring the owner specified in that paragraph to carry out species control operations, or
- (b) stating that the environmental authority proposes to carry out species control operations, or both.

(2) A species control order under paragraph 10(2)(c) (emergency) must contain provision—

- (a) requiring any owner of the premises specified in the order to carry out species control operations, or
- (b) stating that the environmental authority proposes to carry out species control operations,

or both.

(3) A species control order under paragraph 10(2)(d) (no identifiable owner) must contain provision stating that the environmental authority proposes to carry out species control operations.

12

(1) A species control order must—

- (a) specify the species to which the order relates,
- (b) specify the species control operations to be carried out,
- (c) specify the time by which the species control operations must be carried out or (as the case may be) the time by which they are proposed to be carried out by the authority, and
- (d) if appropriate, include a map of the premises to which the order relates.

(2) Unless it is made under paragraph 10(2)(c) (emergency), a species control order—

- (a) may not require an owner of premises to carry out species control operations, or provide for an environmental authority to carry out species control operations, before the end of the period in which an appeal may be made (as to appeals, see paragraph 16), and
- (b) must provide that if an appeal is made within that period, the owner need not carry out the operations, or the environmental authority shall not carry out the operations, before the appeal is withdrawn or finally determined.

What an order may do

13

- (1) A species control order may contain provision supplementary to that specified in paragraphs 11 and 12.
- (2) That may include provision as to—
 - (a) how species control operations are to be carried out;
 - (b) payment to be made by the environmental authority to—
 - (i) an owner, in respect of the reasonable costs of operations to be carried out by the owner, or
 - (ii) another person, in respect of the reasonable costs of operations to be carried out by an owner;
 - (c) payment that an owner must make in respect of the reasonable costs of species control operations to be carried out by the environmental authority;
 - (d) species control operations that an owner must not carry out;
 - (e) who will carry out species control operations for the environmental authority.

Notice

14

- (1) After making a species control order, an environmental authority must forthwith give notice of it to—
 - (a) all owners of the premises of whom the environmental authority is aware,
 - (b) the Secretary of State, if the environmental authority is the Environment Agency, Natural England or the Forestry Commissioners, and
 - (c) the Welsh Ministers, if the environmental authority is the Natural Resources Body for Wales.
- (2) In the case of an order under paragraph 10(2)(d) (no identifiable owner), the environmental authority must also give notice of the order by placing it on the premises conspicuously.
- (3) Notice under this paragraph must include—
 - (a) reasons for making the species control order, and
 - (b) reasons for any requirement imposed by it on an owner.

Revocation

15

- (1) An environmental authority may at any time revoke a species control order made by it. This does not stop it from making another one in respect of the same premises.
- (2) Notice of revocation must be given as specified in paragraph 14 (but reasons need not be given).

Appeals

16

- (1) An owner of premises in relation to which a species control order is made may appeal to the First-tier Tribunal against—
- (a) the making of the order, or
 - (b) any provision of the order.
- (2) The First-tier Tribunal may—
- (a) affirm the order,
 - (b) direct the environmental authority which made the order to revoke or amend it,
 - (c) in the case of an order under paragraph 10(2)(c) (emergency), suspend the order, or
 - (d) make such other order as the Tribunal thinks fit.

Notice of compliance

17

Where an environmental authority considers that an owner of premises has complied with all the requirements in a species control order to carry out species control operations, the authority must give the owner notice to that effect.

Enforcement

18

- (1) This paragraph applies where an environmental authority considers that an owner of premises required by a species control order to carry out a species control operation has not done so by the date or in the way specified in the order.
- (2) The authority must give the owner notice to that effect.
- (3) Sub-paragraphs (4) to (6) apply if, after a week after giving notice under sub-paragraph (2), the authority considers that the owner has still not carried out the species control operation in the way specified in the order.
- (4) The authority may carry out the operation itself or carry out such further work as is necessary to ensure that the operation is carried out in the way specified in the order.
- (5) The authority may recover from the owner any expenses reasonably incurred by it in doing so (less any payment which the authority would apart from this paragraph have been required to make to the owner in respect of the carrying out of the operations by the owner).
- (6) The authority is not required to make any payment provided for under paragraph 13(2)(b) in relation to the operation (and may recover any payment made under that paragraph).

Offences

19

- (1) A person who, without reasonable excuse, fails to comply with a requirement imposed on that person by a species control order commits an offence.
- (2) A person who intentionally obstructs a person from carrying out an operation required or proposed under a species control order commits an offence.
- (3) A person guilty of an offence under sub-paragraph (1) or (2) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or a fine, or both.
- (4) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subparagraph (3) to 51 weeks is to be read as a reference to 6 months.
- (5) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in sub-paragraph (3) to a fine is to be read as a reference to a fine not exceeding £40,000.

Liability

20

- (1) An owner of premises is not liable to any other person for doing anything required to be done by a species control order.
- (2) An environmental authority is not liable to a person with an interest in premises for anything done—
 - (a) by an owner pursuant to a requirement included in a species control order, or
 - (b) by the authority pursuant to—
 - (i) provision included in a species control order under paragraph 11(1)(b), (2)(b) or (3), or
 - (ii) paragraph 18(4).

PART 4

POWERS OF ENTRY

21 Powers of entry

- (1) A person who is authorised to do so may enter any premises to—
 - (a) assist an environmental authority to determine whether to offer to enter into a species agreement with a person,
 - (b) assist an environmental authority to determine whether to make or revoke a species control order,

- (c) investigate suspected non-compliance with a species control agreement or a species control order,
- (d) carry out species control operations for an environmental authority under a species control order,
- (e) place a notice as specified in paragraph 10(2)(d)(i) or 14(2) (no identifiable owner), or
- (f) carry out species control operations or work pursuant to paragraph 18(4).

This is subject to the other provisions of this Schedule.

(2) A person may not enter premises under sub-paragraph (1)(a) or (b) with a view to establishing whether a species is present unless the environmental authority has reasonable grounds for suspecting that it is.

22 Authorisation by justice of the peace

(1) To enter premises under paragraph 21 a person must be authorised by a warrant issued by a justice of the peace where—

- (a) the premises consist of a dwelling or a garden, yard, outbuildings or other land used or enjoyed wholly with a dwelling,
- (b) admission to the premises has been refused by an owner or refusal is reasonably apprehended,
- (c) the premises are unoccupied,
- (d) the owner is temporarily absent,
- (e) giving notice would defeat the purpose of entry,
- (f) entry is to carry out species control operations for an environmental authority under an order under paragraph 10(2)(c) (emergency),
- (g) entry is to carry out species control operations for an environmental authority under an order under paragraph 10(2)(d) (no identifiable owner),
- (h) entry is to place a notice as specified in paragraph 10(2)(d)(i) or 14(2), or
- (i) entry is to carry out operations or work pursuant to paragraph 18(4) which the environmental authority considers to be urgently necessary.

(2) A justice of the peace may not grant a warrant—

- (a) in the circumstances in sub-paragraph (1)(a) to (d) unless satisfied that reasonable notice of the proposed entry has been given to all owners of the premises of whom the environmental authority is aware, or
- (b) in the circumstances in paragraph (1)(g) unless satisfied that the requirement in paragraph 14(2) (notice) has been met.

(3) For the purposes of sub-paragraph (2)(a) less than 48 hours' notice is not reasonable.

(4) A warrant may authorise a person to use reasonable force if necessary, but a person so authorised—

- (a) must be accompanied by a constable when doing so, and
- (b) may not use force against an individual.

23 Authorisation by environmental authority

- (1) To enter premises under paragraph 21 in circumstances other than those specified in paragraph 22(1), a person must be authorised in writing by the environmental authority.
- (2) A person authorised by an environmental authority may not demand admission as of right to any premises unless reasonable notice has been given to all owners of the premises of whom the authority is aware.
- (3) For these purposes less than 48 hours' notice is not reasonable.

24 Exercise of right of entry

- (1) A right of entry under paragraph 21 is exercisable at any reasonable time.
- (2) A person authorised under paragraph 22 or 23 to enter premises must, if so required before entering, produce evidence of his or her warrant or other authorisation and state the purpose of entry.
- (3) A person entering premises under paragraph 21 may—
 - (a) take on to the premises such other persons as may be necessary;
 - (b) take any equipment, machinery or materials on to the premises;
 - (c) take samples of anything in or on the premises.
- (4) A person who enters premises under paragraph 21 which are unoccupied or from which the owner is temporarily absent must, on departure, leave them as effectively secured as they were on entry.

PART 5**SUPPLEMENTARY****Compensation****25**

- (1) The Secretary of State and the Welsh Ministers may (separately or jointly) make arrangements for the payment of compensation to an owner of premises in respect of financial loss resulting from—
 - (a) a species control agreement or order, or
 - (b) the exercise of the powers of entry under this Schedule.
- (2) The arrangements may secure that compensation is payable only for financial loss above a specified amount.

Codes of practice

26

- (1) The Secretary of State must issue a code of practice in relation to species control agreements and orders in England.
- (2) A code under this paragraph must in particular provide guidance to environmental authorities in England on—
 - (a) when to offer to enter into a species control agreement;
 - (b) how to go about entering into a species control agreement;
 - (c) what a species control agreement should contain (and in particular what it should contain by way of provision about payment of costs);
 - (d) when to make a species control order;
 - (e) what a species control order should contain (and in particular what it should contain by way of provision about payment and recovery of costs);
 - (f) standards of animal welfare to be met in connection with species control agreements and orders.
- (3) A code under this paragraph may be revised or replaced.
- (4) Before issuing (or revising or replacing) a code under this paragraph the Secretary of State must carry out a public consultation.
- (5) The Secretary of State must—
 - (a) ensure that a code under this paragraph is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it, and
 - (b) lay a copy of a code under this paragraph before Parliament.

27

- (1) The Welsh Ministers must issue a code of practice in relation to species control agreements and orders in Wales.
- (2) A code under this paragraph must in particular provide guidance to environmental authorities in Wales on—
 - (a) when to offer to enter into a species control agreement;
 - (b) how to go about entering into a species control agreement;
 - (c) what a species control agreement should contain (and in particular what it should contain by way of provision about payment of costs);
 - (d) when to make a species control order;
 - (e) what a species control order should contain (and in particular what it should contain by way of provision about payment and recovery of costs);
 - (f) standards of animal welfare to be met in connection with species control agreements and orders.
- (3) A code under this paragraph may be revised or replaced.
- (4) Before issuing (or revising or replacing) a code under this paragraph the Welsh Ministers must carry out a public consultation.
- (5) The Welsh Ministers must—

- (a) ensure that a code under this paragraph is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it, and
- (b) lay a copy of a code under this paragraph before the National Assembly for Wales.

28

- (1) A person's failure to comply with a provision of a code under paragraph 26 or 27 does not make the person liable to civil or criminal proceedings.
- (2) A code under paragraph 26 or 27—
 - (a) is admissible in evidence in any civil proceedings, and
 - (b) must be taken into account by a court in any civil proceedings in which it appears to the court to be relevant.”
- (4) In section 19 (enforcement), at the end insert—

“(9) This section does not apply in relation to offences under Schedule 9A.”
- (5) In section 25 (functions of local authorities), at the end insert—

“(3) Nothing in this section applies in relation to Schedule 9A or orders or offences under it.”
- (6) In section 26 (regulations, orders, notices etc), at the end insert—

“(7) In this section references to orders do not include species control orders under Schedule 9A.”

Commencement

Pt 4 s. 23(1)-(6): April 12, 2015 in relation to England; April 12, 2015 in relation to Wales (SI 2015/481 reg. 3(a); SI 2015/990 reg. 2)

Extent

Pt 4 s. 23(1)-(6): England, Wales

Law In Force

24 Native and non-native species etc

- (1) Schedule 9 to the Wildlife and Countryside Act 1981 (animals and plants to which section 14 of that Act applies) is amended as follows.
- (2) In the heading to Part I, at the beginning insert “NON-NATIVE”.
- (3) In Part I, omit the entries relating to the wild boar, capercaillie, chough, corncrake, common crane, white-tailed eagle, goshawk, red kite and barn owl.
- (4) After Part I insert—

**“PART IA
NATIVE ANIMALS**

| <i>Common name</i> | <i>Scientific name</i> |
|---------------------|-------------------------|
| Capercaillie | Tetrao urogallus |
| Chough | Pyrrhocorax pyrrhocorax |
| Corncrake | Crex crex |
| Crane, Common | Grus grus |
| Eagle, White-tailed | Haliaeetus albicilla |
| Goshawk | Accipiter gentilis |
| Kite, Red | Milvus milvus |
| Owl, Barn | Tyto alba. |

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.”

(5) After Part IA (as inserted by subsection (4) above) insert—

**“PART IB
ANIMALS NO LONGER NORMALLY PRESENT**

| <i>Common name</i> | <i>Scientific name</i> |
|-------------------------------------------------|------------------------|
| Beaver, Eurasian (but not in relation to Wales) | Castor fiber |
| Boar, Wild | Sus Scrofa. |

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.”

Commencement

Pt 4 s. 24(1)-(5): March 5, 2015 in relation to England; April 12, 2015 in relation to Wales (SI 2015/481 reg. 2(b); SI 2015/990 reg. 2)

Extent

Pt 4 s. 24(1)-(5): England, Wales

Law In Force

25 Part 4: supplementary

(1) The Wildlife and Countryside Act 1981 is amended as follows.

(2) In section 14 (introduction of new species etc), in subsection (1)(b), after “Part I” insert “, IA or IB”.

(3) In the heading to section 14ZA (sale etc of invasive non-native species), for “invasive non-native species” substitute “certain animals and plants included in Schedule 9”.

(4) In the heading to section 14ZB (codes of practice in connection with invasive non-native species), for “invasive non-native species” substitute “species which are non-native or included in Schedule 9”.

(5) In section 22 (power to vary Schedules), in subsection (5)(a), after “Part I” insert “, IA or IB”.

Commencement

Pt 4 s. 25(1)-(5): March 5, 2015 in relation to England; April 12, 2015 in relation to Wales (SI 2015/481 reg. 2(c); SI 2015/990 reg. 2)

Extent

Pt 4 s. 25(1)-(5): England, Wales

PART 5

PLANNING, LAND AND BUILDINGS

Nationally significant infrastructure projects

Law In Force

26 Timing of appointment of examining authority

In section 61 of the Planning Act 2008 (decision as to whether application for order granting development consent should be handled by Panel or single appointed person) for subsection (1) substitute—

“(1) Subsection (2) applies where the Secretary of State has accepted an application for an order granting development consent.”

Commencement

Pt 5 s. 26: April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(a); SI 2015/758 reg. 2)

Extent

Pt 5 s. 26: United Kingdom

✔ Law In Force

27 Two-person Panels

(1) In section 65 of the Planning Act 2008 (appointment of Panel to examine application for order granting development consent) in subsection (1)(a) (Panel to consist of three, four or five persons) before “three” insert “two,”.

(2) In section 68(3) of that Act (duty of Secretary of State to appoint additional members if Panel comes to have two members or a single member)—

- (a) omit “two members or”, and
- (b) for “three” substitute “two”.

(3) In section 73(1)(b) of that Act (Panel's continuing identity not affected by its coming to have two members or a single member) omit “two members or”.

(4) In section 75 of that Act (decision-making by Panel)—

- (a) before subsection (1) insert—

“(A1) If the members of a Panel with two members disagree as to a proposed decision by the Panel, the view of the lead member is to prevail.”, and

- (b) in subsection (1) (decision by Panel requires the agreement of a majority) for “the Panel” substitute “a Panel with three or more members”.

Commencement

Pt 5 s. 27(1)-(4)(b): April 5, 2017 (2015 c. 7 Pt 8 s. 57(5)(a); SI 2017/315 reg. 2)

Extent

Pt 5 s. 27(1)-(4)(b): United Kingdom

✔ Law In Force

28 Changes to, and revocation of, development consent orders

(1) Schedule 6 to the Planning Act 2008 (changes to, and revocation of, orders granting development consent) is amended as follows.

(2) In paragraph 2 (non-material changes to orders)—

- (a) in sub-paragraph (8) (duty for Secretary of State to comply with prescribed consultation and publicity requirements) after “Secretary of State” insert “and the person who has made the application under subparagraph (4)”, and
- (b) after that sub-paragraph insert—

“(8A) The power to make regulations under sub-paragraph (8) includes power to allow the Secretary of State or the person who has made the application under sub-paragraph (4) to exercise a discretion.”

(3) In paragraph 3 (changes to, and revocation of, orders) after sub-paragraph (5) insert—

“(5A) The Secretary of State may refuse to exercise the power on an application made under sub-paragraph (4) or (5) if, in particular, the Secretary of State considers that the development

that would be authorised as a result of the change should properly be the subject of an application under section 37 for a development consent order.”

(4) In paragraph 4 (supplementary provisions about changes to, and revocation of, orders) after sub-paragraph (5) insert—

“(5A) The power to make regulations under sub-paragraph (4) includes power to allow a person to exercise a discretion.”

Commencement

Pt 5 s. 28(1)-(4): February 12, 2015 in so far as it confers powers to make regulations; July 14, 2015 otherwise (2015 c. 7 Pt 8 s. 57(5)(b); SI 2015/758 reg. 3)

Extent

Pt 5 s. 28(1)-(4): United Kingdom

Deemed discharge of planning conditions

Law In Force

29 Deemed discharge of planning conditions

After section 74 of the Town and Country Planning Act 1990 insert—

“74A Deemed discharge of planning conditions

(1) The Secretary of State may by development order make provision for the deemed discharge of a condition to which this section applies.

(2) This section applies to a condition which—

- (a) has been imposed on the grant of planning permission for the development of land in England, and
- (b) requires the consent, agreement or approval of a local planning authority to any matter.

(3) Deemed discharge of a condition means that the local planning authority's consent, agreement or approval to any matter as required by the condition is deemed to have been given.

(4) A development order which makes provision for deemed discharge of a condition must provide that the condition is deemed to be discharged only if—

- (a) a person (“the applicant”) has applied to the local planning authority for the consent, agreement or approval required by the condition,
- (b) the period for the authority to give notice of their decision on the application has elapsed without that notice having been given, and
- (c) the applicant has taken such further steps (if any) as are prescribed under subsection (5).

- (5) The Secretary of State may by development order make provision about the procedure for the deemed discharge of a planning condition and, in particular, provision—
- (a) allowing or requiring steps to be taken by the applicant or the local planning authority;
 - (b) as to the time at which or period within which a step may or must be taken;
 - (c) as to the time at which the deemed discharge takes effect (including for this to be determined by the applicant, subject to such limitations as may be prescribed);
 - (d) for a time or period within paragraph (b) or (c) to be modified by agreement between the applicant and the local planning authority;
 - (e) as to the form or content of any notice which may or must be given as part of the procedure, and as to the means by which it may or must be given.
- (6) The Secretary of State may by development order provide that provision for deemed discharge of a condition does not apply—
- (a) in relation to a condition of a prescribed description;
 - (b) in relation to a condition imposed on the grant of planning permission of a prescribed description;
 - (c) in relation to a condition imposed on the grant of planning permission for development of a prescribed description;
 - (d) in other prescribed circumstances.
- (7) The power in subsection (6)(d) includes power to provide that provision for deemed discharge of a condition does not apply where an applicant for planning permission and the local planning authority to whom the application is made agree, before or after planning permission is granted, that it should not apply in relation to a condition imposed on the grant of permission.
- (8) The Secretary of State may by development order make provision for section 78(2) (appeals to the Secretary of State) not to apply, or to apply with modifications, where—
- (a) a person has applied for the consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission,
 - (b) the local planning authority have not given notice to that person of their decision on the application within the period mentioned in section 78(2), and
 - (c) the person has taken such further steps (if any) as are prescribed to bring about the deemed discharge of the planning condition.
- (9) A development order which makes provision for deemed discharge of a condition must limit the application of that provision to a condition imposed on the grant of planning permission following an application made after the development order comes into force.
- (10) In this section—
- “condition” includes a limitation;
 - “prescribed” means prescribed by development order made by the Secretary of State.”


Commencement

Pt 5 s. 29: February 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(c))

Extent

Pt 5 s. 29: United Kingdom

Mayoral development orders

 Partially In Force

30 Mayoral development orders

- (1) Schedule 4 (Mayoral development orders) has effect.
- (2) The Secretary of State may by regulations make consequential provision in connection with any provision made by that Schedule.
- (3) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).
- (4) In this section “enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978.

Commencement


Pt 5 s. 30(1)-(4): February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Pt 5 s. 30(1): United Kingdom

Pt 5 s. 30(2)-(4): England, Wales

The Homes and Communities Agency and other bodies

 Law In Force

31 Property etc transfers to the HCA and the GLA

- (1) The Housing and Regeneration Act 2008 is amended in accordance with subsections (2) to (4).
- (2) After section 53 (and after the italic heading before section 54) insert—

“53A Other property etc transfers to the HCA

(1) The Secretary of State may at any time make one or more schemes for the transfer to the HCA of designated property, rights or liabilities of a specified public body.

(2) In subsection (1) “specified public body” means a public body which is for the time being specified, or of a description specified, by regulations made by the Secretary of State.

(3) On the date specified by a scheme as the date on which the scheme is to have effect, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.

(4) Schedule 6 applies to a scheme under this section.

(5) The Secretary of State may not make a scheme under this section unless the specified public body to which the scheme relates has consented to its provisions.

(6) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).

(7) In this section—

“designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;

“public body” means a person or body with functions of a public nature.

(8) This section and section 53B bind the Crown, but do not have effect in relation to property, rights or liabilities belonging to—

- (a) Her Majesty in right of the Crown,
- (b) Her Majesty in right of Her private estates,
- (c) Her Majesty in right of the Duchy of Lancaster, or
- (d) the Duchy of Cornwall.

(9) The reference in subsection (8) to Her Majesty's private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862.

53B Tax consequences of transfers under section 53A

(1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to—

(a) any property, rights or liabilities transferred in accordance with a transfer scheme under section 53A, or

(b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities in accordance with such a transfer scheme.

(2) The provision that may be made under subsection (1)(a) includes, in particular, provision for—

(a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;

(b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;

(c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.

(3) The provision that may be made under subsection (1)(b) includes, in particular, provision for—

(a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;

(b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or be treated in a specified way;

(c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.

(4) In this section—

“relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax or stamp duty reserve tax;

“tax provision” means a provision of an enactment about a relevant tax.

(5) References in this section to the transfer of property, rights or liabilities in accordance with a transfer scheme under section 53A include references to—

(a) the creation of interests, rights or liabilities under the scheme, and

(b) the modification of interests, rights or liabilities under the scheme,

(and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).”

(3) In section 51 (property etc transfers) after subsection (3) insert—

“(3A) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).”

(4) In section 320 (orders and regulations)—

(a) in subsection (7) (instruments subject to annulment in pursuance of a resolution of either House of Parliament) after paragraph (c) insert—

“(ca) regulations under section 53A(2),” and

(b) after that subsection insert—

“(7A) An instrument containing regulations under section 53B is subject to annulment in pursuance of a resolution of the House of Commons.”

(5) The Greater London Authority Act 1999 is amended in accordance with subsections (6) to (9).

(6) After section 333D insert—

“333DA Transfer schemes

(1) The Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of a specified public body to—

- (a) the Authority, or
- (b) a company or body through which the Authority exercises functions in relation to housing or regeneration.

(2) In subsection (1) “specified public body” means a public body which is for the time being specified, or of a description specified, by regulations made by the Secretary of State.

(3) On the date specified by a scheme as the date on which the scheme is to have effect, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.

(4) The Secretary of State may not make a scheme under this section unless the specified public body to which the scheme relates has consented to its provisions.

(5) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).

(6) In this section—

“designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;

“public body” means a person or body with functions of a public nature.

(7) This section and sections 333DB and 333DC bind the Crown, but do not have effect in relation to property, rights or liabilities belonging to—

- (a) Her Majesty in right of the Crown,
- (b) Her Majesty in right of Her private estates,
- (c) Her Majesty in right of the Duchy of Lancaster, or
- (d) the Duchy of Cornwall.

(8) The reference in subsection (7) to Her Majesty's private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862.

333DB Further provisions about transfer schemes

(1) A transfer scheme may—

- (a) create for the transferor interests in, or rights over, property transferred by virtue of the scheme,
- (b) create for a transferee interests in, or rights over, property retained by the transferor or transferred to another transferee,
- (c) create rights or liabilities between the transferor and a transferee or between transferees.

(2) A transfer scheme may provide for the transfer of property, rights or liabilities that would not otherwise be capable of being transferred or assigned.

(3) In particular, a transfer scheme may provide for the transfer to take effect regardless of a contravention, liability or interference with an interest or right that would otherwise exist

by reason of a provision having effect in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.

(4) It does not matter whether the provision referred to in subsection (3) has effect under an enactment or an agreement or in any other way.

(5) A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a transfer scheme is conclusive evidence for all purposes of that fact.

(6) A transfer scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.

(7) A transfer by virtue of a transfer scheme does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

(8) Anything which—

(a) is done by the transferor for the purposes of, or otherwise in connection with, anything transferred by virtue of a transfer scheme, and

(b) is in effect immediately before the transfer date,

is to be treated as done by the transferee.

(9) There may be continued by or in relation to the transferee anything (including legal proceedings)—

(a) which relates to anything transferred by virtue of a transfer scheme, and

(b) which is in the process of being done by or in relation to the transferor immediately before the transfer date.

(10) Subsection (11) applies to any document—

(a) which relates to anything transferred by virtue of a transfer scheme, and

(b) which is in effect immediately before the transfer date.

(11) Any references in the document to the transferor are to be read as references to the transferee.

(12) A transfer scheme may include supplementary, incidental, transitional and consequential provision.

(13) In this section—

“enactment” includes subordinate legislation within the meaning of the Interpretation Act 1978;

“transfer scheme” means a transfer scheme under section 333DA;

“transfer date” means a date specified by a transfer scheme as the date on which the scheme is to have effect.

333DC Tax consequences of transfers under section 333DA

(1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to—

(a) any property, rights or liabilities transferred in accordance with a transfer scheme,

or

(b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities in accordance with such a transfer scheme.

(2) The provision that may be made under subsection (1)(a) includes, in particular, provision for—

- (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
- (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
- (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.

(3) The provision that may be made under subsection (1)(b) includes, in particular, provision for—

- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;
- (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or be treated in a specified way;
- (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.

(4) In this section—

- “enactment” includes subordinate legislation within the meaning of the Interpretation Act 1978;
- “relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax or stamp duty reserve tax;
- “tax provision” means a provision of an enactment about a relevant tax;
- “transfer scheme” means a transfer scheme under section 333DA.

(5) References in this section to the transfer of property, rights or liabilities in accordance with a transfer scheme include references to—

- (a) the creation of interests, rights or liabilities under the scheme, and
 - (b) the modification of interests, rights or liabilities under the scheme,
- (and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).”

(7) In section 408 (transfers of property, rights or liabilities to the Greater London Authority etc) after subsection (8) insert—

“(8A) An order under subsection (1) above may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).”

(8) In section 409 (transfer schemes for transfers to the Greater London Authority etc) after subsection (8) insert—

“(8A) A scheme under subsection (1) or (2) above may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).”

(9) In section 420 (regulations and orders)—

(a) in subsection (7) (instruments subject to annulment in pursuance of a resolution of either House of Parliament) after the entry for section 243(7) insert—

“section 333DA(2);”, and

(b) after subsection (8) insert—

“(8A) A statutory instrument which contains regulations under section 333DC shall be subject to annulment in pursuance of a resolution of the House of Commons.”

Commencement

Pt 5 s. 31(1)-(9)(b): April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Pt 5 s. 31(1)-(9)(b): United Kingdom

Law In Force

32 Easements etc affecting land

(1) The Housing and Regeneration Act 2008 is amended in accordance with subsections (2) to (4).

(2) In section 11 (which introduces the provision made about land of the HCA in Schedule 3) for “land of the HCA” substitute “land acquired by the HCA”.

(3) In the title to Schedule 3 (main powers in relation to land of the HCA) for “land of the HCA” substitute “land acquired by the HCA”.

(4) In paragraph 1 of that Schedule (powers to override easements etc in undertaking works on, or using, land of the HCA) in each of sub-paragraphs (1) and (3) for “land of the HCA” substitute “land which has been vested in or acquired by the HCA”.

(5) Section 333ZB of the Greater London Authority Act 1999 (powers in relation to land held for housing or regeneration purposes) is amended in accordance with subsections (6) to (9).

(6)-(8) [...]¹

(9) After subsection (4) insert—

“(5) In this section references to the Authority include a company or body through which the Authority exercises functions in relation to housing or regeneration.

(6) Subsection (5) does not affect the application of Parts 3 and 4 of Schedule 4 to the Housing and Regeneration Act 2008—

(a) in relation to the acquisition of land by the Authority under this Part, or

(b) in relation to land in respect of which functions of the Authority relating to housing or regeneration are being or have been exercised.”

(10) [...] ¹

(11) The amendments made by this section do not apply in relation to land the freehold interest in which was disposed of by the Homes and Communities Agency, the Greater London Authority, a company or body through which the Authority exercises functions in relation to housing or regeneration or a Mayoral development corporation before the day on which this section comes into force.

(12) The reference in subsection (11) to land disposed of by the Greater London Authority does not include land disposed of to a company or body through which the Authority exercises functions in relation to housing or regeneration.

Notes

¹ Repealed by Housing and Planning Act 2016 c. 22 Sch.19 para.18 (July 13, 2016)

Commencement

Pt 5 s. 32(1)-(12): April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Pt 5 s. 32(1)-(10): United Kingdom

Pt 5 s. 32(11)-(12): England, Wales

Law In Force

33 Expenditure of Greater London Authority on housing or regeneration

(1) In section 31 of the Greater London Authority Act 1999 (limits of the general power) after subsection (5A) insert—

“(5B) Nothing in subsection (1)(a) above shall be taken to prevent the Authority incurring expenditure in doing anything for the purposes of, or relating to, housing or regeneration.”

(2) The amendment made by subsection (1) applies in relation to expenditure incurred before as well as after the coming into force of this section.

Commencement

Pt 5 s. 33(1)-(2): February 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(c))

Extent

Pt 5 s. 33(1): United Kingdom

Pt 5 s. 33(2): England, Wales

Her Majesty's Land Registry

✔ Law In Force

34 Transfer of responsibility for local land charges to Land Registry

(1) Schedule 5 (transfer of responsibility for local land charges to Land Registry) has effect.

(2) In that Schedule—

- (a) Part 1 amends the Local Land Charges Act 1975,
- (b) Part 2 amends the Land Registration Act 2002,
- (c) Part 3 amends other Acts, and
- (d) Part 4 contains transitional provision.

Commencement

Pt 5 s. 34(1)-(2)(d): April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Pt 5 s. 34(1)-(2)(d): England, Wales

✔ Law In Force

35 Conferral of additional powers on Land Registry

(1) In section 105 of the Land Registration Act 2002 (power of registrar to provide or arrange for the provision of consultancy or advisory services about the registration of land in England and Wales or elsewhere) in subsection (1) for the words from “, consultancy or advisory services” to the end substitute

“—

- (a) consultancy or advisory services about land or other property in England and Wales or elsewhere,
- (b) information services about land or other property in England and Wales, or
- (c) services relating to documents or registers which relate to land or other property in England and Wales.”

(2) For the title to that section substitute “Services relating to land or other property”.

Commencement

Pt 5 s. 35(1)-(2): April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Pt 5 s. 35(1)-(2): United Kingdom

✔ Law In Force

36 Transfer of power to nominate member of Rule Committee

(1) In section 127(2)(h) of the Land Registration Act 2002 (power of Lord Chancellor to nominate consumer affairs member of Rule Committee) for “Lord Chancellor” substitute “Secretary of State”.

(2) This section applies in relation to the nomination of a member of the Rule Committee on or after the day on which this section comes into force.

Commencement

Pt 5 s. 36(1)-(2): April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Pt 5 s. 36(1)-(2): United Kingdom

Off-site carbon abatement measures

✘ Not Yet In Force

37 Provision in building regulations for off-site carbon abatement measures

(1) The Building Act 1984 is amended as follows.

(2) In section 1(1A) (matters that may be covered by building regulations) after paragraph (c) insert

“;

(d) the action to be taken as a result of a building's contribution to or effect on emissions of carbon dioxide (whether or not from the building itself).”

(3) Schedule 1 (building regulations) is amended as follows.

(4) After paragraph 7 insert—

“7A

(1) This paragraph applies if building regulations impose a requirement in relation to a building as respects its contribution to or effect on emissions of carbon dioxide (whether or not the requirement relates to emissions from the building itself).

(2) Building regulations may make provision for a person to whom the requirement applies to meet it (in whole or in part) by taking action otherwise than in relation to the building.

(3) Such action may include—

(a) doing things which consist of, or cause or contribute, directly or indirectly to—

(i) reductions in emissions of carbon dioxide, or

(ii) the removal of carbon dioxide from the atmosphere;

(b) agreeing with another person that the person will do things within paragraph

(a);

- (c) making a payment or payments to a fund—
 - (i) which is administered by, or by a person acting on behalf of, the Secretary of State or the Welsh Ministers, and
 - (ii) the proceeds of which are used to pay (directly or indirectly) for activities within paragraph (a).

(4) Provision made under paragraph 4A for the use of certificates as evidence of compliance with building regulations by virtue of action within sub-paragraph (3) may include provision—

- (a) for the creation and maintenance of a register for keeping track of the use of certificates for that purpose;
- (b) about the administration of the register;
- (c) for charges to be imposed in connection with the registration of any matter in the register or for the disclosure of information held in the register.

(5) If building regulations make provision for the creation and maintenance of a register, building regulations must make provision for the register to be administered by, or by a person acting on behalf of, the Secretary of State or the Welsh Ministers.

(6) Building regulations made by the Welsh Ministers may make provision for the use, in relation to action taken in respect of a building in Wales, of a register administered by, or by a person acting on behalf of, the Secretary of State.

(7) Building regulations made by the Secretary of State may make provision about the use of such a register for that purpose.

(8) Building regulations may make provision for the creation and maintenance of a fund of a kind referred to in sub-paragraph (3)(c), including provision about—

- (a) the administration of such a fund;
- (b) the purposes for which proceeds from such a fund may be used.

(9) Building regulations may make provision about—

- (a) the calculation of payments to be made into a fund of a kind referred to in sub-paragraph (3)(c);
- (b) the maximum payment which may be required to be made into such a fund in respect of a building.

(10) Building regulations made by the Welsh Ministers may make provision for a payment or payments in respect of a building in Wales to be made to a fund administered by, or by a person acting on behalf of, the Secretary of State.

(11) Building regulations made by the Secretary of State may make provision about the use of such a fund for that purpose.

(12) Paragraph 8(2) does not prevent building regulations from providing for action within sub-paragraph (3) to be taken in relation to a building erected before the date on which the regulations come into force.”

(5) In paragraph 8(2) (requirement for building regulations not to apply to buildings erected before regulations come into force, subject to exceptions) after “Subject to sub-paragraphs (3) to (6) below and to” insert “paragraph 7A(12) above and”.

(6) The reference to the Building Act 1984 in article 2(a) of the Welsh Ministers (Transfer of Functions) (No 2) Order 2009 (SI 2009/3019) is to be treated as referring to that Act as amended by this section.

Commencement

Pt 5 s. 37(1)-(6): Date to be appointed (not yet in force) (2015 c. 7 Pt 8 s. 57(5)(a))

Extent

Pt 5 s. 37(1)-(5): United Kingdom

Pt 5 s. 37(6): England, Wales

PART 6**ENERGY***The community electricity right*

Law In Force

38. The community electricity right

(1) The Secretary of State may make regulations which give individuals resident in a community or groups connected with a community (or both) the right to buy a stake in a renewable electricity generation facility that is located—

- (a) in the community (if it is a land—based facility), or
- (b) adjacent to the community (if it is an offshore facility).

(2) The Secretary of State may make regulations about—

- (a) the kind, or kinds, of body which may be a facility operator,
- (b) ownership of facility operators, and
- (c) matters relating to the ownership of facility operators (including the rights, duties and powers arising from ownership),

if the Secretary of State considers that the regulations are appropriate in connection with the right to buy.

(3) The Secretary of State may make regulations about the supply of information in connection with the following—

- (a) the right to buy;
- (b) ownership of stakes in qualifying facilities (including the transfer of ownership);
- (c) operation of qualifying facilities;
- (d) ownership of facility operators (including matters relating to the ownership of facility operators);
- (e) monitoring and assessing—

- (i) the operation of the right to buy, and
- (ii) the ownership of stakes in qualifying facilities.

(4) The Secretary of State may make regulations about the enforcement of obligations imposed by regulations made under any of subsections (1) to (3); and the regulations about enforcement may include—

- (a) provision for obligations to be enforceable as, or as if they were, generation licence conditions or relevant requirements;
- (b) a power to impose financial penalties for breach of obligations.

(5) The Secretary of State may by regulations modify—

- (a) any generation licence condition, or
- (b) any generation licence exemption,

if the Secretary of State considers that the modification is appropriate in connection with regulations made under any of subsections (1) to (4) or this subsection.

(6) Schedule 6 (which describes certain provision that community electricity right regulations can make, including provision about renewable electricity generation facilities, communities, and individuals and groups who may exercise the right to buy) has effect.

(7) In this section, Schedule 6 and section 39—

“community electricity right regulations” means regulations under this section;

“electricity generation licence” means a licence granted under section 6(1)(a) of the Electricity Act 1989;

“facility operator” means a person who generates, or is expected to generate, electricity at a qualifying facility for the purpose of giving a supply to any premises or enabling a supply to be so given;

“generation licence condition” means—

- (a) the conditions of a particular electricity generation licence, or
- (b) the standard conditions so far as they are incorporated in electricity generation licences by virtue of section 8A of the Electricity Act 1989;

“generation licence exemption” means an exemption from section 4(1)(a) of the Electricity Act 1989 granted under section 5(1) of that Act;

“land—based facility” means a renewable electricity generation facility that is not an offshore facility;

“offshore facility” means a renewable electricity generation facility that is located in waters in or adjacent to Great Britain that are beyond the mean low water mark;

“qualifying facility” means a renewable electricity generation facility in relation to which the right to buy is to be, is, or has been, exercisable;

“relevant requirement” has the same meaning as in section 25 of the Electricity Act 1989;

“renewable electricity generation facility” means a facility using a renewable source of energy to generate electricity (and here “renewable source” has the same meaning as in sections 32 to 32LB of the Electricity Act 1989 — see section 32M of that Act) which is located in—

- (a) Great Britain,
- (b) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea adjacent to Great Britain, but do not form part of that territorial sea,
- (c) the territorial sea adjacent to Great Britain, or

- (d) the Renewable Energy Zone (within the meaning of Chapter 2 of Part 2 of the Energy Act 2004), except for any part of that Zone which forms part of the territorial sea adjacent to Northern Ireland;
- “right to buy” means the right to buy a stake in a renewable electricity generation facility that is given by regulations under subsection (1).

Commencement

Pt 6 s. 38(1)-(7) definition of "right to buy": June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Pt 6 s. 38(1)-(7) definition of "right to buy": England, Wales, Scotland

Law In Force

39 Supplementary provision

- (1) Community electricity right regulations may confer a function on—
- (a) the Secretary of State, or
 - (b) any other person, apart from the Scottish Ministers or the Welsh Ministers.
- (2) The functions that may be imposed include—
- (a) a duty (including a restriction or prohibition);
 - (b) a function involving the exercise of a discretion;
 - (c) a requirement to consult;
 - (d) a requirement to take account of guidance.
- (3) The provisions of section 38, Schedule 6 and this section which specify particular kinds of provision that may be made in community electricity right regulations do not limit the powers conferred by section 38 to make such regulations.
- (4) The duties under Schedule 6 to make particular provision in community electricity right regulations do not apply unless the Secretary of State decides to exercise the power conferred by section 38 to make such regulations.
- (5) Provision which commences community electricity right regulations may be framed so as to secure that the regulations do not apply to a renewable electricity generation facility if development of the facility has reached a stage of advancement specified in the commencement provision.
- (6) A reference in section 38 or Schedule 6 to buying a stake in a renewable electricity generation facility includes a reference to making a loan in relation to a renewable electricity generation facility.
- (7) The Secretary of State must carry out a review of section 38, Schedule 6 and the preceding provisions of this section as soon as reasonably practicable after the end of the period of 5 years beginning with the day on which they come into force.

Commencement

Pt 6 s. 39(1)-(7): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Pt 6 s. 39(1)-(7): England, Wales, Scotland

The Extractive Industries Transparency Initiative

✔ Law In Force

40 The Extractive Industries Transparency Initiative

After section 8 of the Commissioners for Revenue and Customs Act 2005 insert—

“8A The Extractive Industries Transparency Initiative

(1) The Commissioners may do anything which they think necessary or expedient in connection with the Extractive Industries Transparency Initiative in so far as it relates to taxes the collection and management of which is the responsibility of the Commissioners.

(2) In this section “the Extractive Industries Transparency Initiative” means the international initiative of that name which has the aim of promoting openness in the management of revenues from natural resources.”

Commencement

Pt 6 s. 40: April 12, 2015 (2015 c. 7 Pt 8 s. 57(7)(b))

Extent

Pt 6 s. 40: United Kingdom

Recovery of UK petroleum

✔ Law In Force

41 Maximising economic recovery of UK petroleum

After section 9 of the Petroleum Act 1998 insert—

“PART 1A**MAXIMISING ECONOMIC RECOVERY OF UK PETROLEUM****9A The principal objective and the strategy**

(1) In this Part the “principal objective” is the objective of maximising the economic recovery of UK petroleum, in particular through—

- (a) development, construction, deployment and use of equipment used in the petroleum industry (including upstream petroleum infrastructure), and
- (b) collaboration among the following persons—
 - (i) holders of petroleum licences;
 - (ii) operators under petroleum licences;
 - (iii) owners of upstream petroleum infrastructure;
 - (iv) persons planning and carrying out the commissioning of upstream petroleum infrastructure.

(2) The Secretary of State must produce one or more strategies for enabling the principal objective to be met.

(3) A strategy may relate to matters other than those mentioned in subsection (1)(a) and (b).

(4) For provision about producing and revising a strategy, see sections 9F and 9G.

9B Exercise of certain functions of the Secretary of State

The Secretary of State must act in accordance with the current strategy or strategies when—

- (a) exercising functions under the other Parts of this Act (except Part 4),
- (b) exercising functions under Part 4 to the extent that they concern reduction of the costs of abandonment of offshore installations and submarine pipelines,
- (c) exercising functions under Chapter 3 of Part 2 of the Energy Act 2011 (upstream petroleum infrastructure),
- (d) exercising any function or using any power under a petroleum licence, and
- (e) exercising any other function or using any power—
 - (i) to provide advice or assistance to another person, or
 - (ii) to acquire, use or supply information, for the purpose of enabling the principal objective to be met.

9C Carrying out of certain petroleum industry activities

(1) A person who is the holder of a petroleum licence must act in accordance with the current strategy or strategies when planning and carrying out activities as the licence holder.

(2) A person who is an operator under a petroleum licence must act in accordance with the current strategy or strategies when planning and carrying out activities as the operator under the licence.

(3) A person who is the owner of upstream petroleum infrastructure must act in accordance with the current strategy or strategies when planning and carrying out the person's activities

as the owner of upstream petroleum infrastructure (including the development, construction, deployment and use of the infrastructure).

(4) A person must act in accordance with the current strategy or strategies when planning and carrying out the commissioning of upstream petroleum infrastructure.

9D Reports by the Secretary of State

(1) As soon as practicable after the end of each reporting period, the Secretary of State must—

(a) consider the extent to which, during that period, these persons have followed section 9C by acting in accordance with the current strategy or strategies—

(i) licence holders,

(ii) operators under petroleum licences,

(iii) owners of upstream petroleum infrastructure, and

(iv) persons planning and carrying out the commissioning of upstream petroleum infrastructure; and

(b) produce a report on the results of the consideration of that question.

(2) The report may contain other material, including a statement of action which the Secretary of State has taken, or is proposing to take, in response to any matter included in the report (including changes to a strategy).

(3) The Secretary of State must publish, and lay before each House of Parliament, a copy of each report produced under this section.

(4) In this section “reporting period” means—

(a) the period of two years beginning with the day when this section comes into force, and

(b) each subsequent period of one year beginning with the day after the end of a previous reporting period.

9E Secretary of State's security and resilience functions

(1) This Part does not limit the exercise of the Secretary of State's security and resilience functions.

(2) This Part is subject to the exercise of the security and resilience functions by the Secretary of State.

(3) In this section “security and resilience function” means any function which relates to—

(a) the security of petroleum supplies, or

(b) the resilience of the petroleum industry.

9F Producing and revising a strategy

(1) The Secretary of State must produce the first strategy before the end of the period of one year beginning with the day on which this section comes into force.

(2) The Secretary of State may subsequently—

(a) produce a new strategy, or

(b) revise a current strategy,
whenever the Secretary of State thinks appropriate.

(3) The Secretary of State must review each current strategy before the end of each relevant four year period.

(4) In reviewing a current strategy, the Secretary of State must (in particular) take account of the results of any consideration undertaken under section 9D in respect of reporting periods falling within the relevant four year period.

(5) In this section “relevant four year period”, in relation to a current strategy, means a period of four years beginning with—

(a) the date on which the strategy was issued, or

(b) if later, the date on which the last review under subsection (3) was concluded.

9G Procedure for producing and revising a strategy

(1) Before—

(a) producing the first strategy,

(b) producing a new strategy, or

(c) revising a current strategy,

the Secretary of State must prepare a draft of the strategy or revised strategy.

(2) The Secretary of State must—

(a) consult such persons as the Secretary of State thinks appropriate about the draft,
and

(b) consider any representations made by them.

(3) If, after complying with that duty, the Secretary of State decides to proceed with the draft (in its original form or with modifications), the Secretary of State must lay a copy of the draft before each House of Parliament.

(4) The Secretary of State may not take any further steps in relation to the draft if, within the 40 day period, either House resolves not to approve the draft (a “negative resolution”).

(5) If neither House passes a negative resolution, the Secretary of State may issue the strategy or revised strategy in the form laid before Parliament.

(6) The strategy or revised strategy comes into force on the date specified by the Secretary of State (which must not be before the date when it is issued).

(7) Subsection (4) does not prevent a new draft of a strategy or revised strategy from being laid before Parliament.

(8) In this section “40 day period”, in relation to the draft of a strategy or revised strategy, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or if the draft is not laid before each House on the same day, the later of the 2 days on which it is laid).

(9) For the purposes of calculating the 40 day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

9H “Upstream petroleum infrastructure” and its owners

(1) In this Part “upstream petroleum infrastructure” means—

- (a) a gas processing facility,
- (b) an oil processing facility, or
- (c) an upstream petroleum pipeline,

if and in so far as it meets conditions A and B.

(2) A facility or pipeline meets condition A if and in so far as it is situated in Great Britain or relevant UK waters.

(3) A facility or pipeline meets condition B if and in so far as it is used in relation to UK petroleum (including such petroleum after it has been got).

(4) But an upstream petroleum pipeline is not “upstream petroleum infrastructure” if it is a pipeline to which section 17GA applies (petroleum pipelines subject to Norwegian access system).

(5) In this section, the following expressions have the same meanings as in Chapter 3 of Part 2 of the Energy Act 2011 (see section 90 of that Act)—

- (a) “gas processing facility”;
- (b) “oil processing facility”;
- (c) “upstream petroleum pipeline”.

(6) In this Part, “owner”, in relation to upstream petroleum infrastructure, means—

- (a) a person in whom the pipeline or facility is vested;
- (b) a lessee and any person occupying or controlling the pipeline or facility; and
- (c) a person who has the right to have things conveyed by the pipeline or processed by the facility.

9I Other interpretation

In this Part—

“current strategy”, in relation to any particular time, means a strategy under section 9A(2) in force at that time;

“operator under a petroleum licence” means a person who is responsible for organising or supervising any of the operations of searching for, boring for, or getting UK petroleum in pursuance of the petroleum licence;

“owner”, in relation to upstream petroleum infrastructure, has the meaning given in section 9H;

“petroleum” has meaning given in section 1;

“petroleum licence” means a licence granted under—

- (a) section 3 of this Act, or
- (b) section 2 of the Petroleum (Production) Act 1934;

“principal objective” has the meaning given in section 9A;

“relevant UK waters” means—

- (a) the territorial sea adjacent to the United Kingdom, and
- (b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964;

“UK petroleum” means petroleum which for the time being exists in its natural condition in strata beneath relevant UK waters;

“upstream petroleum infrastructure” has the meaning given in section 9H.”

Commencement

Pt 6 s. 41: April 12, 2015 (SI 2015/481 reg. 3(b))

Extent

Pt 6 s. 41: England, Wales, Scotland

R Repealed

42 [...]¹

Notes

¹ Repealed by Energy Act 2016 c. 20 Sch.1(1) para.74 (October 1, 2016: repeal has effect subject to transitional provisions specified in SI 2016/920 reg.3)

Petroleum and geothermal energy in deep-level land

✓ Law In Force

43 Petroleum and geothermal energy: right to use deep-level land

(1) A person has the right to use deep-level land in any way for the purposes of exploiting petroleum or deep geothermal energy.

(2) Land is subject to the right of use (whether for the purposes of exploiting petroleum or deep geothermal energy) only if it is—

- (a) deep-level land, and
- (b) within a landward area.

(3) But that does not prevent deep-level land that is within a landward area from being used for the purposes of exploiting petroleum or deep geothermal energy outside a landward area.

(4) deep-level land is any land at a depth of at least 300 metres below surface level.

Commencement

Pt 6 s. 43(1)-(4): April 12, 2015 (2015 c. 7 Pt 8 s. 57(7)(b))

Extent

Pt 6 s. 43(1)-(4): England, Wales

✔ Law In Force

44 Further provision about the right of use

- (1) The ways in which the right of use may be exercised include—
- (a) drilling, boring, fracturing or otherwise altering deep-level land;
 - (b) installing infrastructure in deep-level land;
 - (c) keeping, using or removing any infrastructure installed in deep-level land;
 - (d) passing any substance through, or putting any substance into, deep-level land or infrastructure installed in deep-level land;
 - (e) keeping, using or removing any substance put into deep-level land or into infrastructure installed in deep-level land.
- (2) The purposes for which the right of use may be exercised include—
- (a) searching for petroleum or deep geothermal energy;
 - (b) assessing the feasibility of exploiting petroleum or deep geothermal energy;
 - (c) preparing for exploiting petroleum or deep geothermal energy;
 - (d) decommissioning, and other activity which falls to be continued or undertaken, in consequence of activities undertaken for the purposes of exploiting petroleum or deep geothermal energy.
- (3) The right of use includes the right to leave deep-level land in a different condition from the condition it was in before an exercise of the right of use (including by leaving any infrastructure or substance in the land).
- (4) The right of use—
- (a) does not give a person (“R”) any power which is greater than, or different from, the power which R would have had if the right had been granted by a person legally entitled to grant it; and
 - (b) does not relieve a person (“R”) from any obligation or liability to which R would have been subject if the right had been granted by a person legally entitled to grant it.
- (5) A person (“L”) who owns land (the “relevant land”) is not liable, as the owner of that land, in tort for any loss or damage which is attributable to the exercise, or proposed exercise, of the right of use by another person (whether in relation to the relevant land or any other land).
- (6) For that purpose, loss or damage is not attributable to the exercise, or proposed exercise, of the right of use (in particular) if, or to the extent that, the loss or damage is attributable to a deliberate omission by L.
- (7) There is a “deliberate omission by L” if L, as owner of the relevant land, decides—
- (a) not to do an act, or
 - (b) not to allow another person to do an act,
- and the circumstances at the time of that decision were such that L would not have had to bear any of the costs incurred (whether by L or any other person) in doing or allowing the act.
- (8) Section 43 and this section bind the Crown.

Commencement

Pt 6 s. 44(1)-(8): April 12, 2015 (2015 c. 7 Pt 8 s. 57(7)(b))

Extent

Pt 6 s. 44(1)-(8): England, Wales

✔ Law In Force

! Amendment(s) Pending

45 Payment scheme

- (1) The Secretary of State may, by regulations, require relevant energy undertakings to make payments in respect of the proposed exercise, or exercise, of the right of use.
- (2) The regulations may require payments to be made—
 - (a) to owners of relevant land or interests in relevant land;
 - (b) to other persons for the benefit of areas in which relevant land is situated.
- (3) The regulations may—
 - (a) specify the amount or amounts of payments;
 - (b) make provision for determining the amount or amounts of payments.
- (4) The regulations may require relevant energy undertakings to provide the Secretary of State, or any other specified person, with specified information about—
 - (a) the proposed exercise, or exercise, of the right of use;
 - (b) the making of payments in accordance with regulations under this section.
- (5) Before making any regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

Amendments Pending

Pt 6 s. 45(6): added by Wales Act 2017 c. 4, Sch. 6(2) para. 28(5) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 45(5): words substituted by Wales Act 2017 c. 4, Sch. 6(2) para. 28(4) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 Sch.7 paras 1 and 6)

Pt 6 s. 45(4A): added by Wales Act 2017 c. 4, Sch. 6(2) para. 28(3) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 45(4)(b): words substituted by Wales Act 2017 c. 4, Sch. 6(2) para. 28(2)(c) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 45(4)(a): words inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 28(2)(b) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 45(4): words substituted by Wales Act 2017 c. 4, Sch. 6(2) para. 28(2)(a) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 45(1A): added by Wales Act 2017 c. 4, Pt 2 s. 25(2)(b) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 45(1): s.45(1)(a) and (b) substituted for words by Wales Act 2017 c. 4, Pt 2 s. 25(2)(a) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Pt 6 s. 45(1)-(5): April 12, 2015 (2015 c. 7 Pt 8 s. 57(7)(b))

Extent

Pt 6 s. 45(1), (2)-(4)(b), (5): England, Wales

Pt 6 s. 45(1)(a)-(1A), (4A)-(4A)(b), (6): (extent not available)

✔ Law In Force

! Amendment(s) Pending

46 Notice scheme

- (1) The Secretary of State may, by regulations, require relevant energy undertakings to give notice of the proposed exercise, or exercise, of the right of use.
- (2) The regulations may require relevant energy undertakings—
 - (a) to give notice—
 - (i) to owners of relevant land or interests in relevant land;
 - (ii) to persons of other specified descriptions;
 - (b) to display notice within the area in which relevant land is situated or elsewhere;
 - (c) to publish notice (otherwise than by displaying the notice).
- (3) The regulations may make provision about the information which the notice is to contain, including provision about information relating to—
 - (a) any payment scheme regulations which are in force;
 - (b) the application of any payment scheme regulations to the proposed exercise, or exercise, of the right of use;
 - (c) the method for obtaining a payment under any payment scheme regulations.
- (4) The regulations may make provision about the manner in which notice is to be given, displayed or published, including provision requiring notice to be—
 - (a) displayed at specified places or places of specified descriptions;
 - (b) published in specified publications or publications of specified descriptions.
- (5) The regulations may require relevant energy undertakings to provide the Secretary of State, or any other specified person, with specified information about—
 - (a) the proposed exercise, or exercise, of the right of use;
 - (b) the giving of notice in accordance with regulations under this section.
- (6) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (7) In this section “payment scheme regulations” means regulations under section 45.

Amendments Pending

Pt 6 s. 46(6A): added by Wales Act 2017 c. 4, Sch. 6(2) para. 29(6) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.6 paras 1 and 6)

Pt 6 s. 46(6): words substituted by Wales Act 2017 c. 4, Sch. 6(2) para. 29(5) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 46(5A): added by Wales Act 2017 c. 4, Sch. 6(2) para. 29(4) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 46(5)(b): words substituted by Wales Act 2017 c. 4, Sch. 6(2) para. 29(3)(c) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 46(5)(a): words inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 29(3)(b) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 46(5): words substituted by Wales Act 2017 c. 4, Sch. 6(2) para. 29(3)(a) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 46(3)(b): words inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 29(2) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 46(1A): added by Wales Act 2017 c. 4, Pt 2 s. 25(3)(b) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 46(1): s.46(1)(a) and (b) substituted for words by Wales Act 2017 c. 4, Pt 2 s. 25(3)(a) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Pt 6 s. 46(1)-(7): April 12, 2015 (2015 c. 7 Pt 8 s. 57(7)(b))

Extent

Pt 6 s. 46(1), (2)-(5)(b), (6), (7): England, Wales

Pt 6 s. 46(1)(a)-(1A), (5A)-(5A)(b), (6A): (extent not available)

Law In Force

Amendment(s) Pending

47 Payment and notice schemes: supplementary provision

(1) Regulations under section 45 or 46 may make provision about the enforcement of relevant requirements, including provision for the imposition of financial penalties in respect of breach of relevant requirements.

(2) Regulations under section 45 or 46 may confer a function on—

- (a) the Secretary of State, or
- (b) any other person, apart from the Welsh Ministers.

(3) The functions that may be imposed include—

- (a) a duty (including a restriction or prohibition);
- (b) a function involving the exercise of a discretion;
- (c) a requirement to consult.

(4) The provisions of sections 45 and 46 and this section which specify particular kinds of provision that may be made in regulations under section 45 or 46 do not limit the powers conferred by that section to make such regulations.

(5) The Secretary of State must carry out a review of sections 45 and 46 and the preceding provisions of this section as soon as reasonably practicable after the end of the period of 5 years beginning with the day on which they come into force.

(6) The Secretary of State must by regulations—

(a) repeal section 45, and make any consequential amendments (including repeals) of the other provisions of this Act that the Secretary of State considers appropriate, if the relevant conditions are met in relation to the power under section 45;

(b) repeal section 46, and make any consequential amendments (including repeals) of the other provisions of this Act that the Secretary of State considers appropriate, if the relevant conditions are met in relation to the power under section 46.

(7) The relevant conditions are met in relation to the power under section 45 or the power under section 46 if—

(a) that power is not exercised within the period of 7 years beginning with the day on which that section comes into force, and

(b) the Secretary of State is satisfied that there is no convincing case for retaining that power.

Amendments Pending

Pt 6 s. 47(7): word substituted by Wales Act 2017 c. 4, Sch. 6(2) para. 30(6)(b) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 47(7): word substituted by Wales Act 2017 c. 4, Sch. 6(2) para. 30(6)(a) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 47(6)(b): word substituted by Wales Act 2017 c. 4, Sch. 6(2) para. 30(5)(b) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 47(6)(a): word substituted by Wales Act 2017 c. 4, Sch. 6(2) para. 30(5)(a) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 47(5): words inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 30(4) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 47(2A): added by Wales Act 2017 c. 4, Sch. 6(2) para. 30(3) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 47(2): words inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 30(2) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Pt 6 s. 47(1)-(7)(b): April 12, 2015 (2015 c. 7 Pt 8 s. 57(7)(b))

Extent

Pt 6 s. 47(1)-(2)(b), (3)-(7)(b): England, Wales

Pt 6 s. 47(2A)-(2A)(b): (extent not available)

✔ Law In Force

! Amendment(s) Pending

48 Interpretation

- (1) For the purposes of deciding whether land is deep-level land—
- (a) the depth of a point in land below surface level is the distance between that point and the surface of the land vertically above that point; and
 - (b) in determining what is the surface of the land, any building or other structure on the land, and any water covering the land, must be ignored.
- (2) In sections 43 to 47 and this section—
- “deep geothermal energy” means geothermal energy in deep-level land (including in water or any other fluid in deep-level land);
 - “deep-level land” has the meaning given in section 43(4);
 - “landward area” means those parts of the landward area (within the meaning of the Petroleum Licensing (Exploration and Production)(Landward Areas) Regulations 2014) that are in England and Wales or are beneath waters (other than waters adjacent to Scotland);
 - “petroleum” has the same meaning as in Part 1 of the Petroleum Act 1998 (see section 1 of that Act);
 - “relevant energy undertaking” means a person who proposes to exercise, or exercises, the right of use;
 - “relevant land” means land in respect of which the right of use is proposed to be, or is, exercised;
 - “relevant requirement” means a requirement imposed by regulations under section 45 or 46;
 - “right of use” means the right conferred by section 43;
 - “specified” means specified in regulations under section 45 or 46;
 - “substance” includes electricity and any other intangible thing.
- (3) The power of the Secretary of State to make regulations under section 4 of the Petroleum Act 1998 includes power to make such amendments of the definition of “landward area” in subsection (2) above as the Secretary of State considers appropriate in consequence of any other exercise of the power under section 4 of the 1998 Act.

Amendments Pending

Pt 6 s. 48(3): repealed by Wales Act 2017 c. 4, Sch. 6(2) para. 31(4) (date to be appointed: repeal has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 48(2) definition of "Wales"- "Welsh onshore area": definitions inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 31(3)(d) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 48(2) definition of "landward area": definition repealed by Wales Act 2017 c. 4, Sch. 6(2) para. 31(3)(c) (date to be appointed: repeal has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 48(2) definition of "England": definition inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 31(3)(b) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 48(2) definition of "the 2014 Regulations": definition inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 31(3)(a) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 48(1A)-(1C): added by Wales Act 2017 c. 4, Sch. 6(2) para. 31(2) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Pt 6 s. 48(1)-(3): April 12, 2015 (2015 c. 7 Pt 8 s. 57(7)(b))

Extent

Pt 6 s. 48(1)-(3): England, Wales

Other provision about onshore petroleum

☑ Law In Force

⚠ Amendment(s) Pending

49 Advice on likely impact of onshore petroleum on the carbon budget

(1) The Secretary of State must from time to time request the Committee on Climate Change to provide advice (in accordance with section 38 of the CCA 2008) on the impact which combustion of, and fugitive emissions from, petroleum got through onshore activity is likely to have on the Secretary of State's ability to meet the duties imposed by—

- (a) section 1 of the CCA 2008 (net UK carbon account target for 2050), and
- (b) section 4(1)(b) of the CCA 2008 (UK carbon account not to exceed carbon budget).

(2) As soon as practicable after each reporting period, the Secretary of State must—

- (a) lay before Parliament a copy of advice received under subsection (1) during the reporting period, and
- (b) lay before Parliament a draft of regulations under subsection (3) or a report under subsection (5).

(3) Regulations under this subsection are regulations providing for section 43 to cease to have effect to such extent as may be specified in the regulations.

(4) No provision made in regulations under subsection (3) has effect in relation to anything done in exercise of the right of use conferred by section 43 before the date on which the regulations come into force.

(5) A report under this subsection is a report explaining why a draft of regulations under subsection (3) has not been laid.

(6) Regulations under this section may make such consequential amendments or repeals of sections 43 to 48 and this section as the Secretary of State considers appropriate.

(7) In this section—

“CCA 2008” means the Climate Change Act 2008;

“petroleum got through onshore activity” means petroleum got from the strata in which it exists in its natural condition by activity carried out on land in England and Wales (excluding land covered by the sea or any tidal waters);

“petroleum” has the same meaning as in Part 1 of the Petroleum Act 1998 (see section 1 of that Act);

“reporting period” means—

- (a) the period ending with 1 April 2016, and
- (b) each subsequent period of 5 years.

Amendments Pending

Pt 6 s. 49(7) definition of "petroleum got through onshore activit": definition substituted by Wales Act 2017 c. 4, Pt 2 s. 25(4)(c) (date to be appointed: substitution has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 49(3): words inserted by Wales Act 2017 c. 4, Pt 2 s. 25(4)(b) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 6 s. 49(1): words inserted by Wales Act 2017 c. 4, Pt 2 s. 25(4)(a) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Pt 6 s. 49(1)-(7) definition of "reporting period" (b): April 12, 2015 (2015 c. 7 Pt 8 s. 57(7)(b))

Extent

Pt 6 s. 49(1)-(7) definition of "petroleum got through onshore activit", (7) definition of "petroleum"-(7) definition of "reporting period" (b): United Kingdom

Pt 6 s. 49(7) definition of "petroleum got through onshore activity in England": (extent not available)

Law In Force

50 Onshore hydraulic fracturing: safeguards

After section 4 of the Petroleum Act 1998 insert—

“4A Onshore hydraulic fracturing: safeguards

(1) The Secretary of State must not issue a well consent that is required by an onshore licence for England or Wales unless the well consent imposes—

- (a) a condition which prohibits associated hydraulic fracturing from taking place in land at a depth of less than 1000 metres; and
- (b) a condition which prohibits associated hydraulic fracturing from taking place in land at a depth of 1000 metres or more unless the licensee has the Secretary of State's consent for it to take place (a “hydraulic fracturing consent”).

(2) A hydraulic fracturing consent is not to be issued unless an application for its issue is made by, or on behalf of, the licensee.

(3) Where an application is made, the Secretary of State may not issue a hydraulic fracturing consent unless the Secretary of State—

- (a) is satisfied that—
 - (i) the conditions in column 1 of the following table are met, and
 - (ii) the conditions in subsection (6) are met, and
- (b) is otherwise satisfied that it is appropriate to issue the consent.

(4) The existence of a document of the kind mentioned in column 2 of the table in this section is sufficient for the Secretary of State to be satisfied that the condition to which that document relates is met.

(5) But the absence of such a document does not prevent the Secretary of State from being satisfied that that condition is met.

| Column 1: conditions | Column 2: documents |
|------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 The environmental impact of the development which includes the relevant well has been taken into account by the local planning authority | A notice given by the local planning authority that the environmental information was taken into account in deciding to grant the relevant planning permission |
| 2 Appropriate arrangements have been made for the independent inspection of the integrity of the relevant well | A certificate given by the Health and Safety Executive that it— (a) has received a well notification under regulation 6 of the Borehole Sites and Operations Regulations 1995, (b) has received the information required by regulation 19 of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996, and (c) has visited the site of the relevant well |
| 3 The level of methane in groundwater has, or will have, been monitored in the period of 12 months before the associated hydraulic fracturing begins | An environmental permit has been given by the relevant environmental regulator which contains a condition that requires compliance with a waste management plan which provides for monitoring of the level of methane in groundwater in the period of 12 months before the associated hydraulic fracturing begins |
| 4 Appropriate arrangements have been made for the monitoring of emissions of methane into the air | An environmental permit which contains a condition requiring compliance with a waste management plan which provides for the monitoring of emissions of methane into the air for the period of the permit |
| 5 The associated hydraulic fracturing will not take place within protected groundwater source areas | A decision document given by the relevant environmental regulator (in connection with an environmental permit) which indicates that the associated hydraulic fracturing will not take place within protected groundwater source areas |
| 6 The associated hydraulic fracturing will not take place within other protected areas | A notice given by the local planning authority that the area in respect of which |

| <i>Column 1: conditions</i> | <i>Column 2: documents</i> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7 In considering an application for the relevant planning permission, the local planning authority has (where material) taken into account the cumulative effects of— (a) that application, and (b) other applications relating to exploitation of onshore petroleum obtainable by hydraulic fracturing | the relevant planning permission has been granted does not include any land which is within any other protected areas A notice given by the local planning authority that it has taken into account those cumulative effects |
| 8 The substances used, or expected to be used, in associated hydraulic fracturing— (a) are approved, or (b) are subject to approval, by the relevant environmental regulator | An environmental permit has been given by the relevant environmental regulator which contains a condition that requires substances used in associated hydraulic fracturing to be approved by that regulator |
| 9 In considering an application for the relevant planning permission, the local planning authority has considered whether to impose a restoration condition in relation to that development | A notice given by the local planning authority that it has considered whether to impose such a condition |
| 10 The relevant undertaker has been consulted before grant of the relevant planning permission | A notice given by the local planning authority that the relevant undertaker has been consulted |
| 11 The public was given notice of the application for the relevant planning permission | A notice given by the local planning authority which confirms that the applicant for the relevant planning permission has certified that public notification requirements, as set out in a development order, have been met |

- (6) The conditions mentioned in subsection (3)(a)(ii) are—
- (a) that appropriate arrangements have been made for the publication of the results of the monitoring referred to in condition 4 in the table;
 - (b) that a scheme is in place to provide financial or other benefit for the local area.
- (7) A hydraulic fracturing consent may be issued subject to any conditions which the Secretary of State thinks appropriate.
- (8) A breach of such a condition is to be treated as if it were a breach of a condition of a well consent.

4B Section 4A: supplementary provision

- (1) “Associated hydraulic fracturing” means hydraulic fracturing of shale or strata encased in shale which—
- (a) is carried out in connection with the use of the relevant well to search or bore for or get petroleum, and
 - (b) involves, or is expected to involve, the injection of—

- (i) more than 1,000 cubic metres of fluid at each stage, or expected stage, of the hydraulic fracturing, or
 - (ii) more than 10,000 cubic metres of fluid in total.
- (2) For the purposes of deciding the depth at which associated hydraulic fracturing is taking place in land—
- (a) the depth of a point in land below surface level is the distance between that point and the surface of the land vertically above that point; and
 - (b) in determining what is the surface of the land, any building or other structure on the land, and any water covering the land, must be ignored.
- (3) Subsections (1) and (2) apply for the purposes of section 4A and this section.
- (4) The Secretary of State must, by regulations made by statutory instrument, specify—
- (a) the descriptions of areas which are “protected groundwater source areas”, and
 - (b) the descriptions of areas which are “other protected areas”, for the purposes of section 4A.
- (5) A statutory instrument which contains regulations under subsection (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.
- (6) The Secretary of State must lay a draft of the first such regulations before each House of Parliament on or before 31 July 2015.
- (7) The Secretary of State must consult—
- (a) the Environment Agency before making any regulations under subsection (4)(a) in relation to England;
 - (b) the Natural Resources Body for Wales before making any regulations under subsection (4)(a) in relation to Wales.
- (8) These expressions have the meanings given—
- “development order” has the meaning given in section 59 of the Town and Country Planning Act 1990;
 - “environmental permit” means a permit granted under regulation 13 of the Environmental Permitting (England and Wales) Regulations 2010;
 - “hydraulic fracturing consent” has the meaning given in subsection (1)(b);
 - “licensee” means the holder of the onshore licence for England or Wales;
 - “local planning authority” means—
 - (a) the planning authority to which the application for the relevant planning permission was made (unless the Secretary of State or Welsh Ministers are responsible for determining the application), or
 - (b) the Secretary of State or Welsh Ministers (if responsible for determining the application);
 - “onshore licence for England or Wales” means a licence granted under section 3 which authorises a person to search or bore for or get petroleum in those parts of the landward area (within the meaning of the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014) that are in England or Wales or are beneath waters (other than waters adjacent to Scotland);
 - “relevant environmental regulator” means—
 - (a) the Environment Agency, if the relevant well is situated in England, or

(b) the Natural Resources Body for Wales, if the relevant well is situated in Wales;

“relevant planning permission” means planning permission to be granted, or granted, in respect of development which includes the relevant well;

“relevant undertaker” means the water undertaker or sewerage undertaker in whose area of appointment the relevant well is located;

“relevant well” means the well to which a well consent relates;

“well consent” means a consent in writing of the Secretary of State to the commencement of drilling of a well..

(9) The power of the Secretary of State to make regulations under section 4 includes power to make such amendments of the definition of “onshore licence for England or Wales” in this section as the Secretary of State considers appropriate in consequence of any other exercise of the power under section 4.

(10) The Secretary of State may, by regulations made by statutory instrument—

(a) make such amendments of column 2 of the table in section 4A as the Secretary of State considers appropriate, and

(b) make such other amendments of section 4A or this section as the Secretary of State considers appropriate in consequence of provision made under paragraph (a).

(11) A statutory instrument which contains regulations under subsection (10) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Commencement

Pt 6 s. 50: July 30, 2015 for purposes specified in SI 2015/1576 reg.2(2); April 6, 2016 otherwise (2015 c. 7 Pt 8 s. 57(7)(c); SI 2015/1576 reg. 2(1), reg. 2(2); SI 2016/455 reg. 2)

Extent

Pt 6 s. 50: England, Wales

Renewable heat incentives

Law In Force

51 Renewable heat incentives

(1) Section 100 of the Energy Act 2008 (renewable heat incentives) is amended in accordance with subsections (2) to (4).

(2) After subsection (1) insert—

“(1A) Regulations under this section may confer any function on any person.

(1B) Regulations under this section may provide for a function conferred on a person to be exercisable on behalf of another person.”

(3) In subsection (2)—

(a) in paragraph (a), for the words before sub-paragraph (i) substitute—

“(a) make provision giving any of the following persons entitlements to payments (“RHI payments”) in specified circumstances—”;

(b) in paragraph (b), for “such payments” substitute “RHI payments”;

(c) after paragraph (b) insert—

“(ba) make provision about the circumstances in which, and descriptions of persons to whom, the whole or a part of an entitlement to an RHI payment may be assigned (whether the person has the entitlement by virtue of regulations under paragraph (a) or regulations under this paragraph);

(bb) authorise or require the Secretary of State, the Authority, designated fossil fuel suppliers, or any person with any other administration function, to make an RHI payment—

(i) to the person who is entitled to the payment by virtue of regulations under paragraph (a), or

(ii) where that entitlement has been wholly or partly assigned in accordance with regulations under this section, to the person or persons for the time being enjoying the entitlement or any part of it;”;

(d) in paragraph (c), for “such payments” substitute “RHI payments”;

(e) for paragraph (d) substitute—

“(d) authorise or require a person to provide specified information;”;

(f) in paragraph (e), omit “to the Secretary of State or the Authority”;

(g) in paragraph (h), omit “for the Secretary of State or the Authority”;

(h) omit paragraph (i);

(i) at the end insert—

“(j) authorise the Secretary of State to make payments to a person in respect of the exercise by the person of functions under regulations under this section;

(k) make provision about the resolution of disputes relating to the exercise of functions under regulations under this section, including provision about arbitration or appeals (which may, in particular, provide for the person conducting an arbitration or determining an appeal to order the payment of costs or compensation).”

(4) In subsection (3), after the definition of “fossil fuel supplier” insert—

““other administration function” means a function relating to the administration of a scheme established under this section, other than a function conferred by regulations under subsection (2)(bb);”.

(5) Section 105 of the Energy Act 2008 (Parliamentary control of subordinate legislation) is amended in accordance with subsections (6) to (8).

(6) In subsection (2)—

(a) in paragraph (a), omit sub-paragraph (vi);

(b) after paragraph (aa) insert—

“(ab) regulations which contain (whether alone or together with other provision) affirmative resolution provision made under section 100 (renewable heat incentives);”.

(7) In subsection (3), after “(2)(a)” insert “, (ab)”

(8) After subsection (3) insert—

“(3A) Provision made under section 100 is affirmative resolution provision if—

- (a) the provision is made under any of the powers which always attract the affirmative resolution procedure, or
- (b) the provision—
 - (i) is not made under any of those powers, and
 - (ii) meets condition A, B, C or D.

(3B) The powers which always attract the affirmative resolution procedure are the powers conferred by—

- (a) section 100(2)(c), (e), (f), (g), (h) and (k),
- (b) section 100(5), and
- (c) section 100(6).

(3C) Provision meets condition A if—

- (a) it is made under the power conferred by section 100(2)(bb), and
- (b) it requires a designated fossil fuel supplier to make a payment under an RHI scheme.

(3D) Provision meets condition B if—

- (a) it confers an administration function on a person who is not the Secretary of State or the Authority, and
- (b) the time when the provision comes into force will be the first time that an administration function under the RHI scheme concerned is exercisable by a person who is not the Secretary of State or the Authority.

(3E) Provision meets condition C if—

- (a) it is made under a power conferred by paragraph (ba) or (bb)(ii) of section 100(2),
- (b) it is made in relation to an RHI scheme that was in existence immediately before the coming into force of this subsection, and
- (c) it is the first provision to be made under that power in relation to that RHI scheme.

(3F) Provision meets condition D if—

- (a) it is made under a power conferred by paragraph (a), (b), (ba), (bb), (d) or (j) of section 100(2),
- (b) it is made in relation to an RHI scheme that was not in existence immediately before the coming into force of this subsection, and
- (c) it is the first provision to be made under that power in relation to that RHI scheme.

(3G) In deciding whether provision meets condition B, the following matters must be ignored—

- (a) for the purposes of subsection (3D)(a): any provision which confers a payment function on designated fossil fuel suppliers;
- (b) for the purposes of subsection (3D)(b): any payment function under the RHI scheme concerned which (before the time when the provision comes into force) is, or has been, exercisable by designated fossil fuel suppliers.

(3H) The fact that provision is to some extent made under a power conferred by section 100(1), (1A) or (1B) does not prevent that provision from being taken (for the purposes of subsections (3A) to (3F)) as being made under any other power conferred by section 100.

(3I) In subsections (3B) to (3H) and this subsection—

“administration function” means a function relating to the administration of an RHI scheme;

“designated fossil fuel suppliers” has the same meaning as in section 100;

“payment function” means a function of making a payment under an RHI scheme (whether the function authorises or requires the making of the payment);

“RHI scheme” means a scheme under section 100 to facilitate and encourage renewable generation of heat.”

(9) In section 105 of the Utilities Act 2000 (general restrictions on disclosure of information), in subsection (3)—

(a) in paragraph (a), omit “or section 100”;

(b) after paragraph (a) insert—

“(aa) it is made for the purpose of facilitating any functions of any person under section 100 of the Energy Act 2008;”.

Commencement

Pt 6 s. 51(1)-(9)(b): February 12, 2015 (2015 c. 7 Pt 8 s. 57(7)(d))

Extent

Pt 6 s. 51(1)-(9)(b): England, Wales, Scotland

Reimbursement of persons who have met expenses

Law In Force

52 Reimbursement of persons who have met expenses of making electrical connections

(1) The Electricity Act 1989 is amended in accordance with this section.

(2) In section 19 (power to recover expenditure)—

(a) omit subsections (2) and (3);

(b) after subsection (3) insert—

“(3A) Schedule 5B (reimbursement of persons who have met expenses) has effect.”;

(c) in subsection (4), after “this section” insert “and Schedule 5B”.

(3) After Schedule 5A insert—

“SCHEDULE 5B

REIMBURSEMENT OF PERSONS WHO HAVE MET EXPENSES

1. Power to make regulations

(1) The Secretary of State may, by regulations, make provision entitling the relevant electricity distributor to exercise the reimbursement powers in cases where conditions A, B, C and D are met.

(2) Condition A is met if any electric line or electrical plant is provided for the purpose of making a connection (the “first connection”)—

- (a) between premises and a distribution system, or
- (b) between two distribution systems.

(3) Condition B is met if a payment in respect of first connection expenses is made by one or more of the following persons—

- (a) a person requiring the first connection in pursuance of section 16(1);
- (b) a person who otherwise causes the first connection to be made (including by means of contractual arrangements).

(4) Condition C is met if any electric line or electric plant provided for the purpose of making the first connection is used for the purpose of making another connection (the “second connection”)—

- (a) between premises and a distribution system, or
- (b) between two distribution systems.

(5) Condition D is met if the second connection is made within the prescribed period after the first connection was made.

(6) “First connection expenses” are any expenses reasonably incurred by a person in providing any electric line or electric plant for the purpose of making the first connection.

(7) It does not matter whether the first connection, or the second connection, is made by an electricity distributor or a person of another description.

2. The reimbursement powers

(1) The “reimbursement powers” are—

- (a) the power to demand a reimbursement payment from—
 - (i) a person requiring the second connection in pursuance of section 16(1), or
 - (ii) a person who otherwise causes the second connection to be made (including by means of contractual arrangements); and
- (b) the power to apply the reimbursement payment in making such payments as may be appropriate towards reimbursing any persons for any payments they were previously required to make in respect of first connection expenses (whether that requirement arose by virtue of paragraph (a) or otherwise).

(2) A “reimbursement payment” is a payment, of such amount as may be reasonable in all the circumstances, in respect of first connection expenses.

3. Other provision about regulations under this Schedule

(1) The Secretary of State must consult the Authority before making regulations under this Schedule.

(2) Regulations under this Schedule may make provision requiring relevant electricity distributors to exercise a reimbursement power (whether in all cases or in cases provided for in the regulations).

(3) Regulations under this Schedule may make provision for the relevant electricity distributor to establish or estimate the amount of first connection expenses — or an amount of any aspect of those expenses — in cases where that distributor is not the person who made the first connection.

(4) Regulations under sub-paragraph (3) may not require any person to supply the relevant electricity distributor with information about any expenses incurred.

(5) Regulations under sub-paragraph (3) may provide for an estimate of an amount of first connection expenses to be calculated by a relevant electricity distributor by reference only to a combination of—

- (a) expenses which that distributor would incur if that distributor were making the connection at the time of the estimate, and
- (b) changes in prices since the time when the connection was actually made.

4 Interpretation

(1) In this Schedule—

“first connection” has the meaning given in paragraph 1;

“first connection expenses” has the meaning given in paragraph 1;

“reimbursement payment” has the meaning given in paragraph 2;

“reimbursement powers” has the meaning given in paragraph 2;

“relevant electricity distributor”, in relation to the exercise of a reimbursement power, means—

(a) in a case where the first connection was made between premises and a distribution system, the electricity distributor that (at the time of the exercise of the power) operates that distribution system;

(b) in a case where the first connection was made between two distribution systems, the electricity distributor that (at the time of the exercise of the power) operates the distribution system into which the first connection has been, or is expected to be, incorporated.

(2) A reference in this Schedule to a payment in respect of first connection expenses includes a reference to such a payment made in pursuance of section 19(1).”

(4) In section 16 (duty to connect on request), in subsection (4), after “23” insert “and Schedule 5B”.

(5) In section 16A (procedure for requiring a connection), in subsection (5)(b)—

- (a) omit “or regulations under section 19(2)”;
- (b) after “19(2)” insert “or regulations under Schedule 5B”.

(6) In section 23 (determination of disputes)—

- (a) after subsection (1) insert—

“(1ZA) This section also applies to any dispute arising under regulations under Schedule 5B between—

- (a) an electricity distributor, and
- (b) a person in respect of whom the electricity distributor exercises the reimbursement powers conferred by the regulations.”;

- (b) after subsection (1C) insert—

“(1D) No dispute arising under regulations under Schedule 5B may be referred to the Authority after the end of the period of 12 months beginning with the time when the second connection (within the meaning of Schedule 5B) is made.”;

- (c) after subsection (2) insert—

“(2A) Where a dispute arising under regulations under Schedule 5B falls to be determined under this section, the Authority may give directions as to the circumstances in which, and the terms on which, an electricity distributor is to make or (as the case may be) to maintain the second connection (within the meaning of Schedule 5B) pending the determination of the dispute.”;

- (d) in subsection (4), after “(2)” insert “, (2A)”.

Commencement

Pt 6 s. 52(1)-(6)(d): April 6, 2017 (SI 2017/108 reg. 2)

Extent

Pt 6 s. 52(1)-(6)(d): England, Wales, Scotland

Consequential provision

Law In Force

53 Consequential provision

(1) The Secretary of State may by regulations make consequential provision in connection with any provision made by or under this Part (other than section 40).

(2) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).

(3) In this section “enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978.

Commencement

Pt 6 s. 53(1)-(3): February 12, 2015 (2015 c. 7 Pt 8 s. 57(7)(d))

Extent

Pt 6 s. 53(1)-(3): England, Wales, Scotland

PART 7**PUBLIC WORKS LOAN COMMISSIONERS**

Law In Force

54 Power to abolish Public Works Loan Commissioners

In the Public Bodies Act 2011, in Schedule 1 (power to abolish: bodies and offices), after “Plant Varieties and Seeds Tribunal.” insert—

“Public Works Loan Commissioners.”

Commencement

Pt 7 s. 54: April 12, 2015 (2015 c. 7 Pt 8 s. 57(8))

Extent

Pt 7 s. 54: United Kingdom

PART 8**GENERAL PROVISIONS**

Law In Force

Amendment(s) Pending

55 Regulations and orders

(1) Regulations and orders made by the Secretary of State, the Treasury or the Welsh Ministers under this Act are to be made by statutory instrument.

(2) A statutory instrument which contains an order under section 1—

- (a) appointing a strategic highways company for an area other than the whole of England, and

(b) which is the first exercise of the power in respect of such an area, may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(3) A statutory instrument which contains an order under section 1—

(a) appointing a strategic highways company for an area other than the whole of England, and

(b) which is a subsequent exercise of the power in respect of such an area, is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) A statutory instrument containing (whether alone or with other provisions)—

(a) regulations under section 18,

(b) regulations under [section 38]¹,

(c) regulations under section 45, 46, 47 or 49, or

(d) regulations under section 19(1)(a), 30 or 53 which amend, repeal or modify the application of an Act,

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) Subsection (4) does not apply to a statutory instrument containing only regulations under section 38(5)(b).

(6) A statutory instrument—

(a) which contains regulations under this Act other than under section 16 or 57, and

(b) to which subsection (4) does not apply,

is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) A statutory instrument which contains regulations under section 16 is subject to annulment in pursuance of a resolution of the House of Commons.

(8) A power to make regulations under this Act may be used—

(a) to make different provision for different purposes;

(b) in relation to all or only some of the purposes for which it may be used.

(9) Regulations under this Act may include incidental, supplementary, consequential, transitional, transitory or saving provision.

(10) Subsections (8) and (9) do not apply to regulations under section 57.

Notes

¹ Words repealed by Energy Act 2016 c. 20 Sch.1(1) para.75 (October 1, 2016)

Amendments Pending

Pt 8 s. 55(4): words inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 32(2)(a) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 8 s. 55(6)(b): words inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 32(4) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 8 s. 55(5A): added by Wales Act 2017 c. 4, Sch. 6(2) para. 32(3) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 8 s. 55(4)(c): word inserted by Wales Act 2017 c. 4, Sch. 6(2) para. 32(2)(b) (date to be appointed: insertion has effect subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Pt 8 s. 55(1)-(10): February 12, 2015 (2015 c. 7 Pt 8 s. 57(9))

Extent

Pt 8 s. 55(1)-(5), (6)-(10): United Kingdom

Pt 8 s. 55(5A): (extent not available)

✔ Law In Force

56 Extent

- (1) Part 1 (strategic highways companies) extends to England and Wales only, save that—
 - (a) sections 16 and 18 to 20 extend to England and Wales, Scotland and Northern Ireland, and
 - (b) an amendment or repeal made by that Part, other than the amendment made by section 17(7), has the same extent as the provision to which it relates.
 - (2) Part 2 (Cycling and Walking Investment Strategies) extends to England and Wales only.
 - (3) In Part 3 (powers of British Transport Police Force)—
 - (a) section 22(1) extends to England and Wales only, and
 - (b) section 22(2) extends to England and Wales and Scotland.
 - (4) Part 4 (environmental control of animal and plant species) extends to England and Wales only.
 - (5) In Part 5 (planning, land and buildings)—
 - (a) an amendment or repeal has the same extent as the provision to which it relates, and
 - (b) sections 30(2) to (4), 32(11) and (12) and 33(2), Part 4 of Schedule 5 and section 34 so far as applying to that Part and section 37(6) extend to England and Wales only.
 - (6) In Part 6 (energy)—
 - (a) sections 38 and 39, sections 41 and 42, sections 51 to 53 and Schedules 6 and 7 extend to England and Wales and Scotland,
 - (b) section 40 and section 49 extend to England and Wales, Scotland and Northern Ireland, and
 - (c) sections 43 to 48 and section 50 extend to England and Wales only.
 - (7) Part 7 (Public Works Loan Commissioners) extends to England and Wales, Scotland and Northern Ireland.
 - (8) This Part extends to England and Wales, Scotland and Northern Ireland.
-

Commencement

Pt 8 s. 56(1)-(8): February 12, 2015 (2015 c. 7 Pt 8 s. 57(9))

Extent

Pt 8 s. 56(1)-(8): United Kingdom

✔ Law In Force

57 Commencement

- (1) Part 1 (strategic highways companies) comes into force—
 - (a) in so far as it confers power to make regulations, on the day on which this Act is passed, and
 - (b) for all other purposes, on such day as the Secretary of State appoints by regulations.
- (2) Part 2 (Cycling and Walking Investment Strategies) comes into force on such day as the Secretary of State appoints by regulations.
- (3) Part 3 (powers of British Transport Police Force) comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (4) Part 4 (environmental control of animal and plant species)—
 - (a) so far as it relates to England, comes into force on such day as the Secretary of State appoints by regulations, and
 - (b) so far as it relates to Wales, comes into force on such day as the Welsh Ministers appoint by regulations.
- (5) In Part 5 (planning, land and buildings)—
 - (a) sections 26, 27 and 37 come into force on such day as the Secretary of State appoints by regulations,
 - (b) section 28 comes into force—
 - (i) in so far as it confers power to make regulations, on the day on which this Act is passed, and
 - (ii) for all other purposes, on such day as the Secretary of State appoints by regulations,
 - (c) sections 29 and 33 come into force on the day on which this Act is passed,
 - (d) section 30 and Schedule 4 come into force—
 - (i) in so far as they confer power to make provision by regulations or by development order within the meaning of the Town and Country Planning Act 1990, on the day on which this Act is passed, and
 - (ii) for all other purposes, on such day as the Secretary of State appoints by regulations, and
 - (e) sections 31, 32, 34, 35 and 36 and Schedule 5 come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (6) In the case of section 34 and Schedule 5, subsection (5) has effect subject to Part 4 of that Schedule.
- (7) In Part 6 (energy)—
 - (a) sections 38 and 39 and Schedule 6 come into force on 1 June 2016,
 - (b) section 40 and sections 43 to 49 come into force at the end of the period of two months beginning with the day on which this Act is passed,
 - (c) sections 41 and 42, section 50, section 52 and Schedule 7 come into force on such day as the Secretary of State appoints by regulations, and
 - (d) section 51 and section 53 come into force on the day on which this Act is passed.
- (8) Part 7 (Public Works Loan Commissioners) comes into force at the end of the period of two months beginning with the day on which this Act is passed.

(9) This Part comes into force on the day on which this Act is passed.

(10) Regulations under subsection (1)(b), (4), (5)(a), (b)(ii) or (d)(ii) or (7)(c) may appoint different days for different purposes or areas.

(11) The Secretary of State may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision of

(12) The Welsh Ministers may by regulations make transitional, transitory or saving provision in connection with the coming into force of Part 4 so far as it relates to Wales.

Commencement

Pt 8 s. 57(1)-(12): February 12, 2015 (2015 c. 7 Pt 8 s. 57(9))

Extent

Pt 8 s. 57(1)-(12): United Kingdom

Law In Force

58 Short title

This Act may be cited as the Infrastructure Act 2015.

Commencement

Pt 8 s. 58: February 12, 2015 (2015 c. 7 Pt 8 s. 57(9))

Extent

Pt 8 s. 58: United Kingdom

SCHEDULE 1**STRATEGIC HIGHWAYS COMPANIES: CONSEQUENTIAL AND SUPPLEMENTAL
AMENDMENTS****Section 1****PART 1****HIGHWAYS ACT 1980**

✔ Law In Force

1

The Highways Act 1980 is amended as follows.

Commencement

Sch. 1(1) para. 1: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 1: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

2

(1) Section 1 (highway authorities: general provision) is amended as follows.

(2) In subsection (1)—

- (a) after “Minister is” insert “, subject to subsection (1A),”;
- (b) after paragraph (d) insert—

“(e) any highway for which he becomes the highway authority by virtue of section 2 of the Infrastructure Act 2015.”

(3) After subsection (1) insert—

“(1A) A strategic highways company is the highway authority for—

- (a) any highway specified in the appointment of the company in accordance with Part 1 of the Infrastructure Act 2015;
- (b) any highway that is directed to become a trunk road and for which that company is directed to be highway authority under section 10;
- (c) any special road provided by the company;
- (d) any highway for which an order made under any enactment expressly provides for that company to be the highway authority;
- (e) any highway transferred to the company by an order under section 14 or 18;
- (f) any other highway constructed by the company except where—
 - (i) by virtue of section 4(3) or 5(2) or some other enactment, a local highway authority is the highway authority for it; or
 - (ii) by means of an order under section 14 or 18 the highway is transferred to a local highway authority.

Paragraphs (a), (b) and (f) do not apply where a local highway authority becomes the highway authority by virtue of section 2.”

(4) In subsections (2) and (3) to (4)—

- (a) after “subsection (1)” insert “or (1A)”;
- (b) after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 2(1)-(4)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 2(1)-(4)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

3

In section 2 (highway authority for road which ceases to be a trunk road), in subsection (2)—
(a) after the first “Minister” insert “or by a strategic highways company”;
(b) after the second “Minister” insert “or the company”.

Commencement

Sch. 1(1) para. 3(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 3(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

4

- (1) Section 3 (highway authority for approaches to and parts of certain bridges) is amended as follows.
- (2) In subsection (1), after the first “Minister” insert “or a strategic highways company”.
- (3) In subsection (3), after “Minister” insert “or a strategic highways company”.
-

Commencement

Sch. 1(1) para. 4(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 4(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

5

(1) Section 4 (agreement for exercise by Minister of certain functions of local highway authority as respects highway affected by construction etc of trunk road) is amended as follows.

(2) In subsection (1)—

- (a) after the first “Minister” insert “or a strategic highways company, whichever is the highway authority for a trunk road (“the trunk road authority”);
- (b) for the second “Minister” substitute “trunk road authority”;
- (c) for “a trunk road”, wherever occurring, substitute “that trunk road”.

(3) In subsection (2)—

- (a) for “Minister”, wherever occurring, substitute “trunk road authority”;
- (b) for “he” substitute “the trunk road authority”.

(4) In subsection (3)—

- (a) omit “by him”;
- (b) for “Minister” substitute “trunk road authority”.

(5) In subsections (4) and (5), for “Minister”, wherever occurring, substitute “trunk road authority”.

(6) In the heading, after “Minister” insert “or strategic highways company”.

Commencement

Sch. 1(1) para. 5(1)-(6): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 5(1)-(6): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

6

(1) Section 5 (agreement for local highway authority to maintain and improve certain highways constructed or to be constructed by Minister) is amended as follows.

(2) In subsection (1)—

- (a) after the first “Minister” insert “or a strategic highways company”;
- (b) for “their” substitute “the local highway authority's”;
- (c) after the second “Minister” insert “or the company”.

(3) In the heading, after “Minister” insert “or strategic highways company”.

Commencement

Sch. 1(1) para. 6(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 6(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

7

(1) Section 6 (delegation etc of functions with respect to trunk roads) is amended as follows.

(2) In subsection (1)—

- (a) after “Minister” insert “or a strategic highways company”;
- (b) after “his” insert “or its”;
- (c) after “him” insert “or it”.

(3) In subsection (1A)—

- (a) after “Minister” insert “or a strategic highways company”;
- (b) for “their”, wherever occurring, substitute “that council's”.

(4) In subsection (1B)—

- (a) after “Minister” insert “or a strategic highways company”;
- (b) for “their” substitute “that council's”.

(5) In subsection (2)—

- (a) after “Minister”, wherever occurring, insert “or a strategic highways company”;
- (b) for “he may attach” substitute “may be attached”.

(6) In subsection (3)—

- (a) after “Minister”, wherever occurring, insert “or a strategic highways company”;
- (b) after “he” insert “or the company”;
- (c) after “him” insert “or the company”.

(7) In subsection (4), after “Minister”, wherever occurring, insert “or a strategic highways company”.

(8) In subsection (5)—

- (a) after “Minister” insert “or a strategic highways company”;
- (b) in paragraph (b), for “them” substitute “the council”.

(9) In subsection (6), after “Minister”, wherever occurring, insert “or a strategic highways company”.

(10) In subsection (8)—

- (a) after “Minister”, wherever occurring, insert “or a strategic highways company”.
- (b) after “his” insert “or the company's”.

Commencement

Sch. 1(1) para. 7(1)-(10)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 7(1)-(10)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

8

(1) Section 8 (agreements between local highway authorities for doing of certain works) is amended as follows.

(2) In subsection (1)—

- (a) after “local highway authorities” insert “and strategic highways companies”;
- (b) for “each other” substitute “other such authorities and companies”.

(3) In the heading, after “local highway authorities” insert “and strategic highways companies”.

Commencement

Sch. 1(1) para. 8(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 8(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

9

(1) Section 9 (seconding of staff etc) is amended as follows.

(2) In subsection (1)—

- (a) after “Minister” insert “or a strategic highways company”.
- (b) after “his”, wherever occurring, insert “or the company’s”.

(3) In subsection (2), after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 9(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 9(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

10

(1) Section 10 (general provision as to trunk roads) is amended as follows.

(2) In subsection (2)(a)(i), after “Minister” insert “or a strategic highways company”.

(3) After subsection (3) insert—

“(3A) The power to direct that a highway or proposed highway become a trunk road includes the power to direct that a strategic highways company is the highway authority for that trunk road.”

(4) In subsection (8), after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 10(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 10(1)-(4): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

11

(1) Section 11 (local and private Act functions with respect to trunk roads) is amended as follows.

(2) In subsection (1), after “Minister alone” insert “or a strategic highways company alone, whichever is highway authority for the trunk road (“the trunk road authority”),”.

(3) In subsection (2), in paragraphs (a), (b) and (c), for “Minister”, wherever occurring, substitute “trunk road authority”.

Commencement

Sch. 1(1) para. 11(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 11(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

12

In section 14 (powers as respects roads that cross or join trunk or classified roads), in subsection (3)—

- (a) in paragraph (a), after “trunk road” insert “for which he is the highway authority”;
 - (b) in paragraph (b), for “in relation to a classified road” substitute “in any other case”.
-

Commencement

Sch. 1(1) para. 12(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 12(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

13

(1) Section 16 (general provision as to special roads) is amended as follows.

(2) For subsection (4) substitute—

“(4) A reference in this Act to a special road authority is a reference to—

- (a) except where paragraph (b) or (c) applies, a highway authority authorised to provide a special road by means of—
 - (i) a scheme under this section, or
 - (ii) a scheme referred to in subsection (1);
- (b) except where paragraph (c) applies, the highway authority determined to be the special road authority by a jointly submitted scheme under subsection (10);
- (c) a strategic highways company, where the company is the highway authority for a special road by virtue of an appointment under Part 1 of the Infrastructure Act 2015.”

(3) In subsection (6)(b)—

- (a) for “the case” substitute “any other case”;

(b) omit “local”.

(4) In subsection (10)—

(a) omit “local”;

(b) omit from “, references in this Act” to the end.

Commencement

Sch. 1(1) para. 13(1)-(4)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 13(1)-(4)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

14

In section 18 (supplementary orders relating to special roads), in subsection (3) (b)—

(a) for “the case” substitute “any other case”;

(b) omit “local”.

Commencement

Sch. 1(1) para. 14(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 14(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

15

In section 19 (certain special roads and other highways to become trunk roads), in subsections (1) and (2), after “Minister”, wherever occurring, insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 15: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 15: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

16

(1) Section 23 (compensation in respect of certain works executed in pursuance of orders under section 14 or 18) is amended as follows.

(2) After the first “Minister,” insert “a strategic highways company,”.

(3) After the second “Minister,” insert “the strategic highways company,”.

Commencement

Sch. 1(1) para. 16(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 16(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

17

(1) Section 24 (construction of new highways and provision of road-ferries) is amended as follows.

(2) In subsection (1)—

(a) after “Minister” insert “or a strategic highways company”;

(b) omit “, with the approval of the Treasury,”;

(c) after “he”, wherever occurring, insert “or it”;

(d) in paragraph (d), after “him” insert “or it”;

(e) in the words following paragraph (d), after “his” insert “or its”.

(3) After subsection (1) insert—

“(1A) Where a strategic highways company proposes to construct a highway which will communicate with a highway for which another strategic highways company is the highway authority, the communication shall not be made unless the manner in which it is to be made has been approved by the Secretary of State.”

(4) In subsection (2)—

(a) after the first “Minister” insert “or a strategic highways company”;

(b) after the second “Minister” insert “or the company”.

Commencement

Sch. 1(1) para. 17(1)-(4)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 17(1)-(4)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

18

(1) Section 26 (compulsory powers for creation of footpaths, bridleways and restricted byways) is amended as follows.

(2) In subsection (1)—

- (a) after “local authority” insert “or a strategic highways company”;
- (b) after “the authority” insert “or company”;
- (c) after “them”, wherever occurring, insert “or it”.

(3) In subsection (3)—

- (a) after the first “local authority” insert “and a strategic highways company”;
- (b) omit “other”.

(4) In subsection (3A)(b), after “local authority” insert “and a strategic highways company”.

Commencement

Sch. 1(1) para. 18(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 18(1)-(4): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

19

In section 38 (power of highway authorities to adopt by agreement), in subsection (1), after “Minister,” insert “or a strategic highways company, whichever is the highway authority”.

Commencement

Sch. 1(1) para. 19: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 19: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

20

(1) Section 41 (duty to maintain highways maintainable at public expense) is amended as follows.

(2) In subsection (2), after “him” insert “or a strategic highways company”.

(3) In subsection (4)(b), after “Minister” insert “or the strategic highways company”.

(4) In subsection (5), after the second “Minister” insert “or the strategic highways company”.

Commencement

Sch. 1(1) para. 20(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 20(1)-(4): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

21

(1) Section 55 (extinguishment of liability to maintain or improve bridges comprised in trunk roads and special roads) is amended as follows.

(2) In subsection (1), after “Minister” insert “or a strategic highways company(“the trunk road authority”)”.

(3) In subsection (2)—

- (a) for the first “Minister” substitute “trunk road authority”;
- (b) for the second “Minister” substitute “authority”.

(4) In subsection (3), for “Minister”, wherever occurring, substitute “trunk road authority”.

(5) In subsection (4)—

- (a) for the first “Minister” substitute “trunk road authority”;
- (b) after the second “Minister” insert “, a strategic highways company or trunk road authority”.

(6) In subsection (5), in the definition of “owners”, for “Minister” substitute “trunk road authority”.

Commencement

Sch. 1(1) para. 21(1)-(6): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 21(1)-(6): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

22

In section 63 (relief of main carriageway of trunk road from local traffic), after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 22: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 22: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

23

In section 66 (footways and guard-rails etc for publicly maintainable highways), in subsection (6)—
(a) after the first “Minister” insert “or a strategic highways company”;
(b) after the second “Minister” insert “or the strategic highways company”.

Commencement

Sch. 1(1) para. 23(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 23(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

24

In section 69 (subways), in subsection (2)(a), after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 24: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 24: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

25

- (1) Section 80 (power to fence highways) is amended as follows.
- (2) In subsection (1)(b), after “Minister” insert “or a strategic highways company”.

(3) In subsection (3), after 1 “Part III” insert “and, in the case of a trunk road, consent has been given under section 175B (consent of highway authority required for trunk road access)”.

(4) In subsection (4)—

(a) in paragraph (b)—

(i) after “Minister” insert “or a strategic highways company”;

(ii) after “him” insert “or it”;

(b) in the words following paragraph (b), after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 25(1)-(4)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 25(1)-(4)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

Amendment(s) Pending

26

(1) Section 90C (consultation and local inquiries) is amended as follows.

(2) In subsection (1)—

(a) after “Secretary of State” insert “, a strategic highways company”;

(b) after “he” insert “, it”.

(3) In subsection (2), after “Secretary of State” insert “, a strategic highways company”.

(4) In subsection (4)—

(a) after “Secretary of State” insert “, a strategic highways company”;

(b) after “him” insert “, it”;

(c) after “he” insert “, it”.

Amendments Pending

Sch. 1(1) para. 26: repealed by Deregulation Act 2015 c. 20, Sch. 10(3) para. 22 (date to be appointed)

Commencement

Sch. 1(1) para. 26(1)-(4)(c): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 26(1)-(4)(c): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

27

(1) Section 93 (power to make orders as to reconstruction, improvement etc of privately maintainable bridges) is amended as follows.

(2) In subsections (1) and (2), omit “local”, wherever occurring.

(3) Omit subsection (5).

Commencement

Sch. 1(1) para. 27(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 27(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

28

In section 95 (supplemental provisions as to orders and agreements under sections 93 and 94), in subsection (2), for the words from “section 94” to the end substitute “sections 93 and 94 are exercisable by the highway authority for the trunk road over, or partly over, the bridge.”

Commencement

Sch. 1(1) para. 28: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 28: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

29

In section 97 (lighting of highways), in subsection (1), for “The Minister and every local” substitute “A”.

Commencement

Sch. 1(1) para. 29: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 29: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

30

- (1) Section 105A (environmental impact assessments) is amended as follows.
- (2) In subsection (2)—
 - (a) after “Secretary of State” insert “or a strategic highways company”;
 - (b) after the first “he” insert “or it”;
 - (c) after the second “he” insert “or it, whichever is considering the project,”.
- (3) In subsection (3)—
 - (a) after “Secretary of State” insert “or the strategic highways company”;
 - (b) after “he” insert “or the company”.
- (4) In subsection (4), after “Secretary of State” insert “or the strategic highways company”.
- (5) In subsection (5)(d)—
 - (a) after “Secretary of State” insert “or the strategic highways company”;
 - (b) after “his” insert “or its”.

Commencement

Sch. 1(1) para. 30(1)-(5)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 30(1)-(5)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

31

- (1) Section 105B (procedure) is amended as follows.
- (2) In subsection (1)—
 - (a) after “Secretary of State” insert “or a strategic highways company”;
 - (b) after “him” insert “or it (as the case may be)”.
- (3) In subsection (3), after “Secretary of State” insert “or the strategic highways company (as the case may be)”.
- (4) In subsection (3A)—
 - (a) in paragraphs (a) and (h), after “Secretary of State” insert “or the strategic highways company”;
 - (b) in paragraph (i), after “Secretary of State” insert “or the strategic highways company (as the case may be)”;
 - (c) in paragraph (j), after “Secretary of State” insert “or the strategic highways company”.
- (5) In subsections (3B) and (3C), after “Secretary of State” insert “or the strategic highways company”.
- (6) In subsection (4)—

- (a) after “Secretary of State” insert “or the strategic highways company”;
- (b) after “he” insert “or it”.

(7) In subsection (5)—

- (a) after the first “Secretary of State” insert “or the strategic highways company”;
- (b) in paragraphs (b) and (c)—
 - (i) after “Secretary of State” insert “or the strategic highways company (as the case may be)”;
 - (ii) after “him” insert “or it”.

(8) In subsection (5A)—

- (a) after “Secretary of State”, wherever occurring, insert “or the strategic highways company”;
- (b) after “him”, wherever occurring, insert “or it”.

(9) In subsection (6)—

- (a) after “Secretary of State” insert “or the strategic highways company (as the case may be)”;
- (b) after “he”, wherever occurring, insert “or it”;
- (c) after “his”, wherever occurring, insert “or its”.

(10) In subsection (7), after “Secretary of State”, wherever occurring, insert “or the strategic highways company”.

(11) In subsection (8)(e), after “Secretary of State” insert “, the strategic highways company”.

Commencement

Sch. 1(1) para. 31(1)-(11): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 31(1)-(11): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

32

(1) Section 105C (other EEA States) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), after “Secretary of State” insert “or a strategic highways company”;
- (b) in paragraph (b), after “Secretary of State” insert “or the strategic highways company, whichever is considering the project,”.

(3) In subsection (2)—

- (a) after “Secretary of State” insert “or the strategic highways company”;
- (b) in paragraph (a), after “him” insert “or the company”;
- (c) in paragraphs (b) and (c), after “he” insert “or the company”.

(4) In subsection (4)—

- (a) after “Secretary of State” insert “or the strategic highways company”;
- (b) in paragraphs (a) and (c), after “he” insert “or the company”.

(5) In subsection (5)—

- (a) after “Secretary of State” insert “or the strategic highways company”;
- (b) after “he”, wherever occurring, insert “or the company”;
- (c) in paragraph (b), after “him” insert “or the company”.

(6) In subsections (6) and (7), after “Secretary of State” insert “or the strategic highways company”.

Commencement

Sch. 1(1) para. 32(1)-(6): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 32(1)-(6): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

33

In section 105D (validity of decisions), in subsection (1), after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 33: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 33: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

34

(1) Section 106 (orders and schemes providing for construction of bridges over or tunnels under navigable waters) is amended as follows.

(2) In subsection (3)—

- (a) after “local highway authority” insert “or a strategic highways company”;
- (b) after “the authority” insert “or company”.

(3) In subsection (6), omit “local”.

Commencement

Sch. 1(1) para. 34(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 34(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

35

In section 108 (power to divert navigable watercourses), in subsection (2)(b), for “a local” substitute “any other”.

Commencement

Sch. 1(1) para. 35: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 35: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

36

In section 110 (power to divert non-navigable watercourses and to carry out other works on any watercourse), in subsection (6)(b), for “, they shall not carry them” substitute “or a strategic highways company, they must not be carried”.

Commencement

Sch. 1(1) para. 36: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 36: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

37

(1) Section 112 (provision of picnic sites and public conveniences for users of trunk roads) is amended as follows.

(2) In subsection (1), after “Minister” insert “or a strategic highways company”.

- (3) In subsection (2)—
- (a) after “Minister” insert “or a strategic highways company”;
 - (b) after “him” insert “or the company”.
- (4) In subsections (3) to (5), after “Minister”, wherever occurring, insert “or a strategic highways company”.
- (5) In subsection (6)—
- (a) after “Minister” insert “or the strategic highways company, whichever is highway authority for the trunk road.”;
 - (b) after “him” insert “or it”.
- (6) In subsection (7), after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 37(1)-(6): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 37(1)-(6): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

38

- (1) Section 113 (exercise by council of functions of Minister with respect to management or provision of picnic sites etc) is amended as follows.
- (2) In subsection (1)—
- (a) after “Minister” insert “or a strategic highways company”;
 - (b) after “his” insert “or its”;
 - (c) after “him” insert “or it”.
- (3) In subsection (2), omit “by Minister”.
- (4) In subsection (3)—
- (a) after “Minister” insert “or a strategic highways company”;
 - (b) in paragraph (b), after “he” insert “or it”;
 - (c) in paragraph (c), after “his” insert “or its”.
- (5) In subsections (5) and (7), after “Minister” insert “or a strategic highways company”.
- (6) In the heading, after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 38(1)-(6): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 38(1)-(6): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

39

(1) Section 124 (stopping up of private access to highways) is amended as follows.

(2) In subsection (2), after “if they are” insert “a strategic highways company or”.

(3) In subsection (3)—

- (a) for “a local” substitute “any other”;
- (b) in paragraph (b), for “local” substitute “other”.

(4) In subsection (4)(d) and (e), omit “local”, wherever occurring.

(5) In subsection (5)—

- (a) after “order made by” insert “a strategic highways company or”;
- (b) omit the second “local”.

(6) In subsections (6) and (7), omit “local”.

Commencement

Sch. 1(1) para. 39(1)-(6): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 39(1)-(6): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

40

In section 129 (further provision with respect to new means of access), in subsection (3), for “a local” substitute “any other”.

Commencement

Sch. 1(1) para. 40: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 40: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

41

In section 154 (cutting or felling etc trees etc that overhang or are a danger to roads or paths), in subsection (1)(a)—

- (a) after the first “Minister” insert “or a strategic highways company”;
 - (b) for the second “Minister” substitute “highway authority”.
-

Commencement

Sch. 1(1) para. 41(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 41(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

42

In section 174 (precautions to be taken by persons executing works in streets), in subsections (1A) and (1B), omit “local”.

Commencement

Sch. 1(1) para. 42: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 42: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

43

Before section 176 insert—

“175B Consent of highway authority required for trunk road access

(1) Access to or from a trunk road in England must not be constructed, formed or laid out without the consent of the highway authority for the trunk road.

(2) Subsection (1) does not apply where—

- (a) section 24(2) applies, or
- (b) development consent is required under the Planning Act 2008. ”

Commencement

Sch. 1(1) para. 43: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 43: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

44

In section 232 (power to treat as a private street land designated for purposes of this section by development plan), in subsection (7), after “constructed by” insert “a strategic highways company or”.

Commencement

Sch. 1(1) para. 44: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 44: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

45

(1) Section 239 (acquisition of land for construction, improvement etc of highway: general powers) is amended as follows.

(2) In subsection (1), after “Minister” insert “or a strategic highways company”.

(3) In subsection (2)—

- (a) after “Minister” insert “or a strategic highways company”;
- (b) after “his” insert “or its”.

Commencement

Sch. 1(1) para. 45(1)-(3)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 45(1)-(3)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

46

In section 240 (acquisition of land in connection with construction, improvement etc of highway: further general powers), in subsection (3)—

- (a) after “Minister” insert “or a strategic highways company”;
 - (b) in paragraph (b), after “his” insert “or its”.
-

Commencement

Sch. 1(1) para. 46(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 46(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

47

(1) Section 245A (acquisition of land by Secretary of State or Assembly for buildings etc needed for traffic management purposes) is amended as follows.

(2) After subsection (1) insert—

“(1A) A strategic highways company may acquire land in England which in its opinion is required for the provision of any buildings or facilities which are needed—

- (a) for use by, or in connection with the activities of, traffic officers in the area for which it is appointed in accordance with Part 1 of the Infrastructure Act 2015; or
- (b) for other purposes connected with the management of traffic on highways in that area and for which it is the highway authority.”

(3) In the heading, after “Secretary of State” insert “, strategic highways company”.

Commencement

Sch. 1(1) para. 47(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 47(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

48

In section 247 (general provision as to acquisition procedure etc), in subsection (1), after “this Act on” insert “a strategic highways company or”.

Commencement

Sch. 1(1) para. 48: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 48: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

49

(1) Section 254 (compulsory acquisition for certain purposes of rights in land belonging to local authorities etc) is amended as follows.

(2) In subsection (1)(b), after “Minister”, wherever occurring, insert “or a strategic highways company”.

(3) In subsection (2), after “Minister”, wherever occurring, insert “or a strategic highways company”.

(4) In subsection (5)(b), after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 49(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 49(1)-(4): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

50

- (1) Section 260 (clearance of title to land acquired for statutory purposes) is amended as follows.
 - (2) In subsection (3)(b), after “Minister” insert “or a strategic highways company”.
 - (3) In subsection (4), after “Minister” insert “, strategic highways company”.
-

Commencement

Sch. 1(1) para. 50(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 50(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

51

In section 263 (vesting of highways maintainable at public expense), in subsection (3), omit “local”.

Commencement

Sch. 1(1) para. 51: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 51: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

52

- (1) Section 265 (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) is amended as follows.
- (2) In subsection (1)—
 - (a) after the first “Minister” insert “or the strategic highways company, whichever is highway authority for the trunk road.”;
 - (b) after the second “Minister” insert “or the company”.
- (3) In subsection (2), after “Minister” insert “or a strategic highways company”.
- (4) In subsection (4)—
 - (a) after “Minister” insert “or a strategic highways company”;
 - (b) after “him” insert “or the company”.
- (5) In subsection (5)—
 - (a) after “Minister”, wherever occurring, insert “or the strategic highways company”;

- (b) in paragraph (a), after “him” insert “or the company”.
- (6) In subsections (6) and (7), after “Minister”, wherever occurring, insert “or a strategic highways company”.
- (7) In subsection (8)—
- (a) after “Minister” insert “or the strategic highways company”;
 - (b) after “him” insert “or it”;
 - (c) after “he” insert “or it”.

Commencement

Sch. 1(1) para. 52(1)-(7)(c): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 52(1)-(7)(c): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

53

- (1) Section 266 (transfer to Minister of privately maintainable bridges carrying trunk roads) is amended as follows.
- (2) In subsection (1), after “Minister” insert “or a strategic highways company, whichever is highway authority for the trunk road (“the trunk road authority”),”.
- (3) In subsection (2), for “Minister” substitute “trunk road authority”.
- (4) In subsection (3)—
- (a) for the first “Minister” substitute “trunk road authority”;
 - (b) for “Minister”, wherever else occurring, substitute “authority”.
- (5) In subsection (4), for “Minister” substitute “trunk road authority”.
- (6) In subsections (5) and (6)—
- (a) for the first “Minister” substitute “trunk road authority”;
 - (b) for “Minister”, wherever else occurring, substitute “authority”.
- (7) In subsections (7), (8) and (10), for “Minister”, wherever occurring, substitute “trunk road authority”.
- (8) In the heading, after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 53(1)-(8): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 53(1)-(8): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

54

In section 266A (transfer of property and liabilities upon a highway becoming or ceasing to be a GLA road), in subsection (8)(b), after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 54: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 54: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

55

(1) Section 267 (transfer to local highway authorities of privately maintainable bridges carrying special roads) is amended as follows.

(2) In subsection (1), after “Minister” insert “or a strategic highways company”.

(3) In subsections (2) and (3), for “Minister” substitute “trunk road authority”.

Commencement

Sch. 1(1) para. 55(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 55(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

56

(1) Section 271 (provisions with respect to transfer of toll highways to highway authorities) is amended as follows.

(2) In subsection (1)(i), after “trunk road” insert “for which he is the highway authority”.

(3) After subsection (1)(i) insert—

“(ia) in the case of a trunk road for which it is the highway authority, a strategic highways company;”.

Commencement

Sch. 1(1) para. 56(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 56(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

57

(1) Section 277 (contribution towards maintenance of bridge where road ceases to be a trunk road) is amended as follows.

(2) After the first “Minister” insert “or a strategic highways company”.

(3) After the second “Minister” insert “or the company”.

Commencement

Sch. 1(1) para. 57(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 57(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

58

(1) Section 284 (powers of Minister in relation to privately maintainable parts of trunk roads) is amended as follows.

(2) After “Minister” insert “or a strategic highways company, whichever is highway authority for the trunk road,”.

(3) In the heading, after “Minister” insert “or strategic highways company”.

Commencement

Sch. 1(1) para. 58(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 58(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

59

(1) Section 284A (trunk roads: miscellaneous functions of Secretary of State) is amended as follows.

(2) For the words from “any trunk road” to the end substitute “a trunk road for which the Secretary of State is highway authority, include the Secretary of State and, in relation to a trunk road for which a strategic highways company is the highway authority, include that company.”

(3) In the heading, after “Secretary of State” insert “and strategic highways company”.

Commencement

Sch. 1(1) para. 59(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 59(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

60

(1) Section 329 (further provision as to interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “local highway authority” after “Minister” insert “or a strategic highways company”;

(b) at the appropriate place insert—

““strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015;”.

(3) After subsection (5) insert—

“(6) Subsection (5) is subject to the specification of those roads as ones for which a strategic highways company is highway authority under Part 1 of the Infrastructure Act 2015.”

Commencement

Sch. 1(1) para. 60(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 60(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

61

In section 330 (construction of certain enactments relating to execution of works by statutory undertakers), in subsection (1), after “Minister” insert “or a strategic highways company, whichever is highway authority for the trunk road,”.

Commencement

Sch. 1(1) para. 61: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 61: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

62

In section 331 (references to functions of council as respects any highway), after “Minister” insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 62: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 62: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

63

(1) Schedule 1 (procedures for making or confirming certain orders and schemes) is amended as follows.

(2) In paragraph 1, after “trunk road” insert “for which he is the highway authority”.

- (3) In paragraph 2—
- (a) after “order relating to” insert “a trunk road for which a strategic highways company is the highway authority or to”;
 - (b) omit “local”.
- (4) In paragraph 3—
- (a) after the first “Minister” insert “, the strategic highways company”;
 - (b) after the second “Minister” insert “, of the strategic highways company”.
- (5) In paragraphs 4 and 5, after “Minister” insert “, the strategic highways company”.
- (6) In paragraph 6, after “Minister” insert “, a strategic highways company”.
- (7) In paragraphs 7(1)(ii), 8(1)(b), 9 and 10 omit “local”.
- (8) In paragraph 11, for “local” substitute “other”.
- (9) In paragraph 12, for the first “local” substitute “other”.
- (10) In paragraph 13, for “a local” substitute “another”.
- (11) In paragraphs 14(1)(ii), 15(1)(b) and 16 omit “local”.
- (12) In paragraph 17, for “local” substitute “other”.
-

Commencement

Sch. 1(1) para. 63(1)-(12): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 63(1)-(12): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

64

In Schedule 3 (provisions of this Act referred to in section 11), in the headings to Parts 1, 2 and 3, after “Minister”, wherever occurring, insert “or a strategic highways company”.

Commencement

Sch. 1(1) para. 64: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 64: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

65

(1) Schedule 5 (modifications of certain provisions of the Town and Country Planning Act 1990 as applied by section 21) is amended as follows.

(2) In Part 1 (modifications in relation to land referred to in paragraph (a) or (b) of section 21(2)), in paragraph 3, after “when” insert “a strategic highways company or”.

(3) In Part 2 (modifications in relation to land referred to in paragraph (c) of section 21(2))—

(a) in paragraph 1, after “Minister,” insert “the strategic highways company,”;

(b) in paragraph 3, after “references to” insert “a strategic highways company or”;

(c) in paragraph 4, in the substituted text of subsection (1) of section 273 of the Town and Country Planning Act 1990, after “Minister,” insert “the strategic highways company,”;

(d) in paragraph 5, after “Minister,” insert “the strategic highways company,”.

Commencement

Sch. 1(1) para. 65(1)-(3)(d): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 65(1)-(3)(d): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

66

(1) Schedule 11 (provisions as to orders under section 93 of this Act) is amended as follows.

(2) In paragraph 9(3), omit “local”.

(3) In paragraph 15(1), omit “other than a trunk road bridge”.

(4) Omit paragraph 17.

Commencement

Sch. 1(1) para. 66(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 66(1)-(4): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

67

(1) Schedule 21 (transitional matters arising where a highway becomes a trunk road or a trunk road ceases to be a trunk road) is amended as follows.

(2) In paragraph 1—

- (a) after the first “Minister” insert “or a strategic highways company, whichever is highway authority for the trunk road”;
- (b) after the second “Minister” insert “or the company”;
- (c) for “him” substitute “it”.

(3) In paragraph 3—

- (a) after the first “Minister” insert “or a strategic highways company”;
- (b) after “Minister”, wherever else occurring, insert “or the company”.

(4) In paragraph 4, after “Minister”, wherever occurring, insert “or a strategic highways company”.

(5) In paragraphs 6 to 9—

- (a) after the first “Minister” insert “or a strategic highways company”;
- (b) after “Minister”, wherever else occurring, insert “or the company”.

Commencement

Sch. 1(1) para. 67(1)-(5)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(1) para. 67(1)-(5)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

PART 2

OTHER ENACTMENTS

Public Records Act 1958 (c. 51)

✔ Law In Force

68

In Schedule 1 to the Public Records Act 1958, in the table at the end of paragraph 3, at the appropriate place in Part 2 insert “A strategic highways company for the time being appointed under Part 1 of the Infrastructure Act 2015.”

Commencement

Sch. 1(2) para. 68: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 68: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Parliamentary Commissioner Act 1967 (c. 13)

Law In Force

69

In Schedule 2 to the Parliamentary Commissioner Act 1967, at the appropriate place insert “A strategic highways company for the time being appointed under Part 1 of the Infrastructure Act 2015.”

Commencement

Sch. 1(2) para. 69: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 69: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Road Traffic Regulation Act 1984 (c. 27)

Law In Force

70

The Road Traffic Regulation Act 1984 is amended as follows.

Commencement

Sch. 1(2) para. 70: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 70: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

71

(1) Section 1 (traffic regulation orders outside Greater London) is amended as follows.

(2) In subsection (3)—

- (a) after “Secretary of State” insert “, a strategic highways company”;
- (b) after “he is” insert “, it is”.

(3) In subsection (3A)—

- (a) after the first “Secretary of State” insert “, a strategic highways company”;
- (b) in paragraph (b), after “Secretary of State,” insert “the strategic highways company”.

Commencement

Sch. 1(2) para. 71(1)-(3)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 71(1)-(3)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

72

In section 2 (what a traffic regulation order may provide), in subsection (5), after “local authority” insert “, a strategic highways company”.

Commencement

Sch. 1(2) para. 72: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 72: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

73

In section 6 (orders similar to traffic regulation orders), in subsection (2)—

- (a) after “Secretary of State” insert “or a strategic highways company”;
- (b) after “his” insert “or its”.

Commencement

Sch. 1(2) para. 73(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 73(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

74

(1) Section 9 (experimental traffic orders) is amended as follows.

(2) In subsection (2)—

- (a) after “Secretary of State” insert “or a strategic highways company”;
- (b) after “he” insert “or it”.

(3) In subsection (2A)—

- (a) after “Secretary of State” insert “or a strategic highways company”;
 - (b) after “his” insert “or its”.
-

Commencement

Sch. 1(2) para. 74(1)-(3)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 74(1)-(3)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

75

In section 16A (prohibition or restriction on roads in connection with certain events), in subsection (6)—

- (a) after “Secretary of State” insert “or a strategic highways company”;
- (b) after “his” insert “or its”.

Commencement

Sch. 1(2) para. 75(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 75(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

76

(1) Section 16B (restrictions on orders under s16A) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), after “Secretary of State” insert “or a strategic highways company”;
- (b) in paragraph (b), after “he” insert “or it”.

(3) In subsection (2), after “Secretary of State” insert “or a strategic highways company”.

(4) In subsections (4) and (5), for “is not himself the traffic authority, he” substitute “or a strategic highways company (whichever made the order or agreed that it should continue in force) is not the traffic authority, he or it”.

(5) In subsection (6)—

- (a) in paragraph (a), after “Secretary of State” insert “or a strategic highways company”;
 - (b) in paragraph (b), after “his” insert “or its”.
-

Commencement

Sch. 1(2) para. 76(1)-(5)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 76(1)-(5)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

77

In section 19 (regulation of use of highways by public service vehicles), in subsection (1), after “Greater London” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 77: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 77: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

78

(1) Section 23 (powers of local authorities with respect to pedestrian crossings on roads other than trunk roads) is amended as follows.

(2) In subsections (1) to (3), before “local traffic authority” insert “strategic highways company or a”.

(3) For the heading substitute “Powers of strategic highways companies and local traffic authorities with respect to pedestrian crossings”.

Commencement

Sch. 1(2) para. 78(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 78(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

79

In section 24 (pedestrian crossings on trunk roads), in the heading, for “trunk” substitute “other”.

Commencement

Sch. 1(2) para. 79: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 79: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

80

In section 37 (extension of powers for purposes of general scheme of traffic control), in subsection (3), after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 80: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 80: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

81

In section 58 (consents for the purposes of s 57(1)), in paragraph (i) of the table in subsection (1)—

- (a) in the first column, after “Secretary of State” insert “or a strategic highways company”;
- (b) in the second column, after “Secretary of State” insert “or the strategic highways company, whichever is the traffic authority for the road”.

Commencement

Sch. 1(2) para. 81(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 81(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

82

(1) Section 65 (powers and duties of highway authorities as to placing of traffic signs) is amended as follows.

(2) In subsection (2), after “directions to” insert “a strategic highways company or”.

(3) In the heading, for “highway” substitute “traffic”.

Commencement

Sch. 1(2) para. 82(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 82(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

83

In section 69 (general provisions as to removal of signs), in subsection (3)—

- (a) after “directions to” insert “a strategic highways company or”;
 - (b) for “the authority” substitute “it or them”.
-

Commencement

Sch. 1(2) para. 83(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 83(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

84

(1) Section 70 (default powers of Secretary of State as to traffic signs) is amended as follows.

(2) In subsection (1)—

- (a) after “If” insert “a strategic highways company,”;
- (b) after “from” insert “the company or”.

(3) After subsection (2) insert—

“(3) In England, where subsection (1) applies in respect of noncompliance with a direction by a traffic authority other than a strategic highways company—

- (a) a strategic highways company may carry out the work required by the direction with the consent of the Secretary of State, and
- (b) the expenses incurred by the company in doing so are recoverable by the company from the authority summarily as a civil debt.”

Commencement

Sch. 1(2) para. 84(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 84(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

85

In section 71 (power to enter land in connection with traffic signs), in subsection (1), after “A” insert “strategic highways company, a”.

Commencement

Sch. 1(2) para. 85: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 85: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

86

(1) Section 74B (transfer of traffic control systems between Secretary of State and Transport for London) is amended as follows.

(2) In subsections (1) and (2)—

(a) after the first “Secretary of State” insert “or a strategic highways company”;

(b) after the second “Secretary of State” insert “or the company”.

(3) In subsection (5), after “Secretary of State” insert “or the strategic highways company”.

(4) In the heading, after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 86(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 86(1)-(4): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

87

In section 83 (provisions as to directions under s 82(2)), in subsection (2)—

- (a) after the first “by” insert “a strategic highways company or”;
- (b) after the third “by” insert “the company or”.

Commencement

Sch. 1(2) para. 87(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 87(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

88

In section 84 (speed limits on roads other than restricted roads), in subsection (1B), after “orders of” insert “strategic highways companies or”.

Commencement

Sch. 1(2) para. 88: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 88: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

89

(1) Section 85 (traffic signs for indicating speed restrictions) is amended as follows.

(2) In subsections (2) and (3), omit “local”, wherever occurring.

(3) After subsection (3) insert—

“(3A) In England, where subsection (3) applies in respect of noncompliance with a direction by a traffic authority other than a strategic highways company—

- (a) a strategic highways company may execute the work required by the direction with the consent of the Secretary of State, and
- (b) the expense incurred by the company in doing so is recoverable by the company from the authority summarily as a civil debt.”

Commencement

Sch. 1(2) para. 89(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 89(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

90

(1) Section 93 (powers of Secretary of State in relation to functions under s 92) is amended as follows.

(2) In subsection (2), for “a local” substitute “another”.

(3) In subsection (3), omit “local”.

Commencement

Sch. 1(2) para. 90(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 90(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

91

(1) Section 94 (bollards and other constructions in Greater London) is amended as follows.

(2) In subsection (1)—

(a) after the first “Secretary of State” insert “or a strategic highways company”;

(b) after “he”, wherever occurring, insert “or it”;

(c) in paragraph (a), after “Secretary of State” insert “or the company”.

(3) In subsection (2), after “Secretary of State” insert “nor a strategic highways company”.

(4) In subsection (4)—

(a) after the first “Secretary of State” insert “, a strategic highways company”;

(b) after the second “Secretary of State” insert “, the company”;

(c) in paragraph (a)—

(i) after “Secretary of State” insert “or a strategic highways company”;

(ii) after the first “he” insert “or it”;

(iii) for “he might under subsection (1)(a) above require” substitute “might under subsection (1)(a) be required”.

(5) In subsection (5)—

- (a) after the first “Secretary of State” insert “, the strategic highways company”;
- (b) after the second “Secretary of State” insert “, the company”.

Commencement

Sch. 1(2) para. 91(1)-(5)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 91(1)-(5)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

92

In section 100 (interim disposal of vehicles removed under section 99) in subsection (3A), after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 92: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 92: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

93

In section 101 (ultimate disposal of vehicles abandoned and removable under this Act), in paragraph (d) of the definition of “competent authority” in subsection (8), after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 93: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 93: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

94

(1) Section 102 (charges for removal, storage and disposal of vehicles) is amended as follows.

(2) In subsection (2ZA)—

(a) in the substituted paragraph (b)—

(i) after “Secretary of State” insert “or a strategic highways company”;

(ii) after “his” insert “or its”;

(b) in the substituted paragraph (c)—

(i) after “Secretary of State” insert “or a strategic highways company”;

(ii) after “him” insert “or it”.

(3) In subsection (4A)—

(a) after the first “Secretary of State” insert “or a strategic highways company”;

(b) after the second “Secretary of State” insert “or the company”.

(4) In subsection (8), in paragraph (c) of the definition of “appropriate authority”, after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 94(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 94(1)-(4): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

95

(1) Section 121A (traffic authorities) is amended as follows.

(2) After subsection (1AA) insert—

“(1AB) A strategic highways company is the traffic authority for every highway for which it is the highway authority within the meaning of the Highways Act 1980.”

(3) In subsections (2), (3) and (5)(a), after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 95(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 95(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

96

- (1) Section 122 (exercise of functions by local authorities) is amended as follows.
- (2) In subsection (1), after “every” insert “strategic highways company and”.
- (3) In subsection (2)(d), after “appearing to” insert “the strategic highways company or”.
- (4) In the heading, after “functions by” insert “strategic highways companies or”.

Commencement

Sch. 1(2) para. 96(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 96(1)-(4): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

97

In section 124A (GLA side roads), in subsection (4), after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 97: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 97: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

98

In section 124B (orders of the Authority changing what are GLA side roads), in subsection (2)(a), after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 98: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 98: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

99

In section 142 (general interpretation of Act), in subsection (1), at the appropriate place insert—

““strategic highways company” means a company appointed under section 1 of the Infrastructure Act 2015;”.

Commencement

Sch. 1(2) para. 99: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 99: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

100

(1) Schedule 9 (special provision as to certain orders) is amended as follows.

(2) In paragraph 1, after “consultation with” insert “a strategic highways company or”.

(3) In paragraph 7, omit sub-paragraph (3).

(4) In paragraph 13—

(a) after sub-paragraph (1)(b) insert—

“(ba) applying to a road for which a strategic highways company is the traffic authority, or”;

(b) in sub-paragraph (1), for “or sub-paragraph (3)” substitute “, (3) or (4)”;

(c) after sub-paragraph (3) insert—

“(4) This sub-paragraph applies where it is proposed to include in the order provision mentioned in sub-paragraph (1)(ba), in which case the order must not be made without the consent of the strategic highways company.”

(5) In paragraph 14—

(a) the existing provision becomes sub-paragraph (1);

- (b) in sub-paragraph (1), after “except” insert “in a case to which subparagraph (2) applies or”;
- (c) after sub-paragraph (1) insert—

“(2) This sub-paragraph applies where it is proposed to include in the order provision mentioned in paragraph 13(1)(ba), in which case the order must not be made without the consent of the strategic highways company.”

- (6) After paragraph 14 insert—

“14A

(1) This paragraph applies where a strategic highways company proposes, other than further to a direction under paragraph 2, to include provision mentioned in paragraph 13(1)(b) or (c) to (f) in an order made by it under sections 1, 6, 9, 83(2) or 84.

(2) Where this paragraph applies, the order must not be made without the consent of the Secretary of State.”

- (7) In paragraph 15(1)—

- (a) for “and 14” substitute “to 14A”;
- (b) for “local” substitute “traffic”.

- (8) In paragraph 16(2), for “local” substitute “traffic”.

- (9) In paragraph 20(1)—

- (a) after “and 84,” insert “a strategic highways company,”;
- (b) after the second “of this Act,” insert “the company,”.

- (10) In paragraph 21, after “orders of” insert “a strategic highways company or”.

Commencement

Sch. 1(2) para. 100(1)-(10): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 100(1)-(10): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Transport Act 1985 (c. 67)

Law In Force

101

In section 112G of the Transport Act 1985 (representations following an investigation by the Passengers' Council), in subsection (1), for paragraph (d) substitute—

“(d) a strategic highways company for the time being appointed under Part 1 of the Infrastructure Act 2015;”.

Commencement

Sch. 1(2) para. 101: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 101: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Dartford-Thurrock Crossing Act 1988 (c. 20)

Law In Force

102

In the Dartford-Thurrock Crossing Act 1988, after section 46 (interpretation) insert—

“46A Appointment of a strategic highways company

(1) This section applies in any period in which, by virtue of an appointment under section 1 of the Infrastructure Act 2015, a strategic highways company is the highway authority for the highways comprised in the tunnel crossing or the bridge.

(2) The reference to the Secretary of State in section 12(4) (crossing operator) is to be read as a reference to the strategic highways company.

(3) References to the Secretary of State in the following provisions are to be read as references to the strategic highways company—

- (a) section 24(1)(a) and (b) (special traffic restrictions);
- (b) section 27(1) and (2) (bicycles);
- (c) section 37 (powers in relation to River Thames);
- (d) section 38 (restriction on works on crossing);
- (e) Schedule 7 (protective provisions), except—
 - (i) paragraph 2 of Part 1, and
 - (ii) paragraph 2 of Part 3.”

Commencement

Sch. 1(2) para. 102: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 102: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Road Traffic Act 1988 (c. 52)

✔ Law In Force

103

In section 44 (authorisation of use on roads of special vehicles not complying with regulations under section 41) of the Road Traffic Act 1988, after subsection (3) insert—

“(4) The function of the Secretary of State under subsection (1) in the case of orders applying only to—

(a) specified vehicles, or
 (b) vehicles of specified persons,
 may be delegated to a strategic highways company.

(5) A delegation under subsection (4) may specify—

(a) the extent to which the function is delegated;
 (b) any conditions to which the delegation is subject.”

Commencement

Sch. 1(2) para. 103: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 103: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Town and Country Planning Act 1990 (c. 8)

✔ Law In Force

104

(1) Section 247 of the Town and Country Planning Act 1990 (highways affected by development: orders by Secretary of State) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (b), after “Secretary of State,” insert “a strategic highways company,”;
 (b) in paragraph (c), after “Secretary of State” insert “or a strategic highways company”.

(3) In subsection (3A)—

(a) after paragraph (a) insert—

“(aa) a strategic highways company,”;
 (b) after the second “Secretary of State,” insert “the strategic highways company,”.

Commencement

Sch. 1(2) para. 104(1)-(3)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 104(1)-(3)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

105

In section 248 (highways crossing or entering route of proposed new highway etc), in subsection (1)(a), after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 105: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 105: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

106

In section 254 (compulsory acquisition of land in connection with highways), in subsection (1), after “local highway authority” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 106: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 106: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

107

In section 256 (electronic communications apparatus: orders by Secretary of State), in subsection (3) omit “local”.

Commencement

Sch. 1(2) para. 107: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 107: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

108

In section 336 (interpretation), in subsection (1)—

- (a) in the definition of “local highway authority”, after “Secretary of State” insert “or a strategic highways company”;
- (b) at the appropriate place insert—

““strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015;”.

Commencement

Sch. 1(2) para. 108(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 108(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

109

- (1) Schedule 13 (blighted land) is amended as follows.
- (2) In paragraph 16, for “if he” substitute “or a strategic highways company if he or it”.
- (3) In paragraph 18—
 - (a) after “Secretary of State” insert “or a strategic highways company”;
 - (b) after “him” insert “or it”;
 - (c) after “he” insert “ or it”.

Commencement

Sch. 1(2) para. 109(1)-(3)(c): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 109(1)-(3)(c): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Environmental Protection Act 1990 (c. 43)

Law In Force

110

The Environmental Protection Act 1990 is amended as follows.

Commencement

Sch. 1(2) para. 110: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 110: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

111

(1) Section 89 (duty to keep land and highways clear of litter etc) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b), after “special road” insert “(other than one to which paragraph (ba)(i) applies)”;

(b) after paragraph (b) insert—

“(ba) a strategic highways company as respects—

(i) any trunk road which is a special road for which it is the highway authority, and

(ii) any relevant highway for which it is responsible.”.

(3) In subsection (2)—

(a) in paragraph (b), after “special road” insert “(other than one to which paragraph (c)(i) applies)”;

(b) after paragraph (b) insert—

“(c) a strategic highways company as respects—

- (i) any trunk road which is a special road for which it is the highway authority, and
- (ii) any relevant highway for which it is responsible.”

Commencement

Sch. 1(2) para. 111(1)-(3)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 111(1)-(3)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

112

- (1) Section 98 (definitions) is amended as follows.
- (2) In subsection (5), after “public expense”),” insert ““highway authority”,”.
- (3) After subsection (5A) insert—

“(5B) “Strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015.”

Commencement

Sch. 1(2) para. 112(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 112(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

New Roads and Street Works Act 1991 (c. 22)

Law In Force

113

The New Roads and Street Works Act 1991 is amended as follows.

Commencement

Sch. 1(2) para. 113: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 113: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

114

In section 6 (toll orders), in subsection (2)—

- (a) after the second “provided by” insert “a strategic highways company or”;
- (b) after the second “made by” insert “the company or”.

Commencement

Sch. 1(2) para. 114(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 114(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

115

(1) Section 12 (extension toll orders) is amended as follows.

(2) In subsection (2)—

- (a) after “highway authority is” insert “a strategic highways company or”;
- (b) after the second “made by” insert “that company or”.

(3) In subsection (5), after the third “made by” insert “a strategic highways company or”.

Commencement

Sch. 1(2) para. 115(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 115(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

116

(1) Section 26 (interpretation) is amended as follows.

(2) After subsection (1) insert—

“(1A) In this Part, “strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015.”

(3) In subsection (3)—

(a) in the first column of the table, at the appropriate place insert “strategic highways company”;

(b) in the second column opposite that entry insert “section 26(1)”.

Commencement

Sch. 1(2) para. 116(1)-(3)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 116(1)-(3)(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

117

In section 49 (the street authority and other relevant authorities), in subsection (2)—

(a) after “Secretary of State” insert “or a strategic highways company”;

(b) after “his” insert “or its”.

Commencement

Sch. 1(2) para. 117(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 117(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

118

In section 63 (streets with special engineering difficulties), in subsection (3), after “Where” insert “a strategic highways company or”.

Commencement

Sch. 1(2) para. 118: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 118: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

119

In section 74 (charge for occupation of the highway where works unreasonably prolonged), in subsection (7A)(a), after “application by” insert “strategic highways companies or”.

Commencement

Sch. 1(2) para. 119: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 119: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

120

(1) Section 74A (charge determined by reference to duration of works) is amended as follows.

(2) In subsection (2), after “paid to” insert “a strategic highways company or”.

(3) In subsection (10)(a), after “application by” insert “strategic highways companies or”.

Commencement

Sch. 1(2) para. 120(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 120(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

121

In section 86 (highway authorities, highways and related matters), after subsection (1) insert—

“(1A) In this Part, “strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015.”

Commencement

Sch. 1(2) para. 121: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 121: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

122

In section 106 (index of defined expressions)—

- (a) in the first column of the table, at the appropriate place insert “strategic highways company”;
- (b) in the second column opposite that entry insert “section 86(1A)”.

Commencement

Sch. 1(2) para. 122(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 122(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

123

(1) Schedule 2 (procedure in connection with toll orders) is amended as follows.

(2) In paragraph 1—

- (a) in sub-paragraph (2)—
 - (i) after “Secretary of State by” insert “a strategic highways company or”;
 - (ii) after “local highway authority,” insert “the company or”.
- (b) in sub-paragraph (3), after “Secretary of State” insert “, the strategic highways company”.

(3) In paragraph 2(1), 3 and 4(1) after “Secretary of State” insert “, the strategic highways company”.

Commencement

Sch. 1(2) para. 123(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 123(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

124

In Schedule 3 (street works licences), in paragraph 9—

- (a) in sub-paragraph (1)—
 - (i) after “is made to” insert “a strategic highways company or”;
 - (ii) in paragraph (a), after “refusal of” insert “the company or”;
 - (b) in sub-paragraph (3)—
 - (i) after “decision of” insert “the strategic highways company or”;
 - (ii) after “duty of” insert “that company or”.
-

Commencement

Sch. 1(2) para. 124(a)-(b)(ii): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 124(a)-(b)(ii): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Transport Act 2000 (c. 38)

Law In Force

125

The Transport Act 2000 is amended as follows.

Commencement

Sch. 1(2) para. 125: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 125: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

126

In section 167 (trunk road charging schemes), in subsection (1)(a), after “he” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 126: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 126: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

127

In section 176 (equipment etc), after subsection (1) insert—

“(1A) In relation to a charging scheme under section 167 (trunk road charging schemes), a strategic highways company may—

(a) install and maintain, or authorise the installation and maintenance of, any equipment, or

(b) construct and maintain, or authorise the construction and maintenance of, any buildings or other structures,

used or to be used for or in connection with the operation of a charging scheme under that section.”

Commencement

Sch. 1(2) para. 127: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 127: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

128

(1) Section 177 (traffic signs) is amended as follows.

(2) After subsection (3) insert—

“(3A) The Secretary of State may direct a strategic highways company to place and maintain traffic signs, or cause traffic signs to be placed and maintained, in connection with a trunk road charging scheme.”

(3) In subsection (4), after “an authority” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 128(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 128(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Traffic Management Act 2004 (c. 18)

Law In Force

129

The Traffic Management Act 2004 is amended as follows.

Commencement

Sch. 1(2) para. 129: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 129: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

130

(1) Section 1 (traffic officers: introduction) is amended as follows.

(2) In subsection (2)(b), after “national authority” insert “or a strategic highways company”.

(3) In subsection (5), after “Secretary of State” insert “or a strategic highways company”.

Commencement

Sch. 1(2) para. 130(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 130(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

131

- (1) Section 11 (uniform) is amended as follows.
- (2) The existing provision becomes subsection (1) of section 11.
- (3) After subsection (1) insert—

“(2) The Secretary of State may delegate his or her function under subsection (1) to a strategic highways company.

- (3) A delegation under subsection (2) may specify—
 - (a) the extent to which the function is delegated;
 - (b) any conditions to which the delegation is subject.”

Commencement

Sch. 1(2) para. 131(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 131(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

132

In section 12 (power to charge for traffic officer services provided on request), after “national authority” insert “or, as respects England, a strategic highways company”.

Commencement

Sch. 1(2) para. 132: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 132: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

133

In section 15 (interpretation of Part 1), at the appropriate place insert—

““strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015;”.

Commencement

Sch. 1(2) para. 133: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 133: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

134

In the heading to Part 2, after “local traffic authorities” insert “and strategic highways companies”.

Commencement

Sch. 1(2) para. 134: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 134: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

135

(1) Section 16 (the network management duty) is amended as follows.

(2) In subsection (1), after “local highway authority” insert “or a strategic highways company (“the network management authority”)”.

(3) In subsection (3), for “local traffic” substitute “network management”.

Commencement

Sch. 1(2) para. 135(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 135(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

136

In section 17 (arrangements for network management), in subsection (1), for “local traffic” substitute “network management”.

Commencement

Sch. 1(2) para. 136: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 136: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

137

In section 18 (guidance to local authorities), in subsections (1) and (2), and in the heading, for “local traffic” substitute “network management”.

Commencement

Sch. 1(2) para. 137: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 137: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

138

In section 19 (power to require information relating to network management), in subsections (1), (2) and (3), for “local traffic”, wherever occurring, substitute “network management”.

Commencement

Sch. 1(2) para. 138: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 138: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

139

In section 20 (intervention notices), in subsections (1), (2)(b) and (3), for “local traffic” substitute “network management”.

Commencement

Sch. 1(2) para. 139: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 139: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

140

In section 21 (intervention orders), in subsections (1), (4), (5), (6), (8) and (9), for “local traffic”, wherever occurring, substitute “network management”.

Commencement

Sch. 1(2) para. 140: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 140: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

141

In section 22 (appointment of traffic director: supplementary), in subsections (1) and (3), for “local traffic”, wherever occurring, substitute “network management”.

Commencement

Sch. 1(2) para. 141: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 141: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

142

In section 23 (monitoring and reporting), in subsections (1), (2)(b) and (3), for “local traffic” substitute “network management”.

Commencement

Sch. 1(2) para. 142: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 142: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

143

In section 24 (intervention in activities of local traffic authority), in subsection (2), and in the heading, for “local traffic” substitute “network management”.

Commencement

Sch. 1(2) para. 143: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 143: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

144

(1) Section 25 (exercise of local traffic authority functions) is amended as follows.

(2) In subsection (2), after “from the” insert “network management”.

(3) In the heading, for “local traffic” substitute “network management”.

Commencement

Sch. 1(2) para. 144(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 144(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

145

In section 26 (application of sections 20 to 25 to local traffic authorities exercising functions jointly), in subsection (1), and in the heading, for “local traffic” substitute “network management”.

Commencement

Sch. 1(2) para. 145: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 145: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

146

In section 30 (recovery of costs from local traffic authorities), in subsections (1) and (2), and in the heading, for “local traffic” substitute “network management”.

Commencement

Sch. 1(2) para. 146: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 146: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

147

(1) Section 31 (interpretation of Part 2) is amended as follows.

(2) In the definition of “local traffic authority”, after “Secretary of State” insert “, a strategic highways company”.

(3) In the definition of “road network”—

(a) after “in relation to” insert “a strategic highways company or”;

(b) after “for which” insert “the company or”.

(4) Before the definition of “network management duty” insert—

““network management authority” has the meaning given in section 16(1);”.

Commencement

Sch. 1(2) para. 147(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 147(1)-(4): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

R Repealed

148 [...]¹

Notes

¹ Repealed by Deregulation Act 2015 c. 20 Sch.10(2) para.12 (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)

✓ Law In Force

149

(1) Section 60 (strategic roads in London: initial designation by Secretary of State) is amended as follows.

(2) In subsection (1), after the second “Secretary of State” insert “, a strategic highways company”.

(3) After subsection (4)(a) insert—

“(aa) “strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015;”.

Commencement

Sch. 1(2) para. 149(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 149(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✓ Law In Force

150

In section 61 (orders of the Greater London Authority changing what are strategic roads), in subsection (1), after “Secretary of State” insert “, a strategic highways company”.

Commencement

Sch. 1(2) para. 150: February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 150: England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

✔ Law In Force

151

(1) Section 65 (duty of local highway authority to keep records of objects in highway) is amended as follows.

(2) In subsection (1)—

- (a) after “require” insert “a strategic highways company or”;
- (b) after “placed by” insert “that company or”.

(3) In subsection (4)—

- (a) in paragraph (a) of the definition of “appropriate national authority”, after “in relation to” insert “strategic highways companies or”;
- (b) after that definition insert—

““local highway authority” has the same meaning as in the 1980 Act;
“strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015;”.

(4) In the heading, after “Duty of” insert “strategic highways company or”.

Commencement

Sch. 1(2) para. 151(1)-(4): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 151(1)-(4): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Civil Contingencies Act 2004 (c. 36)

✔ Law In Force

152

In Part 3 of Schedule 1 to the Civil Contingencies Act 2004 (category 2 responders: transport), in paragraph 28—

- (a) the existing provision becomes sub-paragraph (1);
- (b) after sub-paragraph (1) insert—

“(2) A strategic highways company for the time being appointed under Part 1 of the Infrastructure Act 2015.”

Commencement

Sch. 1(2) para. 152(a)-(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 152(a)-(b): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Planning Act 2008 (c. 29)

Law In Force

153

(1) Section 22 of the Planning Act 2008 (highways) is amended as follows.

(2) In subsections (2)(b), (3)(b) and (5)(b), after “Secretary of State” insert “or a strategic highways company”.

(3) In subsection (9), at the appropriate place insert—

““strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015.”

Commencement

Sch. 1(2) para. 153(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 1(2) para. 153(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

SCHEDULE 2**ROAD INVESTMENT STRATEGY: PROCEDURE****Section 3**

PART 1

SETTING A ROAD INVESTMENT STRATEGY

Law In Force

1 Introductory

- (1) This Part specifies the procedure by which a Road Investment Strategy is set.
- (2) It does not apply to the first Road Investment Strategy under section 3 where it is published and laid before Parliament by the Secretary of State within a year of that section coming into force.

Commencement

Sch. 2(1) para. 1(1)-(2): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 2(1) para. 1(1)-(2): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

2 Step 1: the Secretary of State's proposals

- (1) The Secretary of State must provide a strategic highways company with proposals for a Road Investment Strategy.
- (2) The proposals must include details of—
 - (a) the objectives to be achieved by the company,
 - (b) the financial resources to be provided by the Secretary of State for the purpose of achieving those objectives, and
 - (c) the period to which the proposals relate.
- (3) The Secretary of State must—
 - (a) specify a date before which the company is to respond, and
 - (b) provide the company with—
 - (i) a statement of his or her general strategy in respect of highways for which the company is the highway authority, and
 - (ii) such other information in support of the proposals as the Secretary of State considers appropriate.

Commencement

Sch. 2(1) para. 2(1)-(3)(b)(ii): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 2(1) para. 2(1)-(3)(b)(ii): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

3 Step 2: the strategic highways company's response

(1) Having been provided with proposals under paragraph 2, the strategic highways company must respond to the Secretary of State—

- (a) agreeing to the proposals, or
- (b) making counter—proposals.

(2) The company must respond before the date specified by the Secretary of State in accordance with paragraph 2(3)(a).

Commencement

Sch. 2(1) para. 3(1)-(2): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 2(1) para. 3(1)-(2): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

4 Step 3: where the strategic highways company has agreed to the proposals

(1) Where the strategic highways company has agreed to proposals under paragraph 2, the Secretary of State may publish those proposals as the Road Investment Strategy.

(2) The Secretary of State may only publish proposals under sub-paragraph (1) if satisfied that appropriate consultation has taken place.

(3) Publication under sub-paragraph (1) may be in such manner as the Secretary of State considers appropriate.

Commencement

Sch. 2(1) para. 4(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 2(1) para. 4(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

Law In Force

5 Step 4: where the strategic highways company has made counter—proposals or failed to respond

(1) Where the strategic highways company has made counter—proposals to the Secretary of State's proposals under paragraph 3, or has failed to respond before the date specified, the Secretary of State may—

- (a) provide the company with revised proposals under paragraph 2, or
- (b) publish as the Road Investment Strategy—
 - (i) the Secretary of State's proposals, or
 - (ii) the company's counter—proposals.

(2) The Secretary of State may only publish proposals under sub-paragraph (1) (b) if satisfied that appropriate consultation has taken place.

(3) Publication under sub-paragraph (1)(b) may be in such manner as the Secretary of State considers appropriate.

Commencement

Sch. 2(1) para. 5(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 2(1) para. 5(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

PART 2**VARYING A ROAD INVESTMENT STRATEGY**

Law In Force

6

(1) This paragraph applies where the Secretary of State is considering varying a Road Investment Strategy.

(2) Paragraphs 2 to 5 apply to proposals for a varied Road Investment Strategy as they apply to proposals for a Road Investment Strategy.

(3) In performing their functions under this Part of this Schedule, the Secretary of State and the strategic highways company must have regard to the desirability of maintaining certainty and stability in respect of Road Investment Strategies.

Commencement

Sch. 2(2) para. 6(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 2(2) para. 6(1)-(3): England, Wales (an amendment or repeal has the same extent as the provision to which it relates)

SCHEDULE 3

TRANSFER SCHEMES

Section 15

Law In Force

1 Application and commencement of scheme

(1) The property, rights and liabilities to be transferred may be specified or described by a scheme.

(2) A scheme comes into force on the date it appoints.

Commencement

Sch. 3 para. 1(1)-(2): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 1(1)-(2): England, Wales

✔ Law In Force

2 Property, rights and liabilities that may be transferred

- (1) The property, rights and liabilities that may be transferred by a scheme include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned;
 - (b) property acquired in the period after the making of the scheme and before it comes into force;
 - (c) rights and liabilities arising in that period;
 - (d) rights and liabilities arising after the scheme comes into force in respect of matters occurring before it comes into force;
 - (e) rights and liabilities under an enactment or EU instrument.
- (2) A scheme may provide that transfers are to take effect irrespective of—
- (a) any requirement to obtain a person's consent or concurrence,
 - (b) any liability in respect of a contravention of another requirement, or
 - (c) any interference with an interest or right, which would otherwise apply.
- (3) sub-paragraph (4) applies where a person would otherwise be entitled, in consequence of anything done, or likely to be done, in connection with a scheme—
- (a) to terminate, modify, acquire or claim an interest or right to which the transferor is entitled or subject, or
 - (b) to treat such an interest or right as modified or terminated.
- (4) That entitlement is enforceable in relation to the interest or right—
- (a) in consequence of what is done or likely to be done, and
 - (b) in corresponding circumstances arising after the transfer,
- to the extent only that the scheme provides for it to be so enforceable.

Commencement

Sch. 3 para. 2(1)-(4)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 2(1)-(4)(b): England, Wales

✔ Law In Force

3 Dividing and modifying transferor's property, rights and liabilities

- (1) A scheme may contain provision—
- (a) for the creation, in favour of a transferor or transferee, of an interest or right in, or in relation to, property to be transferred in accordance with the scheme;
 - (b) for giving effect to a transfer to a person by the creation, in favour of that person, of an interest or right in, or in relation to, property to be retained by a transferor;
 - (c) for the creation of new rights and liabilities, including rights of indemnity and duties to indemnify, as between a transferee and a transferor.

(2) A scheme may contain provision for the creation of rights and liabilities for the purpose of converting arrangements between different parts of a transferor's undertaking which exist immediately before the coming into force of the scheme into a contract between—

- (a) different transferees, or
- (b) a transferee and a transferor.

(3) A scheme may contain provision—

- (a) for rights and liabilities to be transferred so as to be enforceable by or against—
 - (i) more than one transferee, or
 - (ii) both the transferee and the transferor, and
- (b) for rights and liabilities enforceable against more than one of those people to be enforceable in different or modified respects by or against each or any of them.

(4) A scheme may contain provision for interests, rights or liabilities of third parties in relation to anything to which the scheme relates to be modified in the manner set out in the scheme.

(5) Paragraph 2(2) applies to the creation of interests and rights in accordance with a scheme as it applies to the transfer of interests and rights.

Commencement

Sch. 3 para. 3(1)-(5): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 3(1)-(5): England, Wales

Law In Force

4 Obligation to effect transfers etc under a scheme

(1) A scheme may contain provision for imposing on a transferee or a transferor an obligation—

- (a) to enter into such agreements with another person on whom a corresponding obligation is, could be or has been, imposed by virtue of this paragraph (whether in the same or a different scheme), or
- (b) to execute such instruments in favour of any such person, as may be specified or described in the scheme.

(2) That other person may enforce an obligation imposed on a transferor or a transferee by virtue of sub-paragraph (1) in civil proceedings.

Commencement

Sch. 3 para. 4(1)-(2): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 4(1)-(2): England, Wales

✔ Law In Force

5 Effect of scheme

(1) Where a scheme provides for the transfer of property, rights or liabilities, or for the creation of interests, rights or liabilities—

- (a) the property or interests, rights or liabilities vest, without further assurance, in the transferee at that time, and
- (b) the provisions of that scheme in relation to that property or those interests, rights or liabilities have effect from the time when the scheme comes into force.

(2) sub-paragraph (1) is subject to provision under a scheme for—

- (a) the transfer of property, rights or liabilities, or
- (b) the creation of interests, rights and liabilities, to be effected by or under an agreement or instrument entered into or executed in pursuance of an obligation imposed by virtue of paragraph 4(1).

(3) A certificate issued by the Secretary of State that any property, rights or liabilities have been transferred under a scheme is conclusive evidence of the transfer.

Commencement

Sch. 3 para. 5(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 5(1)-(3): England, Wales

✔ Law In Force

6 Powers and duties under statutory provisions

(1) A scheme may make provision for some or all of the powers and duties to which this paragraph applies—

- (a) to be transferred to a transferee,
- (b) to become powers and duties that are exercisable, or must be performed, concurrently by two or more transferees, or
- (c) to become powers and duties that are exercisable, or must be performed, concurrently by a transferor and a transferee.

(2) The powers and duties to which this paragraph applies are the powers and duties conferred or imposed upon a transferor by or under an enactment so far as they relate to—

- (a) property to be transferred in accordance with the scheme,
- (b) carrying out works designed to be used in connection with such property, or
- (c) acquiring land for the purpose of carrying out such works.

(3) This paragraph does not require a restrictive construction to be given to what may be transferred by virtue of paragraph 2(1)(e).

Commencement

Sch. 3 para. 6(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 6(1)-(3): England, Wales

Law In Force

7 Supplementary provisions of schemes

(1) A scheme may—

- (a) make such incidental, supplemental, consequential and transitional provision in connection with the scheme as the Secretary of State thinks fit;
- (b) make different provision for different cases.

(2) In particular, a scheme may make provision—

- (a) for the transferee to be treated as the same person in law as the transferor;
- (b) for agreements made, transactions effected or other things done by or in relation to the transferor to be treated, so far as may be necessary for the purposes of or in connection with the transfer, as made, effected or done by or in relation to the transferee;
- (c) for references in an agreement, instrument or other document to the transferor, or to an employee or office holder of the transferor, to have effect, so far as may be necessary for the purposes of or in connection with a transfer, with such modifications as are specified in the scheme;
- (d) for proceedings commenced by or against the transferor to be continued by or against the transferee.

(3) sub-paragraph (2)(c) does not apply to references in an enactment.

Commencement

Sch. 3 para. 7(1)-(3): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 7(1)-(3): England, Wales

Law In Force

8 Modification of a scheme by agreement

(1) Where the transferor and transferee under a scheme that has come into force so agree, the scheme is to be treated for all purposes as having come into force with such modifications as may be agreed.

(2) An agreement under this paragraph which relates to rights and liabilities under a contract of employment may be entered into only if the employee is a party to the agreement.

(3) An agreement under this paragraph that adversely affects the property or rights of a person other than the transferor, the transferee or such an employee may be entered into only if that person is a party to the agreement.

(4) An agreement under this paragraph may include—

- (a) any provision that could have been contained in the scheme;
- (b) incidental, supplemental, consequential and transitional provision in connection with any such provision.

Commencement

Sch. 3 para. 8(1)-(4)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 8(1)-(4)(b): England, Wales

Law In Force

9 Continuity of employment etc

(1) Where in accordance with a scheme a person employed by a transferor becomes an employee of a transferee—

- (a) that person is not to be regarded for the purposes of Part 11 (redundancy payments etc) of the Employment Rights Act 1996 as having been dismissed by virtue of the transfer,
- (b) that person's period of employment with the transferor counts for the purposes of that Act as a period of employment with the transferee, and
- (c) the change of employment does not break the continuity of the period of employment for the purposes of that Act.

(2) Where in accordance with a scheme a person employed by a transferor becomes an employee of a transferee, the scheme must provide for the transfer of all the rights and liabilities relating to the person's contract of employment.

(3) Where a transfer scheme contains provision for the transfer of rights and liabilities relating to a person's contract of employment but, before the transfer takes effect, the person informs the transferor or the transferee that the person objects to the transfer—

- (a) those rights and liabilities are not transferred under the transfer scheme,
- (b) the person's contract of employment is terminated immediately before the day on which the transfer would occur, and
- (c) the person is not, for any purpose, to be regarded as having been dismissed.

(4) Nothing in sub-paragraph (3) affects the person's right to terminate the contract of employment if, apart from the change of employer, a substantial change is made to the person's detriment in the person's working conditions.

(5) No damages are payable by virtue of a constructive dismissal occurring under sub-paragraph (4) in respect of unpaid wages relating to a notice period which the employee has not worked.

(6) Where a transfer scheme contains provision for the transfer of rights and liabilities relating to a person's contract of employment, it may include provision with respect to—

- (a) the person's eligibility to become a member of a pension scheme by virtue of employment with the transferee;
- (b) the rights of, or rights or liabilities in respect of, the person under a pension scheme of which the person may become a member by virtue of employment with the transferee;
- (c) the rights of, or rights or liabilities in respect of, the person under a pension scheme of which the person is a member by virtue of employment immediately before the transfer.

Commencement

Sch. 3 para. 9(1)-(6)(c): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 9(1)-(6)(c): England, Wales

Law In Force

10 Compensation for third parties

(1) A third party is entitled to compensation in respect of the extinguishment of that party's entitlement where—

- (a) the entitlement is to an interest or right which would, apart from a provision of a scheme and paragraph 2(3) and (4), have become enforceable in respect of the transfer or creation of any property, rights or liabilities in accordance with the scheme,
- (b) the provisions of that scheme or of paragraph 2(3) and (4) have the effect of preventing that party's entitlement to that interest or right from being enforced in respect of anything for which the scheme provides, and
- (c) provision is not made by the scheme for securing that an entitlement to that interest or right, or to an equivalent interest or right, is preserved or created so as to arise and be enforceable in respect of the first occasion when corresponding circumstances next occur after the coming into force of the transfers for which the scheme provides.

(2) The amount of compensation to which a third party is entitled under this paragraph is the amount necessary for securing, to the extent that it is just to do so, that the third party does not suffer financial loss from the extinguishment of the entitlement.

(3) A liability to pay compensation under this paragraph falls on the Secretary of State.

(4) This paragraph has effect in relation to—

- (a) the provisions of an agreement or instrument entered into or executed in pursuance of an obligation imposed by a scheme, and
- (b) the provisions of an agreement under paragraph 8 relating to property, rights or liabilities transferred or created in accordance with a scheme,

as it has effect in relation to the scheme but as if, in the case of an agreement under paragraph 8, only persons who are not parties to the agreement were third parties.

Commencement

Sch. 3 para. 10(1)-(4)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 10(1)-(4)(b): England, Wales

Law In Force

11 Provision of information to Secretary of State for the purposes of making a scheme

(1) The Secretary of State may direct a strategic highways company, or a former strategic highways company, to provide such information as he or she may consider necessary for the purposes of making a scheme.

(2) The direction must specify the period within which the information is to be provided.

(3) The period specified in the direction must be not less than 28 days beginning with the day on which the direction is given.

(4) If the company fails to comply with the direction, the Secretary of State may serve a notice on the company requiring—

- (a) production to the Secretary of State of any documents which are specified or described in the notice and are in the custody or under the control of that company, or
- (b) provision to the Secretary of State of such information as may be specified or described in the notice.

(5) Documents or information to be produced or provided in accordance with such a notice must be produced or provided at the time and place, and in the form and manner, specified in the notice.

(6) A direction or notice under this paragraph may not require—

- (a) production of a document which a person could not be compelled to produce in civil proceedings, or
- (b) provision of information which a person could not be compelled to give in evidence in such proceedings.

(7) If a strategic highways company fails to comply with a notice under subparagraph (4), the court may, on the application of the Secretary of State, make such order as the court thinks fit for requiring the failure to be made good.

(8) Any order under sub-paragraph (7) may include provision requiring all the costs or expenses of, or incidental to, the application to be borne by one or more of the following—

- (a) the strategic highways company in default;
- (b) any officers of that company who are responsible for its default.

(9) In this paragraph, reference to the production of a document includes reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form.

Commencement

Sch. 3 para. 11(1)-(9): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 11(1)-(9): England, Wales

Law In Force

12 Interpretation

(1) In this Schedule—

“third party”, in relation to a scheme, means a person other than a transferor and a transferee;

“transferee”—

(a) in relation to a scheme, means a person to whom property, rights or liabilities are transferred in accordance with the scheme, and

(b) in relation to particular property, rights or liabilities transferred or created in accordance with a scheme, means the person—

(i) to whom that property or those rights or liabilities are transferred, or

(ii) in whose favour, or in relation to whom, they are created;

“transferor”—

(a) in relation to a scheme, means the person from whom property, rights or liabilities are transferred in accordance with the scheme, and

(b) in relation to particular property, rights or liabilities transferred or created in accordance with a scheme, means the person—

(i) from whom that property or those rights or liabilities are transferred,

(ii) who, or whose property, is subject to the interest or right created, or

(iii) for whose benefit the liability is created;

“scheme” means a scheme under section 15.

(2) In this Schedule, reference to employment includes reference to employment in the civil service of the State and, in respect of such employment—

(a) reference to a contract of employment is to be treated as a reference to the terms of employment in the civil service of the State, and

(b) reference to a dismissal is to be treated as a reference to the termination of the employment.

(3) References in this Schedule—

(a) to a right or to an entitlement to a right include references to an entitlement to exercise a right, and

(b) to a right's arising include references to its becoming exercisable.


Commencement

Sch. 3 para. 12(1)-(3)(b): February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise (2015 c. 7 Pt 8 s. 57(1); SI 2015/481 reg. 2(a))

Extent

Sch. 3 para. 12(1)-(3)(b): England, Wales

SCHEDULE 4**MAYORAL DEVELOPMENT ORDERS****Section 30****PART 1****MAIN AMENDMENTS**

 Partially In Force

1

After section 61D of the Town and Country Planning Act 1990 insert—

"Mayoral development orders

61DA Mayoral development orders

(1) The Mayor of London may by order (a Mayoral development order) grant planning permission for development specified in the order on one or more sites specified in the order.

(2) The site or sites must fall within—

- (a) the area of a local planning authority in Greater London, or
- (b) the areas of two or more local planning authorities in Greater London.

(3) The Secretary of State may by development order specify an area or class of development in respect of which a Mayoral development order must not be made.

61DB Permission granted by Mayoral development order

- (1) Planning permission granted by a Mayoral development order may be granted—
- (a) unconditionally, or

- (b) subject to such conditions or limitations as are specified in the order.
- (2) A condition imposed by a Mayoral development order may provide for the consent, agreement or approval to a matter specified in the condition to be given by one or more persons specified in the condition.
- (3) A person specified in a condition must be the Mayor of London or a relevant local planning authority.
- (4) The Secretary of State may by development order provide that, if the consent, agreement or approval of a person required by a condition imposed by a Mayoral development order is not given within a specified period, that consent, agreement or approval may be sought from a specified person.
- (5) In subsection (4) “specified” means specified, or of a description specified, in the development order.
- (6) The Secretary of State may by development order make provision for a person to apply for planning permission for the development of land without complying with a condition imposed on the grant of planning permission by a Mayoral development order.
- (7) A development order under subsection (6) may, in particular make provision similar to that made by section 73, subject to such modifications as the Secretary of State thinks appropriate.
- (8) So far as the context requires, in relation to—
(a) an application for the consent, agreement or approval of the Mayor of London to a matter specified in a condition imposed by a Mayoral development order, or
(b) the determination of such an application,
any reference in an enactment to a local planning authority (however expressed) includes a reference to the Mayor.
- (9) For the purposes of this Act a local planning authority is a relevant local planning authority in relation to a Mayoral development order or proposed Mayoral development order if a site or part of a site to which the order or proposed order relates is within the authority's area.

61DC Preparation and making of Mayoral development order

- (1) The Secretary of State may by development order make provision about the procedure for the preparation and making of a Mayoral development order.
- (2) A development order under subsection (1) may in particular make provision about—
(a) notice, publicity and inspection by the public;
(b) consultation with and consideration of views of such persons and for such purposes as are specified in the order;
(c) the making and consideration of representations.
- (3) A Mayoral development order may be made only in response to an application to the Mayor of London by each relevant local planning authority.
- (4) A proposed Mayoral development order may be consulted on only with the consent of each relevant local planning authority.

(5) A Mayoral development order may not be made unless the order has been approved, in the form in which it is made, by each relevant local planning authority.

(6) If the Mayor of London makes a Mayoral development order, the Mayor must send a copy to the Secretary of State as soon as is reasonably practicable after the order is made.

61DD Revision or revocation of Mayoral development order

(1) The Mayor of London may at any time revise or revoke a Mayoral development order with the approval of each relevant local planning authority.

(2) The Mayor of London must revise a Mayoral development order if the Secretary of State directs the Mayor to do so (and the requirement for the approval of each relevant local planning authority does not apply in those circumstances).

(3) The Secretary of State may at any time revoke a Mayoral development order if the Secretary of State thinks it is expedient to do so.

(4) The power under subsection (3) is to be exercised by order made by the Secretary of State.

(5) If the Secretary of State revokes a Mayoral development order the Secretary of State must state the reasons for doing so.

(6) The Secretary of State may by development order make provision about—

- (a) the steps to be taken by the Secretary of State before giving a direction or making an order under this section;
- (b) the procedure for the revision or revocation of a Mayoral development order.

(7) A development order under subsection (6) may in particular make provision about—

- (a) notice, publicity and inspection by the public;
- (b) consultation with and consideration of views of such persons and for such purposes as are specified in the order;
- (c) the making and consideration of representations.

61DE Effect of revision or revocation on incomplete development

(1) This section applies if planning permission for development granted by a Mayoral development order is withdrawn at a time when the development has been started but not completed.

(2) For this purpose planning permission for development granted by a Mayoral development order is withdrawn—

- (a) if the order is revoked under section 61DD, or
- (b) if the order is revised under that section so that it ceases to grant planning permission for the development or materially changes any condition or limitation to which the grant of permission is subject.

(3) The development may, despite the withdrawal of the permission, be completed, subject as follows.

(4) If the permission is withdrawn because the Mayoral development order is revoked by the Mayor of London, the Mayor may make a determination that subsection (3) is not to apply in relation to development specified in the determination.

(5) A determination under subsection (4) must be published in such manner as the Mayor of London thinks appropriate.

(6) If the permission is withdrawn because the Mayoral development order is revoked by an order made by the Secretary of State under section 61DD, the order under that section may provide that subsection (3) is not to apply in relation to development specified in that order.

(7) If the permission is withdrawn because the order is revised as mentioned in subsection (2)(b), the revised order may provide that subsection (3) is not to apply in relation to development specified in the order.

(8) The power under this section to include provision in an order under section 61DD or a Mayoral development order may be exercised differently for different purposes.”


Commencement

Sch. 4(1) para. 1: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(1) para. 1: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

PART 2**CONSEQUENTIAL AMENDMENTS**

 Partially In Force

2


The Town and Country Planning Act 1990 is amended as follows.

Commencement

Sch. 4(2) para. 2: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 2: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

3


In section 56(5)(a) (time when development begun where planning permission granted by general or local development order) for “or a local development order” substitute “,a local development order or a Mayoral development order”.

Commencement

Sch. 4(2) para. 3: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 3: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

4


In section 57(3) (planning permission not required for normal use of land where planning permission for development of land granted by development order etc) after “a local development order” insert “,a Mayoral development order”.

Commencement

Sch. 4(2) para. 4: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 4: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

5


In section 58(1) (planning permission may be granted by development order etc) after “a local development order” insert “, a Mayoral development order”.

Commencement

Sch. 4(2) para. 5: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 5: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

6

In section 62(2A) (applications for planning permission: references in subsections (1) and (2) to applications for planning permission to include applications under section 61L(2)) after “references to” in the second place insert

“—


- (a) applications for consent, agreement or approval as mentioned in section 61DB(2), and
- (b) ”.

Commencement

Sch. 4(2) para. 6: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 6: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

7

In section 65(3A) (notice etc of applications for planning permission: references in subsections (1) and (3) to applications for planning permission etc to include applications under section 61L(2) etc) after “references to” in the second place insert

“—


- (a) any application for consent, agreement or approval as mentioned in section 61DB(2) or any applicant for such consent, agreement or approval, and
- (b) ”.

Commencement

Sch. 4(2) para. 7: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 7: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

8

(1) Section 69 (register of applications etc) is amended as follows.

(2) In subsection (1) (duty of local planning authority to keep register containing information about planning applications etc) after paragraph (c) insert—

“(cza) Mayoral development orders;”.

(3) In subsection (2)(b) (requirement for register to contain information about local development orders etc) after “local development order,” insert “Mayoral development order,”.

Commencement

Sch. 4(2) para. 8(1)-(3): February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 8(1)-(3): United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

9

(1) Section 71 (consultations in connection with determinations under section 70) is amended as follows.

(2) In subsection (2ZA) (references in subsections (1) and (2) to applications for planning permission to include applications under section 61L(2)) after “references to” in the second place insert

“—

(a) an application for consent, agreement or approval as mentioned in section 61DB(2), and

(b) ”.

(3) In subsection (3A) (disapplication of consultation requirement relating to caravan sites in case of neighbourhood development order) after “granted by” insert “a Mayoral development order or”.

Commencement

Sch. 4(2) para. 9(1)-(3): February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 9(1)-(3): United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

10

In section 74(1ZA) (directions etc as to method of dealing with applications: references in subsections (1)(c) and (f) to planning permission etc to include approvals under section 61L(2) etc)—

(a) in paragraph (a) after “reference to” in the second place insert

“—

- (i) a consent, agreement or approval as mentioned in section 61DB(2), and
- (ii) ”,

and

(b) in paragraph (b) after “references to” in the second place insert

“—


- (i) applications for consent, agreement or approval as mentioned in section 61DB(2), and
- (ii) ”.

Commencement

Sch. 4(2) para. 10(a)-(b): February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 10(a)-(b): United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

11

In section 77(1) (reference of applications to the Secretary of State)—


- (a) for “approval” substitute “consent, agreement or approval”, and
- (b) after “a local development order” insert “, a Mayoral development order”.

Commencement

Sch. 4(2) para. 11(a)-(b): February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 11(a)-(b): United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

12


In section 78(1)(c) (right of appeal against refusal of application for approval under development order etc.) after “a local development order” insert “, a Mayoral development order”.

Commencement

Sch. 4(2) para. 12: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 12: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

13


In section 88(9) (provision for permission for development in enterprise zones does not prevent planning permission from being granted by other means) after “a local development order” insert “, a Mayoral development order”.

Commencement

Sch. 4(2) para. 13: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 13: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

14


In section 91(4)(a) (provisions about general condition limiting duration of planning permission do not apply to permission granted by development order etc) after “a local development order” insert “, a Mayoral development order”.

Commencement

Sch. 4(2) para. 14: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 14: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

15

(1) Section 108 (compensation for refusal etc of planning permission formerly granted by development order etc) is amended as follows.

(2) In the heading after “local development order” insert “, Mayoral development order”.

(3) In subsection (1)—

(a) in paragraph (a) after “a local development order” insert “, a Mayoral development order”, and

(b) after “the local development order” insert “, the Mayoral development order”.

(4) After subsection (1) insert—

“(1A) Where section 107 applies in relation to planning permission granted by a Mayoral development order—

(a) subsection (1) of that section has effect as if it provided for a claim to be made to, and compensation to be paid by, the Mayor of London rather than the local planning authority, and

(b) subject to subsection (1B), sections 109 to 112 have effect where compensation is payable by the Mayor of London under section 107(1) as if references to the local planning authority (however expressed) were references to the Mayor of London.

(1B) Subsection (1A)(b) does not apply to section 110(2) or (4).”

(5) In subsection (2)—

(a) after “a local development order” insert “, a Mayoral development order”, and

(b) after “revocation” in both places insert “, revision”.

(6) In subsection (3B) after paragraph (b) insert—

“(ba) in the case of planning permission granted by a Mayoral development order, the condition in subsection (3DA) is met, or”.

(7) After subsection (3D) insert—

“(3DA) The condition referred to in subsection (3B)(ba) is that—

(a) the planning permission is withdrawn by the revocation or revision of the Mayoral development order,

(b) notice of the revocation or revision was published in the prescribed manner not less than 12 months or more than the prescribed period before the revocation or revision took effect, and

(c) either—

(i) the development authorised by the Mayoral development order had not begun before the notice was published, or


(ii) section 61DE(3) applies in relation to the development.”

Commencement

Sch. 4(2) para. 15(1)-(7): February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 15(1)-(7): United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

16


In section 109(6) (apportionment of compensation for depreciation: interpretation) in the definition of “relevant planning decision” after “the local development order” insert “, the Mayoral development order”.

Commencement

Sch. 4(2) para. 16: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 16: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

17


In section 171H(1)(a) (compensation for temporary stop notice: application where activity authorised by development order etc) after “a local development order” insert “, a Mayoral development order”.

Commencement

Sch. 4(2) para. 17: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 17: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

18


In section 264(5)(ca) (land which is treated as operational land of a statutory undertaker by virtue of planning permission for its development granted by a local development order etc) after “a local development order” insert “, a Mayoral development order”.

Commencement

Sch. 4(2) para. 18: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 18: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

19

(1) Section 303 (fees for planning applications etc) is amended as follows.

(2) After subsection (1) insert—

“(1ZA) The Secretary of State may by regulations make provision for the payment of a fee to—

(a) the Mayor of London in respect of an application for consent, agreement or approval as mentioned in section 61DB(2) or the giving of advice about such an application;

(b) a specified person in respect of an application for consent, agreement or approval for which provision is made under section 61DB(4) or the giving of advice about such an application.”

(3) After subsection (10) insert—

“(10A) If the Mayor of London or a specified person calculates the amount of fees in pursuance of provision made by regulations under subsection (1ZA) the Mayor of London or the specified person must secure that, taking one financial year with another, the income from the fees does not exceed the cost of performing the function.”

(4) After subsection (11) insert—


“(12) In this section “specified person” means a person specified by development order under section 61DB(4).”

Commencement

Sch. 4(2) para. 19(1)-(4): February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 19(1)-(4): United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

20


In section 305(1)(a) (contributions by Ministers towards compensation paid by local authorities) after “local authority” insert “, the Mayor of London”.

Commencement

Sch. 4(2) para. 20: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 20: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

21

In section 324 (rights of entry) after subsection (1A) insert—

“(1B) Any person duly authorised in writing by the Secretary of State, a local planning authority or the Mayor of London may at any reasonable time enter any land for the purpose of surveying it in connection with—


- (a) a proposal by a local planning authority to apply to the Mayor of London for the Mayor to make a Mayoral development order, or
 - (b) a proposal by the Mayor of London to make a Mayoral development order.”
-

Commencement

Sch. 4(2) para. 21: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 21: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

22


- (1) Section 333 (regulations and orders) is amended as follows.
- (2) In subsection (4) after “61A(5)” insert “, 61DD(4),”.
- (3) In subsection (5) after “Wales),” insert “61DD(4),”.

Commencement

Sch. 4(2) para. 22(1)-(3): February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 22(1)-(3): United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

 Partially In Force

23

In section 336(1) (interpretation) at the appropriate place insert—

““relevant local planning authority” is to be construed in accordance with section 61DB(9);”.

Commencement

Sch. 4(2) para. 23: February 12, 2015 in so far as it confers power to make provision by regulations or development order within the meaning of 1990 c.8; not yet in force otherwise (2015 c. 7 Pt 8 s. 57(5)(d))

Extent

Sch. 4(2) para. 23: United Kingdom (an amendment or repeal has the same extent as the provision to which it relates, however certain provisions specified in 2015 c.7 s.56(5)(b) extend to England and Wales only)

SCHEDULE 5

TRANSFER OF RESPONSIBILITY FOR LOCAL LAND CHARGES TO LAND REGISTRY

Section 34

PART 1

AMENDMENTS TO THE LOCAL LAND CHARGES ACT 1975

✔ Law In Force

1

The Local Land Charges Act 1975 is amended as follows.

Commencement

Sch. 5(1) para. 1: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 1: England, Wales

✔ Law In Force

2

In the italic heading before section 3 for “registers” substitute “register”.

Commencement

Sch. 5(1) para. 2: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 2: England, Wales

✔ Law In Force

3

For section 3 (registering authorities, local land charges registers, and indexes) substitute—

“3 The local land charges register

- (1) The Chief Land Registrar must keep the local land charges register.
- (2) The local land charges register is a register of—
 - (a) each local land charge registered in a local land charges register for a local authority's area immediately before this section first had effect in relation to that area, and
 - (b) each local land charge subsequently registered under section 5 or 6 or another relevant enactment in respect of land which is wholly or partly within that area.
- (3) Subsection (2) is subject to any later variation or cancellation of the registration of the local land charge.
- (4) The local land charges register may be kept in electronic form.
- (5) In this section—

“local authority” means—

- (a) a district council,
- (b) a county council in England for an area for which there is no district council,
- (c) a county council in Wales,
- (d) a county borough council,
- (e) a London borough council,
- (f) the Common Council of the City of London, or
- (g) the Council of the Isles of Scilly;

“relevant enactment” means a provision which is made by or under an Act and which provides for the registration of a charge or other matter as a local land charge.

(6) For the purposes of this section the area of the Common Council of the City of London includes the Inner Temple and the Middle Temple.”

Commencement

Sch. 5(1) para. 3: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 3: England, Wales

Law In Force

4

Omit section 4 (the appropriate local land charges register).

Commencement

Sch. 5(1) para. 4: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 4: England, Wales

Law In Force

5

(1) Section 5 (registration) is amended as follows.

(2) Omit subsection (1).

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

“(2) Subject to subsection (6) below, the originating authority as respects a local land charge must apply to the Chief Land Registrar for its registration in the local land charges register; and on the application being made the Chief Land Registrar must register the charge accordingly.

(3) The registration in the local land charges register of a local land charge, or of any matter which when registered becomes a local land charge, must be carried out by reference to the land affected.”

(4) In subsection (6) for “a local land charges register” substitute “the local land charges register”.

Commencement

Sch. 5(1) para. 5(1)-(4): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 5(1)-(4): England, Wales

Law In Force

6

(1) Section 6 (local authority's right to register a general charge against land in certain circumstances) is amended as follows.

(2) For subsection (2) substitute—

“(2) At any time before the specific charge comes into existence, the Chief Land Registrar must register a general charge against the land, without any amount being specified, in the local land charges register if the originating authority make an application for that purpose.”

(3) In subsection (3) for “5(1) and (2)” substitute “5(2)”.

(4) In subsection (4)—

(a) for “pursuant to an application by the originating authority, they” substitute “the originating authority”, and

(b) for “registering authority” substitute “Chief Land Registrar”.

Commencement

Sch. 5(1) para. 6(1)-(4)(b): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 6(1)-(4)(b): England, Wales

✔ Law In Force

7

- (1) Section 8 (personal searches) is amended as follows.
- (2) In subsection (1)—
- (a) for “any local land charges register” substitute “the local land charges register”, and
 - (b) after “fee” insert “(if any)”.
- (3) In subsection (1A)—
- (a) for “a local land charges register is kept otherwise than in documentary” substitute “the local land charges register is kept in electronic”, and
 - (b) for “registering authority” substitute “Chief Land Registrar”.
- (4) In subsection (2)—
- (a) for “a registering authority” substitute “the Chief Land Registrar”, and
 - (b) omit “authority's”.

Commencement

Sch. 5(1) para. 7(1)-(4)(b): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 7(1)-(4)(b): England, Wales

✔ Law In Force

8

- (1) Section 9 (official searches) is amended as follows.
- (2) In subsection (1)—
- (a) omit “appropriate”, and
 - (b) for “registering authority” substitute “Chief Land Registrar”.
- (3) Omit subsection (2).
- (4) For subsections (3) and (3A) substitute—
- “(3) The prescribed fee (if any) shall be payable in the prescribed manner in respect of any requisition made under this section.”
- (5) In subsection (4)—
- (a) for “a registering authority” substitute “the Chief Land Registrar”,
 - (b) omit “or (3A)”, and
 - (c) for “the registering authority” substitute “the Chief Land Registrar”.
- (6) In consequence of the amendment made by sub-paragraph (5)(b), in Schedule 4 to the Constitutional Reform Act 2005 omit paragraph 84(3)(b).

Commencement

Sch. 5(1) para. 8(1)-(6): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 8(1)-(6): England, Wales

Law In Force

9

(1) Section 10 (compensation for non—registration or defective official search certificate) is amended as follows.

(2) In subsection (1)—

- (a) omit “appropriate” in each place,
- (b) in paragraph (aa) for “in a case where” substitute “if”, and
- (c) in that paragraph for “otherwise than in documentary” substitute “in electronic”.

(3) Omit subsection (2).

(4) In subsection (4) for “registering authority in whose area the land affected is situated” substitute “Chief Land Registrar”.

(5) In subsection (5)—

- (a) for the words from “a registering authority” to “not the originating authority” substitute “the Chief Land Registrar”, and
- (b) for “the registering authority” in each place substitute “the Chief Land Registrar”.

(6) After that subsection insert—

“(5A) An amount equal to any compensation paid under this section by the Chief Land Registrar in respect of a local land charge is also recoverable from the originating authority in a case where the matter within subsection (1) giving rise to the Chief Land Registrar's liability is a consequence of—

- (a) an error made by the originating authority in applying to register the local land charge, or
- (b) an error made by the originating authority in applying for the registration of the local land charge to be varied or cancelled.”

(7) In subsection (6)—

- (a) for “a registering authority” substitute “the Chief Land Registrar”,
- (b) for “that authority” substitute “the Chief Land Registrar”,
- (c) after “(5)” in each place insert “or (5A)”, and
- (d) for “the registering authority” substitute “the Chief Land Registrar”.

(8) After subsection (6) insert—

“(6A) The Chief Land Registrar may insure against the risk of liability to pay compensation under this section.”

(9) In subsection (7) for “Limitation Act 1939” substitute “Limitation Act 1980”.

(10) In subsection (9) for “registering authority's” substitute “Chief Land Registrar's”.

Commencement

Sch. 5(1) para. 9(1)-(10): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42, Sch. 5(4) para. 43)

Extent

Sch. 5(1) para. 9(1)-(10): England, Wales

Law In Force

10

In section 12 (office copies as evidence) for “any local land charges register” substitute “the local land charges register”.

Commencement

Sch. 5(1) para. 10: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 10: England, Wales

Law In Force

11

In section 13 (protection of solicitors, trustees etc) for “a local land charges register” substitute “the local land charges register”.

Commencement

Sch. 5(1) para. 11: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 11: England, Wales

✔ Law In Force

12

(1) Omit section 13A (specification of fees by registering authorities in England).

(2) In consequence of the amendment made by sub-paragraph (1), in Schedule 4 to the Constitutional Reform Act 2005 omit paragraph 83.

Commencement

Sch. 5(1) para. 12(1)-(2): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 12(1)-(2): England, Wales

✔ Law In Force

13

(1) Section 14 (rules) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a) for “registering authorities” substitute “the Chief Land Registrar”,
- (b) after paragraph (f) insert—

“(fa) as to the variation without an order of the court of the registration of a local land charge—

- (i) on the application or with the consent of the person by whom it is enforceable, or
- (ii) of the Chief Land Registrar's own motion;”,

(c) for paragraph (g) substitute—

“(g) as to the cancellation without an order of the court of the registration of a local land charge—

- (i) on its cesser,
 - (ii) on the application or with the consent of the person by whom it is or was enforceable, or
 - (iii) of the Chief Land Registrar's own motion;”,
- and

(d) for paragraph (h) substitute—

“(h) for prescribing the fees to be paid to the Chief Land Registrar for services relating to local land charges provided by the Chief Land Registrar.”

(3) In subsection (2)—

- (a) in paragraph (a) for “any local land charges register” substitute “the local land charges register”,

(b) after paragraph (a) insert—

“(aa) power to make rules—

(i) prescribing different fees for different services or descriptions of service;

(ii) prescribing services or descriptions of service for which no fees are payable;”, and

(c) for paragraph (b) and the “and” at the end of that paragraph substitute—

“(b) power to make rules about communications for the purposes of this Act, or any statutory provision by virtue of which any matter is registrable in the local land charges register, including rules as to—

(i) the particular means of communication which may or must be used for such purposes (which may include an electronic means of communication),

(ii) the circumstances in which a particular means of communication may or must be used (which may be all circumstances, subject to exceptions);

(iii) the form or contents of anything sent using a particular means of communication;

(ba) power to make rules requiring or enabling anything which is provided to or by the Chief Land Registrar for the purposes of this Act, or any statutory provision by virtue of which any matter is registrable in the local land charges register, to be provided in electronic form;

(bb) power to make rules enabling the Chief Land Registrar, or a person providing services to the Chief Land Registrar, to determine—

(i) any matter within paragraph (b), or

(ii) whether anything of the kind referred to in paragraph (ba) may or must be provided in electronic form; and”.

(4) sub-paragraphs (5) and (6) apply to the function of the Lord Chancellor under section 14(1) of the Local Land Charges Act 1975 as amended by this paragraph so far as it relates to the power to make rules for prescribing fees and the manner of payment of fees (“the new function”).

(5) The new function is to be treated as having been transferred to the Welsh Ministers by—

(a) the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044), and

(b) Schedule 11 to the Government of Wales Act 2006,

in the same way as the equivalent function of the Lord Chancellor under that section as it had effect apart from this paragraph (“the old function”).

(6) A provision made by that Order or that Act in respect of the old function continues to apply to the new function.

Commencement

Sch. 5(1) para. 13(1)-(6): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5

Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 13(1)-(6): England, Wales

Law In Force

14

In section 15(b) (expenses) for “a registering authority” substitute “the Chief Land Registrar”.

Commencement

Sch. 5(1) para. 14: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 14: England, Wales

Law In Force

15

(1) Section 16 (interpretation) is amended as follows.

(2) In subsection (1) omit the definitions of “the appropriate local land charges register” and “the registering authority”.

(3) In subsection (1A) for “otherwise than in documentary” substitute “in electronic”.

Commencement

Sch. 5(1) para. 15(1)-(3): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 15(1)-(3): England, Wales

Law In Force

16

In section 19(4) (transitional provision) omit the words from “In so far as” to “so made, but”.

Commencement

Sch. 5(1) para. 16: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 41; 2015 c. 7 Sch. 5(4) para. 42)

Extent

Sch. 5(1) para. 16: England, Wales

PART 2**AMENDMENTS TO THE LAND REGISTRATION ACT 2002**

Law In Force

17

The Land Registration Act 2002 is amended as follows.

Commencement

Sch. 5(2) para. 17: April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Sch. 5(2) para. 17: England, Wales

Law In Force

18

In section 100 (conduct of business) after subsection (2) insert—

“(2A) Subsections (1) and (2) apply to all functions of the registrar, whether or not conferred by this Act.”

Commencement

Sch. 5(2) para. 18: April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Sch. 5(2) para. 18: England, Wales

Law In Force

19

In section 106(1) (incidental powers of registrar in relation to companies) after “Schedule 5,” insert “or under the Local Land Charges Act 1975,”.

Commencement

Sch. 5(2) para. 19: April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Sch. 5(2) para. 19: England, Wales

Law In Force

20

In paragraph 4 of Schedule 7 (indemnity for members of the land registry in relation to functions relating to land registration) after “land registration” insert “or local land charges”.

Commencement

Sch. 5(2) para. 20: April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Sch. 5(2) para. 20: England, Wales

PART 3

AMENDMENTS TO OTHER ACTS

Law of Property Act 1925 (c. 20)

Law In Force

21

In section 198(1) of the Law of Property Act 1925 (registration in local land charges register to be notice) for “any local land charges register” substitute “the local land charges register”.

Commencement

Sch. 5(3) para. 21: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 21: England, Wales

Requisitioned Land and War Works Act 1948 (c. 17)

Law In Force

22

In section 14 of the Requisitioned Land and War Works Act 1948 (registration of rights as to government oil pipelines)—

- (a) in subsections (1) and (4)(b) omit “appropriate”,
- (b) in subsection (1) for “authority keeping that register that authority” substitute “Chief Land Registrar, the Chief Land Registrar”, and
- (c) in subsection (4) for “a local land charges register” substitute “the local land charges register”.

Commencement

Sch. 5(3) para. 22(a)-(c): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 22(a)-(c): England, Wales

Cheshire County Council Act 1953 (c. xl)

Law In Force

23

In section 25(3) of the Cheshire County Council Act 1953 (notice preventing building next to proposed street to be void unless registered as a local land charge) omit the words from “Provided that” to “local land charge”.

Commencement

Sch. 5(3) para. 23: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 23: England, Wales

Land Powers (Defence) Act 1958 (c. 30)

Law In Force

24

The Land Powers (Defence) Act 1958 is amended as follows.

Commencement

Sch. 5(3) para. 24: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 24: England, Wales

Law In Force

25

In section 12 (extension of provisions of Requisitioned Land and War Works Acts) in each of subsections (2) and (5) for “appropriate register of local land charges” substitute “local land charges register”.

Commencement

Sch. 5(3) para. 25: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 25: England, Wales

Law In Force

26

In section 17 (registration of wayleave orders and restrictions under section 16)—

- (a) in subsections (2)(a), (2A) and (3)(b) omit “appropriate”,
- (b) in subsection (2A) for “authority keeping that register” substitute “Chief Land Registrar”, and
- (c) in subsection (3) for “a local land charges register” substitute “the local land charges register”.

Commencement

Sch. 5(3) para. 26(a)-(c): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 26(a)-(c): England, Wales

Rights of Light Act 1959 (c. 56)

Law In Force

27

The Rights of Light Act 1959 is amended as follows.

Commencement

Sch. 5(3) para. 27: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 27: England, Wales

Law In Force

28

(1) Section 2 (registration of notice in lieu of obstruction of access of light) is amended as follows.

(2) In subsection (1) for “local authority in whose area the dominant building is situated” substitute “Chief Land Registrar”.

(3) In subsection (2) omit “be in the prescribed form and shall”.

(4) In subsection (3) after “accompanied by” insert “ a copy of”.

(5) In subsection (4)—

- (a) for “a local authority” substitute “the Chief Land Registrar”,
- (b) for “that authority” substitute “the Chief Land Registrar”,
- (c) omit “appropriate”, and
- (d) in paragraph (b) for “5(1) and (2)” substitute “5(2)”.

Commencement

Sch. 5(3) para. 28(1)-(5)(d): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 28(1)-(5)(d): England, Wales

Law In Force

29

In section 3(2)(c) (period for which notice has effect)—

- (a) after “expires without” insert “a copy of”, and
- (b) for “local authority” substitute “Chief Land Registrar”.

Commencement

Sch. 5(3) para. 29(a)-(b): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 29(a)-(b): England, Wales

Law In Force

30

In section 7(1) (interpretation)—

- (a) for the definition of “prescribed” substitute—

““prescribed” means prescribed by rules under section 14 of the Local Land Charges Act 1975;”, and

- (b) omit the definition of “local authority”.

Commencement

Sch. 5(3) para. 30(a)-(b): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 30(a)-(b): England, Wales

Law In Force

31

In consequence of the amendment made by paragraph 30(b), in Schedule 1 to the Local Land Charges Act 1975 omit paragraph (c) of the amendments to the Rights of Light Act 1959.

Commencement

Sch. 5(3) para. 31: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 31: England, Wales

Leasehold Reform Act 1967 (c. 88)

Law In Force

32

In section 19(10) of the Leasehold Reform Act 1967 (registration of scheme or certificate under section 19 in appropriate local land charges register) in the opening words omit “appropriate”.

Commencement

Sch. 5(3) para. 32: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 32: England, Wales

Land Compensation Act 1973 (c. 26)

✔ Law In Force

33

In section 52(9) of the Land Compensation Act 1973 (registration of advance payment of compensation in appropriate local land charges register) omit “appropriate”.

Commencement

Sch. 5(3) para. 33: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 33: England, Wales

Interpretation Act 1978 (c. 30)

✔ Law In Force

34

In Schedule 1 to the Interpretation Act 1978 (words and expressions defined) in the entry containing definitions of “local land charges register” and “the appropriate local land charges register”—

- (a) for “a register” substitute “the register”, and
- (b) omit the words from “and “the appropriate local land charges register”” to the end of that entry.

Commencement

Sch. 5(3) para. 34(a)-(b): April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 34(a)-(b): England, Wales

Highways Act 1980 (c. 66)

✔ Law In Force

35

In paragraph 9(a) of Schedule 9 to the Highways Act 1980 (notification of revocation of improvement line or building line) for the words from “the council” to “is situated” substitute “the Chief Land Registrar”.

Commencement

Sch. 5(3) para. 35: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 35: England, Wales

Disused Burial Grounds (Amendment) Act 1981 (c. 18)

✔ Law In Force

36

In section 2(4) of the Disused Burial Grounds (Amendment) Act 1981 (requirement to deposit copy of order of Secretary of State dispensing with requirements as to human remains with registering authority) for the words from “deposited with” to “1975)” substitute “sent to the Chief Land Registrar,”.

Commencement

Sch. 5(3) para. 36: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 36: England, Wales

Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)

✔ Law In Force

37

In section 3(4) of the Compulsory Purchase (Vesting Declarations) Act 1981 (registration of preliminary notice) for the words from “registered” to the end of the subsection substitute “sent to the Chief Land Registrar, and the notice shall be a local land charge”.

Commencement

Sch. 5(3) para. 37: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 37: England, Wales

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

Law In Force

38

In section 70(12) of the Leasehold Reform, Housing and Urban Development Act 1993 (consequence of registration of scheme in appropriate local land charges register) in the opening words omit “appropriate”.

Commencement

Sch. 5(3) para. 38: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 38: England, Wales

Local Government (Wales) Act 1994 (c. 19)

Law In Force

39

In Schedule 17 to the Local Government (Wales) Act 1994 (savings and transitional provision) omit paragraph 11 (local land charges registers).

Commencement

Sch. 5(3) para. 39: April 12, 2015 as specified in 2015 c.7 s.57(5)(e) subject to s.57(6) which means that amendments will only have effect in a local authority area on and after the date specified in a notice given under Sch.5 Pt.4 para.40 (2015 c. 7 Pt 8 s. 57(5)(e), Pt 8 s. 57(6); 2015 c. 7 Sch. 5(4) para. 40, Sch. 5(4) para. 42)

Extent

Sch. 5(3) para. 39: England, Wales

PART 4**TRANSITIONAL PROVISION**

Law In Force

40 Power for Parts 1 and 3 to be applied gradually to local authority areas

(1) Parts 1 and 3 of this Schedule have effect in relation to the area of a local authority if (and only if)—

- (a) the Chief Land Registrar gives notice in writing to the local authority that, on and after the date specified in the notice, those Parts will have effect in relation to that area, and
- (b) before that date, the notice is publicised in such manner as the Chief Land Registrar thinks is likely to bring the arrangements under the Local Land Charges Act 1975 as amended by Part 1 of this Schedule to the attention of persons who are likely to want to apply to register local land charges in, or to search, the register of local land charges after that Part has effect in relation to that area.

(2) The Chief Land Registrar may withdraw a notice under sub-paragraph (1) (“the original notice”) by a notice in writing which—

- (a) is given before the date specified in the original notice to the authorities to whom the original notice was given, and
- (b) is publicised before that date in such manner as the Chief Land Registrar thinks is likely to bring the withdrawal to the attention of the persons to whom the original notice was publicised.

(3) If, in accordance with this paragraph, the Chief Land Registrar gives a notice under sub-paragraph (1) which is not withdrawn, Parts 1 and 3 have effect in relation to the area specified in the notice on and after the date specified in it.

(4) This paragraph does not prevent the making of rules under section 14 of the Local Land Charges Act 1975 as amended by Part 1 of this Schedule—

- (a) in relation to the operation of that Act as amended by that Part, or
- (b) in relation to the operation of any other statutory provision by virtue of which any matter is registrable in the local land charges register,

but such rules have effect in relation to the area of a local authority if (and only if) that Part has effect in relation to that area in accordance with this paragraph.

Commencement

Sch. 5(4) para. 40(1)-(4)(b): April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Sch. 5(4) para. 40(1)-(4)(b): England, Wales

Law In Force

41 Duty of local authorities to assist Chief Land Registrar

A local authority must provide the Chief Land Registrar with such information or other assistance as the Chief Land Registrar reasonably requires for the purposes of enabling Part 1 of this Schedule to have effect in relation to the area of that authority.

Commencement

Sch. 5(4) para. 41: April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Sch. 5(4) para. 41: England, Wales

Law In Force

42 Continuity of functions

(1) This paragraph and paragraph 43 apply where Parts 1 and 3 of this Schedule have effect in relation to the area of a local authority by virtue of paragraph 40.

(2) Anything done or omitted to be done by or in relation to the local authority and in relation to the old register which is in force or effective immediately before the relevant date is to be treated as done or omitted to be done by or in relation to the Chief Land Registrar and in relation to the new register.

(3) There may be continued by or in relation to the Chief Land Registrar anything (including legal proceedings) that relates to the old register and is in the process of being done by or in relation to the local authority immediately before the relevant date.

Commencement

Sch. 5(4) para. 42(1)-(3): April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Sch. 5(4) para. 42(1)-(3): England, Wales

✔ Law In Force

43 Compensation

(1) The amendments in Part 1 of this Schedule to section 10(1) and (2) of the Local Land Charges Act 1975 (compensation for non-registration or defective official search certificate) and to section 16(1) of that Act so far as it applies to that section do not have effect in relation to a search of the old register made before the relevant date.

(2) Subject to sub-paragraphs (4) and (5), the Chief Land Registrar may recover from the local authority an amount equal to any compensation which the Chief Land Registrar is liable to pay under section 10 of the Local Land Charges Act 1975 in consequence of—

- (a) the authority's failure before the relevant date to register, or register correctly, a local land charge in the old register,
- (b) the authority's failure before the relevant date to satisfy an entitlement to search in the old register conferred by section 8 of that Act as mentioned in subsection (1A) of that section, or
- (c) the omission of a local land charge from an official search certificate issued by the authority before the relevant date.

(3) Subject to sub-paragraphs (4) and (5), the Chief Land Registrar may recover from the local authority an amount equal to any compensation which the Chief Land Registrar is liable to pay under section 10 of the Local Land Charges Act 1975 where—

- (a) an act or omission of the Chief Land Registrar gives rise to that liability, but
- (b) that act or omission is in consequence of a failure by the authority to provide any information about a charge registered in the old register.

(4) sub-paragraph (5) applies where—

- (a) the Chief Land Registrar's liability arises as a result of the local authority's failure before the relevant date—
 - (i) to register, or register correctly, a local land charge in the old register, or
 - (ii) to provide any information about a local land charge registered in the old register to the Chief Land Registrar,
- (b) the local authority is not the originating authority in relation to the charge, and
- (c) the originating authority—
 - (i) did not apply for registration of the charge in time for it to be practicable for the local authority to register it before the relevant date, or
 - (ii) made an error in applying to register the charge, or in applying for the registration of the charge to be varied or cancelled.

(5) Where this sub-paragraph applies, the Chief Land Registrar may recover an amount equal to the compensation from the originating authority (and may not recover such an amount from the local authority).

(6) sub-paragraph (7) applies where compensation for loss under section 10 of the Local Land Charges Act 1975 is paid by the Chief Land Registrar in the circumstances described in any of sub-paragraphs (2) to (4).

(7) No part of the amount paid, or of any corresponding amount paid to the Chief Land Registrar by the local authority or originating authority under any of those sub-paragraphs, is to be recovered by the Chief Land Registrar, the local authority or originating authority from any other person

except as provided by any of sub-paragraphs (2) to (4) or under a policy of insurance or on grounds of fraud.

(8) Subsections (5) and (6) of section 10 of the Local Land Charges Act 1975 do not apply where compensation for loss under that section is paid by the Chief Land Registrar in the circumstances described in any of subparagraphs (2) to (4).

Commencement

Sch. 5(4) para. 43(1)-(8): April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Sch. 5(4) para. 43(1)-(8): England, Wales

Law In Force

44 Interpretation

(1) In this Part of this Schedule—

“local authority” means—

- (a) a district council,
- (b) a county council in England for an area for which there is no district council,
- (c) a county council in Wales,
- (d) a county borough council,
- (e) a London borough council,
- (f) the Common Council of the City of London, or
- (g) the Council of the Isles of Scilly;

“the old register”, in relation to a local authority, means the local land charges register kept by the authority under the Local Land Charges Act 1975 before the relevant date;

“the new register” means the local land charges register kept by the Chief Land Registrar under the Local Land Charges Act 1975;

“the relevant date”, in relation to a local authority, means the date on which Parts 1 and 3 of this Schedule first had effect in relation to the authority's area.

(2) For the purposes of this Part of this Schedule the area of the Common Council of the City of London includes the Inner Temple and the Middle Temple.

(3) Expressions used in this Part of this Schedule and in the Local Land Charges Act 1975 have the same meaning as in that Act.

Commencement

Sch. 5(4) para. 44(1)-(3): April 12, 2015 (2015 c. 7 Pt 8 s. 57(5)(e))

Extent

Sch. 5(4) para. 44(1)-(3): England, Wales

SCHEDULE 6
COMMUNITY ELECTRICITY RIGHT REGULATIONS

Section 38

PART 1
THE RIGHT TO BUY

Law In Force

1 “Right to buy regulations”

In this Schedule “right to buy regulations” means regulations under subsection (1) of section 38.

Commencement

Sch. 6(1) para. 1: June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 1: England, Wales, Scotland

Law In Force

2 Kinds of facilities in relation to which right to buy exercisable

(1) Right to buy regulations must specify the kind, or kinds, of renewable electricity generation facilities in relation to which the right to buy is to be exercisable.

(2) The regulations must secure that the right to buy is not to be exercisable in relation to a renewable electricity generation facility if the total installed capacity of the facility is expected to be less than 5 megawatts.

(3) The regulations may specify a kind of renewable electricity generation facility by reference to one or more of the following factors—

- (a) the renewable source of energy used at the facility;
- (b) the technology used to generate electricity at the facility;
- (c) the electricity generation capacity of the facility;
- (d) whether the facility is a land—based facility or an offshore facility.

Commencement

Sch. 6(1) para. 2(1)-(3)(d): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 2(1)-(3)(d): England, Wales, Scotland

Law In Force

3 Identification of qualifying facilities

(1) Right to buy regulations must make provision enabling those renewable electricity generation facilities which are qualifying facilities to be identified.

(2) The regulations may make provision enabling the following to be identified—
(a) different renewable electricity generation facilities located at the same site;
(b) any facility at that site which is a qualifying facility.

(3) The regulations may make provision enabling the following to be identified in cases where there is expansion at a site where a renewable electricity generation facility is located—
(a) any new renewable electricity generation facility created by the expansion;
(b) any facility at that site which is a qualifying facility (including any existing facility which becomes a qualifying facility because its total installed capacity is expected to be 5 megawatts or more as a result of the expansion).

(4) Right to buy regulations may make provision about cases in which the right to buy is not to be exercisable in relation to a renewable electricity generation facility which would otherwise be a qualifying facility (an “excepted facility”).

(5) The functions that may be conferred by regulations under sub-paragraph (4) (in accordance with section 39(1)) include—
(a) the function of determining whether or not a renewable electricity generation facility is an excepted facility;
(b) the function of specifying that a particular renewable electricity generation facility is an excepted facility.

(6) The regulations may provide for an excepted facility to be identified by reference to one or more of the following factors—
(a) community ownership of the facility;
(b) community ownership of a stake in the facility;
(c) non-participation in a statutory energy scheme (whether or not there could be participation in the scheme in respect of the facility).

Commencement

Sch. 6(1) para. 3(1)-(6)(c): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 3(1)-(6)(c): England, Wales, Scotland

✔ Law In Force

4 The promoter

(1) Right to buy regulations must make provision enabling the promoter of a qualifying facility to be identified in a case where the promoter is not, or is not expected to become, the facility operator.

(2) In this paragraph “promoter” means a person developing a qualifying facility.

Commencement

Sch. 6(1) para. 4(1)-(2): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 4(1)-(2): England, Wales, Scotland

✔ Law In Force

5 The community

(1) Right to buy regulations must make provision enabling the following to be identified—

- (a) the community in which a land—based facility is located;
- (b) the community adjacent to which an offshore facility is located.

(2) A community must be a geographical area which is—

- (a) wholly in England, wholly in Wales or wholly in Scotland;
- (b) partly in England and partly in Wales; or
- (c) partly in England and partly in Scotland.

(3) A community may be identified by reference to one or more of the following factors—

- (a) distance measured from the facility or some other point (such as a point on a coastline adjacent to an offshore facility);
- (b) the number of residents;
- (c) administrative boundaries of any kind.

Commencement

Sch. 6(1) para. 5(1)-(3)(c): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 5(1)-(3)(c): England, Wales, Scotland

✔ Law In Force

6 The members of the community

(1) Right to buy regulations must make provision enabling the following to be identified—

- (a) individuals who may exercise the right to buy;
 - (b) groups who may exercise the right to buy.
- (2) The individuals who may exercise the right to buy may be identified by reference to one or more of the following factors—
- (a) how old an individual is;
 - (b) how long an individual has been resident in the community;
 - (c) whether the community is an individual's only (or main) place of residence.
- (3) Right to buy regulations may specify the kind, or kinds, of individuals who may not exercise the right to buy.
- (4) Those kinds of individuals may be identified by reference to one or more of the following factors—
- (a) whether an individual is, or has been, bankrupt or subject to any other kind of arrangement relating to indebtedness;
 - (b) whether an individual has been convicted of a criminal offence involving fraud;
 - (c) whether an individual is connected with—
 - (i) the designated promoter or facility operator, or
 - (ii) bodies or individuals connected with the designated promoter or facility operator.
- (5) The groups who may exercise the right to buy may be identified by reference to one or more of the following factors—
- (a) the legal form of the group;
 - (b) the constitution, structure and management of the group;
 - (c) the criteria for membership of the group (including criteria relating to residence);
 - (d) the members of the group;
 - (e) the aims of the group;
 - (f) the activities of the group (including economic activities);
 - (g) the geographical area or areas in which, or in relation to which, the group operates;
 - (h) the treatment of income and profits of the group;
 - (i) the treatment of assets of the group (including on its dissolution);
 - (j) whether the group is connected with—
 - (i) the designated promoter or facility operator, or
 - (ii) bodies or individuals connected with the designated promoter or facility operator.
- (6) The provision that may be made about membership, or members, of the group under sub-paragraph (5)(c) or (d) includes provision of any kind that may be made under sub-paragraph (2) or (4) about individuals.
- (7) Right to buy regulations may specify the kind, or kinds, of groups who may not exercise the right to buy.
- (8) Regulations under this paragraph may make provision about which persons are connected with which other persons for the purposes of any such regulations.
- (9) The regulations may provide that one person (“A”) is connected with another person (“B”) by virtue of—
- (a) a direct or indirect connection;
 - (b) connections arising from employment or office—holding, from family relationships, or from financial arrangements;
 - (c) A being the parent of B or another person connected with B;

- (d) A being a subsidiary of B or another person connected with B.
-

Commencement

Sch. 6(1) para. 6(1)-(9)(d): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 6(1)-(9)(d): England, Wales, Scotland

Law In Force

7 Kinds of stake which may be bought through the right to buy

(1) Right to buy regulations must specify the kinds of stakes in qualifying facilities which may be bought through the right to buy.

(2) A stake may take any of the following forms—

- (a) one or more shares in a company;
- (b) any other interest in a body other than a company;
- (c) an equitable interest;
- (d) a right to a royalty related to revenues;
- (e) a loan.

(3) Right to buy regulations may make provision about the rights, obligations, powers and other terms attaching to a stake.

Commencement

Sch. 6(1) para. 7(1)-(3): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 7(1)-(3): England, Wales, Scotland

Law In Force

8 Particular kind of stake which may be bought in particular facility

(1) Right to buy regulations must require the designated promoter or facility operator to choose the kind, or kinds, of stake in a qualifying facility that are to be available through the right to buy.

(2) The regulations must give the designated promoter or facility operator a choice of at least two different kinds of stake in relation to a qualifying facility.

(3) The regulations must require the designated promoter or facility operator—

- (a) to carry out a consultation before choosing which kind, or kinds, of stake are to be available, and
- (b) to take the results of that consultation into account in making the choice.

Commencement

Sch. 6(1) para. 8(1)-(3)(b): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 8(1)-(3)(b): England, Wales, Scotland

Law In Force

9 The price of the stakes

- (1) Right to buy regulations must make provision about setting the price of the available stakes in a qualifying facility.
- (2) In making the regulations, the Secretary of State must have regard to the desirability of the prices of available stakes reflecting a measure of fair value.
- (3) In this paragraph “available stakes”, in relation to a qualifying facility, means the stakes in the qualifying facility that are to be offered through the right to buy.

Commencement

Sch. 6(1) para. 9(1)-(3): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 9(1)-(3): England, Wales, Scotland

Law In Force

10 Total value of the offer

- (1) Right to buy regulations must require the offer to consist of stakes whose combined price is—
 - (a) equal to, or
 - (b) greater than,the minimum amount described in the regulations.
- (2) That minimum amount must be expressed as a percentage of the total capital costs of development of a qualifying facility.
- (3) That percentage must not exceed 5%.
- (4) The regulations may make provision about—
 - (a) the kinds of costs that are capital costs of development of a qualifying facility;
 - (b) calculation of the total capital costs of development of a qualifying facility.
- (5) The provision about calculation of the total capital costs may provide for the total—
 - (a) to be calculated by reference to a period ending after the time of the calculation (including a period ending with commissioning of the facility);
 - (b) to include costs which have not been incurred at the time of the calculation;

(c) to include estimated costs.

(6) In this paragraph—

“combined price”, in relation to the stakes offered through the right to buy, means the total which the amounts to be paid for all of those stakes will add up to (assuming those stakes are all bought);

“offer” means the offer of stakes in a qualifying facility through the right to buy.

Commencement

Sch. 6(1) para. 10(1)-(6) definition of "offer": June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 10(1)-(6) definition of "offer": England, Wales, Scotland

Law In Force

11 Buying a stake

(1) Right to buy regulations must make provision about the procedure for exercising the right to buy in relation to a qualifying facility (the “purchase procedure”).

(2) The purchase procedure must identify what stake or stakes—

(a) the individuals resident in the community, and

(b) the groups connected with the community,

may buy through the right to buy.

(3) The regulations may require the designated promoter or facility operator to conduct the purchase procedure.

(4) The purchase procedure must identify the period of time during which stakes in a qualifying facility may be applied for (the “application period”).

(5) The purchase procedure must secure that the application period does not begin until after planning consent has been given for the development of the qualifying facility.

(6) Here “planning consent” means whichever of the following is, or are, needed for that facility to be developed—

(a) development consent under the Planning Act 2008;

(b) planning permission under Part 3 of the Town and Country Planning Act 1990;

(c) a marine licence under the Marine and Coastal Access Act 2009;

(d) consent of the Scottish Ministers under section 36 of the Electricity Act 1989;

(e) planning permission under the Town and Country Planning (Scotland) Act 1997;

(f) a marine licence under Part 4 of the Marine (Scotland) Act 2010.

Commencement

Sch. 6(1) para. 11(1)-(6)(f): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 11(1)-(6)(f): England, Wales, Scotland

✔ Law In Force

12 Excessive or insufficient take-up

(1) Right to buy regulations may make provision (including provision relating to the allocation of stakes)—

- (a) about cases where applications made in the application period exceed the available stakes, and
- (b) about cases where applications made in the application period do not exceed the available stakes.

(2) Provision about cases where applications made in the application period do not exceed the available stakes may—

- (a) provide for the right to buy to be modified or to cease to apply;
- (b) identify a subsequent period of time (a “secondary period”) during which the right to buy is to be exercisable.

(3) If right to buy regulations identify a secondary period, the regulations may make, in relation to the secondary period, any provision of the kinds mentioned in sub-paragraphs (1) and (2)(a) that may be made in relation to the application period.

(4) The power under section 55 to make different provision in community electricity right regulations for different purposes includes power to make provision relating to secondary periods that is different from provision relating to application periods.

(5) The provision that may differ includes provision about—

- (a) the community in which a land—based facility is located or adjacent to which an offshore facility is located;
- (b) the individuals resident in a community or the groups connected with a community who may exercise the right to buy.

(6) In this paragraph—

- “application period” has the meaning given in paragraph 11;
- “applications” means applications for stakes in a qualifying facility;
- “available stakes” means the stakes in a qualifying facility that are available to be bought through the right to buy.

Commencement

Sch. 6(1) para. 12(1)-(6) definition of "available stakes": June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 12(1)-(6) definition of "available stakes": England, Wales, Scotland

✔ Law In Force

13 Subsequent disposal of a stake

(1) Right to buy regulations may make provision about the disposal of a stake in a qualifying facility after it has been bought through the right to buy (whether the disposal is by a person who bought the stake through the right to buy or by a person who has subsequently acquired it).

(2) The regulations may impose restrictions or prohibitions on the disposal of a stake.

(3) The regulations may impose duties to dispose of a stake in a case where the holder ceases to be—

- (a) an individual resident in a community, or
- (b) a body connected with a community.

(4) A restriction or prohibition may limit or prevent the disposal of a stake except to an individual or body who—

- (a) would have been able to buy the stake at the time when the right to buy was originally exercisable, or
- (b) would be able to buy the stake at the time of the disposal, were the right to buy exercisable at that time.

Commencement

Sch. 6(1) para. 13(1)-(4)(b): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(1) para. 13(1)-(4)(b): England, Wales, Scotland

PART 2

OPERATORS, OWNERSHIP & RELATED MATTERS

✔ Law In Force

14 "Operator and ownership regulations"

In this Schedule "operator and ownership regulations" means regulations under subsection (2) of section 38.

Commencement

Sch. 6(2) para. 14: June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(2) para. 14: England, Wales, Scotland

✔ Law In Force

15 Bodies that may be facility operators

If operator and ownership regulations specify two or more kinds of bodies which may be a facility operator, the regulations may make provision about which kind of body may own which kind of facility in which circumstances.

Commencement

Sch. 6(2) para. 15: June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(2) para. 15: England, Wales, Scotland

✔ Law In Force

16 Constitutions of facility operators

(1) Operator and ownership regulations may require the constitution of a facility operator to be in accordance with provision specified in the regulations.

(2) In the case of a facility operator that is a company, the regulations may require the constitution of the company to be in accordance with provision about—

- (a) the voting rights attached to, or other characteristics of, shares in the company;
- (b) the issuing of new shares in the company.

Commencement

Sch. 6(2) para. 16(1)-(2)(b): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(2) para. 16(1)-(2)(b): England, Wales, Scotland

✔ Law In Force

17 Ownership of facility operators

(1) Operator and ownership regulations may make provision about the ownership of facility operators.

(2) The regulations may—

- (a) impose limitations on who may own a facility operator;
- (b) require the owners of a facility operator to consist of, or include, one or more persons of a kind specified in the regulations.

Commencement

Sch. 6(2) para. 17(1)-(2)(b): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(2) para. 17(1)-(2)(b): England, Wales, Scotland

Law In Force

18 Conduct of owners of facility operators

(1) Operator and ownership regulations may make provision about the conduct of the owners of facility operators.

(2) The regulations may impose duties, restrictions or prohibitions in relation to the exercise of rights or powers of owners (including a right or power to exercise a vote attached to a share).

Commencement

Sch. 6(2) para. 18(1)-(2): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(2) para. 18(1)-(2): England, Wales, Scotland

Law In Force

19 Revenues

(1) Operator and ownership regulations may make provision about the treatment of the revenues earned by a qualifying facility.

(2) The regulations may restrict or prohibit the making of arrangements affecting the destination of the revenues.

Commencement

Sch. 6(2) para. 19(1)-(2): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(2) para. 19(1)-(2): England, Wales, Scotland

PART 3**INFORMATION**

Law In Force

20 "Information regulations"

In this Schedule “information regulations” means regulations under subsection (3) of section 38.

Commencement

Sch. 6(3) para. 20: June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(3) para. 20: England, Wales, Scotland

Law In Force

21 Particular kinds of information

Information regulations may make provision about the supply of—

- (a) financial information relating to a renewable electricity generation facility;
 - (b) information relating to electricity generation at a renewable electricity generation facility.
-

Commencement

Sch. 6(3) para. 21(a)-(b): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(3) para. 21(a)-(b): England, Wales, Scotland

Law In Force

22 Possible buyers of stakes

Information regulations may make provision about the supply of information by, or to, individuals and groups who are, or may be, interested in exercising the right to buy (were it available to them).

Commencement

Sch. 6(3) para. 22: June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(3) para. 22: England, Wales, Scotland

Law In Force

23 Prospective buyers of stakes

Information regulations may make provision about the supply of information by, or to, individuals and groups who are entitled to exercise the right to buy.

Commencement

Sch. 6(3) para. 23: June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(3) para. 23: England, Wales, Scotland

Law In Force

24 Applicants for stakes

Information regulations may make provision about the supply of information by, or to, individuals and groups who are exercising the right to buy.

Commencement

Sch. 6(3) para. 24: June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(3) para. 24: England, Wales, Scotland

Law In Force

25 Owners of stakes

Information regulations may make provision about the supply of information by, or to, individuals and groups who hold—

- (a) stakes which they have bought through the right to buy, or
 - (b) stakes which they have acquired after their sale through the right to buy.
-

Commencement

Sch. 6(3) para. 25(a)-(b): June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(3) para. 25(a)-(b): England, Wales, Scotland

PART 4**SUPPLEMENTARY**

✔ Law In Force

26 Interpretation

In this Schedule—

“body” means an incorporated or unincorporated body of persons;

“company” includes any other kind of incorporated body;

“designated promoter”, in relation to a renewable electricity generation facility, means the promoter identified in accordance with regulations under paragraph 4;

“shares” includes any other instrument by which a person holds an interest in the equity of an incorporated body;

“total installed capacity”, in relation to a renewable electricity generation facility, means the maximum capacity at which the facility could be operated for a sustained period without causing damage to it.

Commencement

Sch. 6(4) para. 26 definition of "body" - definition of "total installed capacity": June 1, 2016 (2015 c. 7 Pt 8 s. 57(7)(a))

Extent

Sch. 6(4) para. 26 definition of "body" - definition of "total installed capacity": England, Wales, Scotland

SCHEDULE 7 THE LICENSING LEVY [...]¹

Notes

¹ Repealed by Energy Act 2016 c. 20 Sch.1(1) para.76 (October 1, 2016)

❌ Repealed

1 [...]¹

Notes

¹ Repealed by Energy Act 2016 c. 20 Sch.1(1) para.76 (October 1, 2016)

❌ Repealed

2 [...]¹

Notes

¹ Repealed by Energy Act 2016 c. 20 Sch.1(1) para.76 (October 1, 2016)

❌ Repealed

3 [...]¹

Notes

¹ Repealed by Energy Act 2016 c. 20 Sch.1(1) para.76 (October 1, 2016)

R Repealed

4 [...]¹

Notes

¹ Repealed by Energy Act 2016 c. 20 Sch.1(1) para.76 (October 1, 2016)

R Repealed

5 [...]¹

Notes

¹ Repealed by Energy Act 2016 c. 20 Sch.1(1) para.76 (October 1, 2016)

R Repealed

6 [...]¹

Notes

¹ Repealed by Energy Act 2016 c. 20 Sch.1(1) para.76 (October 1, 2016)

R Repealed

7 [...]¹

Notes

¹ Repealed by Energy Act 2016 c. 20 Sch.1(1) para.76 (October 1, 2016)

R Repealed

8 [...]¹

Notes

¹ Repealed by Energy Act 2016 c. 20 Sch.1(1) para.76 (October 1, 2016)

EXPLANATORY NOTE

INTRODUCTION

1. These explanatory notes relate to the Infrastructure Act 2015 which received Royal Assent on 12 February 2015. They have been prepared by the Department for Transport, in conjunction with the Department for Communities and Local Government, the Department for Environment, Food and Rural Affairs, the Land Registry, the Department of Energy and Climate Change, Her Majesty's Revenue and Customs and Her Majesty's Treasury in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY

3. The Act is in 8 Parts and contains 7 Schedules.

4. Part 1 and Schedules 1 to 3 make provision for the appointment of “strategic highways companies” to manage strategic roads in England in place of the Highways Agency.

5. Part 2 makes provision for a cycling and walking investment strategy. Part 3 relates to the powers of the British Transport Police Force.

6. Part 4 makes provision for the environmental control of animal and plant species through species control agreements and orders.

7. Part 5 makes provision about nationally significant infrastructure projects, deemed discharge of planning conditions and about the Homes and Communities Agency (HCA) and other bodies, including the Greater London Authority (GLA). Part 5 together with Schedule 4 amends the Town and Country Planning Act 1990 to enable the Mayor of London to grant planning permission by Mayoral development order. Part 5 together with Schedule 5 provides for the Land Registry to assume responsibility for the registration of local land charges and to have wider powers to provide information, document and register services relating to land and other property. The Part also allows for provision to be made in building regulations for off-site carbon abatement measures.

8. Part 6 and Schedule 6 make provision about a community electricity right which, if exercised, will give individuals resident in a community, or groups connected with a community, the right to buy a stake in a renewable electricity development in or adjacent to the community. Part 6 together with Schedule 7 makes provision for maximising the recovery of UK petroleum. Part 6 makes provision about the Extractive Industries Transparency Initiative, petroleum and geothermal energy in deep-level land and Renewable Heat Incentives. It also amends the Electricity Act 1989 with provisions which, if exercised, will enable customers of independent connection providers to recover a proportion of the cost of a new connection from customers who subsequently connect to the same infrastructure.

9. Part 7 makes provision to amend the Public Bodies Act 2011 to enable the Government, should it choose to do so, to abolish the Board of Public Works Loan Commissioners and transfer its

functions to another body through the process set out in the 2011 Act. Part 8 contains some general provisions that apply to the Act as a whole.

TERRITORIAL EXTENT AND APPLICATION

10. The provisions in Part 1 extend to England and Wales only, save that sections 16 and 18 to 20 extend to the United Kingdom, and that amendments and repeals generally have the same extent as the provision being amended or repealed.

11. Part 2 extends to England and Wales but applies to England only.

12. In Part 3, section 22(1) extends to England and Wales only and section 22(2) extends to England, Wales and Scotland.

13. The provisions in Part 4 extend to England and Wales only.

14. The provisions in Part 5 relating to nationally significant infrastructure projects under the Planning Act 2008 extend and apply to England and Wales and (in relation to certain oil and gas cross-border pipelines) Scotland. The 2008 Act deals with matters that are not devolved so far as Wales and Scotland are concerned. The provisions for off-site carbon abatement measures also extend to England and Wales. The provisions relating to deemed discharge for planning conditions, and the HCA and other bodies extend to England and Wales and apply to England only.

15. Part 5 and Schedule 4 relating to Mayoral development orders extend to England and Wales only but the power to make a Mayoral development order may be exercised only in relation to a site or sites in Greater London. The provisions in Part 5 relating to expenditure of the Greater London Authority extend to England and Wales only.

16. The provisions in Part 5 relating to Land Registry extend and apply to England and Wales only (except where they consequentially amend an Act with a wider extent). Land registration is devolved to Scotland and Northern Ireland. These are not devolved matters in relation to Wales with the exception of local land charges fees where the current power of the Welsh Ministers to set local land charges fees will be retained.

17. The community electricity right in Part 6 extends to England and Wales and Scotland, and applies there (including the internal waters) and to the Renewable Energy Zone (with the exception of the territorial sea adjacent to Northern Ireland).

18. The provisions concerning the exploitation of petroleum and geothermal energy in deep-level land and safeguards for hydraulic fracturing contained in Part 6 extend to England and Wales, and not to Scotland or Northern Ireland. The provisions concerning the impact of onshore petroleum in England and Wales on the UK's carbon budgets extend to England and Wales and Scotland. In Northern Ireland, responsibility for petroleum and geothermal energy lies with the Northern Ireland Executive's Department of Enterprise, Trade and Investment.

19. The provisions in Part 6 relating to the Extractive Industries Transparency Initiative extend to the United Kingdom. The provisions on maximising the economic recovery of UK petroleum apply to the recovery of petroleum from under relevant waters (the UK territorial sea and Continental shelf). It applies to upstream petroleum infrastructure in so far as it is situated in Great Britain or relevant waters if it is used in relation to petroleum situated under relevant waters. It applies onshore in the UK in so far as it concerns petroleum situated under relevant waters. The remaining provisions in Part 6 extend to England, Wales and Scotland.

20. The provisions in Part 7 extend to the United Kingdom.

21. Part 8 extends to the United Kingdom.

COMMENTARY ON SECTIONS

PART 1 — STRATEGIC HIGHWAYS COMPANIES

22. The strategic road network (SRN) is a network of motorways and trunk roads consisting of around 2% of England's roads and carrying a third of its traffic. The Highways Agency (HA) is the executive agency of the Department for Transport (DfT) responsible for the maintenance, operation and enhancement of the SRN on behalf of the Secretary of State.

23. In June 2013, *Investing in Britain's Future* [Command Paper Cm. 8669] announced the Government's spending plans for roads up to 2020-21. Details of how this would be delivered were firmed up in *Action for Roads* [Command Paper Cm. 8679], published by the DfT in July 2013, alongside proposals on how to reform the existing institutional set-up to ensure delivery of the investment package whilst maximising efficiency. On 29 October 2013, DfT published a consultation document *Transforming the Highways Agency into a Government owned company*.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209279/PU1524_IUK_new_template.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212590/actionfor-roads.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254356/roadsreform-consultation-document.pdf

24. The consultation put forward proposals for:

- The creation of an arms-length Government-owned company and the transfer of powers and duties to allow it to discharge functions that were discharged by the Highways Agency.
- New legislation to underpin the long term funding settlement and new Road Investment Strategy (RIS) processes.
- Power for the Secretary of State to make transfer schemes which would allow assets and liabilities (including land and contractual obligations) to be transferred to a strategic highways company.
- Arrangements for two bodies - a road user watchdog and efficiency monitor - providing independent scrutiny of the company's performance, advising government and being a focal point for road users.

25. The Government published its response on 30 April 2014 and confirmed its intention to bring forward its proposals. The strategic highways company will be incorporated under the Companies Act 2006 limited by shares where the sole shareholder is the Secretary of State. The Government confirmed its intention to establish a governance framework for the strategic highways company comprising legislation, a licence document containing statutory directions and guidance, a Framework Agreement, a Road Investment Strategy and Articles of Association. Those proposals requiring primary legislation are provided for in this Act.

26. The Transport Select Committee published its report *Better Roads: Improving England's Strategic Road Network* (HC 850) on 7 May 2014. The Government's response was published on 24 October 2014 (HC 715). The name for the new organisation, Highways England, was announced on 8 December 2014.

<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmtran/715/71502.htm>

Section 1: **Appointment of strategic highways companies**

27. Section 1 provides for the Secretary of State to appoint one or more companies as a highway authority. Appointment is by order.

28. Subsection (2) provides that a company appointed may only be one that is limited by shares and wholly owned by the Secretary of State — therefore limiting ownership of the company (or companies). Subsection (3) provides further that where the company ceases to be wholly owned by the Secretary of State the appointment automatically terminates.

29. An appointment may also be terminated by the Secretary of State revoking the order under which the appointment is made pursuant to section 14 of the Interpretation Act 1978.

30. A company appointed under this section is to be known as a “strategic highways company” (subsection (4)).

Section 2: **Area and highways in an appointment**

31. Subsection (1)(a) and (b) of section 2 provides that a strategic highways company must be appointed to an area (and that area must be within England) and that the highways within the area in respect of which the company is appointed must be specified (although subsection (2) provides that this may be by name or by description). Subsection (3) provides that the highways specified must be highways for which the Secretary of State (or another strategic highways company) is the highway authority.

32. It is therefore possible, for example, for one company to be appointed for the whole of England, or for two or more companies to be appointed for different areas. The initial policy intention is for the appointment of one strategic highways company for the whole of England.

33. Any order containing the appointment of a single company for the whole of England is not subject to Parliamentary scrutiny. Section 55 provides that an order containing the first appointment of a company in respect of part of England only (ie the first appointment as part of an arrangement for two or more strategic highways companies to be appointed for different areas) is subject to the affirmative resolution procedure. Section 55 provides that an order containing a subsequent appointment of a company in respect of part of England only is subject to the negative resolution procedure.

34. Responsibility for a limited number of highways in Wales is retained by the Secretary of State. Subsection (4) allows for those highways to be included within the appointment.

35. Subsections (5) and (6) provide that in the event of a strategic highways company ceasing to be the highway authority for one or more highways (whether by virtue of a variation or termination of the strategic highways company's appointment) the Secretary of State will automatically become the highway authority for those highways.

Schedule 1 **Strategic highways companies: consequential and supplemental amendments**

Schedule 1 Part 1 — **amendments to the Highways Act 1980**

36. Part 1 of Schedule 1 contains amendments to the Highways Act 1980 to allow one or more strategic highways companies to become highway authorities instead of, or alongside, the Secretary of State. (Otherwise, the Secretary of State is in law the highway authority for the strategic roads network even though his functions are in practice exercised by the Highways Agency.)

37. Where a strategic highways company is appointed, the amendments will have the effect that, for the most part, the powers and duties of the Secretary of State, in relation to the roads included in the appointment, will transfer to the strategic highways company. These include the duty to maintain public highways; powers to construct, maintain and improve highways for which it is responsible; powers to acquire land for the purposes connected with carrying out the functions of a highway authority; and powers to enter into agreements with local highway authorities. A company will also be responsible, where it is the highway authority, for determining whether an environmental impact assessment is required for schemes pursued under powers in the Highways Act 1980. The Secretary of State retains order making powers on the classification of a highway including whether a road is trunked.

38. Paragraph 43 inserts a new section 175B into the Highways Act 1980. It requires consent to be obtained from the strategic highways company for the construction, formation or laying out of any access to or from a trunk road in England. This new power allows the strategic highways company to ensure that access to its network does not interfere with the safety of road users or have a negative impact on the network (for example, by increasing congestion). Where the Secretary of State is the highway authority, these aspects can be managed by the Secretary of State who may give directions restricting the grant of planning permission by local planning authorities for development affecting the strategic road network. These powers of direction will not be available for a strategic highways company to use directly; new section 175B provides a means by which it will be able to safeguard road safety and the integrity of the road network.

Schedule 1 Part 2 - **Other Enactments**

39. Paragraph 68 makes strategic highways companies subject to the Public Records Act 1958. Among other things, this will ensure that documents produced by the company are properly considered for transfer to the National Archives or destroyed.

40. Paragraph 69 amends the Parliamentary Commissioner Act 1967 to add strategic highways companies to the list of Government Departments and public bodies which the Parliamentary and Health Service Ombudsman may investigate. Under current arrangements, complaints made against the Highways Agency may be escalated to the Ombudsman, and this provision allows that arrangement to continue in respect of strategic highways companies in future.

41. Paragraphs 70 to 100 amend the Road Traffic Regulation Act 1984 to make a strategic highways company a traffic authority for all highways for which it is responsible, and to enable the company to exercise all the functions of a traffic authority. So, for example, a strategic highways company will be able to make Traffic Regulation Orders in the same way as local traffic authorities; or to charge for the removal, storage or disposal of vehicles in the same way as other traffic authorities.

42. Paragraph 101 amends the Transport Act 1985 so as to replace a reference to the Highways Agency with a reference to strategic highways companies in connection with functions of the Passengers' Council under that Act.

43. Paragraph 102 amends the Dartford-Thurrock Crossing Act 1988 so that powers exercised by the Secretary of State in his role as 'crossing operator', will transfer to a strategic highways company on its appointment. This will allow a strategic highways company to regulate the use of large vehicles and vehicles carrying dangerous goods and to recover stationary vehicles. A strategic highways company will also be able to appoint traffic officers and carry out maintenance works affecting the Thames and will have a duty to provide certain services to cyclists.

44. Paragraph 103 amends the Road Traffic Act 1988 to allow the Secretary of State to delegate the function authorising the use of special vehicles on the highway. Special vehicles are those vehicles that do not, or cannot, comply with the Road Vehicles (Construction and Use) Regulations 1986 and cannot therefore be lawfully used on the road. Section 44 of the Road Traffic Act 1988 enables the Secretary of State to authorise the use of special vehicles on the road and to make that authorisation subject to certain conditions. Due to the size and nature of abnormal and indivisible loads, they are not capable of being split into component parts and carried on separate vehicles and so special arrangements must apply. The Highways Agency authorises vehicles to carry such loads on behalf of the Secretary of State for motorways and trunk roads in England, Scotland and Wales and the ability of the Secretary of State to delegate this function will enable the new company to continue to carry out this function in the future.

45. Paragraphs 104 to 109 make a number of consequential amendments to highways-related provisions of the Town and Country Planning Act 1990 to ensure that, where appropriate, they apply to a strategic highways company.

46. Paragraphs 110 to 112 amend the Environmental Protection Act 1990 placing the duty to keep land and highways clear of litter on a strategic highways company for special roads (motorways). Local authorities are responsible for this on trunk roads unless the trunk road has been specified as one where the duty has transferred to the Secretary of State. The policy intention is that the strategic highways company is responsible for such specified trunk roads.

47. Paragraphs 113 to 124 amend the New Roads and Street Works Act 1991 to ensure that existing provisions work properly where a strategic highways company becomes a street authority by virtue of its status as a highway authority. In particular, paragraphs 114 to 115 enable the company, where it has entered into a concession agreement in its capacity as highway authority under section 1, to apply a toll with the consent of the Secretary of State in the same way as a local highway authority would do.

48. Paragraphs 125 to 128 amend the Transport Act 2000 to allow the Secretary of State to apply a road use charge on trunk roads where he has appointed a strategic highways company to be the highway authority, in order to preserve the existing arrangements. They also enable a strategic highway company to carry out functions in relation to trunk road charging schemes, such as the installation and maintenance of equipment for the scheme.

49. Paragraphs 129 to 151 amend the Traffic Management Act 2004. Paragraph 130 enables the Secretary of State to delegate his responsibility for deciding the uniform for traffic officers to the company. Paragraphs 135 to 147 amend the existing network management duty which applies to local highway authorities so that it applies to a strategic highways company as well as local highway authorities.

50. Paragraph 152 amends the Civil Contingencies Act 2004 with the effect that a strategic highways company is responsible under that Act as a “category 2” responder required to co-operate and share information in emergency planning arrangements.

51. Section 22 of the Planning Act 2008 sets out the circumstances in which highway-related development is a nationally significant infrastructure project (NSIP) and so subject to the development consent regime under that Act. One of the conditions is that the Secretary of State is or will be the highway authority for the highway. Paragraph 153 amends section 22 to provide that such development will also be an NSIP if a strategic highways company is or will be the highway authority.

Section 3: **Road Investment Strategy**

52. Section 3 provides that each strategic highways company must have a Road Investment Strategy comprising a statement of the objectives to be achieved by the strategic highways company and the financial resources which will be provided by the Secretary of State to achieve those objectives. Under subsection (5), the Secretary of State must have regard to the effect of the Strategy on the environment and safety of users of the highway in setting or varying a Strategy. Subsection (6) requires the Secretary of State and the strategic highways company to comply with the Road Investment Strategy.

Schedule 2 **Road Investment Strategy**

53. Schedule 2 describes the procedure for setting and varying a Road Investment Strategy. Paragraph 1(2) contains a transitional provision to the effect that the procedure does not apply for the first Road Investment Strategy, so long as the Secretary of State publishes it within a year of section 3 coming into force.

54. Part 1 governs the procedure for setting a Road Investment Strategy. It describes the steps that the Secretary of State takes and those steps the company takes in response. The Secretary of State's initial proposals must specify objectives to be achieved by the company, the financial resources to be provided by the Secretary of State and the time period which is to be covered by the proposed Road Investment Strategy. The Secretary of State may only finalise a Strategy if satisfied that appropriate consultation has taken place. It is anticipated that some or all of that consultation may ordinarily be undertaken by the strategic highways company.

55. Part 2 governs the procedure for varying a Road Investment Strategy which has been settled and published. The procedure is similar to that described in Part 1, except that there is a specific requirement on both the Secretary of State and the strategic highways company to have regard to the desirability of maintaining stability and certainty in respect of Road Investment Strategies.

Section 4: **Route strategies**

56. Section 4 requires the Secretary of State to direct a strategic highways company to prepare route strategies. The company must comply with such a direction and publish route strategies in such manner as it considers appropriate. Route strategies provide the evidence base for operational or investment decisions for the strategic road network and section 4 ensures that this practice will continue.

Section 5: **General duties of a strategic highways company**

57. Section 5 contains high level general duties which a strategic highways company must observe when exercising its functions. Subsection (1) provides that the company must cooperate so far as reasonably practical with other bodies which exercise functions which relate to highways or planning. Subsection (2) provides that the company must have regard to the effects which exercising its functions may have on the environment and road safety.

Section 6: **Directions and guidance**

58. Section 6 allows the Secretary of State to direct or guide a strategic highways company in the way it carries out its functions. The company must comply with any directions and have regard to any guidance when exercising its functions. The Secretary of State must publish all directions and guidance in such form as he considers appropriate.

Section 7: **Delegation of functions**

59. Section 7 allows a strategic highways company to authorise another person to exercise its functions, so long as the functions are specified in regulations made by the Secretary of State. Functions delegated in this way may be exercised by both the authorised person and employees of that person (section 8(1)) and may continue to be exercised by a strategic highways company notwithstanding the delegation (subsection (3)(a)). Powers or rights of entry and powers or duties to make subordinate legislation (e.g. certain orders under the Highways Act 1980) may not be delegated (subsection (6)).

Section 8: Exercise of delegated functions

60. This section sets out further details as to the basis on which functions which are delegated under section 7 are exercised. Subsection (2) provides that where a delegated function under section 7 is exercised by a company, anything done by it or its employees in connection with the actual or purported exercise of the function is to be treated as having been done by the company subject to the exceptions set out in subsection (3). Subsection (4) provides that Schedule 15 to the Deregulation and Contracting Out Act 1994, which imposes restrictions on the disclosure of information in respect of functions which are delegated under that Act, applies in respect of functions which are delegated under section 7.

Section 9: Watchdog

61. Section 9 provides for the Passengers' Council (which is generally known as Passenger Focus) to carry out activities to protect and promote the interests of road users in relation to those roads managed by a strategic highways company.

62. Subsection (3) permits the Secretary of State to make regulations (following consultation with the Passengers' Council) which narrow the scope of the functions conferred on the Passengers' Council by this section. This power is subject to the negative resolution procedure.

63. Subsection (6) provides for the Passengers' Council to be able to carry out equivalent functions in respect of local highway authorities and their performance, subject to agreement with the relevant local highway authority.

Section 10: Monitor

64. Section 10 provides for the Office of Rail Regulation (ORR) to monitor how a strategic highways company carries out its functions. Those activities may include investigating and publishing reports or giving advice on how the company has achieved its objectives under a Road Investment Strategy and the effect of directions and guidance given to it by the Secretary of State.

65. Subsection (3) provides powers for the ORR to direct a strategic highways company to provide information to enable it to carry out its monitoring duties.

66. Subsection (8) requires the Secretary of State to lay before Parliament any report published by the ORR under section 10.

67. Subsection (9) inserts a new section 15A into the Railways and Transport Safety Act 2003 allowing the Secretary of State to make regulations to change the name of the ORR.

Section 11: Monitor: compliance and fines

68. Section 11 allows the ORR to take enforcement action against a strategic highways company if it fails to meet the requirements set out in a Road Investment Strategy or fails to comply with directions (or have regard to guidance) issued by the Secretary of State under section 6. The ORR may require the company to take steps to remedy a contravention or require it to pay a fine.

Section 12: Monitor: general duties

69. Section 12 sets out the monitor's high level general duties in relation to its roads functions. It is required to exercise these functions in a way that it considers is most likely to promote the performance and efficiency of strategic highways companies. It must also have regard to the further factors listed in subsections (2) and (3).

Section 13: Monitor: guidance

70. Section 13 provides for guidance to be given to the ORR. Subsection (1) allows the Secretary of State to guide the ORR as to the way in which it is to carry out its monitoring activities under section 10. The Secretary of State and the Treasury, acting jointly, are required to give the ORR guidance on the circumstances in which fines should be imposed on a strategic highways company (subsection (2)). The ORR must have regard to guidance given to it under this section and the Secretary of State must publish the guidance in such form as he or she considers appropriate.

Section 14: Periodic reports by the Secretary of State

71. Section 14 places a duty on the Secretary of State to prepare and publish reports periodically on the exercise by a strategic highways company of its functions.

Section 15: Transfer schemes

72. Section 15 allows the Secretary of State to make schemes transferring property, rights and liabilities when a company is appointed, or ceases to be appointed, as a strategic highways company. Subsection (1) allows flexibility for the transfer of assets between the Secretary of State and a company (or in reverse), between companies if needed where there is more than one company or to a proposed strategic highways company having the effect that assets can be transferred at the time of appointment or very shortly before appointment to ensure that the company is operationally capable from the day of appointment.

Schedule 3 Transfer schemes

73. This Schedule contains further provisions governing transfer schemes made under section 15.

74. Paragraphs 1 and 2 set out how a transfer scheme may specify or identify property, rights and liabilities to be transferred. They also provide when the scheme may come into force and define what may be transferred under a scheme. Paragraph 3 allows a scheme to create new rights and liabilities as between transferors, transferees and third parties. Paragraph 4 provides for a scheme to oblige a transferee or transferor to enter into agreements, or execute instruments, in favour of certain others.

75. Paragraph 5 provides that transfer schemes made under this Act shall have the effect of vesting property, rights and liabilities in the transferee without the need for any further formalities.

76. Paragraph 6 provides for the transfer of any statutory powers or duties the transferor may have in relation to property, rights and liabilities transferring under a scheme.

77. Paragraph 8 allows the transferor and transferee to modify a transfer scheme by agreement after it has come into force. Where the agreement relates to a contract of employment or adversely affect the interests of a third party, the agreement will only be valid if the relevant employee or third party is party to it.

78. Paragraph 9 contains provision for continuity of employment rights for employees of the transferor who become, by virtue of a transfer scheme, employees of the transferee. It also provides

safeguards in relation to the pension entitlement of employees transferred under a transfer scheme. Sub-paragraph (2) makes it clear that transferred staff retain the terms and conditions under their existing contracts of employment. Sub-paragraph (3) sets out what happens if an individual objects to the transfer of their employment contract under a transfer scheme before it takes effect. The contract of employment will be terminated immediately before the point at which the transfer has taken place but the employee is not to be considered to have been dismissed for any purpose. Sub-paragraph (4) preserves an individual's right to terminate their contract of employment where there is a substantial detrimental change in the individual's working conditions, other than the change of employer.

79. Paragraph 10 provides for circumstances in which compensation may be payable to third parties as a result of provisions in a transfer scheme.

80. Paragraph 11 provides a power for the Secretary of State to require a company to provide him or her with information which he or she needs in order to be able to make a scheme. The company may be subject to a notice and ultimately a court order if it does not comply with a request for information.

Section 16: Tax consequences of transfers

81. Section 16 allows the Treasury to make provision about the tax consequences of a transfer of property, rights and liabilities either under a transfer scheme or occurring by virtue of section 263 of the Highways Act 1980 (which will have the effect that where a company becomes a highway authority the highways in respect of which it is appointed will vest in the company). The intention, broadly speaking, is to ensure that a transfer is “tax neutral” — that is, that no charge to tax arises merely because of a transfer.

Section 17: Financial assistance

82. This section provides the Secretary of State with authority to provide financial resources to any person for the purposes of transport services by land in England. This power will be used in particular to provide funding to a strategic highways company, and also (inter alia) to provide funding to the Office of Rail Regulation and the Passengers' Council in respect of their functions under the Act as monitor and watchdog respectively in connection with the performance of a strategic highways company. Financial assistance may take the form of grants, loans or guarantees (subsection (3)). The power conferred by the section supersedes an earlier power in the Ministry of Transport Act 1919, to which a consequential amendment is made in subsection (7).

Section 18: Transfer of additional functions

83. Section 18 provides for the Secretary of State to amend by regulations other legislation so as to transfer additional functions concerning highways or planning from the Secretary of State to a strategic highways company. This power is subject to the affirmative procedure.

PART 2— CYCLING AND WALKING INVESTMENT STRATEGIES

Section 21: Cycling and walking investment strategies

84. Section 21 places a duty on the Secretary of State to set a Cycling and Walking Investment Strategy for England, to review or replace the Strategy regularly — at least once every five years — and to report periodically to Parliament on progress towards meeting its objectives. It is necessary for the Strategy to specify objectives and the financial resources to be made available by the Secretary of State for the purposes of achieving these objectives, and the period to which it relates.

The Secretary of State is required to consult when setting or varying a Strategy, and to bear in mind the desirability of certainty and stability in relation to the Strategy when considering a variation.

PART 3: POWERS OF BRITISH TRANSPORT POLICE FORCE

Section 22: Powers of British Transport Police Force

85. Subsection (1)(a) amends section 100 of the Anti-Terrorism, Crime and Security Act 2001 so as to extend the jurisdiction of the British Transport Police (BTP) to the prevention of damage to property. Subsection (1)(b) removes the requirement for BTP officers to either be in uniform or able to produce a warrant card, subject to any limitations placed on them under the Police and Criminal Evidence Act 1984. It leaves however unchanged the requirement for the BTP officer, in those circumstances where their assistance has not been requested by the local force, to decide whether their immediate intervention is necessary.

86. Subsection (2) amends section 172 of the Road Traffic Act 1988 to add a reference to the Chief Officer of the BTP Force to subsection (2)(a). Section 172(2)(a) deals with the identification of drivers who commit road traffic offences. It imposes a duty on keepers of vehicles and other persons to comply with police requests for information about the identity of the person who was driving a vehicle at the time when a road traffic offence was committed.

PART 4— ENVIRONMENTAL CONTROL OF ANIMAL AND PLANT SPECIES

87. Invasive non-native species pose serious threats to biodiversity, the water environment, economic prosperity, human health and welfare. The economic impact in the UK has been estimated as a minimum of £1.8 billion per annum which includes £1 billion to the agriculture and horticulture sectors and over £200m to the construction, development and infrastructure sectors. Early eradication is critical to tackling invasive non-native species — for example, it is estimated that the early eradication of the invasive aquatic plant water primrose would cost £73,000 compared to £242 million if the plant became fully established as it has in France and Belgium.

88. At present, Defra's and the Welsh Government's network bodies have to rely on reaching voluntary agreements with landowners to undertake work or to gain access to their land to eradicate invasive non-native species found there. Whilst most landowners are willing to enter into voluntary agreements, experience has shown that a small minority (around 5%) are not. In contrast to powers available under animal and plant health legislation to combat disease and pests, the network bodies have no powers to require landowners to act, or powers of entry for surveillance or to carry out work themselves in respect of invasive non-native species. This places England and Wales in a vulnerable position in terms of biosecurity.

89. Therefore, new powers have been taken to require landowners to take action on invasive non-native species or permit others to enter the land and carry out those operations. The intention is that these powers are used in exceptional circumstances where a voluntary approach cannot be agreed and there is a clear and significant threat from inaction. These provisions include the creation of new criminal offences and new powers of entry.

90. These provisions formed part of the Law Commission's consultation on its Wildlife Law Project in 2012. The Law Commission subsequently produced a report in January 2014 specifically on species control orders, which has formed the basis of the model set out in the Act.

<http://lawcommission.justice.gov.uk/publications/2612.htm>

91. These provisions were also recommended by the Environmental Audit Committee in its report published in April 2014 on invasive non-native species.

<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmenvaud/913/913.pdf>

Section 23: **Species control agreements and orders**

92. Section 23 inserts a new subsection 14(4A) in the Wildlife and Countryside Act 1981 providing for measures relating to species control agreements and species control orders to be contained in a new Schedule 9A. The provisions of Schedule 9A are described below.

Part 1 — *Overview and interpretation*

93. Paragraph 1 explains that the purpose of this Schedule is to enable species control agreements and orders to be made between environmental authorities and owners of premises, and for species control orders to be made by environmental authorities, to effect eradication or control of invasive non-native species. These measures also extend in more limited circumstances to animals which are no longer normally present in Great Britain; these are animals such as the wolf, lynx, beaver and brown bear that were once normally present in Great Britain but which became extinct.

94. Paragraph 2 defines “invasive” and “non-native”. Although there is no list of “invasive non-native species”, non-native species include those specified in Part 1 and Part 2 of Schedule 9 to the Wildlife and Countryside Act 1981, as well as any animal whose natural range does not include any part of Great Britain and which has been introduced or is present as a result of human activity.

95. Paragraph 2 also defines species which are no longer normally present in Great Britain as those specified in the new Part 1B of Schedule 9 to the Wildlife and Countryside Act 1981; or species whose natural range includes any part of Great Britain but where they have ceased to be ordinarily resident or a regular visitor to Great Britain in a wild state.

96. The proposed codes of practice (paragraphs 26 and 27 of the new Schedule) will set out circumstances where it may be appropriate to make an agreement or order. This will limit their use primarily to recently arrived species that are not widely established in England and Wales.

97. Paragraph 3 establishes that the Secretary of State, Natural England, the Environment Agency, the Forestry Commission in England and, in Wales, the Welsh Ministers and the Natural Resources Body for Wales will have powers to make species control agreements and orders.

98. Paragraph 4 defines the term “owner” as a freeholder, leaseholder or a person who exercises powers of management or control of the premises.

99. Paragraph 5 sets out the types of operations that may be agreed or ordered. Paragraph 5(2) clarifies that that a reference to “carrying out” operations in this Schedule also includes arranging for operations to be carried out by someone else. An owner or an environmental authority may wish to arrange for operations to be carried out by a contractor on their behalf.

Part 2 — *Species control agreements*

100. Paragraphs 6 and 7 describe the making and content of a species control agreement. Paragraph 6(3)(a) establishes the principle that before entering into a species control agreement, an environmental authority must be satisfied that the provisions of the proposed agreement are proportionate. Paragraph 6(3)(b) places an obligation on the environmental authority to be satisfied that where there may be more than one owner of the premises, the owner with whom the agreement is made is the most appropriate one.

101. In the case of species that are no longer normally present, paragraph 6(4) restricts species control agreements to animals which are present on premises without a licence under section 16(4)(c) of the 1981 Act (that is, a licence from Natural England or Natural Resources Wales which is

required before such animals can lawfully be released into the wild). It also sets out that such species must be having a significant adverse impact on biodiversity, environmental, social or economic interests and the environmental authority must be satisfied that there is no appropriate alternative way of obviating that impact.

102. If an agreement relates to a dwelling, paragraph 6(5) provides that the only environmental authorities that may enter into such an agreement are the Secretary of State or the Welsh Ministers. The purpose of this restriction is to provide an additional check to ensure that such powers are used sparingly in relation to dwellings, and only as last resort.

103. Paragraph 8 requires an environmental authority to notify an owner when it considers that the owner has completed all the operations required by a species control agreement and the agreement is, therefore, no longer in effect.

104. Paragraph 9 limits the liability of the environmental authority for any operations carried out in accordance with a species control agreement to the owner with whom the agreement is made, rather than anyone who may hold a legal interest in the premises.

Part 3 — *Species control orders*

105. Paragraph 10 describes the circumstances where a species control order may be made. Paragraph 10(2)(a) allows an environmental authority to make a species control order where it considers that an owner has breached the terms of a species control agreement, but only after giving notice to that effect and allowing an owner a reasonable opportunity to rectify the alleged breach.

106. Paragraph 10(2)(b)(i) is designed to allow the environmental authority to make a species control order if it receives a categorical response from an owner that they will not enter into a species control agreement before waiting for the 42 day period set out in paragraph 10(2)(b)(ii) to expire. Paragraph 10(2)(b)(ii) allows the environmental authority to make a species control order where an owner has not entered into a species control agreement after 42 days, but only if it concludes that the owner is unlikely to enter into an agreement. This places the onus on the environmental authority to satisfy itself that an agreement is unlikely to be reached before making an order.

107. Paragraph 10(2)(c) allows an environmental authority to make a species control order where there is urgent necessity, without having to go through the process of offering a species control agreement. The circumstances where this may be appropriate will be set out in the proposed ministerial code of practice and will indicate that these emergency species control orders should only be made in exceptional circumstances. However, there may be legitimate circumstances where the environmental authority needs to eradicate a species as a matter of urgency, particular if it was concerned that any delay could result in the species becoming more widely established.

108. Paragraph 10(4) restricts species control orders to only those species no longer normally present which are present on premises without a licence from Natural England or Natural Resources Wales, which would be required before such animals can be lawfully released into the wild. It also sets out that such species must be having a significant adverse impact on biodiversity, environmental, social or economic interests and the environmental authority must be satisfied that there is no appropriate alternative way of obviating that impact.

109. Paragraph 10(5) restricts a species control order from being made in relation to any dwelling unless it is made by either the Secretary of State or the Welsh Ministers. The purpose of this

restriction is to provide an additional check to ensure that such powers are used sparingly in relation to dwellings, and only as last resort.

110. Paragraph 11 sets out what detail must be contained within a species control order in different specified circumstances. This includes provision requiring the owner to carry out species control operations, provision stating that the environmental authority proposes to carry out operations, or both.

111. Paragraph 12 sets out the other details that must be included in all species control orders, such as the operations to be carried out and the time by which they must, or are proposed to be, completed.

112. Paragraph 13 sets out other provisions that may be included in a species control order in addition to that required under paragraphs 11 and 12. Paragraph 14 provides that, after a species control order is made, notice must be given to all owners of the premises concerned, and to the Secretary of State and the Welsh Ministers.

113. Paragraph 15 provides for a species control order to be revoked at any time by the environmental authority that made it. An environmental authority may wish to revoke a species control order if it was no longer required. For example, the species may no longer be present on the premises. An environmental authority may also wish to revoke a species control order if it was no longer fit for purpose. In these circumstances, an environmental authority may wish to offer a new species control agreement or make a new species control order, though the process would be required to start afresh.

114. Paragraph 16 provides for an owner of premises, which become subject to a species control order, to appeal to the First-tier Tribunal against either the making of the order or any provision contained within it. Paragraph 16(2) sets out what action the First-tier Tribunal may take in determining an appeal.

115. Paragraph 17 requires an environmental authority to notify an owner when it considers that the owner has completed all the operations required by a species control order and the order is, therefore, no longer in effect.

116. Paragraph 18 allows an environmental authority to carry out the operations itself should an owner fail to comply with the terms of the order where the owner has not rectified the breach within a week of being given notice by the authority of the existence of that breach. Paragraph 18(5) also allows the environmental authority to recover any costs of those operations, reasonably incurred, from the owner.

117. Paragraph 19 sets out the offences relating to the new regime. It will be an offence to fail to comply, without reasonable excuse, with a requirement of a species control order. It will also be an offence to intentionally obstruct a person from carrying out an operation required or proposed under a species control order.

118. Paragraph 20(1) removes any liability of an owner to any person when that owner is doing anything in accordance with a species control order. Paragraph 20(2) removes the liability of an environmental authority to any person with an interest in the premises for any action it, or an owner, carries out in accordance with a species control order.

Part 4 — *Powers of entry*

119. Paragraph 21 provides for new powers of entry to support these proposals. Paragraph 22(1) sets out the circumstances in which powers of entry will require a warrant from a justice of the peace before they can be exercised. This includes, for example, where the premises are unoccupied

or admission is refused by the owner. Paragraph 22(1)(e) says that a warrant is required where giving notice would defeat the purpose of the proposed entry. This is to deal with the situation where an environmental authority was concerned that giving notice to the owner may result in them inappropriately disposing of the species, perhaps by transporting the animals elsewhere. Where the Secretary of State or the Welsh Ministers have made an order that relates to premises consisting of a dwelling, paragraph 22(1)(a) ensures that a warrant must be obtained in order to exercise a power of entry in relation to those premises.

120. Paragraph 23 establishes that at least 48 hours' notice should be given to an owner before exercising the powers of entry.

121. Paragraph 24 sets out how and when the powers of entry may be exercised. Paragraph 24(1) establishes that a right of entry is exercisable at any reasonable time. Whilst the environmental authorities would ordinarily seek to exercise rights of access during normal office hours, there may be other times when the operations may be best carried out. For example, the best time for shooting operations, including minimising disruption, may be at dawn or dusk. Surveillance operations for some species may be necessary in the evening.

Part 5 — *Supplementary*

122. Paragraph 25(1) provides that the Secretary of State and the Welsh Ministers may make arrangements separately or jointly to compensate an owner in respect of financial loss resulting from a species control agreement or order, or the exercising of the powers of entry.

123. Paragraph 26 requires the Secretary of State to issue a code of practice for species control agreements and orders in relation to England and sets out what must be contained in it, including the appropriate standards of animal welfare that should be met in respect of species control operations. Paragraph 26(4) ensures the Secretary of State carries out a public consultation before issuing, revising or replacing the code of practice. Paragraph 26(5)(a) requires of the Secretary of State to ensure that the code of practice is publicised appropriately so that those people with a likely interest are made aware of it. Paragraph 26(5)(b) requires the Secretary of State to lay a copy of the code before Parliament.

124. Paragraph 27 imposes similar requirements on the Welsh Ministers as those on the Secretary of State in relation to a code of practice.

125. Paragraph 28(1) provides that a person is not liable to civil or criminal proceedings merely for a breach of the code. Paragraph 28(2) enables the code to be admissible in evidence in any civil proceedings. Where it appears to the court to be relevant, it must be taken into account in any such proceedings.

126. Subsections (4) to (6) of the section are consequential amendments disapplying certain sections in the Wildlife and Countryside Act 1981 to these provisions.

Sections 24 and 25: Schedule 9 to the Wildlife and Countryside Act 1981

127. Section 24 amends Schedule 9 to the Wildlife and Countryside Act 1981 so that it is divided into three distinct Parts — non-native species (Part 1); native species (Part 1A); and animals no longer normally present (Part 1B). This allows native species on Part 1A to be removed entirely from the scope of the species control provisions and permits those animals listed on Part 1B (Eurasian beaver and wild boar) to remain within scope of the species control provisions only where they are present on premises, unlawfully, without a licence.

128. The inclusion of the Eurasian beaver in Part 1B of Schedule 9 to the Wildlife and Countryside Act 1981 in respect of England also secures legal certainty that a licence from Natural England is required before the beaver can be lawfully released into the wild.

129. Section 25 makes consequential changes to the Wildlife and Countryside Act 1981 by amending section 14 (which regulates the release of species into the wild, and section 22 (which allows for Schedule 9 to be amended) so that both sections additionally now refer to the new Parts 1A and 1B of Schedule 9. It also addresses a current anomaly in the titles to section 14ZA and 14ZB of the 1981 Act to clarify that the species for which these sections may be relevant may in fact be species other than non-native species.

PART 5 — PLANNING AND LAND

Nationally significant infrastructure projects

130. The Planning Act 2008 (“the 2008 Act”) established the regime governing applications in respect of nationally significant infrastructure projects. In 2013, the Government launched a review of the regime, which concluded that it is operating well and that major change is both unnecessary and undesirable. The review did, however, identify a number of minor improvements which would strengthen the regime further. Some of these can only be implemented by amendment of the 2008 Act.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306404/Government_response_to_the_consultation_on_the_review_of_the_Nationally_Significant_Infrastructure_Planning_Regime.pdf

131. Sections 26 and 27 make changes to the procedures under which a major infrastructure project under the 2008 Act is examined. The 2008 Act provides for an “Examining authority” to carry out examination of a project. The Examining authority may be a single person, or a panel of three, four or five people. Section 26 provides for the Examining authority to be appointed earlier in the process than at present. Section 27 provides that examinations of projects may, additionally, be conducted by panels of two people.

132. The Secretary of State has powers to make changes to, or to revoke, a development consent order which grants permission in respect of a major infrastructure project. Section 28 makes amendments to the powers under which the Secretary of State may make regulations governing the way in which applications to make such a change are considered.

Section 26: Timing of appointment of examining authority

133. Section 26 amends section 61 of the 2008 Act to enable the earlier appointment of examining authorities on applications for development consent for nationally significant infrastructure projects. The amendment enables the Secretary of State to appoint an examining authority immediately after an application for consent has been accepted under section 55 of the 2008 Act.

Section 27: Two-person Panels

134. Section 27 amends the 2008 Act to enable the Secretary of State to appoint a two-person panel as the examining authority for an application for development consent for a nationally significant infrastructure project. The 2008 Act provides for the appointment of a single person, or a panel of three, four or five people. Subsection (1) amends section 65 of the 2008 Act and subsections (2) to (4) make three consequential amendments to that Act: section 68 is amended so that the appointment of additional panel members is only required if a panel is reduced to a single member (rather than reduced to two members); section 73 is amended to remove a current reference to a

panel consisting of two members; and section 75 is amended to clarify the procedure for decision-making for two-person panels.

Section 28: Changes to, and revocation of, development consent orders

135. Section 28 amends the provisions set out in Schedule 6 to the 2008 Act relating to changes to, and revocation of, orders granting consent in respect of nationally significant infrastructure projects (“development consent orders”) by the Secretary of State.

136. The existing paragraph 2 of Schedule 6 provides for an application to be made seeking a “non-material” change to a development consent order. Paragraph 2(8) of Schedule 6 provides, in respect of an application for such a change, that the Secretary of State must comply with prescribed consultation and publicity requirements.

137. Subsection (2)(a) amends paragraph 2(8) to provide that the duty to comply with consultation and publicity requirements may be placed upon the person who has made the application for a non-material change to a development consent order.

138. Subsection (2)(b) clarifies that the power to make regulations under paragraph 2(8) of Schedule 6 includes power to allow the Secretary of State, or the person making the application, to exercise a discretion. The intention is to clarify that the power allows regulations to include, for instance, provision allowing the Secretary of State to disapply prescribed consultation requirements where this is considered appropriate.

139. Paragraph 3 of Schedule 6 makes provision in respect of “material” changes to development consent orders, including in circumstances where an application for such a change is made. Subsection (3) confirms that the Secretary of State may refuse to exercise the power to make a material change in response to an application if it is considered that the development that would be authorised as a result of the change should properly be subject to an application under section 37 (applications for orders granting development consent) of the 2008 Act. This provision is to ensure that the Secretary of State can refuse to change an existing order where it is considered that an application for a change should be treated as a new application for development consent.

140. Paragraph 4(4) of Schedule 6 provides power for the Secretary of State to make regulations about the procedure to be followed where an application for a material change to a development consent order is made. Subsection (4) clarifies that this power includes power to allow a person to exercise a discretion. The rationale for this change is the same as that in respect of the amendment to paragraph 2(8) of Schedule 6.

Deemed discharge of planning conditions

141. A ‘deemed discharge’ provision is introduced for certain types of planning conditions which require the approval, agreement or consent of the local planning authority where a decision has not been made within a specified period. The effect of a deemed discharge is that the applicant is treated as having received that approval. Exclusions that may be required may be set out in secondary legislation.

Section 29: Deemed discharge of planning conditions

142. Section 29 inserts a new section 74A into the Town and Country Planning Act 1990 (the 1990 Act). Section 74A will allow the Secretary of State to provide by order for the deemed discharge of certain conditions attached to planning permission. The conditions in question are those which require the consent, agreement or approval of the local planning authority and which are imposed on planning permission for development in England.

143. Subsection (1) introduces the power of the Secretary of State to make provision by development order for the deemed discharge of a condition covered by section 74A. A “development order” is an order, subject to the negative resolution procedure, which can set out the procedure for applying for planning permission (see section 59 of the 1990 Act).

144. Subsection (2) limits the provision to conditions placed on planning permission in relation to development in England only. It further limits the provision to the types of conditions which require the consent, agreement or approval of a local planning authority. For example a condition might require the applicant to submit a scheme for the management of construction works on site for the approval of the local authority before development can take place.

145. Subsection (3) sets out that where a condition is deemed to be discharged this means that the approval, consent or agreement of the local planning authority to any matter required by the condition is deemed to have been given. So a deemed discharge would have the effect of ‘discharging’ the applicant from the requirement of gaining the consent, approval or agreement from the local planning authority. This means the authority cannot take enforcement action against the development on the basis that there has been a failure to obtain such consent, approval or agreement. So in the example above, the local planning authority would not be able to take enforcement action and stop development on site on the basis that the scheme did not have its actual written approval.

146. Subsection (4) sets out what a development order must specify in relation to the process for deemed discharge. It must provide that the deemed discharge can only apply where an applicant has applied for the approval, agreement or consent of the local planning authority as required under the condition in question, and that the determination period has lapsed without a decision from the local planning authority having been made and notified to the applicant. Further the applicant must have taken any procedural steps laid down by the Secretary of State in the development order before a condition can be deemed to be discharged.

147. Subsection (5) provides that the Secretary of State can provide for the procedure to be followed in the development order. For example, the order might provide under the powers in paragraphs (a), (b) and (e) of subsection (5) that the applicant must serve a notice in a prescribed form on the Secretary of State, stating his intention to rely on the deemed discharge provisions, after a certain number of weeks have elapsed from the date of the original application for the authority's approval to a condition. Under subsection (5)(d), the Secretary of State may provide for the prescribed time periods within the deemed discharge procedure to be varied by agreement. This power could be exercised, for example, to allow the applicant and the local planning authority to extend such periods by agreement, which might be useful in a complex development.

148. Subsection (6) sets out that the Secretary of State may provide in a development order that the deemed discharge provisions will not apply in particular circumstances. For instance, the order may prescribe that certain types of conditions are exempted from the section.

149. Subsection (6)(b) gives the Secretary of State the power to exempt certain types of conditions by reference to the type of planning permission to which they relate. This is needed because planning permission may be granted in different ways for example following a planning application submitted to the local planning authority, by the Secretary of State on cases following an appeal or call-in or by development order, and it may not be appropriate for conditions attached to planning permission granted by particular routes to be subject to the deemed discharge provisions.

150. Subsection (6)(c) gives the Secretary of State the power to exempt certain types of conditions by reference to description of the development, for example based on thresholds, character or any other category.

151. Subsection (6)(d) gives the Secretary of State the power to provide that the deemed discharge provisions will not apply in any other circumstances. For example, the power could be used to provide that the deemed discharge provisions will not be available where the underlying application for planning permission is subject to appeal. In addition the applicant and the local planning authority may agree the deemed discharge provisions should not apply to a condition (subsection (7)).

152. Subsection (8) gives the Secretary of State the power, by development order, to disapply section 78(2) of the 1990 Act or to apply it with modifications in relation to the deemed discharge provisions. The Secretary of State will be able to provide in the development order that where an applicant intends to rely on the deemed discharge provisions, he or she will not also be able to appeal the authority's non-determination of his or her application for approval under section 78(2).

153. Subsection (9) explains that the deemed discharge provisions may only apply to conditions attached to planning permissions where the application for the planning permission was submitted after the order comes into force. This is to ensure that the provision will not apply retrospectively.

Mayoral Development Orders

Section 30 and Schedule 4: Mayoral development orders

154. Section 30 gives effect to Schedule 4 and enables the Secretary of State by regulations to make consequential provision in connection with any provision made by that Schedule. Part 1 of Schedule 4 inserts new sections 61DA to 61DE into the Town and Country Planning Act 1990 (the 1990 Act) to make provision for Mayoral development orders. Part 2 of Schedule 4 makes consequential amendments to the 1990 Act.

155. New section 61DA of the 1990 Act enables the Mayor of London to make Mayoral development orders granting planning permission for specified development on a site or sites in Greater London. This is subject to any development order made by the Secretary of State under subsection (3) which specifies an area or class of development in respect of which a Mayoral development order may not be made.

156. New section 61DB makes provision for conditions that may be attached to planning permission granted by a Mayoral development order. A condition may require the consent, agreement or approval to a specified matter to be given by the Mayor or a relevant local planning authority (i.e. local planning authority that has within its area a site or part of a site that a Mayoral development order relates to, see subsection (9)). Subsection (4) enables the Secretary of State to make provision by development order for such consent etc. to be sought from a specified person where it is not given within a specified period (i.e. a person and period specified in the development order). Under subsection (6), the Secretary of State may by development order provide for a person to apply for permission to develop land without complying with a condition of a Mayoral development order (provision may be similar to that made by section 73 of the 1990 Act, see subsection (7)).

157. New section 61DC sets out the procedures for preparing and making a Mayoral development order. Subsection (1) enables the Secretary of State to set out much of the procedure in a development order, including provision about notice, publicity and inspection by the public, consultation, the making and consideration of representations. Subsections (3) to (5) provide that the Mayor may only make a Mayoral development order in response to an application by each relevant local

planning authority, and may only consult on a proposed order and make the final order with the consent and approval of those authorities.

158. New section 61DD makes provision for the revision or revocation of a Mayoral development order by the Mayor or by the Secretary of State. This includes a power for the Secretary of State to make further provision by development order for the procedure for revising or revoking a Mayoral development order and about the steps the Secretary of State must take before revoking, or directing the Mayor to revise, an order. New section 61DE describes the effect of revision or revocation of an order on development that has been started but not completed. The general position is that the development may be completed (see subsection (3)), but this is subject to specific provision made by the Mayor or by the Secretary of State when revising or revoking the order.

The Homes and Communities Agency and other bodies

159. From April 2015, the Homes and Communities Agency (HCA) is taking on a new role as the land disposal agency for Government in England (outside of London). In London this role will be carried out by the Greater London Authority (GLA).

160. Until this Act, land held by an arm's length body of a government department could not transfer directly to the HCA. Instead it first transferred to the sponsor Department, before being transferred to the HCA. This method required two independent legal processes. Section 31 amends the Housing and Regeneration Act 2008 (HRA 2008) and the Greater London Authority Act 1999 (GLAA 1999) in order to allow the direct transfer of land held by arm's length bodies to the HCA or the GLA. Only land identified as no longer required will transfer to the HCA or the GLA. The transferring body must give consent to the transfer before this can take place.

161. The HCA, the GLA and Mayoral development corporations (MDCs) have powers to override third-party rights and restrictions (such as easements and restrictive covenants) affecting their land. However, once any freehold interest in that land is sold, these powers cease to be available and so cannot be used by any purchaser and these interests can no longer be overridden.

162. Section 32 amends the HRA 2008, GLAA 1999 and Localism Act 2011 to ensure future purchasers of land owned by the HCA, the GLA (or a company or body carrying out housing or regeneration functions on the GLA's behalf) or an MDC will be able to develop and use that land without being affected by easements and other rights and restrictions. This is regardless of whether they have purchased a freehold or leasehold interest in that land. Section 32 will allow purchasers of land from these bodies to achieve parity with buyers of land belonging to local authorities and other public bodies involved in regeneration and development (such as housing action trusts and urban development corporations). It will not apply in relation to any freehold interest in land which is sold before the commencement of section 32.

Section 31: Property etc transfers to the HCA

163. This section inserts new sections into the HRA 2008 and the GLAA 1999.

164. HRA 2008: The section inserts new sections 53A (other property etc transfers to the HCA) and 53B (tax consequences of transfers under section 53A) after section 53 of the HRA 2008. Section 51 of the HRA 2008 allows the Secretary of State to make schemes for the transfer to the HCA of the property, rights and liabilities of the Urban Regeneration Agency, the Commission for New Towns or a Minister of the Crown. New section 53A of the 2008 Act empowers the Secretary of State to make schemes for the transfer to the HCA of the property, rights and liabilities of a public body or a description of public bodies which is specified by the Secretary of State in

regulations. Transfer to the HCA will only take place with the transferring body's consent. For these purposes, 'a public body' is defined as a person or body with functions of a public nature. The bodies which will be specified are intended to be arm's length bodies of government departments such as non-departmental public bodies. Subsection (6) explicitly prevents any part of the Public Forest Estate from being transferred to the HCA by a scheme made under the new section.

165. GLAA 1999: This section inserts new sections 333DA (transfer of property to the GLA or a company or body through which the GLA exercises functions in relation to housing or regeneration), 333DB (provision that may be made by a transfer scheme) and 333DC (tax consequences of transfers under section 333DA). New section 333DA empowers the Secretary of State to make schemes for the transfer to the GLA of property, rights and liabilities of a public body or a description of public bodies which is specified by the Secretary of State in regulations. Transfer to the GLA will only take place if the transferring body has given consent. The transfer of any public forest is excluded from any scheme made under new section 333DA.

166. New section 53B of the HRA 2008 enables the Treasury to make regulations which provide for the tax consequences of transfers under new section 53A. New section 333DC of the GLAA 1999 enables the Treasury to make regulations which provide for the tax consequences of transfers under new section 333DA.

Section 32: Easements etc affecting land

167. This section amends section 11 of, and paragraph 1 of Schedule 3 to, the HRA 2008 which provide powers in relation to land of the HCA. The amendments ensure that a purchaser of land which has been vested in or acquired by the HCA who undertakes works on or makes subsequent use of that land is empowered to override any relevant rights and interests and restrictions as to user. Similar amendments are also made to section 333ZB of the GLAA 1999 and section 208 of the Localism Act 2011 so that a purchaser of land of the GLA or an MDC will be similarly empowered.

Section 33: Expenditure of Greater London Authority on housing or regeneration

168. Section 33 amends the GLAA 1999. Section 30 of the GLAA 1999 (the general power of the authority) empowers the Greater London Authority to do anything which supports its three principal purposes of promoting economic development and wealth creation, promoting social development and improving the environment in Greater London. In the exercise of this general power, the Greater London Authority may carry on activities in the field of economic development and regeneration, which the London Development Agency and Homes and Communities Agency might previously have undertaken.

169. The Greater London Authority's general power is limited by section 31(1) of the GLAA 1999 (limits of the general power), which prohibits the Authority from incurring expenditure in doing anything that can be done by Transport for London, the Mayor's Office for Policing and Crime and the London Fire and Emergency Planning Authority.

170. This section amends section 31 of the GLAA 1999 to remove a prohibition against the Authority incurring expenditure on anything that can be done by Transport for London. This enables the Greater London Authority to incur expenditure on transport for the purposes of housing or regeneration and applies in relation to expenditure incurred before as well as after the coming into force of the section.

Her Majesty's Land Registry

171. The Land Registry's principal function is to keep a register of title to freehold and leasehold land and charges throughout England and Wales and to record dealings in land once it is registered. On behalf of the Crown, it guarantees title to registered estates and interests in land.

172. It is a non-Ministerial Government department consisting of a Chief Land Registrar (CLR), appointed by the Secretary of State, and staff appointed by the CLR.

173. Section 34 and Schedule 5 make provision about the transfer of responsibility for local land charges from individual local authorities in England and Wales to the CLR.

174. The Land Registry has developed a Business Strategy for 2013 to 2018. The strategy was based on meeting the needs of its customers and stakeholders, facilitating digitisation of land registration services and improving the management and re-use of land and property data.

175. Section 35 provides for an extension of the Chief Land Registrar's powers to enable the Land Registry to provide services relating to land and other property. Section 36 provides for the transfer of responsibility for nominating the consumer affairs member of the Rule Committee appointed under the Land Registration Act 2002 from the Lord Chancellor to the Secretary of State.

Section 34 and Schedule 5: **Transfer of responsibility for local land charges to Land Registry**

176. Local land charges are generally in the nature of restrictions or prohibitions on a particular parcel or parcels of land, binding on successive owners and occupiers of the land, which either secure the payment of money or limit the use to which the land may be put. Local land charges would not normally be disclosed by inspection of the land or an investigation of the register of title to the land (or the title deeds where the land is unregistered). For the protection of purchasers, there is a duty to register them. The registers involved are open to public access.

177. Under the current legislation — the Local Land Charges Act 1975 (LLCA 1975) — local land charges are entered in local land charges registers, open to public inspection and administered by each local authority in England and Wales in relation to the local land charges that affect the land within their respective administrative areas. The way in which the local registers are administered, in particular as to whether and to what extent the registers have been computerised, varies widely across England and Wales, as do the fees charged for searches of the register in England (where individual local authorities have power to set the fees for their own areas, subject to general guidance from the Lord Chancellor). Following investigation of the position by the Land Registry, and a consultation exercise which ended on 9 March 2014, the Government has decided that responsibility for its administration should be transferred from the local authorities in England and Wales to the Land Registry. The Land Registry should then provide a composite fully computerised local land charges system accessible to users by electronic communications.

178. Schedule 5 Parts 1 - 4 sets out the amendments required to the relevant legislation and provides for the necessary transitional arrangements to enable Land Registry to assume responsibility for the registration of local land charges from the existing local authorities in England and Wales. Part 1 sets out amendments to the LLCA 1975; Part 2 sets out amendments to the Land Registration Act 2002 (LRA 2002); Part 3 sets out amendments to other legislation; and Part 4 sets out the necessary transitional provisions.

Schedule 5 Part 1: **Amendments to the Local Land Charges Act 1975**

179. Section 3 of the LLCA 1975 provides for the existing local authorities in England and Wales to be the registering authorities for local land charges that affect land in their respective administrative areas and for them to maintain individual local land charges registers. Paragraph 3

replaces this with a new section 3 that provides for the Chief Land Registrar (CLR) to keep a single local land charges register and the intention is that the new register will be fully electronic. Such register is to comprise the local land charges registered in a local authority's local land charges register immediately before the CLR becomes the registering authority for that authority's administrative area and each local land charge that is subsequently registered in respect of land wholly or partly in that area.

180. Section 4 of the LLCA 1975 defines “appropriate local land charges register.” Paragraph 4 omits this section as it is unnecessary when the separate local authority local land charges registers administered by individual local authorities in England and Wales are replaced by a composite local land charges register for which the CLR will be responsible.

181. Section 5 of the LLCA 1975 deals with the registration of local land charges and defines “originating authorities” as those authorities by whom a local land charge is brought into existence or by whom, on its coming into existence, the charge is enforceable. Originating authorities include the local authorities that are also the registering authorities for local land charges affecting land in their respective administrative areas. Such authorities therefore effectively have a dual role where they are responsible for the origination of a local land charge. Section 5 of the LLCA 1975 requires a local authority that is both the originating authority and the registering authority to register the local land charge in the local land charges register for which it is responsible. In other cases, section 5 requires the originating authority for a local land charge to apply for its registration to the local authority that is the registering authority for the land affected by the charge. Paragraph 5 amends section 5 to require all originating authorities to apply to the CLR for registration of the local land charge where he or she has become the registering authority for the area in which the land affected by the charge is situated.

182. Paragraph 6 amends Section 6 of the LLCA 1975 in relation to its application to general charges. General charges are charges that arise under certain conditions in favour of local authorities in advance of their being able to register a specific local land charge. Section 6 provides for the registration of general charges by the local authority that is the registering authority for the area in which the land affected by the general charge is situated. The provision is amended to require the CLR to register such charges on the application of the originating authority for the charge, where he or she has become the registering authority for the area in which the land affected by the general charge is situated.

183. Sections 8 and 9 of the LLCA 1975 provide for persons to be able to make personal searches of the existing local land charge registers for which local authorities in England and Wales are responsible as registering authorities and to requisition official searches of the register from the registering authorities. Paragraphs 7 and 8 amend sections 8 and 9 respectively so as to place the responsibility for providing personal search facilities and official searches results on the CLR where he or she has assumed responsibility for the registration of local land charges from any local authority.

184. Section 10 of the LLCA 1975 provides for a compensation scheme under which registering authorities are made responsible for compensating a purchaser of land that is subject to a local land charge for loss suffered by that person where that person has relied upon a personal or official search but the search has failed to disclose the existence of a local land charge that it should have disclosed. Paragraph 9 amends section 10 to place the responsibility for paying compensation to such a purchaser on the CLR in place of the relevant local authority where he or she has taken over responsibility from the local authority. Section 10 is also amended to include provision that entitles

the CLR to recover from an originating authority any compensation he or she is required to pay to a purchaser as a consequence of an error by the originating authority. The CLR is also given power to insure against the risk of liability to pay compensation under section 10 by insertion of a new subsection (6A).

185. Section 14 of the LLCA 1975 provides for the Lord Chancellor, with the concurrence of the Treasury as to fees, to make rules for carrying the LLCA 1975 into effect. Revised rules will be required to give effect to the amended Act as it applies to the CLR when he or she assumes responsibility as the registering authority. Paragraph 13 provides for the inclusion of such additional enabling powers in section 14 as are required to allow rules to be made for this purpose. In particular, the additional powers include the making of rules—

- as to the variation of the registration of a local land charge without an order of the court on the application or with the consent of the person by whom it is enforceable, or of the Chief Land Registrar's own motion,
- as to cancellation without an order of the court of the registration of a local land charge on its cesser or on the application or with the consent of the person by whom it is or was enforceable or of the Chief Land Registrar's own motion.

186. It is the intention that the local land charges registration system administered by the CLR should be electronic and operate on the basis that applications to the CLR are received by electronic communications, in order to maximise the efficiency and speed with which the system operates. Paragraph 13 therefore substitutes new paragraphs (b), (ba) and (bb) in subsection (2) of section 14 in place of the existing paragraph (b). The purpose of the changes is to make it clear that the power to make rules under section 14(1) includes power to make rules as to the use of particular means of communication (such as electronic communication) that may or must be used for the purposes of the LLCA 1975 (such as making applications for the registration of local land charges and the making of personal or official searches of the register), the circumstances in which the particular means of communication is to be used and the form and contents of anything sent by that particular means of communication. It will also include power to make rules requiring or enabling anything provided to or by the CLR for the purposes of the LLCA 1975, or any other statutory provisions under which any matter is registrable in the local land charges register, to be provided in electronic form. The changes further provide that the details concerning the use of particular means of communication and anything which is provided to or by the CLR may be specified in the rules or determined by the CLR, or by a person who is providing services to the CLR, such as a third party provider of the computerised registration and communications systems that are envisaged (who will in practice operate in accordance with specifications determined by the CLR).

187. The effect of sub-paragraphs (4) to (6) of paragraph 13 of the Act is that the Lord Chancellor (with the concurrence of the Treasury) has power to set local land charges fees for England. The Welsh Ministers retain their current power to set local land charges fees in Wales.

Schedule 5 Part 2: **Amendments to the** Land Registration Act 2002

Paragraphs 17 to 20

188. The amendment to section 100 of the LRA 2002 (Conduct of business) makes it clear that the functions of the CLR, which any member of Land Registry may carry out when authorised by him or her, include all functions of the CLR under any legislation.

189. The amendment to section 106 (incidental powers of the registrar in relation to companies) means the CLR's power to form, or participate in the formation of, a company or to purchase or invest in a company is extended to include the CLR's functions under the LLCA 1975.

190. The LRA 2002 contains an indemnity for the CLR and staff appointed by him or her, so that they will not be liable in the performance of their duties in the absence of bad faith, and any claims for indemnity under the LRA 2002 are dealt with under the statutory indemnity scheme. The amendments also provide that this exclusion of liability is extended to functions performed under the LLCA 1975. Claims for compensation will be dealt with in the LLCA 1975, as amended.

Schedule 5 Part 3: **Amendments to Other Acts**

Paragraphs 21 to 39

191. This Part of the Schedule contains amendments to a number of Acts of Parliament which refer to the LLCA 1975 in areas such as land compensation, where local land charges issues are applicable. The amendments alter the wording of the legislation to reflect the fact that there will be a composite register in all cases where in the future the CLR has become the registering authority, rather than separate registers held by each local authority. As this Part of the Schedule only applies once the CLR has formally taken responsibility for the register in a particular area, the amendments to the Acts of Parliament do not take effect in respect of areas where the local authority is still the registering authority.

Schedule 5 Part 4: **Transitional Provision**

Paragraphs 40 to 44

192. The CLR will take over responsibility for the LLCA 1975 functions in stages from the existing local authorities in England and Wales. The CLR will take over responsibility for each area only after the necessary preparation for the transfer of data at each local authority has been carried out.

193. Paragraph 40 therefore provides for the CLR to give and publish a notice, once the preparatory work has been completed at the relevant local authority. On expiry the notice has the effect of bringing the new regime into force for the relevant area. This will allow the CLR to determine the point at which he or she takes over as the registering authority. Any rules made under the LLCA 1975 as amended will apply only to those areas for which the CLR has taken over responsibility as registering authority.

194. Paragraph 41 requires local authorities to provide information and assistance to the Chief Land Registrar to enable him to take on the role of registering authority.

195. The provisions of paragraph 42 ensure continuity in the administration of the local land charges system. Anything the local authority was doing at the time of the change will automatically become the responsibility of the CLR. If for example there was a pending application which had not been completed, this would automatically become the responsibility of the CLR when the functions were taken over, and the same applies to any legal proceedings in which the local authority may have been involved. Any liability which the CLR may acquire in this way, which arises by reason of a mistake made by the local authority, is dealt with under the following paragraph.

Paragraph 43

196. This clarifies the position with regard to payment of compensation under the statutory scheme contained in the LLCA 1975. In particular the CLR can recover compensation paid by him or her where his or her liability to pay was in consequence of a local authority's failure to—

- (a) register a local land charge before the CLR replaced it as registering authority,
- (b) provide appropriate electronic facilities for personal searches or
- (c) provide a correct official search.

197. Compensation cannot however be recovered from a local authority which has failed to register, or register correctly, a local land charge in the register it formerly maintained, or to provide information about such a charge to the CLR, where that local authority is not the originating authority and the error was due to the equivalent failure of the actual originating authority. In that case the CLR can seek recovery of compensation paid from the originating authority instead.

Section 35: Conferral of additional powers on Land Registry

198. At present, under the LRA 2002, the CLR's powers are limited to functions and services relating to land registration. These powers are to be extended to enable Land Registry, in addition, to provide services relating to land and other property.

199. Section 105 of the LRA 2002 enables the CLR to provide, or arrange for the provision of, consultancy or advisory services about the registration of land in England and Wales or elsewhere and to set the terms on which they are provided. Section 35 amends section 105 to broaden the CLR's powers to enable Land Registry also to provide (a) consultancy and advisory services about land and other property in England and Wales or elsewhere and (b) information services and services relating to documents or registers, relating to land or other property in England and Wales (subsection (1) as amended by the section). As at present, it will be for the CLR to set the terms on which services are provided, including the charges for them. The CLR's power under section 106 of the LRA 2002 to form, or participate in the formation of, a company or to purchase or invest in a company could be used in connection with these services.

Section 36: Transfer of power to nominate member of Rule Committee

200. Under section 127(1) of the LRA 2002, the power of the Secretary of State to make land registration rules is exercisable with the advice and assistance of a Rule Committee, whose membership is governed by section 127(2) of that Act. One of the members is required to be a person with experience in, and knowledge of, consumer affairs. That member is nominated by the Lord Chancellor (section 127(2)(h)). The purpose of section 36 is to transfer the power to nominate this member to the Secretary of State as and when there is a future vacancy.

Off-site carbon abatement measures

Section 37: Provision in building regulations for off-site carbon abatement measures

201. The Building Act 1984 empowers the Secretary of State to make building regulations establishing the standards to be met by building work for a number of purposes, including furthering the conservation of fuel and power and furthering the protection or enhancement of the environment. Under these powers, building regulations provide that a building that is erected shall meet a target rate for maximum emissions of carbon dioxide. The Government is committed to introducing a zero carbon emissions standard for new dwellings in England from 2016. However, the Government recognises that it may not be technically feasible or cost effective to require house builders to meet the zero carbon standard just through on-site measures, like further increased insulation, solar panels etc. The intention is therefore to set a maximum on-site carbon dioxide emission standard for new homes and for the remainder of the zero carbon target to be met by house builders supporting off-site carbon abatement measures, doing more on-site or a combination of both — these are termed 'allowable solutions'.

202. Allowable solutions will include measures taken in relation to the new building. There will be options however to offset residual emissions by reduction of emissions elsewhere, for example by measures taken in relation to existing buildings, or by investment in energyefficient infrastructure projects. Such measures may be undertaken by the developer or by a third party for the developer. There will also be an option to pay at a capped rate into a fund which invests in carbon-saving measures. Existing powers in the Building Act 1984 do not extend to providing for measures relating to buildings that are not in or on the building, or connected to it. The purpose of the section is to allow for such measures for the purposes of abating carbon emissions. The Welsh Government shares the desire to reduce carbon dioxide emissions from buildings and also recognises the technical and economic limits to reducing carbon dioxide emissions through measures on the buildings themselves. The Welsh Government intends to consult in 2016 on a review of the current energy performance requirements of the Building Regulations in Wales, including the off-site abatement of carbon dioxide, and so is working to a different timeframe to England.

203. The section establishes the necessary powers for the Secretary of State or Welsh Ministers to make building regulations provisions in relation to off-site measures for abating carbon dioxide emissions, taken by the developer or by a person on the developer's behalf, or consisting of payment into a fund that invests in carbon abatement projects. It provides also for administrative provisions to be made to facilitate offsetting of those emissions against emissions from a building. These include provisions relating to the administration, by or on behalf of the Secretary of State or Welsh Ministers, of funds for carbon abatement measures into which allowable solutions payments can be made, and to establishing a maximum level of payment into a fund. There is also provision for a register of certificates showing compliance with the carbon emissions standard by use of allowable solutions to be set up and maintained by or on behalf of the Secretary of State or Welsh Ministers, and for charges to be made in connection with use of the register.

PART 6 — ENERGY

Community electricity right

204. In January 2014, the Government published its Community Energy Strategy, which identified community shared ownership in renewable energy as a means to ensure that individuals living close to renewable energy installations are able to have a greater share in the financial benefits. A Shared Ownership Taskforce has been set up to 'facilitate a substantial increase in the shared ownership of new, commercial onshore renewables developments' such that 'by 2015 it should be the norm for communities to be offered the opportunity of some level of ownership by commercial developers'. The community electricity right is an alternative to the voluntary approach to increasing shared ownership, if this approach fails to deliver.

205. The community electricity right confers a power on the Secretary of State to make regulations giving individuals and/or community groups the right to purchase a stake in a renewable electricity generation facility in their local area (including onshore and offshore facilities). In connection with this power the Secretary of State can make regulations about the ownership of qualifying facilities, the supply of information and the enforcement regime.

206. The power allows the Secretary of State to provide for various matters in the regulations, including the kinds of facilities to which the right will apply, the members of the community who will be eligible to exercise the right to buy and the kinds of stake that may be bought through the right to buy.

Section 38: The community electricity right

207. Subsection (1) gives the Secretary of State a power to make regulations for a community electricity right. This gives a right to individuals resident in a community or groups connected with a community (or both) to buy a stake in a local renewable electricity generation facility that is located onshore or offshore. A renewable electricity generation facility is one which uses a renewable source of energy, being a source of energy other than fossil fuel or nuclear, but including waste of which not more than a specified proportion is waste, or is derived from, fossil fuel.

208. Subsection (2) gives the Secretary of State a power to make further regulations about the kinds of body which may operate a renewable electricity facility, and the ownership of facility operators, in connection with the community electricity right.

209. Subsection (3) gives the Secretary of State a power to make further provision about the supply of information in connection with the community electricity right regulations. The activities to which this may apply are listed in this subsection. Further detail is provided in Part 3 of Schedule 6.

210. Subsection (4) gives the Secretary of State a power to make further provision about the enforcement regime associated with the community electricity right regulations. This may include (but is not limited to) enforcement through the existing electricity licensing regime and financial penalties for non-compliance.

211. Subsection (5) enables the Secretary of State to modify electricity licence conditions and electricity licence exemptions in connection with the community electricity right regulations.

212. Subsection (6) gives effect to Schedule 6. This sets out the matters to be specified in further detail under the community electricity right regulations. The duties contained within this Schedule only come into effect when the community electricity right regulations are made.

213. Subsection (7) contains definitions of the terms used in sections 38, 39 and Schedule 6.

Section 39: Supplementary provision

214. Subsection (1) enables community electricity right regulations to confer functions in relation to the community electricity right. This can include functions of the Secretary of State and any other person apart from Scottish and Welsh Ministers.

215. Subsection (2) provides further detail on the functions that may be conferred. For example this may include a duty (this may be in relation to enforcing the community electricity right), a requirement to consult (this may apply to renewable electricity generators in relation to a requirement to consult with the local community on the type of stake to be offered). It may also include exercising discretion (this may include renewable electricity generators choosing the kind of stake offered to communities) and a requirement to take into account any guidance (this may include guidance produced by the Secretary of State in relation to the implementation of the community electricity right).

216. Subsection (3) provides that the scope of the powers within this Part of the Act is not limited to the examples provided.

217. Subsection (4) provides that the requirements included within Schedule 6 only come into effect when the community electricity regulations are made.

218. Subsection (5) provides that the commencement of the regulations (as defined in the regulations) can ensure that the regulations do not apply retroactively and would only apply to existing facilities that have not, at that date, reached a specified point of development.

219. Subsection (6) makes provision that the stake in the renewable electricity generating facility can be in the form of a loan or debt instrument.

220. Subsection (7) requires the Secretary of State to carry out a review of the provisions in connection with the community electricity right once the provisions have been in force for 5 years.

Schedule 6: **Community electricity right regulations**

Part 1: **The Right to Buy**

221. Paragraph 1 defines ‘right to buy regulations’ as those regulations made under subsection (1) of section 38.

222. Paragraph 2 sets out the parameters for the kinds of renewable electricity facilities that will come under the community electricity right regulations. Paragraph 2(2) provides that these regulations will not apply to any renewable electricity generation facility under 5MW of total installed capacity.

223. Paragraph 2(3) allows the Secretary of State to specify that the community electricity right regulations may apply to a particular type of renewable electricity facility; such facilities may be defined in terms of the renewable source of energy used, the technology used, the electricity generation capacity, and whether the facility is land-based or offshore.

224. Paragraph 3 requires the Secretary of State to set out the criteria for identifying qualifying renewable electricity facilities under the community electricity right regulations. Paragraphs 3(2) and (3) make further provision about sites that have been expanded or where there is more than one renewable electricity facility. In relation to existing sites that have been expanded these regulations may apply to any facility where the total installed capacity of that site is expected to be 5MW or more.

225. Paragraphs 3(4) to (6) allow the Secretary of State to make further provision about the kinds of renewable electricity facilities that may be excluded from the community electricity right regulations; this is defined as an excepted facility. Excepted facilities may include community owned facilities, facilities where the community owns a stake, and those facilities that are not participating in statutory energy schemes (for example those not participating in the Feed-In Tariff, Contracts for Difference or Renewables Obligation schemes).

226. Paragraph 4 defines the promoter of a qualifying facility as the person responsible for developing the qualifying facility, and makes provision to identify the promoter in cases where that person is not also the facility operator.

227. Paragraph 5 requires the Secretary of State to make further provision in secondary legislation about the community who could exercise the right to buy. This may be in reference to the community's geographical location relative to the facility, its distance from the facility, the number of residents or any administrative boundaries.

228. Paragraph 6 requires the Secretary of State to make further provision about which individuals and groups may exercise the right to buy. Further detail on how this may be defined in relation to individuals and groups is set out in this paragraph. Paragraph 6(3), (4) and (7) allow the Secretary of State to make further provision about the individuals and groups who may not exercise the right to buy. Sub-paragraphs (8) and (9) provide further provision about people who may be connected for the purpose of the regulations.

229. Paragraph 7 makes further provision about the kinds of stake that may be offered through the community electricity right regulations. This may include shares, any other interest in a body other than a company, an equitable interest, a royalty instrument or a loan.

230. Paragraph 8 provides that the regulations must give the designated promoter or facility operator a choice of at least two different kinds of stake that may be offered. It is then for the promoter or facility operator to make a decision on the kind(s) of stake offered to the community. The promoter or facility operator must consult (e.g. with the community) and take the results of this consultation into account before choosing the kind(s) of stake that they will offer.

231. Paragraph 9 requires the Secretary of State to make further provision about setting the price of the stakes in a qualifying facility. It includes reference to ‘a measure of fair value ‘when setting the price of the stake offered to communities; this means that the price of the stake should not be offered at a discounted price to the community.

232. Paragraph 10 makes further provision about the total value of the offer to communities. Paragraphs 10(2) and (3) specify that the minimum size of stake that must be offered by developers is to be set in secondary legislation, but that this must not be greater than 5% of total capital costs of the development of the facility. Paragraph 10(5) allows the Secretary of State to make further provision about the calculation of the total capital costs. The minimum size of stake prescribed in secondary legislation may vary depending on the technology or size of the development up to this 5% cap. It is intended that very large developments will not be required to offer a stake which it would be unrealistic to offer the community.

233. Paragraph 11 makes further provision about the procedure for buying a stake, which is defined as the purchase procedure in paragraph 11(1). It establishes an initial application procedure in paragraph 11(4) where the stakes in the renewable electricity facility are offered. The offering of stakes cannot begin until after the renewable electricity generation facility has secured planning consent. The meaning of planning consent is defined further in paragraph 11(6).

234. Paragraph 12 makes further provision for when there is either excessive or insufficient take up of the stakes offered for a renewable electricity facility. For example, paragraph 12 (2) establishes a secondary period following the application period. In this secondary period it may be possible to offer stakes to a wider community.

235. Paragraph 13 allows further provision in regulations on the subsequent disposal of a stake after it has been bought. This may include imposing restrictions or prohibitions on the disposal of a stake on individuals or communities, with exceptions.

Part 2: Operators, Ownership & Related Matters

236. Paragraphs 14 to 19 make further provision about operators and the ownership of renewable electricity facilities under the community electricity regulations. For example, this may include the kinds of body that may be a facility operator, the constitution of facility operators, the conduct of owners of facility operators and the treatment of revenues earned by a qualifying facility.

Part 3: Information

237. Paragraphs 20 to 25 provide further provision about the supply of information under the community electricity regulations. This may apply to the possible buyers of stakes who would like to exercise the right to buy, prospective buyers of stakes who are entitled to exercise the right to buy, those applying to buy a stake, and the owners of stakes.

Part 4: Supplementary

238. Paragraph 26 provides further definition of the terms used within the Schedule.

The Extractive Industries Transparency Initiative

Section 40: The Extractive Industries Transparency Initiative

239. The Act helps to maximise the transparency of data in the extractive industries by granting HMRC a function to participate in the Extractive Industries Transparency Initiative (EITI). Section 40 inserts a new section 8A in the Commissioners for Revenue and Customs Act 2005, which gives the Commissioners for Revenue and Customs the new function of participating in the EITI. Subsection (1) allows the Commissioners to do anything they think is necessary or expedient in connection with the EITI, in so far as it relates to taxes for which the Commissioners have collection and management responsibility. Subsection (2) provides a definition of the EITI.

Recovery of UK petroleum

240. On 10 June 2013 the Secretary of State of Energy and Climate Change announced a review of UK offshore oil and gas recovery and its regulation, led by Sir Ian Wood. The final report of Sir Ian's UK Continental Shelf Maximising Recovery Review was published on 24 February 2014.

<http://www.woodreview.co.uk/documents/UKCS%20Maximising%20Recovery%20Review%20FINAL%2072pp%20locked.pdf>

241. The report identified a number of key issues including the following:

- The need for operators to focus on maximising economic recovery for the UK as well as pursuing their individual commercial objectives.
- The need for a greater resourced and more proactive regulator.
- The need for significantly improved asset stewardship.
- The need for far greater constructive collaboration between operators.
- The need for better implementation of industry strategies.

242. To address these issues, Sir Ian made a number of principal recommendations, including that a maximising economic recovery of UK petroleum strategy be developed with the regulator exercising its functions with a view to maximising the economic recovery of petroleum from UK waters.

243. The Government has accepted the findings of the report and published its response on 16 July 2014

<https://www.gov.uk/government/publications/government-response-to-sir-ian-woods-review-of-the-uk-continental-shelf-ukcs>

Section 41: Maximising economic recovery of UK petroleum

244. Section 41 implements the first recommendation, covering maximising the economic recovery of UK offshore petroleum and the strategy. It does this by inserting a number of new sections into the Petroleum Act 1998.

245. New section 9A provides for a principal objective of maximising the economic recovery of UK offshore petroleum. The section requires the Secretary of State to produce a strategy which is the means for enabling the principal objective to be met. The strategy will set out what is meant by maximising the economic recovery of UK petroleum. This will provide the flexibility to take account of how the principle should apply in different circumstances along with the changing needs of the UK Continental Shelf.

246. New section 9B places a duty on the Secretary of State to carry out relevant functions in accordance with the strategy.

247. New section 9C places duties on licence holders, operators appointed under those licences and owners of upstream petroleum infrastructure to carry out certain identified activities in accordance with the strategy. Subsection (4) places a duty on a person planning and carrying out the commissioning of upstream petroleum infrastructure. This is necessary because that person may not be the owner of such infrastructure and would not fall within subsection (3).

248. New section 9D places a duty on the Secretary of State to lay before Parliament a report at the end of each reporting period on the extent to which relevant persons have acted in accordance with the strategy. This is the sanction for breach of the obligations in the new provision of the Petroleum Act 1998 inserted by this section.

249. New section 9F makes provision in respect of the production and revision of the strategy by the Secretary of State. In particular, the first strategy must be produced within one year of this provision coming into force. New section 9G sets out the procedure that must be followed by the Secretary of State in producing and revising the strategy.

Section 42: Levy on holders of certain energy industry licences and Schedule 7: The Licensing Levy

250. Section 42 provides the Secretary of State with a power to raise a levy from the holders of certain energy industry licences.

251. Subsection (1) provides for the Secretary of State to impose a levy on persons holding licences for the exploitation of petroleum, the unloading and storing of gas and the storage of carbon dioxide.

252. Subsection (3) provides that the amount of levy must not exceed the costs incurred by the Secretary of State in carrying out relevant functions (these are set out in subsection (5)). The levy cannot be used to recover costs in respect of areas in which a charge is payable under the Gas and Petroleum (Consents) Charges Regulations 2013 as those provisions stand when this provision comes into force.

253. Schedule 7 contains illustrations of the way in which the levy power can be used.

Petroleum and geothermal energy in deep-level land

254. In May 2014, the Government published a consultation on the proposal to change the process by which companies obtain underground access to petroleum and deep geothermal energy resources. Following the responses to the consultation, which closed in August 2014, the Government published its own response in September 2014 setting out the proposals to introduce a right to use deep-level land for certain purposes.

255. At present, a company drilling for petroleum or deep geothermal energy must reach agreements with landowners to obtain rights of access, even where works will only take place far below the surface. If a company cannot obtain a right of access from the landowners or, in the case of petroleum, be granted ancillary rights by the court, then the company cannot carry out works in that land. It is therefore proposed that, where a company seeks to carry out works at such depths that it would not affect a landowner's use of the land, there should be a statutory right to use the land.

256. Both the petroleum and deep geothermal industries have made voluntary commitments to notify local communities and make payments in connection with the right to use deep-level land.

If the Secretary of State is not satisfied in practice with the commitments made by either of the industries, then he may introduce regulations to set up one or both of a statutory payment or notification mechanism.

Section 43: Petroleum and geothermal energy: right to use deep-level land

257. Subsection (1) provides for a right to use deep-level land for the purpose of exploiting petroleum or deep geothermal energy.

258. The right of use is only applicable to land that is deep-level land within a landward area (subsection (2)). Subsection (3) clarifies that deep-level land within a landward area may still be used to exploit petroleum or deep geothermal outside a landward area. It is therefore possible, for example, for a person to benefit from the right of use when drilling from a point onshore into a resource offshore, although the right will not extend to works that are not within a landward area and are not in deep-level land.

259. Subsection (4) defines deep-level as any land at a depth of at least 300 metres below the surface.

Section 44: Further provision about the right of use

260. Section 44 further identifies the scope of the right of use of deep-level land.

261. Subsection (1) lists some of the ways in which the right of use may be exercised, some of which include drilling, boring and fracturing; the installation, keeping, use and removal of infrastructure; and putting any substance into deep-level land and subsequently removing it. This allows, for example, for a company to drill and use a well in deep-level land for the purposes of exploiting petroleum or deep geothermal energy, pass substances through that well and remove any substances that are put into it.

262. Subsection (2) lists some of the purposes for which the right of use may be exercised, including searching for petroleum or deep geothermal energy, assessing the feasibility of exploitation, and preparing for exploitation and decommissioning.

263. Subsection (3) clarifies that the right of use allows land to be left in a different state than it was before.

264. Subsection (4) limits the effect of the right of use so that it is no different to a right granted by a person, such as a landowner, who is legally entitled to grant such a right. As a result, companies benefitting from the right must still comply with all other regimes governing petroleum and deep geothermal activities, such as the need to obtain all necessary planning permissions and environmental permits, and the need to comply with statute law relating to control of pollution.

265. Subsection (5) excludes a person who owns land from being liable in tort for any loss or damage that happens as a result of the exercise of the right of use of deep-level land. In accordance with Schedule 1 of the Interpretation Act 1978, “land” includes buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land. Provided that an owner of land would not ultimately have to bear any of the costs associated with the acts identified in the section, an owner of land may nevertheless be liable if the loss or damage is attributable to a deliberate omission on their part as owner of the land.

266. Sections 43 and 44 bind the Crown under subsection (6). This means, for example, that the right of use can be exercised in relation to land that belongs to the Crown.

Section 45: Payment scheme

267. Subsection (1) confers a power on the Secretary of State to make regulations requiring companies to make payments in return for the right of use.

268. Subsection (2) sets out to whom the Secretary of State can require payments to be made, and subsection (3) allows the Secretary of State to specify the amount of the payments or provide a mechanism for determining the payment amounts. Subsection (4) states that the regulations may require energy companies to provide specific information on the right of use and payments to the Secretary of State or to any other specified person.

269. The Secretary of State must consult with appropriate persons before making any regulations under Section 45 (subsection (5)).

Section 46: Notice scheme

270. Section 46 confers a power on the Secretary of State to make regulations requiring energy companies to notify others of the right of use, before or after it is exercised.

271. Subsection (2) allows for the regulations to specify the people to whom notice should be given to require the display and publication of the notice. Subsection (3) provides that the regulations may make provisions on the content of the notice, including information on payment schemes available, their application and method for obtaining a payment. Subsection (4) provides that the regulations may specify how the notice is given which could, for example, be by display and publication at specified places or in specified publications. Subsection (5) specifies that the regulations may require energy companies to provide the Secretary of State or another specified person with information about the company's exercise of the right of use and notifications made by the company.

272. The Secretary of State must consult with appropriate persons before making any regulations under Section 46 (subsection (6)).

273. Subsection (7) defines “payment scheme regulations”.

Section 47: Payment and notice schemes: supplementary provision

274. Section 47 provides for supplementary provisions relating to the payment and notice schemes regulations under sections 45 and 46 including, in accordance with subsection (1), the imposition of financial penalties.

275. Subsection (2) allows for the regulations to confer a function on the Secretary of State or to any other person, apart from Welsh Ministers. Subsection (3) lists examples of the kinds of functions that may be imposed.

276. Some of the provisions in sections 45, 46, and 47 state that particular kinds of provisions may be made in regulations made under sections 46 and 47. Subsection (4) states that where this is the case, those provisions in sections 45, 46, and 47, do not limit the powers to make the necessary regulations.

277. In accordance with the principles of better regulation, subsection (5) requires a review of sections 45 and 46 five years after the provisions have come into force. Subsection (6) stipulates that the Secretary of State must repeal sections 45 and 46 and make any appropriate consequential amendments if the relevant conditions as defined by subsection (7) are met. Subsection (7) defines the relevant conditions as a delegated power not being exercised within seven years and the Secretary of State being satisfied there is no convincing case for retaining it. This ensures that the powers and related provisions will not remain on the statute book if they become unnecessary or redundant.

Section 48: Interpretation

278. Section 48 provides for the relevant definitions and interpretation of the sections about the right of use.

279. Subsection (1) specifies that the 300m depth limit applies from the surface, which is measured vertically above the point where works take place. Buildings, other structures, and water are not taken into account when determining the location of the surface.

Subsection (2) provides definitions of “deep geothermal energy”, “deep-level land”, “landward area”, “relevant energy undertaking”, “right of use”, “specified” and “substance”. For the purpose of these sections “landward area” is defined as parts of landward area in England and Wales or beneath water (other than waters adjacent to Scotland).

280. Subsection (3) provides that the Secretary of State may make regulations under section 4 of the Petroleum Act 1998 to amend the definition of “landward area” for the purposes of these sections.

Section 49: Advice on likely impact of onshore petroleum on the carbon budget

281. Subsection (1) requires the Secretary of State to seek advice from the Committee on Climate Change (CCC) from time to time on the likely impact of the combustion of, and fugitive emissions from, onshore petroleum activities and the UK's ability to (a) meet the net UK carbon target for 2050 and (b) not exceed the carbon budget.

282. Subsection (2) sets out that the Secretary of State must lay before Parliament (a) a copy of the CCC advice and (b) a draft of regulations or a report as specified under subsections (3) and (5) as soon as practicable after each reporting period (i.e. the period ending 1 April 2016 and each subsequent period of 5 years).

283. Subsection (3) allows the Secretary of State to provide for the right to use deep-level land in section 43 to cease to have effect as specified by regulations. Subsection (4) clarifies that no such regulations can apply retrospectively to anything done in exercise of the right of use conferred by section 38 before the regulations comes into force. As an alternative to subsection (3), subsection (5) provides for the Secretary of State to submit to Parliament a report explaining why a draft of such regulations has not been laid. Subsection (6) sets out that regulations under section 49 may also make consequential amendments or repeals of sections 43 to 48 and section 49 as appropriate.

284. Subsection (7) contains the definitions of “CCA 2008”, “petroleum got through onshore activity, petroleum” and “reporting period”.

Section 50: Onshore hydraulic fracturing: safeguards

285. Section 50 inserts two new sections into the Petroleum Act 1998 after Clause 4. As this relates to the petroleum licensing regime, geothermal activities are excluded from this section 50. Section 4A “*Onshore hydraulic fracturing: safeguards*” sets out conditions for a well consent that is required by an onshore licence for England and Wales in relation to hydraulic fracturing.

286. Subsection (1) requires that the Secretary of State must not issue a consent to drill a well unless that well consent contains conditions (a) prohibiting associated hydraulic fracturing at a depth of less than 1000 metres and (b) requiring a hydraulic fracturing consent for associated hydraulic fracturing at a depth of 1000 metres and below. Subsection (2) clarifies that the licensee, or a person on behalf of the licensee, must apply for such a hydraulic fracturing consent.

287. Subsection (3) provides that a hydraulic fracturing consent will not be issued unless the Secretary of State is satisfied that the conditions (a) in column 1 of the table in subsection (5) and (b) in subsection (6) are met. The Secretary of State must also be satisfied that it is appropriate to issue the consent. Subsection (4) refers to the documents listed in the same table on which the Secretary of State may rely on to be satisfied that the conditions have been met. However, subsection (5) clarifies that the absence of these documents does not prevent the Secretary of State from being satisfied that the conditions have been met; provided that, in accordance with subsection (3), the Secretary of State is satisfied that the conditions are indeed met he may grant a hydraulic fracturing consent.

288. The table lists eleven conditions (column 1) and corresponding documents that may be considered to be sufficient for the Secretary of State to be satisfied that the conditions have been met (column 2). The conditions relate to: the environmental impact of a development, independent well inspections, monitoring of methane in groundwater, monitoring of methane emissions, banning hydraulic fracturing within protected groundwater source areas and other protected areas, consideration of cumulative effects, regulatory approval of substances used, restoration conditions, consultation of relevant (i.e. water and sewage) undertakers, and public notification. The Secretary of State is not limited to relying on the documents listed in column 2 and may instead rely on alternative documents in determining whether the conditions have been met.

289. Subsection (6) sets out further conditions to the issuing of a hydraulic fracturing consent, requiring arrangements to be in place for publication of the results of methane emissions reporting and the existence of a scheme to provide financial or other benefit for the local area.

290. Subsection (7) allows for the hydraulic fracturing consent to be issued subject to any conditions considered appropriate by the Secretary of State, while subsection (8) clarifies that a breach of a condition is considered a breach of the well consent.

291. Section 4B “Section 4A: supplementary provision” contains further definitions and clarifications. “Associated hydraulic fracturing” is defined in subsection (1) and subsection (2) sets out the mechanism for determining the depth at which associated hydraulic fracturing takes place. Subsection (3) provides that subsections (1) and (2) apply to both section 4A and 4B.

292. Subsection (4) requires the Secretary of State to specify by regulations the meaning of “protected groundwater source areas” and “other protected areas”. Subsection (5) makes these regulations subject to the affirmative resolution procedure and subsection (6) stipulates that a draft of these regulations must be laid before Parliament on or before 31 July 2015. Subsection (7) requires the Secretary of State to consult the Environment Agency for England and the Natural Resources Body for Wales before making any regulations on the definition of “protected groundwater source areas” in England and Wales respectively.

293. Subsection (8) contains various definitions, including the meanings of “hydraulic fracturing consent”, “onshore licence for England and Wales” and “well consent”. Subsection (9) provides the Secretary of State with the power to amend the definition of “onshore licence for England and Wales” as appropriate under regulations made under section 4 of the Petroleum Act 1998. Subsection (10) allows the Secretary of State to amend column 2 of the table in 4A and make any consequential amendments to section 4A. In accordance with subsection (11) any such regulations must be subject to the affirmative procedure.

Renewable Heat Incentives

Section 51: Renewable Heat Incentives

294. Subsections (1)—(4) amend section 100 of the Energy Act 2008, which contains a power to make regulations establishing schemes to facilitate and encourage renewable generation of heat.

295. Subsection (2) inserts new subsections (1A) and (1B) into section 100, allowing for regulations made under the section to confer functions on any person (and for that function to be exercisable on behalf of another person). Along with the amendments made by subsection (3), this means that regulations can now appoint and give functions in the regulations to any person or persons to administer the schemes, whereas previously these roles were limited to the Secretary of State or the Gas and Electricity Markets Authority (“the Authority”).

296. Subsection (3)(a) and (c) amend subsection (2) of section 100 to allow for regulations to cater for the assignment of payments under schemes. Subsection (3)(a) amends section 100(2)(a) so that that paragraph now sets out the power to provide in regulations for an entitlement to receive payments, and not additionally an obligation to make those payments. The amendment does not change who is entitled to receive payments. This remains as the owner of a renewable heat installation; the producer of biogas or biomethane; or the producer of biofuel for the generation of heat.

297. Subsection (3)(c) inserts new paragraphs (ba) and (bb) into subsection (2) of section 100. The new (ba) specifies that regulations can make provision about the circumstances in which, and descriptions of persons to whom, the whole or a part of an entitlement to payments under the schemes may be assigned. The new (bb) replaces the wording that was in (a), and allows for the regulations to provide for payments to be made (by the Secretary of State, the Authority, any other person administering a scheme or a designated fossil fuel supplier) to persons entitled to receive payments, or to whom those entitlements have been assigned. This could allow, for example, the owner of a heat generating installation to assign his payments to a person providing finance for the installation and for payments to be made directly to that person. Paragraphs (b) and (d) of subsection (3) make consequential amendment because of the new defined term “RHI payment” introduced in paragraph (a).

298. Subsection (3)(e) substitutes paragraph (d) of section 100(2) so that regulations can authorise or require a person to provide specified information. This could be used in the context of changes to the arrangements for the administration of the scheme, such as providing for information flows between these administrators.

299. Subsections (3)(f) to (h) make amendments to section 100 as a consequence of the new subsection (1A).

300. Subsection (3)(i) inserts two new paragraphs into subsection (2) of section 100. The new paragraph (j) means that regulations can authorise the Secretary of State to make payments to any person with respect to administration of the RHI schemes. The new paragraph (k) makes clear that the regulations can include provision about the resolution of disputes including by arbitration or appeal. This could allow for the regulations to include a right of appeal to a court or tribunal. The paragraph makes clear that an appeal or arbitration could result in an order for the payment of costs or compensation.

301. Subsection (4) amends subsection (3) of section 100 to include a definition of “other administrative function” within the new paragraph (bb).

302. Subsection (5) to (8) introduce changes to the Parliamentary control of RHI subordinate legislation contained in section 105 of the Energy Act 2008.

303. Subsection (6)(a) omits section 105(2)(a)(vi) and thereby removes the existing requirement that all regulations under section 100 are subject to the affirmative resolution procedure.

304. Subsection (6)(b) inserts a new paragraph (ab) in subsection (2) of section 105 setting out that renewable heat incentive regulations made under section 100 will be subject to the affirmative resolution process if they contain ‘affirmative resolution provision’, which is defined in the new subsections (3A) to (3I) in section 105 inserted by subsection (8).

305. The new subsection (3A) defines affirmative resolution provision as provision made under a power which always attracts the affirmative resolution procedure (described in new subsection (3B)), or which is not made under one of those powers and meets any of the conditions A to D described in new subsections (3C) to (3F).

306. The new subsection (3B) ensures that use of the following powers will always be subject to the affirmative procedure:

- Section 100(2)(c), (e), (f), (g), (h) or (k) which cover enforcement, sanctions and appeals, and levies on fossil fuel suppliers;
- Section 100(5) which allows for regulations to amend the definitions of biomass or biogas in subsection (3) and the list of sources of energy and technologies in subsection (4) of section 100; and
- Section 100(6) which allows for provision in regulations to be made, for the purposes of subsection (2)(a)(iii) and the definition of “fossil fuel supplier”, specifying that particular activities do or do not constitute generating heat.

307. The new subsection (3C) contains condition A. This ensures that where provision is made under section 100(2)(bb) for RHI payments to be made by fossil fuel suppliers, the affirmative procedure is used.

308. The new subsection (3D) contains condition B. This ensures that the first provision in each RHI scheme which confers an administration function on someone other than the Secretary of State or the Authority will be subject to the affirmative resolution procedure.

309. The new subsection (3E) contains condition C, which only applies to the two RHI schemes which are in existence when the subsection comes into force. This ensures that the first provision in each of those RHI schemes, which is made under section 100(2)(ba) or (bb)(ii) — and which concern the assignment of the entitlement to RHI payments, and the payment of such assigned payments — will be subject to the affirmative resolution procedure.

310. The new subsection (3F) contains condition D, which only applies to new RHI schemes made after the subsection comes into force. This ensures that the first use of each of paragraphs (a) (entitlement to RHI payments), (b) (calculation of payments), (ba) (assignment of entitlement), (bb) (requirements to pay), (d) (provision of information) or (j) (making payments to administrators) of section 100(2) in each such RHI scheme is subject to the affirmative resolution procedure.

311. The new subsection (3G) ensures that payment functions conferred on a fossil fuel supplier will not count as administrative functions conferred on someone other than the Secretary of State or the Authority for the purposes of condition B.

312. The new subsection (3H) provides that a provision made under any of the powers listed in (3A) to (3F) is still counted for the purposes of those subsections as being made under the power, even if it is also made under section 100(1), (1A) or (1B).

313. The new subsection (3I) defines the terms: administration function; designated fossil fuel supplier; payment function; and RHI scheme for use within new subsections (3B) to (3H).

314. Subsection (9) amends section 105 of the Utilities Act 2000. That section contains restrictions on the disclosure of information, including information gained through an RHI scheme. The new provision inserted as paragraph (aa) in subsection (3) of section 105 exempts from the restriction on disclosure any disclosure made for the purpose of facilitating the functions of any person under section 100 of the Energy Act 2008.

Reimbursement of persons who have met expenses of making connections

315. The Electricity Act 1989 (“the 1989 Act”) provides a power in section 19 (Power to recover expenditure) for the Secretary of State to make regulations which allow for the sharing of costs among persons requiring electricity connections to a distribution network. The Secretary of State may enable or require electricity distributors to obtain so-called “second comer” payments from persons who benefit from an electricity connection paid for by a previous person (the “first comer”) and for any payments received to be re-distributed to earlier contributors (such as the first comer).

316. The power in section 19(2) and (3) of the 1989 Act only applies to connections made by licensed distribution network operators. It therefore excludes independent connection providers (ICPs) which now compete with distribution network operators (DNOs) and independent distribution network operators (IDNOs) in the connections market. This can put ICPs at a disadvantage since a customer may be deterred from contracting with them to provide a connection, on the basis that they would not be able to recover a proportion of the cost from later connectees (i.e. the “second comer”).

317. The provision on reimbursement of persons who have met expenses of making electrical connections in section 47 replaces the power at section 19(2) and (3) of the 1989 Act with a broader power to allow or require the recovery of second comer payments regardless of whether a DNO, IDNO or ICP made the first or second connection. It also amends the power at section 23 (Determination of disputes) of the Gas and Electricity Markets Authority (“GEMA”) to determine disputes relating to connections and makes consequential amendments to sections 16 (Duty to connect on request) and 16A (Procedure for requiring a connection) of the 1989 Act.

318. The power allows the Secretary of State to provide for various matters in the regulations, which include placing a requirement on electricity distributors to seek and allocate payments from second comer. It also allows for distributors to estimate the cost of connections which they did not themselves make by reference to what it would have cost them and changes in prices since the connection was made.

Section 52: Reimbursement of persons who have met expenses of making electrical connections

319. Subsections (1), (2) and (3) amend section 19 of the 1989 Act by removing subsections (2) and (3) and replacing them with new Schedule 5B.

320. Subsections (4) and (5) make consequential amendments to sections 16 and 16A of the 1989 Act.

321. Subsection (6) amends section 23 of the 1989 Act by inserting a new subsection to enable GEMA to determine disputes relating to the exercise of the reimbursement powers set out in Schedule 5B. It also makes consequential amendments to the remainder of section 23.

Schedule 5B

Power to make regulations

322. Paragraph 1 confers a power on the Secretary of State to make regulations enabling electricity distributors to exercise the reimbursement powers where conditions A to D as set out are met. Condition A is met where an electricity connection (the “first connection”) is made between premises and a distribution system or between two distribution systems. Condition B is met if a payment has been made towards the cost of the first connection by the person who required the connection or caused it to be made. Conditions C and D are met where a second connection is made using electric line or plant provided for the first connection within a period prescribed in the regulations.

323. Paragraph 1(6) defines “first connection expenses” as those reasonably incurred by a person in providing electric line or plant to make the connection (including the capitalised value of maintaining it).

324. Paragraph 1(7) makes clear that it does not matter whether the first connection or second connection is made by an electricity distributor or a person of another description, thereby bringing ICPs within the scope of the power.

The reimbursement powers

325. Paragraph 2(1) defines the reimbursement powers as the power to require a reimbursement payment from a person who requires or otherwise causes a second connection to be made and the power to apply such a payment to reimburse anyone who was required to contribute to the cost of the first connection.

326. Paragraph 2(2) sets out that a reimbursement payment is a payment towards the cost of a first connection of an amount which is reasonable in all the circumstances.

Other provisions about the regulations under this Schedule

327. Paragraph 3(1) imposes a duty on the Secretary of State to consult GEMA before making regulations under this Schedule.

328. Paragraph 3(2) allows regulations requiring relevant electricity distributors to exercise a reimbursement power and thus collect and allocate reimbursement payments.

329. Paragraph 3(3) allows a relevant electricity distributor to estimate the cost of a first connection in situations where the electricity distributor did not make that connection. This situation arises where an ICP makes the first connection to a distribution network on behalf of its customer.

330. Paragraph 3(4) ensures that an ICP (or other person who has made a connection in respect of which a reimbursement payment is due) may not be required to share its cost information with a relevant electricity distributor.

331. Paragraph 3(5) allows a relevant electricity distributor to estimate the costs of the ICP (or other person who has made a connection in respect of which a reimbursement payment is due) by reference to its own costing methodology and changes in prices.

Interpretation

332. Paragraph 4(1) and (2) defines the terms “first connection”, “first connection expenses”, “payment in respect of first connection expenses”, “reimbursement payment” and “reimbursement powers” by reference to the paragraphs of the Schedule where they appear. It also defines “relevant electricity distributor” as the distributor who operates the distribution system into which a new connection is made.

Section 53: Consequential provision

333. Section 53 gives a power to make consequential provision in connection with any provision under Part 5 of the Act, other than section 40 (Extractive Industries Transparency Initiative).

PART 7 PUBLIC WORKS LOAN COMMISSIONERS**Section 54: Power to abolish Public Works Loan Commissioners**

334. The Public Works Loan Board is a statutory body which dates back to the Public Works Loan Act 1875 and issues central governments loans to mainly local authorities in England, Scotland and Wales. It comprises twelve loan commissioners, with day to day operations carried out by the Debt Management Office which is an executive agency of HM Treasury.

335. Section 54 will include the Public Works Loan Board in Schedule 1 to the Public Bodies Act 2011 (PBA) and will allow the Government to make an order under the PBA, following a statutory consultation in the future as required under the PBA, which would abolish the PWLB and transfer its functions to another body. This will be subject to the affirmative resolution procedure set out in the PBA.

COMMENCEMENT DATES

336. Part 1 of the Act will come into force on such day as the Secretary of State may appoint by regulations made by statutory instrument, except that powers in that Part to make regulations will come into force on the day on which the Act is passed.

337. Part 2 of the Act will come into force on such day as the Secretary of State may appoint by regulations made by statutory instrument.

338. Part 3 of the Act will come into force at the end of the period of two months beginning on the day on which the Act is passed.

339. Part 4 of the Act will come into force on such day as the Secretary of State may appoint by regulations made by statutory instrument, so far as it relates to England, and on such day as the Welsh Ministers may appoint by regulations made by statutory instrument, so far as it relates to Wales.

340. As regards Part 5 of the Act, certain provisions (section 29 which confers a power to make provision by development order under the Town and Country Planning Act 1990, section 33, section 28 in so far as it confers power to make regulations, and section 30 and Schedule 4 in so far as they confer power to make provision by regulations or by development order) will come into force on the day on which the Act is passed, certain provisions (sections 28 and 30 and Schedule 4 for other purposes, and sections 26, 27 and 37) will come into force on such day as the Secretary of State may appoint by regulations made by statutory instrument, and certain provisions (sections 31, 32 and 34 to 36 and Schedule 5) will come into force at the end of the period of two months beginning on the day on which the Act is passed (subject to Part 4 of Schedule 5 as regards section 34 and Schedule 5).

341. As regards Part 6 of the Act, certain provisions (sections 51 and 53) will come into force on the day on which the Act is passed, certain provisions (sections 41, 42, 50 and 52 and Schedule 7) will come into force on such day as the Secretary of State may appoint by regulations made by statutory instrument, certain provisions (sections 40 and 43 to 49) will come into force at the end of the period of two months beginning on the day on which the Act is passed and certain provisions (sections 38 and 39 and Schedule 6) will come into force on 1 June 2016.

342. Part 7 of the Act will come into force at the end of the period of two months beginning on the day on which the Act is passed. Her Majesty's Treasury will then start the process of statutory consultation and introduce secondary legislation at an appropriate time in the future as set out in the Public Bodies Act 2011.

343. Part 8 of the Act will come into force on the day on which the Act is passed.

344. Regulations which are made to appoint a day on which provisions in the Act are to come into force may appoint different days for different purposes or areas.

HANSARD REFERENCES

345. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament. Links to the Hansard extracts can be found here:

<http://services.parliament.uk/bills/2014-15/infrastructure/stages.html>

| Stage | Date | Hansard reference | |
|-------------------------------------------|--------------------|---------------------|------------|
| House of Lords | | | |
| Introduction | 5th June 2014 | Column 21 | Column 838 |
| | Second Reading | 18th June 2014 | |
| Committee | 3rd July 2014 | Column GC327 | |
| | 8th July 2014 | Column GC39 | |
| | 10th July 2014 | Column GC155 | |
| | 15th July 2014 | Column GC211 | |
| | 17th July 2014 | Column GC285 | |
| | 22nd July 2014 | Column GC371 | |
| Report | 14th October 2014 | Column GC31 | |
| | 3rd November 2014 | Column 1429 | |
| | 5th November 2014 | Column 1701 | |
| Third Reading | 10th November 2014 | Column 31 | |
| | 19th November 2014 | Column 443 | |
| House of Commons | | | |
| First Reading | 20th November 2014 | | |
| Second Reading | 8th December 2014 | Column 650 | |
| Committee | 16th December 2014 | Columns 3 and 33 | |
| | 18th December 2014 | Column 83 | |
| | 6th January 2015 | Columns 103 and 133 | |
| | 8th January 2015 | Columns 187 and 213 | |
| | 13th January 2015 | Columns 261 and 293 | |
| Report and Third Reading | 15th January 2015 | Columns 345 and 371 | |
| | 26th January 2015 | Columns 574 and 686 | |
| Lords Consideration of Commons Amendments | 9th February 2015 | Column 1040 | |
| Commons Consideration of Lords Amendments | 11th February 2015 | Column 899 | |
| Lords Royal Assent | 12th February 2015 | Column 1353 | |
| Commons Royal Assent | 12th February 2015 | Column 1000 | |

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