



# Infrastructure Act 2015

## 2015 CHAPTER 7

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:—

**Status:** Point in time view as at 12/02/2015. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Infrastructure Act 2015 is up to date with all changes known to be in force on or before 06 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## PART 1

### STRATEGIC HIGHWAYS COMPANIES

#### *Appointment as highway authorities*

#### **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 Information**

**II** S. 1 partly in force; s. 1 in force for specified purposes at Royal Assent, see s. 57(1)(a)

VALID FROM 05/03/2015

#### **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

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- (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.

VALID FROM 05/03/2015

### *Functions*

#### **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.

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

#### **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.

#### *Exercise of functions*

VALID FROM 05/03/2015

#### **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.

VALID FROM 05/03/2015

#### **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—

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- (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.

## 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.

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### Commencement Information

**I2** S. 7 partly in force; s. 7 in force for specified purposes at Royal Assent, see s. 57(1)(a)

VALID FROM 05/03/2015

## 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.

## *Oversight*

## 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—

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- (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 Information

**I3** S. 9 partly in force; s. 9 in force for specified purposes at Royal Assent, see s. 57(1)(a)

## 10 Monitor

- (1) The Office of Rail Regulation 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).

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- (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.”

**Commencement Information**

**I4** S. 10 partly in force; s. 10 in force for specified purposes at Royal Assent, see s. 57(1)(a)

VALID FROM 05/03/2015

**11 Monitor: compliance and fines**

- (1) If the Office of Rail Regulation 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.



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VALID FROM 05/03/2015

## 12 Monitor: general duties

- (1) The Office of Rail Regulation 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.

VALID FROM 05/03/2015

## 13 Monitor: guidance

- (1) The Secretary of State may from time to time give the Office of Rail Regulation 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.

VALID FROM 05/03/2015

## 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.

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- (2) The Secretary of State must lay a report prepared under subsection (1) before Parliament.

*Transfers of property etc*

VALID FROM 05/03/2015

**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.

**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

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- (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).

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**Commencement Information**

**I5** S. 16 partly in force; s. 16 in force for specified purposes at Royal Assent, see s. 57(1)(a)

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VALID FROM 05/03/2015

### *Finance*

#### **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 ”.

### *Supplemental and general*

#### **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—

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- (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 Information

**I6** S. 18 partly in force; s. 18 in force for specified purposes at Royal Assent, see s. 57(1)(a)

## 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 Information

**I7** S. 19 partly in force; s. 19 in force for specified purposes at Royal Assent, see s. 57(1)(a)

VALID FROM 05/03/2015

## 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.

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VALID FROM 31/07/2015

## PART 2

### CYCLING AND WALKING INVESTMENT STRATEGIES

#### 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.

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VALID FROM 12/04/2015

### PART 3

#### POWERS OF BRITISH TRANSPORT POLICE 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 ”.

VALID FROM 05/03/2015

### PART 4

#### ENVIRONMENTAL CONTROL OF ANIMAL AND PLANT SPECIES

VALID FROM 12/04/2015

##### 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 Section 14(4A)  
9A

#### SPECIES CONTROL AGREEMENTS AND ORDERS (ENGLAND AND WALES)

.....  
.....  
.....  
.....  
.....

- (4) In section 19 (enforcement), at the end insert—

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“(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.”

## 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—



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## “PART IB

### ANIMALS NO LONGER NORMALLY PRESENT

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

#### 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”.

## PART 5

### PLANNING, LAND AND BUILDINGS

#### *Nationally significant infrastructure projects*

VALID FROM 12/04/2015

#### 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.”

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### Commencement Information

**18** S. 26 in force at 12.4.2015 by [S.I. 2015/758](#), [reg. 2](#) (with [reg. 4\(2\)](#))

VALID FROM 05/04/2017

### **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 ”.

### **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 sub-paragraph (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.”

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- (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 Information

**I9** S. 28 partly in force; s. 28 in force for specified purposes at Royal Assent, see s. 57(5)(b)

### *Deemed discharge of planning conditions*

## **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);

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- (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.”

*Mayoral development orders*

**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.

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- (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 Information

**I10** S. 30 partly in force; s. 30 in force for specified purposes at Royal Assent, see s. 57(5)(d)

### *The Homes and Communities Agency and other bodies*

VALID FROM 12/04/2015

#### **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;

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“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—

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“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.

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- (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.



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- (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;

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- (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).”

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(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 ”, 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 Information

**III** S. 31 in force at 12.4.2015, see s. 57(5)(e)

VALID FROM 12/04/2015

## 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) In the heading after “land” insert “ acquired or ”.

(7) For subsection (1) (application of Schedule 3 to the Housing and Regeneration Act 2008 to land held by the GLA) substitute—

“(1) Schedule 3 to the Housing and Regeneration Act 2008 (powers in relation to land acquired by the Homes and Communities Agency) applies in relation to the Authority and land which has been vested in or acquired by the Authority for the purposes of housing or regeneration as it applies in relation to the Homes and Communities Agency and land which has been vested in or acquired by the Agency.”

(8) In subsection (2) for the “and” at the end of paragraph (a) substitute—

“(aa) references to land which has been vested in or acquired by the Homes and Communities Agency are to be read as references to land which has been vested in or acquired by the Authority for the purposes of housing or regeneration, and”.

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(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) In section 208 of the Localism Act 2011 (powers in relation to land acquired by a Mayoral development corporation) for subsection (1) substitute—

“(1) Schedule 3 to the Housing and Regeneration Act 2008 (powers, in relation to land acquired by the Homes and Communities Agency, to override easements etc, to extinguish public rights of way, and in relation to burial grounds and consecrated land) applies in relation to an MDC and land which has been vested in or acquired by an MDC as it applies in relation to the Homes and Communities Agency and land which has been vested in or acquired by the Agency.”

(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.

### **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.

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VALID FROM 12/04/2015

*Her Majesty's Land Registry*

**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.

**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 ”.

**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.

PROSPECTIVE

*Off-site carbon abatement measures*

**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 “;

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- (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 subparagraph (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.

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- (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.

## PART 6

### ENERGY

VALID FROM 01/06/2016

#### *The community electricity right*

### **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

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- (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;



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“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).

### 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.

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- (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.

VALID FROM 12/04/2015

*The Extractive Industries Transparency Initiative*

**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.”

VALID FROM 12/04/2015

*Recovery of UK petroleum*

**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;

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(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—

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- (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.

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- (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.

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- (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.”

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## **42 Levy on holders of certain energy industry licences**

- (1) The Secretary of State may, by regulations, provide for a levy to be imposed on, and be payable by, one or more of the following kinds of persons—
  - (a) persons who hold licences under section 2 of the Petroleum (Production) Act 1934 or licences under section 3 of the Petroleum Act 1998 (exploitation of petroleum);
  - (b) persons who hold licences under section 4 of the Energy Act 2008 (unloading and storing gas);
  - (c) persons who hold licences under section 18 of the Energy Act 2008 granted by the Secretary of State (storage of carbon dioxide).
- (2) No licensing levy is to be imposed in respect of a time which falls after the end of the period of 3 years beginning with the first day of the first charging period.
- (3) The Secretary of State must exercise the power conferred by subsection (1) so as to secure—
  - (a) that the total amount of licensing levy which is payable in respect of a charging period does not exceed the costs incurred by the Secretary of State in exercising the relevant functions in respect of that period; and
  - (b) that no levy is payable in respect of costs incurred in any exercise of relevant functions for which a charge is payable under the Gas and Petroleum (Consents) Charges Regulations 2013 (as those Regulations stand when this section comes into force).
- (4) In determining for the purposes of subsection (3)(a) the total amount of licensing levy payable in respect of a charging period, an amount of levy payable in respect of that period may be ignored if (during that period or subsequently)—
  - (a) having been paid, it is repaid or credit for it is given against other licensing levy that is payable; or
  - (b) having not been paid, the requirement to pay it is cancelled.
- (5) The “relevant functions” referred to in subsection (3) are—
  - (a) functions under the following enactments—
    - (i) the Pipe-lines Act 1962 (cross-country pipe-lines);
    - (ii) section 3 and the other provisions of Part 1 of the Petroleum Act 1998 (exploitation of petroleum);
    - (iii) Part 1A of the Petroleum Act 1998 (maximising economic recovery of UK petroleum);
    - (iv) Part 3 of the Petroleum Act 1998 (submarine pipelines);
    - (v) Part 4 of the Petroleum Act 1998, in so far as the functions concern reduction of the costs of abandonment of offshore installations and submarine pipelines;
    - (vi) section 4 and the other provisions of Chapter 2 of Part 1 of the Energy Act 2008 (importation and storage of combustible gas);
    - (vii) section 18 and the other provisions of Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide);
    - (viii) Chapter 3 of Part 2 of the Energy Act 2011 (upstream petroleum infrastructure);
  - (b) carrying out policy work on matters relating to UK petroleum and its recovery;

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- (c) providing advice and assistance to the petroleum industry on matters relating to UK petroleum and its recovery;
  - (d) collaborating with the petroleum industry on matters relating to UK petroleum and its recovery;
  - (e) acquiring, using and supplying information on matters relating to UK petroleum and its recovery;
  - (f) encouraging development of the petroleum industry in relation to the recovery of UK petroleum;
  - (g) carrying out, or providing advice and assistance to those carrying out, research and development in relation to technology and products relevant to the recovery of UK petroleum;
  - (h) functions which relate to—
    - (i) the security of petroleum supplies, or
    - (ii) the resilience of the petroleum industry;
  - (i) international co-operation on matters relating to UK petroleum and its recovery, including—
    - (i) resolution of disputes relating to the entitlements of different countries in relation to petroleum fields, and
    - (ii) openness and accountability in the management of natural resources.
- (6) The matters relating to UK petroleum and its recovery which fall within paragraphs (b), (c), (d) and (e) of subsection (5) include—
- (a) maximising the economic recovery of UK petroleum, and
  - (b) improving the supply chain of UK petroleum.
- (7) The amount or amounts of licensing levy payable by licence holders must be—
- (a) set out in the regulations, or
  - (b) calculated in accordance with a method set out in the regulations.
- (8) The licensing levy is payable to the Secretary of State.
- (9) Schedule 7 (the licensing levy) has effect.
- (10) Schedule 7 does not limit the provision that may be made by regulations under this section.
- (11) The Secretary of State may, by regulations, amend subsection (3)(b) by adding, removing or amending a reference to any regulations made under section 188 of the Energy Act 2004.
- (12) In this section and Schedule 7—
- “charging period” means a period in respect of which licensing levy is payable;
  - “licensing levy” means the levy provided for in regulations under this section;
  - “UK petroleum” means petroleum (within the meaning given in section 1 of the Petroleum Act 1998) which for the time being exists in its natural condition in strata beneath—
    - (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.



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VALID FROM 12/04/2015

### *Petroleum and geothermal energy in deep-level land*

#### **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.

#### **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.

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- (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.

#### **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.

#### **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).

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- (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.

#### **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

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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.

#### **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.

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VALID FROM 12/04/2015

*Other provision about onshore petroleum*

**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.

**Commencement Information**

**112** S. 49 in force at 12.4.2015, see s. 57(7)(b)

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VALID FROM 30/07/2015

## 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, |

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	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 the relevant planning permission has been granted does not include any land which is within any other protected areas
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	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	A notice given by the local planning authority that it has considered whether to impose such a condition

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restoration condition in relation to that development

- |    |   |   |
|----|---|---|
| 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



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- (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;

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“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.”

### *Renewable heat incentives*

## **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—

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- (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.

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- (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;

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“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;”.

VALID FROM 06/04/2017

*Reimbursement of persons who have met expenses*

**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

*Power to make regulations*

- 1 (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.

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- (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.

*The reimbursement powers*

- 2 (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.

*Other provision about regulations under this Schedule*

- 3 (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.

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- (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.

#### *Interpretation*

- 4 (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.”;

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(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) ”.

#### *Consequential provision*

### **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.

## **PART 7**

### PUBLIC WORKS LOAN COMMISSIONERS

### **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. ”

## **PART 8**

### GENERAL PROVISIONS

### **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—



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- (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 or 42(11),
  - (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.

## 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.

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- (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.

## 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

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- (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 this Act, other than Part 4 so far as it relates to Wales.
- (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.

## 58 Short title

This Act may be cited as the Infrastructure Act 2015.

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## SCHEDULES

VALID FROM 05/03/2015

### SCHEDULE 1

Section 1

STRATEGIC HIGHWAYS COMPANIES: CONSEQUENTIAL AND SUPPLEMENTAL AMENDMENTS  
 .....

VALID FROM 05/03/2015

### SCHEDULE 2

Section 3

ROAD INVESTMENT STRATEGY: PROCEDURE

#### PART 1

SETTING A ROAD INVESTMENT STRATEGY

##### *Introductory*

- 1 (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.

##### *Step 1: the Secretary of State's proposals*

- 2 (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—

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- (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.

*Step 2: the strategic highways company's response*

- 3
- (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).

*Step 3: where the strategic highways company has agreed to the proposals*

- 4
- (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.

*Step 4: where the strategic highways company has made counter-proposals or failed to respond*

- 5
- (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.

## PART 2

### VARYING A ROAD INVESTMENT STRATEGY

- 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.

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- (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.

VALID FROM 05/03/2015

## SCHEDULE 3

Section 15

### TRANSFER SCHEMES

#### *Application and commencement of scheme*

- 1 (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.

#### *Property, rights and liabilities that may be transferred*

- 2 (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.

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*Dividing and modifying transferor's property, rights and liabilities*

- 3 (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.

*Obligation to effect transfers etc under a scheme*

- 4 (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.

*Effect of scheme*

- 5 (1) Where a scheme provides for the transfer of property, rights or liabilities, or for the creation of interests, rights or liabilities—

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- (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.

#### *Powers and duties under statutory provisions*

- 6 (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).

#### *Supplementary provisions of schemes*

- 7 (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;



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(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.

#### *Modification of a scheme by agreement*

8 (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.

#### *Continuity of employment etc*

9 (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.

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- (5) No damages are payable by virtue of a constructive dismissal occurring under subparagraph (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.

*Compensation for third parties*

- 10 (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.

*Provision of information to Secretary of State for the purposes of making a scheme*

- 11 (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.

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- (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 sub-paragraph (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.

#### *Interpretation*

- 12 (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”—

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- (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.

## SCHEDULE 4

Section 30

### MAYORAL DEVELOPMENT ORDERS

#### PART 1

##### MAIN AMENDMENTS

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.

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### **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;

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- (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.

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- (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 Information

**113** Sch. 4 para. 1 partly in force; Sch. 4 para. 1 in force for specified purposes at Royal Assent, see s. 57(5)(d)

## PART 2

### CONSEQUENTIAL AMENDMENTS

PROSPECTIVE

2 The Town and Country Planning Act 1990 is amended as follows.

PROSPECTIVE

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”.

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PROSPECTIVE

- 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”.

PROSPECTIVE

- 5 In section 58(1) (planning permission may be granted by development order etc) after “a local development order” insert “, a Mayoral development order”.

PROSPECTIVE

- 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)”.

PROSPECTIVE

- 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)”.

PROSPECTIVE

- 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,”.

PROSPECTIVE

- 9 (1) Section 71 (consultations in connection with determinations under section 70) is amended as follows.



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- (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 ”.

PROSPECTIVE

- 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)”.

PROSPECTIVE

- 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 ”.

PROSPECTIVE

- 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 ”.

PROSPECTIVE

- 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 ”.

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PROSPECTIVE

- 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”.

PROSPECTIVE

- 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—

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- (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.”

PROSPECTIVE

- 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 ”.

PROSPECTIVE

- 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 ”.

PROSPECTIVE

- 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 ”.

- 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).”

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### Commencement Information

**I14** Sch. 4 para. 19 partly in force; Sch. 4 para. 19 in force for specified purposes at Royal Assent, see s. 57(5)(d)

#### PROSPECTIVE

20 In section 305(1)(a) (contributions by Ministers towards compensation paid by local authorities) after “local authority” insert “, the Mayor of London”.

#### PROSPECTIVE

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.”

#### PROSPECTIVE

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), ”.

#### PROSPECTIVE

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);”.

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VALID FROM 12/04/2015

## SCHEDULE 5

Section 34

### TRANSFER OF RESPONSIBILITY FOR LOCAL LAND CHARGES TO LAND REGISTRY

#### PART 1

##### AMENDMENTS TO THE LOCAL LAND CHARGES ACT 1975

- 1 The Local Land Charges Act 1975 is amended as follows.
- 2 In the italic heading before section 3 for “registers” substitute “ register ”.
- 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.”

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- 4 Omit section 4 (the appropriate local land charges register).
- 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 ”.
- 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 ”.
- 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”.
- 8 (1) Section 9 (official searches) is amended as follows.
- (2) In subsection (1)—
- (a) omit “appropriate”, and

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- (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).
- 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—

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“(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”.
- 10 In section 12 (office copies as evidence) for “any local land charges register” substitute “ the local land charges register ”.
- 11 In section 13 (protection of solicitors, trustees etc) for “a local land charges register” substitute “ the local land charges register ”.
- 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.
- 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



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- 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.
- 14 In section 15(b) (expenses) for “a registering authority” substitute “ the Chief Land Registrar ”.
- 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 ”.
- 16 In section 19(4) (transitional provision) omit the words from “In so far as” to “so made, but”.

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## PART 2

### AMENDMENTS TO THE LAND REGISTRATION ACT 2002

- 17 The Land Registration Act 2002 is amended as follows.
- 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.”
- 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, ”.
- 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 ”.

## PART 3

### AMENDMENTS TO OTHER ACTS

#### *Law of Property Act 1925 (c. 20)*

- 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 ”.

#### *Requisitioned Land and War Works Act 1948 (c. 17)*

- 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 ”.

#### *Cheshire County Council Act 1953 (c. xl)*

- 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”.

#### *Land Powers (Defence) Act 1958 (c. 30)*

- 24 The Land Powers (Defence) Act 1958 is amended as follows.
- 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 ”.
- 26 In section 17 (registration of wayleave orders and restrictions under section 16)
-

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- (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 ”.

*Rights of Light Act 1959 (c. 56)*

27 The Rights of Light Act 1959 is amended as follows.

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) ”.

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 ”.

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”.

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.

*Leasehold Reform Act 1967 (c. 88)*

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”.

*Land Compensation Act 1973 (c. 26)*

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”.

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*Interpretation Act 1978 (c. 30)*

- 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.

*Highways Act 1980 (c. 66)*

- 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 ”.

*Disused Burial Grounds (Amendment) Act 1981 (c. 18)*

- 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, ”.

*Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)*

- 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 ”.

*Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)*

- 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”.

*Local Government (Wales) Act 1994 (c. 19)*

- 39 In Schedule 17 to the Local Government (Wales) Act 1994 (savings and transitional provision) omit paragraph 11 (local land charges registers).

**PART 4**

TRANSITIONAL PROVISION

*Power for Parts 1 and 3 to be applied gradually to local authority areas*

- 40 (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

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(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.

#### *Duty of local authorities to assist Chief Land Registrar*

41 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.

#### *Continuity of functions*

42 (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.

#### *Compensation*

43 (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

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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.

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- (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 sub-paragraphs (2) to (4).

#### *Interpretation*

- 44 (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.

VALID FROM 01/06/2016

## SCHEDULE 6

Section 38

### COMMUNITY ELECTRICITY RIGHT REGULATIONS

#### PART 1

##### THE RIGHT TO BUY

##### *“Right to buy regulations”*

- 1 In this Schedule “right to buy regulations” means regulations under subsection (1) of section 38.

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*Kinds of facilities in relation to which right to buy exercisable*

- 2
- (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.

*Identification of qualifying facilities*

- 3
- (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).



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#### *The promoter*

- 4 (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.

#### *The community*

- 5 (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.

#### *The members of the community*

- 6 (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

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(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.

*Kinds of stake which may be bought through the right to buy*

- 7 (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.

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- (3) Right to buy regulations may make provision about the rights, obligations, powers and other terms attaching to a stake.

*Particular kind of stake which may be bought in particular facility*

- 8 (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.

*The price of the stakes*

- 9 (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.

*Total value of the offer*

- 10 (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—

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“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.

*Buying a stake*

- 11 (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.

*Excessive or insufficient take-up*

- 12 (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.

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- (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 subparagraphs (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.

#### *Subsequent disposal of a stake*

- 13 (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.

## **PART 2**

### **OPERATORS, OWNERSHIP & RELATED MATTERS**

#### *“Operator and ownership regulations”*

- 14 In this Schedule “operator and ownership regulations” means regulations under subsection (2) of section 38.

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*Bodies that may be facility operators*

- 15 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.

*Constitutions of facility operators*

- 16 (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.

*Ownership of facility operators*

- 17 (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.

*Conduct of owners of facility operators*

- 18 (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).

*Revenues*

- 19 (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.

**PART 3**

INFORMATION

*“Information regulations”*

- 20 In this Schedule “information regulations” means regulations under subsection (3) of section 38.

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#### *Particular kinds of information*

- 21 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.

#### *Possible buyers of stakes*

- 22 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).

#### *Prospective buyers of stakes*

- 23 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.

#### *Applicants for stakes*

- 24 Information regulations may make provision about the supply of information by, or to, individuals and groups who are exercising the right to buy.

#### *Owners of stakes*

- 25 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.

### **PART 4**

#### **SUPPLEMENTARY**

#### *Interpretation*

- 26 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.

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VALID FROM 12/04/2015

SCHEDULE 7

Section 42

THE LICENSING LEVY

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