

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 22: Removal of consultation requirements

844. This Schedule removes a number of statutory requirements to consult that are currently imposed on the Secretary of State or other public authorities. The government considers that these are unnecessary. The Secretary of State or the other public authority will continue to be able to consult where this is considered appropriate.
845. The requirements that are being removed are summarised briefly below.

Part 1: Measures affecting England only

National Parks and Access to the Countryside Act 1949: making of byelaws

846. *Paragraph 1* removes the requirement in section 91(1) of the National Parks and Access to the Countryside Act 1949 for the Secretary of State to consult Natural England before using default powers to make byelaws affecting any land or waterway in a National Park or an Area of Outstanding Natural Beauty in England.
847. *Section 91* forms part of the law of England and Wales. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Pests Act 1954: designation of rabbit clearance areas

848. *Paragraph 2* disapplies the consultation requirement contained in section 1(11)(a) of the Pests Act 1954 in relation to England. Section 1 of the Act permits the Secretary of State to make rabbit clearance orders (“RCOs”), which designate areas in which occupiers are then obliged to take steps to keep their land free of wild rabbits or, where this is not practicable, to prevent damage caused by them. Section 1(11)(a) currently provides that, before making an RCO, the Secretary of State must (unless compliance would be unreasonable in the circumstances) consult such persons as appear to him to be representative of interests of farmers, agricultural land owners, and agricultural workers, and of any forestry interests in the area.
849. Section 1 of the 1954 Act forms part of the law of England and Wales and Scotland. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Agriculture and Horticulture Act 1964: grading etc of horticultural produce

850. *Paragraph 3* removes the requirement in section 23(1) of the Agriculture and Horticulture Act 1964, which requires the authority proposing to make any regulations or orders under Part 2 of the Act (which deals mainly with the grading of horticultural produce), to consult with organisations appearing to be representative of interests affected by the regulations or orders.

851. [Section 23](#) forms part of the law of England and Wales and Scotland. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Control of Pollution Act 1974: reduction of noise from plant or machinery

852. [Paragraph 4](#) removes the requirement in section 68(4) of the Control of Pollution Act 1974 for the Secretary of State to consult persons who represent producers and users of plants and machinery before making regulations in connection with reducing the noise caused by the plant or machinery and for limiting the level of noise which may be caused by any plant or machinery when used for certain works. The requirement is removed only where the regulations apply to England only.
853. [Section 68](#) forms part of the law of England and Wales and Scotland. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Agriculture (Miscellaneous Provisions) Act 1976: metrication of measurements

854. [Paragraph 5](#) removes the requirement in section 7(4) of the Agriculture (Miscellaneous Provisions) Act 1976 to consult interested parties before making regulations under section 7 on the adaptation of enactments to metric units. The requirement is removed only where the regulations apply to England only. (It is, in any event, unlikely that regulations will be made in future under this section. The last time such regulations were made was in 1979.)
855. [Section 7](#) forms part of the law of England and Wales and Scotland. The amendment affects England only. The amendment comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Forestry Act 1979: metrication of measurements

856. [Paragraph 6](#). Section 2(2) of the Forestry Act 1979 made provision for the Forestry Commissioners, in relation to England, and the Welsh Ministers, in relation to Wales, to make regulations to change various imperial measurements in relevant forestry legislation to metric units. The power in section 2(2) extends to public general, local or private Acts. Section 2(4) obliged the Forestry Commissioners and the Welsh Ministers to consult persons or organisations whose interests might be affected by such changes. Paragraph 6 removes this requirement but only in relation to regulations made by the Forestry Commissioners. The requirement to consult continues in relation to regulations made by the Welsh Ministers.
857. [Section 2](#) forms part of the law of England and Wales and Scotland. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Derelict Land Act 1982: grants for reclaiming or improving derelict land etc

858. [Paragraph 7](#) removes the requirement upon the Secretary of State in section 1(6A) of the Derelict Land Act 1982 to consult Natural England before making any grant to reclaim or improve derelict, neglected or unsightly land which is in a National Park or in an Area of Outstanding Natural Beauty.
859. [Section 1](#) forms part of the law of England and Wales. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Horticultural Produce Act 1986: movement of horticultural produce

860. [Paragraph 8](#) removes the requirement in section 3(2) of the Horticultural Produce Act 1986 on Ministers to consult such organisations as appear to them to represent interests

likely to be affected by the order, before making an order to change the circumstances in which consent must be given to the movement of produce. The requirement is removed only where the order applies to England only.

861. [Section 3](#) forms part of the law of England and Wales and Scotland. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Housing Act 1988: designation of Housing Action Trust Areas

862. [Paragraph 9](#) removes, for England, the requirement under section 61(1) of the Housing Act 1988 which requires the Secretary of State to consult local housing authorities before designating any part of their area as a housing action trust area.
863. By way of background, Housing Action Trusts are formed under Part 3 of the Housing Act 1988. A HAT is a corporation that takes over the housing and planning functions of the local authority in the designated area. Their purpose is to improve the area's services and facilities and the condition of local authority and other housing stock in the area. Once this work is complete the HAT is wound up.
864. [Section 61](#) forms part of the law of England and Wales. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Land Drainage Act 1991: codes of practice

865. [Paragraph 10](#). Section 61E of the Land Drainage Act 1991 provides powers for Ministers to approve any code of practice which provides guidance to internal drainage boards and/or local authorities in England and Wales on a range of conservation, biodiversity, sites of special scientific interest and public access issues. Section 61E(4) requires that Ministers must consult before they make an order under 61E. Paragraph 10 removes this requirement where the order applies to England only.
866. Section 61E forms part of the law of England and Wales. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Environment Act 1995: National Park grant

867. [Paragraph 11](#) removes the requirement in section 72(2) of the Environment Act 1995 for consultation with Natural England over the level and purpose of any proposed grant to a National Park authority in England.
868. [Section 72](#) forms part of the law of England and Wales. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Environment Act 1995: hedgerows

869. [Paragraph 12](#) removes the requirement, in section 97(6)(d) of the Environment Act 1995, for Ministers, before making regulations under section 97 of the Act "for the protection of important hedgerows", to consult bodies whose statutory functions include giving advice to Ministers on matters relating to environmental conservation. The requirement is removed only where the regulations apply to England only.
870. The amendment would remove only the requirement to consult those with statutory duties to advise Ministers on environmental matters. It would not remove the requirement for Ministers, before making regulations "for the protection of important hedgerows", to consult other bodies/organisations as set out in the remaining provisions of section 97(6).

871. [Section 97](#) forms part of the law of England and Wales and Scotland. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Environment Act 1995: environmental subordinate legislation

872. [Paragraph 13](#) removes the requirement in section 99 of the Environment Act 1995 on Ministers to consult before making or modifying for England certain subordinate legislation dealing with environmental matters.
873. [Section 99](#) forms part of the law of England and Wales and Scotland. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Local Government Act 1999: keeping of accounts by best value authorities

874. [Paragraph 14](#) omits section 23(4) of the Local Government Act 1999. The effect of this provision is to remove the requirement for the Secretary of State to consult when making regulations about the keeping of accounts by best value authorities. Section 1 of the Local Government Act 1999 lists best value authorities, all of which are types of authorities existing only in England. So, although section 23 forms part of the law of England and Wales, the repeal will only affect authorities in England. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Countryside and Rights of Way Act 2000: grants to conservation boards

875. [Paragraph 15](#) removes the requirement in section 91(2) of the Countryside and Rights of Way Act 2000 for consultation with Natural England over the level and purpose of any grant to an Area of Outstanding Natural Beauty conservation board.
876. [Section 91](#) forms part of the law of England and Wales. The amendment affects England only. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Fire and Rescue Services Act 2004: schemes for combining fire and rescue authorities

877. [Paragraph 16](#) removes the duty of the Secretary of State to consult where proposing to vary or revoke a scheme to combine fire and rescue authorities made under the Fire and Rescue Services Act 2004 (the “2004 Act”), or a scheme to combine fire authorities made under the Fire Services Act 1947 (the “1947 Act”), where such variation or revocation has been proposed by the fire (and rescue) authority concerned.
878. Currently, section 2(6) of the 2004 Act requires the Secretary of State to consult when varying or revoking (whether on his own initiative or to give effect to proposals submitted by the authority) a combination scheme made under section 2 of that Act. This amendment disapplies that consultation requirement (in England) in circumstances where the authority concerned has proposed such changes. The amendment does not affect the duty on the Secretary of State to consult where he wishes, on his own initiative, to make a new combination scheme, or to vary or revoke an existing such scheme made under this section.
879. Under section 4(5) of the 2004 Act, the Secretary of State must consult affected authorities and other persons as appropriate when he intends (whether on his own initiative or to give effect to changes proposed by the authority) to vary or revoke a combination scheme approved or made under the 1947 Act. This amendment disapplies that consultation requirement (in England) in circumstances where the authority concerned has proposed such changes. It does not affect the duty on the Secretary of State to consult where he wishes to make such changes on his own initiative.

880. The amendments form part of the law of England and Wales but affect England only. They come into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Part 2: Measures affecting England and Wales

Water Industry Act 1991: provision of sewers

881. *Paragraph 17* removes the requirement under section 101A(5) of the Water Industry Act 1991 to consult: the Environment Agency; the Natural Resources Body for Wales; the Authority (OfWAT, the economic regulator for the water industry); or any other appropriate bodies or persons, when the Secretary of State is (or Welsh Ministers are) issuing guidance on the provision of a public sewer under section 101A of that Act.
882. Section 101A forms part of the law of England and Wales. The amendment will apply to England and Wales. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.

Local Government Act 2003: commencement of BID arrangements following appeal

883. *Paragraph 18* omits the duty to consult in section 53(7) of the Local Government Act 2003 which requires the Secretary of State in England, or the Welsh Ministers in Wales, to seek the views of billing authorities and ratepayers about the day on which Business Improvement District arrangements should come into force following an appeal against a veto.
884. By way of background, a Business Improvement District (“BID”) is a partnership arrangement between a local authority and the local business community to develop projects and services for the benefit of a defined area. The non-domestic ratepayers in the area pay a levy in return for the benefits outlined in the BID arrangements, for example projects to regenerate the area, or to increase security. The provisions relating to BID arrangements are contained in Part 4 of the Local Government Act 2003 (the “2003 Act”) and the [Business Improvement Districts \(England\) Regulations 2004 \(S.I. 2004/2443\)](#) (the “2004 Regulations”).
885. BID arrangements may not come into force unless proposals for the arrangements are approved by ballot of the non-domestic ratepayers who are to be liable to pay the levy. Where the result of the ballot is to approve the proposals, the billing authority may veto the proposals in prescribed circumstances (see regulation 12 of the 2004 Regulations). Section 52 of the 2003 Act allows any person entitled to vote in the ballot to appeal against the veto to the Secretary of State or the Welsh Ministers, as the case may be. In the event that an appeal against the veto is successful the Secretary of State or the Welsh Ministers determine the day on which the BID arrangements are to come into force (section 53(5)). Before making such a determination the Secretary of State or the Welsh Ministers must consult the relevant billing authority and such persons as appear to be representative of the non-domestic ratepayers who are to be liable for the proposed levy (section 53(7)). It is this requirement which is being repealed.
886. *Section 53* forms part of the law of England and Wales. The repeal will apply to BID arrangements in both England and Wales. It comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.