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## SCHEDULES

### SCHEDULE 1

Section 3

#### APPROVED ENGLISH APPRENTICESHIPS

#### PART 1

##### MAIN AMENDMENTS

- 1 In Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 (apprenticeships, study and training), before Chapter 1 insert—

#### “CHAPTER A1

##### APPRENTICESHIPS: ENGLAND

#### Meaning of “approved English apprenticeship” etc

- A1 (1) This section applies for the purposes of this Chapter.
- (2) An approved English apprenticeship is an arrangement which—
- (a) takes place under an approved English apprenticeship agreement, or
  - (b) is an alternative English apprenticeship,
- and, in either case, satisfies any conditions specified in regulations made by the Secretary of State.
- (3) An approved English apprenticeship agreement is an agreement which—
- (a) provides for a person (“the apprentice”) to work for another person for reward in a sector for which the Secretary of State has published an approved apprenticeship standard under section A2,
  - (b) provides for the apprentice to receive training in order to assist the apprentice to achieve the approved apprenticeship standard in the work done under the agreement, and
  - (c) satisfies any other conditions specified in regulations made by the Secretary of State.
- (4) An alternative English apprenticeship is an arrangement, under which a person works, which is of a kind described in regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may, for example, describe arrangements which relate to cases where a person—
- (a) works otherwise than for another person;
  - (b) works otherwise than for reward.

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- (6) A person completes an approved English apprenticeship if the person achieves the approved apprenticeship standard while doing an approved English apprenticeship.
- (7) The “approved apprenticeship standard”, in relation to an approved English apprenticeship, means the standard which applies in relation to the work to be done under the apprenticeship (see section A2).

### **Approved apprenticeship standards**

- A2 (1) The Secretary of State must publish standards for such sectors of work as the Secretary of State thinks appropriate for the purposes of this Chapter.
- (2) Each standard must be—
    - (a) prepared by the Secretary of State, or
    - (b) prepared by another person and approved by the Secretary of State.
  - (3) Each standard must—
    - (a) describe the sector of work to which it relates, and
    - (b) if there is more than one standard for that sector, describe the kind of work within that sector to which it relates.
  - (4) Each standard must set out the outcomes that persons seeking to complete an approved English apprenticeship are expected to achieve.
  - (5) The Secretary of State may—
    - (a) publish a revised version of a standard, or
    - (b) withdraw a standard (with or without publishing another in its place).
  - (6) Revisions of a standard may be—
    - (a) prepared by the Secretary of State, or
    - (b) prepared by another person and approved by the Secretary of State.

### **Power to issue apprenticeship certificate**

- A3 (1) The Secretary of State may issue a certificate (“an apprenticeship certificate”) to a person who applies for it if it appears to the Secretary of State that the person has completed an approved English apprenticeship.
- (2) The Secretary of State may by regulations make provision about—
    - (a) the manner in which applications under subsection (1) must be made;
    - (b) the supply by the Secretary of State of copies of apprenticeship certificates issued under that subsection to persons to whom they were issued.
  - (3) The Secretary of State may charge a fee for issuing an apprenticeship certificate or supplying a copy only if, and to the extent that, the charging of the fee is authorised by regulations.

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### **Delegation**

- A4 (1) Any function of the Secretary of State under this Chapter may be carried out by a person designated by the Secretary of State.
- (2) Subsection (1) does not apply to any power of the Secretary of State to make regulations.
- (3) A person designated under this section must—
- (a) comply with directions given by the Secretary of State, and
  - (b) have regard to guidance given by the Secretary of State.
- (4) A designation under this section may be revoked.

### **English apprenticeship agreements: status**

- A5 (1) To the extent that it would otherwise be treated as being a contract of apprenticeship, an approved English apprenticeship agreement is to be treated as not being a contract of apprenticeship.
- (2) To the extent that it would not otherwise be treated as being a contract of service, an approved English apprenticeship agreement is to be treated as being a contract of service.
- (3) This section applies for the purposes of any enactment or rule of law.

### **English apprenticeship agreements: supplementary provision**

- A6 (1) If an agreement—
- (a) contains provision which satisfies the conditions mentioned in section A1(3)(a) to (c), but
  - (b) also contains other provision which is inconsistent with those conditions,
- the other provision is to be treated as having no effect.
- (2) Before an agreement which satisfies the conditions mentioned in section A1(3)(a) to (c) is varied in such a way that it no longer satisfies one or more of those conditions, the person for whom the apprentice is working must give the apprentice a written notice.
- (3) The written notice must explain that, if the variation takes effect, the agreement will cease to be an approved English apprenticeship agreement.
- (4) If an agreement is varied in breach of the requirement under subsection (2), the variation has no effect.

### **Crown servants and parliamentary staff**

- A7 (1) Section A1(3) applies in relation to—
- (a) an agreement under which a person undertakes Crown employment,
  - (b) an agreement under which a person undertakes service as a member of the naval, military or air forces of the Crown, and
  - (c) an agreement under which a person undertakes employment as—

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- (i) a relevant member of the House of Lords staff, or
  - (ii) a relevant member of the House of Commons staff,
- as it applies in relation to any other agreement under which a person is to work for another (and this Chapter applies accordingly).
- (2) Subsection (1) is subject to subsection (3) and to any modifications which may be prescribed under subsection (5).
  - (3) Section A5(2) does not apply in relation to an approved English apprenticeship agreement that is an agreement within paragraph (a), (b) or (c) of subsection (1).
  - (4) Without prejudice to section 262(3), the power conferred by section A1(3)(c) may be exercised, in particular, to make provision in relation to an agreement within any of paragraphs (a), (b) and (c) of subsection (1) that differs from provision made in relation to other agreements under which a person is to work for another.
  - (5) The Secretary of State may by regulations provide for any provision of this Chapter to apply with modifications in relation to—
    - (a) an agreement within paragraph (a), (b) or (c) of subsection (1), or
    - (b) a person working, or proposing to work, under such an agreement.
  - (6) In subsection (1)—
    - “Crown employment” means employment under or for the purposes of a government department or an officer or body exercising on behalf of the Crown functions conferred by a statutory provision (but does not include service as a member of the naval, military or air forces of the Crown);
    - “relevant member of the House of Commons staff” has the meaning given by section 195(5) of the Employment Rights Act 1996;
    - “relevant member of the House of Lords staff” has the meaning given by section 194(6) of that Act.”

#### Commencement Information

**II** Sch. 1 para. 1 in force for certain purposes at Royal Assent, see s. 115

- 2 (1) Section 100 of the Apprenticeships, Skills, Children and Learning Act 2009 (provision of financial resources) is amended as follows.
  - (2) In subsection (1), after “financial resources” insert “ under this subsection ”.
  - (3) After subsection (1) insert—
    - “(1A) The Secretary of State may secure the provision of financial resources to any person under this subsection (whether or not the resources could be secured under subsection (1))—
      - (a) for the purpose of encouraging the provision of opportunities for individuals to complete approved English apprenticeships or to undertake work following the completion of such apprenticeships, or

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- (b) otherwise in connection with approved English apprenticeships.”
- (4) In subsection (3), after “subsection (1)” insert “ or (1A) ”.
- (5) In subsection (4), after “subsection (1)(c)” insert “ or (1A) ”.

#### Commencement Information

**I2** Sch. 1 para. 2 in force for certain purposes at Royal Assent, see s. 115

- 3 (1) Section 101 of that Act (financial resources: conditions) is amended as follows.
- (2) In subsection (2)—
- (a) after “may” insert “ (among other things) ”;
- (b) omit paragraph (b).
- (3) Omit subsections (4) and (5).

#### Commencement Information

**I3** Sch. 1 para. 3 in force for certain purposes at Royal Assent, see s. 115

- 4 In section 103 of that Act (means tests), in subsection (1) (as amended by paragraph 16 of Schedule 14), after “section 100(1)(c), (d) or (e)” insert “ or (1A) ”.

#### Commencement Information

**I4** Sch. 1 para. 4 in force for certain purposes at Royal Assent, see s. 115

VALID FROM 26/05/2015

## PART 2

### CONSEQUENTIAL AMENDMENTS

- 5 In consequence of the amendments made by Part 1 of this Schedule, the Apprenticeships, Skills, Children and Learning Act 2009 is further amended as follows.

#### *Amendments of Part 1*

- 6 For the title of Chapter 1, substitute “ Apprenticeships: Wales ”.
- 7 Omit section 1, and the italic cross-heading before it.
- 8 Omit sections 3 to 6, and the italic cross-heading before them.
- 9 In section 11—
- (a) in subsection (2), for “the appropriate national authority” substitute “ the Welsh Ministers ”;
- (b) omit subsection (3);
- (c) in the italic cross-heading before that section, omit “England and”.

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- 10 In section 12—
- (a) omit subsection (3);
  - (b) in the italic cross-heading before that section, omit “England and”.
- 11 Omit sections 13 to 17, and the italic cross-heading before them.
- 12 Omit sections 23 to 27, and the italic cross-heading before them.
- 13 In the italic cross-heading before section 32, omit “England and”.
- 14 In section 32, omit subsection (6)(a), and the “or” following it.
- 15 In section 38—
- (a) in subsection (1), for “The Secretary of State” substitute “ The Welsh Ministers ”;
  - (b) in subsection (2), for “the Secretary of State” substitute “ the Welsh Ministers ”.
- 16 In section 39, in subsection (1)—
- (a) in the definition of “apprenticeship certificate”, omit “3, 4,”;
  - (b) omit the definitions of “English certifying authority”, “English issuing authority”, “recognised English framework” and “the specification of apprenticeship standards for England”.
- Other amendments of the 2009 Act*
- 17 In section 83, in subsection (5), for paragraphs (a) to (c) substitute—
- “(a) an approved English apprenticeship, or
  - (b) any contract of service (other than an approved English apprenticeship agreement) or contract of apprenticeship.”
- 18 In section 83A—
- (a) in subsection (3), for the words from “opportunity to” to the end of the subsection substitute “ opportunity to enter into an approved English apprenticeship. ”;
  - (b) omit subsection (11).
- 19 (1) Section 83B is amended as follows.
- (2) In subsection (1), for the words from “at a particular level” to the end of the subsection substitute “for the purpose of assisting a person to achieve a particular approved apprenticeship standard if the person—
- (a) has already completed an approved English apprenticeship by achieving that standard,
  - (b) has already completed an approved English apprenticeship by achieving another standard and, in doing so, appears to the Secretary of State to have demonstrated a comparable level of achievement (whether or not in the same sector of work), or
  - (c) has worked under another arrangement and, in doing so, appears to the Secretary of State to have demonstrated a comparable level of achievement (whether or not in the same sector of work).”
- (3) After that subsection insert—
- “(1A) Section A1(6) and (7) (which make provision about when a person completes an approved English apprenticeship and about the meaning

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	of “approved apprenticeship standard”) apply for the purposes of subsection (1).”
	(4) Omit subsections (2) to (5).
20	In section 90, in subsection (2), for paragraphs (a) and (b) substitute— “(a) an approved English apprenticeship, or (b) any contract of employment (other than an approved English apprenticeship agreement) in connection with which training is provided.”
21	Omit section 105.
22	In section 121, in subsection (1)— (a) omit the definition of “apprenticeship agreement”; (b) after the definition of “apprenticeship training” insert— ““approved English apprenticeship” has the meaning given by section A1(2);”.
23	In section 267, in subsection (2), for “Chapter 1” substitute “ Chapter A1 ”.

VALID FROM 21/09/2018

### PART 3

#### APPRENTICESHIPS: WALES

24	Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.
25	(1) Section 18 (Welsh issuing authority) is amended as follows. (2) For subsection (2) substitute— “(2) The power to designate conferred by this section may not be exercised in such a way that there is at any time more than one person designated to issue apprenticeship frameworks relating to a particular apprenticeship sector.” (3) For subsection (5) substitute— “(5) In this Chapter, the “Welsh issuing authority”, in relation to an apprenticeship framework, means— (a) the person (if any) designated under this section to issue frameworks of that description; (b) if there is no-one so designated, the Welsh Ministers.”
26	In section 19 (issue: Wales), in subsection (2)— (a) after “withdrawn” insert “ by the Welsh issuing authority ”; (b) omit paragraphs (a) and (b).
27	(1) Section 20 (recognised Welsh frameworks: notification and publication) is amended as follows.

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- (2) In subsection (1)(b), at the beginning insert “ if the issuing authority is not the Welsh Ministers, ”.
- (3) In subsection (3)—
- (a) for “A person who” substitute “ A Welsh issuing authority which ”;
  - (b) in paragraph (b), for “in the case of withdrawal otherwise than by the Welsh Ministers,” substitute “ in the case where the issuing authority are not the Welsh Ministers, ”.

## PART 4

### TRANSITIONAL PROVISION

- 28 The provision that may be included in an order under section 115(9) in connection with the coming into force of paragraph 1 of this Schedule includes provision—
- (a) for work done by a person under an arrangement described in the order to be treated as work done under an approved English apprenticeship within the meaning of the Apprenticeships, Skills, Children and Learning Act 2009, where the person begins to work under the arrangement before the paragraph comes into force and continues to do so (for any period) afterwards;
  - (b) for a standard published by the Secretary of State before the paragraph comes into force, in connection with work that by virtue of provision made under paragraph (a) is treated as work done under an approved English apprenticeship, to be treated as if it were an approved apprenticeship standard published under section A2 of the 2009 Act in relation to the approved English apprenticeship.

#### Commencement Information

**I5** Sch. 1 para. 28 in force for certain purposes at Royal Assent, see s. 115

## SCHEDULE 2

Section 8

### DRIVING INSTRUCTORS

## PART 1

### AMENDMENTS OF PART 5 RTA 1988 (AS AMENDED BY RSA 2006)

- 1 Part 5 of the Road Traffic Act 1988 (driving instruction), as amended by Schedule 6 to the Road Safety Act 2006, is amended as follows.

#### Commencement Information

**I6** Sch. 2 in force for certain purposes at Royal Assent, see s. 115



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- 2 In section 124 (exemption from prohibitions imposed by section 123)—
- (a) in subsection (3), for “in particular, consist of” substitute “in particular—
    - (a) include the circumstance that a person holds a current emergency control certificate (and require the person to undergo an emergency control assessment for the purpose of obtaining such a certificate);
    - (b) consist of”;
  - (b) after subsection (5) insert—
    - “(6) In this Part “emergency control assessment” and “emergency control certificate” mean an assessment and a certificate under section 133A of this Act.”

#### Commencement Information

**I7** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 3 (1) Section 125 (register) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) If an applicant is aware that he is suffering from a relevant or prospective disability, his application under subsection (2) must be accompanied by written notification of the nature and extent of his disability.
  - (3B) Any person who fails without reasonable excuse to comply with the requirement imposed by subsection (3A) is guilty of an offence.
  - (3C) The Registrar may, in the circumstances mentioned in subsection (3D), require an applicant to submit himself for an emergency control assessment (whether or not the applicant already holds an emergency control certificate) in connection with his application under subsection (2).
  - (3D) Those circumstances are that the Registrar has reasonable grounds for believing that the person would be unable to take control of a motor vehicle of the class in which instruction is to be given if an emergency arose while he was giving driving instruction in such a motor vehicle.”
- (3) After subsection (5) insert—
- “(5A) In this Part “disability”, in respect of motor vehicles of any description, means a want of physical ability affecting the driving of motor vehicles of that description; and
    - (a) “relevant disability”, in relation to a person, means any prescribed disability or any other disability likely to cause the driving of a vehicle of the description in question by him to be a source of danger to the public;
    - (b) “prospective disability”, in relation to a person, means any other disability which, at the material time, is not of such a kind that it is a relevant disability but, by virtue of the intermittent or progressive nature of the disability or otherwise, may become a relevant disability in the course of time.”
- (4) Omit subsection (6).

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#### Commencement Information

**I8** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 4 (1) Section 125ZA (conditions of registration) is amended as follows.
- (2) In subsection (2)—
- (a) omit the “and” at the end of paragraph (b);
  - (b) after paragraph (c) insert “, and
  - (d) in the case of persons who have been required under section 125(3C) to submit themselves for emergency control assessments, conditions requiring the persons to hold current emergency control certificates.”
- (3) In subsection (4)—
- (a) after paragraph (b) insert—
    - “(ba) conditions requiring the persons, if at any time required to do so by the Registrar in the circumstances mentioned in section 125(3D), to submit themselves for emergency control assessments (whether or not they already hold emergency control certificates) on such days (within such periods as may be prescribed) and at such places as may be specified by the Registrar,
    - (bb) conditions requiring the persons to hold an emergency control certificate following any such assessment.”;
  - (b) in paragraph (c), for “and (c)” substitute “, (c) and (d) ”;
  - (c) omit the “and” at the end of paragraph (c);
  - (d) after paragraph (c) insert—
    - “(ca) conditions requiring that, if instruction in the driving of a motor vehicle is to be given in circumstances where there is a reasonable expectation of an emergency arising which necessitates the instructor taking control of the vehicle, the persons will only give such instruction if they would be able to take control of the vehicle if such an emergency arose while giving the instruction, and”.

#### Commencement Information

**I9** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 5 Omit sections 125A and 125B (registration of disabled persons and supplementary provision).

#### Commencement Information

**I10** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 6 In section 126 (duration of registration), omit subsection (5).

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**Commencement Information**

**I11** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 7 In section 127 (extension of duration of registration), in subsection (4)—
- (a) omit paragraph (a) and the “and” following it;
  - (b) in paragraph (b), omit “in any other case.”.

**Commencement Information**

**I12** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 8 In section 128 (termination of registration by Registrar), in subsection (2)—
- (a) omit paragraph (a) and the “and” following it;
  - (b) in paragraph (b), omit “in any other case.”.

**Commencement Information**

**I13** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 9 After section 128A insert—

**“128B Direction to disregard emergency control assessment requirement**

- (1) This section applies where a person has been required under section 125(3C), or as mentioned in section 125ZA(4)(ba), to submit himself for an emergency control assessment.
- (2) At any time before the assessment takes place the Registrar may withdraw the requirement (in which case this Part applies as if the requirement had never been imposed).
- (3) At any time after the assessment takes place the Registrar may direct that the requirement is to be disregarded for the purposes of this Part (and accordingly any condition that the person holds an emergency certificate is to cease to apply).
- (4) Notice of—
  - (a) the withdrawal of a requirement under subsection (2), or
  - (b) a direction under subsection (3),must be given to the person on whom the requirement was imposed.”

**Commencement Information**

**I14** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 10 In section 133 (review of examinations etc)—
- (a) in subsection (2)(a), omit “or 125A(6)(a)”;
  - (b) in subsection (2)(b), omit “or 125A(7A)(a)”.

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#### Commencement Information

**I15** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 11 (1) Section 133A (assessment of ability to control a motor car in an emergency) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), for “class covered by his disabled person's driving licence” substitute “prescribed class”;
  - (b) in paragraph (b), for “class covered by his disabled person's driving licence” substitute “prescribed class”;
  - (c) in the closing words, for “an appropriate” substitute “a”.
- (3) In subsection (6)—
- (a) in paragraph (a), for “class covered by his disabled person's limited driving licence” substitute “prescribed class”;
  - (b) in paragraph (b), for “class covered by his disabled person's limited driving licence” substitute “prescribed class”.
- (4) In subsection (7)(a), omit “covered by his disabled person's limited driving licence”.
- (5) After subsection (9) insert—
- “(10) In this Part, “modifications”, in relation to a motor vehicle, includes equipment.”
- (6) In the heading, omit “disabled person's”.
- (7) In the italic cross-heading before section 133A omit “Disabled Persons”.

#### Commencement Information

**I16** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 12 (1) Section 133B (further assessments) is amended as follows.
- (2) Omit subsection (1).
- (3) After subsection (2) insert—
- “(2A) A person may, for the purpose of obtaining an emergency control certificate, apply to undergo a further emergency control assessment if—
- (a) he has been required to submit himself for an emergency control assessment under section 125(3C) or as mentioned in section 125ZA(4)(ba),
  - (b) on completing that assessment, the assessor refused to grant him an emergency control certificate, and
  - (c) the application for the further assessment is made in such circumstances as may be prescribed.”
- (4) Omit subsection (3).
- (5) In subsection (4), for “subsection (1) above” substitute “subsection (5A)”.

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(6) After subsection (5) insert—

“(5A) A person may not apply to undergo a further emergency control assessment under subsection (4) until after the end of—

- (a) the period of six months beginning with the date of his most recent previous assessment, or
- (b) such other period as may be prescribed by regulations,

unless the Registrar considers it appropriate for the application to be made at such earlier time as may be specified by the Registrar.”

**Commencement Information**

**I17** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

13 In section 133C (duty to disclose further disability), in subsection (2)—

- (a) in the opening words, omit “disabled”;
- (b) in paragraph (a), for “125A(3)” substitute “ 125(3A) ”.

**Commencement Information**

**I18** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

14 (1) Section 133D (offences relating to giving of paid driving instruction) is amended as follows.

(2) Before subsection (2) insert—

“(1A) This section applies to registered instructors who have undergone emergency control assessments in accordance with a requirement imposed under section 125(3C) or as mentioned in section 125ZA(4)(ba).”

(3) In subsections (2) and (3), for “registered disabled instructor” substitute “ registered instructor to whom this section applies ”.

(4) After subsection (3) insert—

“(3A) Subsection (3) does not apply if the person to whom the instruction is given holds a full licence granted under Part 3 which is not limited by virtue of a notice served under section 92(5)(b).”

(5) In subsection (4), in the opening words, for “registered disabled instructor” substitute “ registered instructor to whom this section applies ”.

(6) In the heading, omit “by disabled person”.

**Commencement Information**

**I19** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

15 In section 142 (index to Part 5), in the index—

- (a) omit the following expressions and the corresponding relevant provisions—  
“Appropriate motor vehicle”;

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- “Disabled person's limited driving licence”;  
“Registered disabled instructor”;
- (b) in the entry for the expressions “disability, prospective disability and relevant disability”, in the corresponding relevant provision, for “125A(8)” substitute “ 125(5A) ”;
  - (c) in the entry for the expressions “emergency control assessment and emergency control certificate”, in the corresponding relevant provision, for “125A(8)” substitute “ 124(6) ”;
  - (d) in the entry for the expression “modifications, in relation to a motor vehicle”, in the corresponding relevant provision, for “125A(8)” substitute “ 133A(10) ”.

#### Commencement Information

**I20** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

## PART 2

### TRANSITORY AMENDMENTS OF PART 5 RTA 1988 (BEFORE AMENDMENT BY RSA 2006)

- 16 Until the commencement of Schedule 6 to the Road Safety Act 2006, Part 5 of the Road Traffic Act 1988 (driving instruction) has effect as if it were amended as follows.

#### Commencement Information

**I21** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 17 (1) Section 125 (the register of approved instructors) has effect as if it were amended as follows.
- (2) After subsection (2) insert—
- “(2A) If an applicant is aware that he is suffering from a relevant or prospective disability, his application under subsection (2) must be accompanied by written notification of the nature and extent of his disability.
  - (2B) Any person who fails without reasonable excuse to comply with the requirement imposed by subsection (2A) is guilty of an offence.
  - (2C) The Registrar may, in the circumstances mentioned in subsection (2D), require an applicant to submit himself for an emergency control assessment (whether or not the applicant already holds an emergency control certificate) in connection with his application under subsection (2).
  - (2D) Those circumstances are that the Registrar has reasonable grounds for believing that the person would be unable to take control of a motor car of a prescribed class if an emergency arose while he was giving driving instruction in such a motor car.”
- (3) In subsection (3)—
- (a) omit the “and” at the end of paragraph (d);

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*Status: Point in time view as at 10/04/2015.*

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(b) after paragraph (d) insert—

“(da) in the case of an applicant who has been required under subsection (2C) to submit himself for an emergency control assessment, he holds a current emergency control certificate, and”.

(4) In subsection (5), for the words from “condition” to the end substitute “following conditions—

- (a) that, so long as his name is on the register, the person will, if at any time required to do so by the Registrar, submit himself for—
  - (i) such test of continued ability and fitness to give instruction in the driving of motor cars (which may consist of practical and other means of assessment) as may be prescribed;
  - (ii) an emergency control assessment (whether or not the person already holds an emergency control certificate) on the day (within such period as may be prescribed) and at the place specified by the Registrar; and
- (b) that, so long as his name is on the register, if instruction in the driving of a motor car is to be given in circumstances where there is a reasonable expectation of an emergency arising which necessitates the instructor taking control of the motor car, the person will only give such instruction if he would be able to take control of the motor car if such an emergency arose while he was giving the instruction.”

(5) After subsection (5) insert—

“(5A) The Registrar may impose a requirement as mentioned in subsection (5)(a)(ii) only in the circumstances mentioned in subsection (2D).”

(6) After subsection (7) insert—

“(7A) A person shall be exempt from the condition mentioned in subsection (3)(da) if—

- (a) the Secretary of State is satisfied that satisfactory provision is made by the law of Northern Ireland for purposes corresponding to section 133A, and
- (b) the person satisfies the Registrar that he holds a current certificate granted under that law which corresponds to an emergency control certificate granted under section 133A.”

(7) After subsection (8) insert—

“(8A) Subsection (8B) applies if—

- (a) a person undergoes an emergency control assessment in accordance with a requirement imposed under subsection (2C) or as mentioned in subsection (5)(a)(ii),
- (b) the assessor refuses to grant the applicant an emergency control certificate, and
- (c) as a result the person is not registered, or the person's name is removed from the register (as the case may be).

(8B) The person may not make a further application for registration before the end of—

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- (a) the period of 6 months beginning with the date of the emergency control assessment mentioned in subsection (8A)(a), or
  - (b) such other period as may be prescribed,
- unless the Registrar is satisfied that there is good reason for permitting such an application before the end of that period.”

(8) Omit subsection (9).

(9) In subsection (10), for the words after “In this Part of this Act” substitute “—

Community licence” has the same meaning as in Part 3 of this Act;

“disability” means a want of physical ability affecting the driving of motor cars; and

- (a) “relevant disability”, in relation to a person, means any prescribed disability or any other disability likely to cause the driving of a motor car by him to be a source of danger to the public;
- (b) “prospective disability”, in relation to a person, means any other disability which, at the material time, is not of such a kind that it is a relevant disability but, by virtue of the intermittent or progressive nature of the disability or otherwise, may become a relevant disability in the course of time;

“emergency control assessment” and “emergency control certificate” mean an assessment and a certificate under section 133A.”

#### Commencement Information

**I22** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

18 Part 5 has effect as if sections 125A and 125B (registration of disabled persons and supplementary provision) were omitted.

#### Commencement Information

**I23** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

19 Section 126 (duration of registration) has effect as if subsection (4) were omitted.

#### Commencement Information

**I24** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

20 (1) Section 127 (extension of duration of registration) has effect as if it were amended as follows.

(2) In subsection (3)—

- (a) in the opening words, omit “Except in the case of a registered disabled instructor,”;
- (b) in paragraph (a), for “such test as is mentioned in section 125(5)” substitute “such test or assessment as is mentioned in section 125(5)(a)(i) or (ii)”;
- (c) omit the “and” at the end of paragraph (d);



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- (d) after paragraph (d) insert—
- “(da) that, in the case of a person who—
- (i) when he applied to be registered, was required under section 125(2C) to submit himself for an emergency control assessment, or
  - (ii) at any time during the period mentioned in paragraph (a) was required as mentioned in section 125(5)(a)(ii) to submit himself for such an assessment,
- he holds a current emergency control certificate, and”.
- (3) Omit subsection (3A).
- (4) In subsection (4)—
- (a) in paragraph (a), omit “in the case of its retention by virtue of subsection (3) above,”;
  - (b) in paragraph (a), for “condition” substitute “ conditions ”;
  - (c) omit the “and” at the end of paragraph (a);
  - (d) omit paragraph (b).

#### Commencement Information

**I25** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 21 (1) Section 128 (removal of names from register) has effect as if it were amended as follows.
- (2) In subsection (2)—
- (a) in the opening words, omit “Except in the case of a registered disabled instructor,”;
  - (b) in paragraph (c), for “test such as is mentioned in section 125(5)” substitute “ test or assessment such as is mentioned in section 125(5)(a)(i) or (ii) ”;
  - (c) after paragraph (d) insert—
- “(da) that an assessor refused to grant him an emergency control certificate on completing an emergency control assessment of him following a requirement imposed as mentioned in section 125(5)(a)(ii),
- (db) that he gave instruction in the driving of a motor car in breach of the condition in section 125(5)(b) (ability to take control of motor car in an emergency),”.
- (3) Omit subsection (2A).
- (4) In subsection (8)(b), for “(5)” substitute “ (5)(a)(i) ”.
- (5) Omit subsection (9).

#### Commencement Information

**I26** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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- 22 (1) Section 129 (licences for giving instruction so as to obtain practical experience) has effect as if it were amended as follows.
- (2) In subsection (1), for the words from “either” to the end substitute “ such part of the examination referred to in section 125(3)(a) as consists of a practical test of ability and fitness to instruct ”.
- (3) After subsection (1) insert—
- “(1A) An application for a licence to give paid instruction in the driving of a motor car must be made to the Registrar, in the manner determined by the Secretary of State, accompanied by particulars so determined.
- (1B) The Registrar may, in the circumstances mentioned in subsection (1C), require the applicant to submit himself for an emergency control assessment in connection with the application.
- (1C) Those circumstances are that the Registrar has reasonable grounds for believing that the person in question would be unable to take control of a motor car of a prescribed class if an emergency arose while he was giving driving instruction in such a motor car.”
- (4) For subsection (2) substitute—
- “(2) Where a person duly applies for a licence, the Registrar must, on payment of such fee, if any, as may be prescribed, grant to the applicant a licence to give paid instruction in the driving of a motor car if the Registrar is satisfied—
- (a) that the applicant has passed the other parts of the examination referred to in subsection (1),
- (b) that the conditions set out in section 125(3)(b), (c), (d) and (e) are fulfilled in the applicant's case, and
- (c) in the case of an applicant who has been required under subsection (1B) to submit himself for an emergency control assessment, he holds a current emergency control certificate.”
- (5) In subsection (5), omit “, subject to subsection (5A) below,”.
- (6) After subsection (5) insert—
- “(5ZA) Those conditions may (in particular) include—
- (a) a condition requiring the person to whom the licence was granted, if required to do so by the Registrar at any time when the circumstances mentioned in subsection (1C) apply, to submit himself for an emergency control assessment (whether or not the person already holds an emergency control certificate) on such day (within such period as may be prescribed) and at such place as may be specified by the Registrar;
- (b) a condition requiring that, if instruction in the driving of a motor car is to be given in circumstances where there is a reasonable expectation of an emergency arising which necessitates the instructor taking control of the car, the person will only give such instruction if he would be able to take control of the car if such an emergency arose while giving the instruction.”
- (7) Omit subsections (5A) and (5B).

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**Commencement Information**

**I27** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 23 (1) Section 130 (revocation of licence) has effect as if it were amended as follows.
- (2) In subsection (2)—
- (a) in the opening words omit “Except in the case of a licence granted by virtue of subsection (2)(b) of section 129 of this Act,”;
  - (b) omit the “or” at the end of paragraphs (a) and (b);
  - (c) after paragraph (b) insert—
    - “(ba) that an assessor refused to grant him an emergency control certificate on completing an emergency control assessment of him following a requirement imposed as mentioned in section 129(5ZA)(a), or”.
- (3) Omit subsection (2A).

**Commencement Information**

**I28** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 24 (1) Section 133A (assessment of ability to control a motor car in an emergency) has effect as if it were amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), for “class covered by his disabled person's driving licence” substitute “prescribed class”;
  - (b) in paragraph (b), for “class covered by his disabled person's driving licence” substitute “prescribed class”;
  - (c) in the closing words, for “an appropriate” substitute “a”.
- (3) In subsection (6)—
- (a) in paragraph (a), for “class covered by his disabled person's limited driving licence” substitute “prescribed class”;
  - (b) in paragraph (b), for “class covered by his disabled person's limited driving licence” substitute “prescribed class”.
- (4) In subsection (7)(a), omit “covered by his disabled person's limited driving licence”.
- (5) After subsection (9) insert—
- “(10) In this Part, “modifications”, in relation to a motor car, includes equipment.”
- (6) In the heading, omit “disabled person's”.
- (7) In the italic cross-heading before section 133A omit “Disabled Persons”.

**Commencement Information**

**I29** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 25 (1) Section 133B (further assessments) has effect as if it were amended as follows.

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(2) Omit subsection (1).

(3) After subsection (2) insert—

“(2A) A person may, for the purpose of obtaining an emergency control certificate, apply to undergo a further emergency control assessment if—

- (a) he has been required to submit himself for an emergency control assessment—
  - (i) under section 125(2C) or 129(1B), or
  - (ii) as mentioned in section 125(5)(a)(ii) or 129(5ZA),
- (b) on completing that assessment, the assessor refused to grant him an emergency control certificate, and
- (c) the application for the further assessment is made in such circumstances as may be prescribed.”

(4) Omit subsection (3).

(5) In subsection (4), for “subsection (1) above” substitute “ subsection (5A) ”.

(6) After subsection (5) insert—

“(5A) A person may not apply to undergo a further emergency control assessment under subsection (4) until after the end of—

- (a) the period of six months beginning with the date of his most recent previous assessment, or
  - (b) such other period as may be prescribed by regulations,
- unless the Registrar considers it appropriate for the application to be made at such earlier time as may be specified by the Registrar.”

#### Commencement Information

**I30** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

26 (1) Section 133C (duty to disclose further disability) has effect as if it were amended as follows.

(2) In subsection (1)—

- (a) for paragraph (a) substitute—
  - “(a) persons whose names are in the register, and”;
- (b) in paragraph (b), omit “granted by virtue of subsection (2)(b) of that section”.

(3) In subsection (2)(a), for “125A(3)” substitute “ 125(2A), 129(1A) ”.

#### Commencement Information

**I31** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

27 (1) Section 133D (offences relating to giving by disabled person of paid driving instruction) has effect as if it were amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies to—

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- (a) persons whose names are in the register, and
  - (b) persons who hold licences under section 129 of this Act,
- who have undergone emergency control assessments in accordance with a requirement imposed under section 125(2C) or 129(1B) or as mentioned in section 125(5)(a)(ii) or 129(5ZA)(a).”
- (3) After subsection (3) insert—
- “(3A) Subsection (3) does not apply if the person to whom the instruction is given holds a full licence granted under Part 3 which is not limited by virtue of a notice served under section 92(5)(b).”
- (4) In the heading, omit “by disabled person”.

#### Commencement Information

**I32** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

28 Part 5 has effect as if after section 133D there were inserted—

#### “133E Direction to disregard emergency control assessment requirement

- (1) This section applies where a person has been required—
  - (a) under section 125(2C) or 129(1B), or
  - (b) as mentioned in section 125(5)(a)(ii) or 129(5ZA),to submit himself for an emergency control assessment.
- (2) At any time before the assessment takes place the Registrar may withdraw the requirement (in which case this Part applies as if the requirement had never been imposed).
- (3) At any time after the assessment takes place the Registrar may direct that the requirement is to be disregarded for the purposes of this Part (and accordingly any condition that the person holds an emergency certificate is to cease to apply).
- (4) Notice of—
  - (a) the withdrawal of a requirement under subsection (2), or
  - (b) a direction under subsection (3),must be given to the person on whom the requirement was imposed.”

#### Commencement Information

**I33** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 29 (1) Section 142 (index to Part 5) has effect as if the index were amended as follows.
- (2) Omit the following expressions and the corresponding relevant provisions—  
“Appropriate motor car”;  
“Disabled person's limited driving licence”;  
“Registered disabled instructor”.

*Status: Point in time view as at 10/04/2015.*

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- (3) In the entry for the expressions “disability, prospective disability and relevant disability”, in the corresponding relevant provision, for “125A(8)” substitute “125(10)”.
- (4) In the entry for the expressions “emergency control assessment and emergency control certificate”, in the corresponding relevant provision, for “125A(8)” substitute “125(10)”.

#### Commencement Information

**I34** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

### PART 3

#### CONSEQUENTIAL AND RELATED AMENDMENTS

##### *Road Traffic (Driving Instruction by Disabled Persons) Act 1993*

- 30 (1) The Road Traffic (Driving Instruction by Disabled Persons) Act 1993 is amended as follows.
- (2) Omit section 1 (registration of disabled persons as driving instructors).
- (3) In section 2 (licences allowing disabled persons to give instruction so as to obtain practical experience), omit subsection (4).
- (4) In the Schedule (related and consequential amendments)—
- (a) omit paragraph 5(4);
  - (b) omit paragraph 6(4) and (5);
  - (c) omit paragraph 7(4).

#### Commencement Information

**I35** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

##### *Road Traffic Offenders Act 1988*

- 31 (1) Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts), as amended by Schedule 6 to the Road Safety Act 2006, is amended as follows.
- (2) In the entry for section 125A(4) of the Road Traffic Act 1988—
- (a) for “125A(4)” substitute “125(3B)”;
  - (b) in the second column, for “for registration as disabled driving instructor” substitute “to be registered in respect of driving instruction”;
  - (c) in the second column, omit “onset of, or deterioration in,”.
- (3) In the entry for section 133C(4) of the Road Traffic Act 1988, in the second column, omit “disabled”.

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- (4) In the entry for section 133D of the Road Traffic Act 1988, in the second column, for “disabled persons” substitute “ persons required to hold emergency control certificates ”.

**Commencement Information**

**I36** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 32 (1) Until the commencement of Schedule 6 to the Road Safety Act 2006, Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts) has effect as if it were amended as follows.
- (2) In the entry for section 125A(4) of the Road Traffic Act 1988—
- (a) for “125A(4)” substitute “ 125(2B) ”;
  - (b) in the second column, for “for registration as disabled driving instructor” substitute “ to be registered in respect of driving instruction ”;
  - (c) in the second column, omit “onset of, or deterioration in,”.
- (3) In the entry for section 133C(4) of the Road Traffic Act 1988, in the second column, omit “disabled”.
- (4) In the entry for section 133D of the Road Traffic Act 1988, in the second column, for “disabled persons” substitute “ persons required to hold emergency control certificates ”.

**Commencement Information**

**I37** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

*Road Safety Act 2006*

- 33 In Schedule 6 to the Road Safety Act 2006, omit paragraphs 6 and 7.

**Commencement Information**

**I38** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

VALID FROM 30/06/2015

SCHEDULE 3

Section 9

MOTOR INSURANCE INDUSTRY: CERTIFICATES OF INSURANCE

- 1 The Road Traffic Act 1988 is amended as follows.
- 2 In section 147 (issue and surrender of certificates of insurance and of security”)  
—

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2	<p>(a) in subsection (1A), for the words from “this Part of this Act” to “subsection (1) above” substitute “ subsection (1) as having been delivered”;</p> <p>(b) in the heading, omit “and surrender”.</p>
3	In section 148 (avoidance of certain exceptions to policies or securities), in subsection (1), for the words from “Where a certificate” to “has been given,” substitute “ Where a policy or security is issued or given for the purposes of this Part of this Act, ”.
4	<p>(1) Section 151 (duty of insurers or persons giving security to satisfy judgment against persons insured or secured against third-party risks) is amended as follows.</p> <p>(2) In subsection (1), for the words from “a certificate of insurance” to “security has been given,” substitute “ a policy or security is issued or given for the purposes of this Part of this Act, ”.</p> <p>(3) In subsection (2)(a), omit “to which the certificate relates”.</p>
5	In section 152 (exceptions to section 151), in paragraph (c) of subsection (1), omit the words from “, and also” to the end of the paragraph.
6	In section 153 (bankruptcy, etc, of insured or secured persons not to affect claims by third parties), in subsection (1), for the words from “a certificate of insurance” to “security has been given,” substitute “ a person has effected a policy of insurance or been given a security for the purposes of this Part of this Act, ”.
7	In section 161 (interpretation), omit subsection (2).

## SCHEDULE 4

Section 13

### AGRICULTURAL HOLDINGS ACT 1986: RESOLUTION OF DISPUTES BY THIRD PARTY DETERMINATION

1 The Agricultural Holdings Act 1986 is amended as follows.

#### **Commencement Information**

**I39** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

2 In section 2 (restriction on letting agricultural land for less than from year to year), after subsection (4) (determination of disputes arising as to the operation of the section in relation to any agreement to be by arbitration) insert—

“(5) Notwithstanding subsection (4) above, the parties to the agreement may instead refer for third party determination under this Act the dispute that has arisen as to the operation of this section.”

#### **Commencement Information**

**I40** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)



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- 3 (1) Section 6 (right to written tenancy agreement) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where the landlord or tenant has the right under subsection (1) above to refer the terms of the tenancy to arbitration under this Act, the landlord and tenant may instead refer the terms of the tenancy for third party determination under this Act.”
- (3) In subsection (2) (contents of arbitrator's award)—
- (a) in the opening words, after “arbitrator in his award” insert “ or (as the case may be) the third party in his determination ”;
- (b) in paragraph (b), after “arbitrator” insert “ or third party ”.
- (4) In subsection (3) (power of arbitrator to vary rent in consequence of award)—
- (a) after “arbitrator” insert “ or third party ”;
- (b) after “award” insert “ or (as the case may be) his determination ”.
- (5) In subsection (4) (effect of arbitrator's award)—
- (a) after “The award of an arbitrator” insert “ or (as the case may be) the determination of a third party ”;
- (b) after “the award” (in each place where it occurs) insert “ or determination ”.
- (6) In subsection (6) (period when determination of the terms of the tenancy is pending), after “award of an arbitrator” insert “ or the determination of a third party ”.

#### Commencement Information

**I41** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

- 4 In section 7 (model clauses as to the maintenance, repair and insurance of fixed equipment), in subsection (2) (power for regulations to make provision for matters arising under them to be determined by arbitration), after “arbitration” insert “ or third party determination ”.

#### Commencement Information

**I42** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

- 5 (1) Section 8 (arbitration where terms of written agreement are inconsistent with the model clauses) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) Where the landlord or tenant has the right under subsection (2) above to refer the terms of the tenancy as to the maintenance, repair and insurance of fixed equipment to arbitration under this Act (or would have that right but for subsection (6) below), the landlord and tenant may instead refer those terms for third party determination under this Act.”
- (3) In subsection (3) (arbitrator's duty to consider terms and power to vary them)—
- (a) after “arbitrator” insert “ or third party ”;

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- (b) after “arbitration” insert “ or (as the case may be) for third party determination ”;
  - (c) after “award” insert “ or determination ”.
- (4) In subsection (4) (power of arbitrator to vary rent in consequence of award)—
- (a) after “arbitrator” insert “ or third party ”;
  - (b) after “award” insert “ or (as the case may be) his determination ”.
- (5) In subsection (5) (effect of arbitrator's award)—
- (a) after “The award of an arbitrator” insert “ or (as the case may be) the determination of a third party ”;
  - (b) after “the award” (in each place where it occurs) insert “ or determination ”.
- (6) In subsection (6) (references under section to be made at least 3 years apart)—
- (a) after “a reference” insert “ to arbitration or third party determination ”;
  - (b) for “further such reference” substitute “ subsequent reference to arbitration ”;
  - (c) after “award of the arbitrator” insert “ or (as the case may be) the determination of the third party ”.
- (7) In the sidenote, after “Arbitration” insert “ or third party determination ”.

#### **Commencement Information**

**I43** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

- 6 (1) Section 9 (transitional arrangements where liability in respect of fixed equipment transferred) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where the landlord has the right under subsection (1) above to require that there shall be determined by arbitration under this Act and paid by the tenant the amount of any relevant compensation (or would have that right but for the expiry of the prescribed period), the landlord and tenant may instead refer for third party determination under this Act the question of the amount of any relevant compensation that the tenant is to be required to pay.”
- (3) In subsection (2) (definition of “relevant compensation”), for “subsection (1) above” (in the first place where it occurs) substitute “ subsections (1) and (1A) above ”.
- (4) After subsection (3) insert—
- “(3A) Where the tenant has the right under subsection (3) above to require that there shall be determined by arbitration under this Act a claim of a type described in that subsection (or would have that right but for the expiry of the prescribed period), the tenant and landlord may instead refer the claim for third party determination under this Act.”
- (5) In subsection (4) (provision about disregarding a variation of the terms of a tenancy as to the maintenance, repair or insurance of fixed equipment), after “arbitrator” insert “ or third party ”.

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#### Commencement Information

**I44** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 7 In section 10 (tenant's right to remove fixtures and buildings), after subsection (6) (determination by arbitration of any dispute between a landlord and tenant as to the amount payable by the landlord under subsection (4) on an election to purchase a fixture or building) insert—

“(6A) Notwithstanding subsection (6) above, the landlord and tenant may instead refer for third party determination under this Act the dispute that has arisen with respect to the amount payable by the landlord under subsection (4).”

#### Commencement Information

**I45** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 8 (1) Section 12 (arbitration of rent) is amended as follows.

- (2) After subsection (1) insert—

“(1A) The landlord and tenant may instead refer for third party determination under this Act the question of how much rent is to be payable in respect of the holding as from the next termination date.”

- (3) In subsection (2) (arbitrator's duty to determine rent properly payable)—

- (a) after “arbitrator” insert “ or third party ”;
- (b) after “demand for arbitration” insert “ or (as the case may be) the reference for third party determination ”.

- (4) In subsection (4) (references to the next termination date following the date of a demand for arbitration)—

- (a) after “a demand for arbitration” insert “ , or reference for third party determination, ”;
- (b) after “the demand” (in each place where it occurs) insert “ or reference ”.

- (5) In the sidenote, after “Arbitration” insert “ or third party determination ”.

#### Commencement Information

**I46** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 9 In section 13 (increases of rent for landlord's improvements), after subsection (7) (determination of any dispute between a landlord and tenant under the section to be by arbitration) insert—

“(7A) Notwithstanding subsection (7) above, the landlord and the tenant may instead refer the dispute for third party determination under this Act.”

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#### Commencement Information

**I47** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

- 10 (1) Section 14 (variation of terms of tenancies as to permanent pasture) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) Where the landlord or tenant has the right under subsection (2) above to demand that the question described in that subsection shall be referred to arbitration under this Act, the landlord and tenant may instead refer that question for third party determination under this Act.”
- (3) In subsection (3) (power of arbitrator to direct modification of terms as to land which is to be maintained as permanent pasture or is to be treated as arable land and as to cropping)—
- (a) after “subsection (2)” insert “ or (2A) ”;
- (b) after “arbitrator” insert “ or third party ”;
- (c) after “award” insert “ or (as the case may be) his determination ”.
- (4) In subsection (4) (power of arbitrator to order that, on termination of the tenancy, the tenant should leave an area of land as permanent pasture or as temporary pasture sown with certain seeds)—
- (a) after “subsection (2)” insert “ or (2A) ”;
- (b) after “arbitrator” insert “ or third party ”.

#### Commencement Information

**I48** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

- 11 (1) Section 15 (disposal of produce and cropping) is amended as follows.
- (2) In subsection (6) (determination by arbitration of question whether tenant exercising subsection (1) rights in manner likely to injure holding etc), after “(including an arbitration” insert “ or third party determination ”.
- (3) After subsection (6) insert—
- “(6A) Notwithstanding subsection (6) above, the landlord and tenant may agree that, for the purposes of proceedings brought by the landlord under paragraph (a) of subsection (5) above, the question described in subsection (6) is instead to be referred for third party determination under this Act.
- (6B) On a reference under subsection (6A) above, the determination of the third party shall, for the purposes of any proceedings brought under subsection (5) above (including an arbitration or third party determination under paragraph (b)) be conclusive proof of the facts stated in the determination.”

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#### Commencement Information

**I49** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 12 (1) Section 20 (compensation for damage by game) is amended as follows.
- (2) After subsection (4) (amount of compensation to be determined by arbitration, in default of agreement) insert—
- “(4A) Notwithstanding subsection (4) above, the tenant and landlord may instead refer for third party determination under this Act the question of the amount of compensation to which the tenant is entitled.”
- (3) After subsection (5) (determination by arbitration of questions as to the landlord's right to be indemnified against claims for compensation by the person in whom the right to kill and take the wild animals or birds that did the damage is vested) insert—
- “(6) Notwithstanding subsection (5) above, the landlord and the other person may instead refer for third party determination under this Act the questions arising between them under that subsection.”

#### Commencement Information

**I50** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 13 In section 25 (length of notice to quit), in subsection (3) (effect of determination under section 12 by arbitrator), after “arbitrator” insert “ or third party ”.

#### Commencement Information

**I51** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 14 (1) Section 33 (reduction of rent where notice is given to quit part of holding) is amended as follows.
- (2) After subsection (2) (amount of rent reduction to be determined by arbitration, in default of agreement) insert—
- “(2A) Notwithstanding subsection (2) above, the tenant and landlord may instead refer for third party determination under this Act the question of the amount of any reduction of rent to which the tenant is entitled under this section.”
- (3) In subsection (3) (matters to be taken into account by arbitrator)—
- (a) after “arbitration” insert “ or third party determination ”;
- (b) after “arbitrator” insert “ or (as the case may be) the third party ”.

#### Commencement Information

**I52** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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- 15 In section 47 (terms of new tenancy unless varied by arbitration), in the sidenote, after “arbitration” insert “ or third party determination ”.

**Commencement Information**

**I53** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 16 (1) Section 48 (arbitration on terms of new tenancy) is amended as follows.
- (2) For subsection (3) substitute—
- “ (3) Where the provisions of this section apply—
- (a) the landlord or tenant may by notice in writing served on the other within the prescribed period demand a reference to arbitration under this Act of one or both of the questions specified in subsection (4) below, or
- (b) the landlord and tenant may refer for third party determination under this Act one or both of those questions.”
- (3) In subsection (5) (duties of arbitrator on reference of “question (a)”)—
- (a) in the opening words—
- (i) after “arbitration” insert “ or third party determination ”;
- (ii) after “arbitrator” insert “ or (as the case may be) the third party ”;
- (b) in paragraph (b), after “award” insert “ or determination ”.
- (4) In subsection (6) (power of arbitrator to vary rent where “question (a)” but not “question (b)” referred to arbitration)—
- (a) after “arbitration” insert “ or third party determination ”;
- (b) after “arbitrator” insert “ or (as the case may be) the third party ”;
- (c) after “award” insert “ or determination ”.
- (5) In subsection (7) (duties of arbitrator on reference of “question (b)”)—
- (a) after “arbitration” insert “ or third party determination ”;
- (b) after “arbitrator” insert “ or (as the case may be) the third party ”.
- (6) In subsection (10) (power of arbitrator to include further provisions in award), after “award” insert “ or (as the case may be) the third party may include in his determination ”.
- (7) In subsection (11) (effect of arbitrator's award made before “the relevant time”)—
- (a) after “award of an arbitrator” insert “ or (as the case may be) the determination of a third party ”;
- (b) after “award” (in the second place where it occurs) insert “ or determination ”.
- (8) In subsection (12) (effect of arbitrator's award made after “the relevant time”)—
- (a) after “award of an arbitrator” insert “ or (as the case may be) the determination of a third party ”;
- (b) after “award” (in the second place where it occurs) insert “ or determination ”.
- (9) In the sidenote, after “Arbitration” insert “ or third party determination ”.

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#### Commencement Information

**I54** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

- 17 In section 74 (supplementary provisions with respect to compensation: termination of tenancy of part of holding), in subsection (2)(b) (matters to be taken into consideration by arbitrator assessing amount of compensation payable to tenant), after “arbitrator” insert “ or (as the case may be) the third party appointed under section 84A below ”.

#### Commencement Information

**I55** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

- 18 In section 75 (compensation where reversionary estate in holding is severed), in subsection (2)—
- (a) after “arbitrator” (in the first place where it occurs) insert “ or (as the case may be) the third party ”;
  - (b) after “awarded” insert “ or determined by third party determination ”;
  - (c) after “award” insert “ or determination ”;
  - (d) after “arbitrator” (in the second place where it occurs) insert “ or third party ”.

#### Commencement Information

**I56** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

- 19 In section 80 (power of Tribunal to direct holding to be treated as market garden), after subsection (7) insert—
- “(7A) Notwithstanding the provision made by subsection (7) above for rents to be settled by arbitration, the landlord and tenant may instead refer those rents to be settled by third party determination under this Act.”

#### Commencement Information

**I57** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

- 20 (1) Section 83 (settlement of claims on termination of tenancy) is amended as follows.
- (2) After subsection (1) (determination by arbitration of claims arising under the Act etc on or out of the termination of the tenancy) insert—
- “(1A) Notwithstanding subsection (1) above, but subject to the provisions of subsections (2) and (3) below, the tenant and landlord may instead refer for third party determination under this Act any such claim as is mentioned in subsection (1).”

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- (3) For subsections (4) and (5) (8 month period from the termination of the tenancy within which the landlord and tenant may settle a claim by agreement in writing before it is determined by arbitration) substitute—

“(4) An arbitrator may not be appointed under section 84(2) below to determine a claim which has become enforceable by virtue of the service of a notice under subsection (2) above before the expiry of eight months from the termination of the tenancy.”

**Commencement Information**

**I58** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

21 After section 84 (arbitrations) insert—

**“84A Third party determinations**

- (1) Parties who wish to refer a matter for third party determination under this Act must jointly appoint a third party to determine the matter.
- (2) Parties may not under subsection (1) jointly appoint a third party to determine a matter once an arbitrator has been appointed to determine the matter under section 84(2).
- (3) Any matter which by or by virtue of this Act or regulations made under this Act may be determined by third party determination under this Act is to be treated as having been referred for third party determination under this Act once an appointment has been made under subsection (1).
- (4) References to “third party determination under this Act” are to the determination of a matter by the third party appointed under subsection (1) or a replacement third party jointly appointed by the parties on a termination of the earlier appointment and references to a “third party”, in the context of such a determination, are to the third party so appointed.
- (5) If a third party appointed under this section to determine a matter dies, or is incapable of acting, the parties may (instead of appointing a replacement) agree to proceed as if they had not referred the matter for third party determination under this Act.
- (6) A matter that has been referred for third party determination under this Act may not be determined by arbitration under this Act except by virtue of subsection (5).
- (7) Where by virtue of this Act compensation under an agreement is to be substituted for compensation under this Act for improvements or for any such matters as are specified in Part 2 of Schedule 8 to this Act, the third party must award compensation in accordance with the agreement instead of in accordance with this Act.”



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#### Commencement Information

**I59** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 22 In section 85 (enforcement), in subsection (1) (recovery of unpaid amount by county court proceedings), for “or awarded” substitute “, awarded or determined by third party determination”.

#### Commencement Information

**I60** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 23 (1) Section 86 (power of landlord to obtain charge on holding) is amended as follows.
- (2) In subsection (2) (provision for landlord to request arbitrator to certify amount of compensation and term for which charge may properly be made), in the opening words—
- (a) after “arbitration” insert “ or third party determination ”;
  - (b) after “arbitrator” insert “ or (as the case may be) the third party ”.
- (3) In subsection (3) (landlord acting as trustee etc: ability to obtain order charging the holding with repayment of sums to be paid by the landlord under the Act)—
- (a) for “or awarded” (in the first place where it occurs) substitute “, awarded or determined by third party determination ”;
  - (b) after “awarded” (in the second place where it occurs) insert “ or determined by third party determination ”.

#### Commencement Information

**I61** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 24 In section 96 (interpretation), in subsection (1), at the relevant place insert—
- ““third party” and “third party determination” have the meaning given by section 84A(4) above;”.

#### Commencement Information

**I62** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 25 (1) Schedule 2 (arbitration of rent: provisions supplementary to section 12) is amended as follows.
- (2) In paragraph 1(3) (amount of rent: arbitrator determining current level of rents for comparable lettings)—
- (a) after “arbitrator” insert “ or (as the case may be) the third party ”;
  - (b) after “arbitration” insert “ or third party determination ”.

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- (3) In paragraph 2(1) (amount of rent: duty of arbitrator to disregard increase in rental value due to certain improvements), after “arbitrator” insert “ or (as the case may be) the third party ”.
- (4) In paragraph 3 (amount of rent: other duties of arbitrator)—
- (a) in the opening words, after “arbitrator” insert “ or (as the case may be) the third party ”;
  - (b) in paragraph (a), after “arbitration” insert “ or third party determination ”.
- (5) In paragraph 4 (frequency of arbitrations under section 12), in sub-paragraph (1)(c), after “arbitrator” insert “ or third party ”.
- (6) In the heading to the Schedule, after “ARBITRATION” insert “ OR THIRD PARTY DETERMINATION ”.

#### Commencement Information

**I63** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

VALID FROM 01/10/2015

## SCHEDULE 5

Section 18

### AUDITORS CEASING TO HOLD OFFICE

#### PART 1

##### NOTIFICATION REQUIREMENTS

- 1 Chapter 4 of Part 16 of the Companies Act 2006 (audit: removal, resignation, etc of auditors) is amended in accordance with paragraphs 2 to 11.
- 2 Omit section 512 (notice to registrar of resolution removing auditor from office).
- 3 In section 516 (resignation of auditor), in subsection (2), for “The” substitute “Where the company is a public interest company, the”.
- 4 Omit section 517 (notice to registrar of resignation of auditor).
- 5 (1) Section 518 (rights of resigning auditor) is amended as follows.
  - (2) In subsection (1), for the words from “auditor's notice of resignation” to the end of the subsection substitute “auditor's (A's) notice of resignation is accompanied by a statement under section 519 except where—
    - (a) the company is a non-public interest company, and
    - (b) the statement includes a statement to the effect that A considers that none of the reasons for A's ceasing to hold office, and no matters (if any) connected with A's ceasing to hold office, need to

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- be brought to the attention of members or creditors of the company (as required by section 519(3B)).”
- (3) In subsection (2), for “circumstances connected with” substitute “ reasons for, and matters connected with, ”.
- (4) In subsection (3), in the words after paragraph (b), for “circumstances connected with” substitute “ reasons for, and matters connected with, ”.
- 6 In section 519 (statement by auditor to be deposited with company), in subsection (4), for “The statement required by this section” substitute “ A statement under this section ”.
- 7 (1) Section 520 (company's duties in relation to statement under section 519) is amended as follows.
- (2) In subsection (1), for the words from “the statement” to the end of the subsection substitute “a company receives from an auditor (“A”) who is ceasing to hold office a statement under section 519 except where—
- “(a) the company is a non-public interest company, and
- (b) the statement includes a statement to the effect that A considers that none of the reasons for A's ceasing to hold office, and no matters (if any) connected with A's ceasing to hold office, need to be brought to the attention of members or creditors of the company (as required by section 519(3B)).”
- (3) In subsection (2), for “The” substitute “ Where this section applies, the ”.
- 8 (1) Section 521 (copy of statement to be sent to registrar) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) This section applies where an auditor (“A”) of a company sends a statement to the company under section 519 except where—
- (a) the company is a non-public interest company, and
- (b) the statement includes a statement to the effect that A considers that none of the reasons for A's ceasing to hold office, and no matters (if any) connected with A's ceasing to hold office, need to be brought to the attention of members or creditors of the company (as required by section 519(3B)).”
- (3) In subsection (1), for “Unless” substitute “ Where this section applies, unless ”.
- 9 (1) Section 522 (duty of auditor to notify appropriate audit authority) is amended as follows.
- (2) For subsections (1) to (4) substitute—
- “(1) Where an auditor of a company sends a statement under section 519, the auditor must at the same time send a copy of the statement to the appropriate audit authority.”
- (3) In the heading, for “notify” substitute “ send statement to ”.
- 10 (1) Section 524 (information to be given to accounting authorities) is amended as follows.
- (2) For subsection (1) substitute—

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	<p>“(1) Where the appropriate audit authority receives a statement under section 522 or a notice under section 523, the authority may forward to the accounting authorities—</p> <p>(a) a copy of the statement or notice, and</p> <p>(b) any other information the authority has received from the auditor or the company concerned in connection with the auditor's ceasing to hold office.”</p> <p>(3) Omit subsection (3).</p> <p>(4) In the heading, for “Information to be given” substitute “Provision of information”.</p>
11	<p>(1) Section 525 (meaning of “appropriate audit authority” and “major audit”) is amended as follows.</p> <p>(2) In subsection (1)—</p> <p>(a) in paragraph (a)—</p> <p>(i) for the words before sub-paragraph (i) substitute “ in relation to an auditor of a public interest company (other than an Auditor General) ”;</p> <p>(ii) in sub-paragraph (ii), after “receiving the” insert “ statement or ”;</p> <p>(b) in paragraph (b), for the words from the beginning to “a major audit” substitute “ in relation to an auditor of a non-public interest company (other than an Auditor General) ”;</p> <p>(c) in paragraph (c), for “in the case of an audit conducted by” substitute “ in relation to ”.</p> <p>(3) Omit subsections (2) and (3).</p> <p>(4) In the heading, omit “and “major audit””.</p>
12	<p>(1) Schedule 8 to the Companies Act 2006 (index of defined expressions) is amended as follows.</p> <p>(2) Omit the entry for “major audit”.</p> <p>(3) At the appropriate places insert—</p>
	<p>“exempt reasons, in relation to an auditor of section 519A” a company ceasing to hold office (in Chapter 4 of Part 16)</p>
	<p>“non-public interest company (in Chapter 4 of section 519A” Part 16)</p>
	<p>“public interest company (in Chapter 4 of Part section 519A” 16)</p>

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## PART 2

### MISCELLANEOUS

13 Chapter 4 of Part 16 of the Companies Act 2006 is further amended as follows.

#### *Failure to re-appoint auditor: special procedure requirements*

14 (1) Section 514 (failure to re-appoint auditor: special procedure required for written resolution) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) This section applies where a resolution is proposed as a written resolution of a private company whose effect would be to appoint a person as auditor in place of a person (the “outgoing auditor”) who, at the time the resolution is proposed, is an auditor of the company and who is to cease to hold office at the end of a period for appointing auditors.

But this section does not apply if the auditor is to cease to hold office by virtue of section 510 or 516.

(2) This section also applies where a resolution is proposed as a written resolution of a private company whose effect would be to appoint a person as auditor where, at the time the resolution is proposed, the company does not have an auditor and the person proposed to be appointed is not a person (the “outgoing auditor”) who was an auditor of the company when the company last had an auditor.

But this is subject to subsection (2A).

(2A) This section does not apply (by virtue of subsection (2)) if—

- (a) a period for appointing auditors has ended since the outgoing auditor ceased to hold office,
- (b) the outgoing auditor ceased to hold office by virtue of section 510 or 516, or
- (c) the outgoing auditor has previously had the opportunity to make representations with respect to a proposed resolution under subsection (4) of this section or an intended resolution under section 515(4).”

(3) In subsection (3), for “The” substitute “ Where this section applies, the ”.

15 (1) Section 515 (failure to re-appoint auditor: special notice required for resolution at general meeting) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) Special notice is required for a resolution at a general meeting of a private company whose effect would be to appoint a person as auditor in place of a person (the “outgoing auditor”) who, at the time the notice is given, is an auditor of the company and who is to cease to hold office at the end of a period for appointing auditors.

But special notice is not required under this subsection if the auditor is to cease to hold office by virtue of section 510 or 516.

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(1A) Special notice is required for a resolution at a general meeting of a public company whose effect would be to appoint a person as auditor in place of a person (the “outgoing auditor”) who, at the time the notice is given, is an auditor of the company and who is to cease to hold office at the end of an accounts meeting.

But special notice is not required under this subsection if the auditor is to cease to hold office by virtue of section 510 or 516.

(2) Special notice is required for a resolution at a general meeting of a company whose effect would be to appoint a person as auditor where, at the time the notice is given, the company does not have an auditor and the person proposed to be appointed is not a person (the “outgoing auditor”) who was an auditor of the company when the company last had an auditor.

But this is subject to subsection (2A).

(2A) Special notice is not required under subsection (2) if—

- (a) a period for appointing auditors has ended or (as the case may be) an accounts meeting of the company has been held since the outgoing auditor ceased to hold office,
- (b) the outgoing auditor ceased to hold office by virtue of section 510 or 516, or
- (c) the outgoing auditor has previously had the opportunity to make representations with respect to an intended resolution under subsection (4) of this section or a proposed resolution under section 514(4).”

(3) In subsection (3)—

- (a) omit “such”;
- (b) after “resolution” insert “ mentioned in subsection (1), (1A) or (2) ”.

*Replacement of references to documents being deposited at the company's registered office*

16 (1) Section 516 (resignation of auditor) is amended as follows.

(2) In subsection (1), for the words from “depositing” to the end of the subsection substitute “ sending a notice to that effect to the company ”.

(3) In subsection (3), for “deposited” substitute “ received ”.

17 (1) Section 518 (rights of resigning auditor) is amended as follows.

(2) In subsection (2)—

- (a) for “deposit” substitute “ send ”;
- (b) for “a signed” substitute “ an authenticated ”.

(3) In subsection (5), for “of the deposit of” substitute “ on which the company receives ”.

18 (1) Section 519 (statement by auditor to be deposited with company) is amended as follows.

(2) In subsection (4), for “deposited” substitute “ sent ”.

(3) In the heading, for “deposited with” substitute “ sent to ”.

*Status: Point in time view as at 10/04/2015.*

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19	In section 520(2) (company's duties in relation to statement), for “deposit” substitute “ receipt ”.
20	In section 521(1) (copy of statement to be sent to registrar), for “deposited” substitute “ sent ”.

## SCHEDULE 6

Section 19

### INSOLVENCY AND COMPANY LAW

VALID FROM 01/10/2015

#### PART 1

##### DEEDS OF ARRANGEMENT

###### *Repeal of Deeds of Arrangement Act 1914*

- 1 (1) The Deeds of Arrangement Act 1914 is repealed.
- (2) In the Administration of Justice Act 1925, omit section 22 (which concerns registration of deeds of arrangement and is to be construed as one with the Act of 1914).
- 2 (1) The following amendments are made in consequence of paragraph 1.
- (2) In the Public Trustee Act 1906, in section 2(4), omit “, nor any trust under a deed of arrangement for the benefit of creditors”.
- (3) In the Trustee Act 1925, omit section 41(2).
- (4) In the Law of Property Act 1925, in section 43(1), omit “, deed of arrangement”.
- (5) In the Law of Property (Amendment) Act 1926, in section 3(1)—
  - (a) omit “and property subject to a deed of arrangement”;
  - (b) omit “and the trustee under the deed respectively”.
- (6) In the Administration of Justice Act 1965, in Schedule 1, omit the entry for the Deeds of Arrangement Act 1914.
- (7) In the Land Charges Act 1972—
  - (a) omit section 1(1)(d) and (6A)(e);
  - (b) omit section 7;
  - (c) in section 17(1), omit the definition of “deed of arrangement”.
- (8) In the Magistrates' Courts Act 1980, in Schedule 1, omit paragraph 16.
- (9) In the Administration of Justice Act 1985—
  - (a) in section 16(1)(g), omit “or a deed of arrangement for the benefit of his creditors”;

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- (b) in section 17(2)(c), omit “or a deed of arrangement for the benefit of his creditors”.
- (10) In the Insolvency Act 1985, in Schedule 8, omit paragraph 2.
- (11) In the Insolvency Act 1986—
- (a) omit section 260(3);
  - (b) in section 263(5), omit the words from “This is without prejudice” to the end of the subsection;
  - (c) omit section 263D(6);
  - (d) in section 372(1)—
    - (i) omit paragraph (c) and the “or” before it;
    - (ii) for “, the supervisor of the voluntary arrangement or the trustee under the deed of arrangement” substitute “ or the supervisor of the voluntary arrangement ”;
  - (e) in section 379, omit “, and about proceedings in the course of that year under the Deeds of Arrangement Act 1914”;
  - (f) in section 388(2)(b), omit “a deed of arrangement made for the benefit of his creditors or”;
  - (g) in Schedule 9, in paragraph 24(a), omit “and of jurisdiction under the Deeds of Arrangement Act 1914”;
  - (h) in Schedule 14, omit the entries for the Deeds of Arrangement Act 1914.
- (12) In the Taxation of Chargeable Gains Act 1992, in section 66(5), in the definition of “deed of arrangement”, for the words from “the Deeds of Arrangement Act 1914” to the end of the definition insert “ an enactment forming part of the law of Scotland or Northern Ireland which corresponds to the Deeds of Arrangement Act 1914 applies ”.
- (13) In the Value Added Tax Act 1994, in section 81(4B)(e), omit “the Deeds of Arrangement Act 1914 or”.
- (14) In the Finance Act 2000—
- (a) in Part 6 of Schedule 6, omit paragraph 75(2)(e)(i) and the “or” following it;
  - (b) in Part 10 of Schedule 6, omit paragraph 120(7)(f)(i) and the “or” following it.
- (15) In the Finance Act 2001—
- (a) omit section 37(7)(f)(i) and the “or” following it;
  - (b) in Schedule 8, omit paragraph 11(2)(e)(i) and the “or” following it.
- (16) In the Land Registration Act 2002, in section 87—
- (a) in subsection (1)(b), at the end insert “ and ”;
  - (b) omit subsection (1)(d) and the “and” before it;
  - (c) omit subsection (2)(b) and the “or” before it;
  - (d) omit subsection (5).
- (17) In the Licensing Act 2003, in section 27(3)(c), omit “a deed of arrangement made for the benefit of his creditors or”.
- (18) In the Pensions Act 2004, omit section 121(2)(c).
- (19) In the Constitutional Reform Act 2005—



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- (a) in Schedule 4, omit paragraph 19;
- (b) in Part 2 of Schedule 11, in paragraph 4(3), omit the entry for the Deeds of Arrangement Act 1914.
- (20) In the Tribunals, Courts and Enforcement Act 2007, in Schedule 13, omit paragraph 21.
- (21) In the Finance Act 2008, in section 131(8), in the definition of “deed of arrangement”, omit “the Deeds of Arrangement Act 1914 (c. 47) or”.
- (22) In the Third Parties (Rights against Insurers) Act 2010, omit section 4(1)(a).
- 3 The repeals and other amendments made by paragraphs 1 and 2 are to have no effect in relation to a deed of arrangement registered under section 5 of the Deeds of Arrangement Act 1914 before the date on which paragraph 1 of this Schedule comes into force if, immediately before that date, the estate of the debtor who executed the deed of arrangement has not been finally wound up.

## PART 2

### ADMINISTRATION OF COMPANIES

VALID FROM 01/10/2015

- 4 Schedule B1 to the Insolvency Act 1986 (administration of companies) is amended in accordance with paragraphs 5 to 7.

#### *Appointment of administrators*

VALID FROM 26/05/2015

- 5 After paragraph 25 (circumstances in which an administrator of a company may not be appointed under paragraph 22) and before the italic cross-heading following paragraph 25 insert—
- “25A(1) Paragraph 25(a) does not prevent the appointment of an administrator of a company if the petition for the winding up of the company was presented after the person proposing to make the appointment filed the notice of intention to appoint with the court under paragraph 27.
- (2) But sub-paragraph (1) does not apply if the petition was presented under a provision mentioned in paragraph 42(4).”

VALID FROM 01/10/2015

- 6 In paragraph 26 (notice by company, or directors of company, of intention to appoint administrator), in sub-paragraph (2) (requirement to give additional notice), for “proposes to make an appointment under paragraph 22” substitute “gives notice of intention to appoint under sub-paragraph (1) ”.

*Status: Point in time view as at 10/04/2015.*

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VALID FROM 01/10/2015

*Release of administrator where no distribution to unsecured creditors other than by virtue of section 176A(2)(a)*

- 7 (1) Paragraph 98 (vacation of office of administrator: discharge from liability) is amended as follows.
- (2) In sub-paragraph (2)(b) (when discharge takes effect in case of administrator appointed under paragraph 14 or 22), after “22” insert “ who has not made a statement under paragraph 52(1)(b) ”.
- (3) In sub-paragraph (2), after paragraph (b) (but before the “or” following it) insert—  
“(ba) in the case of an administrator appointed under paragraph 14 or 22 who has made a statement under paragraph 52(1)(b), at a time decided by the relevant creditors,”.
- (4) In sub-paragraph (3)—  
(a) for the words before paragraph (a) substitute “ For the purposes of sub-paragraph (2)(ba), the “relevant creditors” of a company are— ”;  
(b) in paragraph (b), for “give or withhold approval” substitute “ decide on the time of discharge ”.

VALID FROM 01/10/2015

**PART 3**

WINDING UP OF COMPANIES

- 8 Part 4 of the Insolvency Act 1986 (winding up of companies registered under the Companies Acts) is amended in accordance with paragraphs 9 and 10.

*Removal of power of court to order payment into Bank of England of money due to company*

- 9 Omit section 151 (payment into bank of money due to company).

*Release of liquidator where winding-up order rescinded*

- 10 In section 174 (release of liquidator of company being wound up by the court), after subsection (4) insert—  
“(4A) Where a winding-up order made by the court in England and Wales is rescinded, the person (whether the official receiver or another person) who is the liquidator of the company at the time the order is rescinded has his release with effect from such time as the court may determine.”

*Status: Point in time view as at 10/04/2015.*

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VALID FROM 01/10/2015

## PART 4

### DISQUALIFICATION OF UNFIT DIRECTORS OF INSOLVENT COMPANIES

#### *Application for making of disqualification order: power to require information*

- 11
- (1) In section 7 of the Company Directors Disqualification Act 1986 (disqualification order or undertaking; and reporting provisions), subsection (4) (power of Secretary of State or official receiver to require information) is amended as follows.
  - (2) In the words before paragraph (a), for the words from “the liquidator” to “or administrative receiver of a company” (in the second place they occur) substitute “any person”.
  - (3) In paragraph (a), for the words from “any person's conduct” to the end of the paragraph substitute “that person's or another person's conduct as a director of a company which has at any time become insolvent (whether while the person was a director or subsequently), and”.
  - (4) In paragraph (b), for the words from “relevant to” to the end of the paragraph substitute “as are considered by the Secretary of State or (as the case may be) the official receiver to be relevant to that person's or another person's conduct as such a director”.

## PART 5

### BANKRUPTCY

VALID FROM 01/10/2015

- 12
- Part 9 of the Insolvency Act 1986 (bankruptcy) is amended in accordance with paragraphs 13 to 16.

VALID FROM 06/04/2017

#### *Appointment of insolvency practitioner as interim receiver*

- 13
- (1) In section 286(1) (power of court to appoint interim receiver if necessary for protection of debtor's property), after “official receiver” insert “or an insolvency practitioner”.
  - (2) If sub-paragraph (1) comes into force before the coming into force of the repeal of subsection (2) of section 286 by paragraph 17(2) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013, that subsection is to have effect (until the repeal comes into force) as if for “, instead of the official receiver,” there were substituted “, another insolvency practitioner or the official receiver”.

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- 14 (1) Section 370 (power to appoint special manager) is amended as follows.
- (2) In subsection (1)(c) (power of court to appoint person to be special manager of property or business of debtor in whose case an interim receiver has been appointed under section 286), for “the official receiver has been appointed interim receiver” substitute “ an interim receiver has been appointed ”.
- (3) In subsection (2) (who may apply for the appointment of a special manager), for “official receiver” (in both places where it occurs) substitute “ interim receiver ”.

VALID FROM 06/04/2017

*Statement of affairs*

- 15 (1) Section 288 (statement of affairs) is amended as follows.
- (2) In subsection (1) (duty of bankrupt to submit statement of affairs), for the words from “the bankrupt shall submit” to the end of the subsection substitute “ the official receiver may at any time before the discharge of the bankrupt require the bankrupt to submit to the official receiver a statement of affairs. ”
- (3) After subsection (2) insert—
- “(2A) Where a bankrupt is required under subsection (1) to submit a statement of affairs to the official receiver, the bankrupt shall do so (subject to subsection (3)) before the end of the period of 21 days beginning with the day after that on which the prescribed notice of the requirement is given to the bankrupt by the official receiver.”
- (4) In subsection (3)(a) (power of official receiver to release bankrupt from duty under subsection (1)), for “the bankrupt from his duty” substitute “ a bankrupt from an obligation imposed on the bankrupt ”.
- (5) For subsection (3)(b) (power of official receiver to extend period for submitting statement of affairs) substitute—
- “(b) either when giving the notice mentioned in subsection (2A) or subsequently, extend the period mentioned in that subsection.”.
- (6) In subsection (4)(a) (offence of failing to comply with obligation to submit statement of affairs), for “the obligation imposed by” substitute “ an obligation imposed under ”.

VALID FROM 01/10/2015

*After-acquired property of bankrupt*

- 16 (1) Section 307 (power of trustee in bankruptcy to claim, for the bankrupt's estate, property which has been acquired by, or has devolved upon, the bankrupt after commencement of the bankruptcy) is amended as follows.
- (2) In subsection (3) (property to vest in trustee on service of notice on bankrupt), for “Subject to the next subsection” substitute “ Subject to subsections (4) and (4A) ”.

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(3) In subsection (4) (trustee not entitled to remedy against certain persons and certain bankers)—

- (a) in the words before paragraph (a), after “service” insert “ on the bankrupt ”;
- (b) omit paragraph (b) (which makes provision about bankers) and the “or” at the end of paragraph (a);
- (c) in the words after paragraph (b)—
  - (i) omit “or transaction”;
  - (ii) omit “or banker” (in both places where they occur).

(4) After subsection (4) insert—

“(4A) Where a banker enters into a transaction before service on the banker of a notice under this section (and whether before or after service on the bankrupt of a notice under this section) the trustee is not in respect of that transaction entitled by virtue of this section to any remedy against the banker.

This subsection applies whether or not the banker has notice of the bankruptcy.”

VALID FROM 01/10/2015

## PART 6

### AUTHORISATION OF INSOLVENCY PRACTITIONERS

17 Part 13 of the Insolvency Act 1986 (insolvency practitioners and their qualification) is amended in accordance with paragraphs 18, 19 and 21.

#### *Repeal of provision for authorisation of nominees and supervisors in relation to voluntary arrangements*

18 Omit section 389(1A) (acting without qualification not an offence if authorised under section 389A).

19 Omit section 389A (authorisation of nominees and supervisors).

20 (1) The following repeals are made in consequence of paragraphs 18 and 19.

(2) In the Insolvency Act 1986—

- (a) in section 1(2), omit “or authorised to act as nominee,”;
- (b) in section 2(4), omit “, or authorised to act as nominee,”;
- (c) in section 4(2), omit “or authorised to act as nominee,”;
- (d) in section 7(5), omit “or authorised to act as supervisor,”;
- (e) in Schedule A1—
  - (i) in paragraph 28(1), omit “, or authorised to act as nominee,”;
  - (ii) in paragraph 31(2), omit “, or authorised to act as nominee,”;
  - (iii) in paragraph 33(1), omit “, or authorised to act as nominee,”;
  - (iv) in paragraph 39(6), omit “, or authorised to act as supervisor,”.

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(3) In the Insolvency Act 2000, omit section 4(3) and (4).

(4) In Schedule 6 to the Mental Capacity Act 2005, omit paragraph 31(2).

*Repeal of provision for authorisation of insolvency practitioners to be granted by competent authority*

21 Omit sections 392 to 398 and Schedule 7 (procedure for authorisation by competent authority, including provision for reference to Insolvency Practitioners Tribunal).

22 (1) The following repeals are made in consequence of paragraph 21.

(2) In the Parliamentary Commissioner Act 1967, in Schedule 4, omit the entry for the Insolvency Practitioners Tribunal.

(3) In the Northern Ireland Assembly Disqualification Act 1975, in Part 3 of Schedule 1, omit the entry for any member of the Insolvency Practitioners Tribunal in receipt of remuneration.

(4) In the Companies Act 1985, in Schedule 15D, omit paragraph 37.

(5) In the Insolvency Act 1986—

(a) omit section 415A(2);

(b) in Schedule 10, omit the entry for paragraph 4(3) of Schedule 7.

(6) In the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), omit Article 349(2)(c) and the “or” before it.

(7) In the Courts and Legal Services Act 1990, in Schedule 10, omit paragraph 67.

(8) In the Tribunals and Inquiries Act 1992—

(a) in Part 1 of Schedule 1, omit the entry for insolvency practitioners;

(b) in Schedule 3, omit paragraph 19.

(9) In the Railways Act 1993, omit section 145(2)(b)(ix) (but not the “or” following it).

(10) In the Greater London Authority Act 1999, omit section 235(2)(c)(ix) (but not the “or” following it).

(11) In the Utilities Act 2000, omit section 105(5)(j).

(12) In the Transport Act 2000, in Schedule 9, omit paragraph 3(2)(l).

(13) In the Enterprise Act 2002, omit section 270(3).

(14) In the Constitutional Reform Act 2005, in Part 3 of Schedule 14, omit the entry for a member of the Insolvency Practitioners Tribunal panel.

(15) In the Companies Act 2006—

(a) in Schedule 2, in Part 2, in Section (A) (United Kingdom), omit paragraph 18;

(b) in Schedule 11A, omit paragraph 64.

(16) In the Tribunals, Courts and Enforcement Act 2007—

(a) in Part 4 of Schedule 6, omit the entry for the Insolvency Practitioners Tribunal;

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- (b) in Schedule 10, omit paragraph 19.
- (17) In the Civil Aviation Act 2012, in Schedule 6, in paragraph 4(2), omit the entry for the Insolvency Practitioners Tribunal.
- 23 (1) For the purposes of this paragraph—  
the “commencement date” is the date on which paragraph 21 of this Schedule comes into force;  
the “transitional period” is the period of 1 year beginning with the commencement date.
- (2) Where, immediately before the commencement date, a person holds an authorisation granted under section 393 of the Insolvency Act 1986, section 393(3A) to (6) of that Act together with, for the purposes of this sub-paragraph, paragraphs (a) and (b) of section 393(2) of that Act (which are repealed by paragraph 21) continue to have effect in relation to the person and the authorisation during the transitional period.
- (3) During the transitional period, a person to whom sub-paragraph (2) applies is to be treated for the purposes of Part 13 of the Insolvency Act 1986 as fully authorised under section 390A of that Act (as inserted by section 17(3) of this Act) to act as an insolvency practitioner unless and until the person's authorisation is (by virtue of sub-paragraph (2)) withdrawn.
- (4) Where, immediately before the commencement date, a person has applied under section 392 of the Insolvency Act 1986 for authorisation to act as an insolvency practitioner and the application has not been granted, refused or withdrawn, sections 392(4) to (7) and 393(1) and (2) of that Act (which are repealed by paragraph 21) continue to have effect in relation to the person and the application during the transitional period.
- (5) Where, during the transitional period, an authorisation is (by virtue of sub-paragraph (4)) granted under section 393 of the Insolvency Act 1986, sub-paragraphs (2) and (3) above apply as if—  
(a) the authorisation had been granted immediately before the commencement date;  
(b) in sub-paragraph (2), the reference to section 393(3A) to (6) were a reference to section 393(4) to (6).
- (6) For the purposes of sub-paragraphs (2) and (4), sections 394 to 398 of, and Schedule 7 to, the Insolvency Act 1986 (which are repealed by paragraph 21) continue to have effect during the transitional period.

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## PART 7

### LIABILITIES OF ADMINISTRATORS AND ADMINISTRATIVE RECEIVERS OF COMPANIES AND PREFERENTIAL DEBTS OF COMPANIES AND INDIVIDUALS

VALID FROM 26/05/2015

#### *Treatment of liabilities relating to contracts of employment*

- 24 The Insolvency Act 1986 is amended in accordance with paragraphs 25 to 28.
- 25 In section 19 (vacation of office by administrator), as continued in force by virtue of section 249(1) of the Enterprise Act 2002 (special administration regimes), omit subsection (10) (what “wages or salary” includes for the purposes of subsection (9)(a)).
- 26 In section 44 (receivership: agency and liability for contracts), omit subsection (2D) (what “wages or salary” includes for the purposes of subsection (2C)(a)).
- 27 In Schedule B1 (administration of companies), in paragraph 99 (vacation of office by administrator: charges and liabilities), omit sub-paragraph (6)(d) (what “wages or salary” includes for the purposes of sub-paragraph (5)(c)) but not the “and” following it.
- 28 In Schedule 6 (categories of preferential debt), in paragraph 15 (what “wages or salary” includes for the purposes of determining what is a category 5 preferential debt), omit paragraph (b) and the “and” before it.

VALID FROM 26/05/2015

## PART 8

### REQUIREMENTS OF COMPANY LAW: PROXIES

#### *Proxies at a poll taken 48 hours or less after it was demanded*

- 29 In section 327(2) of the Companies Act 2006 (which regulates the period of notice required for the appointment of a proxy), omit paragraph (c).
- 30 In section 330(6) of that Act (which regulates the period of notice required for the termination of a proxy's authority), omit paragraph (c).



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PROSPECTIVE

## SCHEDULE 7

Section 26

### ASCERTAINMENT OF RIGHTS OF WAY

#### PART 1

##### WILDLIFE AND COUNTRYSIDE ACT 1981

- 1 The Wildlife and Countryside Act 1981 is amended as follows.
- 2 In section 53 (duty to keep definitive map and statement under continuous review) —
- (a) in subsection (3)(c)(i), omit “or is reasonably alleged to subsist”;
  - (b) after subsection (3)(c)(i) insert—
    - “(ia) in the case of an authority in Wales, that a right of way which is not shown in the map and statement is reasonably alleged to subsist over land in the area to which the map relates, being such a right of way as is mentioned in sub-paragraph (i);”.
- 3 After that section insert—

#### “53ZA Modifications arising from administrative errors

- (1) The Secretary of State may by regulations provide for Schedules 13A and 14A to apply with prescribed modifications in relation to the making of orders under section 53(2) in cases where it appears to a surveying authority in England (whether or not on an application under section 53(5)) that—
  - (a) it is requisite to make a modification of a definitive map and statement in consequence of an event mentioned in section 53(3)(c);
  - (b) the need for the modification has arisen because of an administrative error; and
  - (c) both the error and the modification needed to correct it are obvious.
- (2) The Secretary of State may by regulations provide for Schedule 14A to apply with prescribed modifications in cases where an order under section 53(2) is made in accordance with regulations under subsection (1).
- (3) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) At any time when regulations under subsection (1) are in force, a surveying authority shall, in deciding whether paragraphs (a) to (c) of that subsection apply in a particular case (and, accordingly, whether the provision made by the regulations applies in relation to the making of an order under

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section 53(2) in that case), have regard to any guidance given by the Secretary of State.

(5) In this section, “prescribed” means prescribed by regulations.”

4 In section 53B (register of applications under section 53), after subsection (4) insert—

“(4A) Regulations may provide that subsection (1) does not apply, with respect to applications under section 53(5) made to an authority in England, or to any prescribed description of such applications, unless the authority serve notice under paragraph 2(4)(b) of Schedule 13A in relation to such an application.

(4B) The making of regulations under subsection (4A) does not prevent an authority including in the register any information that they would be required to include in it had the regulations not been made.”

5 After section 54A insert—

**“54B Modifications of definitive map and statement by consent: England**

(1) This section applies where it appears to a surveying authority in England (whether or not on an application under section 53(5)) that —

- (a) it might be requisite to make a modification to a definitive map and statement in consequence of the occurrence of one or more events falling within section 53(3)(b) or (c)(i) or (ii);
- (b) the basis for the authority's view that it might be requisite is documentary evidence of the existence of a right of way before 1949; and
- (c) in a case where the authority form that view following an application, the authority have served notice under paragraph 2(4)(b) of Schedule 13A that they are considering the application.

(2) The authority shall ascertain whether every owner of the land to which the modification relates consents to the making of an order under section 53(2) or would so consent if the authority made one or more of the following orders (“special orders”)—

- (a) a diversion order;
- (b) an order altering the width of the path or way;
- (c) an order imposing a new limitation or condition affecting the right of way.

(3) A diversion order is an order which, for the purpose of diverting the line of the path or way or part of it—

- (a) creates any such new path or way (of the same kind) as appears to the authority appropriate; and
- (b) extinguishes any public right of way over so much of the path or way as appears to the authority to be appropriate.

(4) If every owner consents to the making of an order under section 53(2) (without the making of a special order), the authority—

- (a) may make the order under section 53(2); and

*Status: Point in time view as at 10/04/2015.*

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- (b) if they do so, shall include in the order a statement that it is made with the consent of every owner.
- (5) If an owner would consent to the making of an order under section 53(2) only if one or more special orders are made, and the other owners (if any) do not object to the making of such an order or orders, the authority may make the special order or orders in question and, if they do so, shall—
  - (a) make an order under section 53(2);
  - (b) include in that order a statement that it is made with the consent of every owner; and
  - (c) combine any special orders and the order under section 53(2) in a single document.
- (6) Before making a diversion order, the authority must—
  - (a) be satisfied that the path or way will not be substantially less convenient to the public in consequence of the diversion; and
  - (b) have regard to any guidance given by the Secretary of State.
- (7) As soon as reasonably practicable after an authority are satisfied that they have power under subsection (4) or (5) to make an order under section 53(2), the authority must—
  - (a) give notice to each owner that they are satisfied that they have that power; and
  - (b) include in the notice an explanation of the effect of subsection (9) of this section.
- (8) An order under section 53(2) which includes a statement that it is made with the consent of every owner is referred to in this Act as a modification consent order.
- (9) An authority must determine whether to make a modification consent order before the end of the period of 12 months beginning with—
  - (a) in the case mentioned in subsection (1)(c), the day on which the authority served notice under paragraph 2(4)(b) of Schedule 13A in respect of the application;
  - (b) in any other case, the day on which notice is given under subsection (7).
- (10) The Secretary of State may by order provide that, in cases or circumstances specified in the order, subsection (9) applies as if for the period of 12 months mentioned in that subsection there were substituted a longer period specified in the order.
- (11) An order under subsection (10) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **54C Modifications of definitive map and statement by consent: supplemental**

- (1) An authority may not make a diversion order under section 54B(5) so as to alter a point of termination of a path or way—
  - (a) if that point is not on a highway; or

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- (b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.
- (2) An authority may not make such an order so as to alter the line of a path or way such that it falls on land owned by a person whose consent was not sought under section 54B(2), unless that other person consents to the alteration.
- (3) Where a modification consent order takes effect, any path or way, or any part of a path or way, which is shown in a definitive map and statement in consequence of the order or any special order combined with it under section 54B(5) is maintainable at the public expense (including so much of a path or way as has been created by the making of a special order altering the width of an existing path or way).
- (4) Where it appears to an authority—
  - (a) that if a modification consent order were to take effect, a path or way, or part of a path or way, would be maintainable at the public expense by virtue of subsection (3); and
  - (b) that work is required to be done to bring the path or way, or the part, into a fit condition for use by the public,
 the authority may not confirm the order under Schedule 14A until they are satisfied that the work has been carried out.”

## PART 2

### NEW SCHEDULE 13A TO THE 1981 ACT

6 After Schedule 13 to the Wildlife and Countryside Act 1981 insert—

#### “SCHEDULE 13A

#### APPLICATIONS FOR CERTAIN ORDERS UNDER PART 3: ENGLAND

##### *Form of applications*

- 1 (1) An application must be made in the prescribed form and be accompanied by—
  - (a) a map drawn to the prescribed scale and showing the way or ways to which the application relates; and
  - (b) copies of any documentary evidence (including statements of witnesses) which the applicant wishes to adduce in support of the application, unless the authority have informed the applicant that the authority already have access to the evidence in question.
- (2) Regulations under sub-paragraph (1) must provide for an application to include an explanation as to why the applicant believes that a definitive map and statement should be modified in consequence of the occurrence of one or more events falling within section 53(3)(b) or (c).

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#### *Preliminary assessment and notice of applications*

- 2 (1) An authority must, before the end of the period of 3 months beginning with the day on which they receive an application, decide whether the application, and any documentary evidence which the applicant relies on in support of it, show that there is a reasonable basis for the applicant's belief that a definitive map and statement should be modified in consequence of the occurrence of one or more events falling within section 53(3)(b) or (c).
- (2) In deciding whether there is such a basis, the authority must have regard to any guidance given by the Secretary of State.
- (3) If they decide that there is no such basis, they must, before the end of that period of 3 months, inform the applicant of their decision and the reasons for it.
- (4) If they decide that there is such a basis, they must, before the end of that period—
  - (a) inform the applicant; and
  - (b) serve a notice on every owner and occupier of any land to which the application relates stating that an application has been made and the authority are considering it.
- (5) If, after reasonable inquiry has been made, the authority are satisfied that it is not practicable to ascertain the name or address of an owner or occupier of any land to which the application relates, the authority may direct that the notice required to be served on the person by sub-paragraph (4) may be served by addressing it to the person by the description “owner” or “occupier” of the land (describing it) and by affixing it to some conspicuous object or objects on the land.

#### *Failure by authority to conduct preliminary assessment*

- 3 (1) If an authority have not assessed an application in accordance with paragraph 2 before the end of the period of 3 months beginning with the day on which they received the application, the applicant may give notice to the authority in the prescribed form of an intention to apply to a magistrates' court for an order under this paragraph.
- (2) The applicant may apply to a magistrates' court for an order under this paragraph at any time—
  - (a) after the end of the period of 1 month beginning with the day on which notice was given; and
  - (b) before the end of the period of 6 months beginning with that day.
- (3) On hearing an application under this paragraph, a magistrates' court may order the authority to take specified steps for the purposes of discharging the authority's duty under paragraph 2 and to do so within such reasonable period as may be specified.
- (4) An order under sub-paragraph (3) may provide for paragraph 5 to apply in relation to the application made to the authority as if for the period of

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12 months beginning with the day on which the authority received the application there were substituted a longer period.

- (5) The authority or the applicant may appeal to the Crown Court against a decision of a magistrates' court under this paragraph.
- (6) An order under this paragraph does not take effect—
  - (a) until the end of the period of 21 days beginning with the day after the day on which the order was made, or
  - (b) if an appeal is brought in respect of the order within that period (whether by way of appeal to the Crown Court or by way of case stated for the opinion of the High Court), until the final determination or withdrawal of the appeal.

*Determination by authority*

- 4 (1) As soon as reasonably practicable after serving a notice under paragraph 2(4)(b), the authority must—
  - (a) investigate the matters stated in the application; and
  - (b) after consulting with every local authority whose area includes the land to which the application relates, decide whether to make or not to make the order to which the application relates.
- (2) The duty in sub-paragraph (1) does not apply in a case to which section 54B (modifications by consent) applies (see section 54B(1)).
- (3) But if, in such a case, an event mentioned below occurs, the authority must take the steps mentioned in sub-paragraph (1)(a) and (b) as soon as reasonably practicable after the occurrence of that event.

The events are—

- (a) that the authority ascertain that an owner does not consent to the making of an order under section 53(2) (whether with or without the making of a special order mentioned in section 54B(2)(a) to (c));
  - (b) that the authority decide for any other reason not to make a modification consent order;
  - (c) that the period of 12 months beginning with the date on which notice was served under paragraph 2(4)(b) expires without the authority having determined whether to make such an order;
  - (d) that the authority make such an order but decide not to confirm it.
- (4) As soon as practicable after determining an application, the authority must give notice of their decision by serving a copy of it on the applicant and any person on whom notice of the application was required to be served under paragraph 2(4)(b).

*Failure by authority to determine application*

- 5 (1) If an authority have not discharged their duty under paragraph 4 within the period of 12 months beginning with the day on which they received the application, the applicant or any owner or occupier of any land to which the application relates may give notice to the authority in the prescribed

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form of an intention to apply to a magistrates' court for an order under sub-paragraph (4).

- (2) A person who has given notice under sub-paragraph (1) may apply to a magistrates' court for an order under sub-paragraph (4) at any time—
  - (a) after the end of the period of 1 month beginning with the day on which notice was given; and
  - (b) before the end of the period of 12 months beginning with that day.
- (3) On the hearing of an application under sub-paragraph (2) the other persons by whom a notice under sub-paragraph (1) could have been given have a right to be heard.
- (4) On hearing an application under sub-paragraph (2), a magistrates' court may order the authority to take specified steps for the purposes of discharging their duty under paragraph 4 and to do so within such reasonable period as may be specified.
- (5) The authority may make one application to a magistrates' court for an order extending by up to 12 months the period specified in the order under sub-paragraph (4).
- (6) On the hearing of an application under sub-paragraph (5) in relation to an order under sub-paragraph (4), the person who applied for that order and the other persons by whom a notice under sub-paragraph (1) could have been given have a right to be heard.
- (7) A decision of a magistrates' court under this paragraph may be appealed to the Crown Court by—
  - (a) the authority;
  - (b) the applicant for an order under sub-paragraph (4);
  - (c) any other person by whom a notice under sub-paragraph (1) could have been given.
- (8) An order under this paragraph does not take effect—
  - (a) until the end of the period of 21 days beginning with the day after the day on which the order was made; or
  - (b) if an appeal is brought in respect of the order within that period (whether by way of appeal to the Crown Court or by way of case stated for the opinion of the High Court), until the final determination or withdrawal of the appeal.

*Failure by authority to determine application: further provision about notices*

- 6 (1) An applicant for an order under sub-paragraph (4) of paragraph 5 must give notice to the court of the names and addresses of any other person by whom a notice under sub-paragraph (1) of that paragraph could have been given.
- (2) If it is not reasonably practicable for an applicant to ascertain such a name and address, the applicant is to be taken to have complied with sub-paragraph (1) if the applicant gives notice to the court that that is the case.
- (3) Notice of the hearing, of the right to be heard and of the right to appeal against a decision on an application under paragraph 5(2) must be given by

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the court to each person whose name and address is notified to the court under sub-paragraph (1).

- (4) Notice of the hearing, of the right to be heard and of the right to appeal against a decision on an application under paragraph 5(5) must be given by the court to—
- (a) the person who applied for the order under paragraph 5(4) to which the application relates; and
  - (b) each person whose name and address was notified to the court under sub-paragraph (1) by the person mentioned in paragraph (a).
- (5) Where the court is given notice under sub-paragraph (2), notice of the hearing, of the right to be heard and of the right to appeal against a decision on an application under paragraph 5(2) or (5) must also be given by the court by affixing it to some conspicuous object or objects on the land to which the application relates.

*Procedure where authority decide not to make order: general*

- 7 (1) Where an authority decide under paragraph 4 not to make an order, the applicant may, at any time within 28 days after service of notice of the decision, give notice to the authority in the prescribed form of the applicant's wish to appeal against the decision to the Secretary of State and of the grounds on which the applicant wishes to do so.
- (2) If the applicant gives such notice and does not withdraw it—
- (a) the authority must submit the matter to the Secretary of State; and
  - (b) the Secretary of State must deal with the matter as an appeal against the decision of the authority.
- (3) The authority may, but need not, act as mentioned in sub-paragraph (2) if the authority are of the opinion that nothing in the grounds of appeal relates to an issue which, if the matter were submitted to the Secretary of State, would be relevant to the Secretary of State's decision on the appeal.
- (4) In deciding whether to exercise their power under sub-paragraph (3) not to submit the matter, the authority must have regard to any guidance given by the Secretary of State.
- (5) Where the authority decide not to submit the matter, the authority must inform the applicant of their decision and the reasons for it.
- (6) Where the matter is submitted to the Secretary of State, the authority must give notice in the prescribed form—
- (a) setting out the authority's decision;
  - (b) stating that the matter has been submitted to the Secretary of State;
  - (c) naming a place in the area in which the land to which the decision relates is situated where a copy of the decision may be inspected free of charge, and copies of it may be obtained at a reasonable charge, at all reasonable hours; and
  - (d) specifying the time (not being less than 42 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the decision,



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which must include particulars of the grounds relied on, may be made to the Secretary of State.

- (7) Subject to sub-paragraph (9), the notice to be given under sub-paragraph (6) must be given—
- (a) by publication on a website maintained by the authority and on such other websites or through the use of such other digital communications media as the authority may consider appropriate;
  - (b) by serving a like notice on—
    - (i) every owner and occupier of any of the land to which the decision relates;
    - (ii) every local authority whose area includes any of that land;
    - (iii) every person on whom notice is required to be served in pursuance of sub-paragraph (8); and
    - (iv) such other persons as may be prescribed in relation to the area in which that land is situated or as the authority may consider appropriate; and
  - (c) by causing a copy of the notice to be displayed in a prominent position—
    - (i) at the ends of so much of any way as is affected by the decision;
    - (ii) at council offices in the locality of the land to which the decision relates; and
    - (iii) at such other places as the authority may consider appropriate.
- (8) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give the person notice of all such decisions under paragraph 4 not to make an order as—
- (a) are made by the authority during a period specified in the requirement;
  - (b) are of a description so specified; and
  - (c) relate to land comprised in an area so specified.
- (9) The Secretary of State may, in any particular case, direct that it is not necessary to comply with sub-paragraph (7)(b)(i); but if such a direction is given in the case of any land, then in addition to publication the notice must be addressed to “The owners and any occupiers” of the land (describing it) and a copy or copies of the notice must be affixed to some conspicuous object or objects on the land.
- (10) Sub-paragraph (7)(b) and (c) and, where applicable, sub-paragraph (9) must be complied with not less than 42 days before the expiration of the time specified in the notice.
- (11) A notice required to be served by sub-paragraph (7)(b) on the owner or occupier of any land, or on a local authority, must be accompanied by a copy of so much of the decision as relates to that land or, as the case may be, the area of that authority; and a notice required to be served by that sub-paragraph on such other persons as may be prescribed or as the authority may consider appropriate must be accompanied by a copy of the decision.

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- (12) A notice required to be displayed by sub-paragraph (7)(c) at the ends of so much of any way as is affected by the decision must be accompanied by a plan showing the general effect of the decision so far as it relates to that way.
- (13) At any time after the publication of a notice under this paragraph, and before the expiration of the period specified in the notice for the making of representations and objections, any person may require the authority to inform the person what documents (if any) were taken into account in making the decision and—
- (a) as respects any such documents in the possession of the authority, to permit him to inspect them and take copies; and
  - (b) as respects any such documents not in their possession, to give him any information the authority have as to where the documents can be inspected;
- and the authority must comply with a requirement under this sub-paragraph within 14 days of the making of the requirement.
- (14) Nothing in sub-paragraph (6)(d) or (13) is to be construed as limiting the grounds which may be relied on or the documentary or other evidence which may be adduced at any local inquiry or hearing held under paragraph 8(1)(a) or (c) or included in representations made under paragraph 8(1)(b).
- 8 (1) Where a matter is submitted to the Secretary of State under paragraph 7(2), the Secretary of State must either—
- (a) cause a local inquiry to be held;
  - (b) afford the applicant, and any person by whom a representation or objection has been duly made and not withdrawn, an opportunity to make representations (or further representations) to a person appointed by the Secretary of State for that purpose; or
  - (c) afford the applicant, and any person by whom a representation or objection has been duly made and not withdrawn, an opportunity to be heard by a person appointed by the Secretary of State for that purpose.
- (2) The Secretary of State may, but need not, act as mentioned in sub-paragraph (1) if, in the opinion of the Secretary of State, nothing in the grounds of appeal, and no representation or objection which has been duly made and not withdrawn, relates to an issue which would be relevant to the Secretary of State's decision on the appeal.
- (3) On considering the grounds of appeal, any representations or objections duly made (and not withdrawn) and the report of any person appointed to hold an inquiry or appointed as mentioned in sub-paragraph (1)(b) or (c), the Secretary of State may—
- (a) uphold the authority's decision;
  - (b) direct the authority to make an order in accordance with the direction;
  - (c) make an order.
- (4) Sub-paragraph (5) applies if—
- (a) the Secretary of State proposes to direct an authority to make an order or proposes to make an order; and

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- (b) an order made in accordance with the proposed direction or (as the case may be) the order that the Secretary of State is proposing to make would differ in a material respect from the order sought by the applicant in the application.
- (5) The Secretary of State must give such notice as appears to him or her to be requisite of the proposal, specifying the time (which must not be less than 28 days from the date of first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal, which must include particulars of the grounds relied on, may be made.
- (6) If any representation or objection duly made under sub-paragraph (5) is not withdrawn, the Secretary of State must either—
- (a) cause a local inquiry to be held;
  - (b) afford any person by whom a representation or objection has been duly made and not withdrawn, an opportunity to make representations (or further representations) to a person appointed by the Secretary of State for that purpose; or
  - (c) afford any person by whom a representation or objection has been duly made and not withdrawn, an opportunity to be heard by a person appointed by the Secretary of State for that purpose.
- (7) The Secretary of State must consider the report of any person appointed to hold an inquiry or appointed as mentioned in sub-paragraph (6)(b) or (c).
- (8) The Secretary of State may, but need not, act as mentioned in sub-paragraph (6) if, in his or her opinion, no representation or objection which has been duly made and not withdrawn relates to an issue which would be relevant to the Secretary of State's decision on the appeal.
- (9) For the purposes of sub-paragraph (4)(b), an order made in accordance with the proposed direction, or (as the case may be) the order that the Secretary of State is proposing to make, would differ in a material respect from the order sought by the applicant in the application if—
- (a) it would affect land not affected by the order sought by the applicant;
  - (b) it would not show any way shown in the order sought by the applicant;
  - (c) it would show any way not so shown; or
  - (d) it would show as a highway of a particular description a way which is shown in the order sought by the applicant as a highway of another description.
- (10) Nothing in sub-paragraph (5) is to be construed as limiting the grounds which may be relied upon or the documentary or other evidence which may be adduced at any local inquiry or hearing held under sub-paragraph (6)(a) or (c) or included in representations made under sub-paragraph (6)(b).

*Procedure where authority decide not to make an order: supplemental*

- 9 (1) A decision of the Secretary of State under paragraph 8 must, except in such classes of case as may for the time being be prescribed or as may

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be specified in directions given by the Secretary of State, be made by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State; and a decision made by a person so appointed is to be treated as a decision of the Secretary of State.

- (2) The Secretary of State may, if the Secretary of State thinks fit, direct that a decision which, by virtue of sub-paragraph (1) and apart from this sub-paragraph, falls to be made by a person appointed by the Secretary of State is instead to be made by the Secretary of State; and a direction under this sub-paragraph must state the reasons for which it is given and must be served on the person, if any, so appointed, the authority and any person by whom a representation or objection has been duly made and not withdrawn.
  - (3) Where the Secretary of State has appointed a person to make a decision under paragraph 8 the Secretary of State may, at any time before the making of the decision, appoint another person to make it instead of the person first appointed to make it.
  - (4) Where by virtue of sub-paragraph (2) or (3) a particular decision falls to be made by the Secretary of State or any other person instead of the person first appointed to make it, anything done by or in relation to the latter is to be treated as having been done by or in relation to the former.
  - (5) Regulations under this paragraph may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.
- 10 (1) Subject to sub-paragraph (2), subsections (2) to (5) of section 250 of the Local Government Act 1972 (giving of evidence at, and defraying of costs of, inquiries) apply in relation to any hearing or local inquiry held under paragraph 8 as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.
- (2) In its application to a hearing or inquiry held under paragraph 8 by a person appointed under paragraph 9, subsection (5) of that section is to have effect as if the reference to the Minister causing the inquiry to be held were a reference to the person so appointed or the Secretary of State.
  - (3) Section 322A of the Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under paragraph 8 as it applies in relation to a hearing or local inquiry for the purposes referred to in that section.
- 11 Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give the person notice of all such orders as—
- (a) are made by the authority in accordance with a direction under paragraph 8(3)(b) or by the Secretary of State under paragraph 8(3)(c) during a period specified in the requirement;
  - (b) are of a description so specified; and
  - (c) relate to land in an area so specified.

#### *Transfer of applications*

- 12 (1) Where an application is made to an authority, the applicant may at any time before the application is determined give notice in the prescribed form to

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the authority that another person named in the notice is to carry on the application.

- (2) Where such a notice is given, the other person is (in relation to any time after it is given) to be treated as the applicant for the purposes of this Act.

#### *Interpretation*

- 13 (1) In this Schedule—

“application” means an application under section 53(5);

“local authority” means a non-metropolitan district council, a parish council or the parish meeting of a parish not having a separate parish council;

“prescribed” means prescribed by regulations made by the Secretary of State.

- (2) Regulations under this Schedule are to be made by statutory instrument and are subject to annulment in pursuance of a resolution of either House of Parliament.”

### **PART 3**

#### NEW SCHEDULE 14A TO THE 1981 ACT

- 7 After Schedule 14 to the Wildlife and Countryside Act 1981 insert the following Schedule—

#### “SCHEDULE 14A

#### PROCEDURE IN CONNECTION WITH CERTAIN ORDERS UNDER PART 3: ENGLAND

### **PART 1**

#### ORDERS MADE IN ACCORDANCE WITH PARAGRAPH 8 OF SCHEDULE 13A

- 1 (1) Where an order is made by an authority in accordance with a direction given under paragraph 8(3)(b) of Schedule 13A, or by the Secretary of State under paragraph 8(3)(c) of that Schedule, the Secretary of State must confirm the order.
- (2) The order takes effect when it is confirmed by the Secretary of State.

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## PART 2

### OTHER ORDERS

#### *Application of Part 2*

- 2 Part 2 of this Schedule applies to orders other than those which are made in accordance with a direction given under paragraph 8(3)(b) of Schedule 13A or by the Secretary of State under paragraph 8(3)(c) of that Schedule.

#### *Consultation*

- 3 Before making an order, the authority must consult with every local authority whose area includes the land to which the order relates.

#### *Coming into operation*

- 4 (1) A modification consent order does not take effect until confirmed by the authority under paragraph 9.
- (2) Any other order does not take effect until confirmed either by the authority or the Secretary of State under paragraph 10 or by the Secretary of State under paragraph 13.

#### *Publicity for orders*

- 5 (1) On making an order, the authority must give notice in the prescribed form—
- (a) describing the general effect of the order and stating that it has been made and requires confirmation;
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge, and copies may be obtained at a reasonable charge, at all reasonable hours; and
  - (c) specifying the time (not being less than 42 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order, which must include particulars of the grounds relied on, may be made.
- (2) Subject to sub-paragraph (4), the notice to be given under sub-paragraph (1) must be given—
- (a) by publication on a website maintained by the authority and on such other websites or through the use of such other digital communications media as the authority may consider appropriate;
  - (b) by serving a like notice on—
    - (i) every owner and occupier of any of that land;
    - (ii) every local authority whose area includes any of that land;
    - (iii) every person on whom notice is required to be served in pursuance of sub-paragraph (3); and

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- (iv) such other persons as may be prescribed in relation to the area in which that land is situated or as the authority may consider appropriate; and
  - (c) by causing a copy of the notice to be displayed in a prominent position—
    - (i) at the ends of so much of any way as is affected by the order;
    - (ii) at council offices in the locality of the land to which the order relates; and
    - (iii) at such other places as the authority may consider appropriate.
- (3) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give the person notice of all such orders as—
- (a) are made by the authority during a period specified in the requirement;
  - (b) are of a description so specified; and
  - (c) relate to land comprised in an area so specified.
- (4) In the case of a modification consent order, the authority may decide that it is not necessary to comply with sub-paragraph (2)(b)(i) and, in any other case, the Secretary of State may give a direction that it is not necessary to comply with it.
- But, if such a decision is made or such a direction is given in the case of any land, then in addition to publication the notice must be addressed to “The owners and any occupiers” of the land (describing it) and a copy or copies of the notice must be affixed to some conspicuous object or objects on the land.
- (5) Sub-paragraph (2)(b) and (c) and, where applicable, sub-paragraph (4) must be complied with not less than 42 days before the expiration of the time specified in the notice.
- (6) A notice required to be served by sub-paragraph (2)(b) on the owner or occupier of any land, or on a local authority, must be accompanied by a copy of so much of the order as relates to that land or, as the case may be, the area of that authority; and a notice required to be served by that sub-paragraph on such other persons as may be prescribed or as the authority may consider appropriate must be accompanied by a copy of the order.
- (7) A notice required to be displayed by sub-paragraph (2)(c) at the ends of so much of any way as is affected by the order must be accompanied by a plan showing the general effect of the order so far as it relates to that way.
- (8) At any time after the publication of a notice under this paragraph, and before the expiration of the period specified in the notice for the making of representations and objections, any person may require the authority to inform the person what documents (if any) were taken into account in preparing the order and—
- (a) as respects any such documents in the possession of the authority, to permit the person to inspect them and take copies; and

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(b) as respects any such documents not in their possession, to give the person any information the authority have as to where the documents can be inspected;

and the authority must comply with a requirement under this sub-paragraph within 14 days of the making of the requirement.

(9) Nothing in sub-paragraph (1)(c) or (8) is to be construed as limiting the grounds which may be relied on or the documentary or other evidence which may be adduced at any local inquiry or hearing held under paragraph 13(1)(a) or (c) or 14(3)(a) or (c) or included in representations made under paragraph 13(1)(b) or 14(3)(b).

*Irrelevant representations or objections*

- 6 (1) If representations or objections have been duly made about an order to an authority (and not withdrawn) but the authority consider that none of them are relevant, the authority may proceed under this Schedule as if no representations or objections had been duly made (and the following provisions of this Schedule apply accordingly).
- (2) For the purposes of this paragraph, a representation or objection is relevant if, were the order to be submitted to the Secretary of State under paragraph 11, it would be relevant in determining whether or not to confirm the order (either with or without modifications).
- (3) In deciding whether to exercise their power under sub-paragraph (1), an authority must have regard to any guidance given by the Secretary of State.
- (4) Where the authority decide to exercise that power, the authority must inform the applicant, and any person who made a representation or objection (and has not withdrawn it), of their decision and the reasons for it.
- (5) Nothing in this paragraph applies to a modification consent order.

*Severance of orders - representations etc relating to only some modifications*

- 7 (1) Where at any time representations or objections duly made and not withdrawn relate to some but not all of the modifications made by an order, the authority may, by notice given to the Secretary of State, elect that, for the purposes of the following provisions of this Schedule, the order is to have effect as two separate orders—
- (a) the one comprising the modifications to which the representations or objections relate; and
- (b) the other comprising the remaining modifications.
- (2) Any reference in sub-paragraph (1) to an order includes a reference to any part of an order which, by virtue of one or more previous elections under that sub-paragraph, has effect as a separate order.
- (3) Nothing in this paragraph applies to a modification consent order.



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*Severance of orders - only some representations etc relevant*

- 8 (1) If representations or objections have been duly made about an order to an authority (and not withdrawn) but the authority consider that not all of the representations or objections are relevant, the authority may elect that the order is to have effect as two separate orders—
- (a) the one comprising the modifications to which the relevant representations or objections relate;
  - (b) the other, comprising the remaining modifications, which is to be treated as if no representations or objections had been duly made;
- and the following provisions of this Schedule apply accordingly.
- (2) For the purposes of this paragraph, a representation or objection is relevant if, were the order to be submitted to the Secretary of State under paragraph 11, it would be relevant in determining whether or not to confirm the order (either with or without modifications).
- (3) In deciding whether to exercise their power under sub-paragraph (1), an authority must have regard to any guidance given by the Secretary of State.
- (4) Where the authority decide to exercise such a power, the authority must inform the applicant, and any person who made a representation or objection (and has not withdrawn it), of their decision and the reasons for it.
- (5) Nothing in this paragraph applies to a modification consent order.

*Confirmation - modification consent orders*

- 9 (1) The authority may (whether or not any representations or objections are made) confirm a modification consent order—
- (a) without modifications; or
  - (b) with modifications, if every owner of the land to which the order relates so consents.
- (2) Nothing in paragraphs 10 to 16 applies to a modification consent order.

*Confirmation - unopposed orders (other than modification consent orders)*

- 10 (1) If no representations or objections are duly made, or if any so made are withdrawn, the authority may—
- (a) confirm the order without modification; or
  - (b) if they require any modification to be made, submit the order to the Secretary of State for confirmation by him or her.
- (2) Where an order is submitted to the Secretary of State under sub-paragraph (1), the Secretary of State may confirm the order with or without modifications.

*Confirmation - opposed orders (other than modification consent orders)*

- 11 If any representation or objection duly made to an order is not withdrawn the authority must submit the order to the Secretary of State for confirmation by him or her.

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- 12 (1) Where an order is submitted by an authority to the Secretary of State and the representations or objections relate to some but not all of the modifications made by the order, the Secretary of State may, by notice given to the authority, elect that the order is to have effect as two separate orders—
- (a) the one comprising the modifications to which the representations or objections relate (“the opposed order”); and
  - (b) the other comprising the remaining modifications.
- (2) Where notice is given under sub-paragraph (1), paragraph 10 and the following provisions of this Schedule apply as if only the opposed order had been submitted to the Secretary of State for confirmation.
- (3) Any reference in sub-paragraph (1) to an order includes a reference to any part of an order which, by virtue of one or more previous elections under that sub-paragraph, has effect as a separate order.
- 13 (1) Where an order is submitted to the Secretary of State under paragraph 11, the Secretary of State must, subject to sub-paragraph (2), either—
- (a) cause a local inquiry to be held;
  - (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity to make representations (or further representations) to a person appointed by the Secretary of State for the purpose; or
  - (c) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity to be heard by a person appointed by the Secretary of State for the purpose.
- (2) The Secretary of State may, but need not, act as mentioned in sub-paragraph (1) if, in the Secretary of State's opinion, no representation or objection which has been duly made and not withdrawn relates to an issue which would be relevant in determining whether or not to confirm the order, either with or without modifications.
- (3) On considering any representations or objections duly made and the report of any person appointed to hold an inquiry, or appointed as mentioned in sub-paragraph (1)(b) or (c), the Secretary of State may confirm the order with or without modifications.

*Restriction on power to confirm orders with modifications*

- 14 (1) The Secretary of State must not confirm an order with modifications so as—
- (a) to affect land not affected by the order;
  - (b) not to show any way shown in the order or to show any way not so shown; or
  - (c) to show as a highway of one description a way which is shown in the order as a highway of another description,
- except after complying with the requirements of this paragraph.
- (2) The Secretary of State must give such notice as appears to him or her to be requisite of his or her proposal so to modify the order, specifying the time (which must not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or

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objections with respect to the proposal, which must include particulars of the grounds relied on, may be made.

- (3) If any representation or objection duly made under sub-paragraph (2) is not withdrawn, the Secretary of State must either—
  - (a) cause a local inquiry to be held;
  - (b) afford any person by whom a representation or objection has been duly made and not withdrawn, an opportunity to make representations (or further representations) to a person appointed by the Secretary of State for that purpose; or
  - (c) afford any person by whom a representation or objection has been duly made and not withdrawn, an opportunity to be heard by a person appointed by the Secretary of State for that purpose.
- (4) The Secretary of State must consider the report of any person appointed to hold an inquiry or appointed as mentioned in sub-paragraph (3)(b) or (c).
- (5) The Secretary of State may, but need not, act as mentioned in sub-paragraph (3) if, in his or her opinion, no representation or objection which has been duly made and not withdrawn relates to an issue which would be relevant in determining whether or not to confirm the order in accordance with his or her proposal.
- (6) Sub-paragraph (2) is not to be construed as limiting the grounds which may be relied on at any local inquiry or hearing held under sub-paragraph (3)(a) or (c) or included in representations made under sub-paragraph (3)(b).

#### *Appointment of inspectors etc*

- 15 (1) A decision of the Secretary of State under paragraph 10, 13 or 14 must, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be made by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State; and a decision made by a person so appointed is to be treated as a decision of the Secretary of State.
- (2) The Secretary of State may, if he or she thinks fit, direct that a decision which, by virtue of sub-paragraph (1) and apart from this sub-paragraph, falls to be made by a person appointed by the Secretary of State is instead to be made by the Secretary of State; and a direction under this sub-paragraph must state the reasons for which it is given and must be served on the person, if any, so appointed, the authority and any person by whom a representation or objection has been duly made and not withdrawn.
- (3) Where the Secretary of State has appointed a person to make a decision under paragraph 10, 13 or 14 the Secretary of State may, at any time before the making of the decision, appoint another person to make it instead of the person first appointed to make it.
- (4) Where by virtue of sub-paragraph (2) or (3) a particular decision falls to be made by the Secretary of State or any other person instead of the person first appointed to make it, anything done by or in relation to the latter is to be treated as having been done by or in relation to the former.

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- (5) Regulations under this paragraph may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.

*Hearings and local inquiries*

- 16 (1) Subject to sub-paragraph (2), subsections (2) to (5) of section 250 of the Local Government Act 1972 (giving of evidence at, and defraying of costs of, inquiries) are to apply in relation to any hearing or local inquiry held under paragraph 13 or 14 as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.
- (2) In its application to a hearing or inquiry held under paragraph 13 or 14 by a person appointed under paragraph 15, subsection (5) of that section has effect as if the reference to the Minister causing the inquiry to be held were a reference to the person so appointed or the Secretary of State.
- (3) Section 322A of the Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under paragraph 13 or 14 as it applies in relation to a hearing or local inquiry for the purposes referred to in that section.

**PART 3**

ORDERS: GENERAL

*Notice of final decisions on orders*

- 17 (1) As soon as practicable after a decision to confirm an order is made or, in the case of a decision by the Secretary of State, as soon as practicable after receiving notice of the decision, the authority must give notice—
- (a) describing the general effect of the order as confirmed and stating that it has been confirmed (with or without modification) and the date on which it took effect; and
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge, and copies may be obtained at a reasonable charge, at all reasonable hours.
- (2) A notice under sub-paragraph (1) must be given—
- (a) by publication in the manner required by paragraph 5(2)(a);
  - (b) by serving a like notice on any persons on whom notices were required to be served under paragraph 5(2)(b) or (4); and
  - (c) by causing like notices to be displayed in the like manner as the notices required to be displayed under paragraph 5(2)(c).
- (3) A notice required to be served by sub-paragraph (2)(b) on the owner or occupier of any land, or on a local authority, must be accompanied by a copy of so much of the order as confirmed as relates to that land or, as the case may be, the area of that authority; and, in the case of an order which has been confirmed with modifications, a notice required to be served by that sub-paragraph on such other persons as may be prescribed or as the

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authority may consider appropriate must be accompanied by a copy of the order as confirmed.

- (4) As soon as practicable after a decision not to confirm an order or, in the case of a decision by the Secretary of State, as soon as practicable after receiving notice of his or her decision, the authority must give notice of the decision by serving a copy of it on any persons on whom notices were required to be served under paragraph 5(2)(b) or (4).

*Proceedings for questioning validity of orders*

- 18 (1) If any person is aggrieved by an order which has taken effect and desires to question its validity on the ground that it is not within the powers of sections 53, 54, 54B and 54C or that any of the requirements of Schedule 13A or this Schedule have not been complied with in relation to it, the person may within 42 days from the date of publication of the notice under paragraph 17 make an application to the High Court under this paragraph.
- (2) On any such application the High Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with those requirements, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant.
- (3) Sub-paragraph (4) applies if the application relates to an order of an authority that has been submitted to, and confirmed by, the Secretary of State.
- (4) The High Court may quash the decision of the Secretary of State confirming the order or any part of it (either generally or in so far as it affects the interests of the applicant), instead of quashing the order or any provision of it.
- (5) Except as provided by this paragraph, the validity of an order is not to be questioned in any legal proceedings whatsoever.

*Supplemental*

- 19 (1) The Secretary of State may, subject to the provisions of this Schedule, by regulations make such provision as to the procedure on the making, submission and confirmation of orders as appears to him or her to be expedient.
- (2) In the application of this Schedule to an order that is a modification consent order, any special orders made under section 54B(5) are to be treated as part of the order.
- (3) In this Schedule—  
“council offices” means offices or buildings acquired or provided by the authority or by a local authority;  
“local authority” means a non-metropolitan district council, a parish council or the parish meeting of a parish not having a separate parish council;  
“order” means an order to which the provisions of this Schedule apply;

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“prescribed” means prescribed by regulations made by the Secretary of State.

- (4) Regulations under this Schedule are to be made by statutory instrument and are to be subject to annulment in pursuance of a resolution of either House of Parliament.”

## PART 4

### HIGHWAYS ACT 1980

- 8 (1) Schedule 6 to the Highways Act 1980 (procedure applicable to the making etc of certain orders under the Act relating to footpaths, bridleways and restricted byways) is amended as follows.
- (2) In paragraph 1 (publicity for orders)—
- (a) in sub-paragraph (3), in paragraph (a), for the words from “in at least one local newspaper” to the end of the paragraph substitute “(within the meaning of sub-paragraph (3ZA)) ”;
- (b) after sub-paragraph (3) insert—
- “(3ZA) In sub-paragraph (3)(a), “publication” means—
- (a) in relation to England, publication on a website maintained by the authority and on such other websites or through the use of such other digital communications media as the authority may consider appropriate;
- (b) in relation to Wales, publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated.”
- (3) In paragraph 2 (opposed and unopposed orders), after sub-paragraph (2) insert—
- “(2ZA) If representations or objections have been duly made to an authority in England other than the Secretary of State (and not withdrawn), but the authority consider that none of the representations or objections are relevant, the authority may proceed under this Schedule as if no representations or objections had been duly made (and the provisions of this Schedule apply accordingly).
- (2ZB) If representations or objections have been duly made to such an authority (and not withdrawn), but the authority consider that at least one of the representations or objections is not relevant, the authority may elect that the order shall have effect as two separate orders—
- (a) the one comprising the parts to which the relevant representations or objections relate; and
- (b) the other, comprising the remaining parts, which is to be treated as if no representations or objections had been duly made;
- and the provisions of this Schedule apply accordingly.
- (2ZC) For the purposes of this paragraph, a representation or objection is relevant if, were the order to be submitted to the Secretary of State, it would be relevant in determining whether or not to confirm the order (either with or without modifications).

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(2ZD) In deciding whether to exercise their power under subsection (2ZA) or (2ZB), an authority shall have regard to any guidance given by the Secretary of State.

(2ZE) Where the authority decide to exercise such a power, the authority shall inform the applicant, and any person who made a representation or objection (and has not withdrawn it), of their decision and the reasons for it.”

(4) In that paragraph, after sub-paragraph (3) insert—

“(4) The Secretary of State may, but need not, act as mentioned in sub-paragraph (2)(a) or (b) or (3)(b) in relation to an order relating to England if, in his opinion, no representation or objection which has been duly made and not withdrawn relates to an issue which would be relevant in determining whether or not to confirm the order (either with or without modifications) or to make it.”

(5) In that paragraph, after sub-paragraph (4) (as inserted by sub-paragraph (4) of this paragraph) insert—

“(5) In the case of an order relating to England, the Secretary of State may, instead of affording a person an opportunity of being heard as mentioned in sub-paragraph (2)(b), (2A)(b) or (3)(b), afford the person an opportunity of making representations (or further representations) to a person appointed by him or her for the purpose.

(6) Where the Secretary of State acts under sub-paragraph (5) by affording a person an opportunity of making representations (or further representations) instead of an opportunity of being heard as mentioned in sub-paragraph (2)(b) or (3)(b), the reference in sub-paragraph (2) or (as the case may be) (3)(c) to the report of the person appointed to hear representations or objections is to be read as a reference to the report of the person appointed under sub-paragraph (5).”

(6) After paragraph 2 insert—

“2ZZA) Where at any time representations or objections duly made to an authority in England (and not withdrawn) relate to only parts of an order, the authority may elect that for the purposes of paragraph 2 and the following provisions of this Schedule, the order shall have effect as two separate orders—

- (a) the one comprising the parts to which the representations or objections relate; and
- (b) the other comprising the remaining parts.

(2) Where the authority is not the Secretary of State, an election for the purposes of sub-paragraph (1) shall be given by notice to the Secretary of State.

(3) Where an order made by an authority in England (other than the Secretary of State) is submitted to the Secretary of State, and any representations or objections duly made (and not withdrawn) relate to only parts of the order, the Secretary of State may, by notice given to the authority, elect that it shall have effect as two separate orders—

- (a) the one comprising the parts to which the representations or objections relate (“the opposed order”); and
- (b) the other comprising the remaining parts.

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- (4) Where notice is given under sub-paragraph (3), paragraph 2 and the following provisions of this Schedule apply as if only the opposed order had been submitted to the Secretary of State for confirmation.
- (5) Any reference in sub-paragraph (1) or (3) to an order includes a reference to any part of an order which, by virtue of one or more previous elections under that sub-paragraph, has effect as a separate order.”
- (7) In paragraph 4A (publication of orders)—
- (a) the existing text becomes sub-paragraph (1);
  - (b) in that sub-paragraph, for the words from “in at least one local newspaper” to the end of the sub-paragraph substitute “ (within the meaning of sub-paragraph (2)) ”;
  - (c) after that sub-paragraph insert—
 

“(2) In sub-paragraph (1), “publication” means—

    - (a) in relation to England, publication on a website maintained by the authority and on such other websites or through the use of such other digital communications media as the authority may consider appropriate;
    - (b) in relation to Wales, publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated.”
- (8) In paragraph 5 (proceedings for questioning validity of orders) omit the “and” after paragraph (b) and insert—
- “(ba) the Schedule has effect as if after paragraph 3 there were inserted—
- “3A (1) Sub-paragraph (2) applies if the application relates to an order of an authority in England that has been submitted to, and confirmed by, the Secretary of State.
- (2) The High Court may quash the decision of the Secretary of State confirming the order or any part of it (either generally or in so far as it affects the interests of the applicant), instead of quashing the order or any provision of it.”; and”.

## PART 5

### CONSEQUENTIAL AMENDMENTS

- 9 Part 3 of the Wildlife and Countryside Act 1981 is amended as follows.
- 10 In section 53 (duty to keep definitive map and statement under continuous review)
- 
- (a) in subsection (5), for “the provisions of Schedule 14” substitute “ the provisions of Schedule 13A (in relation to England) and Schedule 14 (in relation to Wales) ”;
  - (b) in subsection (6), for “the provisions of Schedule 15” substitute “ the provisions of Schedule 14A (in relation to England) and Schedule 15 (in relation to Wales) ”.
- 11 (1) Schedule 14 (Applications for certain orders under Part 3) is amended as follows.



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- (2) In the heading, at the end, insert “ : Wales ”.
- (3) In paragraph 5 (interpretation), in sub-paragraph (1), for the definition of “local authority” substitute—
- ““local authority” means a community council;”.
- 12 (1) Schedule 15 (Procedure in connection with certain orders under Part 3) is amended as follows.
- (2) In the heading, at the end, insert “ : Wales ”.
- (3) In paragraph 13 (interpretation), in sub-paragraph (2), for the definition of “local authority” substitute—
- ““local authority” means a community council;”.

## SCHEDULE 8

Section 49

### PROVISION OF PASSENGER RAIL SERVICES

#### *Consequential amendments*

- 1 The Transport Act 1968 is amended in accordance with paragraphs 2 to 5.

#### **Commencement Information**

**I64** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

- 2 (1) Section 10(1) is amended as follows.
- (2) In paragraph (iii), before “(ii)”, in both places, insert “ (ia)(b) or ”.
- (3) In paragraph (iv), before “(ii)” insert “ (ia), ”.
- (4) After paragraph (viiiia), insert—
- “(viiiiaa) where that area is in England, to let locomotives and other rolling stock on hire to a person not falling within paragraph (viiiia) for or in connection with the provision of railway passenger services;”.
- (5) In paragraph (viiiib), at the beginning insert “ where that area is in Wales or Scotland, ”.

#### **Commencement Information**

**I65** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

- 3 In section 10(1), paragraphs (vi) and (viza) have effect, until the day on which the repeal of those provisions in relation to Scotland by section 14(1)(a) of the Railways Act 2005 comes into force, as if for “(ii)” there were substituted “ (ia)(b) ”.

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#### Commencement Information

**I66** [Sch. 8](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 4 (1) Section 20 (special duty of certain Executives with respect to railway passenger services) is amended as follows.
- (2) In paragraph (a) of subsection (2), omit the words from “for the purposes” to the end of the paragraph.
- (3) After subsection (2) insert—
- “(2A) For the purposes of subsection (2)(a) “permitted distance”, in relation to an integrated transport area, a combined authority area or a passenger transport area, means the distance of 25 miles from the nearest point on the boundary of that area.”

#### Commencement Information

**I67** [Sch. 8](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 5 In section 23A (interpretation of certain provisions of this Part relating to railways), after subsection (1) insert—
- “(1A) For the purposes of section 10, “railway” has the meaning given in section 67(1) of the Transport and Works Act 1992.”

#### Commencement Information

**I68** [Sch. 8](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 6 Section 119 of the Transport Act 1985 (bus substitution services and bus service conditions) has effect, until the repeal of the section by Part 4 of Schedule 31 to the Transport Act 2000 comes into force, as if—
- (a) in subsection (3) the words from “for the purposes” to the end of the subsection were omitted;
- (b) after subsection (5) there were inserted—
- “(5A) For the purposes of subsection (3) “permitted distance”, in relation to a passenger transport area, means the distance of 25 miles from the nearest point on the boundary of that area.”

#### Commencement Information

**I69** [Sch. 8](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 7 In section 13 of the Railways Act 2005 (railway functions of Passenger Transport Executives), in subsection (9), for the words from “has the same meaning” to the end substitute “ , in relation to an integrated transport area, means the distance of 25 miles from the nearest point on the boundary of that area. ”

*Status: Point in time view as at 10/04/2015.*

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### Commencement Information

**170** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

*Franchise exemptions granted by Secretary of State: protection of railway assets etc*

8 After section 24 of the Railways Act 1993 insert—

#### “24A Secretary of State franchise exemptions: operator agreements

- (1) Conditions specified in an order under section 24 made by the Secretary of State may, in particular, include conditions which are to apply to any person providing services under an operator agreement.
- (2) An order under section 24 made by the Secretary of State may include provision which, subject to any modifications that the Secretary of State considers appropriate, has an effect in connection with operator agreements which corresponds or is similar to the effect of the following provisions in connection with franchise agreements—
  - (a) section 27(3) of this Act (restrictions on transfer or creation of security over assets);
  - (b) section 27(5) of this Act (transactions entered into in breach of restrictions to be void);
  - (c) section 27(6) and (7) of this Act (no execution or other legal process etc in respect of assets);
  - (d) section 31 of this Act (disapplication of legislation: security of tenure of business premises);
  - (e) sections 55 to 58 of this Act (enforcement);
  - (f) section 12 of, and Schedule 2 to, the Railways Act 2005 (transfer schemes), subject to subsection (4) below.
- (3) Provision included in an order by virtue of subsection (2) may be made by applying the provision in question, subject to any modifications that the Secretary of State considers appropriate.
- (4) The provision which may be included in an order by virtue of subsection (2) (f) is subject to the following restrictions—
  - (a) it is to be provision which applies only where an operator agreement is or has been in force to which one of the following is or was party—
    - (i) a Passenger Transport Executive,
    - (ii) a local transport authority, or
    - (iii) a relevant company;
  - (b) the person entitled under the provision to make a transfer scheme is to be a Passenger Transport Executive or local transport authority which—
    - (i) is or was party to the operator agreement, or
    - (ii) is the owner, or one of the owners, of a relevant company which is or was party to the operator agreement;
  - (c) the persons to whom assets may be transferred under a scheme made under the provision are to be—

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- (i) the Passenger Transport Executive or local transport authority which makes the scheme;
- (ii) any other Passenger Transport Executive or local transport authority which—
  - (a) is or was party to the operator agreement, or
  - (b) is the owner, or one of the owners, of a relevant company which is or was party to the operator agreement;
- (iii) a relevant company;
- (iv) a person who is, or is to be, the operator under an operator agreement.

(5) In this section—

“local transport authority” has the same meaning as in Part 2 of the Transport Act 2000 (see section 108(4) of that Act);

“operator agreement” means any agreement which a person who has the benefit of a franchise exemption may enter into for another person (“the operator”) to provide the services (or any part of the services) in respect of which the exemption is granted;

“Passenger Transport Executive” means a body which is such an Executive for the purposes of Part 2 of the Transport Act 1968;

“relevant company” means—

- (a) a company that is wholly owned by a Passenger Transport Executive or a local transport authority, or
- (b) a company of which each owner is a Passenger Transport Executive or a local transport authority.”

#### **Commencement Information**

**I71** [Sch. 8](#) in force for certain purposes at Royal Assent, see [s. 115](#)

#### *Minor correcting amendments*

- 9 (1) The Transport Act 1968 is amended as follows.
- (2) In section 9(1)(c)—
- (a) in sub-paragraph (i), for “sub-paragraph (ia)” substitute “ sub-paragraphs (ia) to (ie) ”;
  - (b) after sub-paragraph (ia) insert—
    - “(ib) in relation to the area of the Greater Manchester Combined Authority, the Greater Manchester Passenger Transport Executive;
    - (ic) in relation to the area of the Greater Merseyside Combined Authority, the Merseyside Passenger Transport Executive;
    - (id) in relation to the area of the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority, the South Yorkshire Passenger Transport Executive;
    - (ie) in relation to the area of the Durham, Gateshead, Newcastle upon Tyne, North Tyneside,

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Northumberland, South Tyneside and Sunderland  
Combined Authority, the Tyne and Wear Passenger  
Transport Executive;”.

- (3) In section 16(2A)—
- (a) for “subsection (2)” substitute “ subsection (1) ”;
  - (b) omit the “and” at the end of paragraph (b);
  - (c) after paragraph (c) insert “; and
  - (d) the words from “including in particular” to the end of the subsection were omitted.”
- (4) In Schedule 5—
- (a) in Part 2, in paragraph 2, after “as the case may be,”, in both places where it occurs, insert “ the combined authority area or ”;
  - (b) in Part 3, in paragraph 11(a), after “integrated transport area” insert “ , a combined authority area ”.

#### Commencement Information

**I72** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

- 10 (1) In section 30 of the Railways Act 1993 (duty of relevant franchising authority), subsection (3) is amended as follows.
- (2) In paragraph (b)—
- (a) for “notice” substitute “ proposal ”;
  - (b) for “the proposal date specified for the purposes of subsection (5)(a)(ii) of that section” substitute “ the date for the discontinuance of services specified in the proposal ”.
- (3) In paragraph (c), for “subsection (2)” substitute “ subsection (3) ”.

#### Commencement Information

**I73** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

VALID FROM 26/05/2015

## SCHEDULE 9

Section 50

ROAD TRAFFIC LEGISLATION: USE OF VEHICLES IN EMERGENCY RESPONSE BY NHS

*Status: Point in time view as at 10/04/2015.*

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## SCHEDULE 10

Section 51

### REGULATION OF THE USE OF ROADS AND RAILWAYS

VALID FROM 26/05/2015

#### PART 1

##### DURATION OF DRIVING LICENCES TO BE GRANTED TO DRIVERS WITH RELEVANT OR PROSPECTIVE DISABILITIES

- 1 Part 3 of the Road Traffic Act 1988 (licensing of drivers of vehicles) is amended as follows.
- 2 In section 99 (duration of licences of drivers of motor vehicles of classes other than any prescribed class of goods vehicle or any prescribed class of passenger-carrying vehicle), in subsection (1)(b) (duration of licence to be granted to person suffering from relevant or prospective disability), for the words from “of not more than” to “may determine” substitute “as the Secretary of State may determine which shall be a period—
- (i) of not more than ten years and not less than one year, ending on or before the seventieth anniversary of the applicant's date of birth, or
  - (ii) where, at the time the licence is granted, there are less than three years until that seventieth anniversary or where the licence is granted on or after that anniversary, of not more than three years and not less than one year”.
- 3 In consequence of paragraph 2, in section 100(1)(b) (appeals relating to licences: determination under section 99(1)(b))—
- (a) for “three” substitute “ ten ”;
  - (b) after “or less” insert “ or, where sub-paragraph (ii) of section 99(1)(b) applies, for three years or less ”.

#### PART 2

##### PERMIT SCHEMES: REMOVAL OF REQUIREMENT FOR SECRETARY OF STATE APPROVAL

- 4 Part 3 of the Traffic Management Act 2004 (permit schemes) is amended as follows.

##### **Commencement Information**

**I74** Sch. 10 para. 4 in force for certain purposes at Royal Assent and at 26.5.2015 in so far as not already in force

- 5 (1) Section 33 (preparation of permit schemes) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) A permit scheme may be prepared by—
- (a) a strategic highways company,

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- (b) a local highway authority in England, or
  - (c) such a company or authority acting together with one or more other such companies or authorities.
- (1A) A local highway authority in Wales, or two or more such authorities acting together, may prepare and submit to the Welsh Ministers a permit scheme.”
- (3) For subsection (2) substitute—
- “(2) The Secretary of State may direct—
- (a) a strategic highways company,
  - (b) a local highway authority in England, or
  - (c) such a company or authority acting together with one or more other such companies or authorities,
- to prepare and give effect to a permit scheme which takes such form as the Secretary of State may direct.
- (2A) The Welsh Ministers may direct a local highway authority in Wales, or two or more such authorities acting together, to prepare and submit to them a permit scheme which takes such form as the Welsh Ministers may direct.”

#### Commencement Information

**I75** Sch. 10 para. 5 in force for certain purposes at Royal Assent and at 26.5.2015 in so far as not already in force

VALID FROM 30/06/2015

6 After section 33 insert—

#### **“33A Implementation of permit schemes of strategic highway companies and local highway authorities in England**

- (1) This section applies to a permit scheme prepared in accordance with section 33(1) or (2) by—
  - (a) a strategic highways company,
  - (b) a local highway authority in England, or
  - (c) such a company or authority acting together with one or more other such companies or authorities.
- (2) The scheme shall not have effect in the area of a participating authority unless the authority gives effect to it by order.
- (3) For the purposes of subsection (2) a local highway authority or a strategic highways company is a “participating authority” in relation to a permit scheme if it is the highway authority for any of the streets in which the scheme is to control the carrying out of works.
- (4) An order under subsection (2)—
  - (a) must set out the scheme and specify the date on which the scheme is to come into effect, and

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- (b) may (in accordance with permit regulations) include provisions which disapply or modify enactments to the extent specified in the order.”

VALID FROM 30/06/2015

- 7 (1) Section 34 (implementation of local highway authority permit schemes) is amended as follows.
- (2) In subsection (1)—
- (a) after “prepared” insert “ by a local highway authority in Wales ”;
  - (b) for “appropriate national authority (“the authority”)” substitute “ Welsh Ministers ”;
  - (c) for “33(1) or (2)” substitute “ 33(1A) or (2A) ”.
- (3) In subsection (2), for “authority” substitute “ Welsh Ministers ”.
- (4) In subsection (3), for “it approves” substitute “ the Welsh Ministers approve ”.
- (5) In subsection (4), for “the authority by order gives” substitute “ the Welsh Ministers by order give ”.
- (6) In the heading, at the end insert “ : Wales ”.

VALID FROM 30/06/2015

- 8 For section 36 (variation and revocation of permit schemes) substitute—
- “36 Variation and revocation of permit schemes**
- (1) A local highway authority in England may by order vary or revoke a permit scheme to the extent that it has effect in the area of the authority by virtue of an order made by the authority under section 33A(2).
  - (2) The Secretary of State may direct a local highway authority in England to vary or revoke a permit scheme by an order under subsection (1).
  - (3) An order made by a local highway authority under subsection (1) may vary or revoke an order made by the authority under section 33A(2), or an order previously made by the authority under subsection (1).
  - (4) A strategic highways company may by order vary or revoke a permit scheme to the extent that it has effect, by virtue of an order made by the company under section 33A(2), in the area in respect of which the company is appointed.
  - (5) The Secretary of State may direct a strategic highways company to vary or revoke a permit scheme by an order under subsection (4).
  - (6) An order made by a strategic highways company under subsection (4) may vary or revoke an order made by the company under section 33A(2), or an order previously made by the company under subsection (4).



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- (7) The Welsh Ministers may by order vary or revoke any permit scheme which for the time being has effect by virtue of an order made by them under section 34(4) or 35(2).
- (8) An order under subsection (7) may vary or revoke an order made by the Welsh Ministers under section 34(4) or 35(2), or an order previously made under subsection (7).
- (9) The Secretary of State may by order vary or revoke any permit scheme which for the time being has effect by virtue of an order made by the Secretary of State under section 35(2).
- (10) An order under subsection (9) may vary or revoke an order made by the Secretary of State under section 35(2), or an order previously made under subsection (9).
- (11) An order under subsection (7) or (9) may relate to one or more permit schemes.
- (12) An order under this section may (in accordance with permit regulations) include provisions which disapply or modify enactments to the extent specified in the order.”

VALID FROM 30/06/2015

- 9 (1) Section 37 (permit regulations) is amended as follows.
- (2) In subsection (1)—
    - (a) for “appropriate national authority” substitute “ Secretary of State ”;
    - (b) omit “submission, approval,”;
    - (c) at the end insert “ prepared by local highway authorities in England or strategic highways companies under section 33(1) or (2) or by the Secretary of State under section 33(3) or (4) ”.
  - (3) After subsection (1) insert—

“(1A) The Welsh Ministers may by regulations (“permit regulations”) make provision with respect to the content, preparation, submission, approval, operation, variation or revocation of permit schemes prepared by local highway authorities in Wales under section 33(1A) or (2A) or by the Welsh Ministers under section 33(3).”
  - (4) After subsection (3) insert—

“(3A) Permit regulations made by the Secretary of State may impose requirements for the purpose of securing that permit schemes are kept under review.”

VALID FROM 30/06/2015

- 10 (1) Section 39 (interpretation of Part 3) is amended as follows.
- (2) In subsection (1)—

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(a) in paragraph (b) of the definition of “the appropriate national authority”, for “National Assembly for Wales” substitute “ Welsh Ministers ”;

(b) at the appropriate place insert—

““strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015;”.

(3) In subsection (3), after “power” insert “ of the Secretary of State or the Welsh Ministers ”.

(4) After subsection (5) insert—

“(6) A statutory instrument containing regulations under this Part made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

VALID FROM 30/06/2015

11 (1) This paragraph applies to a permit scheme prepared by a local highway authority in England or a strategic highways company which, by virtue of an order made by the Secretary of State under section 34(4) of the Traffic Management Act 2004, has effect immediately before the date on which paragraphs 4 to 10 come into force.

(2) On and after that date, the scheme is to be treated as if it had effect by virtue of an order made by the local highway authority or a strategic highways company under section 33A(2) of that Act.

VALID FROM 30/06/2015

12 In consequence of the amendments made by paragraph 5, in the Infrastructure Act 2015, in Schedule 1, omit paragraph 148.

PROSPECTIVE

### PART 3

#### ROAD HUMPS

13 The Highways Act 1980 is amended as follows.

14 In section 90A (construction of road humps by highway authority), in subsection (1)(b), for “the Secretary of State” substitute “ the appropriate national authority ”.

15 (1) Section 90B (additional powers of Secretary of State and Welsh Ministers) is amended as follows.

(2) In subsection (1)—

(a) in the opening words, for “Secretary of State” substitute “ Welsh Ministers ”;

(b) in the opening words, for “he is” substitute “ they are ”;

(c) in paragraph (b), for “him” substitute “ them ”;

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- (d) in the closing words, for “him” substitute “ them ”.
- (3) After subsection (1) insert—
- “(1A) Subsection (1) does not apply in relation to the following parts of Wales—
- (a) the part of road to which section 329(5) applies;
  - (b) the part of the M4 Motorway in Wales that comprises “the new toll plaza area” and “the new bridge”, as defined in section 39(1) of the Severn Bridges Act 1992.”
- (4) In subsection (3)—
- (a) for “Secretary of State”, in the first place those words occur, substitute “ Welsh Ministers ”;
  - (b) for “Secretary of State has” substitute “ Welsh Ministers have ”.
- (5) In subsection (4), for “Secretary of State” substitute “ Welsh Ministers ”.
- (6) In subsection (5), for “Secretary of State so directs” substitute “ Welsh Ministers so direct ”.
- (7) In subsection (6)—
- (a) for “Secretary of State” substitute “ Welsh Ministers ”;
  - (b) for “his” substitute “ their ”.
- (8) In the heading, for “Secretary of State” substitute “ Welsh Ministers ”.
- 16 (1) Section 90C (road humps: consultation and local inquiries) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from “Where the Secretary of State” to “he, it or they” substitute “ Where a highway authority proposes to construct a road hump under section 90A, or the Welsh Ministers propose to construct a road hump under section 90B, the highway authority or the Welsh Ministers (as the case may be) ”;
  - (b) omit paragraph (a) and the “and” following it;
  - (c) in paragraph (b)—
    - (i) omit “other”;
    - (ii) for “the Secretary of State” substitute “ the appropriate national authority ”.
- (3) For subsection (2) substitute—
- “(2) The highway authority or the Welsh Ministers (as the case may be) shall also comply with such requirements as may be specified in regulations made by the appropriate national authority in relation to—
- (a) the publication of—
    - (i) details of proposals to construct road humps, and
    - (ii) procedures for making objections to such proposals, and
  - (b) procedures for dealing with such objections.
- (2A) Regulations under subsection (2)(b) may, in particular, contain provision about—
- (a) local inquiries in relation to proposals to construct road humps, and

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- (b) the application of subsections (2) to (5) of section 250 of the Local Government Act 1972 in relation to such inquiries, subject to such modifications as may be specified in the regulations.”
- (4) Omit subsections (3) to (5).
- (5) In subsection (6)—
- (a) for “the Secretary of State” substitute “ the appropriate national authority ”;
- (b) for “he” substitute “ it ”.
- 17 (1) Section 90D (regulations concerning construction and maintenance of road humps) is amended as follows.
- (2) In subsection (1)—
- (a) for “The Secretary of State” substitute “ The appropriate national authority ”;
- (b) for “him” substitute “ the appropriate national authority ”.
- (3) In subsection (3)—
- (a) for “the Secretary of State” substitute “ the appropriate national authority ”;
- (b) for “he” substitute “ it ”.
- (4) In subsection (4)—
- (a) for “the Secretary of State” substitute “ the appropriate national authority ”;
- (b) for “him” substitute “ the appropriate national authority ”.
- 18 (1) Section 90E (status of road humps) is amended as follows.
- (2) In subsection (1B)(a), for “the Secretary of State” substitute “ the appropriate national authority ”.
- (3) In subsection (2), in paragraph (a), for “the Secretary of State” substitute “ the appropriate national authority ”.
- 19 In section 90F (meaning of “road hump” and interpretation of sections 90A to 90E), in subsection (2), after “In sections 90A to 90E above—” insert—
- ““the appropriate national authority” means—
- (a) the Secretary of State, in relation to England and in relation to the following parts of Wales—
- (i) the part of road to which section 329(5) applies;
- (ii) the part of the M4 Motorway in Wales that comprises “the new toll plaza area” and “the new bridge”, as defined in section 39(1) of the Severn Bridges Act 1992;
- (b) the Welsh Ministers, in relation to Wales other than the parts mentioned in paragraph (a)(i) and (ii);”.
- 20 After section 90F insert—
- “90FA Regulations under sections 90C and 90D**
- (1) Regulations under section 90C or 90D are to be made by statutory instrument.
- (2) Regulations under section 90C or 90D may—

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- (a) include incidental, supplementary, consequential or transitional provision or savings;
  - (b) make different provision for different purposes.
- (3) A statutory instrument containing regulations made by the Secretary of State under section 90C or 90D is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing regulations made by the Welsh Ministers under section 90C or 90D is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- 21 In section 325 (provisions as to regulations, schemes and orders), after subsection (2A) insert—
- “(2B) This section does not apply to regulations under section 90C or 90D (see section 90FA for provision about such regulations).”
- 22 In consequence of the amendments made by paragraph 16, in the Infrastructure Act 2015, in Schedule 1, omit paragraph 26.

#### PART 4

##### PEDESTRIAN CROSSINGS: REMOVAL OF REQUIREMENT TO INFORM SECRETARY OF STATE

- 23 In section 23(2) of the Road Traffic Regulation Act 1984—
- (a) omit paragraph (c) (which requires that the Secretary of State or, in relation to Wales, the Welsh Ministers be informed in writing before certain pedestrian crossings are established or removed etc);
  - (b) omit the “and” before that paragraph.

#### PART 5

##### OFF-ROAD MOTORING EVENTS

- 24 In section 13A(1) of the Road Traffic Act 1988 (list of motoring offences which do not apply for authorised off-road motoring events), after “2” insert “, 2B”.

#### PART 6

##### TESTING OF VEHICLES

- 25 In section 52 of the Road Traffic Act 1988 (supplementary provisions about tests etc of goods vehicles), in subsection (2) (which confers power on the Secretary of State to provide and maintain stations and apparatus for the carrying out of examinations of certain goods vehicles), for the words from “provide and maintain” to the end of the subsection substitute “—
- (a) provide and maintain stations where examinations of goods vehicles under regulations under section 49 or under section 50 of this Act may be carried out,
  - (b) designate premises as stations where such examinations may be carried out, and

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- (c) provide and maintain apparatus for the carrying out of such examinations.”
- 26 (1) Section 46 of that Act (provision which may be included in regulations under section 45 of that Act about tests of the condition of vehicles other than certain goods vehicles) is amended as follows.
- (2) In subsection (1), after paragraph (j) insert—
- “(ja) the charges to be paid to the Secretary of State by persons occupying premises designated under section 8(3)(b) of the Public Passenger Vehicles Act 1981 as stations where inspections of public service vehicles may be carried out where the charges are in connection with—
- (i) the provision by the Secretary of State of vehicle examiners to examine public service vehicles on the premises,
- (ii) the issue of test certificates or notifications of the refusal of test certificates in respect of examinations of public service vehicles carried out on the premises,
- (iii) the issue of duplicates or copies of test certificates issued in respect of such examinations, and
- (iv) the correction of errors in test certificates so issued.”
- (3) In that subsection, omit the “and” at the end of paragraph (k) and insert—
- “(ka) the keeping by persons mentioned in paragraph (ja) of registers of test certificates in the prescribed form and containing the prescribed particulars, and the inspection of such registers by such persons and in such circumstances as may be prescribed.”
- (4) In that subsection, after paragraph (l) insert “, and
- (m) the keeping of records by persons mentioned in paragraph (ja) and the providing by them of returns and information to the Secretary of State.”
- (5) In subsection (4), after “subsection (1)(j)” insert “ or (ja) ”.
- 27 (1) Section 51 of that Act (particular aspects of regulations under section 49 of that Act dealing with the testing of certain goods vehicles etc) is amended as follows.
- (2) In subsection (1), after paragraph (k) insert—
- “(ka) make provision as to the charges to be paid to the Secretary of State by persons occupying premises designated under section 52(2)(b) as stations where examinations of goods vehicles may be carried out where the charges are in connection with—
- (i) the provision by the Secretary of State of vehicle examiners to examine goods vehicles on the premises,
- (ii) the issue of test certificates or notifications of the refusal of test certificates in respect of examinations of goods vehicles carried out on the premises,
- (iii) the issue of duplicates or copies of test certificates issued in respect of such examinations, and
- (iv) the correction of errors in test certificates so issued.”
- (3) In that subsection, after paragraph (ka) (as inserted by sub-paragraph (2)) insert—

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- “(kb) make provision as to the keeping by persons mentioned in paragraph (ka) of registers of test certificates in the prescribed form and containing the prescribed particulars, and the inspection of such registers by such persons and in such circumstances as may be prescribed,
- (kc) make provision as to the keeping of records by persons mentioned in paragraph (ka) and the providing by them of returns and information to the Secretary of State.”.

(4) After subsection (1) insert—

“(1A) The provision which may be made by virtue of subsection (1)(ka) above includes provision requiring—

- (a) the making to the Secretary of State at prescribed times of payments, of such amounts as may be determined by him in accordance with regulations, on account of charges that may become payable, and
- (b) where forms for test certificates and notifications of the refusal of test certificates are supplied by the Secretary of State, the payment to him of charges for the supply of such forms,

and for the repayment, in prescribed circumstances, of such payments received by the Secretary of State.”

VALID FROM 01/10/2015

## PART 7

### RAIL VEHICLE ACCESSIBILITY REGULATIONS: EXEMPTION ORDERS

28 The Equality Act 2010 is amended as follows.

29 (1) Section 183 (exemptions from rail vehicle accessibility regulations) is amended as follows.

(2) Omit subsection (3) (power to make regulations as to exemption orders: applications etc).

(3) After subsection (6) insert—

“(7) Section 207(2) does not require an exemption order to be made by statutory instrument; but such an order is as capable of being amended or revoked as an order made by statutory instrument.”

30 In consequence of paragraph 29—

- (a) omit section 184 (procedure for making exemption orders);
- (b) in section 185 (annual report on exemption orders)—
  - (i) omit subsection (1)(b);
  - (ii) in subsection (2)(b), for “sections 183(4) and 184(2)” substitute “section 183(4)”;
- (c) in section 208 (Ministers of the Crown, etc)—
  - (i) omit subsection (5)(g);
  - (ii) omit subsection (7)(a).

*Status: Point in time view as at 10/04/2015.*

*Changes to legislation: Deregulation Act 2015 is up to date with all changes known to be in force on or before 26 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 31 (1) This paragraph applies to an exemption order made by statutory instrument under section 183(1) of the Equality Act 2010, or treated as so made, before the date on which paragraph 29(3) comes into force.
- (2) The order is to be treated as having been made otherwise than by statutory instrument; but is to be as capable of being amended or revoked as an order made by statutory instrument.

## SCHEDULE 11

Section 52

### ENFORCEMENT OF TRANSPORT LEGISLATION

#### PART 1

##### DRINK AND DRUG DRIVING OFFENCES

*Removal of “statutory option” to have breath specimen replaced: road and rail transport*

- 1 (1) In section 8 of the Road Traffic Act 1988 (choice of specimens of breath), omit subsections (2), (2A), (3) and (4).
- (2) The amendments in sub-paragraphs (3) to (5) are made in consequence of sub-paragraph (1).
- (3) In the Road Traffic Act 1988—
- (a) for the heading of section 8 substitute “Breath specimen showing higher alcohol level to be disregarded”;
  - (b) in section 8(1), omit “Subject to subsection (2) below.”;
  - (c) in section 195(3), omit “8(3).”;
  - (d) in section 195(4), omit “8(3).”;
  - (e) in section 195(4A), omit “8(3) or”.
- (4) In the Serious Organised Crime and Police Act 2005, omit section 154(7).
- (5) In the Scotland Act 2012, omit section 20(2) to (4).

#### **Commencement Information**

**I76** Sch. 11 para. 1 in force at 10.4.2015 by S.I. 2015/994, art. 4

- 2 (1) In Chapter 1 of Part 2 of the Transport and Works Act 1992 (safety of railways etc: offences involving drink or drugs), in section 32 (choice of specimens of breath), omit subsections (2) to (4).
- (2) In consequence of sub-paragraph (1), for the heading of that section substitute “Breath specimen showing higher alcohol level to be disregarded”.



*Status: Point in time view as at 10/04/2015.*

*Changes to legislation: Deregulation Act 2015 is up to date with all changes known to be in force on or before 26 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I77** Sch. 11 para. 2 in force at 10.4.2015 by S.I. 2015/994, art. 4

*No need for preliminary breath test before evidential breath test: road transport*

- 3 (1) The Road Traffic Act 1988 is amended as follows.
- (2) In section 7 (provision of specimens for analysis), for subsection (2) substitute—
- “(2) A constable may make a requirement under this section to provide specimens of breath only if—
- (a) the requirement is made at a police station or a hospital,
  - (b) the requirement is imposed in circumstances where section 6(5) of this Act applies, or
  - (c) the constable is in uniform.”
- (3) Omit subsections (2A) and (2B).
- (4) After subsection (2C) insert—
- “(2CA) For the purposes of subsection (2C) “a relevant breath test” is a procedure involving the provision by the person concerned of a specimen of breath to be used for the purpose of obtaining an indication whether the proportion of alcohol in his breath or blood is likely to exceed the prescribed limit.”
- (5) After subsection (5) insert—
- “(5A) A constable may arrest a person without warrant if—
- (a) the person fails to provide a specimen of breath when required to do so in pursuance of this section, and
  - (b) the constable reasonably suspects that the person has alcohol in his body.”

#### Commencement Information

**I78** Sch. 11 para. 3 in force at 10.4.2015 by S.I. 2015/994, art. 4

*Removing restriction that evidential breath test must be taken at police station: rail transport*

- 4 (1) In Chapter 1 of Part 2 of the Transport and Works Act 1992 (safety of railways etc: offences involving drink or drugs), section 31 (provision of specimens for analysis) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) A constable may make a requirement under this section to provide specimens of breath only if—
- (a) the requirement is made at a police station or a hospital, or
  - (b) the constable is in uniform.”
- (3) After subsection (7) insert—

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- “(7A) A constable may arrest a person without warrant if—
- (a) the person fails to provide a specimen of breath when required to do so in pursuance of this section, and
  - (b) the constable reasonably suspects that the person has alcohol in his body.”

**Commencement Information**

**I79** Sch. 11 para. 4 in force at 10.4.2015 by S.I. 2015/994, art. 4

*Health care professionals advising whether condition is due to drugs: road and rail transport*

- 5 In section 7 of the Road Traffic Act 1988 (provision of specimens for analysis), in subsection (3)(c) (medical advice that person's condition might be due to drugs), after “advised by a medical practitioner” insert “ or a registered health care professional ”.

**Commencement Information**

**I80** Sch. 11 para. 5 in force at 10.4.2015 by S.I. 2015/994, art. 4

- 6 In section 31 of the Transport and Works Act 1992 (provision of specimens for analysis)—
- (a) in subsection (4)(c) (medical advice that person's condition might be due to drugs), after “advised by a medical practitioner” insert “ or a registered health care professional ”;
  - (b) omit subsections (9A), (9B) and (9C).

**Commencement Information**

**I81** Sch. 11 para. 6 in force at 10.4.2015 by S.I. 2015/994, art. 4

*Further extension of role of health care professionals: road and rail transport*

- 7 The Road Traffic Act 1988 is amended in accordance with paragraphs 8 and 9.

**Commencement Information**

**I82** Sch. 11 para. 7 in force at 10.4.2015 by S.I. 2015/994, art. 4

- 8 (1) Section 7A (specimens of blood taken from persons incapable of consenting) is amended as follows.
- (2) In subsections (1) and (2)(a), for “a medical practitioner” substitute “ a medical or health care practitioner ”.
  - (3) In subsection (2)(b), for “a medical practitioner other than a police medical practitioner” substitute “ a practitioner other than a police medical or health care practitioner ”.

*Status: Point in time view as at 10/04/2015.*

*Changes to legislation: Deregulation Act 2015 is up to date with all changes known to be in force on or before 26 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) In subsection (2)(b)(i), for “to made to a police medical practitioner” substitute “ to be made to a police medical or health care practitioner ”.
- (5) In subsection (2)(b)(ii), omit “medical”.
- (6) In subsection (3), for “a medical practitioner” substitute “ a medical or health care practitioner ”.
- (7) For subsection (7) substitute—

“(7) In this section—

“medical or health care practitioner” means a medical practitioner or a registered health care professional;

“police medical or health care practitioner” means a medical practitioner, or a registered health care professional, who is engaged under any agreement to provide medical or health care services for purposes connected with the activities of a police force.”

**Commencement Information**

**I83** Sch. 11 para. 8 in force at 10.4.2015 by S.I. 2015/994, art. 4

- 9 In section 11 (interpretation), in subsection (4) (providing a specimen of blood), omit “by a medical practitioner or, if it is taken in a police station,”.

**Commencement Information**

**I84** Sch. 11 para. 9 in force at 10.4.2015 by S.I. 2015/994, art. 4

- 10 In consequence of paragraphs 8 and 9, in section 15 of the Road Traffic Offenders Act 1988 (use of specimens in proceedings for certain offences under the Road Traffic Act), in subsection (4) (circumstances in which specimen of blood is to be disregarded)—
- (a) in paragraph (a), for the words from “and either” to the end of the paragraph substitute “by a medical practitioner or a registered health care professional ”.
- (b) in paragraph (b), after “medical practitioner” insert “ or a registered health care professional ”.

**Commencement Information**

**I85** Sch. 11 para. 10 in force at 10.4.2015 by S.I. 2015/994, art. 4

- 11 The Transport and Works Act 1992 is amended in accordance with paragraphs 12 and 13.

**Commencement Information**

**I86** Sch. 11 para. 11 in force at 10.4.2015 by S.I. 2015/994, art. 4

*Status: Point in time view as at 10/04/2015.*

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- 12 (1) Section 31A (specimens of blood taken from persons incapable of consenting) is amended as follows.
- (2) In subsections (1) and (2)(a), for “a medical practitioner” substitute “ a medical or health care practitioner ”.
- (3) In subsection (2)(b), for “a medical practitioner other than a police medical practitioner” substitute “ a practitioner other than a police medical or health care practitioner ”.
- (4) In subsection (2)(b)(i), for “to made to a police medical practitioner” substitute “ to be made to a police medical or health care practitioner ”.
- (5) In subsection (2)(b)(ii), omit “medical”.
- (6) In subsection (3), for “a medical practitioner” substitute “ a medical or health care practitioner ”.
- (7) For subsection (7) substitute—
- “ (7) In this section—
- “medical or health care practitioner” means a medical practitioner or a registered health care professional;
- “police medical or health care practitioner” means a medical practitioner, or a registered health care professional, who is engaged under any agreement to provide medical or health care services for purposes connected with the activities of a police force.”

**Commencement Information**

**I87** Sch. 11 para. 12 in force at 10.4.2015 by S.I. 2015/994, art. 4

- 13 In section 38 (interpretation of Chapter 1), in subsection (5)(b) (providing a specimen of blood), omit “by a medical practitioner or, if it is taken in a police station,”.

**Commencement Information**

**I88** Sch. 11 para. 13 in force at 10.4.2015 by S.I. 2015/994, art. 4

*Application of Road Traffic Act provisions in shipping regime*

- 14 (1) In Part 4 of the Railways and Transport Safety Act 2003 (shipping: alcohol and drugs), section 83 (specimens, etc) is amended as follows.
- (2) After subsection (1) (but before the table) insert—
- “(1A) The references in the table to provisions of the Road Traffic Act 1988 or the Road Traffic Offenders Act 1988 are, subject to any contrary intention expressed in this Part or in any other enactment, references to those provisions as amended from time to time.”
- (3) The table is amended as follows.

*Status: Point in time view as at 10/04/2015.*

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- (4) In the entry for sections 6A to 6E of the Road Traffic Act 1988, in the third column, at the end insert—

“In section 6C, the following shall be disregarded—

- (a) in subsection (1)(b), the words following “in his body”;
- (b) subsection (3).

In section 6D, subsection (1)(b) shall be disregarded.”

- (5) In the entry for section 7 of the Road Traffic Act 1988, in the third column—
- (a) after the first sentence insert—

“Subsection (1A) shall be disregarded.

In subsection (2)(b), the reference to the circumstances in which section 6(5) of the 1988 Act applies shall be treated as a reference to the circumstances in which the following provision of this table applies: paragraph (c) of the modifications specified for section 6 of the 1988 Act.”;

- (b) in the last sentence, for “or 4” substitute “ , 4 or 5A ”.

- (6) In the entry for section 8 of the Road Traffic Act 1988, in the second column, for “Choice of specimen of breath” substitute “ Breath specimen showing higher alcohol level to be disregarded ”.

- (7) In the entry for section 10 of the Road Traffic Act 1988, in the third column—

- (a) in paragraph (b), for “or 5” substitute “ , 5 or 5A ”;
- (b) before the last sentence insert—

“In subsection (2), paragraph (c) shall be disregarded.”

- (8) In the entry for section 15 of the Road Traffic Offenders Act 1988, in the third column—

- (a) in the first sentence, for “section 3A, 4 or 5” substitute “ any of sections 3A to 5A ”;
- (b) after the first sentence insert—

“Subsection (2)(b) shall be disregarded.”;

- (c) after the last sentence insert—

“Subsection (3A) shall be disregarded.”

#### **Commencement Information**

**I89** Sch. 11 para. 14 in force at 10.4.2015 by S.I. 2015/994, art. 4

- 15 In Schedule 22 to the Crime and Courts Act 2013 (drugs and driving: minor and consequential amendments), omit paragraphs 8 and 14.

*Status: Point in time view as at 10/04/2015.*

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#### Commencement Information

**190** Sch. 11 para. 15 in force at 10.4.2015 by S.I. 2015/994, art. 4

#### *Application of Road Traffic Act provisions in aviation regime*

- 16 (1) In Part 5 of the Railways and Transport Safety Act 2003 (aviation: alcohol and drugs), section 96 (specimens, etc) is amended as follows.
- (2) After subsection (1) (but before the table) insert—
- “(1A) The references in the table to provisions of the Road Traffic Act 1988 or the Road Traffic Offenders Act 1988 are, subject to any contrary intention expressed in this Part or in any other enactment, references to those provisions as amended from time to time.”
- (3) The table is amended as follows.
- (4) In the entry for sections 6A to 6E of the Road Traffic Act 1988, in the third column, at the end insert—

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“In section 6C, the following shall be disregarded—

(a) in subsection (1)(b), the words following “in his body”;

(b) subsection (3).

In section 6D, subsection (1)(b) shall be disregarded.”

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- (5) In the entry for section 7 of the Road Traffic Act 1988, in the third column—
- (a) after the first sentence insert—

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“Subsection (1A) shall be disregarded.

In subsection (2)(b), the reference to the circumstances in which section 6(5) of the 1988 Act applies shall be treated as a reference to the circumstances in which the following provisions of this table apply: paragraphs (c) and (d) of the modifications specified for section 6 of the 1988 Act.”;

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- (b) in the last sentence, for “or 4” substitute “, 4 or 5A”.
- 

- (6) In the entry for section 8 of the Road Traffic Act 1988—
- (a) in the second column, for “Choice of specimen of breath” substitute “Breath specimen showing higher alcohol level to be disregarded”;
- (b) omit the words in the third column.
- (7) In the entry for section 10 of the Road Traffic Act 1988, in the third column—
- (a) in paragraph (b), for “or 5” substitute “, 5 or 5A”;
- (b) before the last sentence insert—

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“In subsection (2), paragraph (c) shall be disregarded.”

---

- (8) In the entry for section 15 of the Road Traffic Offenders Act 1988, in the third column—
- (a) in the first sentence, for “section 3A, 4 or 5” substitute “any of sections 3A to 5A”;

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(b) after the first sentence insert—

“Subsection (2)(b) shall be disregarded.”;

(c) after the last sentence insert—

“Subsection (3A) shall be disregarded.”

#### Commencement Information

**191** Sch. 11 para. 16 in force at 10.4.2015 by S.I. 2015/994, art. 4

VALID FROM 26/05/2015

## PART 2

### BUS LANE CONTRAVENTIONS

- 17 (1) Until the relevant day, section 144 of the Transport Act 2000 (civil penalties for bus lane contraventions) has effect as if in subsection (3)(b), for the words from “made an order” to the end of the paragraph there were substituted “ notified the authority in writing that it is an approved local authority for the purposes of this section (and has not withdrawn that notice). ”
- (2) In sub-paragraph (1) the “relevant day” means the day on which the repeal of section 144 of the Transport Act 2000 by Part 1 of Schedule 12 to the Traffic Management Act 2004 comes into force in relation to England.
- 18 (1) Sub-paragraph (2) applies to any authority which, immediately before paragraph 17 comes into force, is specified in an order under section 144(3)(b) of the Transport Act 2000 as an approved local authority for the purposes of section 144 of that Act.
- (2) The authority is to be treated, on and after the date on which paragraph 17 comes into force, as having been notified in writing by the Secretary of State that it is an approved local authority for the purposes of section 144 of the Transport Act 2000.
- 19 In paragraph 9 of Schedule 8 to the Traffic Management Act 2004 (designation of civil enforcement areas for bus lane contraventions), after sub-paragraph (3) insert—
- “(3A) A notice given (and not withdrawn) before the commencement of this Part of this Act approving a local authority in England for the purposes of section 144 of the Transport Act 2000 (civil penalties for bus lane contraventions) has effect on and after the commencement of this Part of this Act (in relation to England) as an order under this paragraph designating as a civil enforcement area for bus lane contraventions so much of that authority’s area as is a civil enforcement area for parking contraventions.”

*Status: Point in time view as at 10/04/2015.*

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## SCHEDULE 12

Section 58

## HOUSEHOLD WASTE: LONDON

1 The London Local Authorities Act 2007 is amended as follows.

**Commencement Information**

**I92** Sch. 12 in force for certain purposes at Royal Assent, see s. 115

2 In section 20 (regulations relating to receptacles for household waste), in subsection (9), for “46(2) to (6)” substitute “ 46(2) to (5) ”.

**Commencement Information**

**I93** Sch. 12 in force for certain purposes at Royal Assent, see s. 115

3 After section 20 insert—

**“20A Regulations relating to receptacles for household waste: enforcement**

- (1) This section applies where a borough council is satisfied that—
  - (a) a person has failed without reasonable excuse to comply with a requirement imposed by regulations made under section 20(1), and
  - (b) the person's failure to comply—
    - (i) has caused, or is or was likely to cause, a nuisance, or
    - (ii) has been, or is or was likely to be, detrimental to any amenities of the locality.
- (2) Where this section applies, the borough council may serve a written warning on the person.
- (3) A written warning must—
  - (a) identify the requirement with which the person has failed to comply,
  - (b) explain the nature of the failure to comply,
  - (c) explain how the failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b),
  - (d) if the failure to comply is continuing, specify the period within which the requirement must be complied with and explain the consequences of the requirement not being complied with within that period, and
  - (e) whether or not the failure to comply is continuing, explain the consequences of the person subsequently failing to comply with the same or a similar requirement.
- (4) Where a written warning has been served in respect of a failure to comply that is continuing, the borough council may require the person on whom the written warning was served to pay a penalty charge if satisfied that the person has failed to comply with the requirement identified in the warning within the period specified by virtue of subsection (3)(d).



*Status: Point in time view as at 10/04/2015.*

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- (5) Where a person has been required to pay a penalty charge under subsection (4) and that requirement has not been withdrawn on appeal, the borough council may require the person to pay a further penalty charge if satisfied that the failure to comply is still continuing at the end of a relevant period which falls within the period of one year beginning with the day the written warning was served.
- (6) For the purposes of subsection (5)—
- (a) a “relevant period” is a period beginning with the day a final notice is served on the person under section 20C(5) in respect of the failure to comply that is continuing and ending with—
    - (i) where the person appeals against the requirement to pay a penalty charge imposed by that final notice, the day on which the appeal that is the final appeal made by the person against the requirement is dismissed or withdrawn;
    - (ii) where the person does not appeal, the day on which the period for appealing expires;
  - (b) there is no relevant period where the person appeals as mentioned in paragraph (a)(i) and the requirement to pay the penalty charge is withdrawn on appeal.
- (7) Where a written warning has been served, whether or not in respect of a failure to comply that is continuing, the borough council may require the person on whom the written warning was served to pay a penalty charge if satisfied that, within the period of one year beginning with the day the written warning was served—
- (a) the person has again failed without reasonable excuse to comply with the requirement identified in the warning and the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b), or
  - (b) the person has failed without reasonable excuse to comply with a requirement that is similar to the one identified in the warning and the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b).
- (8) A borough council may require a person to pay a penalty charge under subsection (5) or (7) each time that the borough council is satisfied of the matters mentioned in the subsection.
- (9) A borough council imposing a requirement to pay a penalty charge under subsection (4), (5) or (7) must act in accordance with section 20C.
- (10) In this section and sections 20C and 20D a “penalty charge” means a monetary penalty of an amount determined in accordance with section 20B.

## **20B Amount of penalty charge that may be imposed under section 20A**

- (1) It is to be the duty of the borough councils to set the levels of penalty charges payable to them under section 20A.
- (2) Different levels may be set for different areas in Greater London and for different cases or classes of case.

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*Status: Point in time view as at 10/04/2015.*

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- (3) The borough councils may make provision for treating a penalty charge which is payable under section 20A as having been paid if a lesser amount is received by the relevant council before the end of a period specified by the borough councils.
- (4) The Secretary of State may by regulations make provision in connection with the functions conferred on the borough councils under subsections (1) and (3).
- (5) Regulations under subsection (4) may (in particular)—
  - (a) require the levels of penalty charges to fall within a range prescribed in the regulations;
  - (b) restrict the extent to which, and the circumstances in which, the borough councils may make provision under subsection (3).
- (6) The borough councils must publish, in such manner as the Secretary of State may determine, the levels of penalty charges which have been set by the councils in accordance with this section.
- (7) The functions conferred on the borough councils by subsections (1), (3) and (6) are to be discharged by a joint committee within the meaning of Part 4 (see section 60(1)).

#### **20C Penalty charges under section 20A: procedure regarding notices of intent and final notices**

- (1) Before requiring a person to pay a penalty charge under section 20A, a borough council must serve on the person notice of intention to do so (a “notice of intent”) in accordance with subsections (2) to (4).
- (2) A notice of intent must contain information about—
  - (a) the grounds for proposing to require payment of a penalty charge,
  - (b) the amount of the penalty charge that the person would be required to pay, and
  - (c) the right to make representations under subsection (3).
- (3) A person on whom a notice of intent is served may make representations to the borough council as to why payment of a penalty charge should not be required.
- (4) Representations under subsection (3) must be made within the period of 28 days beginning with the day service of the notice of intent is effected.
- (5) In order to require a person to pay a penalty charge under section 20A, a borough council must serve on the person a further notice (the “final notice”) in accordance with subsections (6) to (8).
- (6) A final notice may not be served on a person by a borough council before the expiry of the period of 28 days beginning with the day service of the notice of intent on the person was effected.
- (7) Before serving a final notice on a person, a borough council must consider any representations made by the person under subsection (3).
- (8) The final notice must contain information about—

*Status: Point in time view as at 10/04/2015.*

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- (a) the grounds for requiring payment of a penalty charge,
- (b) the amount of the penalty charge,
- (c) how payment may be made,
- (d) the period within which payment is required to be made (which must not be less than the period of 28 days beginning with the day service of the final notice is effected),
- (e) any provision giving a discount for early payment made by virtue of section 20B(3),
- (f) the right to appeal by virtue of section 20D, and
- (g) the consequences of not paying the penalty charge.

### **20D Appeals and application of provisions of Part 4 of this Act**

- (1) Regulations made by the Lord Chancellor under section 62(2) may make provision relating to appeals to an adjudicator against a decision under section 20A to require a person to pay a penalty charge.
- (2) Until such time as regulations made by virtue of subsection (1) are in force, regulations under section 80 of the Traffic Management Act 2004 are to apply in relation to appeals of the type described in subsection (1) with such modifications as are prescribed in regulations made by the Secretary of State.
- (3) For the purposes of subsection (2), the functions of adjudicators under the regulations as so applied are to be discharged by the persons appointed under regulations made under section 81 of the Traffic Management Act 2004 as adjudicators for the purposes of Part 6 of that Act.
- (4) Penalty charges payable under section 20A are penalty charges for the purposes of section 64 and, for the purposes of subsection (2)(b) of section 64, they are to be treated as if they were payable under a provision of Part 4.
- (5) Schedule 4 applies in relation to the administration and enforcement of section 20A as it applies in relation to the administration and enforcement of section 61.”

#### **Commencement Information**

**I94** Sch. 12 in force for certain purposes at Royal Assent, see s. 115

- 4 (1) Section 23 (regulations relating to receptacles for waste: enforcement) is amended as follows.
  - (2) In subsection (2), omit “subsection (1) of section 20 (regulations relating to receptacles for household waste) or”.
  - (3) In subsection (4)—
    - (a) omit paragraph (e);
    - (b) in paragraph (f), omit “subsection (4) of the said section 20 or” and omit “as the case may be”.
  - (4) In the heading, after “receptacles for” insert “ commercial or industrial ”.

*Status: Point in time view as at 10/04/2015.*

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**Commencement Information**

**195** Sch. 12 in force for certain purposes at Royal Assent, see s. 115

SCHEDULE 13

Section 59

OTHER MEASURES RELATING TO ANIMALS, FOOD AND THE ENVIRONMENT

**PART 1**

DESTRUCTIVE IMPORTED ANIMALS

VALID FROM 26/05/2015

*Destructive Imported Animals Act 1932 (c. 12)*

- 1 (1) Section 10 of the Destructive Imported Animals Act 1932 (power to extend provisions of Act to other destructive non-indigenous animals) is amended as follows.
- (2) In subsection (1), after “and to destroy any which may be at large” insert “ or keep under review whether any which may be at large should be destroyed ”.
- (3) After subsection (1) insert—
- “(1A) The power in subsection (1) (like the power in subsection (1) of section one of this Act) includes power to revoke or amend an order made under that subsection.”

VALID FROM 26/05/2015

*Grey Squirrels (Prohibition of Importation and Keeping) Order 1937 (S.I. 1937/478)*

- 2 (1) Article 1 of the Grey Squirrels (Prohibition of Importation and Keeping) Order 1937 is amended as follows.
- (2) The existing text becomes paragraph (1).
- (3) After that paragraph insert—
- “(2) In the application of the Destructive Imported Animals Act 1932 in relation to animals of that species, there shall be omitted—
- (a) section 5(2), and
- (b) in section 6(1), paragraph (f) and the reference to a penalty in the case of an offence under paragraph (f).”

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## PART 2

### FARRIERS

VALID FROM 26/05/2015

#### *Constitution of Farriers Registration Council*

- 3 In Part 1 of Schedule 1 to the Farriers (Registration) Act 1975 (constitution of the Farriers Registration Council), in paragraph 1(f)—
- (a) for “The Jockey Club” substitute “ The British Horseracing Authority Limited ”;
  - (b) for “The Council for Small Industries in Rural Areas” substitute “ Lantra (the company registered in England and Wales with the company registration number 2823181) ”.

VALID FROM 26/05/2015

## PART 3

### JOINT WASTE AUTHORITIES

#### *Removal of power to establish joint waste authorities in England*

- 4 In the Local Government and Public Involvement in Health Act 2007, in Part 11 (joint waste authorities), omit sections 205 to 208 (provisions relating to the establishment of joint waste authorities in England).
- 5 The provisions repealed by paragraph 4 continue to have effect for the purposes of the exercise by the Welsh Ministers of the power conferred on them by section 210 of the Local Government and Public Involvement in Health Act 2007 (power by order to make provision in relation to Wales applying any provisions of sections 205 to 208 with modifications).
- 6 (1) The following amendments are made in consequence of paragraph 4.
- (2) In the Landlord and Tenant Act 1954, in section 69(1), in the definition of “local authority”, omit the words from “an authority” to “(joint waste authorities)”.
  - (3) In the Trustee Investments Act 1961, in section 11(4)(a), omit the words from “, an authority” to “(joint waste authorities)”.
  - (4) In the Leasehold Reform Act 1967, in section 28(5)(a), omit the words from “any authority” to “(joint waste authorities)”.
  - (5) In the Employers' Liability (Compulsory Insurance) Act 1969, in section 3(2)(b), omit the words from “an authority” to “(joint waste authorities)”.
  - (6) In the Local Authorities (Goods and Services) Act 1970, in section 1(4), in the definition of “local authority”, omit the words from “, any authority” to “(joint waste authorities)”.

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- (7) In the Local Government Act 1972—
- (a) in section 70(1) and (3), for “, combined authority or joint waste authority” substitute “ or combined authority ”;
  - (b) in section 80(2)(b), omit “, joint waste authority”;
  - (c) in section 85(4), for “, a combined authority and a joint waste authority” substitute “ and a combined authority ”;
  - (d) in section 86(2), for “, a combined authority and a joint waste authority” substitute “ and a combined authority ”;
  - (e) in section 92, omit subsections (7A) and (7B);
  - (f) in section 100J—
    - (i) in subsection (1), omit paragraph (ba);
    - (ii) in subsection (2), omit “(ba),”;
    - (iii) in subsection (2B), omit paragraph (a);
    - (iv) in subsection (3), omit “(ba),”;
    - (v) in subsection (4)(a), omit “, a joint waste authority”;
  - (g) in section 101(13), omit “a joint waste authority,”;
  - (h) in section 146A(1), omit “a joint waste authority,”;
  - (i) in section 175(3B), omit “, a joint waste authority”;
  - (j) in section 176(3), omit “, a joint waste authority”;
  - (k) in section 223(2), omit “a joint waste authority,”;
  - (l) in section 224(2), for “, combined authority or joint waste authority” substitute “ or combined authority ”;
  - (m) in section 225(3), for “, a combined authority and a joint waste authority” substitute “ and a combined authority ”;
  - (n) in section 228, omit subsection (7B);
  - (o) in section 229(8), omit “, a joint waste authority”;
  - (p) in section 230(2), for “, a combined authority and a joint waste authority” substitute “ and a combined authority ”;
  - (q) in section 231(4), omit “, a joint waste authority”;
  - (r) in section 232(1A), omit “, a joint waste authority”;
  - (s) in section 233(11), omit “, a joint waste authority”;
  - (t) in section 234(4), omit “, a joint waste authority”;
  - (u) in section 239(4A), for “, a combined authority and a joint waste authority” substitute “ and a combined authority ”;
  - (v) in section 270(1), omit the definition of “joint waste authority”.
- (8) In the Employment Agencies Act 1973, in section 13(7), omit paragraph (fza).
- (9) In the Local Government Act 1974—
- (a) in section 25(1), omit paragraph (cd);
  - (b) in section 26C(6), omit paragraph (d).
- (10) In the Health and Safety at Work etc. Act 1974, in section 28(6), omit the words from “, an authority” to “(joint waste authorities)”.
- (11) In the Local Government (Miscellaneous Provisions) Act 1976, in section 44(1), in the definition of “local authority”—

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- (a) in paragraph (a), omit the words from “, an authority” to “(joint waste authorities)”;
  - (b) in paragraph (c), omit the words from “an authority” (in the second place where it occurs) to “(joint waste authorities)”.
- (12) In the Rent (Agriculture) Act 1976, in section 5(3), omit paragraph (bba).
- (13) In the Rent Act 1977, in section 14(1), omit paragraph (cba).
- (14) In the Local Government, Planning and Land Act 1980—
- (a) in section 2(1), omit paragraph (kaa);
  - (b) in section 98(8A), omit paragraph (ea) (but not the “and” following it);
  - (c) in section 99(4), omit paragraph (dba);
  - (d) in section 100(1)(a), for the words from “, a combined authority” to “(joint waste authorities)” substitute “ or a combined authority established under section 103 of that Act ”;
  - (e) in Schedule 16, omit paragraph 5BA.
- (15) In the Acquisition of Land Act 1981, in section 17(4), in paragraph (a) of the definition of “local authority”, for the words from “, a combined authority” to the end of the paragraph substitute “ or a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 ”.
- (16) In the Local Government (Miscellaneous Provisions) Act 1982—
- (a) in section 33(9)(a), for the words from “, a combined authority” to “(joint waste authorities)” substitute “ or a combined authority established under section 103 of that Act ”;
  - (b) in section 33(9)(b), for “, combined authority or joint waste authority” substitute “ or combined authority ”;
  - (c) in section 41(13), in the definition of “local authority”, omit paragraph (ea) (but not the “and” following it).
- (17) In the Stock Transfer Act 1982, in Schedule 1, in paragraph 7(2)(a), omit the words from “, an authority” to “(joint waste authorities)”.
- (18) In the County Courts Act 1984, in section 60(3), in the definition of “local authority”, omit the words from “an authority” to “(joint waste authorities)”.
- (19) In the Housing Act 1985, in section 4—
- (a) in subsection (1)(e), omit “, a joint waste authority” (in both places it occurs);
  - (b) in subsection (2), omit the definition of “joint waste authority”.
- (20) In the Landlord and Tenant Act 1985, in section 38, in the definition of “local authority”, omit the words from “, an authority” to “(joint waste authorities)”.
- (21) In the Local Government Act 1988, in Schedule 2, omit the entry relating to an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007.
- (22) In the Housing Act 1988, in Schedule 1, in paragraph 12(1), omit paragraph (fa).
- (23) In the Road Traffic Act 1988, in section 144(2)(a)(i), omit the words from “an authority” to “(joint waste authorities)”.

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- (24) In the Local Government and Housing Act 1989—
- (a) in section 21(1), omit paragraph (ga);
  - (b) in section 152(2), omit paragraph (ia).
- (25) In the Environmental Protection Act 1990, in section 52(1A), omit the words from “or any authority” to the end of the subsection.
- (26) In the Local Government (Overseas Assistance) Act 1993, in section 1(10), omit paragraph (da).
- (27) In the Deregulation and Contracting Out Act 1994, in section 79A, omit paragraph (p).
- (28) In the Housing Grants, Construction and Regeneration Act 1996, in section 3(2), omit paragraph (ja).
- (29) If paragraph 4 comes into force before the coming into force of the repeal of the Audit Commission Act 1998 by section 1(2) of the Local Audit and Accountability Act 2014, Schedule 2 to the Act of 1998 is to have effect (until the repeal comes into force) as if, in paragraph 1, paragraph (ma) were omitted.
- (30) In the Local Government Act 1999, in section 1(1), omit paragraph (ga).
- (31) In the Freedom of Information Act 2000, in Schedule 1, omit paragraph 15A.
- (32) In the Local Government Act 2003—
- (a) in section 23(1), omit paragraph (ka);
  - (b) in section 33(1), omit paragraph (ja).
- (33) In the Waste and Emissions Trading Act 2003, in section 24—
- (a) in subsection (5), for the words before “ “waste disposal authority”” substitute “ In this Chapter ”;
  - (b) omit subsections (6) and (7).
- (34) In the Local Government and Public Involvement in Health Act 2007—
- (a) in section 104(2), omit paragraph (g);
  - (b) omit sections 209 and 211 and Schedule 13;
  - (c) in section 240(6), omit “, 207”.
- (35) In the Local Democracy, Economic Development and Construction Act 2009—
- (a) in section 35(2), omit paragraph (m);
  - (b) in section 123(2), omit paragraph (f).
- (36) In the Energy Act 2013, in Part 3 of Schedule 9, in the definition of “local authority” in paragraph 14(3), omit paragraph (b).
- (37) In the Local Audit and Accountability Act 2014, in Schedule 2, omit paragraph 25.



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## PART 4

### AIR QUALITY

VALID FROM 26/05/2015

#### *Removal of duty to conduct further air quality assessments*

- 7 In the Environment Act 1995, in section 84 (duties of local authorities in relation to designated areas)—
- (a) omit subsection (1) (duty of local authority to cause further assessment to be made in relation to air quality in designated air quality management area);
  - (b) in subsection (2), for the words from the beginning to “to” at the beginning of paragraph (b) substitute “ Where an order under section 83 above comes into operation, the local authority which made the order shall ”.
- 8 (1) The following amendments are made in consequence of paragraph 7.
- (2) In the Environment Act 1995—
- (a) in section 86(2)(b), omit “or 84”;
  - (b) in section 91(1), in the definition of “action plan”, for “84(2)(b)” substitute “ 84(2) ”;
  - (c) in Schedule 11, in paragraphs 1(1)(b) and 4(2)(b), omit “or 84”.

VALID FROM 01/10/2015

## PART 5

### NOISE ABATEMENT ZONES

#### *Removal of power of local authorities to designate area as noise abatement zone*

- 9 Part 3 of the Control of Pollution Act 1974 (noise) is amended in accordance with paragraphs 10 to 14.
- 10 Omit section 57 (local authority duty to conduct periodical inspections to decide how to exercise powers concerning noise abatement zones).
- 11 Omit sections 63 to 67 (noise abatement zones).
- 12 Omit section 69 (execution of works by local authority).
- 13 In section 73 (interpretation and other supplementary provisions)—
- (a) in subsection (1), omit the definitions of “noise abatement order”, “noise abatement zone”, “noise level register”, “noise reduction notice” and “person responsible”;
  - (b) in subsection (2), for “sections 62 to 67” (in both places where it occurs) substitute “ section 62 ”.

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- 14 Omit Schedule 1 (provisions applying to coming into operation of noise abatement orders).
- 15 (1) The following repeals are made in consequence of paragraphs 11 and 14.
  - (2) In the Control of Pollution Act 1974, in section 104(1), omit the words from “(except sections” to “65(6))”.
  - (3) In the Local Government, Planning and Land Act 1980, in Schedule 2, omit paragraphs 14 and 18.
  - (4) In the Environmental Protection Act 1990, in Schedule 15, omit paragraph 15(4).

VALID FROM 26/05/2015

SCHEDULE 14 Section 64

ABOLITION OF OFFICE OF THE CHIEF EXECUTIVE OF SKILLS FUNDING

.....

VALID FROM 26/05/2015

SCHEDULE 15 Section 65

FURTHER AND HIGHER EDUCATION: REDUCTION OF BURDENS

.....

VALID FROM 01/01/2016

SCHEDULE 16 Section 66

SCHOOLS: REDUCTION OF BURDENS

PROSPECTIVE

*Responsibility for determining behaviour policy*

- 1 (1) Section 88 of the Education and Inspections Act 2006 (responsibility of governing body for discipline) is amended as follows.
  - (2) Before subsection (1) insert—

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“(A1) The governing body of a relevant school in England must ensure that the head teacher determines measures under section 89(1).”

- (3) In subsection (1), after “relevant school” insert “ in Wales ”.
- (4) In subsection (2), after “governing body” insert “ of a relevant school in Wales ”.
- (5) In subsection (4)—
  - (a) omit paragraph (a), and the “and” following it;
  - (b) in paragraph (b), omit “in relation to Wales,”.
- (6) In consequence of the amendments made to section 88, in section 89 of the 2006 Act (determination by head teacher of behaviour policy)—
  - (a) omit subsection (2);
  - (b) in subsection (3), omit “, so far as it is not determined by the governing body”.

#### *Home-school agreements*

- 2 (1) Omit sections 110 and 111 of the School Standards and Framework Act 1998 (which require the governing bodies of certain schools to adopt home-school agreements), and the italic cross-heading before those sections.
- (2) In consequence of sub-paragraph (1)—
  - (a) in section 138(4)(a) of that Act, omit “, 110(10)”;
  - (b) in the Learning and Skills Act 2000, in Schedule 9, omit paragraph 85;
  - (c) in the Education Act 2002, in Schedule 7, omit paragraph 9;
  - (d) in the Education Act 2011, in Schedule 13, omit paragraph 10(9).

PROSPECTIVE

#### *Determining school terms*

- 3 (1) Section 32 of the Education Act 2002 (responsibility for fixing dates of terms and holidays and times of sessions) is amended as follows.
- (2) Omit subsection (1).
- (3) In subsection (2), for the words from “In the case of” to “governing body” substitute “ The governing body of a maintained school in England ”.
- (4) In subsection (3), in paragraph (a), for “a school within subsection (1)” substitute “ a community, voluntary controlled or community special school in England ”.

#### *Staffing matters*

- 4 (1) Section 35(8) of the Education Act 2002 (which requires local authorities etc to have regard to guidance in relation to certain staffing matters at community, voluntary controlled and community special schools and maintained nursery schools) ceases to have effect in relation to schools in England.
- (2) Accordingly, in section 35(8)—

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- (a) after “local authority” insert “ in Wales ”;
- (b) after “maintained school” insert “ in Wales ”;
- (c) omit paragraph (a) and the “or” following it;
- (d) in paragraph (b), omit “in relation to Wales,”.
- 5 (1) Section 36(8) of the Education Act 2002 (which requires local authorities etc to have regard to guidance in relation to certain staffing matters at foundation, voluntary aided and foundation special schools) ceases to have effect in relation to schools in England.
- (2) Accordingly, in section 36(8)—
- (a) after “local authority” insert “ in Wales ”;
- (b) after “maintained school” insert “ in Wales ”;
- (c) omit paragraph (a) and the “or” following it;
- (d) in paragraph (b), omit “in relation to Wales,”.

PROSPECTIVE

*Publication of reports*

- 6 (1) The Education Act 2005 is amended in accordance with sub-paragraphs (2) to (4).
- (2) Omit the following provisions—
- (a) section 11C(4) (provision of copies of reports relating to the investigation of certain complaints about schools);
- (b) section 14A(4) (publication, and provision of copies, of interim statements about maintained schools).
- (3) In section 14, for subsection (4) (publication, and provision of copies, of reports of certain general school inspections) substitute—
- “(4) The appropriate authority must take such steps as are reasonably practicable, within such period following the receipt by it of the report as may be prescribed, to secure that every registered parent of a registered pupil at the school is informed of the overall assessment contained in the report of the quality of education provided in the school.”
- (4) In section 49, for subsection (4) (publication, and provision of copies, of reports relating to denominational education and collective worship at certain schools) substitute—
- “(4) The governing body must take such steps as are reasonably practicable, within such period following the receipt by it of the report as may be prescribed, to secure that every registered parent of a registered pupil at the school is informed of the overall assessment contained in the report of—
- (a) the quality of the denominational education provided by the school, and
- (b) the content of the school's collective worship.”
- (5) In Schedule 4 to the School Information (England) Regulations 2008 (S.I. 2008/3093) (specified information to be provided on a school's website), after paragraph 3 insert—

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“3A Where the school is a voluntary or foundation school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character, information as to where and by what means parents may access the most recent report about the school sent to the governing body under section 49 of the Education Act 2005.”

PROSPECTIVE

## SCHEDULE 17

Section 67

### PART TO BE INSERTED AS PART 5A OF THE LICENSING ACT 2003

#### “PART 5

##### SALE OF ALCOHOL AT COMMUNITY EVENTS ETC AND ANCILLARY BUSINESS SALE OF ALCOHOL

###### *Conditions for permitted sales*

#### **General conditions**

- 110A) A sale by retail of alcohol is a permitted sale by virtue of this Part if—
- (a) the community event conditions (set out in section 110B or in regulations made under that section) or the ancillary business sales conditions (set out in section 110C or in regulations made under that section) are satisfied in relation to it, and
  - (b) the conditions set out in subsections (2) to (5) below are satisfied in relation to it.
- (2) The sale must take place on premises specified in a notice that complies with section 110D (a “Part 5A notice”).
  - (3) No counter notice under section 110J must have been given in relation to the Part 5A notice.
  - (4) The sale must take place during the period of 36 months beginning with the date when the Part 5A notice takes effect.
  - (5) The sale must take place between 07.00 a.m. and 11.00 p.m.

#### **Community event conditions**

- 110B) The community event conditions, in relation to a sale by retail of alcohol, are the conditions set out in subsections (2) to (6) and any additional conditions set out in regulations under subsection (7).
- (2) The sale must be made by or on behalf of a body that—

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- (a) is of a prescribed description,
  - (b) does not trade for profit, and
  - (c) meets any prescribed criteria.
- (3) The sale must be ancillary to an event that—
- (a) is taking place on the premises,
  - (b) is organised by the body by or on whose behalf the sale is made,
  - (c) has been advertised in advance, and
  - (d) meets any prescribed criteria.
- (4) The sale must take place on the premises during the course of the event.
- (5) The alcohol must be sold for consumption on the premises during the course of the event.
- (6) The number of persons present on the premises at the time of the sale must not exceed 300.
- (7) Regulations may provide for additional conditions prescribed in the regulations to be community event conditions.

#### **Ancillary business sales conditions**

- 110(1) The ancillary business sales conditions, in relation to a sale by retail of alcohol, are the conditions set out in subsections (2) to (5) and any additional conditions set out in regulations under subsection (6).
- (2) The sale must be made by or on behalf of a body that—
- (a) is of a prescribed description, and
  - (b) meets any prescribed criteria.
- (3) The sale must take place on premises that—
- (a) are managed by the body by or on whose behalf the sale is made,
  - (b) are of a prescribed description, and
  - (c) meet any prescribed criteria.
- (4) The sale must be ancillary to the provision of goods or services to a person on the premises where the sale takes place.
- (5) Except in prescribed circumstances, the alcohol must be sold for consumption on those premises.
- (6) Regulations may provide for additional conditions prescribed in the regulations to be ancillary business sales conditions.

#### *Part 5A notices*

#### **Conditions for validity of notices**

- 110(1) A notice complies with this section if the conditions set out in subsections (2) to (10) are satisfied in relation to the notice.
- (2) The notice must specify whether—

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- (a) the community event conditions (set out in section 110B or in regulations under that section), or
  - (b) the ancillary business sales conditions (set out in section 110C or in regulations under that section),
- will be satisfied in relation to sales of alcohol on the premises in question.
- (3) The notice must specify (for the purposes of section 110A(2))—
    - (a) in the case of a notice that specifies the ancillary business sales conditions, the set of premises to which it relates;
    - (b) in the case of a notice that specifies the community event conditions, no more than three sets of community premises, each of which must be wholly or partly in the area of the same licensing authority.
  - (4) The notice must be given, on behalf of the body by or on whose behalf the sale of alcohol on the premises would take place, by a person who is aged 18 or over and is concerned in the management of the body.
  - (5) The notice must be given to the relevant licensing authority, accompanied by the prescribed fee.
  - (6) Unless the notice is given to the relevant licensing authority by means of a relevant electronic facility, a copy of the notice must be given to each relevant person.
  - (7) The notice must be in the prescribed form.
  - (8) The notice must specify the date when it takes effect.
  - (9) The specified date must be at least 10 working days, but no more than 3 months, after the day on which the notice is given.

Where subsection (6) applies, the notice is treated as given only when that subsection is complied with.
  - (10) The notice must contain any other information that regulations require it to contain.
  - (11) In this Part, “relevant person”, in relation to any premises, means—
    - (a) the chief officer of police for any police area in which the premises are situated;
    - (b) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health.

### **Special restriction on giving of notices**

- 110E) This section applies where—
  - (a) a Part 5A notice is given on behalf of a body, and
  - (b) a counter notice under section 110J is given in relation to the Part 5A notice.
- (2) No further Part 5A notice may be given in respect of any premises specified in the notice, whether on behalf of that body or on behalf of another body that is an associate of it, before the end of the period of 12 months beginning with the day on which the counter notice is given.
- (3) However, the restriction in subsection (2) ceases to apply if the counter notice is revoked under section 110K or quashed by a court.

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- (4) For the purposes of this section, a body is an associate of another body if it would be an associate of the other body for the purposes of the Estate Agents Act 1979 (see section 32(4) to (6) of that Act).

#### **Date when Part 5A notice takes effect**

110(F) A Part 5A notice takes effect on the date specified under section 110D(8).

- (2) Subsection (1) does not apply if a counter notice is given under section 110J in relation to the notice.

(For the case where a counter notice is revoked or quashed by a court, see section 110K(2).)

#### **Acknowledgement of notice etc**

110(G) This section applies where a relevant licensing authority receives a notice that is, or purports to be, a Part 5A notice.

- (2) The authority must give written acknowledgement of the receipt of the notice to the person who gave it.

- (3) The acknowledgment must be given—

- (a) before the end of the first working day following the day on which it was received, or
- (b) if the day on which it was received was not a working day, before the end of the second working day following that day.

- (4) If the licensing authority is of the opinion that the notice does not comply with section 110D, the authority must as soon as possible give to the person who gave the notice written notification of the reasons for its opinion.

- (5) Subsection (2) does not apply where, before the time by which acknowledgement of the receipt of the notice must be given in accordance with subsection (3), the person who gave the notice has been given a counter notice under section 110J.

#### **Theft, loss etc of Part 5A notice**

110(H) Where a Part 5A notice is lost, stolen, damaged or destroyed, the person who gave the notice may apply to the relevant licensing authority for a copy of the notice.

- (2) The application must be accompanied by the prescribed fee.

- (3) Where an application is made in accordance with this section, the licensing authority must issue the applicant with a copy of the notice (certified by the authority to be a true copy) if it is satisfied that the notice has been lost, stolen, damaged or destroyed.

- (4) This Act applies in relation to a copy issued under this section as it applies in relation to an original notice.



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### *Objections and counter notices*

#### **Objection to Part 5A notice by a relevant person**

- 110I) Where a relevant person who is given a Part 5A notice is satisfied that allowing alcohol to be sold on the premises (or any of the premises) to which the notice relates would undermine a licensing objective, the relevant person must give a notice stating the reasons for being so satisfied (an “objection notice”)—
- (a) to the relevant licensing authority,
  - (b) to the person who gave the Part 5A notice, and
  - (c) to every other relevant person.
- (2) Subsection (1) does not apply at any time after the relevant person has received a copy of a counter notice under section 110J in relation to the Part 5A notice.
- (3) An objection notice may be given only during the period beginning with the day on which the relevant person is given the Part 5A notice and ending with the third working day following that day (“the three-day period”).
- (4) The restriction in subsection (3) does not apply to an objection notice based on—
- (a) things occurring after the end of the three-day period, or
  - (b) information that the relevant person was unaware of, and could not with reasonable diligence have discovered, until after the end of that period.

#### **Counter notices**

- 110J) Where a relevant licensing authority receives a Part 5A notice, the relevant licensing authority may—
- (a) give the person who gave the Part 5A notice a counter notice under this section;
  - (b) give a copy of the counter notice to each relevant person.
- (2) Where the relevant licensing authority receives an objection notice given in compliance with the requirement imposed by section 110I(3), the relevant licensing authority must decide whether to give a counter notice (and, if it does so decide, give that notice) no later than whichever of the following is the earlier—
- (a) the day before the date when the Part 5A notice would take effect (see section 110D(8));
  - (b) the expiry of the period of 28 days beginning with the day on which the objection notice is received by the relevant licensing authority.
- (3) The power conferred by subsection (1) may not be exercised at any time after the Part 5A notice takes effect unless an objection notice under section 110I has been given, by virtue of subsection (4) of that section, in relation to the notice.
- (4) The counter notice must—
- (a) be in the prescribed form, and
  - (b) be given in the prescribed manner.

#### **Counter notices: revocation etc**

- 110K) A relevant licensing authority must revoke a counter notice given under section 110J if—

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- (a) the counter notice was given in consequence of one or more objection notices under section 110I, and
  - (b) the objection notice or (as the case may be) each of them is withdrawn by the person who gave it or is quashed by a court.
- (2) Where a counter notice is revoked or is quashed by a court—
- (a) the counter notice is disregarded for the purposes of section 110A(3), except in relation to any time before the day on which it is revoked or quashed,
  - (b) the Part 5A notice takes effect on that day, and
  - (c) the relevant licensing authority must as soon as possible notify the person who gave the Part 5A notice of the date on which it takes effect.

*Rights of entry, production of notice, etc*

**Right of entry where Part 5A notice given**

- 110(L) A constable or an authorised officer may, at any reasonable time, enter premises to which a Part 5A notice relates to assess the likely effect of the notice on the promotion of the crime prevention objective.
- (2) An authorised officer exercising the power conferred by this section must, if so requested, produce evidence of the officer's authority to exercise the power.
- (3) It is an offence intentionally to obstruct an authorised officer exercising a power conferred by this section.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) In this section “authorised officer” means—
- (a) an officer of the licensing authority in whose area the premises are situated, or
  - (b) if the premises are situated in the area of more than one licensing authority, an officer of any of those authorities,
- authorised for the purposes of this Act.

**Duty to keep and produce Part 5A notice**

- 110(M) This section applies whenever premises are being used for sales of alcohol which are, or are purported to be, permitted sales by virtue of this Part.
- (2) The person who gave the Part 5A notice must secure that a copy of the notice is either—
- (a) prominently displayed at the premises, or
  - (b) kept at the premises in the custody of that person or of someone who is present and working at the premises and whom that person has nominated for the purposes of this section (a “nominated person”).
- (3) Where a copy of the Part 5A notice is kept in the custody of a nominated person (and not prominently displayed at the premises) the person who gave the Part 5A notice must secure that a notice—
- (a) stating that a copy of the Part 5A notice is in the nominated person's custody, and
  - (b) specifying the position held at the premises by the nominated person,

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is prominently displayed at the premises.

- (4) It is an offence for the person who gave the Part 5A notice to fail, without reasonable excuse, to comply with subsection (2) or (where it applies) subsection (3).
- (5) Where—
  - (a) a copy of the Part 5A notice is not prominently displayed at the premises, and
  - (b) no notice is displayed as mentioned in subsection (3),a constable or authorised officer may require the person who gave the Part 5A notice to produce a copy of it for examination.
- (6) Where a notice is displayed as mentioned in subsection (3), a constable or authorised officer may require the nominated person to produce a copy of the Part 5A notice for examination.
- (7) An authorised officer exercising the power conferred by subsection (5) or (6) must, if so requested, produce evidence of the officer's authority to exercise the power.
- (8) It is an offence for a person to fail, without reasonable excuse, to produce a copy of a Part 5A notice in accordance with a requirement under subsection (5) or (6).
- (9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (10) In this section “authorised officer” has the meaning given in section 110L(5).

### *Supplementary*

#### **The relevant licensing authority**

- 110N) For the purposes of this Part, the “relevant licensing authority”, in relation to any premises, is determined in accordance with this section.
- (2) In the case of a Part 5A notice that specifies the ancillary business sales conditions or in the case of a Part 5A notice that specifies the community event conditions in relation to only one set of premises, the relevant licensing authority is, subject to subsection (3), the authority in whose area the premises are situated.
  - (3) Where the premises are situated in the areas of two or more licensing authorities, the relevant licensing authority is—
    - (a) the licensing authority in whose area the greater or greatest part of the premises is situated, or
    - (b) if there is no authority to which paragraph (a) applies, such one of the authorities as the person giving the Part 5A notice may choose.
  - (4) In the case of a Part 5A notice that specifies the community event conditions in relation to more than one set of premises, the relevant licensing authority is—
    - (a) if there is only one licensing authority in whose area each set of premises is wholly or partly situated, that licensing authority;
    - (b) if each set of premises falls partly in the area of one authority and also partly in the area of another, such one of them as the person giving the Part 5A notice may choose.”

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## SCHEDULE 18

Section 69

## AMENDMENTS CONSEQUENTIAL ON SECTION 69

*Licensing Act 2003 (c. 17)*

1 The Licensing Act 2003 is amended as follows.

**Commencement Information**

**I96** Sch. 18 para. 1 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

2 In section 10 (sub-delegation of functions by licensing committee etc), omit subsection (4)(a)(xi).

**Commencement Information**

**I97** Sch. 18 para. 2 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

3 In section 115 (period of validity of personal licence), omit subsection (2)(b) and (c).

**Commencement Information**

**I98** Sch. 18 para. 3 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

- 4
- (1) In the italic heading before section 117 (application for grant or renewal of personal licence), omit “and renewal”.
  - (2) In the heading, omit “or renewal”.
  - (3) Omit subsection (1).
  - (4) In subsection (2), after “An application” insert “by an individual”.
  - (5) Omit subsections (3), (4) and (6).

**Commencement Information**

**I99** Sch. 18 para. 4 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

5 Omit section 119 (licence continued pending renewal).

**Commencement Information**

**I100** Sch. 18 para. 5 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

6 Omit section 121 (determination of application for renewal).

**Commencement Information**

**I101** Sch. 18 para. 6 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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- 7 (1) Section 122 (notification of determinations) is amended as follows.
- (2) In subsection (3), in the definition of “application” omit “or renewal”.
- (3) In the definition of “objection notice” in that subsection, omit “or 121, as the case may be”.

**Commencement Information**

**I102** Sch. 18 para. 7 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

- 8 In section 123 (duty to notify licensing authority of convictions during application period), omit “or renewal” in subsections (1) and (4)(a).

**Commencement Information**

**I103** Sch. 18 para. 8 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

- 9 (1) Section 124 (convictions coming to light after grant or renewal) is amended as follows.
- (2) In the heading, omit “or renewal”.
- (3) In subsection (1), omit “or renewed”.
- (4) In subsection (7), omit “or renewal” (in each place where it occurs).

**Commencement Information**

**I104** Sch. 18 para. 9 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

- 10 In section 128 (duty to notify court of personal licence), omit subsection (5)(a) and (c).

**Commencement Information**

**I105** Sch. 18 para. 10 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

- 11 In section 134 (licensing authority's duty to update licence document), in subsection (1)(a), omit “121 or”.

**Commencement Information**

**I106** Sch. 18 para. 11 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

- 12 In section 158 (false statements made for the purpose of the Licensing Act), in subsection (1)(d), omit “or renewal”.

**Commencement Information**

**I107** Sch. 18 para. 12 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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- 13 In Schedule 3 (matters to be entered in licensing register), in paragraph (w), omit “or renewal”.

**Commencement Information**

**I108** Sch. 18 para. 13 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

- 14 (1) In Schedule 5 (appeals), paragraph 17 is amended as follows.
- (2) In sub-paragraph (1), omit paragraph (b) and the “, or” at the end of paragraph (a).
- (3) Omit sub-paragraph (3).
- (4) In sub-paragraph (5), omit “or renewal”.
- (5) Omit sub-paragraphs (9) to (11).

**Commencement Information**

**I109** Sch. 18 para. 14 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

*Police Reform and Social Responsibility Act 2011 (c. 13)*

- 15 In section 111 of the Police Reform and Social Responsibility Act 2011 (which makes an amendment to section 121 of the Licensing Act 2003, repealed by paragraph 6 above), omit subsection (4).

**Commencement Information**

**I110** Sch. 18 para. 15 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

VALID FROM 29/06/2015

SCHEDULE 19

Section 88

CLC PRACTITIONER SERVICES: CONSEQUENTIAL AMENDMENTS

*Administration of Justice Act 1985 (c. 61)*

- 1 The Administration of Justice Act 1985 is amended as follows.
- 2 (1) In section 16 (conditional licences), subsection (1) is amended as follows.
- (2) For paragraph (b) substitute—
- “(b) when conditions under this section have been imposed on a licence under this Part previously issued to him;
- (ba) when conditions under paragraph 5 of Schedule 8 to the Courts and Legal Services Act 1990 have been imposed on a licence under section 53 of that Act previously issued to him;”.

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- (3) In paragraph (c), after “Part” insert “ or a licence in force under section 53 of the Courts and Legal Services Act 1990 ”.
- (4) In paragraph (ca), after “24A” insert “ (including that section as applied by section 53 of the Courts and Legal Services Act 1990) ”.
- (5) In paragraph (d), after “26” insert “ (including that section as applied by section 53 of the Courts and Legal Services Act 1990) ”.
- (6) In paragraph (ea), after “22” insert “ (including that section as applied by section 53 of the Courts and Legal Services Act 1990) ”.
- 3 (1) Section 26 (proceedings in disciplinary cases) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), after “licence” insert “ under this Part ”;
  - (b) in paragraph (b), for “a licence under this Part” substitute “ any relevant licence ”;
  - (c) in paragraph (c), after “licence” insert “ under this Part ”.
- (3) After subsection (8) insert—
- “(9) In this section “relevant licence” means—
- (a) a licence under this Part, or
  - (b) a licence under section 53 of the Courts and Legal Services Act 1990.”
- 4 (1) Section 28 (revocation of licence on grounds of fraud or error) is amended as follows.
- (2) In subsection (1)—
- (a) after “a licence” insert “ under this Part ”;
  - (b) for “the licence” substitute “ all of the relevant licences held by that person ”.
- (3) For subsection (2) substitute—
- “(2) Where a person has had any relevant licence which was held by him revoked because of fraud on that person's part, the person may not be issued with a licence under this Part except on the advice of the Committee given to the Council as the result of an application made by the person to the Committee.”
- (4) In subsection (3), for “a licence under this Part” substitute “ any relevant licence ”.
- (5) After subsection (6) insert—
- “(7) In this section “relevant licence” has the meaning given by section 26.”
- 5 (1) Section 33A (administration of oaths by licensed conveyancers) is amended as follows.
- (2) In the heading, after “conveyancers” insert “ or licensed CLC practitioners ”.
- (3) In the section, after “conveyancers” insert “ or licensed CLC practitioners ”.
- 6 (1) Section 34 (modification of existing enactments relating to conveyancing etc) is amended as follows.

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- (2) In subsection (2), after “a recognised body” insert “ which is a conveyancing services body ”.
- (3) In subsection (2), after “conveyancer or” (in the second place it occurs) insert “ such a ”.
- (4) In subsection (3), after “body” insert “ which is a conveyancing services body ”.
- (5) After subsection (3) insert—
- “(4) In this section “conveyancing services body” has the meaning given by section 32A.”
- 7 In section 39 (interpretation of Part 2), in subsection (1), at the appropriate place insert—
- ““licensed CLC practitioner” means a person, other than a licensed conveyancer, who holds a licence under section 53 of the Courts and Legal Services Act 1990;”.
- 8 In Schedule 3 (the Council for Licensed Conveyancers: supplementary provisions), in paragraph 2 (constitution of the Council), in sub-paragraph (1) (a)—
- (a) omit the “or” at the end of sub-paragraph (i);
- (b) after sub-paragraph (i) insert—
- “(ia) licensed CLC practitioners; or”.
- 9 (1) Schedule 6 (bodies recognised under section 32: supplementary provisions) is amended as follows.
- (2) In paragraph 3 (preliminary investigation by the Investigating Committee etc)—
- (a) omit the “or” at the end of sub-paragraph (1)(a)(ii);
- (b) after sub-paragraph (1)(aa) insert—
- “(aaa) it is alleged that a manager or employee of a recognised body who is not a licensed CLC practitioner has failed to comply with any rules applicable to him by virtue of section 32; or”.
- (3) In paragraph 3A (orders made by the Investigating Committee), in sub-paragraph (1)(b)—
- (a) after “3(1)(aa)” insert “ or (aaa) ”;
- (b) for “that paragraph” substitute “ paragraph 3(1)(aa) or (aaa) (as the case may be) ”.
- (4) In paragraph 4 (orders made by the Discipline and Appeals Committee), in sub-paragraph (2A)—
- (a) after “3(1)(aa)” insert “ or (aaa) ”;
- (b) for “sub-paragraph (ii) of that paragraph” substitute “ paragraph 3(1)(aa) or (aaa) (as the case may be) ”.
- (5) In paragraph 14 (examination of files), in sub-paragraph (1), after “(aa)” insert “ , (aaa) ”.



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*Courts and Legal Services Act 1990 (c. 41)*

- 10 The Courts and Legal Services Act 1990 is amended as follows.
- 11 In section 75 (judges etc barred from legal practice), in paragraph (c), for “or licensed conveyancer” substitute “, licensed conveyancer or licensed CLC practitioner”.
- 12 In section 119 (interpretation), in subsection (1), at the appropriate place insert—
- ““licensed CLC practitioner” has the meaning given in section 53;”.
- 13 (1) Schedule 8 (licensed conveyancers) is amended as follows.
- (2) In the heading, after “CONVEYANCERS” insert “ AND LICENSED CLC PRACTITIONERS ”.
- (3) In paragraph 1 (general)—
- (a) for the definition of “advocacy licence” substitute—
- ““advocacy licence”, “litigation licence” and “probate licence” have the meaning given by section 53;”;
- (b) omit the definitions of—
- (i) “litigation licence”, and
- (ii) “probate licence”.
- (4) In paragraph 4 (issue of licences), in sub-paragraph (3), for the words from “with respect” to “as they” substitute “with respect to—
- (a) any application under paragraph 3 for an advocacy licence and any advocacy licence in force under section 53;
- (b) any application under paragraph 3 for a litigation licence and any litigation licence in force under section 53; and
- (c) any application under paragraph 3 for a probate licence and any probate licence in force under section 53 (as the case may be),
- as they ”.
- (5) In paragraph 5 (conditional licences)—
- (a) for sub-paragraph (1)(b) substitute—
- “(b) when conditions under this paragraph have been imposed on an advocacy, litigation or probate licence previously issued to him;
- (ba) when conditions under section 16 of the Act of 1985 have been imposed on a licence under Part 2 of the Act of 1985 previously issued to him;”;
- (b) in sub-paragraph (1)(c), for “a licence of that kind” substitute “ an advocacy, litigation or probate licence or a licence under Part 2 of the Act of 1985 ”;
- (c) in sub-paragraph (1)(d)—
- (i) after “1985” insert “ (including section 24A(1) as applied by section 53) ”;
- (ii) after “that Act” insert “ (including section 26(1) as applied by section 53) ”;
- (d) in sub-paragraph (6), omit the “or” after paragraph (a);

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- (e) in sub-paragraph (6)(b), at the beginning insert “ in the case of an applicant who is a licensed conveyancer, ”;
- (f) after sub-paragraph (6)(b) insert “; or
  - (c) for requiring the applicant to take any specified steps that will, in the opinion of the Council, be conducive to his carrying on an efficient practice as a licensed CLC practitioner,”;
- (g) in sub-paragraph (6), after “paragraph (b)” insert “ or (c) ”.

(6) After paragraph 6 insert—

*“Register of licensed CLC practitioners*

- 6A (1) The Council must establish and maintain, in such form as the Council may determine, a register containing the names and places of business of all persons who for the time being hold an advocacy, litigation or probate licence and are not licensed conveyancers.
- (2) The Council may make rules specifying the further information, including information about disciplinary measures taken, to be recorded in the register in relation to a person.
- (3) The Council must cause the appropriate entries and deletions to be made in the register on the issue and termination of advocacy, litigation and probate licences; and where any licence held by a person is for the time being suspended by virtue of any provision of Part 2 of the Act of 1985 as applied by this Act the Council must cause that fact to be noted in the register against that person's name.
- (4) Any change in a licensed CLC practitioner's place or places of business must be notified by that person to the Council within the period of fourteen days beginning with the date on which the change takes effect.
- (5) The Council must provide facilities for making the information contained in the entries in the register available for inspection in visible and legible form by any person during office hours and without payment.
- (6) A certificate signed by an officer of the Council appointed for the purpose and stating—
- (a) that any person does or does not, or did or did not at any time, hold an advocacy, litigation or probate licence, or
  - (b) that any licence held by any person is or was at any time either free of conditions or subject to any particular conditions,
- is, unless the contrary is proved, evidence of the facts stated in the certificate; and a certificate purporting to be so signed is to be taken to have been so signed unless the contrary is proved.”

(7) For paragraph 8 and the cross-heading preceding it substitute—

*“Effect of suspension or revocation*

- 8 Where a relevant licence ceases to be in force because of—
- (a) a direction under section 24(5) of the Act of 1985, or
  - (b) an order under section 26(2)(a) or (c) of the Act of 1985,

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any other relevant licence in force with respect to that person at the time shall cease to have effect to the same extent as the licence in question.”

- (8) Omit paragraph 9 (removal of disqualification from holding an advocacy, litigation or probate licence).
- (9) Omit paragraph 10 (revocation on grounds of error or fraud).
- (10) In paragraph 21 (power to examine files)—
  - (a) in sub-paragraph (1)(a), after “conveyancer” insert “ or licensed CLC practitioner ”;
  - (b) in sub-paragraph (1), for “the licensed conveyancer” (in both places where it occurs) substitute “ the person complained of ”.
- (11) In paragraph 22 (interest on clients' money), after “conveyancer” insert “ or licensed CLC practitioner ”.

*Legal Services Act 2007 (c. 29)*

14 The Legal Services Act 2007 is amended as follows.

15 (1) Section 104 (prevention of regulatory conflict: accounts rules) is amended as follows.

(2) In subsection (2), after “conveyancer” insert “ or licensed CLC practitioner ”.

(3) After subsection (2) insert—

“(3) In this section “licensed CLC practitioner” means a person, other than a licensed conveyancer, who holds a licence under section 53 of the Courts and Legal Services Act 1990.”

16 (1) In Schedule 5 (authorised persons), paragraph 11 (rights during transitional period: licensed conveyancers) is amended as follows.

(2) After sub-paragraph (1) insert—

“(1A) During the transitional period every individual, not being a licensed conveyancer, who holds a licence under section 53 of the Courts and Legal Services Act 1990 is deemed to be authorised by the Council to administer oaths.”

(3) In sub-paragraph (2), after “(1)” insert “ or (1A) ”.

(4) In sub-paragraph (3), in the opening words—

- (a) after “and every” insert “ conveyancing services ”;
- (b) after “provide conveyancing” insert “ or other ”.

(5) After sub-paragraph (3) insert—

“(3A) During that period, every CLC practitioner services body recognised under section 32 of the Administration of Justice Act 1985 is deemed to be authorised by the Council to administer oaths.”

(6) In sub-paragraph (4), after “(3)” insert “ or (3A) ”.

(7) For sub-paragraph (5) substitute—

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“(5) In this paragraph—

“CLC practitioner services body” has the meaning given by section 32B of the Administration of Justice Act 1985;

“conveyancing partnership” means a partnership at least some of the members of which are licensed conveyancers, but does not include a CLC practitioner services body;

“conveyancing services body” has the meaning given by section 32A of the Administration of Justice 1985.”

(8) In sub-paragraph (6), after “licence” insert “ or a licence under section 53 of the Courts and Legal Services Act 1990 ”.

17 In Schedule 24 (index of defined expressions), at the appropriate places insert—

“CLC practitioner services body	paragraph 11 of Schedule 5”
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“conveyancing services body	paragraph 11 of Schedule 5”
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“licensed CLC practitioner	section 104(3)”
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VALID FROM 29/06/2015

## SCHEDULE 20

Section 89

### THE COUNCIL FOR LICENSED CONVEYANCERS: OTHER AMENDMENTS

1 The Administration of Justice Act 1985 is amended as follows.

2 (1) Section 15 (issue of licences by the Council for Licensed Conveyancers) is amended as follows.

(2) In subsection (3)(b), for the words from “the period” to “the Council” substitute “ the period prescribed under subsection (3A) ”.

(3) After subsection (3) insert—

“(3A) The Council must by rules prescribe the period that applies for the purposes of subsection (3)(b).”

3 (1) Section 18 (suspension or termination of licences) is amended as follows.

(2) After subsection (2C) insert—

“(2CA) Where the power conferred by paragraph 6(1) or 9(1) of Schedule 5 is exercised in relation to a recognised body by virtue of paragraph 10(1) (a) of Schedule 6, the exercise of that power shall operate immediately to suspend any licence under this Part held by a person who is a manager of the recognised body.

(2CB) Where the power conferred by paragraph 6(1) or 9(1) of Schedule 5 is exercised in relation to a recognised body by virtue of paragraph 10(1)(d) of

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Schedule 6, the exercise of that power shall operate immediately to suspend any licence under this Part held by a person who is—

- (a) a manager of the recognised body, or
- (b) an employee of the recognised body.

(2CC) Where the power conferred by paragraph 3(1) or 8(1) of Schedule 14 to the Legal Services Act 2007 is exercised in relation to a licensed body by virtue of paragraph 1(2)(d) of that Schedule, the exercise of that power shall operate immediately to suspend any licence under this Part held by a person who is—

- (a) a manager of the licensed body, or
- (b) an employee of the licensed body.

(2CD) At the time when the power referred to in subsection (2CA), (2CB) or (2CC) is exercised, the Council may direct that subsection (2CA), (2CB) or (2CC) (as the case may be) is not to apply in relation to a particular licensed conveyancer.

(2CE) The Council may give a direction under subsection (2CD) in relation to a licensed conveyancer only if—

- (a) the Council is satisfied that the licensed conveyancer did not fail to comply with the rules applicable to the recognised body by virtue of section 32, or contribute to the body's failure to comply with such rules, in a case where the Council acts by virtue of paragraph 10(1)(a) of Schedule 6,
- (b) the Council does not suspect the licensed conveyancer of dishonesty, in a case where the Council acts by virtue of—
  - (i) paragraph 10(1)(d) of Schedule 6, or
  - (ii) paragraph 1(2)(d) of Schedule 14 to the Legal Services Act 2007,
- (c) the Council is satisfied that the licensed conveyancer was not a manager of the recognised body when the conduct providing the basis for the exercise of the power in paragraph 6(1) or 9(1) of Schedule 5 took place, in a case where the Council acts by virtue of paragraph 10(1)(a) of Schedule 6,
- (d) the Council is satisfied that the licensed conveyancer was not a manager or employee of the recognised body when the conduct providing the basis for the exercise of the power in paragraph 6(1) or 9(1) of Schedule 5 is suspected of having taken place, in a case where the Council acts by virtue of paragraph 10(1)(d) of Schedule 6, and
- (e) the Council is satisfied that the licensed conveyancer was not a manager or employee of the licensed body when the conduct providing the basis for the exercise of the power in paragraph 3(1) or 8(1) of Schedule 14 to the Legal Services Act 2007 is suspected of having taken place, in a case where the Council acts by virtue of paragraph 1(2)(d) of Schedule 14 to that Act.

(2CF) At the time when the power referred to in subsection (2CA), (2CB) or (2CC) is exercised, the Council may direct that such of the licensed conveyancers concerned as are identified in the direction may continue to act in relation to any matter specified in the direction as if their licences

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had not been suspended by virtue of subsection (2CA), (2CB) or (2CC) (as the case may be), subject to such conditions (if any) as the Council sees fit to impose.”

- (3) In subsection (2D), after “(2A)” insert “, (2CA), (2CB) or (2CC) ”.
- (4) In subsection (2G), for “High Court” substitute “ First-tier Tribunal ”.
- (5) Omit subsection (2H).
- 4 (1) Section 19 (register of licensed conveyancers) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The Council may make rules specifying the further information, including information about disciplinary measures taken, to be recorded in the register in relation to a person.”
- (3) In subsection (2), omit “accordingly”.
- 5 In section 20 (rules as to professional practice, conduct and discipline), omit subsection (2).
- 6 (1) Section 24 (preliminary investigation of disciplinary cases) is amended as follows.
- (2) In subsection (10), for “High Court” substitute “ First-tier Tribunal ”.
- (3) In subsection (11), for “High Court” substitute “ First-tier Tribunal ”.
- (4) Omit subsection (12).
- 7 (1) Section 24A (determination of allegations by the Investigating Committee) is amended as follows.
- (2) In subsection (8), for “High Court” substitute “ First-tier Tribunal ”.
- (3) In subsection (9), for “High Court” substitute “ First-tier Tribunal ”.
- (4) Omit subsection (10).
- 8 (1) Section 26 (proceedings in disciplinary cases) is amended as follows.
- (2) For subsection (7) substitute—
- “(7) Where the Discipline and Appeals Committee make an order by virtue of subsection (1)—
- (a) the person against whom the order is made, or
- (b) the Council,
- may appeal to the First-tier Tribunal, and on any such appeal the First-tier Tribunal may make such order as it thinks fit.”
- (3) In subsection (7A), for “High Court” (in both places where it occurs) substitute “ First-tier Tribunal ”.
- (4) Omit subsection (8).
- 9 In Schedule 3 (the Council for Licensed Conveyancers: supplementary provisions), in paragraph 4 (appointment of persons to Council), in subparagraph (2), omit “by one”.

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- 10 (1) Schedule 6 (bodies recognised under section 32: supplementary provisions) is amended as follows.
- (2) In paragraph 3A (orders made by the Investigating Committee)—
- (a) in sub-paragraph (8), for “High Court” substitute “ First-tier Tribunal ”;
  - (b) in sub-paragraph (9), for “High Court” substitute “ First-tier Tribunal ”;
  - (c) omit sub-paragraph (10).
- (3) In paragraph 6 (appeals against orders of the Discipline and Appeals Committee)—
- (a) for sub-paragraph (1) substitute—
    - “(1) Where the Committee make an order by virtue of paragraph 4(1) or (2A) or 5(1)—
    - (a) the person as regards whom the order is made, or
    - (b) the Council,may appeal to the First-tier Tribunal, and on any such appeal the First-tier Tribunal may make such order as it thinks fit.”;
  - (b) in sub-paragraph (1A), for “High Court” (in both places where it occurs) substitute “ First-tier Tribunal ”;
  - (c) omit sub-paragraph (2).

## SCHEDULE 21

Section 90

### POISONS AND EXPLOSIVES PRECURSORS

#### *Abolition of Poisons Board*

- 1 (1) The Poisons Board is abolished.
- (2) As a result—
- (a) in the Poisons Act 1972, omit section 1 and Schedule 1, and
  - (b) in Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), omit the entry for the Poisons Board.

#### **Commencement Information**

**I111** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

#### *Establishment of common regulatory system*

- 2 The Poisons Act 1972 is amended as follows.

#### **Commencement Information**

**I112** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 3 For section 2 substitute—

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## **“2 Regulated substances and reportable substances**

- (1) This section defines some key terms used in this Act.
- (2) “Regulated substance” means a regulated explosives precursor or regulated poison.
- (3) Subject to subsection (4), a “regulated explosives precursor”—
  - (a) is a substance listed in Part 1 of Schedule 1A in a concentration higher than the limit set out for that substance in that Part, and
  - (b) includes a mixture or another substance in which a substance listed in that Part is present in a concentration higher than the relevant limit,but, in each case, only if the substance or mixture is not excluded.
- (4) For the purposes of section 3C however, and the meaning of “regulated substance” in or in relation to that section, a “regulated explosives precursor”—
  - (c) is a substance listed in Part 1 of Schedule 1A, and
  - (d) includes a mixture or another substance in which a substance listed in that Part is present,but, in each case, only if the substance or mixture is not excluded. ”
- (5) A “regulated poison”—
  - (a) is a substance listed in Part 2 of Schedule 1A in a concentration higher than the limit (if any) set out for that substance in that Part, and
  - (b) includes a mixture or another substance in which a substance listed in that Part is present in a concentration higher than the relevant limit,but, in each case, only if the substance or mixture is not excluded.
- (6) “Reportable substance” means a reportable explosives precursor or a reportable poison.
- (7) A “reportable explosives precursor”—
  - (a) is a substance listed in Part 3 of Schedule 1A, and
  - (b) includes a mixture or another substance in which a substance listed in that Part is present,but, in each case, only if the substance or mixture is not excluded.
- (8) A “reportable poison”—
  - (a) is a substance listed in Part 4 of Schedule 1A in a concentration higher than the limit (if any) set out for that substance in that Part, and
  - (b) includes a mixture or another substance in which a substance listed in that Part is present in a concentration higher than the relevant limit,but, in each case, only if the substance or mixture is not excluded.
- (9) For the purposes of this section, a substance or mixture is “excluded” if—



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- (a) it is medicinal, or
  - (b) it is contained in a specific object.
- (10) A substance or mixture is “medicinal” if it is—
- (a) a medicinal product as defined by regulation 2 of the Human Medicines Regulations 2012 (S.I. 2012/1916),
  - (b) an investigational medicinal product as defined by regulation 2 of the Medicines for Human Use (Clinical Trials) Regulations 2004 (S.I. 2004/1031),
  - (c) a substance to which Part 12 of the Human Medicines Regulations 2012 or Part 6 of the Medicines for Human Use (Clinical Trials) Regulations 2004 applies by virtue of an order under section 104 or 105 of the Medicines Act 1968 (whether applying subject to exceptions and modifications or not and, in the case of an order under section 104, whether the substance is referred to in the order as a substance or an article), or
  - (d) a veterinary medicinal product as defined by regulation 2 of the Veterinary Medicines Regulations 2013 (S.I. 2013/2033).
- (11) A “specific object” is—
- (a) an object that, during production, is given a special shape, surface or design that determines its function to a greater degree than does its chemical composition, or
  - (b) an article that contains explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions, including—
    - (i) pyrotechnic equipment falling within the scope of Council Directive [96/98/EC](#) on marine equipment, and
    - (ii) percussion caps intended specifically for toys falling within the scope of Council Directive [88/378/EEC](#) concerning the safety of toys.
- (12) See also section 9B (which contains power to disapply requirements of this Act in specified circumstances).

## **2A Power to amend Schedule 1A**

- (1) The Secretary of State may by regulations—
- (a) amend Schedule 1A (whether to add, vary or remove a substance or concentration limit or make any other change), and
  - (b) amend section 2 in consequence of any amendment made under paragraph (a).
- (2) The power in subsection (1) to add a concentration limit includes power to add a concentration limit in any Part of Schedule 1A (whether for an explosives precursor or a poison).
- (3) In determining the distribution of substances as between the various Parts of Schedule 1A, regard must be had to the desirability of restricting Parts 3 and 4 to substances that meet each of the following criteria—

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- (a) they are in common use, or are likely to come into common use, for purposes other than the treatment of human ailments, and
- (b) it is reasonably necessary to include them in one of those Parts if members of the general public are to have adequate facilities for obtaining them.”

#### Commencement Information

**I113** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

4 For section 3 substitute—

### “3 Activities prohibited without a licence

- (1) A member of the general public commits an offence if he or she does anything listed in subsection (2) without having a licence, or a recognised non-GB licence, to do that thing with respect to that substance.
- (2) The things are—
  - (a) importing a regulated substance,
  - (b) acquiring a regulated substance,
  - (c) possessing a regulated substance,
  - (d) using a regulated substance.
- (3) For the purposes of this section—
  - (a) “acquiring” means taking into your possession, custody or control,
  - (b) “importing” means bringing into Great Britain from a country or territory outside the United Kingdom,
  - (c) “member of the general public” means an individual who is acting (alone or with others) for purposes not connected with his or her trade, business or profession or the performance by him or her of a public function,
  - (d) “possessing” means having in your possession, custody or control, and
  - (e) “using” includes processing, formulating, storing, treating or mixing, including in the production of an article.
- (4) A member of the general public does not commit an offence under subsection (1) if the requirements of this section do not apply to his or her case by virtue of regulations made under section 9B.
- (5) This section does not apply to the possession or use of a regulated substance at any time before 3 March 2016.

### 3A Supply of regulated substances

- (1) A person commits an offence if the person supplies a regulated substance to a member of the general public without first verifying that the member of the general public has a licence, or a recognised non-GB licence, to acquire, possess and use that substance.

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- (2) In order to verify that someone has a licence or recognised non-GB licence, it is sufficient for these purposes to—
  - (a) inspect the person's licence, and
  - (b) inspect the form of identification specified in that licence.
- (3) A person commits an offence if the person supplies a regulated substance to a member of the general public without first entering details of the transaction (or causing details of the transaction to be entered) in the licence, or recognised non-GB licence, of the member of the general public.
- (4) A person commits an offence if the person supplies a regulated substance to a member of the general public without first ensuring that a warning label is affixed to the packaging in which the substance is supplied.
- (5) A “warning label” is a label clearly indicating that it is an offence for members of the general public to acquire, possess or use the substance in question without a licence (or recognised non-GB licence).
- (6) A person does not commit an offence under subsection (1), (3) or (4) if the requirements of that subsection do not apply to the person's case by virtue of regulations made under section 9B.
- (7) Before 3 March 2016, subsections (1) and (5) have effect as if the references to possession and use of the substance were omitted.
- (8) The Secretary of State may by regulations make provision modifying this section so far as it applies to any supplies that involve despatch of the substance to Northern Ireland or export of it from the United Kingdom.

### **3B Supply of regulated poisons other than by pharmacists**

- (1) A person commits an offence if the person supplies a regulated poison to a member of the general public other than in the circumstances described in subsection (2).
- (2) Those circumstances are—
  - (a) the person is lawfully conducting a retail pharmacy business,
  - (b) the supply is made on premises that are a registered pharmacy, and
  - (c) the supply is made by or under the supervision of a pharmacist.
- (3) A person commits an offence if the person supplies a regulated poison to a member of the general public without complying with the record-keeping requirements before delivering the poison.
- (4) The record-keeping requirements are—
  - (a) the person must make an entry (or cause an entry to be made) in a record to be kept by the person for the purposes of this subsection stating—
    - (i) the date of the supply,
    - (ii) the name and address of the member of the general public,
    - (iii) the name and quantity of the regulated poison supplied, and
    - (iv) the purposes for which it is stated by the member of the general public to be required, and

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- (b) the person must ensure that the member of the general public signs the entry.
- (5) A person does not commit an offence under subsection (1) or (3) if the requirements of that subsection do not apply to the person's case by virtue of regulations made under section 9B.

### **3C Reporting of suspicious transactions, disappearances and thefts**

- (1) A supplier must report any relevant transaction that it makes or proposes to make if the supplier has reasonable grounds for believing the transaction to be suspicious.
- (2) A “relevant transaction” is a transaction involving the supply of a regulated substance or a reportable substance to a customer, whether an end user or a customer higher up the supply chain and whether a business or a private customer.
- (3) A relevant transaction is “suspicious” if there are reasonable grounds for suspecting that the substance in question—
  - (a) if it is a regulated explosives precursor or reportable explosives precursor, is intended for the illicit manufacture of explosives, or
  - (b) if it is a regulated poison or a reportable poison, is intended for any illicit use.
- (4) In deciding whether there are reasonable grounds for suspecting such a thing, regard must be had to all the circumstances of the case, including in particular where the prospective customer—
  - (a) appears unclear about the intended use of the substance,
  - (b) appears unfamiliar with the intended use of the substance or cannot explain it plausibly,
  - (c) intends to buy substances in quantities, combinations or concentrations uncommon for private use,
  - (d) is unwilling to provide proof of identity or place of residence, or
  - (e) insists on using unusual methods of payment, including large amounts of cash.
- (5) A person carrying on a trade, business or profession that involves regulated substances or reportable substances must report the disappearance or theft of any such substances if the disappearance or theft—
  - (a) is from stocks in the person's possession, custody or control in Great Britain, and
  - (b) is significant.
- (6) In deciding whether a disappearance or theft is significant, regard must be had to whether the amount involved is unusual in all the circumstances of the case.
- (7) A duty under this section to “report” something is a duty to give notice of it to the Secretary of State in accordance with such requirements as may be specified by the Secretary of State by regulations made under this subsection.
- (8) A person who fails to comply with subsection (1) or (5) commits an offence.

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- (9) A person does not commit an offence under subsection (8) if the requirements of subsection (1) or, as the case may be, (5) do not apply to the person's case by virtue of regulations made under section 9B.”

**Commencement Information**

**I114** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 5 Omit section 4.

**Commencement Information**

**I115** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 6 After that section insert—

**“4A Licences**

- (1) The Secretary of State may grant a licence to a person on application by that person in accordance with this section.
- (2) The licence may permit the person to do one or more of the things listed in section 3(2) with respect to one or more of the regulated substances.
- (3) The term for which a licence is granted must not exceed 3 years, but this does not affect—
  - (a) a person's right to apply for a further licence to take effect on expiry of that term, nor
  - (b) any power of the Secretary of State under the terms and conditions of the licence to vary, suspend or revoke the licence before expiry of that term.
- (4) The Secretary of State may charge applicants a fee for processing applications for the grant or amendment of a licence or for the replacement of any lost, damaged or stolen licence.
- (5) The amount of any fees to be charged under subsection (4) must be specified in regulations made under subsection (10), and the amount specified must not exceed the reasonable cost of processing such applications.
- (6) In deciding whether to grant or amend a licence with respect to a substance, the Secretary of State must have regard to all the circumstances of the case, including in particular—
  - (a) the use intended to be made of the substance,
  - (b) the availability of alternative substances that would achieve the same purpose,
  - (c) the proposed arrangements to ensure that the substance is kept securely,
  - (d) any danger to public safety or public order that may be caused by possession of the substance, and
  - (e) whether the applicant is a fit and proper person to possess the substance.

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- (7) But if there are reasonable grounds for doubting the legitimacy of the use intended to be made of the substance or the intentions of the user to use the substance for a legitimate purpose, the Secretary of State must in any event refuse the application so far as it relates to that substance.
- (8) A licence may be granted or amended subject to such terms and conditions as may be specified in the licence.
- (9) Examples of terms and conditions that may be specified include, for any substances with respect to which the licence is granted, terms and conditions about—
  - (a) storage,
  - (b) use,
  - (c) maximum quantities,
  - (d) maximum levels of concentration, and
  - (e) reporting of disappearances or thefts.
- (10) The Secretary of State may by regulations make provision about the procedure for applying for and determining applications for the grant or amendment of licences under this section, including provision as to—
  - (a) who may make an application,
  - (b) the form and manner in which an application is to be made and any documents or evidence that must accompany it,
  - (c) the amount and payment of any fees,
  - (d) the supply of any further information or document required to determine an application,
  - (e) notice and publication of any decision about an application, and
  - (f) the procedure for an internal review of any such decision.

#### **4B Recognised non-GB licences**

- (1) The Secretary of State must publish a list from time to time of recognised member States (if there are any).
- (2) A member State is “recognised” for these purposes if licences granted by the competent authority of that State in accordance with the Precursors Regulation are recognised in the United Kingdom under Article 7(6) of that Regulation.
- (3) References in this Act to a “recognised non-GB licence” are to—
  - (a) a licence granted in accordance with the Precursors Regulation by the competent authority of a member State that is included in the list (or latest list) published under subsection (1), or
  - (b) a licence granted under relevant Northern Ireland legislation.
- (4) “Relevant Northern Ireland legislation” means—
  - (a) regulations made under the Explosives Act (Northern Ireland) 1970 (c.10 (N.I.)) by virtue of the Explosives (Northern Ireland) Order 1972 (S.I. 1972/730 (N.I. 3)),
  - (b) any legislative instrument that implements the Precursors Regulation in Northern Ireland, and

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- (c) any legislative instrument that replaces or supersedes (with or without modification) anything falling within paragraph (a) or (b) or this paragraph.
- (5) In this section—
- (a) references to the Precursors Regulation are to [Regulation \(EU\) No 98/2013](#) of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors, and
  - (b) references to a legislative instrument are to—
    - (i) an Act or instrument made under an Act, or
    - (ii) any Northern Ireland legislation or instrument made under Northern Ireland legislation.”

**Commencement Information**

**I116** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

7 Omit sections 5 and 6.

**Commencement Information**

**I117** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

8 For section 7 substitute—

**“7 Regulations about poisons and explosives precursors**

- (1) The Secretary of State may make provision by regulations about—
  - (a) the importation, supply, acquisition, possession or use of substances by or to any person or class of person,
  - (b) the storage, transportation and labelling of substances,
  - (c) the containers in which substances may be supplied,
  - (d) the addition to substances of specified ingredients for the purpose of rendering them readily distinguishable as such,
  - (e) the compounding of substances, and the supply of substances on and in accordance with a prescription duly given by a doctor, a dentist, a veterinary surgeon or a veterinary practitioner, or
  - (f) the period for which any records required to be kept for the purposes of this Act are to be preserved.
- (2) The provision that may be made under subsection (1)(a) includes provision for any requirement of a kind imposed by section 3, 3A, 3B or 3C to apply in additional circumstances.
- (3) Nothing in subsection (1)(b) to (f), or in subsection (2), is to be read as limiting the provision that may be made under subsection (1)(a).
- (4) A person who contravenes or fails to comply with any regulations made under this section commits an offence.

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- (5) A person does not commit an offence under subsection (4) if the requirements of the regulation in question do not apply to the person's case by virtue of regulations made under section 9B.
- (6) References in this section to “substances” are to regulated substances and reportable substances.”

#### Commencement Information

**I118** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

9 After section 7 insert—

#### “7A Proof of lack of knowledge

- (1) This section applies to the following offences—
- (a) an offence under section 3(1),
  - (b) an offence under section 3A(1), (3) or (4),
  - (c) an offence under section 3B(1) or (3).
- (2) In any proceedings for an offence to which this section applies, it is a defence for the accused to prove that the accused neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution that it is necessary for the prosecution to prove if the accused is to be convicted of the offence charged.
- (3) This is subject to subsection (5).
- (4) Subsection (5) applies where, in any proceedings for an offence to which this section applies—
- (a) it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or mixture involved in the alleged offence was the regulated substance that the prosecution allege it to have been, and
  - (b) it is proved that the substance or mixture in question was that regulated substance.
- (5) Where this subsection applies—
- (a) the accused must not be acquitted of the offence charged by reason only of proving that the accused neither knew nor suspected nor had reason to suspect that the substance or mixture was the particular regulated substance alleged, but
  - (b) the accused must be acquitted of the offence charged if—
    - (i) the accused proves that the accused neither believed nor suspected nor had reason to suspect that the substance or mixture was a regulated substance, or
    - (ii) the accused proves that the accused believed the substance or mixture to be a regulated substance such that, if it had in fact been that regulated substance, the accused would not at the material time have been committing any offence to which this section applies.



*Status: Point in time view as at 10/04/2015.*

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- (6) Nothing in this section affects any defence that it is open to a person accused of an offence to which this section applies to raise apart from this section.”

#### Commencement Information

**I119** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

10 For section 8 substitute—

#### “8 Penalties

- (1) A person guilty of an offence under section 3(1), 3A(1) or 3B(1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding 3 months or to a fine (or both),
    - (ii) in Scotland, to imprisonment for a term not exceeding 3 months or to a fine not exceeding the statutory maximum (or both).
- (2) A person guilty of an offence under section 3A(3) or (4) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) A person guilty of an offence under section 3B(3) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) A person guilty of an offence under section 3C(8) is liable on summary conviction—
- (a) in England and Wales, to imprisonment for a term not exceeding 3 months or to a fine (or both);
  - (b) in Scotland, to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 5 on the standard scale (or both).
- (5) A person guilty of an offence under section 7(4) is liable on summary conviction—
- (a) to a fine not exceeding level 4 on the standard scale, and
  - (b) in the case of a continuing offence, to a further fine not exceeding one-tenth of level 4 on the standard scale for every day subsequent to the day on which the person is convicted of the offence during which the contravention or default continues.
- (6) In the case of proceedings against a person for an offence under section 3A, 3B or 3C, or an offence under section 7(4) in connection with the supply of a regulated substance or a reportable substance, where the act in question was done by an employee—
- (a) it is not a defence that the employee acted without the authority of the employer, and
  - (b) any material fact known to the employee is deemed to have been known to the employer.

*Status: Point in time view as at 10/04/2015.*

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- (7) Notwithstanding any provision in any Act, or Act of the Scottish Parliament, prescribing the period within which summary proceedings may be commenced, proceedings for an offence under section 3A(3) or (4), 3B(3), 3C(8) or 7(4) may be commenced at any time—
- (a) within the period of 12 months next after the date of commission of the offence, or
  - (b) in the case of proceedings instituted by, or by the direction of, the Secretary of State, within the later to end of—
    - (i) that 12-month period, and
    - (ii) the period of 3 months next after the date on which evidence sufficient in the Secretary of State's opinion to justify a prosecution for the offence comes to the Secretary of State's knowledge.
- (8) For the purposes of subsection (7)(b)(ii), a certificate purporting to be signed by the Secretary of State as to the date on which such evidence came to the Secretary of State's knowledge is to be conclusive evidence of that fact.
- (9) A document purporting to be a certificate signed by a person specified in subsection (10) stating the result of an analysis made by that person is admissible in any proceedings under this Act as evidence of the matters stated in the certificate, but either party may require the person to be called as a witness.
- (10) The persons are—
- (a) a public analyst appointed under section 27 of the Food Safety Act 1990, or
  - (b) a person appointed by the Secretary of State to make analyses for the purposes of this Act.
- (11) In the application of this section to Scotland, subsections (7) and (8) have effect as if the references to the Secretary of State were references to the Lord Advocate.
- (12) In relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force—
- (a) the reference in subsection (1)(b)(i) to a fine is to be read as a reference to a fine not exceeding the statutory maximum;
  - (b) the reference in subsection (4)(a) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.

### **8A Offences by bodies corporate etc**

- (1) If an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,
- that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

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- (2) The reference in subsection (1) to a director, in relation to a body corporate whose affairs are managed by its members, is a reference to a member of the body corporate.
- (3) If an offence under this Act is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) a partner, or
  - (b) any person who was purporting to act in that capacity,that person, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.”

#### Commencement Information

**I120** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

- 11 (1) Section 9 (inspection and enforcement) is amended as follows.
- (2) For subsection (4) substitute—
    - “(4) An inspector appointed by the General Pharmaceutical Council under article 8(1) of the Pharmacy Order 2010 may at all reasonable times—
      - (a) enter any registered pharmacy to ascertain whether an offence under section 3A, 3B, 3C or 7(4) has been committed by a pharmacist or a person carrying on a retail pharmacy business;
      - (b) enter any suspicious premises to ascertain whether either of the following offences has been committed—
        - (i) an offence under section 3B, or
        - (ii) an offence under section 7(4) in relation to contravention of any regulations that relate solely to regulated poisons.
    - (4A) “Suspicious premises” are premises in which the inspector has reasonable cause to suspect that an offence mentioned in subsection (4)(b) has been committed.
    - (4B) An inspector appointed by the General Pharmaceutical Council under article 8(1) of the Pharmacy Order 2010 may also make such examination and inquiry and do such other things (including the taking, on payment, of samples) as may be necessary for ascertaining any of the things mentioned in subsection (4)(a) and (b).”
  - (3) Omit subsections (5) to (7).

#### Commencement Information

**I121** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

- 12 After section 9 insert—

*Status: Point in time view as at 10/04/2015.*

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### “9A Application of PACE powers

As regards England and Wales, sections 8, 17 and 18 of the Police and Criminal Evidence Act 1984 (powers of entry and search) apply in relation to an offence under section 3A(3) or (4), 3B(3), 3C(8) or 7(4) of this Act as in relation to an indictable offence.”

#### Commencement Information

**I122** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

13 After section 9A (inserted by paragraph 12) insert—

### “9B Power to disapply requirements or exclusions in specified circumstances

- (1) The Secretary of State may by regulations provide—
  - (a) that some or all of the requirements of this Act do not apply in circumstances specified in the regulations;
  - (b) that either or both of the exclusions do not apply in circumstances specified in the regulations.
- (2) The power in subsection (1) may be exercised in relation to a substance or group of substances, in relation to persons or a class of persons or in any other way.
- (3) When exercising the power in relation to a substance or group of substances, the regulations may for example provide that the requirements or exclusions in question do not apply to the substance, or substances in the group, where the substance—
  - (a) is intended for use for a specified purpose, or
  - (b) is contained in a specified substance, mixture or article, or
  - (c) is prepared in a specified manner or form, or
  - (d) is so intended, contained or prepared and is present in a concentration that is no higher than a specified limit.
- (4) Nothing in subsection (2) or (3) is to be read as limiting the provision that may be made under subsection (1).
- (5) In this section—
  - (a) “the exclusions” means the exclusions in section 2 for substances that are medicinal or contained in a specific object,
  - (b) “the requirements of this Act” means the requirements of section 3, 3A, 3B or 3C or of regulations under section 7,
  - (c) “specified” includes described,
  - (d) references to a substance also include a mixture, and
  - (e) references to a group of substances includes a group comprising all the substances listed in Schedule 1A.”

*Status: Point in time view as at 10/04/2015.*

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#### Commencement Information

**I123** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

14 For section 10 substitute—

#### “10 Regulations

- (1) Any power to make regulations under this Act includes power—
  - (a) to make different provision for different purposes,
  - (b) to make consequential, incidental or supplemental provision, and
  - (c) to make transitional, transitory or saving provision.
- (2) Any power to make regulations under this Act is exercisable by statutory instrument.
- (3) An instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Commencement Information

**I124** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

- 15 (1) Section 11 (interpretation) is amended as follows.
- (2) Omit subsection (1).
  - (3) In subsection (2), omit the definitions of—
    - “the board”
    - “local authority's list”
    - “Poisons Rules”
    - “prescribed”
    - “sale by way of wholesale dealing”.
  - (4) In that subsection, insert the following definitions in the appropriate place alphabetically—
    - ““Great Britain” includes the territorial sea of the United Kingdom other than the part adjacent to Northern Ireland;”,
    - ““licence” (other than in the expression “recognised non-GB licence” and in section 4B) means a licence granted under section 4A;”,
    - ““member of the general public” has the meaning given in section 3;”,
    - ““mixture” means a mixture or solution composed of two or more substances;”,
    - ““recognised non-GB licence” has the meaning given in section 4B;”,
    - ““regulated substance”, “regulated explosives precursor” and “regulated poison” have the meanings given in section 2;”,
    - ““reportable substance”, “reportable explosives precursor” and “reportable poison” have the meanings given in section 2;”, and

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““substance” means a chemical element and its compounds in the natural state or obtained by any manufacturing process—

- (a) including any additive necessary to preserve its stability and any impurity deriving from the process used, but
- (b) excluding any solvent that may be separated without affecting the stability of the substance or changing its composition;”.”.

(5) In that subsection, in the definition of “retail pharmacy business”, for “section 132(1) of the Medicines Act 1968” substitute “ regulation 8 of the Human Medicines Regulations 2012 (S.I. 2012/1916) ”.

(6) After subsection (2) insert—

“(3) In relation to a regulated substance or a reportable substance, any reference to the substance is a reference to the substance or the mixture, as the case may be.

(4) References in this Act to supplying something include any kind of supply or making available, whether in return for payment or free of charge.”

#### Commencement Information

**I125** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

16 After Schedule 1 (which is omitted by paragraph 1 of this Schedule) insert—

### “SCHEDULE 1A

#### REGULATED SUBSTANCES AND REPORTABLE SUBSTANCES

#### PART 1

#### REGULATED EXPLOSIVES PRECURSORS

<i>Name of substance and Chemical Abstracts Service Registry number (CAS RN)</i>	<i>Concentration limit (weight in weight)</i>
Hydrogen peroxide (CAS RN 7722-84-1)	12% w/w
Nitromethane (CAS RN 75-52-5)	30% w/w
Nitric acid (CAS RN 7697-37-2)	3% w/w
Potassium chlorate (CAS RN 3811-04-9)	40% w/w
Potassium perchlorate (CAS RN 7778-74-7)	40% w/w
Sodium chlorate (CAS RN 7775-09-9)	40% w/w
Sodium perchlorate (CAS RN 7601-89-0)	40% w/w

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## PART 2

### REGULATED POISONS

<i>Name of substance and Chemical Abstracts Service Registry number (CAS RN)</i>	<i>Concentration limit (weight in weight)</i>
Aluminium phosphide (CAS RN 20859-73-8)	
Arsenic (CAS RN 7440-38-2); its compounds, other than those listed in Part 4 of this Schedule	
Barium (CAS RN 7440-39-3), salts of, other than barium sulphate (CAS RN 7727-43-7) and the salts of barium listed in Part 4 of this Schedule)	
Bromomethane (CAS RN 74-83-9)	
Chloropicrin (CAS RN 76-06-2)	
Fluoroacetic acid (CAS RN 144-49-0); its salts; fluoroacetamide	
Hydrogen cyanide (CAS RN 74-90-8); metal cyanides, other than ferrocyanides and ferricyanides	
Lead acetates (CAS RN 15347-57-6); compounds of lead with acids from fixed oils	
Magnesium phosphide (CAS RN 12057-74-8)	
Mercury (CAS RN 7439-97-6), compounds of, the following—nitrates of mercury; oxides of mercury; mercuric cyanide oxides; mercuric thio cyanate; ammonium mercuric chlorides; potassium mercuric iodides; organic compounds of mercury that contain a methyl (CH <sub>3</sub> ) group directly linked to the mercury atom	
Oxalic acid (CAS RN 144-62-7)	10% w/w
Phenols (phenol; phenolic isomers of the following— cresols, xylenols, monoethylphenols); compounds of phenols with a metal	60% w/w of phenols or, for compounds of phenols with a metal, the equivalent of 60% w/w of phenols
Phosphorus, yellow (CAS RN 7223-14-0)	
Strychnine (CAS RN 57-24-9); its salts; its quaternary compounds	
Thallium (CAS RN 7440-28-0), salts of	

## PART 3

### REPORTABLE EXPLOSIVES PRECURSORS

Hexamine (CAS RN 100-97-0)

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Sulphuric acid (CAS RN 7664-93-9)  
Acetone (CAS RN 67-64-1)  
Potassium nitrate (CAS RN 7757-79-1)  
Sodium nitrate (CAS RN 7631-99-4)  
Calcium nitrate (CAS RN 10124-37-5)  
Calcium ammonium nitrate (CAS RN 15245-12-2)  
Ammonium nitrate (CAS RN 6484-52-2) in concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher

## PART 4

### REPORTABLE POISONS

<i>Name of substance and Chemical Abstracts Service Registry number (CAS RN)</i>	<i>Concentration limit (weight in weight or, where specified, total caustic alkalinity)</i>
Aldicarb (CAS RN 116-06-3)	
Alpha-chloralose (CAS RN 15879-93-3)	
Ammonia (CAS RN 7664-41-7 and CAS RN 1336-21-6)	10% w/w
Arsenic, compounds of, the following—calcium arsenites; copper acetoarsenite; copper arsenates; copper arsenites; lead arsenates	
Barium, salts of, the following—barium carbonate; barium silicofluoride	
Carbofuran (CAS RN 1563-66-2)	
Cycloheximide (CAS RN 66-81-9)	
Dinitrocresols (DNOC) (CAS RN 534-52-1); their compounds with a metal or a base	
Dinoseb (CAS RN 88-85-7); its compounds with a metal or a base	
Dinoterb (CAS RN 1420-07-1)	
Drazoxolon; its salts	
Endosulfan (CAS RN 115-29-7)	
Endothal (CAS RN 145-73-3); its salts	
Endrin (CAS RN 72-20-8)	
Fentin (CAS RN 668-34-8), compounds of	
Formaldehyde (CAS RN 50-00-0)	5% w/w
Formic acid (CAS RN 64-18-6)	25% w/w

*Note: for circumstances where requirements of this Act do not apply to a specified substance or mixture, see regulations made under section 9B.*



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Hydrochloric acid (CAS RN 7647-01-0)	10% w/w
Hydrofluoric acid (CAS RN 7664-39-3); alkali metal bifluorides; ammonium bifluoride (CAS RN 1341-49-7); alkali metal fluorides; ammonium fluoride (CAS RN 12125-01-8); sodium silicofluoride (CAS RN 16893-85-9)	
Mercuric chloride (CAS RN 7487-94-7); mercuric iodide; organic compounds of mercury except compounds that contain a methyl (CH <sub>3</sub> ) group directly linked to the mercury atom	
Metallic oxalates	
Methomyl (CAS RN 16752-77-5)	
Nicotine (CAS RN 54-11-5); its salts; its quaternary compounds	
Nitrobenzene (CAS RN 98-95-3)	0.1% w/w
Oxamyl (CAS RN 23135-22-0)	
Paraquat (CAS RN 4685-14-7), salts of	
Phenols (as defined in Part 2 of this Schedule) in substances containing no more than 60%, weight in weight, of phenols; compounds of phenols with a metal in substances containing no more than the equivalent of 60%, weight in weight, of phenols	
Phosphoric acid (CAS RN 7664-38-2)	
Phosphorus compounds, the following—azinphos-methyl, chlorfenvinphos, demephion, demeton-S-methyl, demeton-S-methyl sulphone, dialifos, dichlorvos, dioxathion, disulfoton, fonofos, mecarbam, mephosfolan, methidathion, mevinphos, omethoate, oxydemeton-methyl, parathion, phenkapton, phorate, phosphamidon, pirimiphos-ethyl, quinalphos, thiometon, thionazin, triazophos, vamidothion	
Potassium hydroxide (CAS RN 1310-58-3)	17% of total caustic alkalinity
Sodium hydroxide (CAS RN 1310-73-2)	12% of total caustic alkalinity
Sodium nitrite	
Thiofanox (CAS RN 39196-18-4)	
Zinc phosphide (CAS RN 1314-84-7)”	

*Note: for circumstances where requirements of this Act do not apply to a specified substance or mixture, see regulations made under section 9B.*

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**Commencement Information**

**I126** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

VALID FROM 26/05/2015

SCHEDULE 22

Section 103

REMOVAL OF CONSULTATION REQUIREMENTS

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VALID FROM 26/05/2015

SCHEDULE 23

Section 107

LEGISLATION NO LONGER OF PRACTICAL USE

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**Status:**

Point in time view as at 10/04/2015.

**Changes to legislation:**

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