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 “(b) if the direction is given, and not withdrawn, before the authority have submitted the document under section 20(1), the Secretary of State must hold an independent examination;”;
- (c) in paragraph (c), for “he” substitute “, and is not withdrawn before those recommendations are made, the person”; 5
- (d) for paragraph (d) substitute –  
 “(d) the document has no effect unless the document or (as the case may be) the relevant part of it has been approved by the Secretary of State, or the direction is withdrawn.” 10
- (3) After that subsection insert – 10
- “(5A) Subsections (4) to (7C) of section 20 apply to an examination held under subsection (5)(b), the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Secretary of State. 15
- (5B) For the purposes of subsection (5)(d) the “relevant part” of a development plan document is the part that – 15
- (a) is covered by a direction under subsection (4) which refers to only part of the document, or
- (b) continues to be covered by a direction under subsection (4) following the partial withdrawal of the direction.” 20
- (4) At the end of that section insert – 20
- “(11) The local planning authority must reimburse the Secretary of State for any expenditure incurred by the Secretary of State under this section that is specified in a notice given to the authority by the Secretary of State.” 25
- (5) After that section insert – 25
- “21A Temporary direction pending possible use of intervention powers**
- (1) If the Secretary of State is considering whether to give a direction to a local planning authority under section 21 in relation to a development plan document or other local development document, he may direct the authority not to take any step in connection with the adoption of the document – 30
- (a) until the time (if any) specified in the direction, or
- (b) until the direction is withdrawn.
- (2) A document to which a direction under this section relates has no effect while the direction is in force. 35
- (3) A direction given under this section in relation to a document ceases to have effect if a direction is given under section 21 in relation to that document.” 40

## 110 Secretary of State’s default powers

For section 27 of the Planning and Compulsory Purchase Act 2004 substitute –

- “27 Secretary of State’s default powers** 5
- (1) This section applies if the Secretary of State thinks that a local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document.
- (2) The Secretary of State may – 10
- (a) prepare or revise (as the case may be) the document, or
- (b) give directions to the authority in relation to the preparation or revision of the document.
- (3) The Secretary of State must either – 15
- (a) hold an independent examination, or
- (b) direct the authority to submit the document for independent examination.
- (4) The Secretary of State must either –
- (a) publish the recommendations and reasons of the person appointed to hold the examination, or
- (b) give directions to the authority in relation to [publication of those matters recommendations and reasons](#). 20
- (5) The Secretary of State may –
- (a) approve the document, or approve it subject to specified modifications, as a local development document,
- (b) direct the authority to consider adopting the document by resolution of the authority as a local development document, or
- (c) (except where it was prepared or revised by the Secretary of State under subsection (2)(a)) reject the document.
- (6) Subsections (4) to (7C) of section 20 apply (subject to subsection (7) below) to an examination held under subsection (3)(a), the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Secretary of State. 25
- (7) Subsections (5)(c), (7)(b)(ii) and (7B)(b) of section 20 do not apply to an independent examination held – 30
- (a) under subsection (3)(a), or
- (b) in response to a direction under subsection (3)(b),
- in respect of a document prepared or revised by the Secretary of State under subsection (2)(a).
- (8) The Secretary of State must give reasons for anything he does in pursuance of subsection (2) or (5). 35
- (9) The authority must reimburse the Secretary of State for any expenditure he incurs in connection with anything –
- (a) which is done by him under subsection (2)(a), and
- (b) which the authority failed or omitted to do as mentioned in subsection (1).” 40

- 111 Default powers exercisable by Mayor of London or combined authority**
- (1) After section 27 of the Planning and Compulsory Purchase Act 2004 insert –  
**“27A Default powers exercisable by Mayor of London or combined authority** 5  
Schedule A1 (default powers exercisable by Mayor of London or combined authority) has effect.”
- (2) Before Schedule 1 to that Act insert, as Schedule A1, the Schedule set out in Schedule 8 to this Act. 10
- (3) In section 17 of that Act (local development documents), at the end of subsection (8) insert –  
 “(c) is approved by the Mayor of London under paragraph 2 of Schedule A1;  
 (d) is approved by a combined authority under paragraph 6 of that Schedule.” 15
- 112 Costs of independent examinations held by Secretary of State**
- (1) Section 303A of the Town and Country Planning Act 1990 (responsibility of local planning authorities for costs of holding certain inquiries etc) is amended as follows. 20
- (2) In subsection (1A), after “section 20” insert “, 21(5)(b), 27(3)(a)”.
- (3) For subsection (9A) substitute – 25  
 “(9A) A reference to a local planning authority causing a qualifying procedure to be carried out includes a reference to the case where under the Planning and Compulsory Purchase Act 2004 –  
 (a) the local planning authority ~~is~~are required to submit a document to the appropriate authority for independent examination, or 30  
 (b) the Secretary of State holds an independent examination in relation to a document prepared by the local planning authority, or by the Secretary of State under section 27(2)(a) of that Act.” 35
- Planning in Greater London*
- 113 Planning powers of the Mayor of London**
- (1) In section 2A of the Town and Country Planning Act 1990 (power of Mayor of London to decide applications of potential strategic importance), in subsection (6), for “areas, and” substitute “areas;  
 (aa) may prescribe matters by reference to the spatial development strategy, or a development plan document (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004), as it has effect from time to time;” 40
- (2) In section 74 of that Act (directions etc as to method of dealing with applications), in subsection (1B) – 45  
 (a) in paragraph (a), for “London borough to refuse” substitute “London

- borough –
- (i) to consult with the Mayor of London before granting or refusing an application for planning permission, or permission in principle, that is an application of a prescribed description, or
  - (ii) to refuse”;
- (b) in paragraph (c), for “such a direction;” substitute “a direction given by virtue of paragraph (a)(ii).”;
- (c) omit the words after that paragraph.
- (3) After that subsection insert –
- “(1BA) In subsection (1B) “prescribed” means –
- (a) prescribed by a development order, or
  - (b) specified in directions made under a development order by the Secretary of State or the Mayor of London.
- (1BB) Matters prescribed under subsection (1B) by a development order may be prescribed by reference to the spatial development strategy, or a development plan document (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004), as it has effect from time to time.”
- Permission in principle and local registers of land*

#### 114 Permission in principle for development of land

- (1) After section 58 of the Town and Country Planning Act 1990 insert –
- “Permission in principle*
- 58A Permission in principle: general**
- (1) Permission in principle may be granted for development of land in England as provided in section 59A.
  - (2) For the effect of permission in principle, see section 70(~~2ZA~~)(2ZZA) to (~~2ZC~~)(2ZZC) (application for technical details consent must be determined in accordance with permission in principle, except after a prescribed period).
  - (3) A reference to permission in principle in any provision of this Act in its application to land in Wales, or in its application to functions of the Welsh Ministers or other authorities in Wales, is to be ignored.”
- (2) After section 59 of that Act insert –
- “59A Development orders: permission in principle**
- (1) A development order may either –
- (a) itself grant permission in principle, in relation to land in England that is allocated for development in a qualifying document (whether or not in existence when the order is made) for development of a prescribed description; or
  - (b) provide for the granting by a local planning authority in England, on application to the authority in accordance with the

- provisions of the order, of permission in principle for development of a prescribed description.
- (2) In this section –
- “prescribed” means prescribed in a development order; 5
  - “qualifying document” means a plan, register or other document, as it has effect from time to time, which –
    - (a) is made, maintained or adopted by a local planning authority,
    - (b) is of a prescribed description, 10
    - (c) indicates that the land in question is allocated for development for the purposes of this section, and
    - (d) contains prescribed particulars in relation to the land allocated and the kind of development for which it is allocated. 15
- (3) In relation to an application for permission in principle which under any provision of this Part is made to, or determined by, the Secretary of State instead of the local planning authority, a reference in subsection (1) to a local planning authority has effect (as necessary) as a reference to the Secretary of State. 20
- (4) Permission in principle granted by a development order –
- (a) takes effect when the qualifying document is adopted or made by the local planning authority or (if later) when the qualifying document is revised so as to allocate the land in question for development;
  - (b) is not brought to an end by the qualifying document ceasing to have effect or being revised, unless the order provides otherwise. 25
- (5) A development order may –
- (a) make provision for permission in principle to cease to have effect; 30
  - (b) contain transitional provision and savings in relation to cases where permission in principle ceases to have effect.
- (6) A development order may make provision in relation to an application for planning permission for development of land in respect of which permission in principle has been granted. 35
- (7) A development order may require the local planning authority to prepare, maintain and publish a register containing prescribed information as to permissions in principle granted by the order.
- (8) Local planning authorities must have regard to any guidance issued by the Secretary of State in the exercise of functions exercisable by virtue of this section.” 40
- (3) In section 70 of that Act (determination of applications: general considerations) –
- (a) after subsection (1) insert –
    - “(1A) Where an application is made to a local planning authority for permission in principle –
      - (a) they may grant permission in principle; or 45

- (b) they may refuse permission in principle.”;
- (b) after subsection (2) insert –
- “(2ZZA) The authority must determine an application for technical details consent in accordance with the relevant permission in principle. 5  
This is subject to subsection ~~(2ZC)~~(2ZZC).
- (2ZZB) An application for technical details consent is an application for planning permission that – 10
- (a) relates to land in respect of which permission in principle is in force,
- (b) proposes development all of which falls within the terms of the permission in principle, and
- (c) particularises all matters necessary to enable planning permission to be granted without any reservations of the kind referred to in section 92.
- (2ZZC) Subsection ~~(2ZA)~~(2ZZA) does not apply where – 15
- (a) the permission in principle has been in force for longer than a prescribed period, and
- (b) there has been a material change of circumstances since the permission came into force.
- “Prescribed” means prescribed for the purposes of this subsection in a development order.” 20
- (4) Schedule ~~6–9~~ (permission in principle for development of land: minor and consequential amendments) has effect.

## 115 Local planning authority to keep register of particular kinds of land

- (1) In Part 2 of the Planning and Compulsory Purchase Act 2004 (local development), after section 14 insert – 25

### “Register

#### 14A Register of land 30

- (1) The Secretary of State may make regulations requiring a local planning authority in England to prepare, maintain and publish a register of land within (or partly within) the authority’s area which – 30
- (a) is of a prescribed description, or
- (b) satisfies prescribed criteria.
- (2) The regulations may require the register to be kept in two or more parts. 35
- A reference to the register in the following subsections includes a reference to a prescribed part of the register.
- (3) The regulations may make provision permitting the local planning authority to enter in the register land within (or partly within) the authority’s area which –
- (a) is of a prescribed description or satisfies prescribed criteria, and
- (b) is not required by the regulations to be entered in the register.

- (4) The regulations may –
- (a) require or authorise a local planning authority to carry out consultation and other procedures in relation to entries in the register;
  - (b) specify descriptions of land that are not to be entered in the register;
  - (c) confer a discretion on a local planning authority, in prescribed circumstances, not to enter in the register land of a prescribed description that the authority would otherwise be required to enter in it; 5
  - (d) require a local planning authority exercising the discretion referred to in paragraph (c) to explain why they have done so;
  - (e) specify information to be included in the register; 10
  - (f) make provision about revising the register.
- (5) The regulations may specify a description of land by reference to a description in national policies and advice.
- (6) The regulations may confer power on the Secretary of State to require a local planning authority – 15
- (a) to prepare or publish the register, or to bring the register up to date, by a specified date;
  - (b) to provide the Secretary of State with specified information, in a specified form and by a specified date, in relation to the register. 20
- In this subsection “specified” means specified by the Secretary of State.
- (7) In exercising their functions under the regulations, a local planning authority must have regard to – 25
- (a) the development plan;
  - (b) national policies and advice;
  - (c) any guidance issued by the Secretary of State for the purposes of the regulations.
- (8) In this section “national policies and advice” means national policies and advice contained in guidance issued by the Secretary of State (as it has effect from time to time).” 30
- (2) In section 33 of that Act (power to direct that Part 2 of that Act does not apply to the area of an urban development corporation), for “that this Part does not apply” substitute “that the provisions of – 35
- (a) this Part, or
  - (b) any particular regulations made under section 14A, do not apply”.

*Planning permission etc*

**116 Approval condition where development order grants permission for building** 40

- (1) In section 60 of the Town and Country Planning Act 1990 (permission granted by development order), after subsection (1) insert –
- “(1A) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for building operations



in England, the order may require the approval of the local planning authority, or the Secretary of State, to be obtained –

- (a) for those operations, or
- (b) with respect to any matters that relate to those operations, or to the use of the land in question following those operations, and are specified in the order.”

5

- (2) In subsection (2) of that section, after “any buildings” insert “in Wales”.
- (3) In subsection (2B) of that section, for “subsection (1)” substitute “subsections (1) and (1A)”.
- (4) In section 70A of that Act (power to decline to determine subsequent application), in subsection (5)(b), for “section 60(2)” substitute “section 60(1A), (2)”.

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### 117 Planning applications that may be made directly to Secretary of State

- (1) In section 62A of the Town and Country Planning Act 1990 (when application may be made directly to Secretary of State), in subsection (1), for paragraphs (a) and (b) substitute –

15

- “(a) the local planning authority concerned is designated by the Secretary of State for applications of a description specified in the designation;
- (b) the application falls within that description.”

20

- (2) After that subsection insert –

“(1A) Only prescribed descriptions of application may be specified in a designation under subsection (1).”

- (3) For subsection (2) of that section substitute –

25

- “(2) In this section “relevant application” means –
  - (a) an application for planning permission, or permission in principle, for the development of land in England, or
  - (b) an application for approval of a matter that, as defined by section 92, is a reserved matter in the case of an outline planning permission for the development of land in England,but does not include an application of the kind described in section 73(1) or an application of a description excluded by regulations.”

30

- (4) In subsection (3)(a)(i) of that section omit “, or for conservation area consent,”.

- (5) In section 62B of that Act (designation for the purposes of section 62A), after subsection (1) insert –

“(1A) A document to which subsection (2) applies may set out different criteria for each description of application prescribed under section 62A(1A).”

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**118 Local planning authorities: information about financial benefits**

After section 75 of the Town and Country Planning Act 1990 insert –

*“Local planning authorities: information about financial benefits*

**75ZA Certain planning reports to contain information about financial benefits**

(1) A local planning authority in England must make arrangements to ensure that the required financial benefits information is included in each report which –

- (a) is made by an officer or agent of the authority for the purposes of a non-delegated determination of an application for planning permission, and
- (b) contains a recommendation as to how the authority should determine the application in accordance with section 70(2).

(2) The required financial benefits information is –

- (a) a list of any financial benefits (whether or not material to the application) which are local finance considerations or benefits of a prescribed description, and which appear to the person making the report to be likely to be obtained –
  - (i) by the authority, or
  - (ii) by a person of a prescribed description or (if regulations so provide) by any person,
 as a result of the proposed development (if it is carried out);
- (b) in relation to each listed financial benefit, a statement of the opinion of the person making the report as to whether the benefit is material to the application;
- (c) any other prescribed information about a listed financial benefit.

(3) In this section –

“local finance consideration” has the same meaning as in section 70;

“non-delegated determination” means a determination that is not delegated to an officer of the authority in question;

“officer” includes employee.

(4) Regulations under this section may –

- (a) prescribe a description of financial benefits by reference to the amount or value of the benefit;
- (b) make different provision for different kinds of local planning authority or different kinds of development.”

*Nationally significant infrastructure projects*

**119 Development consent for projects that involve housing**

(1) Section 115 of the Planning Act 2008 (development for which development consent may be granted) is amended as follows.

- (2) At the end of subsection (1) insert “, or  
(c) related housing development.”
- (3) In subsection (2)(b), for “is not” substitute “does not consist of or include”.
- (4) Before subsection (5) insert –
- “(4B) “Related housing development” means development which –
- (a) consists of or includes the construction or extension of one or more dwellings, 5
  - (b) is on the same site as, or is next to or close to, any part of the development within subsection (1)(a), or is otherwise associated with that development (or any part of it), 10
  - (c) is to be carried out wholly in England, and
  - (d) meets the condition in subsection (4C). 10
- (4C) Development meets the condition in this subsection if the development within subsection (1)(a) to which it is related is to be carried out in one or more of the following areas –
- (a) England;
  - (b) waters adjacent to England up to the seaward limits of the territorial sea.” 15
- (5) In subsection (5), after “associated development” insert “or related housing development”.
- (6) At the end insert –
- “(7) The Secretary of State, in deciding an application for an order granting development consent for development that includes related housing development, must take into account any matters set out in guidance published by the Secretary of State.” 20

*Urban development corporations*

**120 Designation of urban development areas: procedure** 25

- (1) Section 134 of the Local Government, Planning and Land Act 1980 (urban development areas) is amended as follows.
- (2) After subsection (1) insert –
- “(1A) Before making an order under subsection (1) in relation to land in England, the Secretary of State must consult the following persons – 30
- (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the proposed urban development area;
  - (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the proposed urban development area; 35
  - (c) each local authority for an area which falls wholly or partly within the proposed urban development area; and
  - (d) any other person whom the Secretary of State considers it appropriate to consult.”

## (3) For subsection (4) substitute –

“(4) A statutory instrument containing an order made by the Secretary of State under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

(4A) An order made by the Welsh Ministers under subsection (1) (by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006) does not have effect until approved by a resolution of the Welsh Assembly. 5

(4B) An order made by the Scottish Ministers under subsection (1) (by virtue of section 53 of the Scotland Act 1998) is subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).” 10

**121 Establishment of urban development corporations: procedure**

(1) Section 135 of the Local Government, Planning and Land Act 1980 (urban development corporations) is amended as follows. 15

## (2) After subsection (1) insert –

“(1A) Before making an order under this ~~section~~[section in relation to an urban development area in England](#), the Secretary of State must consult the following persons – 20

- (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the urban development area;
- (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the urban development area; 25
- (c) each local authority for an area which falls wholly or partly within the urban development area; and
- (d) any other person whom the Secretary of State considers it appropriate to consult.”

## (3) For subsection (3) substitute –

“(3) A statutory instrument containing an order made by the Secretary of State under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 30

(3A) An order made by the Welsh Ministers under this section (by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006) does not have effect until approved by a resolution of the Welsh Assembly. 35

(3B) An order made by the Scottish Ministers under this section (by virtue of section 53 of the Scotland Act 1998) is subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).” 40

**122 Sections ~~108-117~~ and ~~109-118~~: consequential repeals**

In the Deregulation Act 2015, omit sections 46 and 47.

45

**PART 7**

COMPULSORY PURCHASE ETC

*Right to enter and survey land* 5

**123 Right to enter and survey land**

- (1) A person authorised in writing by an acquiring authority may enter and survey or value land in connection with a proposal to acquire ~~compulsorily~~ an interest in or a right over land. 10
- (2) The person –
- (a) may only enter and survey or value land at a reasonable time, and
  - (b) may not use force unless a justice of the peace has issued a warrant under section ~~112~~121(1) authorising the person to do so. 15
- (3) The person must, if required when exercising or seeking to exercise the power conferred by subsection (1), produce –
- (a) evidence of the authorisation, and
  - (b) a copy of any warrant issued under section ~~112~~121(1).
- (4) An authorisation under subsection (1) may relate to the land which is the subject of the proposal or to other land. 20
- (5) If the land is unoccupied or the occupier is absent from the land when the person enters it, the person must leave it as secure against trespassers as when the person entered it.
- (6) In this section and sections ~~112–121~~ to ~~117–126~~ “acquiring authority” and “owner” have the meanings given in section 7 of the Acquisition of Land Act 1981. 25

**124 Warrant authorising use of force to enter and survey land**

- (1) A justice of the peace may issue a warrant authorising a person to use force in the exercise of the power conferred by section ~~111~~120(1) if satisfied –
- (a) that another person has prevented or is likely to prevent the exercise of that power, and
  - (b) that it is reasonable to use force in the exercise of that power. 30
- (2) The force that may be authorised by a warrant is limited to that which is reasonably necessary.
- (3) A warrant authorising the person to use force must specify the number of occasions on which the authority can rely on the warrant when entering and surveying or valuing land. 35
- (4) The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.
- (5) Any evidence in proceedings for a warrant under this section must be given on oath. 40

**125 Notice of survey and copy of warrant**

- (1) The acquiring authority must give every owner or occupier of land at least 14 days' notice before the first day on which the authority intends to enter the land in exercise of the power conferred by section ~~111~~120.
- (2) Notice given in accordance with subsection (1) must include – 5
- (a) a statement of the recipient's rights under section ~~115~~124, and
  - (b) a copy of the warrant, if there is one.
- (3) If the authority proposes to do any of the following, the notice must include details of what is proposed – 10
- (a) searching, boring or excavating;
  - (b) leaving apparatus on the land;
  - (c) taking samples;
  - (d) an aerial survey;
  - (e) carrying out any other activities that may be required to facilitate compliance with the instruments mentioned in subsection (5).
- (4) If the authority obtains a warrant after giving notice in accordance with subsection (1) it must give a copy of the warrant to all those to whom it gave that notice.
- (5) The instruments referred to in subsection (3)(e) are – 15
- (a) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended from time to time,
  - (b) Council Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended from time to time, or 20
  - (c) any EU instrument from time to time replacing all or part of those Directives. 20

**126 Enhanced authorisation procedures etc. for certain surveys**

- (1) A written authorisation from the appropriate Minister is required before a person enters and surveys or values land in exercise of the power conferred by section ~~111~~120 if – 25
- (a) the land is held by a statutory undertaker,
  - (b) within the notice period mentioned in section ~~113~~122(1), the statutory undertaker objects to the proposed entry and survey or valuation in writing to the acquiring authority, and 30
  - (c) the objection is that the proposed entry and survey or valuation would be seriously detrimental to the statutory undertaker carrying on its undertaking.
- (2) In subsection (1) –
- “the appropriate Minister” means – 35
- (a) in the case of land in Wales held by a water or sewerage undertaker, the Welsh Ministers, and
  - (b) in any other case, the Secretary of State;
- “statutory undertaker” means –
- (a) any person who is, or who is deemed to be, a statutory undertaker for the purposes of section 16 or 17 of the

- Acquisition of Land Act 1981 or of any provision of Part 11 of the Town and Country Planning Act 1990, and
- (b) any person in relation to whom the electronic communications code is applied by a direction under section 106(3)(a) of the Communications Act 2003. 5
- (3) Where the survey [or valuation](#) is to take place in a street, the following sections of the New Roads and Street Works Act 1991 apply to the survey [or valuation](#) as if it were street works—
- (a) section 55 (notice of starting date of works),
  - (b) section 69 (requirements to be complied with where works likely to affect another person’s apparatus in the street), and
  - (c) section 82 (liability for damage or loss caused).
- (4) In the application of those sections references to an “undertaker” are to be read as references to the acquiring authority which authorised the ~~survey~~[survey or valuation](#). 10
- (5) [See section 169\(4\) of the Water Industry Act 1991 and section 171\(4\) of the Water Resources Act 1991 for additional procedures in relation to the exercise of the power in section 120 on behalf of a water undertaker, the Environment Agency or the Natural Resources Body for Wales.](#) 15

## 127 Right to compensation after entry on or survey of land

- (1) A person interested in land is entitled to compensation from the acquiring authority for damage as a result of the exercise of the power conferred by section ~~111~~[120](#). 20
- (2) Any disputes relating to compensation under this section are to be determined by the Upper Tribunal.
- (3) The provisions of section 4 of the Land Compensation Act 1961 apply to the determination of such disputes, with any necessary modifications. 25

## 128 Offences in connection with powers to enter land

- (1) A person who without reasonable excuse obstructs another person in the exercise of the power conferred by section ~~111~~[120](#) commits an offence. 30
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person commits an offence if the person discloses confidential information, obtained in the exercise of the power conferred by section ~~111~~[120](#), for purposes other than those for which the power was exercised. 35
- (4) A person who commits an offence under subsection (3) is liable—
- (a) on summary conviction to a fine,
  - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or both. 40
- (5) In subsection (3) “confidential information” means information—
- (a) which constitutes a trade secret, or
  - (b) the disclosure of which would or would be likely to prejudice the commercial interests of any person.

**129 Right to enter and survey or value Crown land**

- (1) Sections ~~111-120~~ to ~~116-125~~ apply in relation to Crown land.
- (2) But a person may only exercise the power conferred by section ~~111-120~~ in relation to Crown land if the person has the permission of the appropriate authority. 5
- (3) In this section, “Crown land” and “the appropriate authority” have the meaning given in section 293 of the Town and Country Planning Act 1990.

**130 Amendments to do with sections 120 to 126**

Schedule 10 amends legislation conferring rights of entry relating to the acquisition of an interest in or a right over land in England and Wales. 10

*Confirmation and time limits***131 Timetable for confirmation of compulsory purchase order**

After section 14A of the Acquisition of Land Act 1981 (confirmation by acquiring authorities) insert— 15

**“14B Timetables for confirmation of CPOs except by Welsh Ministers**

- (1) The Secretary of State must publish one or more timetables in relation to steps to be taken by confirming authorities, other than the Welsh Ministers, in confirming a compulsory purchase order. 20
- (2) Different timetables may be published in relation to—
  - (a) different confirming authorities, or
  - (b) different types of compulsory purchase order.
- (3) The Secretary of State may at any time revise a timetable published under this section.
- (4) The validity of an order is not affected by any failure to comply with a timetable published under this section. 25
- (5) The Secretary of State must lay before Parliament an annual report showing the extent to which confirming authorities have complied with any applicable timetable published under this section.
- (6) A report laid by the Secretary of State under this section need not include information about a confirming authority if the number of compulsory purchase orders submitted to it is lower than a minimum specified by the Secretary of State in the report. 30

**14C Timetables for confirmation of CPOs by Welsh Ministers**

- (1) The Welsh Ministers may publish one or more timetables in relation to steps to be taken by them in confirming a compulsory purchase order.
- (2) Different timetables may be published in relation to different types of compulsory purchase order.
- (3) The Welsh Ministers may at any time revise a timetable published under this section. 35



- (4) The validity of an order is not affected by any failure to comply with a timetable published under this section.
- (5) The Welsh Ministers must lay before the Welsh Assembly an annual report showing the extent to which they have complied with any applicable timetable published under this section.”

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### 132 Confirmation by inspector

(1) The Acquisition of Land Act 1981 is amended as follows.

(2) After section 14C (inserted by section ~~118~~128 of this Act), insert—

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#### “14D Power to appoint inspector

(1) A confirming authority may appoint a person (“an inspector”) to act instead of it in relation to the confirmation of a compulsory purchase order to which section 13A applies.

(2) An inspector may be appointed to act in relation to—

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- (a) a specific compulsory purchase order, or
- (b) a description of compulsory purchase orders.

(3) An inspector—

- (a) has the same functions as a confirming authority under this Part (excluding this section),
- (b) retains those functions even if all remaining objections are withdrawn after the inspector has begun to act in relation to a compulsory purchase order, and
- (c) may hold a public local inquiry under section 13A(3)(a) or act as the person appointed to hear remaining objections under section 13A(3)(b).

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(4) Where an inspector is to act in relation to a compulsory purchase order, the confirming authority must inform—

- (a) every person who has made a remaining objection, and
- (b) the acquiring authority.

(5) Where an inspector decides whether or not to confirm the whole or part of a compulsory purchase order ~~order is confirmed by an inspector~~ order, the inspector’s ~~confirmation decision~~ is to be treated as that of the confirming authority.

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(6) The confirming authority may at any time—

- (a) revoke its appointment of an inspector, and
- (b) appoint another inspector.

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(7) If the confirming authority revokes its appointment of an inspector while the inspector is acting in relation to a compulsory purchase order and does not replace the inspector, the authority must give its reasons—

- (a) to the inspector whose appointment has been revoked, and
- (b) to all those informed under subsection (4).

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(8) Where in any enactment there is a provision that applies in relation to a confirming authority acting under this Part, that provision is to be

read as applying equally in relation to an inspector so far as the context permits.

(9) In this section “remaining objection” is to be construed in accordance with section 13A.”

(3) In section 2 (procedure for authorisation), for subsection (2) substitute – 5

“(2) A compulsory purchase order authorising a compulsory purchase by an authority other than a Minister is to be –

- (a) made by that authority,
- (b) submitted to the confirming authority, and 10
- (c) confirmed in accordance with Part 2 of this Act.”

(4) In section 7 (interpretation), in subsection (3), after “section 13A” insert “, section 14B”.

### 133 Time limits for notice to treat or general vesting declaration

(1) For section 4 of the Compulsory Purchase Act 1965 substitute – 15

#### “4 Time limit for giving notice to treat

A notice to treat may not be served by the acquiring authority after the end of the period of 3 years beginning with the day on which the compulsory purchase order becomes operative.”

(2) After section 5 of the Compulsory Purchase (Vesting Declarations) Act 1981 insert – 20

#### “5A Time limit for general vesting declaration

A general vesting declaration may not be ~~made~~executed after the end of the period of 3 years beginning with the day on which the compulsory purchase order becomes operative.” 25

#### *Vesting declarations: procedure*

### 134 Notice of general vesting declaration procedure

Schedule ~~7~~11 changes the notice requirements for general vesting declarations. 30

### 135 Earliest vesting date under general vesting declaration

In section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 (execution of declaration vesting land at the end of a period of not less than 28 days from the date of service), in subsection (1) for “28 days” substitute “3 months”. 35

#### *Possession following notice to treat etc*

### 136 Extended notice period for taking possession following notice to treat 40

(1) The Compulsory Purchase Act 1965 is amended as follows.

(2) In section 11 (powers of entry) –

- (a) in subsection (1) –
- (i) for “not less than fourteen days notice” substitute “a notice of entry”; and
  - (ii) after “specified in the notice” insert “, after the end of a period specified in the notice”; 5
- (b) after subsection (1) insert –
- “(1A) A notice of entry under subsection (1) must specify the period after the end of which the acquiring authority may enter on and take possession of the land to which the notice relates.
- (1B) The period specified in a notice of entry under subsection (1) must not end earlier than the end of the period of 3 months beginning with the day on which the notice is served unless it is a notice to which section 11A(3) or paragraph 12 of Schedule 2A applies.” 10
- (3) After section 11 insert – 15
- “11A Powers of entry: repeat notices**
- “(1) A notice of entry under section 11(1) ceases to have effect if, before entering on and taking possession of the land, the acquiring authority become aware of an owner, lessee or occupier to whom they have not given a notice to treat under section 5. 20
- (2) If the acquiring authority serve a notice to treat on the person under section 5, the acquiring authority may serve a new notice of entry under section 11(1).
- (3) If the person is not an occupier of the land, the period specified in the new notice of entry under section 11(1) must be a period that ends – 25
- (a) no earlier than the end of the period of 14 days beginning with the day on which the new notice of entry is served, and
  - (b) no earlier than the end of the period specified in any previous notice of entry given by the acquiring authority in respect of the land.” 30
- 137 Counter-notice requiring possession to be taken on specified date**
- (1) The Compulsory Purchase Act 1965 is amended as follows.
- (2) In section 11 (powers of entry), after subsection (1B) (inserted by section ~~123~~ [133](#) of this Act), insert – 35
- “(1C) A notice of entry under subsection (1) must explain the effect of section 11B (counter-notice requiring possession to be taken on specified date) and give an address at which the acquiring authority may be served with a counter-notice.”
- (3) After section 11A (inserted by section ~~123~~ [133](#) above) insert –
- “11B Counter-notice requiring possession to be taken on specified date** 40
- (1) Where an acquiring authority serve a notice of entry under section 11(1) on a person who is in possession of land, the person may serve a counter-notice requiring the acquiring authority to take possession of the land by no later than a date specified in the counter-notice.

- (2) If the person gives up possession of the land on or before the specified date the acquiring authority are to be treated as having taken possession on that date (unless the acquiring authority has in fact taken possession before that date).
- (3) The date specified in the counter-notice –
- (a) must not be before the end of the period specified in the notice of entry under section 11(1), and
  - (b) must be at least 28 days after the day on which the counter-notice is served.
- (4) Where a notice of entry under section 11(1) is served on more than one person who is in possession of the land, a reference in this section to the person in possession is to all of them acting together.”
- 138 Agreement to extend notice period for possession following notice to treat**
- In section 11 of the Compulsory Purchase Act 1965 (powers of entry), after subsection (1C) (inserted by section ~~124~~134 of this Act), insert –
- “(1D) An acquiring authority may extend the period specified in a notice of entry under subsection (1) by agreement with each person on whom it was served.
- (1E) A reference in this Act to the period specified in a notice of entry under subsection (1) is to the period as extended by any agreement under subsection (1D).”
- 139 Corresponding amendments to the New Towns Act 1981**
- (1) Schedule 6 to the New Towns Act 1981 (modification of compulsory purchase legislation as applied for the purposes of the Act) is amended as follows.
- (2) In paragraph 4 –
- (a) omit “(not being less than 14 days)”;
  - (b) after sub-paragraph (2) insert –
- “(2A) The period specified in a notice under sub-paragraph (1) must not end earlier than the end of the period of 3 months beginning with the day on which the notice is served unless –
- (a) it is a notice to which paragraph 4A(3) applies, or
  - (b) it is a notice to which paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (as modified by paragraph 1(2)(g) above) applies.
- (2B) A notice under sub-paragraph (1) must explain the effect of paragraph 4B (counter-notice requiring possession to be taken on specified date) and give an address at which the acquiring authority may be served with a counter-notice.
- (2C) An acquiring authority may extend the period specified in a notice under sub-paragraph (1) by agreement with each person on whom it was served.

(2D) A reference in this Schedule to the period specified in a notice under sub-paragraph (1) is to the period as extended by any agreement under sub-paragraph (2C).”

(3) After paragraph 4 insert –

“4A (1) A notice under paragraph 4(1) ceases to have effect if, before entering on and taking possession of the land, the acquiring authority become aware of an owner to whom they have not given a notice to treat under section 5 of the Compulsory Purchase Act 1965. 5

(2) If the acquiring authority serve a notice to treat on that owner, the acquiring authority may serve a new notice under paragraph 4(1). 10

(3) If the owner is not an occupier of the land, the period specified in the new notice under paragraph 4(1) must be a period that ends –

(a) no earlier than the end of the period of 14 days beginning with the day on which the new notice is served, and

(b) no earlier than the end of the period specified in any previous notice given by the acquiring authority in respect of the land under paragraph 4(1). 15

(4) This paragraph applies instead of section 11A of the Compulsory Purchase Act 1965.

4B (1) Where the acquiring authority serves a notice under paragraph 4(1) on a person who is in possession of land, the person may serve a counter-notice requiring the acquiring authority to take possession of the land by no later than a date specified in the counter-notice. 20

(2) If the person gives up possession of the land on or before the specified date, the acquiring authority is to be treated as having taken possession on that date (unless the acquiring authority has in fact taken possession before that date). 25

(3) The date specified in the counter-notice –  
(a) must not be before the end of the period specified in the notice under paragraph 4(1), and  
(b) must be at least 28 days after the day on which the counter-notice is served. 30

(4) Where a notice under paragraph 4(1) is served on more than one person who is in possession of the land, a reference in this section to the person in possession is to all of them acting together.

(5) This paragraph applies instead of section 11B of the Compulsory Purchase Act 1965.” 35

#### 140 Abolition of alternative possession procedure following notice to treat

Schedule 8-12 abolishes the alternative procedure for taking possession of land under section 11(2) of, and Schedule 3 to, the Compulsory Purchase Act 1965.

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**141 Extended notice period for taking possession following vesting declaration**

In section 9 of the Compulsory Purchase (Vesting Declarations) Act 1981 (minor tenancies and tenancies about to expire), in subsection (2), for “14 days” substitute “3 months”.

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*Compensation***142 Making a claim for compensation**

- (1) After section 4 of the Land Compensation Act 1961 (costs) insert – 10

**“4A Making a claim for compensation**

- (1) The Secretary of State may by regulations impose further requirements about the notice mentioned in section 4(1)(b).

- (2) Regulations under subsection (1) may make provision about – 15

- (a) the form and content of the notice, and  
(b) the time at which the notice must be given.

- (3) Regulations under subsection (1) may permit or require a person specified in the regulations to design the form of the notice.

- (4) Regulations under subsection (1) may require an acquiring authority to supply, at specified stages of the compulsory acquisition process, copies of a form to be used in giving the notice. 20

- (5) Regulations under subsection (1) are to be made by statutory instrument. 25

- (6) A statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.”

- (2) In section 5 of the Compulsory Purchase Act 1965 (notice to treat and untraced owners), after subsection (2) insert – 30

“(2ZA) For provision about notice of claims for compensation, see sections 4 and 4A of the Land Compensation Act 1961.”

**143 Making a request for advance payment of compensation**

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- (1) The Land Compensation Act 1973 is amended as follows.

- (2) In section 52 (right to advance payment of compensation), for subsection (2) substitute –

“(2) A request for advance payment must be made in writing by the person entitled to it (“the claimant”) and must include – 40

- (a) details of the claimant’s interest in the land, and  
(b) information to enable the acquiring authority to estimate the amount of the compensation in respect of which the advance payment is to be made.

- (2A) Within 28 days of receiving a request, the acquiring authority must – 45

- (a) determine whether they have enough information to estimate the amount of compensation, and

- (b) if they need more information, require the claimant to provide it.”
- (3) After section 52ZC (right to advance payment of compensation) insert –
- “52ZD Making a request for advance payment** 5
- (1) The Secretary of State may by regulations impose requirements about the form and content of a request under section 52(2), 52ZA(3) or 52ZB(3).
- (2) Regulations under subsection (1) may permit or require a person specified in the regulations to design a form to be used in making a request. 10
- (3) Regulations under subsection (1) may require an acquiring authority to supply, at specified stages of the compulsory acquisition process, copies of a form to be used in making a request.
- (4) Regulations under subsection (1) are to be made by statutory instrument. 15
- (5) A statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.”
- 144 Power to make and timing of advance payment** 20
- (1) The Land Compensation Act 1973 is amended as follows.
- (2) In section 52 (right to advance payment of compensation) –
- (a) for subsections (1) to (1B) substitute – 25
- “(1) An acquiring authority may make an advance payment on account of compensation payable by them for the compulsory acquisition of an interest in land if a request has been made under subsection (2) after the compulsory acquisition has been authorised.
- (1A) An acquiring authority must make an advance payment under subsection (1) if the authority have – 30
- (a) given notice to treat in respect of the land to which the request relates (unless the authority have withdrawn the notice), or
- (b) ~~made~~executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in respect of that land.”; 35
- (b) for subsection (4) substitute –
- “(4) Where subsection (1A) applies, the acquiring authority must within the period described in subsection (4ZA) –
- (a) estimate the amount of the compensation (if not agreed), and
- (b) make the advance payment. 40
- (4ZA) The period mentioned in subsection (4) is the period of two months beginning with the latest of the following –
- (a) the day on which the authority receive the request,

- (b) the day on which the authority receive the information required under subsection (2A)(b),
- (c) the day on which the authority give notice to treat to the claimant, or
- (d) where no actual notice to treat is given, the day on which the authority ~~make execute~~ a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981.”; 5
- (c) omit subsection (11).
- (3) In section 52ZA (advance payments: land subject to mortgage for up to 90% of value), for subsection (1) substitute –
- “(1) This section applies if –
- (a) a request is made for an advance payment under section 52(1) in respect of land, 10
- (b) the authority is required by section 52(1A) to make the advance payment, and
- (c) the land is subject to a mortgage the principal of which does not exceed 90% of the relevant amount.” 15
- (4) In section 52ZB (advance payments: land subject to mortgage for more than 90% of value) –
- (a) for subsection (1) substitute –
- “(1) This section applies if –
- (a) a request is made for an advance payment under section 52(1) in respect of land, 20
- (b) the authority would be required by section 52(1A) to make the advance payment if it were not for this section, and
- (c) the land is subject to a mortgage the principal of which exceeds 90% of the relevant amount.”;
- (b) in subsection (9)(c) for “section 52ZA(1)(b)” substitute “section 52ZA(1)(c)”. 25
- (5) In section 52ZC (land subject to mortgage: supplementary provisions) –
- (a) after subsection (3) insert –
- “(3A) The acquiring authority must make any payment under section 52ZA or 52ZB within the period of two months beginning with the latest of the following –
- (a) the day on which the authority receive the request under section 52ZA(3) or 52ZB(3),
- (b) if, within two months beginning with the day the authority receive that request the authority require the claimant to provide further information under subsection (2), the day on which the authority receive that information, or 35
- (c) the day on which the amount of compensation is agreed or estimated as mentioned in section 52(3).”;
- (b) in subsection (4) omit “(4) and”.



## 145 Interest on advance payments of compensation

- (1) The Land Compensation Act 1973 is amended as follows.
- (2) In section 52A (right to interest where advance payment made) –
  - (a) in subsection (2), after the words “payment under section 52(1)” insert “after the date of entry”; 5
  - (b) after subsection (2A) insert –

“(2B) In respect of any period in relation to which the acquiring authority is required to pay interest under section 52B (interest on advance payment), the interest payable under subsection (2) is limited to the interest which accrues on the difference between the total amount and the paid amount.” 10
- (3) After section 52A insert –

### “52B Interest on advance payments of compensation paid late

- (1) If the acquiring authority are required by section 52(1A) to make an advance payment of compensation but pay some or all of it late, the authority must pay interest on the amount which is paid late (“the unpaid amount”). 15
- (2) Interest under subsection (1) accrues on the unpaid amount for the period beginning with the day after the end of the period mentioned in section 52(4).
- (3) If the amount of the advance payment is greater than the compensation as finally determined or agreed (“the actual amount”), the claimant must repay any interest paid under this section that is attributable to the amount by which the advance payment exceeded the actual amount. 20
- (4) The Treasury must by regulations specify the rate of interest for the purposes of subsection (1). 25
- (5) Regulations under subsection (4) may contain further provision in connection with the payment of interest under subsection (1).
- (6) Regulations under subsection (4) are to be made by statutory instrument. 30
- (7) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.”

## 146 Repayment of advance payment where no compulsory purchase

- (1) The Land Compensation Act 1973 is amended as follows.
- (2) In section 52 (right to advance payment of compensation), after subsection (5) insert –

“(5A) If the acquiring authority do not take possession of land in respect of which they have made an advance payment under this section, the claimant must repay it.” 40
- (3) In section 52ZC (land subject to mortgage: supplementary provisions), after

subsection (8) insert –

- “(8A) If the acquiring authority do not take possession of land in respect of which they have made a payment to a mortgagee under section 52ZA or 52ZB –
- (a) the mortgagee must repay it, and
  - (b) an amount repaid is to be treated for all purposes (including for the purposes of subsection (7)(a)) as if it had never been paid.”

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### *Disputes*

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#### **147 Objection to division of land**

- (1) Schedule ~~9-13~~ 13 contains amendments about objecting to the division of land following a notice to treat under section 5 of the Compulsory Purchase Act 1965.
- (2) Schedule ~~10-14~~ 14 contains amendments about objecting to the division of land following a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981.

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#### **148 Power to quash decision to confirm compulsory purchase order**

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In section 24 of the Acquisition of Land Act 1981 (powers of the court), after subsection (2) insert –

- “(3) If the court has power under subsection (2) to quash a compulsory purchase order it may instead quash the decision to confirm the order either generally or in so far as it affects any property of the applicant.”

#### **149 Extension of compulsory purchase time limit during challenge**

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- (1) After section 4 of the Compulsory Purchase Act 1965 (time limit for giving notice to treat) insert –

##### **“4A Extension of time limit during challenge**

- (1) If an application is made under section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4 is to be extended by –
  - (a) a period equivalent to the period beginning with the day the application is made and ending on the day it is withdrawn or finally determined, or
  - (b) if shorter, one year.
- (2) An application is not finally determined for the purposes of subsection (1)(a) if an appeal in respect of the application –
  - (a) could be brought (ignoring any possibility of an appeal out of time with permission), or
  - (b) has been made and not withdrawn or finally determined.”

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- (2) After section 5A of the Compulsory Purchase (Vesting Declarations) Act 1981

(time limit for general vesting declaration) insert –

**“5B Extension of time limit during challenge**

- (1) If an application is made under section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A is to be extended by – 5
- (a) a period equivalent to the period beginning with the day the application is made and ending on the day it is withdrawn or finally determined, or 10
  - (b) if shorter, one year.
- (2) An application is not finally determined for the purposes of subsection (1)(a) if an appeal in respect of the application – 15
- (a) could be brought (ignoring any possibility of an appeal out of time with permission), or
  - (b) has been made and not withdrawn or finally determined.”

*Power to override easements and other rights*

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**150 Power to override easements and other rights**

- (1) A person may carry out building or maintenance work to which this subsection applies even if it involves – 25
- (a) interfering with a relevant right or interest, or
  - (b) breaching a restriction as to the user of land arising by virtue of a contract.
- (2) Subsection ~~(1)~~(1) applies to building or maintenance work where – 30
- (a) there is planning consent for the building or maintenance work,
  - (b) the work is carried out on land that has at any time on or after the day on which this section comes into force – 35
    - (i) ~~the work is carried out on land that has at any time on or after the day on which this section comes into force~~ become vested in or acquired by a specified authority, ~~and~~or
    - (ii) been appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990, and
  - (c) the authority could acquire the land compulsorily for the purposes of the building or maintenance work. 40
- (3) Subsection (1) also applies to building or maintenance work where – 45
- (a) there is planning consent for the building or maintenance work,
  - (b) the work is carried out on other qualifying land, and
  - (c) ~~the~~a specified authority could acquire the land compulsorily for the purposes of the building or maintenance work.
- (4) A person may use land in a case to which this subsection applies even if the use involves – 50
- (a) interfering with a relevant right or interest, or
  - (b) breaching a restriction as to the user of land arising by virtue of a contract.

- (5) Subsection ~~(3)~~(4) applies to the use of land in a case where –
- (a) there is planning consent for that use of the land,
  - (b) the land has at any time on or after the day on which this section comes into force –
    - (i) ~~the land has at any time on or after the day on which this section comes into force~~ become vested in or acquired by a specified authority, ~~and/or~~
    - (ii) been appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990, and
  - (c) the authority could acquire the land compulsorily for the purposes of erecting or constructing any ~~building~~ building, or carrying out any works, for that use.
- (6) Subsection (3) also applies to the use of land in a case where –
- (a) there is planning consent for that use of the land,
  - (b) the land is other qualifying land, and
  - (c) a specified authority could acquire the land compulsorily for the purposes of erecting or constructing any building, or carrying out any works, for that use.
- (7) Land currently owned by a specified authority is to be treated for the purposes of subsection ~~(2)(e)~~(2)(c) or ~~(4)(e)~~(5)(c) as if it were not currently owned by the authority.
- (8) Nothing in this section authorises an interference with –
- (a) a right of way on, under or over land that is a protected right, or
  - (b) a right of laying down, erecting, continuing or maintaining apparatus on, under or over land if it is a protected right.
- (9) ~~In this section –~~
- 151 Compensation for overridden easements etc**
- (1) A person is liable to pay compensation for any interference with a relevant right or interest or breach of a restriction that is authorised by section 147.
  - (2) The compensation is to be calculated on the same basis as compensation payable under sections 7 and 10 of the Compulsory Purchase Act 1965.
  - (3) Where a person other than a specified authority is liable to pay compensation under this section but has not paid –
    - (a) the liability is enforceable against the specified authority, but
    - (b) the authority may recover from that person any amount it pays out.
  - (4) A person who is entitled to compensation under this section may apply to the Upper Tribunal for an order requiring the compensation to be paid.
- 152 Interpretation of sections 147 and 148**
- (1) In sections 147 and 148 –

“building or maintenance work” means the erection, construction, carrying out or maintenance of any building or work;

~~“local authority” has the meaning given by section 7 of the Acquisition of Land Act 1981;~~

“other qualifying land” means land in England and Wales that has at any time before the day on which this section comes into force been –

- (a) acquired by the National Assembly for Wales or the Welsh Ministers under section 21A of the Welsh Development Agency Act 1975;
- (b) vested in or acquired by an urban development corporation or a local highway authority for the purposes of Part 16 of the Local Government, Planning and Land Act 1980; 5
- (c) acquired by a development corporation or a local highway authority for the purposes of the New Towns Act 1981;
- (d) vested in or acquired by a housing action trust for the purposes of Part 3 of the Housing Act 1988;
- (e) acquired or appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990; 10
- (f) vested in or acquired by the Homes and Communities Agency, apart from land the freehold interest in which was disposed of by the Agency before 12 April 2015;
- (g) vested in or acquired by the Greater London Authority for the purposes of housing or regeneration, apart from land the freehold interest in which was disposed of before 12 April 2015 – 15
  - (i) by the Authority, other than to a company or body through which it exercises functions in relation to housing or regeneration, or
  - (ii) by such a company or body; 20
- (h) vested in or acquired by a Mayoral development corporation (established under section 198(2) of the Localism Act 2011), apart from land the freehold interest in which was disposed of by the corporation before 12 April 2015;

“planning consent” means –

- (a) permission under Part 3 of the Town and Country Planning Act 1990 or section 293A of that Act, or
- (b) development consent under the Planning Act 2008;

“protected right” means –

- (a) a right vested in, or belonging to, a statutory undertaker for the purpose of carrying on its statutory undertaking, or
- (b) a right conferred by, or in accordance with, the electronic communications code on the operator of an electronic communications code network (and expressions used in this paragraph have the meaning given by paragraph 1(1) of Schedule 17 to the Communications Act 2003);

“relevant right or interest” means any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land (including any natural right to support);

“specified authority” means –

- (a) a Minister of the Crown or the Welsh Ministers or a government department,
- (b) ~~a local authority,~~
- (c) a local authority as defined by section 7 of the Acquisition of Land Act 1981,

(d) a body established by or under an Act, or

(e) a statutory undertaker;

“statutory undertaker” means –

(a) a person who is, or who is deemed to be, a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990, or

(b) a person in relation to whom the electronic communications code is applied by a direction under section 106(3)(a) of the Communications Act 2003;

“statutory undertaking” is to be read in accordance with section 262 of that Act (meaning of “statutory undertakers”).

- (2) The Secretary of State may by regulations amend the definition of “specified authority” in subsection ~~(7)~~(1).

### 153 ~~Compensation for overridden easements etc~~

- (1) ~~A person is liable to pay compensation for any interference with a relevant right or interest or breach of a restriction that is authorised by section 137.~~
- (2) ~~The compensation is to be calculated on the same basis as compensation payable under sections 7 and 10 of the Compulsory Purchase Act 1965.~~
- (3) ~~Where a person other than a specified authority is liable to pay compensation under this section but has not paid –~~
- (a) ~~the liability is enforceable against the specified authority, but~~
- (b) ~~the authority may recover from that person any amount it pays out.~~
- (4) ~~A person who is entitled to compensation under this section may apply to the Upper Tribunal for an order requiring the compensation to be paid.~~
- (5) ~~Expressions used in this section have the same meaning as in section 137.~~

### 154 Amendments to do with sections ~~137-147~~ and ~~138-148~~

Schedule ~~11-15~~ gets rid of legislation replaced by ~~sections~~ sections ~~137-147~~ and ~~138-148~~.

## PART 8

### GENERAL

#### 155 Power to make transitional provision

The Secretary of State may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.

#### 156 Power to make consequential provision

- (1) The Secretary of State may by regulations make provision that is consequential on any provision made by this Act.
- (2) Regulations under this section may amend, repeal or revoke any provision made by or under an Act passed or made before this Act or in the same Session.

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**157 Regulations: general**

- (1) Regulations under this Act are to be made by statutory instrument.
- (2) A statutory instrument containing (whether alone or with other provision) –
  - (a) regulations under section 2, 3 or 4,
  - (b) regulations under section ~~73~~78,
  - (c) regulations under section ~~78-83~~ that amend or repeal a provision of an Act,
  - (d) regulations under section ~~137~~147,
  - (e) regulations under section ~~141-152~~ that amend or repeal a provision of an Act, or
  - (f) regulations under paragraph 8 of Schedule ~~7-11~~ that amend or repeal a provision of an Act,may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to a statutory instrument that only contains regulations under section ~~140-151~~ or ~~144~~155.
- (5) Regulations under this Act may make –
  - (a) consequential, supplementary, incidental, transitional or saving provision;
  - (b) different provision for different purposes.

**158 Extent**

- (1) An amendment or repeal made by this Act has the same extent as the provision amended or repealed.
- (2) This Part extends to –
  - (a) England and Wales,
  - (b) Scotland, and
  - (c) Northern Ireland.
- (3) Subject to that, this Act extends to England and Wales only.

**159 Commencement**

- (1) The following come into force on the day on which this Act is passed –
  - (a) this Part;
  - (b) sections ~~90-97~~ and ~~91-98~~ and Schedule ~~57~~;
  - (c) sections ~~92~~100, ~~93~~101, ~~101-110~~ and ~~104~~113(1);
  - (d) sections ~~108-117~~ to ~~110~~119.
- (2) The following come into force at the end of the period of two months beginning with the day on which this Act is passed –
  - (a) sections ~~62-67~~ to ~~72~~77;
  - (b) section ~~84~~91;
  - (c) sections ~~102~~111(1) to (3), ~~103-112~~ and ~~105~~114.

- 
- (3) The other provisions of this Act come into force on such day as the Secretary of State may by regulations appoint.
- (4) Different days may be appointed for different purposes.

**160 Short title**

This Act may be cited as the Housing and Planning Act 2015.



## SCHEDULES

## SCHEDULE 1

Section ~~17~~<sup>21</sup>

## FINANCIAL PENALTY FOR BREACH OF BANNING ORDER

*Notice of intent*

- 1 Before imposing a financial penalty on a person ~~for breaching a banning order under section 21~~ a local housing authority must give the person notice of its proposal to do so (a “notice of intent”). 5
- 2 (1) The notice of intent must be given before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the ~~person’s breach of conduct to which the banning order~~ financial penalty relates. 10
- (2) But if the person is continuing to engage in breach of the banning order conduct on that day, and the ~~breach conduct~~ continues beyond the end of that day, the notice of intent may be given –
- (a) at any time when the breach conduct is continuing, or 15
- (b) within the period of 6 months beginning with the last day on which the breach conduct occurs.
- 3 The notice of intent must set out –
- (a) the amount of the proposed financial penalty,
- (b) the reasons for proposing to impose the financial penalty, and 20
- (c) information about the right to make representations under paragraph 4.

*Right to make representations*

- 4 (1) A person who is given a notice of intent may make written representations to the local housing authority about the proposal to impose a financial penalty. 25
- (2) Any representations must be made within the period of 28 days beginning with the day after that on which the notice was given (“the period for representations”).

*Final notice*

- 5 After the end of the period for representations the local housing authority must – 30
- (a) decide whether to impose a financial penalty on the person, and
- (b) if it decides to impose a financial penalty, decide the amount of the penalty.

- 
- |   |  |    |
|---|--|----|
| 6 | If the authority decides to impose a financial penalty on the person, it must give the person a notice (a “final notice”) imposing that penalty.   |    |
| 7 | The final notice must require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given. |    |
| 8 | The final notice must set out –  | 5  |
|   | (a) the amount of the financial penalty,   |    |
|   | (b) the reasons for imposing the penalty,  |    |
|   | (c) information about how to pay the penalty,  |    |
|   | (d) the period for payment of the penalty,   |    |
|   | (e) information about rights of appeal, and  | 10 |
|   | (f) the consequences of failure to comply with the notice.   |    |

*Withdrawal or amendment of notice*

- |   |   |    |
|---|---|----|
| 9 | (1) A local housing authority may at any time –   |    |
|   | (a) withdraw a notice of intent or final notice, or   |    |
|   | (b) reduce the amount specified in a notice of intent or final notice.  | 15 |
|   | (2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the person to whom the notice was given. |    |

*Appeals*

- |    |   |    |
|----|---|----|
| 10 | (1) A person to whom a final notice is given may appeal to the First-tier Tribunal against –  | 20 |
|    | (a) the decision to impose the penalty, or  |    |
|    | (b) the amount of the penalty.  |    |
|    | (2) An appeal under this paragraph must be brought within the period of 28 days beginning with the day after that on which the final notice was sent.                   |    |
|    | (3) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.  | 25 |
|    | (4) On an appeal under this paragraph the First-tier Tribunal may confirm, vary or cancel the final notice.   |    |
|    | (5) The final notice may not be varied under sub-paragraph (4) so as to make it impose a financial penalty of more than the local housing authority could have imposed. | 30 |

*Recovery of financial penalty*

- |    |  |    |
|----|--|----|
| 11 | (1) This paragraph applies if a person fails to pay the whole or any part of a financial penalty which, in accordance with this Schedule, the person is liable to pay.                   | 35 |
|    | (2) The local housing authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court. |    |
|    | (3) In proceedings before the county court for the recovery of a financial penalty or part of a financial penalty, a certificate which is –  | 40 |

- (a) signed by the chief finance officer of the local housing authority which imposed the penalty, and
- (b) states that the amount due has not been received by a date specified in the certificate,
- is conclusive evidence of that fact. 5
- (4) A certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
- (5) In this paragraph “chief finance officer” has the same meaning as in section 5 of the Local Government and Housing Act 1989.

## SCHEDULE 2

Section ~~19~~<sup>23</sup> 10

### BANNED PERSON MAY NOT HOLD HMO LICENCE ETC

- 1 The Housing Act 2004 is amended as follows.
- 2 In section 64 (grant or refusal of HMO licence), in subsection (3), after paragraph (a) insert –
- “(aa) that no banning order under section 15 of the Housing and Planning Act 2015 is in force against a person who – 15
- (i) owns an estate or interest in the house or part of it, and
- (ii) is a lessor or licensor of the house or part;”.
- 3 In section 66 (HMO licence: tests for fitness etc), after subsection (3) insert – 20
- “(3C) A person is not a fit and proper person for the purposes of section 64(3)(b) or (d) if a banning order under section 15 of the Housing and Planning Act 2015 is in force against the person.”
- 4 In section 68 (licences: general requirements and duration), in subsection (3)(b), after “section 70” insert “or 70A”. 25
- 5 For the heading of section 70 substitute “Power to revoke licences”.
- 6 After section 70 insert –
- “70A Duty to revoke licence in banning order cases**
- (1) The local housing authority must revoke a licence if a banning order is made against the licence holder. 30
- (2) The local housing authority must revoke a licence if a banning order is made against a person who –
- (a) owns an estate or interest in the house or part of it, and
- (b) is a lessor or licensor of the house or part.
- (3) The notice served by the local housing authority under paragraph 24 of Schedule 5 must specify when the revocation takes effect. 35
- (4) The revocation must not take effect earlier than the end of the period of 7 days beginning with the day on which the notice is served.
- (5) In this section “banning order” means a banning order under section 15 of the Housing and Planning Act 2015.” 40

- 7 In section 88 (grant or refusal of Part 3 licence), in subsection (3), after paragraph (a) insert—  
“(aa) that no banning order under section 15 of the Housing and Planning Act 2015 is in force against a person who—  
(i) owns an estate or interest in the house or part of it, and  
(ii) is a lessor or licensor of the house or part;”.
- 8 In section 89 (Part 3 licences: tests for fitness etc), after subsection (3) insert—  
“(3C) A person is not a fit and proper person for the purposes of section 88(3)(a) or (c) if a banning order under section 15 of the Housing and Planning Act 2015 is in force against the person.”
- 9 In section 91 (licences: general requirements and duration), in subsection (3)(b), after “section 93” insert “or 93A”.
- 10 For the heading of section 93 substitute “Power to revoke licences”.
- 11 After section 93 insert—
- “93A Duty to revoke licence in banning order cases**
- (1) The local housing authority must revoke a licence if a banning order is made against the licence holder.
- (2) The local housing authority must revoke a licence if a banning order is made against a person who—  
(a) owns an estate or interest in the house or part of it, and  
(b) is a lessor or licensor of the house or part.
- (3) The notice served by the local housing authority under paragraph 24 of Schedule 5 must specify when the revocation takes effect.
- (4) The revocation must not take effect earlier than the end of the period of 7 days beginning with the day on which the notice is served.
- (5) In this section “banning order” means a banning order under section 15 of the Housing and Planning Act 2015.”
- 12 (1) Schedule 5 (licences under Parts 2 and 3: procedure and appeals) is amended as follows.
- (2) After paragraph 11 insert—  
“11A The requirements of paragraph 5 do not apply where the refusal to grant the licence was because of section 66(~~3A~~3C) or 89(~~3A~~3C) (person with banning order not a fit and proper person).”
- (3) After paragraph 25 insert—  
“25A The requirements of paragraph 22 do not apply if the revocation is required by section 70A or 93A (duty to revoke licence in banning order cases).”

## (4) After paragraph 32 insert –

*“No rights of appeal where banning order involved*

32A (1) The right of appeal under paragraph 31(1)(a) does not apply where a licence is refused because of section 66(3A) or 89(3A) (person with banning order not a fit and proper person). 5

(2) The right of appeal under paragraph 32(1)(a) does not apply in relation to the revocation of a licence required by section 70A or 93A (duty to revoke licence in banning order cases).”

## SCHEDULE 3

Section ~~20~~24

## MANAGEMENT ORDERS FOLLOWING BANNING ORDER

10

1 The Housing Act 2004 is amended as follows.

2 (1) Section 101 (interim and final management orders) is amended as follows.

(2) In subsection (1), at the end insert “or property let in breach of a banning order under section 15 of the Housing and Planning Act 2015”.

(3) In subsection (3)(b), omit “the grant of a licence under Part 2 or 3 in respect of the house or”. 15

(4) In subsection (5), after “section 102(7)” insert “or (7A)”.

(5) After subsection (6) insert –

“(6A) In this Chapter any reference to “the house”, in relation to an interim or final management order that relates to property let in breach of a banning order under section 15 of the Housing and Planning Act 2015, means the property let in breach of that order. 20

(6B) In this Chapter any reference to property that is let in breach of a banning order under section 15 of the Housing and Planning Act 2015 includes property in respect of which a breach is (or would be) caused by a licence to occupy. 25

(6C) When determining for the purposes of this Chapter whether property is let in breach of a banning order disregard any exception included in the banning order in reliance on section 16 of the Housing and Planning Act 2015.” 30

3 (1) Section 102 (making of interim management orders) is amended as follows.

(2) In subsection (1)(b), for “or (7)” substitute “, (7) or (7A)”.

(3) After subsection (7) insert –

“(7A) The authority may make an interim management order in respect of any property let in breach of a banning order under section 15 of the Housing and Planning Act 2015. 35

(4) In subsection (9), after “the making of an interim management order” insert “under subsection (2), (3), (4) or (7)”.

- 
- 4 (1) Section 105 (operation of interim management orders) is amended as follows.
- (2) After subsection (7) insert –
- “(7A) An order under section 102(7A) ceases to have effect (if it has not already ceased to have effect) when the ban on letting housing in England ceases to have effect. 5
- (7B) In subsection (7A) “the ban on letting housing in England” means the ban on letting contained in the banning order mentioned in section 102(7A).”
- (3) In subsection (8), for “and” substitute “to”. 10
- (4) After subsection (9) insert –
- “(9A) If –
- (a) the IMO was made under section 102(7A), and
- (b) the date on which the FMO or another interim management order comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the IMO would cease to have effect apart from this subsection, 15
- the IMO continues in force until that later date.”
- 5 (1) Section 110 (financial arrangements while order is in force) is amended as follows. 20
- (2) In subsection (4), at the beginning insert “If the interim management order is not made under section 102(7A),”.
- (3) After subsection (5) insert –
- “(5A) The Secretary of State may by regulations make provision about how local authorities are to deal with any surplus in a case where the interim management order was made under section 102(7A). 25
- (5B) In subsection (5A) “surplus” means any amount of rent or other payments collected or recovered as mentioned in subsection (3) that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in that subsection.” 30
- 6 In section 112 (revocation of interim management orders), after subsection (2) insert –
- “(2A) An interim management order may not be revoked under this section if – 35
- (a) the immediate landlord is subject to a banning order under section 15 of the Housing and Planning Act 2015,
- (b) there is in force an agreement which, under section 108, has effect as a lease or licence granted by the authority, and
- (c) revoking the interim management order would cause the immediate landlord to breach the banning order because of the effect of section 130(2)(b).” 40
- 7 (1) Section 113 (making of final management orders) is amended as follows.

- (2) In subsection (1), for “section 102” substitute “any provision of section 102 other than subsection (7A) of that section”.
- (3) After subsection (3) insert –
- “(3A) A local housing authority who have made an interim management order under section 102(7A) may make a final management order so as to replace the interim management order as from its expiry date if the authority consider that making the final management order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.”
- (4) In subsection (4), after “under” insert “subsection (2), (3), (5) or (6) of”.
- (5) After subsection (6) insert –
- “(6A) A local housing authority who have made a final management order in respect of a house under subsection (3A) or this subsection (“the existing order”) may make a new final management order so as to replace the existing order as from its expiry date if the authority consider that making the new order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.”
- 8 (1) ~~In section 114 (operation of final management orders), after subsection (4) insert –~~ Section 114 (operation of final management orders) is amended as follows.
- (2) After subsection (4) insert –
- “(4A) An order under section 113(3A) or (6A) ceases to have effect (if it has not already ceased to have effect) when the relevant ban on letting housing in England ceases to have effect.
- (4B) In subsection (4A) “the relevant ban on letting housing in England” means the ban on letting contained in the banning order mentioned in section 102(7A).”
- (3) In subsection (5), for “and” substitute “to”.
- (4) After subsection (6) insert –
- “(6A) If –
- (a) the existing order was made under section 113(3A) or (6A), and
- (b) the date on which the new order comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the existing order would cease to have effect apart from this subsection,
- the existing order continues in force until that later date.
- 9 In section 119 (management schemes and accounts), after subsection (4) insert –
- “(4A) Subsection (4)(f) and (g) does not apply in a case where the final management order was made under section 113(3A) or (6A).

- (4B) The Secretary of State may by regulations make provision about how local authorities are to deal with any surplus in a case where the final management order was made under section 113(3A) or (6A).
- (4C) In subsection (4B) “surplus” means any amount of rent or other payments that the authority have collected or recovered, by virtue of this Chapter, that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in subsection (2)(d).” 5
- 10 In section 122 (revocation of final management orders), after subsection (2) insert – 10
- “(2A) A final management order may not be revoked under this section at a time when –
- (a) the immediate landlord is subject to a banning order under section 15 of the Housing and Planning Act 2015,
  - (b) there is in force an agreement which, under section 117, has effect as a lease or licence granted by the authority, and 15
  - (c) revoking the final management order would cause the immediate landlord to breach the banning order because of the effect of section 130(2)(b).”
- 11 In section 129 (termination of management orders: financial arrangements), in subsection (2), after “order” insert “that is not made under section 102(7A)”. 20
- 12 (1) Schedule 6 (management orders: procedure and appeals) is amended as follows.
- (2) In paragraph 7(4)(c), for “section 105(4) and (5) or 114(3) and (4)” substitute “section 105(4), (5) or (7A) or 114(3), (4) or (4A)”. 25
- (3) In paragraph 26, after sub-paragraph (4) insert –
- “(4A) An interim management order may not be revoked under this paragraph if –
- (a) the immediate landlord is subject to a banning order under section 15 of the Housing and Planning Act 2015, 30
  - (b) there is in force an agreement which, under section 108, has effect as a lease or licence granted by the authority, and
  - (c) revoking the interim management order specified in the order would cause the immediate landlord to breach the banning order because of the effect of section 130(2)(b). 35
- (4B) In a case where sub-paragraph (4A) would otherwise prevent the tribunal from revoking the order with effect from a particular date, the tribunal may require the local housing authority to exercise any power it has to bring an agreement mentioned in that sub-paragraph to an end.” 40
- (4) In paragraph 30, after sub-paragraph (5) insert –
- “(5) In a case where subsection (2A) of section 112 or 122 would otherwise prevent the tribunal from revoking the order with effect from a particular date, the tribunal may require the local housing authority to exercise any power it has to bring an agreement mentioned in that subsection to an end.” 45



## SCHEDULE 4

Section 89

SECURE TENANCIES ETC: PHASING OUT OF TENANCIES FOR LIFELaw of Property Act 1925 (c. 20)

- 1 (1) Section 52 of the Law of Property Act 1925 (conveyances to be by deed, unless excepted by subsection (2) of that section) is amended as follows. 5
- (2) In subsection (2), after paragraph (db) insert –
- “(dc) secure tenancies of dwellings in England granted on or after the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 comes fully into force, other than old-style secure tenancies;”.
- (3) In subsection (3) –
- (a) in the definition of “flexible tenancy”, for “107A” substitute “115B”;
- (b) at the appropriate place insert –
- ““secure tenancy” has the meaning given by section 79 of the Housing Act 1985 and “old style-secure tenancy” has the meaning given by section 115C of that Act;”.

Housing Act 1985 (c. 68)

- 2 The Housing Act 1985 is amended as follows.
- 3 For the italic heading before section 79 substitute – 20
- “Secure tenancies”
- 4 After section 81 insert –

“Grant of new secure tenancies in England**81A New English secure tenancies to be between 2 and 5 years in general**

- (1) A person may grant a secure tenancy of a dwelling-house in England only if it is a tenancy for a fixed term that is – 25
- (a) at least 2 years, and
- (b) no more than 5 years.
- (2) If a person purports to grant a secure tenancy in breach of subsection (1), it takes effect as a tenancy for a fixed term of 5 years. 30
- (3) This section does not apply to the grant of an old-style secure tenancy (as to which, see section 81B).

**81B Cases where old-style English secure tenancies may be granted**

- (1) A person may grant an old style-secure tenancy of a dwelling-house in England only – 35
- (a) in circumstances specified in regulations made by the Secretary of State, or
- (b) in accordance with subsection (2).

- (2) A local housing authority that grants a secure tenancy of a dwelling-house in England must grant an old-style secure tenancy if –
    - (a) the tenancy is offered as a replacement for an old-style secure tenancy of some other dwelling-house, and
    - (b) the tenant has not made an application to move.5
  - (3) Other provisions of this Part set out the consequences of a tenancy being an old-style secure tenancy.
  - (4) Regulations under subsection (1) may include transitional or saving provision.
  - (5) Regulations under subsection (1) are to be made by statutory instrument. 10
  - (6) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- 81C Duty to offer new secure tenancy in limited circumstances** 15
- (1) This section applies where a change in circumstances means that a tenancy that is not a secure tenancy would become a secure tenancy but for the exception in paragraph 1ZA of Schedule 1.
  - (2) The landlord must, within the period of 28 days, make the tenant a written offer of a secure tenancy in return for the tenant surrendering the original tenancy. 20
  - (3) If the tenant accepts in writing within the period of 28 days beginning with the day on which the tenant receives the offer, the landlord must grant the secure tenancy on the tenant surrendering the original tenancy. 25
- 81D Review of decisions about length of secure tenancies in England**
- (1) A person who is offered a secure tenancy of a dwelling-house in England (under section 81C or otherwise) may request a review under this section, unless the tenancy on offer is an old-style secure tenancy. 30
  - (2) The sole purpose of a review under this section is to consider whether the length of the tenancy is in accordance with any policy that the prospective landlord has about the length of secure tenancies it grants.
  - (3) The request must be made before the end of – 35
    - (a) the period of 21 days beginning with the day on which the person making the request first receives the offer, or
    - (b) such longer period as the prospective landlord may allow in writing.
  - (4) On receiving the request the prospective landlord must carry out the review. 40
  - (5) On completing the review the prospective landlord must –
    - (a) notify the tenant in writing of the outcome,
    - (b) revise its offer or confirm its original decision about the length of the tenancy, and45

- (c) if it decides to confirm its original decision, give reasons.
- (6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section.
- (7) The regulations may, in particular – 5
- (a) require the review to be carried out by a person of appropriate seniority who was not involved in the original decision;
- (b) make provision as to the circumstances in which the person who requested the review is entitled to an oral hearing, and whether and by whom that person may be represented. 10
- (8) Regulations under this section may include transitional or saving provision.
- (9) Regulations under this section are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.” 15
- 5 In section 82 (security of tenure), in subsection (3), for the words from “section 86” to the end substitute “section 86 or 86D shall apply”.
- 6 (1) Section 82A (demoted tenancy) is amended as follows.
- (2) After subsection (4) insert – 20
- “(4A) The court may not make a demotion order in relation to a secure tenancy of a dwelling-house in England if –
- (a) the landlord is a local housing authority or housing action trust, and
- (b) the term has less than 1 year and 9 months left to run 25
- (4B) But subsection (4A) does not apply to a tenancy to which an exception in section 86A(2) or (3) applies.”
- (3) In subsection (5), for paragraph (b) substitute –
- “(b) the period or term of the tenancy (but see subsection (6));”.
- (4) For subsection (6) substitute – 30
- “(6) Subsection (5)(b) does not apply if –
- (a) the secure tenancy was for a fixed term and was an old-style secure tenancy or a flexible tenancy, or
- (b) the secure tenancy was for a fixed term and was a tenancy of a dwelling-house in Wales, 35
- and in such a case the demoted tenancy is a weekly periodic tenancy.”
- 7 After section 82 insert –
- “Orders for possession and expiry of term etc”
- 8 In section 83 (proceedings for possession or termination: general notice 40

- requirements), in subsection (A1), for paragraph (b) substitute –
- “(b) proceedings for possession of a dwelling-house under section 86E (recovery of possession on expiry of certain English secure tenancies).”
- 9 In section 84 (grounds and orders for possession), in subsection (1), for “section 107D (recovery of possession on expiry of flexible tenancy)” substitute “section 86E (recovery of possession on expiry of certain English secure tenancies)”. 5
- 10 (1) Section 86 (periodic tenancy arising on termination of fixed term) is amended as follows. 10
- (2) In subsection (1), after “secure tenancy” insert “to which this section applies”.
- (3) After subsection (1) insert –
- “(1A) This section applies to a secure tenancy of a dwelling-house in Wales.
- (1B) This section also applies to a secure tenancy of a dwelling-house in England that is – 15
- (a) an old-style secure tenancy, or
- (b) a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 comes fully into force. 20
- unless it is a tenancy excluded by subsection (1C).”
- (4) In subsection (2), for “this section” substitute “subsection (1)”.
- 11 After section 86 insert –
- “English secure tenancies: review, renewal and possession” 25
- 86A English tenancies: review to determine what to do at end of fixed term**
- (1) The landlord under a fixed term secure tenancy of a dwelling-house in England must carry out a review to decide what to do at the end of the term, unless one of the following exceptions applies.
- (2) Exception 1 is where the tenancy is an old-style secure tenancy. 30
- (3) Exception 2 is where the tenancy is a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 comes fully into force.
- (4) A review under this section must be carried out while the term has 6 to 9 months left to run. 35
- (5) On a review under this section the landlord must decide which of the following options to take.

Option 1: offer to grant a new secure tenancy of the dwelling-house at the end of the current tenancy. 40

Option 2:	seek possession of the dwelling house at the end of the current tenancy but offer to grant a secure tenancy of another dwelling-house instead.	
Option 3:	seek possession of the dwelling-house at the end of the current tenancy without offering to grant a secure tenancy of another dwelling-house.	5

- (6) The landlord must also –
- (a) offer the tenant advice on buying a home if the landlord considers that to be a realistic option for the tenant, and
  - (b) in appropriate cases, offer the tenant advice on other housing options.

#### **86B Notification of outcome of review under section 86A**

- (1) On completing a review under section 86A the landlord must notify the tenant in writing of the outcome of the review. 15
- (2) The notice must be given by no later than 6 months before the end of the term of the current tenancy.
- (3) The notice must state which of the options mentioned in section 86A the landlord has decided to take. 20
- (4) If the landlord has decided to seek possession of the dwelling-house at the end of the secure tenancy the notice must also –
  - (a) inform the tenant of the right under section 86C to request the landlord to reconsider, and
  - (b) specify the time limit for making a request under that section. 25
- (5) If the notice states that the landlord has decided to offer a new tenancy and the tenant accepts in writing before the end of the current tenancy, the landlord must grant the new tenancy in accordance with the offer.

#### **86C Reconsideration of decision not to grant a tenancy** 30

- (1) Where a tenant is notified that the outcome of a review under section 86A is that the landlord has decided to seek possession of the dwelling-house at the end of the current tenancy, the tenant may request the landlord to reconsider its decision.
- (2) The request must be made before the end of the period of 21 days beginning with the day on which tenant was notified of the decision. 35
- (3) On receiving the request, the landlord must reconsider its decision.
- (4) The landlord must, in particular, consider whether the original decision is in accordance with any policy that the landlord has about the circumstances in which it will grant a further tenancy on the coming to an end of an existing fixed term tenancy. 40
- (5) Once the landlord has reconsidered the decision the landlord must –
  - (a) notify the tenant in writing of the outcome,
  - (b) revise or confirm its original decision, and

- (c) if it decides to confirm its original decision, give reasons.
- (6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with reconsidering a decision for the purposes of this section.
- (7) The regulations may, in particular – 5
  - (a) require the original decision to be reconsidered by a person of appropriate seniority who was not involved in the original decision, and
  - (b) make provision as to the circumstances in which the person who requested the landlord to reconsider the original decision is entitled to an oral hearing, and whether and by whom that person may be represented. 10
- (8) Regulations under this section may include transitional or saving provision.
- (9) Regulations under this section are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament. 15

**86D Fixed term tenancy arising on termination of previous fixed term**

- (1) This section applies to a secure tenancy of a dwelling-house in England other than – 20
  - (a) an old-style secure tenancy, or
  - (b) a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 comes fully into force. 25
- (2) If the tenancy comes to an end by virtue of the term expiring, or by virtue of an order under section 82(3), a new tenancy of the same dwelling-house arises by virtue of this subsection.
- (3) Where the landlord has offered the tenant a new tenancy of the same dwelling-house following a review under section 86A but the tenant has failed to accept, the new tenancy that arises by virtue of subsection (2) is a fixed term tenancy of whatever length the landlord offered. 30
- (4) In any other case, the new tenancy that arises by virtue of subsection (2) is a 5 year fixed term tenancy. 35
- (5) The parties and other terms of a new tenancy that arises by virtue of subsection (2) are the same as those of the tenancy that it replaces, except that the terms –
  - (a) are confined to those which are compatible with a tenancy of the length determined in accordance with subsection (3) or (4), and 40
  - (b) do not include any provision for re-entry or forfeiture.
- (6) A new tenancy does not arise by virtue of subsection (2) if the tenant has been granted another secure tenancy of the same dwelling-house to begin at the same time as the earlier tenancy ends. 45

**86E Recovery of possession of secure tenancies in England**

- (1) The landlord under a secure tenancy of a dwelling-house in England may bring proceedings for possession under this section if –
- (a) the landlord has decided on a review under section 86A to seek possession at the end of the tenancy, and 5
  - (b) the landlord has not subsequently revised the decision under section 86C.
- (2) If the landlord brings proceedings under this section the court must make an order for possession if satisfied that –
- (a) the landlord has complied with all of the requirements of sections 86A to 86C, 10
  - (b) the tenancy that was the subject of the review section 86A has ended,
  - (c) the proceedings were commenced before the end of the period of 3 months beginning with the day on which the tenancy ended, and 15
  - (d) the only fixed term tenancy still in existence is a new secure tenancy arising by virtue of section 86D.
- (3) But the court may refuse to grant an order for possession under this section if the court considers that a decision of the landlord under section 86A or 86C was wrong in law. 20
- (4) Where a court makes an order for possession of a dwelling-house under this section, any fixed term tenancy arising by virtue of section 86D on the coming to an end of the tenancy that was the subject of the review under section 86A comes to an end (without further notice) in accordance with section 82(2). 25
- (5) This section does not limit any right of the landlord under a secure tenancy to recover possession of the dwelling-house let on the tenancy in accordance with other provisions of this Part.

*Termination of English secure tenancies by tenant* 30**86F Termination of English secure tenancies by tenant**

- (1) It is a term of every secure tenancy of a dwelling-house in England, other than an old-style secure tenancy, that the tenant may terminate the tenancy in accordance with the following provisions of this section. 35
- (2) The tenant must serve a notice in writing on the landlord stating that the tenancy will be terminated on the date specified in the notice.
- (3) That date must be after the end of the period of four weeks beginning with the date on which the notice is served.
- (4) The landlord may agree with the tenant to dispense with the requirement in subsection (2) or (3). 40
- (5) The tenancy is terminated on the date specified in the notice or (as the case may be) determined in accordance with arrangements made under subsection (4) only if on that date –
- (a) no arrears of rent are payable under the tenancy, and 45

- (b) the tenant is not otherwise materially in breach of a term of the tenancy.
- 12 (1) Section 97 (tenant’s improvements require consent) is amended as follows.  
(2) In subsection (1), after “secure tenancy” insert “to which this section applies”. 5  
(3) After subsection (1) insert –  
“(1A) This section applies to –  
(a) a secure tenancy of a dwelling-house in Wales, or  
(b) an old-style secure tenancy of a dwelling-house in England.”  
(4) Omit subsection (5). 10
- 13 (1) Section 99A (right to compensation for improvements) is amended as follows.  
(2) In subsection (1)(c), after “secure tenancy” insert “to which this section applies”.  
(3) After subsection (1) insert – 15  
“(1A) This section applies to –  
(a) a secure tenancy of a dwelling-house in Wales, or  
(b) an old-style secure tenancy of a dwelling-house in England.”  
(4) Omit subsection (9).
- 14 Omit sections 107A to 107E (flexible tenancies). 20
- 15 After section 115A insert –  
**“115B Meaning of “flexible tenancy”**  
(1) For the purposes of this Act, a flexible tenancy is a secure tenancy to which any of the following subsections applies.  
(2) This subsection applies to a secure tenancy if – 25  
(a) it was granted by a landlord in England for a fixed term of not less than two years,  
(b) it was granted before the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 came fully into force, and 30  
(c) before it was granted the person who became the landlord under the tenancy served a written notice on the person who became the tenant under the tenancy stating that the tenancy would be a flexible tenancy.  
(3) This subsection applies to a secure tenancy if – 35  
(a) it became a secure tenancy by virtue of a notice under paragraph 4ZA(2) of Schedule 1 (family intervention tenancies becoming secure tenancies),  
(b) the notice was given before the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 came fully into force, 40  
(c) the landlord under the family intervention tenancy in question was a local housing authority in England,





- (a) it was granted on or after the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 came fully into force,
- (b) it was not a secure tenancy or an introductory tenancy at the time it was granted, and 5
- (c) it is a periodic tenancy or a tenancy for a fixed term of less than 2 years or more than 5 years.”
- (3) In paragraph 4ZA, after sub-paragraph (2) insert –
- “(2A) A notice under sub-paragraph (2) that relates to a tenancy of a dwelling-house in England must – 10
- (a) state that the tenancy is to become a secure tenancy for a fixed term of a length specified in the notice, and
- (b) set out the other express terms of the tenancy.
- (2B) The length of the term specified in a notice in accordance with sub-paragraph (2A) must not be less than 2 or more than 5 years. 15
- (2C) Where a notice is given in accordance with sub-paragraph (2A) the length of the secure tenancy, and the other terms, are those set out in the notice.
- (2D) Sub-paragraphs (2A) to (2C) do not apply to notices given before the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 comes fully into force.” 20

Housing Act 1996 (c. 52)

- 18 The Housing Act 1996 is amended as follows.
- 19 (1) Section 124 (introductory tenancies) is amended as follows.
- (2) After subsection (1) insert – 25
- “(1A) When such an election is in force, every fixed term tenancy of a dwelling-house in England entered into or adopted by the authority or trust shall, if it would otherwise be a secure tenancy, be an introductory tenancy, unless section 124A(4) applies or immediately before the tenancy was entered into or adopted the tenant or, in the case of joint tenants, one or more of them was – 30
- (a) a secure tenant of the same or another dwelling-house, or
- (b) a tenant under a relevant assured tenancy, other than an assured shorthold tenancy, of the same or another dwelling-house.” 35
- (3) In subsection (2), in the words before paragraph (a), after “dwelling-house” insert “in Wales”.
- (4) In subsection (2A), for “subsection (2)(b)” substitute “subsections (1A)(b) and (2)(b)”.
- (5) In subsection (3), for “subsection (2)” substitute “subsections (1A) and (2)”. 40
- (6) After subsection (5) insert –
- “(6) In relation to a tenancy entered into or adopted by a local housing authority or a housing action trust before the day on which

paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 comes fully into force, this section has effect –

- (a) as if subsection (1A) were omitted, and
- (b) as if, in subsection (2), the words “in Wales” were omitted.

20      After section 124 insert – 5

**“124A New introductory tenancies in England: overall length**

- (1) A local housing authority or a housing action trust may enter into an introductory tenancy of a dwelling-house in England only if it is a tenancy for a fixed term that is – 10
  - (a) at least 2 years, and
  - (b) no more than 5 years.
- (2) If a local housing authority or a housing action trust purports to enter into an introductory tenancy in breach of subsection (1), it takes effect as a tenancy for a fixed term of 5 years.
- (3) Subsections (1) and (2) apply only to tenancies entered into on or after the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 comes fully into force. 15
- (4) A tenancy of a dwelling-house in England that is adopted by a local housing authority or a housing action trust does not become an introductory tenancy if – 20
  - (a) it is adopted on or after the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 came fully into force, and
  - (b) the tenancy is a periodic tenancy or it is a tenancy for a fixed term of less than 2 years or more than 5 years. 25
- (5) Subsections (6) and (7) apply where a tenancy that has been adopted by a local housing authority or a housing action trust is not an introductory tenancy but would (on adoption or at any later time) become a secure tenancy but for subsection (4).
- (6) The local housing authority or housing action trust must, within the period of 28 days, make the tenant a written offer of an introductory tenancy in return for the tenant surrendering the original tenancy. 30
- (7) If the tenant accepts in writing within the period of 28 days beginning with the day on which the tenant receives the offer, the local housing authority or housing action trust must grant an introductory tenancy on the tenant surrendering the original tenancy. 35

**124B Review of decisions about length of introductory tenancies in England**

- (1) A person who is offered an introductory tenancy of a dwelling-house in England may request a review under this section. 40
- (2) The sole purpose of a review under this section is to consider whether the length of the tenancy is in accordance with any policy that the prospective landlord has about the length of introductory tenancies it grants.
- (3) The request must be made before the end of – 45

- (a) the period of 21 days beginning with the day on which the person making the request first receives the offer, or
  - (b) such longer period as the prospective landlord may allow in writing.
- (4) On receiving the request the prospective landlord must carry out the review. 5
- (5) On completing the review the prospective landlord must –
  - (a) notify the tenant in writing of the outcome,
  - (b) revise its offer or confirm its original decision about the length of the tenancy, and 10
  - (c) if it decides to confirm its original decision, give reasons.
- (6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section.
- (7) The regulations may, in particular – 15
  - (a) require the review to be carried out by a person of appropriate seniority who was not involved in the original decision;
  - (b) make provision as to the circumstances in which the person who requested the review is entitled to an oral hearing, and whether and by whom that person may be represented.” 20
- 21 (1) Section 125A (extension of trial period by 6 months) is amended as follows.
- (2) In subsection (1), for “both” substitute “each”.
- (3) After subsection (3) insert –
  - “(3A) The third condition must be met only if the introductory tenancy – 25
    - (a) is one to which section 124A(1) or (2) applies, or
    - (b) is adopted by a local housing authority or housing action trust on or after the day on which paragraph 4 of Schedule 4 came fully into force.
  - (3B) The third condition is that the new expiry date would be before the period mentioned in section 86A(3) of the Housing Act 1985 (review to determine what to do at end of fixed term secure tenancy); and for this purpose “the new expiry date” means the last day of the 6 month extension period mentioned in subsection (1).” 30
- 22 In section 128 (notice of proceedings for possession), in subsection (4), for the second sentence substitute – 35
  - “The date so specified –
    - (a) in a case where the introductory tenancy is a periodic tenancy, must not be earlier than the date on which the tenancy could, apart from this Chapter, be brought to an end by notice to quit given by the landlord on the same date as the proceedings, and 40
    - (b) in a case where the introductory tenancy is a fixed term tenancy, must not be earlier than the end of the period of 6 weeks beginning with the date on which the notice of proceedings is served.” 45

- 23 In section 137A (introductory tenancies that are to become flexible tenancies), in subsection (2), for “, before entering into or adopting the introductory tenancy” substitute “the introductory tenancy was entered into or adopted before the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 came fully into force and, before entering into or adopting it.”. 5
- 24 In section 143A (demoted tenancies), in subsection (1), omit “periodic”.
- 25 In section 143E (notice of proceedings for possession), for subsection (3) substitute –
- “(3) The date specified under subsection (2)(c) – 10
- (a) in a case where the demoted tenancy is a periodic tenancy, must not be earlier than the date on which the tenancy could, apart from this Chapter, be brought to an end by notice to quit given by the landlord on the same date as the proceedings, and
- (b) in a case where the demoted tenancy is a fixed term tenancy, must not be earlier than the end of the period of 6 weeks beginning with the date on which the notice of proceedings is served.” 15
- 26 (1) Section 143MA (demoted tenancies that are to become flexible tenancies) is amended as follows. 20
- (2) In subsection (1), for “section 107A of the Housing Act 1985” substitute “section 115B of the Housing Act 1985 (certain tenancies granted etc before the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 came fully into force)”.
- (3) After subsection (3) insert – 25
- “(3A) If the notice is given on or after the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 comes fully into force, the period specified under subsection (3)(b) must be no more than five years.”
- 27 After section 143MA insert – 30
- “143MB Default flexible tenancies when no notice given under section 143MA**
- (1) This section applies where –
- (a) a landlord has the power to serve a notice under section 143MA on the tenant under a demoted tenancy but fails to do so, and 35
- (b) the tenancy comes to an end on or after the day on which paragraph 4 of Schedule 4 to the Housing and Planning Act 2015 comes fully into force.
- (2) On ceasing to be a demoted tenancy, the tenancy becomes a secure tenancy for a fixed term of 5 years that is a flexible tenancy. 40
- (3) The terms of the new tenancy are the same as those of the tenancy that it replaces, so far as those terms are compatible with –
- (a) a tenancy for a fixed term of 5 years, and
- (b) the statutory provisions relating to flexible tenancies (within the meaning given by section 143MA(5)).” 45

Land Registration Act 2002 (c. 9)

- 28 In section 132 of the Land Registration Act 2002 (interpretation), in the definition of “flexible tenancy” in subsection (1), for “107A” substitute “115B”.

Localism Act 2011 (c. 20)

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- 29 The Localism Act 2011 (flexible tenancies: other amendments) is amended as follows.

- 30 In section 155, omit subsections (3) and (4).

- 31 In section 159 (further provisions about transfer of tenancy under section 158), in subsection (6)(b), for “107A” substitute “115B”.

10

Savings for flexible tenancies with only 9 months left to run

- 32 (1) Despite the repeal of sections 107D and 107E of the Housing Act 1985 (flexible tenancies: recovery of possession) by paragraph 14 above, those sections continue to apply in relation to a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of this Schedule comes fully into force.

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- (2) The amendments made by paragraphs 8 and 9 (which replace references to proceedings for possession under section 107D of the Housing Act 1985) do not apply in relation to such a tenancy.

SCHEDULE 5

Section 90

20

SUCCESSION TO SECURE TENANCIES AND RELATED TENANCIES

Housing Act 1985 (c. 68)

- 1 The Housing Act 1985 is amended as follows.

- 2 In section 86 (periodic tenancy arising on termination of fixed term), after subsection (1B) (inserted by Schedule 4 insert –

25

“(1C) This section does not apply to a secure tenancy of a dwelling-house in England if –

- (a) the original secure tenant has died,  
(b) the tenancy has been vested in, or otherwise disposed of to, the current tenant in the course of the administration of the original tenant’s estate, and  
(c) the current tenant qualified to succeed the original tenant under section 86G(2) or (4).”

30

- 3 (1) Section 86A (persons qualified to succeed: England) as inserted by the Localism Act 2011 –

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- (a) is renumbered section 86G (so that it follows on from section 86F as inserted by Schedule 4 without making the numbering more complex than it has to be), and  
(b) is amended as follows.

- (2) After subsection (7) insert –
- “(8) This section applies to a tenancy that was granted before 1 April 2012, or that arose by virtue of section 86 on the coming to the end of a secure tenancy granted before 1 April 2012, as it applies to a secure tenancy granted on or after that day.” 5
- 4 In section 88 (cases where the tenant is a successor), in subsection (1), after paragraph (b) insert –
- “(ba) the tenancy arose by virtue of section 89(2A) (fixed term tenancy arising in certain cases following succession to periodic tenancy), or.” 10
- 5 (1) Section 89 (succession to period tenancy) is amended as follows.
- (2) In subsection (1A), for “section 86A” substitute “section 86G”.
- (3) After subsection (2) insert –
- “(2A) Where the tenancy vests in a person qualified to succeed the tenant under section 86G(2) or (4) and continues to be a secure tenancy –
- (a) the periodic tenancy comes to an end immediately after vesting, and
- (b) a new tenancy of the same dwelling-house arises by virtue of this subsection for a fixed term of 5 years.
- (2B) The parties and terms of a tenancy arising by virtue of subsection (2A) are the same as those of the tenancy that it replaces, except that the terms –
- (a) are confined to those which are compatible with a tenancy for a fixed term of 5 years, and
- (b) do not include any provision for re-entry or forfeiture.” 25
- 6 In section 117 (index of defined expressions), in the entry relating to persons qualified to succeed, for “section 87” substitute “sections 86G and 87”.
- Housing Act 1996 (c. 52)
- 7 Before section 131 (but after the italic heading) insert –
- “130A Persons qualified to succeed to introductory tenancy: England”** 30
- (1) A person is qualified to succeed the tenant under an introductory tenancy of a dwelling-house in England if –
- (a) the person occupies the dwelling-house as his or her only or principal home at the time of the tenant’s death, and
- (b) the person is the tenant’s spouse or civil partner. 35
- (2) A person is qualified to succeed the tenant under an introductory tenancy of a dwelling-house in England if –
- (a) at the time of the tenant’s death the dwelling-house is not occupied by a spouse or civil partner of the tenant as his or her only or principal home,
- (b) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and
- (c) the person’s succession is in accordance with that term. 40

- (3) Subsection (1) or (2) does not apply if the tenant was a successor as defined in section 132.
- (4) In such a case, a person is qualified to succeed the tenant if –  
(a) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and 5  
(b) the person’s succession is in accordance with that term.
- (5) For the purposes of this section a person who was living with the tenant as the tenant’s wife or husband is to be treated as the tenant’s spouse.
- (6) Subsection (7) applies if, on the death of the tenant, there is by virtue of subsection (5) more than one person who fulfils the condition in subsection (1)(b). 10
- (7) Such one of those persons as may be agreed between them or as may, where there is no such agreement, be selected by the landlord is for the purpose of this section to be treated as the fulfilling that condition.” 15
- 8 (1) Section 131 (persons qualified to succeed tenant) is amended as follows.  
(2) At the end of the heading for “tenant” substitute “to introductory tenancy: Wales”.  
(3) After “introductory tenancy” insert “of a dwelling-house in Wales”. 20
- 9 (1) Section 133 (succession to introductory tenancy) is amended as follows.  
(2) After subsection (1) insert –  
“(1A) Where there is a person qualified to succeed the tenant under section 130A, the tenancy vests by virtue of this section –  
(a) in that person, or 25  
(b) if there is more than one such person, in such one of them as may be agreed between them or as may, where there is no agreement, be selected by the landlord.”
- (3) In subsection (2), after ““tenant” insert “under section 131”.
- 10 Before section 143H (but after the italic heading) insert – 30  
**“143GA Persons qualified to succeed to demoted tenancy: England**  
(1) A person is qualified to succeed the tenant under a demoted tenancy of a dwelling-house in England if –  
(a) the person occupies the dwelling-house as his or her only or principal home at the time of the tenant’s death, and 35  
(b) the person is the tenant’s spouse or civil partner.
- (2) A person is qualified to succeed the tenant under a demoted tenancy of a dwelling-house in England if –  
(a) at the time of the tenant’s death the dwelling-house is not occupied by a spouse or civil partner of the tenant as his or her only or principal home, 40  
(b) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and



- (c) the person's succession is in accordance with that term.
- (3) Subsection (1) or (2) does not apply if the tenant was a successor as defined in section 132.
- (4) In such a case, a person is qualified to succeed the tenant if—
- (a) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and 5
- (b) the person's succession is in accordance with that term.
- (5) For the purposes of this section a person who was living with the tenant as the tenant's wife or husband is to be treated as the tenant's spouse. 10
- (6) Subsection (7) applies if, on the death of the tenant, there is by virtue of subsection (5) more than one person who fulfils the condition in subsection (1)(b).
- (7) Such one of those persons as may be agreed between them or as may, where there is no such agreement, be selected by the landlord is for the purpose of this section to be treated as fulfilling that condition. 15
- (8) This section applies to a tenancy that became a demoted tenancy before or after Schedule 5 of the Housing Act 2015 comes into force.

#### **143GB Succession to demoted tenancy: England**

- (1) This section applies if the tenant under a demoted tenancy of a dwelling-house in England dies. 20
- (2) Where there is a person qualified to succeed the tenant under section 143GA, the tenancy vests by virtue of this section—
- (a) in that person, or
- (b) if there is more than one such person, in such one of them as may be agreed between them or as may, where there is no agreement, be selected by the landlord. 25
- (3) Where a periodic demoted tenancy vests in a person qualified to succeed the tenant under section 143GA(2) or (4) and continues to be a demoted tenancy— 30
- (a) the tenancy comes to an end immediately after vesting, and
- (b) a new tenancy of the same dwelling-house arises by virtue of this subsection for a fixed term of 5 years.
- (4) The parties and terms of a tenancy arising by virtue of subsection (3) are the same as those of the tenancy that it replaces, except that the terms— 35
- (a) are confined to those which are compatible with a tenancy for a fixed term of 5 years[, and
- (b) do not include any provision for re-entry or forfeiture.]
- (5) Where a demoted tenancy comes to an end and a new tenancy arises by virtue of subsection (3), as from that time the demotion order is to be treated for all purposes as it had been made in relation to the new tenancy (and the demotion period remains the same)." 40

- 11 (1) Section 143H (succession to demoted tenancy) is amended as follows.

	(2) <u>At the heading insert “: Wales”.</u>	
	(3) <u>In subsection (1), after “tenancy” insert “of a dwelling-house in Wales”.</u>	
12	<u>In section 143I (no successor tenant: termination), after “section” insert “143GA or”.</u>	
13	(1) <u>Section 143J of the Housing Act 1996 (demoted tenancies: successor tenants) is amended as follows.</u>	5
	(2) <u>After subsection (3) insert –</u>	
	“(3A) <u>The tenancy arose by virtue of section 89(2A) of the Housing Act 1985.</u> ”	
	(3) <u>For subsection (7) substitute –</u>	10
	“(7) <u>A person is the successor to a demoted tenancy if –</u>	
	(a) <u>the tenancy vests in the person by virtue of section 143GB(2) or 143H(4) or (5), or</u>	
	(b) <u>the tenancy arose by virtue of section 143GB(3).”</u>	
	<u>Localism Act 2011 (c. 20)</u>	15
14	<u>In section 160 of the Localism Act 2011 (succession to secure tenancies), omit subsection (6).</u>	
	<u>Savings</u>	
15	<u>The amendments made by this Schedule do not apply in relation to cases where the tenant under a secure tenancy dies before it comes into force.</u>	20
16	<u>The amendments made by paragraphs 7 and 8 do not apply in relation to an introductory tenancy granted before the day on which this Schedule comes into force.</u>	
17	<u>The amendments made by paragraphs 10 to 13 do not apply in relation to cases where the tenant under a demoted tenancy dies before this Schedule comes into force.</u>	25

## SCHEDULE 6

Section 86<sup>93</sup>

### FINANCIAL PENALTY AS ALTERNATIVE TO PROSECUTION UNDER HOUSING ACT 2004

1	The Housing Act 2004 is amended as follows.	
2	After section 30 insert –	30
	<b>“30A Financial penalty as alternative to prosecution: England only</b>	
	(1) The local housing authority may impose a financial penalty on a person if satisfied that the person’s conduct amounts to an offence under section 30 in respect of premises in England.	
	(2) Only one financial penalty under this section may be imposed on a person in respect of the same conduct.	35

- 
- (3) The amount of a financial penalty imposed under this section is to be determined by the local housing authority, but must not be more than £5,000.
- (4) The local housing authority may not impose a financial penalty in respect of any conduct amounting to an offence under section 30 if— 5
- (a) the person has been convicted of an offence under that section in respect of the conduct, or
- (b) criminal proceedings for the offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded. 10
- (5) If a local housing authority has imposed a financial penalty on a person in respect of any conduct amounting to an offence under section 30 the person may not be convicted of an offence under that section in respect of the conduct.
- (6) Schedule 2A deals with— 15
- (a) the procedure for imposing financial penalties,
- (b) appeals against financial penalties,
- (c) enforcement of financial penalties, and
- (d) guidance in respect of financial penalties.
- (7) The Secretary of State may by regulations make provision about how local housing authorities are to deal with financial penalties recovered. 20
- (8) The Secretary of State may by regulations amend the amount specified in subsection (3) to reflect changes in the value of money.
- (9) For the purposes of this section a person’s conduct includes a failure to act.” 25
- 3 After section 72—
- “72A Financial penalty as alternative to prosecution: England only**
- (1) The local housing authority may impose a financial penalty on a person if satisfied that the person’s conduct amounts to an offence under section 72 in respect of premises in England. 30
- (2) Only one financial penalty under this section may be imposed on a person in respect of the same conduct.
- (3) The amount of a financial penalty imposed under this section is to be determined by the local housing authority, but must not be more than £5,000. 35
- (4) The local housing authority may not impose a financial penalty in respect of any conduct amounting to an offence under section 72 if—
- (a) the person has been convicted of an offence under that section in respect of the conduct, or 40
- (b) criminal proceedings for the offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded.
- (5) If a local housing authority has imposed a financial penalty on a person in respect of any conduct amounting to an offence under 45

- section 72 the person may not be convicted of an offence under that section in respect of the conduct.
- (6) Schedule 2A deals with—
- (a) the procedure for imposing financial penalties,
  - (b) appeals against financial penalties, 5
  - (c) enforcement of financial penalties, and
  - (d) guidance in respect of financial penalties.
- (7) The Secretary of State may by regulations make provision about how local housing authorities are to deal with financial penalties recovered. 10
- (8) The Secretary of State may by regulations amend the amount specified in subsection (3) to reflect changes in the value of money.
- (9) For the purposes of this section a person’s conduct includes a failure to act.”
- 4 After section 95— 15
- “95A Financial penalty as alternative to prosecution: England only**
- (1) The local housing authority may impose a financial penalty on a person if satisfied that the person’s conduct amounts to an offence under section 95 in respect of premises in England.
- (2) Only one financial penalty under this section may be imposed on a person in respect of the same conduct. 20
- (3) The amount of a financial penalty imposed under this section is to be determined by the local housing authority, but must not be more than £5,000.
- (4) The local housing authority may not impose a financial penalty in respect of any conduct amounting to an offence under section 95 if—
- (a) the person has been convicted of an offence under that section in respect of the conduct, or
  - (b) criminal proceedings for the offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded. 25 30
- (5) If a local housing authority has imposed a financial penalty on a person in respect of any conduct amounting to an offence under section 95 the person may not be convicted of an offence under that section in respect of the conduct. 35
- (6) Schedule 2A deals with—
- (a) the procedure for imposing financial penalties,
  - (b) appeals against financial penalties,
  - (c) enforcement of financial penalties, and
  - (d) guidance in respect of financial penalties. 40
- (7) The Secretary of State may by regulations make provision about how local housing authorities are to deal with financial penalties recovered.

- (8) The Secretary of State may by regulations amend the amount specified in subsection (3) to reflect changes in the value of money.
- (9) For the purposes of this section a person’s conduct includes a failure to act.”

5 After section 144 –

5

**“144A Financial penalty as alternative to prosecution: England only**

- (1) The local housing authority may impose a financial penalty on a person if satisfied that the person’s conduct amounts to an offence under section 139(7) in respect of premises in England.
- (2) Only one financial penalty under this section may be imposed on a person in respect of the same conduct. 10
- (3) The amount of a financial penalty imposed under this section is to be determined by the local housing authority, but must not be more than £2,000.
- (4) The local housing authority may not impose a financial penalty in respect of any conduct amounting to an offence under section 139(7) if – 15
- (a) the person has been convicted of an offence under that section in respect of the conduct, or
- (b) criminal proceedings for the offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded. 20
- (5) If a local housing authority has imposed a financial penalty on a person in respect of any conduct amounting to an offence under section 139(7) the person may not be convicted of an offence under that section in respect of the conduct. 25
- (6) Schedule 2A deals with –
- (a) the procedure for imposing financial penalties,
- (b) appeals against financial penalties,
- (c) enforcement of financial penalties, and 30
- (d) guidance in respect of financial penalties.
- (7) The Secretary of State may by regulations make provision about how local housing authorities are to deal with financial penalties recovered.
- (8) The Secretary of State may by regulations amend the amount specified in subsection (3) to reflect changes in the value of money. 35
- (9) For the purposes of this section a person’s conduct includes a failure to act.”

6 After Schedule 2 insert –

“SCHEDULE 2A Sections 30A, 72A, 95A and 144A

FINANCIAL PENALTIES UNDER SECTIONS 30A, 72A, 95A AND 144A

*Notice of intent*

- 1 Before imposing a financial penalty on a person under section 30A, 72A, 95A or 144A the local housing authority must give the person notice of the authority’s proposal to do so (a “notice of intent”). 5
- 2 (1) The notice of intent must be given before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the conduct to which the financial penalty relates. 10
- (2) But if the person is continuing to engage in the conduct on that day, and the conduct continues beyond the end of that day, the notice of intent may be given – 15
- (a) at any time when the conduct is continuing, or
- (b) within the period of 6 months beginning with the last day on which the conduct occurs.
- (3) For the purposes of this paragraph a person’s conduct includes a failure to act. 20
- 3 The notice of intent must set out –
- (a) the amount of the proposed financial penalty,
- (b) the reasons for proposing to impose the financial penalty, and
- (c) information about the right to make representations under paragraph 4. 25

*Right to make representations*

- 4 (1) A person who is given a notice of intent may make written representations to the local housing authority about the proposal to impose a financial penalty. 30
- (2) Any representations must be made within the period of 28 days beginning with the day after that on which the notice was given (“the period for representations”).

*Final notice*

- 5 After the end of the period for representations the local housing authority must – 35
- (a) decide whether to impose a financial penalty on the person, and
- (b) if it decides to impose a financial penalty, decide the amount of the penalty. 40

- |   |  |    |
|---|--|----|
| 6 | If the authority decides to impose a financial penalty on the person, it must give the person a notice (a “final notice”) imposing that penalty.   |    |
| 7 | The final notice must require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given. | 5  |
| 8 | The final notice must set out –  |    |
|   | (a) the amount of the financial penalty,   |    |
|   | (b) the reasons for imposing the penalty,  |    |
|   | (c) information about how to pay the penalty,  | 10 |
|   | (d) the period for payment of the penalty,   |    |
|   | (e) information about rights of appeal, and  |    |
|   | (f) the consequences of failure to comply with the notice.   |    |

*Withdrawal or amendment of notice*

- |   |   |    |
|---|---|----|
| 9 | (1) A local housing authority may at any time –   | 15 |
|   | (a) withdraw a notice of intent or final notice, or   |    |
|   | (b) reduce the amount specified in a notice of intent or final notice.  |    |
|   | (2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the person to whom the notice was given. | 20 |

*Appeals*

- |    |   |    |
|----|---|----|
| 10 | (1) A person to whom a final notice is given may appeal <del>against</del> to the First-tier Tribunal against –   |    |
|    | (a) the decision to impose the penalty, or  |    |
|    | (b) the amount of the penalty.  | 25 |
|    | (2) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.  |    |
|    | (3) On an appeal under this paragraph the First-tier Tribunal may confirm, vary or cancel the final notice.   |    |
|    | (4) The final notice may not be varied under sub-paragraph (3) so as to make it impose a financial penalty of more than the local housing authority could have imposed. | 30 |

*Recovery of financial penalty*

- |    |  |    |
|----|--|----|
| 11 | (1) This paragraph applies if a person fails to pay the whole or any part of a financial penalty which, in accordance with this Schedule, the person is liable to pay.                   | 35 |
|    | (2) The local housing authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court. |    |
|    | (3) In proceedings before the county court for the recovery of a financial penalty or part of a financial penalty, a certificate which is –  | 40 |

- (a) signed by the chief finance officer of the local housing authority which imposed the penalty, and
  - (b) states that the amount due has not been received by a date specified in the certificate,
- is conclusive evidence of that fact. 5

- (4) A certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
- (5) In this paragraph “chief finance officer” has the same meaning as in section 5 of the Local Government and Housing Act 1989.

*Guidance* 10

- 12 A local housing authority must have regard to any guidance given by the Secretary of State about the exercise of its functions under this Schedule or section 30A, 72A, 95A or 144A.”

SCHEDULE 7

Section ~~99~~97

ENFRANCHISEMENT AND EXTENSION OF LONG LEASEHOLDS: CALCULATIONS 15

*Leasehold Reform Act 1967*

- 1 (1) In Schedule 1 to the Leasehold Reform Act 1967 (enfranchisement and extension by sub-tenants), paragraph 7A is amended as follows.

- (2) For sub-paragraph (1) substitute –

“(1) The price payable for a minor superior tenancy is to be calculated in accordance with regulations made by the ~~Secretary of State~~ appropriate national authority instead of in accordance with section 9.” 20

- (3) Omit sub-paragraphs (5) and (6).

- (4) At the end insert – 25

“(7) ~~Regulations under In~~ sub-paragraph (1) ~~may include transitional provision.~~ “appropriate national authority” means –

- (a) in relation to a tenancy of land in England, the Secretary of State;
- (b) in relation to a tenancy of land in Wales, the Welsh Ministers. 30

- (8) Regulations under sub-paragraph (1) ~~are to be made by statutory instrument~~ may include transitional provision.

- (9) ~~A statutory instrument containing regulations~~ Regulations under sub-paragraph (1) ~~is subject are to annulment in pursuance of a resolution of either House of Parliament~~ be made by statutory instrument.” 35

- (10) A statutory instrument containing regulations under sub-paragraph (1) is subject to annulment –



- (a) in the case of an instrument made by the Secretary of State, in pursuance of a resolution of either House of Parliament;
- (b) in the case of an instrument made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.” 5
- (5) The amendments made by this paragraph apply to cases where the relevant time is –
- (a) before this Act is passed, but
- (b) on or after 11 July 2015,
- as well as to cases where the relevant time is after this Act is passed. 10
- (6) The “relevant time” has the meaning given by section 37(1)(d) of the Leasehold Reform Act 1967.

*Leasehold Reform, Housing and Urban Development Act 1993*

- 2 The Leasehold Reform, Housing and Urban Development Act ~~1993~~1993 is amended as follows.
- 3 (1) ~~The Leasehold Reform, Housing and Urban Development Act 1993~~ Section 100 (orders and Urban Development Act 1993 regulations) is amended as follows. 15
- (2) In subsection (1), after “Secretary of State” insert “or the Welsh Ministers”.
- (3) After subsection (2) insert –
- “(3) Any power of the Welsh Ministers to make regulations under this Part shall be exercisable by statutory instrument which (except in the case of regulations making only such provision as is mentioned in section 99(6)) shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.” 20
- 4 (1) In Schedule ~~6 to the Leasehold Reform, Housing and Urban Development Act 1993 (purchase price)~~6, paragraph 7 is amended as follows. 25
- (2) For sub-paragraph (2) substitute –
- “(2) The value of an intermediate leasehold interest which is the interest of the tenant under a minor intermediate lease is to be calculated in accordance with regulations made by the ~~Secretary of State~~ appropriate national authority instead of in accordance with sub-paragraph (1).” 30
- (3) In sub-paragraph (4) –
- (a) for “formula set out in sub-paragraph (7)” substitute “calculation method mentioned in sub-paragraph (2)”; 35
- (b) for “by so applying the formula” substitute “in accordance with that method”.
- (4) Omit sub-paragraphs (7) and (8).
- (5) ~~Omit~~ After sub-paragraphs paragraph (7) and (8), insert –
- “(11) In sub-paragraph (2) “appropriate national authority” means – 40
- (a) in relation to a leasehold interest of land in England, the Secretary of State;

- (b) in relation to a leasehold interest of land in Wales, the Welsh Ministers.
- (6) The amendments made by this paragraph apply to cases where the relevant date is –
- (a) before this Act is passed, but
  - (b) on or after 11 July 2015,
- as well as to cases where the relevant date is after this Act is passed.
- (7) The “relevant date” has the meaning given by section 1(8) of the Leasehold Reform, Housing and Urban Development Act 1993.
- 5 (1) In Schedule 13 (premium and other amounts payable by tenant on grant of new lease), paragraph 8 is amended as follows. 10
- (2) For sub-paragraph (2) substitute –
- “(2) The value of an intermediate leasehold interest which is the interest of the tenant under a minor intermediate lease is to be calculated in accordance with regulations made by the ~~Secretary of State~~ appropriate national authority instead of in accordance with sub-paragraph (1).” 15
- (3) Omit sub-paragraphs (6) and (7).
- (4) ~~Omit After sub-paragraphs paragraph (6) and (7).~~ insert –
- “(10) In sub-paragraph (2) “appropriate national authority” means –
- (a) in relation to a leasehold interest of land in England, the Secretary of State;
  - (b) in relation to a leasehold interest of land in Wales, the Welsh Ministers.
- (5) The amendments made by this paragraph apply to cases where the relevant date is – 25
- (a) before this Act is passed, but
  - (b) on or after 11 July 2015,
- as well as to cases where the relevant date is after this Act is passed.
- (6) The “relevant date” has the meaning given by section 39(8) of the Leasehold Reform, Housing and Urban Development Act 1993. 30

SCHEDULE 8

Section 108

DEFAULT POWERS EXERCISABLE BY MAYOR OF LONDON OR COMBINED AUTHORITY:  
SCHEDULE TO BE INSERTED IN THE PLANNING AND COMPULSORY PURCHASE ACT 2004

5

“SCHEDULE A1

Section 27A

DEFAULT POWERS EXERCISABLE BY MAYOR OF LONDON  
OR COMBINED AUTHORITY

10

*Default powers exercisable by Mayor of London*

- 1 If the Secretary of State –
  - (a) thinks that a London borough council, in their capacity as local planning authority, are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document, and 15
  - (b) invites the Mayor of London to prepare or revise the document, 20  
the Mayor of London may prepare or revise (as the case may be) the development plan document.
  
- 2 (1) This paragraph applies where a development plan document is prepared or revised by the Mayor of London under paragraph 1.
- (2) The Mayor of London must hold an independent examination. 25
- (3) The Mayor of London –
  - (a) must publish the recommendations and reasons of the person appointed to hold the examination, and
  - (b) may also give directions to the council in relation to publication of those recommendations and reasons. 30
- (4) The Mayor of London may –
  - (a) approve the document, or approve it subject to specified modifications, as a local development document, or
  - (b) direct the council to consider adopting the document by resolution of the council as a local development document. 35
  
- 3 (1) Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 2(2) –
  - (a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Mayor of London, and
  - (b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b). 40
- (2) The Mayor of London must give reasons for anything he does in pursuance of paragraph 1 or 2(4).
- (3) The council must reimburse the Mayor of London – 45

- (a) for any expenditure that the Mayor incurs in connection with anything which is done by him under paragraph 1 and which the council failed or omitted to do as mentioned in that paragraph;
- (b) for any expenditure that the Mayor incurs in connection with anything which is done by him under paragraph 2(2). 5

Default powers exercisable by combined authority

- 4 In this Schedule – 10
- “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;
- “constituent planning authority”, in relation to a combined authority, means –
- (a) a county council, metropolitan district council or non-metropolitan district council which is the local planning authority for an area within the area of the combined authority, or 15
  - (b) a joint committee established under section 29 whose area is within, or the same as, the area of the combined authority. 20
- 5 If the Secretary of State –
- (a) thinks that a constituent planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document, and
  - (b) invites the combined authority to prepare or revise the document, 25
- the combined authority may prepare or revise (as the case may be) the development plan document.
- 6 (1) This paragraph applies where a development plan document is prepared or revised by a combined authority under paragraph 5. 30
- (2) The combined authority must hold an independent examination.
- (3) The combined authority –
- (a) must publish the recommendations and reasons of the person appointed to hold the examination, and 35
  - (b) may also give directions to the constituent planning authority in relation to publication of those recommendations and reasons.
- (4) The combined authority may –
- (a) approve the document, or approve it subject to specified modifications, as a local development document, or 40
  - (b) direct the constituent planning authority to consider adopting the document by resolution of the authority as a local development document.
- 7 (1) Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 6(2) – 45

- (a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the combined authority, and
  - (b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b).
- (2) The combined authority must give reasons for anything they do in pursuance of paragraph 5 or 6(4). 5
- (3) The constituent planning authority must reimburse the combined authority –
- (a) for any expenditure that the combined authority incur in connection with anything which is done by them under paragraph 5 and which the constituent planning authority failed or omitted to do as mentioned in that paragraph; 10
  - (b) for any expenditure that the combined authority incur in connection with anything which is done by them under paragraph 6(2). 15

*Intervention by Secretary of State*

- 8 (1) This paragraph applies to a development plan document that has been prepared or revised –
- (a) under paragraph 1 by the Mayor of London, or 20
  - (b) under paragraph 5 by a combined authority.
- (2) If the Secretary of State thinks that a development plan document to which this paragraph applies is unsatisfactory –
- (a) he may at any time before the document is adopted under section 23, or approved under paragraph 2(4)(a) or 6(4)(a), direct the Mayor of London or the combined authority to modify the document in accordance with the direction; 25
  - (b) if he gives such a direction he must state his reasons for doing so.
- (3) Where a direction is given under sub-paragraph (2) – 30
- (a) the Mayor of London or the combined authority must comply with the direction;
  - (b) the document must not be adopted or approved unless the Secretary of State gives notice that the direction has been complied with. 35
- (4) Sub-paragraph (3) does not apply if or to the extent that the direction under sub-paragraph (2) is withdrawn by the Secretary of State.
- (5) At any time before a development plan document to which this paragraph applies is adopted under section 23, or approved under paragraph 2(4)(a) or 6(4)(a), the Secretary of State may direct that the document (or any part of it) is submitted to him for his approval. 40
- (6) In relation to a document or part of a document submitted to him under sub-paragraph (5) the Secretary of State – 45
- (a) may approve the document or part;
  - (b) may approve it subject to specified modifications;

- (c) may reject it.  
The Secretary of State must give reasons for his decision under this sub-paragraph.
- (7) The Secretary of State may at any time –
- (a) after a development plan document to which this paragraph applies has been submitted for independent examination, but 5
- (b) before it is adopted under section 23 or approved under paragraph 2(4)(a) or 6(4)(a),
- direct the Mayor of London or the combined authority to withdraw the document. 10
- 9 (1) This paragraph applies if the Secretary of State gives a direction under paragraph 8(5).
- (2) No steps are to be taken in connection with the adoption or approval of the document until the Secretary of State gives his decision, or withdraws the direction. 15
- (3) If the direction is given, and not withdrawn, before the document has been submitted for independent examination, the Secretary of State must hold an independent examination. 20
- (4) If the direction –
- (a) is given after the document has been submitted for independent examination but before the person appointed to carry out the examination has made his recommendations, and 25
- (b) is not withdrawn before those recommendations are made, the person must make his recommendations to the Secretary of State.
- (5) The document has no effect unless the document or (as the case may be) the relevant part of it has been approved by the Secretary of State, or the direction is withdrawn. 30
- The “relevant date part” has is the meaning given by section 39(8) part of the Leasehold Reform, Housing and Urban Development Act 1993. document that –
- 35
- SCHEDULE 9(a) is covered by a direction under paragraph 8(5) which refers to only part of the document, or
- (b) continues to be covered by a direction under paragraph 8(5) following the partial withdrawal of the direction. 40
- (6) The Secretary of State must publish the recommendations made to him by virtue of sub-paragraph (3) or (4) and the reasons of the person making the recommendations.
- (7) In considering a document or part of a document submitted under paragraph 8(5) the Secretary of State may take account of any matter which he thinks is relevant. 45

- (8) It is immaterial whether any such matter was taken account of by the Mayor of London or the combined authority.
- 10 Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 9(3) –
- (a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Secretary of State, and 5
- (b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b).
- 11 In the exercise of any function under paragraph 8 or 9 the Secretary of State must have regard to the local development scheme.
- 12 The Mayor of London or the combined authority must reimburse the Secretary of State for any expenditure incurred by the Secretary of State under paragraph 8 or 9 that is specified in a notice given by him to the Mayor or the authority. 10

*Temporary direction pending possible use of intervention powers*

- 13 (1) If the Secretary of State is considering whether to give a direction to the Mayor of London or a combined authority under paragraph 8 in relation to a development plan document, he may direct the Mayor or the authority not to take any step in connection with the adoption or approval of the document – 15
- (a) until the time (if any) specified in the direction, or
- (b) until the direction is withdrawn. 20
- (2) A document to which a direction under this paragraph relates has no effect while the direction is in force.
- (3) A direction given under this paragraph in relation to a document ceases to have effect if a direction is given under paragraph 8 in relation to that document.” 25

SCHEDULE 10

Section ~~102~~111

PERMISSION IN PRINCIPLE FOR DEVELOPMENT OF LAND:  
 MINOR AND CONSEQUENTIAL AMENDMENTS

30

*Town and Country Planning Act 1990 (c. 8)*

- 1 The Town and Country Planning Act 1990 is amended as follows.
- 2 In section 2A (the Mayor of London: applications of potential strategic importance), in subsections (1)(a) and (1B), after “planning permission” insert “or permission in principle”. 35
- 3 In the heading before section 61W, after “planning permission” insert “or permission in principle”. 40

- 4 In section 61W (requirement to carry out pre-application consultation), in subsection (1)(a), after “planning permission” insert “, or permission in principle”.
- 5 In section 61X (duty to take account of responses to consultation), in subsection (1)(a) and (b), after “planning permission” insert “or permission in principle”.
- 6 In section 61Y (power to make supplementary provision), in subsection (1), after “planning permission” insert “or permission in principle”.
- 7 In the heading before section 62, after “planning permission” insert “or permission in principle”.
- 8 (1) Section 62 (applications for planning permission) is amended as follows.
- (2) In the heading and in subsection (1), after “planning permission” insert “or permission in principle”.
- (3) In subsection (7) –
- (a) after “the application for planning permission” insert “or permission in principle”;
- (b) in paragraphs (a) and (b), after “planning permission” insert “or permission in principle”.
- 9 In section 65 (notice etc of applications for planning permission), in the heading and in subsections (1)(a), (3), (5) and (8), after “planning permission” insert “or permission in principle”.
- 10 In section 69 (register of applications etc), after paragraph (a) of subsection (1) insert –
- “(aza) applications for permission in principle;”.
- 11 (1) Section 70 (determination of applications: general considerations) is amended as follows.
- (2) In subsection (2), for “such an application” substitute “an application for planning permission or permission in principle”.
- (3) In subsection (2A), for “Subsection (2)(b) does not” substitute “Subsections (1A), (2)(b) and ~~(2ZA)~~ to ~~(2ZC)~~ do not”.
- 12 (1) Section 70A (power to decline to determine subsequent application) is amended as follows.
- (2) In subsection (5), after paragraph (a) insert –
- “(aa) an application for permission in principle for the development of any land;”.
- (3) In subsection (8), for “An application for planning permission is similar” substitute “Subject to subsection (9), an application is similar”.
- (4) After that subsection insert –
- “(9) An application within subsection (5)(a) or (b) is not similar to an earlier application within subsection (5)(aa).”
- 13 (1) Section 70B (power to decline to determine overlapping application) is amended as follows.



- (2) In subsections (1) and (4A), after “planning permission” insert “, or permission in principle,”.
- (3) In subsection (5) omit “for planning permission”.
- 14 In section 70C (power to decline to determine retrospective application), in subsections (1) and (2), after “for planning permission” insert “or permission in principle”. 5
- 15 In section 71 (consultation in connection with determinations under section 70), in subsection (1), after “planning permission” insert “or permission in principle”. 10
- 16 In section 71A (assessment of environmental effects), in subsection (1), after “planning permission” insert “, or permission in principle,”.
- 17 (1) Section 74 (directions etc as to method of dealing with applications) is amended as follows. 15
- (2) In subsection (1) –
- (a) after “applications for planning permission” insert “, or permission in principle,”;
- (b) in paragraphs (a), (c), (d) and (f), after “planning permission” insert “or permission in principle”;
- (c) in paragraph (b), after “planning permission” insert “, or permission in principle,”. 20
- (3) In subsection (1B) –
- (a) in paragraph (a), after “planning permission” insert “, or permission in principle,”;
- (b) in paragraph (c), after “planning permission” insert “or permission in principle”. 25
- 18 In section 76C (provisions applying to applications made under section 62A), after subsection (2) insert –
- “(2A) Sections 65(5) and 70 to 70C apply, with any necessary modifications, to an application for permission in principle made to the Secretary of State under section 62A as they apply to an application for permission in principle which is to be determined by the local planning authority. 30
- (2B) Any requirements imposed by a development order by virtue of section 62(1), (2) or (8), 65 or 71 or paragraph 8(6) of Schedule 1 may be applied by a development order, with or without modifications, to an application for permission in principle made to the Secretary of State under section 62A.” 35
- 19 In section 76D (deciding applications made under section 62A), in subsection (3), after “planning permission” insert “or permission in principle”. 40
- 20 (1) Section 77 (references of applications to Secretary of State) is amended as follows.
- (2) In subsection (1), after “planning permission” insert “or permission in principle”. 45

- (3) In subsection (4)–
- (a) ~~In for “subsection (45), for the words from the beginning to “and a development order where”~~ substitute “~~Subject to~~ subsection (5)–
- (a) where”; 5
- (b) for “local planning authority and” substitute “local planning authority;
- (b) ~~section 70 shall apply, with any necessary modifications, to where~~ an application for permission in principle is referred to the Secretary of State under this section, section 70 shall apply, with any necessary modifications, 10  
as it applies to such an application ~~for permission in principle~~–which falls to be determined by the local planning authority;  
~~and a development order~~and”.
- 21 In section 78 (right of appeal against planning decisions and failure to take such decision), in subsection (1), after paragraph (a) insert – 15  
“(aa) refuse an application for permission in principle;”.
- 22 (1) Section 78A (appeal made: functions of local planning authorities) is amended as follows. 20
- (2) In subsection (1), after “section 78(1)(a)” insert “or (aa)”.
- (3) In subsection (4), for “to grant the application” substitute “to grant an application mentioned in section 78(1)(a)”.
- 23 (1) Section 79 (determination of appeals) is amended as follows. 25
- (2) In subsection (4)–
- (a) ~~In for “subsection (42), for the words from the beginning to “and a development order provisions of sections”~~ substitute “~~Subject to~~ subsection (2)–
- (a) sections”;
- (b) after “under section 78” insert “in respect of an application within section 78(1)(a), (b) or (c)”; 30
- (c) for “local planning authority and” substitute “local planning authority;
- (b) section 70 shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section ~~78(1)(aa) or (2)~~ 78 in respect of an application for permission in principle as it applies in relation to such an application ~~for permission in principle~~–which falls to be determined by the local planning authority; 35  
~~and a development order~~and”.
- (3) After subsection (6) insert – 40  
“(6ZA) If, before or during the determination of such an appeal in respect of an application for permission in principle to develop land, the Secretary of State forms the opinion that, having regard to the provisions of section 70 and the development order, permission in principle for that development could not have been granted by the local planning authority, he may decline to determine the appeal or to proceed with the determination.”

- 24 In the heading before section 97, after “planning permission” insert “or permission in principle”.
- 25 (1) Section 97 (power to revoke or modify planning permission) is amended as follows. 5
- (2) In the heading, at the end insert “or permission in principle”.
- (3) In subsection (1), after “permission” insert “(including permission in principle)”.
- (4) In subsection (3)(a) and (b), for “where the permission” substitute “in the case of planning permission that”.
- (5) In subsection (4), for “permission” substitute “planning permission”. 10
- 26 In section 99 (procedure for section 97 orders: unopposed cases), in subsection (8)(a), after “planning permission” insert “or permission in principle”.
- 27 (1) In section 106BB (duty to notify the Mayor of London of certain applications under section 106BA), in paragraphs (a), (b) and (c) of subsection (1), for “planning permission” substitute “permission”. 15
- (2) At the end of that subsection insert –  
 “In this subsection, “permission” means planning permission or permission in principle.” 20
- 28 (1) Section 107 (compensation where planning permission revoked or modified) is amended as follows.
- (2) In the heading and in subsection (1), after “planning permission” insert “or permission in principle”. 25
- (3) In subsection (4), for “consisting” substitute “that is attributable to the revocation or modification of planning permission and consists”.
- 29 (1) Section 108 (compensation for refusal or conditional grant of planning permission formerly granted by development order etc) is amended as follows. 30
- (2) In the heading, after “planning permission” insert “etc”.
- (3) After subsection (2A) insert –  
 “(2B) Where –  
 (a) permission in principle granted by a development order is withdrawn by the revocation or amendment of the order, and  
 (b) on an application made under Part 3 or section 293A before the end of the period of 12 months beginning with the date on which the revocation or amendment came into operation, permission in principle is refused for development of a description that is the same as, or falls within, that to which the withdrawn permission in principle related,  
 section 107 shall apply as if the permission in principle granted by the development order had been granted by the local planning authority under Part 3 or section 293A, and had been revoked or modified by an order under section 97.” 35  
 40

- (4) In subsection (3), after “planning permission” insert “, or permission in principle,”.
- (5) In subsections (3B)(a) and (3C)(a), after “planning permission” insert “or permission in principle”.
- (6) In subsection (3C)(b), for “planning permission” substitute “permission”. 5
- (7) In subsection (3C)(d), before “either” insert “where the development order granted planning permission,”.
- 30 In section 109 (apportionment of compensation for depreciation), in the definition of “relevant planning decision” in subsection (6), for “by which planning permission is refused, or is granted” substitute “by which planning permission or permission in principle is refused, or by which planning permission is granted”. 10
- 31 In section 284 (validity of development plans and certain orders, decisions and directions), in subsection (3)(i), after “planning permission” insert “or permission in principle”.
- 32 In section 286 (challenges to validity on ground of authority’s powers), in subsections (1)(a) and (2), after “planning permission” insert “or permission in principle”. 15
- 33 In section 293 (application to Crown: definitions), in subsection (2A), after “planning permission” insert “or permission in principle”. 20
- 34 (1) Section 293A (urgent Crown development: application) is amended as follows.
- (2) In subsection (2), after “planning permission” (in both places) insert “or permission in principle”.
- (3) In subsection (4)(a), after “planning permission” insert “, or (as the case may be) permission in principle,”. 25
- 35 (1) Section 298A (application for planning permission by Crown) is amended as follows.
- (2) In the heading, after “planning permission” insert “etc”.
- (3) In subsection (1), after “for planning permission” insert “, for permission in principle”. 30
- 36 In section 303 (fees for planning applications etc), in subsection (4), after “planning permission” insert “or permission in principle”.
- 37 In section 316 (land of interested planning authorities and development by them), for subsection (7) substitute – 35
- “(7) This section applies –
- (a) to permission in principle to develop any land, and
- (b) to any consent required in respect of any land,
- as it applies to planning permission to develop land.”
- 38 In section 322B (local inquiries in London: special provision as to costs in certain cases) – 40
- (a) in subsection (1)(a),
- (b) in paragraph (a) of the subsection set out in subsection (5), and

- (c) in paragraph (a) of the subsection set out in subsection (6), after “planning permission” insert “or permission in principle”.
- 39 In section 332 (combined applications), in subsection (1)(a), after “planning permission” insert “, or permission in principle”.
- 40 (1) In section 336 (interpretation), subsection (1) is amended as follows. 5
- (2) At the appropriate place insert –
- ““permission in principle” means permission of the kind referred to in section 58A;”.
- (3) At the end of the definition of “planning permission” insert “but does not include permission in principle”. 10
- 41 (1) Schedule 1 (local planning authorities: distribution of functions) is amended as follows.
- (2) In paragraph 3(1)(a), after “planning permission” insert “or permission in principle”.
- (3) In paragraph 4(2), after “application for planning permission” insert “or permission in principle”.
- (4) In paragraphs 7(1), 8(1) and 8(2)(b)(i), 11(1)(a), 16(2)(a) and 18, after “planning permission” insert “or permission in principle”. 15
- Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)*
- 42 (1) In section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (general duty as respects listed buildings in exercise of planning functions) in subsection (1), after “planning permission” insert “or permission in principle”.
- 43 In section 91(2) of that Act (expressions that have the same meaning as in the principal Act), at the appropriate place insert – 20
- “permission in principle”.
- Commons Act 2006 (c. 26)*
- 44 (1) Schedule 1A to the Commons Act 2006 (exclusion of right under section 15) is amended as follows. 25
- (2) [In the first column of the Table, in paragraphs 1 and 2, after “An application for planning permission” insert “, or permission in principle,”.](#)
- (3) [In the second column of the Table, in paragraphs 1\(c\) and 2\(c\), after “planning permission” insert “or permission in principle”.](#)

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SCHEDULE 11

[Section 127](#)

RIGHT TO ENTER AND SURVEY LAND: CONSEQUENTIAL AMENDMENTS

Defence Act 1842 (5 & 6 Vict c. 94)

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1 In section 16 of the Defence Act 1842, at the end insert –

“(3) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).”

Coast Protection Act 1949 (12 & 13 Geo 6 c. 74)

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2 In section 25 of the Coast Protection Act 1949, after subsection (1) insert –

“(1A) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).”

15

National Parks and Access to the Countryside Act 1949 (12, 13 & 14 Geo 6 c. 97)

3 (1) Section 108 of the National Parks and Access to the Countryside Act 1949 is amended as follows.

(2) In subsection (1)(a), after “therein” insert “in relation to land in Scotland”.

(3) After subsection (1) insert –

“(1A) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).”

20

Land Powers (Defence) Act 1958 (6 & 7 Eliz 2 c. 30)

4 In section 21 of the Land Powers (Defence) Act 1958, after subsection (1) insert –

25

“(1A) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).”

30

Caravan Sites and Control of Development Act 1960 (8 & 9 Eliz 2 c. 62)

5 In section 26 of the Caravan Sites and Control of Development Act 1960, after subsection (1) insert –

“(1A) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).”

35

Compulsory Purchase Act 1965 (c. 56)

- 6 In section 11(3) of the Compulsory Purchase Act 1965 for “surveying and taking levels” substitute “surveying, valuing or taking levels”.

Criminal Justice Act 1972 (c. 71)

- 7 In the Criminal Justice Act 1972 omit section 60.

5

Welsh Development Agency Act 1975 (c. 70)

- 8 In Schedule 4 to the Welsh Development Agency Act 1975 omit paragraph 14(1).

10

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

- 9 In the Local Government (Miscellaneous Provisions) Act 1976 omit section 15.

15

Ancient Monuments and Archaeological Areas Act 1979 (c. 46)

- 10 In section 43 of the Ancient Monuments and Archaeological Areas Act 1979, for subsection (1) substitute –

“(1) Any person authorised under this section may at any reasonable time enter any land in Scotland for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that or any other land under this Act or in connection with any claim for compensation under this Act in respect of any such acquisition.

20

(1A) Any person authorised under this section may at any reasonable time enter any land in England and Wales or Scotland for the purpose of surveying it, or estimating its value, in connection with any claim for compensation under this Act for any damage to that or any other land.

25

(1B) See section 120 of the Housing and Planning Act 2015 for a power to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land.”

Local Government, Planning and Land Act 1980 (c. 65)

30

- 11 (1) Section 167 of the Local Government, Planning and Land Act 1980 is amended as follows.

(2) ~~In the first column of the Table heading, in paragraphs 1 and 2, after “An application for planning permission land” insert “, or permission in principle, Scotland”.~~

- (3) In subsection (1) –

35

(a) ~~In the second column of the Table, in paragraphs 1 paragraph (ea) and 2(c), after “planning permission any land” insert “or permission in principle, Scotland”.~~

40

SCHEDULE 12(a) in paragraph (b) after “other land” insert “in Scotland”.

- (1) In subsection (7) –
- (a) for the words before paragraph (a) substitute “Where it is proposed to search or bore in pursuance of this section in a road within the meaning of Part 4 of the New Roads and Street Works Act 1991 –”; 5
  - (b) in paragraph (a) omit “55 or”;
  - (c) in paragraph (b) omit “69 or”;
  - (d) in paragraph (c) omit “82 or”; 10
  - (e) for the words after paragraph (c) substitute “have effect in relation to the searching or boring as if they were road works within the meaning of Part 4 of that Act.”
- (2) In subsection (9) –
- (a) for “Upper Tribunal” substitute “Lands Tribunal for Scotland”; 15
  - (b) for the words from “section 4” to “costs” substitute “sections 9(2) to (5) and 11 of the Land Compensation (Scotland) Act 1963 (procedure and expenses)”.
- (3) Omit subsection (13).

Highways Act 1980 (c. 66)

- 1 In section 289 of the Highways Act 1980, after subsection (1) insert –
- “(1A) A person may not be authorised under subsection (1) to enter and survey or value land in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).” 20

New Towns Act 1981 (c. 64)

- 2 In section 73(1) of the New Towns Act 1981 omit paragraph (b) (and the “or” before it). 25

Civil Aviation Act 1982 (c. 16)

- 3 (1) Section 50 of the Civil Aviation Act 1982 is amended as follows. 30
- (2) In subsection (1), for paragraph (e) substitute –
- “(e) in any case not falling within paragraphs (a) to (d) above where the Secretary of State has made an order under or in pursuance of this Part of this Act –
  - (i) authorising the compulsory purchase of land,
  - (ii) providing for the creation in favour of a particular person of a right in or in relation to land, or
  - (iii) declaring that an area of land shall be subject to control by directions. 35
- (f) in any case not falling within paragraphs (a) to (d) above where the Secretary of State is considering making an order under or in pursuance of this Part of this Act –
- (i) authorising the compulsory purchase of land in Scotland or Northern Ireland,



	(ii) <u>providing for the creation in favour of a particular person of a right in or in relation to land in Scotland or Northern Ireland, or</u>	
	(iii) <u>declaring that an area of land in England and Wales, Scotland or Northern Ireland shall be subject to control by directions.”</u>	
(3)	<u>In subsection (3)(e), after “(1)(e)” insert “or (f)”.</u>	5
(4)	<u>In subsection (4)(b), after “(1)(e)” insert “or (f)”.</u>	
(5)	<u>In subsection (7)(c), after “(1)(e)” insert “or (f)”.</u>	
<u>Industrial Development Act 1982 (c. 52)</u>		
4	<u>In section 14 of the Industrial Development Act 1982 omit subsection (6).</u>	10
<u>Housing Act 1985 (c. 68)</u>		
5	<u>In section 54 of the Housing Act 1985, after subsection (2) insert –</u>	
	“(3) <u>A person may not be authorised by a local housing authority under subsection (1)(a) to enter and survey or value land in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).”</u>	15
<u>Local Government and Housing Act 1989 (c. 42)</u>		
6	<u>In section 97 of the Local Government and Housing Act 1989, after subsection (1) insert –</u>	
	“(1A) <u>A person may not be authorised by a local housing authority under subsection (1)(a) to enter and survey or value land in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).”</u>	20
<u>Electricity Act 1989 (c. 29)</u>		
7	<u>In Schedule 4 to the Electricity Act 1989, in paragraph 10, after sub-paragraph (1) insert –</u>	25
	“(1A) <u>A person may not be authorised under sub-paragraph (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).”</u>	
<u>Town and Country Planning Act 1990 (c. 8)</u>		
8	<u>In section 324 of the Town and Country Planning Act 1990 omit subsection (6).</u>	30
<u>Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)</u>		
9	<u>In section 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990 omit subsection (5).</u>	

Land Drainage Act 1991 (c. 59)

- 10 In section 64 of the Land Drainage Act 1991, after subsection (1) insert –  
“(1A) A person may not be authorised under subsection (1)(a) or (b) to enter and survey or value land in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).” 5

Water Industry Act 1991 (c. 56)

- 11 (1) Section 169 of the Water Industry Act 1991 is amended as follows.  
(2) In subsection (2) omit paragraph (a) (and the “or” at the end of it).  
(3) In subsection (4), for the words before paragraph (a) substitute “The powers conferred by this section or section 120 of the Housing and Planning Act 2015 shall not be exercised on behalf of a water undertaker in any case for purposes connected with the determination of –”. 10

Water Resources Act 1991 (c. 57)

- 12 (1) Section 171 of the Water Resources Act 1991 is amended as follows.  
(2) In subsection (2) omit paragraph (a) (and the “or” at the end of it).  
(3) In subsection (4), for the words before paragraph (a) substitute “The powers conferred by this section or section 120 of the Housing and Planning Act 2015 shall not be exercised on behalf of the Agency or the NRBW in any case for purposes connected with the determination of –”. 15

Environment Act 1995 (c. 25)

- 13 (1) Schedule 8 to the Environment Act 1995 is amended as follows.  
(2) In paragraph 1(2) omit paragraph (b).  
(3) In paragraph 2(3) –  
(a) at the end of paragraph (a) insert “and”;  
(b) omit paragraph (c) (and the “and” before it). 20  
25

Greater London Authority Act 1999 (c. 29)

- 14 In the Greater London Authority Act 1999 omit section 333ZD.

Postal Services Act 2000 (c. 26)

- 15 In Schedule 6 to the Postal Services Act 2000, in paragraph 2, after sub-paragraph (2) insert –  
“(2A) A person may not be authorised under sub-paragraph (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 120 of the Housing and Planning Act 2015).” 30  
35

Housing and Regeneration Act 2008 (c. 17)

16 In the Housing and Regeneration Act 2008 omit sections 17 and 18.

Localism Act 2011 (c. 20)

17 In the Localism Act 2011 omit section 210.

5

## SCHEDULE 13

Section ~~124~~131

## NOTICE OF GENERAL VESTING DECLARATION PROCEDURE

*New notice requirements*

10

1 The Acquisition of Land Act 1981 is amended as follows.

2 (1) Section 15 (compulsory purchase order: confirmation notice) is amended as follows.

(2) In subsection (4), after paragraph (d) insert –

15

“(e) containing a prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981;

(f) inviting any person who would be entitled to claim compensation if a declaration were ~~made~~executed under section 4 of that Act to give the acquiring authority information about the person’s name, address and interest in land, using a prescribed form.”

20

(3) After subsection (5) insert –

“(6) The acquiring authority must send the confirmation notice to the Chief Land Registrar and it shall be a local land charge.”

3 (1) Paragraph 6 of Schedule 1 (purchase by Minister: notices after making of order) is amended as follows.

(2) In sub-paragraph (4), after paragraph (d) insert –

25

“(e) containing a prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981;

(f) inviting any person who would be entitled to claim compensation if a declaration were ~~made~~executed under section 4 of that Act to give the acquiring authority information about the person’s name, address and interest in land, using a prescribed form.”

30

(3) After sub-paragraph (5) insert –

“(6) The Minister must send the making notice to the Chief Land Registrar and it shall be a local land charge.”

*Consequential amendments*

- 4 The Compulsory Purchase (Vesting Declarations) Act 1981 is amended as follows.
- 5 Omit section 3 (preliminary notices).
- 6 In section 5, omit subsection (1) (earliest date for execution of declaration following preliminary notice etc). 5
- 7 In section 6 (notices after execution of declaration), in subsection (1)(b), for “section 3(1) above” substitute “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981”.

*Power to make corresponding amendments elsewhere*

- 8 (1) The Secretary of State may by regulations amend any legislation in connection with the compulsory acquisition of land for the purpose of making amendments which correspond to the amendments made by this Schedule. 10
- (2) “Legislation” means any provision made by or under an Act passed or made before this Act or in the same Session. 15

SCHEDULE 14

Section ~~127~~137

ABOLITION OF ALTERNATIVE POSSESSION PROCEDURE FOLLOWING NOTICE TO TREAT

*Land Compensation Act 1961 (c. 33)*

- 1 In section 5A of the Land Compensation Act 1961 – 20
- (a) in subsection (6) omit paragraph (b);
- (b) in subsection (9)(b) omit “under Schedule 3 to that Act or”.

*Compulsory Purchase Act 1965 (c. 56)*

- 2 The Compulsory Purchase Act 1965 is amended as follows. 25
- 3 In section 11 omit subsection (2).
- 4 In section 12(6) omit “, or have paid it into court under Schedule 3 to this Act by way of security,”.
- 5 In section 37 for “Subsections (1) and (2)” substitute “Subsection (1)”.
- 6 Omit Schedule 3.

*Forestry Act 1967 (c. 10)*

- 7 In Schedule 5 to the Forestry Act 1967, in paragraph 11(3), omit paragraph (b). 30

*Agriculture (Miscellaneous Provisions) Act 1968 (c. 34)*

- 8 In Schedule 3 to the Agriculture (Miscellaneous Provisions) Act 1968, in paragraph 5(b), omit “and Schedule 3”.

*Land Compensation Act 1973 (c. 26)*

5

- 9 The Land Compensation Act 1973 is amended as follows.
- 10 In section 33A(4) omit paragraph (b).
- 11 In section 52ZC(7)(c) for “, any bond under Schedule 3 to that Act or” substitute “or any bond under”.
- 12 In section 52A –
- (a) in subsection (1), omit “Schedule 3 to that Act or”;
- (b) in subsection (9), omit “under Schedule 3 to that Act or”.
- 13 In section 57(1) omit “, under Schedule 3 to the Compulsory Purchase Act 1965”.

10

*Local Government (Miscellaneous Provisions) Act 1976 (c. 57)*

- 14 In section 29(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 omit “or 3”.

15

*Ancient Monuments and Archaeological Areas Act 1979 (c. 46)*

- 15 In section 36(1)(b) of the Ancient Monuments and Archaeological Areas Act 1979 omit “or (2)”.

20

*Planning and Compensation Act 1991 (c. 34)*

- 16 In section 80(2) of the Planning and Compensation Act 1991 omit “or Schedule 3 to the Compulsory Purchase Act 1965”.

25

*Planning Act 2008 (c. 29)*

- 17 In section 125 of the Planning Act 2008, in subsection (3), omit paragraph (c).

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## SCHEDULE 15

Section ~~134~~144

## OBJECTION TO DIVISION OF LAND FOLLOWING NOTICE TO TREAT

## PART 1

35

## AMENDMENTS TO COMPULSORY PURCHASE ACT 1965

- 1 The Compulsory Purchase Act 1965 is amended as follows.
- 2 In section 8 (material detriment arising from severance of land etc.), for subsection (1) substitute –
- “(1) Schedule 2A makes provision in respect of a proposal by an acquiring authority to acquire part only of a –

40

- (a) house, building or factory, or
- (b) park or garden belonging to a house.”

3 After Schedule 2 insert –

“SCHEDULE 2A

Section 8

5

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

PART 1

COUNTER-NOTICE WHERE ACQUIRING AUTHORITY HAS NOT TAKEN POSSESSION

10

*Introduction*

- 1 (1) This Part applies where an acquiring authority –
- (a) serve a notice to treat in respect of part only of a house, building or factory,
  - (b) have not entered on and taken possession of the land to which the notice to treat relates, and
  - (c) have not ~~made~~executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in respect of the land to which the notice to treat relates.

15

- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).

20

2 In this Part –

“additional land” means the part of the house, building, or factory not specified in the notice to treat;

25

“house” includes any park or garden belonging to a house;

“land proposed to be acquired” means the part of the house, building or factory specified in the notice to treat;

“whole of the land” means the land proposed to be acquired and the additional land.

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*Counter-notice requiring authority to purchase whole of land*

3 A person who is able to sell the whole of the land (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the whole of the land.

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4 A counter-notice under this Part must be served within –

- (a) the period of 28 days beginning with the day on which the notice to treat was served, or
- (b) if it would end earlier, the period specified in a repeat notice of entry served in accordance with section 11A.

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*Effect of counter-notice on notice of entry*

5 If the owner serves a counter-notice –

- (a) any notice of entry under section 11(1) that has already been served in respect of the land proposed to be acquired ceases to have effect, and
- (b) the acquiring authority may not serve a notice of entry (or a further notice of entry) under section 11(1) in respect of that land unless they are permitted to do so by paragraph 10 or 11.

5

*Acquiring authority must respond to counter-notice within three months*

- 6 On receiving a counter-notice the acquiring authority must decide whether to –
- (a) withdraw the notice to treat,
  - (b) accept the counter-notice, or
  - (c) refer the counter-notice to the Upper Tribunal.
- 7 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 8 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 9 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

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*Effects of accepting counter-notice or referring it to the Upper Tribunal*

- 10 If the acquiring authority serve notice of a decision to accept the counter-notice –
- (a) the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the whole of the land, and
  - (b) the authority may serve a notice of entry under section 11(1) in relation to the whole of the land.
- 11 If the acquiring authority serve notice of a decision to refer the counter-notice to the Upper Tribunal, the acquiring authority may serve a notice of entry under section 11(1) in relation to the land proposed to be acquired.
- 12 If the authority have already served one or more notices of entry under section 11(1) in respect of the land proposed to be acquired the period specified in any new notice of entry in relation to that land must be a period that ends no earlier than the end of the period in the most recent notice of entry.

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PART 2

COUNTER-NOTICE WHERE AUTHORITY HAS TAKEN POSSESSION

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*Introduction*

- 13 (1) This Part applies where an acquiring authority –

- (a) have entered on and taken possession of part only of a house, building or factory;
- (b) did not enter on and take possession of the land in accordance with section 11(1), whether because they had not served a notice to treat or otherwise, and
- (c) have not ~~made~~executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in respect of the land which they have entered on and taken possession of.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 14 In this Part –
- “additional land” means the part of the house, building, or factory that the authority have not entered on and taken possession of;
- “house” includes any park or garden belonging to a house;
- “land proposed to be acquired” means the part of the house, building or factory that the authority entered on and took possession of otherwise than in accordance with section 11(1);
- “whole of the land” means the land proposed to be acquired and the additional land.
- Counter-notice requiring authority to purchase additional land*
- 15 A person who is able to sell the whole of the land (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the whole of the land.
- 16 A counter-notice under this Part must be served within the period of 28 days beginning with the day on which –
- (a) the owner first had knowledge that the acquiring authority had entered on and taken possession of the land, or
- (b) if later, the owner receives any notice to treat.
- Acquiring authority must respond to counter-notice within 3 months*
- 17 On receiving a counter-notice the acquiring authority must decide whether to –
- (a) accept the counter-notice, or
- (b) refer the counter-notice to the Upper Tribunal.
- 18 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 19 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 20 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to accept the counter-notice at the end of that period.



*Effects of accepting counter-notice*

- 21 (1) This paragraph applies where the acquiring authority serve notice of a decision to accept the counter-notice.
- (2) The compulsory purchase order has effect as if it included the owner’s interest in the additional land. 5
- (3) If the acquiring authority have already served a notice to treat in relation to the land proposed to be acquired, the notice has effect as if it also included the owner’s interest in the additional land.
- (4) If the acquiring authority have not served a notice to treat, they must serve a notice to treat in relation to the whole of the land. 10

PART 3

DETERMINATION BY THE UPPER TRIBUNAL

*Introduction* 15

- 22 This Part applies where, in accordance with paragraph 8 or 19, the acquiring authority refer a counter-notice to the Upper Tribunal.
- 23 In this Part “land proposed to be acquired” and “additional land” have the meanings given by paragraph 2 or 14 as the case may be. 20

*Role of the Upper Tribunal*

- 24 (1) The Upper Tribunal must determine whether the severance of the land proposed to be acquired would –
- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or 25
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- (2) In making its determination, the Upper Tribunal must take into account –
- (a) the effect of the severance,
- (b) the proposed use of the land proposed to be acquired, and
- (c) if that land is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land. 35
- 25 If the Upper Tribunal determines that the severance of the land proposed to be acquired would have either of the consequences described in paragraph 24(1) it must determine how much of the additional land the acquiring authority ought to be required to take in addition to the land proposed to be acquired. 40

*Effect of determination that more land should be acquired*

- 26 (1) This paragraph applies where the Upper Tribunal determines that the acquiring authority ought to be required to take the whole or part of the additional land.

- (2) The compulsory purchase order has effect as if it included the owner’s interest in the additional land.
- (3) If the acquiring authority have already served a notice to treat in relation to the land proposed to be acquired, the notice has effect as if it also included the owner’s interest in the additional land.
- (4) If the acquiring authority have not served a notice to treat, they must serve a notice to treat in relation to the land proposed to be acquired and the additional land. 5
- (5) If the acquiring authority have already entered on and taken possession of the land proposed to be acquired, the power to award compensation under section 7 includes power to award compensation for any loss suffered by the owner by reason of the temporary severance of the land from the additional land. 10
- (6) Where the Upper Tribunal determines that the acquiring authority ought to be required to take part only of the additional land, a reference in sub-paragraph (2) to (5) to “the additional land” is to that part. 15

*Withdrawal of notice to treat following determination*

- 27 (1) This paragraph applies where—
- (a) the acquiring authority have served a notice to treat in respect of the land proposed to be acquired, 20
  - (b) the Upper Tribunal has determined that the authority ought to be required to take the whole or part of the additional land, and
  - (c) the authority have not yet entered on and taken possession of any of the land proposed to be acquired or the additional land. 25
- (2) The acquiring authority may withdraw the notice to treat in respect of the whole of the land at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal made its determination.
- (3) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice. 30
- (4) Any dispute as to the compensation is to be determined by the Upper Tribunal.” 35

PART 2

CONSEQUENTIAL AMENDMENTS

*Land Compensation Act 1961 (c. 33)*

- 4 (1) Section 5A of the Land Compensation Act 1961 (relevant valuation date) is amended as follows. 40

(2)	After subsection (5) insert—	
	“(5A) If—	
	(a) the acquiring authority enters on and takes possession of land in pursuance of a notice of entry given as mentioned in paragraph 11 of Schedule 2A to the Compulsory Purchase Act 1965 (“the original land”),	5
	(b) the acquiring authority are subsequently required by a determination under paragraph 25 of Schedule 2A to the Compulsory Purchase Act 1965 to take additional land, and	
	(c) the acquiring authority enters on and takes possession of that additional land,	
	the authority is deemed for the purposes of subsection (3)(a) to have entered on and taken possession of the additional land when it entered on and took possession of the original land.”	10
	(3) In subsection (6), for “subsection (5)” substitute “subsections (5) and (5A)”.	
	<i>Land Compensation Act 1973 (c. 26)</i>	
5	In section 58 of the Land Compensation Act 1973 (determination of material detriment where part of house etc. subject to compulsory acquisition)—	15
	(a) in subsection (1) omit “section 8(1) or 34(2) of the Compulsory Purchase Act 1965, or”;	
	(b) omit subsection (2).	
	<i>Provisions which refer to section 8(1)</i>	
6	For each of the following provisions substitute, with the same paragraph or sub-paragraph number as the provision being replaced, the provision in paragraph 7—	25
	(a) paragraph 7 of Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1976;	
	(b) paragraph 23(2) of Schedule 28 to the Local Government, Planning and Land Act 1980;	
	(c) paragraph 7 of Schedule 19 to the Highways Act 1980;	
	(d) paragraph 8 of Schedule 3 to the Gas Act 1986;	
	(e) paragraph 22 of Schedule 10 to the Housing Act 1988;	30
	(f) paragraph 9 of Schedule 3 to the Electricity Act 1989;	
	(g) paragraph 4 of Schedule 9 to the Water Industry Act 1991;	
	(h) paragraph 4 of Schedule 18 to the Water Resources Act 1991;	
	(i) paragraph 4 of Schedule 1B to the Coal Industry Act 1994;	
	(j) paragraph 8 of Schedule 5 to the Postal Services Act 2000;	
	(k) paragraph 11 of Schedule 2 to the Housing and Regeneration Act 2008.	35
7	This is the provision to be substituted for the provisions listed in paragraph 6—	
	“[X] Section 8(1) of the Compulsory Purchase Act 1965 has effect as if references to acquiring land were to acquiring a right in the land, and Schedule 2A to that Act is to be read as if, for that Schedule,	40

there were substituted –

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

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*Introduction*

- 1 (1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over part only of a house, building or factory.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface). 10
- 2 In this Schedule –
- “additional land” means the part of the house, building or factory over which a right is not proposed to be acquired in the notice to treat; 15
  - “house” includes any park or garden belonging to a house;
  - “land in the notice to treat” means the part of the house, building or factory over which a right is proposed to be acquired;
  - “whole of the land” means the additional land and the land in the notice to treat. 20

*Counter-notice requiring purchase of land*

- 3 A person who is able to sell the whole of the land (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the whole of the land. 25
- 4 A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served. 30

*Response to counter-notice*

- 5 On receiving a counter-notice the acquiring authority must decide whether to –
- (a) withdraw the notice to treat, 35
  - (b) accept the counter-notice, or
  - (c) refer the counter-notice to the Upper Tribunal.
- 6 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”). 40
- 7 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 8 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period. 45

- 9 If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the whole of the land.

*Determination by Upper Tribunal*

- 10 On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would –
- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
  - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- 11 In making its determination, the Upper Tribunal must take into account –
- (a) the effect of the acquisition of the right,
  - (b) the proposed use of the right, and
  - (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 12 If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the land to which the counter-notice relates the authority ought to be required to take.
- 13 If the Upper Tribunal determines that the authority ought to be required to take some or all of the land the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.
- 14 (1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the land, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to the whole of the land.
- (2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
- (3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

*New Towns Act 1981 (c. 64)*

- 8 In Part 1 of Schedule 6 to the New Towns Act 1981 (modifications of the Compulsory Purchase Act 1965 for the purposes of the New Towns Act 1981), in paragraph 1(2) –
- (a) at the end of paragraph (e) omit “and”, and

- (b) at the end of paragraph (f) insert “;
- (g) in Schedule 2A to that Act references to section 11 or 11A of that Act are to be read respectively as references to paragraph 4 or 4A of this Schedule.”

*Acquisition of Land Act 1981 (c. 67)*

- 9 In the Acquisition of Land Act 1981, after section 2 insert – 5
- “2A Tunnels etc**
- (1) A compulsory purchase order may provide that in the following provisions, a reference to land (however expressed) does not include specified land that is at least 9 metres or more below the surface.
  - (2) The provisions mentioned in subsection (1) are – 10
    - (a) Schedule 2A of the Compulsory Purchase Act 1965 (objection to division of land),
    - (b) any substituted version of that Schedule that applies by virtue of provision made by or under any Act, and
    - (c) Schedule 1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (objection to division of land).” 15

*Water Industry Act 1991 (c. 56)*

- 10 In Schedule 11 to the Water Industry Act 1991 (orders conferring compulsory works powers), in paragraph 6(1)(b), for “section” substitute “sections 2A and”. 20

*Water Resources Act 1991 (c. 57)*

- 11 In Schedule 19 to the Water Resources Act 1991 (orders conferring compulsory works powers), in paragraph 6(1)(b), for “section” substitute “sections 2A and”. 25

SCHEDULE 16

SCHEDULE 17

Section  
~~134~~144

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OBJECTION TO DIVISION OF LAND FOLLOWING VESTING DECLARATION

PART 1

AMENDMENTS TO COMPULSORY PURCHASE (VESTING DECLARATIONS) ACT 1981

- 1 The Compulsory Purchase (Vesting Declarations) Act 1981 is amended as follows. 35
- 2 In section 4 (execution of declaration), for subsection (3), substitute –
- “(3) For the purposes of this Act the “vesting date” in relation to any land that is actually specified in a general vesting declaration is –
    - (a) the first day after the end of the period specified in the declaration in accordance with subsection (1) above, or

- (b) if a counter-notice is served under paragraph 2 of Schedule 1 within that period in relation to land, the day determined as the vesting date for the land in accordance with that Schedule.
- (4) For the purposes of this Act, the “vesting date” for any land that is deemed to have been specified in a general vesting declaration by Schedule 1 is the day determined as the vesting date for the land in accordance with that Schedule.”
- 3 In section 7 (constructive notice to treat), in subsection (1), for paragraphs (a) and (b) substitute –
- “*(a)* the Land Compensation Act 1961 (as modified by section 4 of the Acquisition of Land Act 1981),
- (b)* the Compulsory Purchase Act 1965, and
- (c)* Schedule 1 to this Act.”.
- 4 In section 8 (vesting and the right to enter on and take possession), in subsection (1), for the words before paragraph (a) substitute “Any land specified in the general vesting declaration, together with the right to enter upon and take possession of it, shall, subject to section 9 below, vest in the acquiring authority on the vesting date in relation to that land as if –”.
- 5 For Schedule 1 substitute –
- “SCHEDULE 1 Section 12
- COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN GENERAL VESTING  
DECLARATION
- PART 1 25
- COUNTER-NOTICE REQUIRING PURCHASE OF ADDITIONAL LAND
- 1 (1) This Schedule applies where an acquiring authority have ~~made~~ executed a general vesting declaration in respect of part only of a house, building or factory.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 2 A person able to sell the whole of the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the whole. 35
- 3 A counter-notice under paragraph 2 must be served before the end of the period of 28 days beginning with the day the owner first had knowledge of the general vesting declaration.
- 4 In a case where this Schedule applies by virtue of a general vesting declaration ~~made~~ executed after a counter-notice has been served under paragraph 3 or 15 of Schedule 2A to the Compulsory Purchase Act 1965, that counter-notice is to have effect as a counter-notice served under this Schedule. 40
- 5 In this Schedule –

“additional land” means the part of the house, building or factory not specified in the general vesting declaration;  
“house” includes any park or garden belonging to a house;  
“land proposed to be acquired” means the part of the house, building or factory specified in the general vesting declaration;  
“original vesting date” is the first day after the end of the period specified in the general vesting declaration in accordance with section 4(1).

PART 2

CONSEQUENCES OF COUNTER-NOTICE

*Acquiring authority must respond to counter-notice within three months*

- 6 (1) On receiving a counter-notice the acquiring authority must decide whether to—  
(a) withdraw the notice to treat in relation to the land proposed to be acquired,  
(b) accept the counter-notice, or  
(c) refer the counter-notice to the Upper Tribunal.
- (2) But the acquiring authority may not decide to withdraw the notice to treat if the counter-notice was served on or after the original vesting date.
- 7 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 8 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 9 (1) This paragraph applies if the acquiring authority do not serve notice of a decision within the decision period.  
(2) If the counter-notice was served before the original vesting date, the authority are to be treated as if they had served notice of a decision to withdraw the notice to treat in relation to the land proposed to be acquired.  
(3) if the counter-notice was served on or after the original vesting date, they are to be treated as if they had served notice of a decision to accept it.

*No vesting if notice to treat withdrawn*

- 10 If the acquiring authority serve notice of a decision to withdraw the notice to treat in relation to the land proposed to be acquired the general vesting declaration is to have effect as if it did not include that land.



*Effects of accepting counter-notice*

- 11 (1) This paragraph applies where the acquiring authority serve notice of a decision to accept the counter-notice.
- (2) The general vesting declaration and the notice to treat (and, where applicable, the compulsory purchase order) are to have effect as if they included the owner’s interest in the additional land as well as in the land proposed to be acquired. 5
- (3) The authority must serve on the owner a notice specifying the vesting date or dates for –
- (a) the land proposed to be acquired (if the counter-notice was served before the original vesting date), and
- (b) the additional land. 10
- (4) The new vesting date for the land proposed to be acquired must not be before the original vesting date.
- (5) The vesting date for the additional land must be after the period of 28 days beginning with the day on which the notice under subparagraph (3) is served. 15

*Effects of referring counter-notice to the Upper Tribunal*

- 12 (1) This paragraph applies where –
- (a) the acquiring authority refer the counter-notice to the Upper Tribunal, and 20
- (b) the counter-notice was served before the original vesting date.
- (2) At any time before the Upper Tribunal make a determination under paragraph 14, the acquiring authority may serve notice on the owner specifying a new vesting date for the land proposed to be acquired. 25
- (3) The new vesting date for the land proposed to be acquired must not be before the original vesting date.

PART 3

DETERMINATION BY THE UPPER TRIBUNAL 30

*Introduction*

- 13 This Part applies where, in accordance with paragraph 8, the acquiring authority refer a counter-notice to the Upper Tribunal. 35

*Role of the Upper Tribunal*

- 14 (1) The Upper Tribunal must determine whether the severance of the land proposed to be acquired would –
- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or 40

- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- (2) In making its determination, the Upper Tribunal must take into account –
  - (a) the effect of the severance,
  - (b) the proposed use of the land proposed to be acquired, and
  - (c) if that land is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 15 If the Upper Tribunal determines that the severance of the land proposed to be acquired would have either of the consequences described in paragraph 14(1) it must determine how much of the additional land the acquiring authority ought to be required to take in addition to the land proposed to be acquired.

*Effect of determination that more land should be acquired*

- 16 (1) This paragraph applies where the Upper Tribunal determines that the acquiring authority ought to be required to take the whole or part of the additional land.
- (2) The general vesting declaration and any notice to treat (and, where applicable, the compulsory purchase order) are to have effect as if they included the owner’s interest in that additional land.
- (3) The Upper Tribunal must order a vesting date for –
  - (a) the additional land, and
  - (b) any land proposed to be acquired which has not vested in the authority and for which no vesting date has been specified under paragraph 12.

*Withdrawal of notice to treat following determination*

- 17 (1) This paragraph applies where –
  - (a) the Upper Tribunal has determined that the acquiring authority ought to be required to take the whole or part of the additional land, and
  - (b) the vesting date in relation to the land proposed to be acquired has not passed, and
  - (c) the vesting date in relation to the additional land has not passed.
- (2) The acquiring authority may withdraw the notice to treat in relation to the whole of the land at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal made its determination.
- (3) If the acquiring authority withdraws the notice to treat, the general vesting declaration is to have effect as if it did not include that land.

*Schedule 10 – Objection to division of land following vesting declaration*  
*Part 1 – Amendments to Compulsory Purchase (Vesting Declarations) Act 1981*

- (4) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
- (5) Any dispute as to the compensation is to be determined by the Upper Tribunal.”
- 6 In Schedule 2 (vesting of land in urban development corporation), for paragraph 4 substitute – 5
- “4 In Schedule 1, for paragraph 3 there is to be substituted –
- “3 A counter-notice under paragraph 2 must be served within the period of 28 days beginning with the day on which the order comes into force.”” 10

PART 2

CONSEQUENTIAL AMENDMENT

- 7 In section 5A of the Land Compensation Act 1961 (relevant valuation date), after subsection (5A) (inserted by Schedule [9-13](#) to this Act) insert – 15
- “(5B) If –
- (a) the land is the subject of a general vesting declaration, and
- (b) the vesting date is different for different parts of the land,
- the first of the vesting dates is deemed for the purposes of subsection (4)(a) to be the vesting date for the whole of the land.” 20

SCHEDULE 18

Section ~~149~~150 25

AMENDMENTS TO DO WITH SECTIONS ~~137-147~~ AND ~~138~~148

*Welsh Development Agency Act 1975 (c. 70)*

- 1 (1) Schedule 4 to the Welsh Development Agency Act 1975 is amended as follows. 30
- (2) Omit paragraph 6 and the italic heading before it.
- (3) In paragraph 9 omit sub-paragraph (a).

*Local Government, Planning and Land Act 1980 (c. 65)*

- 2 (1) Schedule 28 to the Local Government, Planning and Land Act 1980 is amended as follows. 35
- (2) In paragraph 6 –
- (a) in sub-paragraph (1), after “work on land” insert “in Scotland”;
- (b) omit sub-paragraph (1A);
- (c) in sub-paragraph (2), omit “or (1A)”;
- (d) in sub-paragraph (4) – 40
- (i) omit “or (1A)”;

- (ii) omit “section 7 or 10 of the Compulsory Purchase Act 1965 (or”
  - (iii) omit “, or use of,”;
- (e) in sub-paragraph (7) –
  - (i) for “at the suit (or in Scotland at the instance)” substitute “at the instance”; 5
  - (ii) omit “or 1A”.
- (3) In paragraph 7, for sub-paragraph (11) substitute –
  - “(11) Nothing in this paragraph shall be construed as authorising any act or omission on the part of an urban development corporation or local highway authority, or of any body corporate, in contravention of any limitation imposed by law on its capacity by virtue of the constitution of the corporation, authority or body.” 10
- (4) In paragraph 9, for sub-paragraph (3) substitute –
  - “(3) Nothing in this paragraph shall be construed as authorising any act or omission on the part of an urban development corporation or local highway authority, or of any body corporate, in contravention of any limitation imposed by law on its capacity by virtue of the constitution of the corporation, authority or body.” 15

*New Towns Act 1981 (c. 64)*

- 3 The New Towns Act 1981 is amended as follows.
- 4 Omit section 19. 20
- 5 In section 20, for subsection (10) substitute –
  - “(10) Nothing in this section shall be construed as authorising any act or omission on the part of a development corporation or local highway authority, or of any body corporate, in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the corporation, authority or body.”
- 6 In section 21, for subsection (3) substitute – 25
  - “(3) Nothing in this section shall be construed as authorising any act or omission on the part of a development corporation or local highway authority, or of any body corporate, in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the corporation, authority or body.” 30

*Housing Act 1988 (c. 50)*

- 7 (1) Schedule 10 to the Housing Act 1988 is amended as follows.
  - (2) Omit paragraph 5 and the italic heading before it.
  - (3) In paragraph 6, for sub-paragraph (11) substitute – 35
    - “(11) Nothing in this paragraph shall be construed as authorising any act or omission on the part of a housing action trust, or of any body corporate, in contravention of any limitation imposed by law on its capacity by virtue of the constitution of the trust or body.”

(4) In paragraph 7, for sub-paragraph (3) substitute –

“(3) Nothing in this paragraph shall be construed as authorising any act or omission on the part of a housing action trust, or of any body corporate, in contravention of any limitation imposed by law on its capacity by virtue of the constitution of the trust or body.”

*Town and Country Planning Act 1990 (c. 8)*

8 The Town and Country Planning Act 1990 is amended as follows. 5

9 Omit section 237.

10 In section 245(4), omit paragraph (a).

11 In section 246(2), for “237” substitute “238”. 10

*Greater London Authority Act 1999 (c. 29)*

12 (1) Section 333ZB of the Greater London Authority Act 1999 is amended as follows.

(2) For subsection (1) substitute –

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

(3) In subsection (2) –

- (a) insert “, and” at the end of paragraph (a);
- (b) omit paragraph (aa) and the “and” at the end of it.

(4) In the heading, omit “acquired or”.

*Planning Act 2008 (c. 29)*

13 The Planning Act 2008 is amended as follows.

14 In section 194, omit subsection (1).

15 Omit Schedule 9.

*Housing and Regeneration Act 2008 (c. 17)*

16 In Schedule 3 to the Housing and Regeneration Act 2008, omit Part 1.

*Localism Act 2011 (c. 20)*

17 In section 208 of the Localism Act 2011, for subsection (1) substitute –

“(1) Schedule 3 to the Housing and Regeneration Act 2008 (powers, in relation to land of the Homes and Communities Agency, to extinguish public rights of way, and in relation to burial grounds and consecrated land) applies in relation to an MDC and its land as it applies in relation to the Homes and Communities Agency and its land.”

- 18      In section 32 of the Infrastructure Act 2015, omit subsections (6), (7), (8) and (10).

# Housing and Planning Bill

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## B I L L

[AS AMENDED IN PUBLIC BILL COMMITTEE]

To make provision about housing, estate agents, rentcharges, planning and compulsory purchase.

*Presented by Secretary Greg Clark,  
supported by The Prime Minister, Mr Chancellor of the Exchequer,  
Secretary Theresa May, Secretary Michael Gove,  
Secretary Sajid Javid, Secretary Iain Duncan Smith,  
Secretary Patrick McLoughlin, Secretary Elizabeth Truss,  
Mr Marcus Jones and Brandon Lewis.*

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