



# Enterprise and Regulatory Reform Act 2013

## 2013 CHAPTER 24

### PART 5

#### REDUCTION OF LEGISLATIVE BURDENS

##### *Sunset and review*

#### **59 Sunset and review provisions**

- (1) The Interpretation Act 1978 is amended as follows.
- (2) After section 14 (implied power to amend) insert—

##### **“14A Power to include sunset and review provisions in subordinate legislation**

- (1) This section applies where an Act confers a power or a duty on a person to make subordinate legislation except to the extent that—
  - (a) the power or duty is exercisable by the Scottish Ministers, or
  - (b) the power or duty is exercisable by any other person within devolved competence (within the meaning of the Scotland Act 1998).
- (2) The subordinate legislation may include—
  - (a) provision requiring the person to review the effectiveness of the legislation within a specified period or at the end of a specified period;
  - (b) provision for the legislation to cease to have effect at the end of a specified day or a specified period;
  - (c) if the power or duty is being exercised to amend other subordinate legislation, provision of the kind mentioned in paragraph (a) or (b) in relation to that other legislation.

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- (3) The provision that may be made by virtue of subsection (2)(a) includes provision requiring the person to consider whether the objectives which it was the purpose of the legislation to achieve remain appropriate and, if so, whether they could be achieved in another way.
  - (4) Subordinate legislation including provision of a kind mentioned in subsection (2) may make such provision generally or only in relation to specified provisions of the legislation or specified cases or circumstances.
  - (5) Subordinate legislation including provision of a kind mentioned in subsection (2) may make transitional, consequential, incidental or supplementary provision or savings in connection with such provision.
  - (6) In this section, “specified” means specified in the subordinate legislation.”
- (3) In paragraph 1 of Schedule 2, after the entry for section 11 insert— “ Section 14A ”.

*Heritage planning etc*

**60 Listed buildings in England: agreements and orders granting listed building consent**

- (1) The Planning (Listed Buildings and Conservation Areas) Act 1990 is amended as follows.
- (2) In Chapter 2 of Part 1, after section 26 insert—

*“Buildings in England: heritage partnership agreements*

**26A Heritage partnership agreements**

- (1) A relevant local planning authority may make an agreement under this section (a “heritage partnership agreement”) with any owner of a listed building, or a part of such a building, situated in England.
- (2) Any of the following may also be a party to a heritage partnership agreement in addition to an owner and the relevant local planning authority—
  - (a) any other relevant local planning authority;
  - (b) the Secretary of State;
  - (c) the Commission;
  - (d) any person who has an interest in the listed building;
  - (e) any occupier of the listed building;
  - (f) any person involved in the management of the listed building;
  - (g) any other person who appears to the relevant local planning authority appropriate as having special knowledge of, or interest in, the listed building, or in buildings of architectural or historic interest more generally.
- (3) A heritage partnership agreement may contain provision—
  - (a) granting listed building consent under section 8(1) in respect of specified works for the alteration or extension of the listed building to which the agreement relates, and

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- (b) specifying any conditions to which the consent is subject.
- (4) The conditions to which listed building consent may be subject under subsection (3)(b) in respect of specified works are those that could be attached to listed building consent in respect of the works if consent were to be granted under section 16.
- (5) If a heritage partnership agreement contains provision under subsection (3), nothing in sections 10 to 26 and 28 applies in relation to listed building consent for the specified works, subject to any regulations under section 26B(2)(f).
- (6) A heritage partnership agreement may also—
- (a) specify or describe works that would or would not, in the view of the parties to the agreement, affect the character of the listed building as a building of special architectural or historic interest;
  - (b) make provision about the maintenance and preservation of the listed building;
  - (c) make provision about the carrying out of specified work, or the doing of any specified thing, in relation to the listed building;
  - (d) provide for public access to the listed building and the provision to the public of associated facilities, information or services;
  - (e) restrict access to, or use of, the listed building;
  - (f) prohibit the doing of any specified thing in relation to the listed building;
  - (g) provide for a relevant public authority to make payments of specified amounts and on specified terms—
    - (i) for, or towards, the costs of any works provided for under the agreement; or
    - (ii) in consideration of any restriction, prohibition or obligation accepted by any other party to the agreement.
- (7) For the purposes of subsection (6)(g), each of the following, if a party to the agreement, is a relevant public authority—
- (a) the Secretary of State;
  - (b) the Commission;
  - (c) a relevant local planning authority.
- (8) In this section “specified” means specified or described in the heritage partnership agreement.
- (9) In this section and section 26B—
- “owner”, in relation to a listed building or a part of such a building, means a person who is for the time being —
    - (a) the estate owner in respect of the fee simple in the building or part; or
    - (b) entitled to a tenancy of the building or part granted or extended for a term of years certain of which not less than seven years remain unexpired;
  - “relevant local planning authority”, in relation to a listed building, means a local planning authority in whose area the building or any part of the building is situated.

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## **26B Heritage partnership agreements: supplemental**

- (1) A heritage partnership agreement—
  - (a) must be in writing;
  - (b) must make provision for the parties to review its terms at intervals specified in the agreement;
  - (c) must make provision for its termination and variation;
  - (d) may relate to more than one listed building or part, provided that in each case a relevant local planning authority and an owner are parties to the agreement; and
  - (e) may contain incidental and consequential provisions.
- (2) The Secretary of State may by regulations make provision—
  - (a) about any consultation that must take place before heritage partnership agreements are made or varied;
  - (b) about the publicity that must be given to heritage partnership agreements before or after they are made or varied;
  - (c) specifying terms that must be included in heritage partnership agreements;
  - (d) enabling the Secretary of State or any other person specified in the regulations to terminate by order a heritage partnership agreement or any provision of such an agreement;
  - (e) about the provision that may be included in an order made under regulations under paragraph (d), including provision enabling such orders to contain supplementary, incidental, transitory, transitional or saving provision;
  - (f) applying or reproducing, with or without modifications, any provision of sections 10 to 26 and 28 for the purposes of heritage partnership agreements;
  - (g) providing for any of the following, as they apply for the purposes of provisions mentioned in paragraph (f), to apply with any modifications consequential on provision made under that paragraph—
    - (i) sections 30 to 37;
    - (ii) sections 62 and 63;
    - (iii) Parts 3 and 4;
    - (iv) Schedule 3.
- (3) Regulations made under subsection (2)(a) may, in particular, include provision as to—
  - (a) the circumstances in which consultation must take place;
  - (b) the types of listed building in respect of which consultation must take place;
  - (c) who must carry out the consultation;
  - (d) who must be consulted (including provision enabling the Commission to direct who is to be consulted in particular cases); and
  - (e) how the consultation must be carried out.

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- (4) Listed building consent granted by a heritage partnership agreement (except so far as the agreement or regulations under subsection (2) otherwise provide) enures for the benefit of the building and of all persons for the time being interested in it.
  - (5) Subject to subsection (4), a heritage partnership agreement cannot impose any obligation or liability, or confer any right, on a person who is not party to the agreement.
  - (6) Section 84 of the Law of Property Act 1925 (power to discharge or modify restrictive covenant) does not apply to a heritage partnership agreement.”
- (3) After section 26B insert—

*“Buildings in England: orders granting listed building consent*

#### **26C Listed building consent orders**

- (1) The Secretary of State may by order (a “listed building consent order”) grant listed building consent under section 8(1) in respect of works of any description for the alteration or extension of listed buildings of any description in England.
- (2) The consent may be granted subject to conditions specified in the order.
- (3) Without prejudice to the generality of subsection (2), the conditions that may be specified include any conditions subject to which listed building consent may be granted under section 16.
- (4) A listed building consent order may (without prejudice to section 17(2)) give the local planning authority power to require details of works to be approved by them, and may grant consent subject to conditions with respect to—
  - (a) the making of an application to the authority for a determination as to whether such approval is required, and
  - (b) the outcome of such an application or the way it is dealt with.
- (5) A listed building consent order may enable the Secretary of State or the local planning authority to direct that consent granted by the order does not apply—
  - (a) to a listed building specified in the direction;
  - (b) to listed buildings of a description specified in the direction;
  - (c) to listed buildings in an area specified in the direction.
- (6) An order may in particular make provision about the making, coming into force, variation and revocation of such a direction, including provision conferring powers on the Secretary of State in relation to directions by a local planning authority.
- (7) Nothing in sections 10 to 26 applies in relation to listed building consent granted by a listed building consent order; but that does not affect the application of sections 20, 21 and 22 in relation to an application for approval required by a condition to which consent is subject.

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### **26D Local listed building consent orders**

- (1) A local planning authority for any area in England may by order (a “local listed building consent order”) grant listed building consent under section 8(1) in respect of works of any description for the alteration or extension of listed buildings.
- (2) Regulations under this Act may provide that subsection (1) does not apply to listed buildings of any description or in any area.
- (3) The consent granted by a local listed building consent order may relate—
  - (a) to all listed buildings in the area of the authority or any part of that area;
  - (b) to listed buildings of any description in that area or any part of that area.
- (4) The consent may be granted subject to conditions specified in the order.
- (5) Without prejudice to the generality of subsection (4), the conditions that may be specified include any subject to which listed building consent may be granted under section 16.
- (6) A local listed building consent order may enable the local planning authority to direct that the consent granted by the order in respect of works of any description does not apply—
  - (a) to a listed building specified in the direction;
  - (b) to listed buildings of a description specified in the direction;
  - (c) to listed buildings in an area specified in the direction.
- (7) An order may in particular make provision about the making, coming into force, variation and revocation of such a direction, including provision conferring powers on the Secretary of State.
- (8) Nothing in sections 10 to 26 applies in relation to listed building consent granted by a local listed building consent order; but that does not affect the application of sections 20, 21 and 22 in relation to an application for approval required by a condition to which consent is subject.
- (9) Schedule 2A makes provision in connection with local listed building consent orders.

### **26E Powers of Secretary of State in relation to local orders**

- (1) At any time before a local listed building consent order is adopted by a local planning authority the Secretary of State may direct that the order (or any part of it) is not to be adopted without the Secretary of State's approval.
- (2) If the Secretary of State gives a direction under subsection (1)—
  - (a) the authority must not take any step in connection with the adoption of the order until they have submitted the order or the part to the Secretary of State and the Secretary of State has decided whether to approve it;

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- (b) the order has no effect unless it (or the part) has been approved by the Secretary of State.
- (3) In considering an order or part submitted under subsection (2)(a) the Secretary of State may take account of any matter the Secretary of State thinks relevant.
- (4) It is immaterial whether any such matter was taken account of by the local planning authority.
- (5) The Secretary of State—
  - (a) may approve or reject an order or part of an order submitted under subsection (2)(a);
  - (b) must give reasons for that decision.
- (6) The Secretary of State—
  - (a) may at any time before a local listed building consent order is adopted by the local planning authority, direct them to modify it in accordance with the direction;
  - (b) must give reasons for any such direction.
- (7) The local planning authority—
  - (a) must comply with a direction under subsection (6);
  - (b) must not adopt the order unless the Secretary of State gives notice of being satisfied that they have complied with the direction.
- (8) The Secretary of State—
  - (a) may at any time by order revoke a local listed building consent order if of the opinion that it is expedient to do so;
  - (b) must give reasons for doing so.
- (9) The Secretary of State—
  - (a) must not make an order under subsection (8) without consulting the local planning authority;
  - (b) if proposing to make such an order, must serve notice on the local planning authority.
- (10) A notice under subsection (9)(b) must specify the period (which must not be less than 28 days from the date of its service) within which the authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (11) The Secretary of State must give the authority such an opportunity if they require it within the period specified in the notice.

## **26F Considerations in making orders**

- (1) In considering whether to make a listed building consent order or local listed building consent order the Secretary of State or local planning authority must have special regard to the desirability of preserving—
  - (a) listed buildings of a description to which the order applies,
  - (b) their setting, or
  - (c) any features of special architectural or historic interest which they possess.

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- (2) Before making a listed building consent order the Secretary of State must consult the Commission.

**26G Effect of revision or revocation of order on incomplete works**

- (1) A listed building consent order or local listed building consent order may include provision permitting the completion of works if—
- (a) listed building consent is granted by the order in respect of the works, and
  - (b) the listed building consent is withdrawn after the works are started but before they are completed.
- (2) Listed building consent granted by an order is withdrawn—
- (a) if the order is revoked;
  - (b) if the order is varied or (in the case of a local listed building consent order) revised so that it ceases to grant listed building consent in respect of the works or materially changes any condition or limitation to which the grant of listed building consent is subject;
  - (c) if a direction applying to the listed building is issued under powers conferred under section 26C(5) or 26D(6).”

- (4) After section 28 insert—

**“28A Compensation where consent formerly granted by order is granted conditionally or refused**

- (1) Section 28 also has effect (subject to subsections (2) and (3)) where—
- (a) listed building consent granted by a listed building consent order or a local listed building consent order is withdrawn (whether by the revocation or amendment of the order or by the issue of a direction), and
  - (b) on an application for listed building consent made within the prescribed period after the withdrawal, consent for works formerly authorised by the order is refused or is granted subject to conditions other than those imposed by the order.
- (2) Section 28 does not have effect by virtue of subsection (1) if—
- (a) the works authorised by the order were started before the withdrawal, and
  - (b) the order included provision in pursuance of section 26G permitting the works to be completed after the withdrawal.
- (3) Section 28 does not have effect by virtue of subsection (1) if—
- (a) notice of the withdrawal was published in the prescribed manner and within the prescribed period before the withdrawal, and
  - (b) the works authorised by the order were not started before the notice was published.
- (4) Where section 28 has effect by virtue of subsection (1), references in section 28(2) and (3) to the revocation or modification of listed building consent are references to the withdrawal of the listed building consent by revocation or amendment of the order or by issue of the direction.”



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- (5) Schedule 16 (which inserts Schedule 2A to the Planning (Listed Buildings and Conservation Areas) Act 1990) has effect.

**Commencement Information**

- I1** S. 60 partly in force; s. 60 in force for specified purposes at Royal Assent, see s. 103(1)(i)  
**I2** S. 60 in force at 6.4.2014 in so far as not already in force by S.I. 2014/416, art. 3(a)

**61 Listed buildings in England: certificates of lawfulness**

In the Planning (Listed Buildings and Conservation Areas) Act 1990 after section 26G insert—

*“Buildings in England: certificates of lawfulness*

**26H Certificate of lawfulness of proposed works**

- (1) A person who wishes to ascertain whether proposed works for the alteration or extension of a listed building in England would be lawful may make an application to the local planning authority specifying the building and describing the works.
- (2) For the purposes of this section works would be lawful if they would not affect the character of the listed building as a building of special architectural or historic interest.
- (3) If on an application under this section the local planning authority are provided with information satisfying them that the works described in the application would be lawful at the time of the application, they must issue a certificate to that effect; and in any other case they must refuse the application.
- (4) A certificate under this section must—
  - (a) specify the building to which it relates;
  - (b) describe the works concerned;
  - (c) give the reasons for determining that the works would be lawful; and
  - (d) specify the date of issue of the certificate.
- (5) Works for which a certificate is issued under this section are to be conclusively presumed to be lawful, provided that—
  - (a) they are carried out within 10 years beginning with the date of issue of the certificate, and
  - (b) the certificate is not revoked under section 26I.

**26I Certificates under section 26H: supplementary**

- (1) An application for a certificate under section 26H must be made in such manner as may be prescribed by regulations under this Act.
- (2) An application must include such particulars, and be verified by such evidence, as may be required—
  - (a) by the regulations,

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- (b) by any directions given under the regulations, or
  - (c) by the local planning authority.
- (3) Regulations under this Act may make provision about how applications for a certificate under section 26H are to be dealt with by local planning authorities.
- (4) In particular, regulations may provide for requiring the authority—
- (a) to give to any applicant within a prescribed period such notice as may be prescribed as to the manner in which the application has been dealt with; and
  - (b) to give to the Secretary of State, and to such other persons as may be prescribed, prescribed information with respect to such applications made to the authority, including information as to the manner in which any application has been dealt with.
- (5) A certificate under section 26H may be issued--
- (a) for the whole or part of the listed building specified in the application; and
  - (b) for all or part of the works described in the application;
- and must be in such form as may be prescribed.
- (6) A local planning authority may revoke a certificate under section 26H if, on the application for the certificate—
- (a) a statement was made or document used which was false in a material particular; or
  - (b) any material information was withheld.
- (7) Regulations under this section may make provision for regulating the manner in which certificates may be revoked and the notice to be given of such revocation.

### **26J Offences**

- (1) A person is guilty of an offence if, for the purpose of procuring a particular decision on an application (whether or not by that person) for the issue of a certificate under section 26H, the person—
- (a) knowingly or recklessly makes a statement which is false or misleading in a material particular;
  - (b) with intent to deceive, uses any document which is false or misleading in a material particular; or
  - (c) with intent to deceive, withholds any material information.
- (2) A person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.
- (3) Notwithstanding section 127 of the Magistrates' Courts Act 1980, a magistrates' court may try an information in respect of an offence under subsection (1) whenever laid.

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## **26K Appeals against refusal or failure to give decision on application**

- (1) Where an application is made to a local planning authority for a certificate under section 26H and—
  - (a) the application is refused or is refused in part, or
  - (b) the authority do not give notice to the applicant of their decision on the application within such period as may be prescribed under section 26I or within such extended period as may at any time be agreed in writing between the applicant and the authority,the applicant may by notice appeal to the Secretary of State.
- (2) A notice of appeal under this section—
  - (a) must be served within such time and in such manner as may be prescribed;
  - (b) must be accompanied by such information as may be prescribed.
- (3) The time prescribed for the service of a notice of appeal under this section must not be less than—
  - (a) 28 days from the date of notification of the decision on the application; or
  - (b) in the case of an appeal under subsection (1)(b), 28 days from—
    - (i) the end of the period prescribed as mentioned in subsection (1)(b), or
    - (ii) as the case may be, the extended period mentioned in subsection (1)(b).
- (4) On an appeal under this section, the Secretary of State must grant the appellant a certificate under section 26H or, in the case of a refusal in part, modify the certificate granted by the authority on the application, if and so far as the Secretary of State is satisfied—
  - (a) in the case of an appeal under subsection (1)(a), that the authority's refusal is not well-founded, or
  - (b) in the case of an appeal under subsection (1)(b), that if the authority had refused the application their refusal would not have been well-founded.
- (5) If and so far as the Secretary of State is satisfied that the authority's refusal is or, as the case may be, would have been well-founded, the Secretary of State must dismiss the appeal.
- (6) Where the Secretary of State grants a certificate under section 26H on an appeal under this section, the Secretary of State must give notice to the local planning authority of that fact.
- (7) References in this section to a refusal of an application in part include a modification or substitution of the description in the application of the works concerned.
- (8) Schedule 3 applies to an appeal under this section.”

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### **Commencement Information**

**I3** S. 61 partly in force; s. 61 in force for specified purposes at Royal Assent, see s. 103(1)(i)

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**14** S. 61 in force at 6.4.2014 in so far as not already in force by S.I. 2014/416, art. 3(b)

## 62 Osborne estate

- (1) Section 1 of the Osborne Estate Act 1902 is amended as follows.
- (2) In subsection (3) (land to be managed in accordance with Crown Lands Act 1851) omit “as if it had been committed to their management under section twenty-two of the Crown Lands Act, 1851”.
- (3) Omit subsection (4)(b) (part of house and grounds to be used for the benefit of officers and their families).
- (4) Omit the following provisions (which relate to land no longer forming part of the Osborne estate)—
  - (a) in subsection (3) the words from “and the part” to “Barton House and grounds”;
  - (b) in subsection (4) the words from “And the Commissioners” to the end.
- (5) The Osborne Estate Act 1914 (which gives power to extend the classes of persons who may benefit under section 1(4)(b) of the Osborne Estate Act 1902) is repealed.

## 63 Heritage planning regulation

Schedule 17 (heritage planning regulation) has effect.

### Commencement Information

- I5** S. 63 partly in force; s. 63 in force for specified purposes at 25.6.2013, see s. 103(2)(f)
- I6** S. 63 in force at 25.6.2013 for specified purposes by S.I. 2013/1455, art. 2(d) (with art. 4(2))
- I7** S. 63 in force at 1.10.2013 for specified purposes by S.I. 2013/2227, art. 2(m)
- I8** S. 63 in force at 6.4.2014 for specified purposes by S.I. 2014/416, art. 3(e)

## Equality Acts

## 64 Commission for Equality and Human Rights

- (1) In the Equality Act 2006 omit—
  - (a) sections 10(1) and (4) to (8) and 19 (groups);
  - (b) section 27 (conciliation).
- (2) In section 12(4)(b) of that Act (monitoring progress: reports every three years) for “three” substitute “ five ”.
- (3) The following subsections make further amendments to the Equality Act 2006.
- (4) In section 7(3) (Scotland: human rights) omit “or 10”.
- (5) In section 9(4) and (5) (human rights) omit “or 10”.
- (6) In section 12 (monitoring progress)—
  - (a) in subsection (1)(a) for “the aim specified in section 3” substitute “ the duties specified in sections 8 and 9 ”;

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- (b) in subsection (1)(b) for “the development of the society described in section 3” substitute “ changes in society that are consistent with those duties ”.
- (7) In section 13(1) (information, advice etc) for “to 10” substitute “ and 9 ”.
- (8) In section 16(1) (inquiries) for “, 9 and 10” substitute “ and 9 ”.
- (9) In section 17(1) (grants) for “to 10” substitute “ and 9 ”.
- (10) In section 39(4) (orders and regulations) for “10(6), 15(6) or 27(10)” substitute “ 15(6) ”.
- (11) In Schedule 1 (the Commission)—
  - (a) in paragraph 39 omit “or 27”;
  - (b) omit paragraph 52(1)(a)(v) and (vi) and (b);
  - (c) for paragraph 52(3)(b) substitute—
    - “(b) section 8, in so far as it relates to disability, and”;
  - (d) in paragraph 52(3)(c) omit “, 27(2) and (3)”.
- (12) The following subsections amend the Equality Act 2010 in consequence of subsection (1).
- (13) In section 118 (time limits)—
  - (a) in subsection (2) omit “or (4)”;
  - (b) omit subsection (4).
- (14) In Schedule 17 (disabled pupils: enforcement) omit—
  - (a) paragraph 4(2) (time limits where dispute referred to conciliation under section 27 of the Equality Act 2006);
  - (b) in paragraph 4(2A), “or for conciliation in pursuance of arrangements under section 27 of the Equality Act 2006”.

## **65 Equality Act 2010: third party harassment of employees**

In section 40 of the Equality Act 2010 (employees and applicants: harassment) omit subsections (2) to (4).

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### **Commencement Information**

**I9** S. 65 in force at 1.10.2013 by S.I. 2013/2227, art. 2(c) (with art. 4)

## **66 Equality Act 2010: obtaining information for proceedings**

- (1) In the Equality Act 2010, omit section 138 (obtaining information, etc).
- (2) That does not affect section 138 for the purposes of proceedings that relate to a contravention occurring before this section comes into force.

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### **Commencement Information**

**I10** S. 66 in force at 6.4.2014 by S.I. 2014/416, art. 3(c)

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*Regulatory Enforcement and Sanctions Act 2008*

**67 Primary authorities**

- (1) Section 22 of the Regulatory Enforcement and Sanctions Act 2008 (scope of Part 2) is amended in accordance with subsections (2) to (5).
- (2) Before subsection (1), insert—
  - “(A1) This Part applies in relation to a person if the Secretary of State is satisfied that the person is within subsection (1) or (1A).”
- (3) In subsection (1), for the words from “This Part” to “a person” substitute “A person is within this subsection if—
  - (a) the person”.
- (4) After subsection (1) insert—
  - “(1A) A person (P) is within this subsection if each of the conditions in subsection (1B) is met.
  - (1B) The conditions are—
    - (a) that P carries on an activity in relation to which a local authority exercises a relevant function;
    - (b) that the effect of arrangements made by P with any organisation or other person is that P's approach to compliance, in respect of the relevant function, is one that is shared with another person (Q) who carries on the activity;
    - (c) that—
      - (i) at least one of P and Q carries on the activity in the area of two or more local authorities, or
      - (ii) Q carries on the activity in the area of a local authority in which P does not carry on the activity.”
- (5) For subsection (2) substitute—
  - “(2) In this Part, references to “the regulated person” are to a person to whom this Part applies.
  - (3) The Secretary of State may from time to time publish guidance about matters likely to be taken into account for the purposes of subsection (1B)(b).
  - (4) The guidance may be published in such manner as the Secretary of State considers appropriate.”
- (6) In section 24 of that Act, after subsection (6) insert—
  - “(7) References in this Part to “the relevant function”, in relation to the regulated person, are to the relevant function by reference to which the Secretary of State is satisfied that the person is within section 22(1) or (1A).”
- (7) In section 26(2) of that Act (nomination of primary authorities), for “The Secretary of State” substitute “Where the Secretary of State has been satisfied that the regulated person is within section 22(1), the Secretary of State”.

**Commencement Information**

**III** S. 67 in force at 1.10.2013 by S.I. 2013/2227, art. 2(d)

**68 Inspection plans**

(1) Section 30 of the Regulatory Enforcement and Sanctions Act 2008 (inspection plans) is amended as follows.

(2) After subsection (3) insert—

“(3A) An inspection plan may require a local authority other than the primary authority, on exercising the function of inspection in relation to the regulated person, to provide the primary authority with a report on its exercise of the function.”

(3) In subsection (7)—

- (a) for the words from the beginning to “exercising” substitute “ Where the primary authority exercises ”;
- (b) after “regulated person” insert “ , it ”.

(4) After subsection (7) insert—

“(7A) A local authority other than the primary authority may not exercise the function of inspection in relation to the regulated person otherwise than in accordance with a plan that has been brought to its notice under subsection (6), unless—

- (a) it has notified the primary authority in writing of the way in which it proposes to exercise the function in relation to the regulated person, and
- (b) the primary authority has notified the local authority in writing that it consents to the authority's exercising the function in that way.

(7B) Subsection (7C) applies if a primary authority that has been notified by a local authority as described in subsection (7A)(a) fails to notify that authority in writing, within the notification period, whether it consents to the authority's exercising the function of inspection as described in the notification.

(7C) The primary authority is to be treated for the purposes of this section, following the expiry of the notification period, as having given the notification of consent described in subsection (7A)(b).

(7D) The “notification period”, in subsections (7B) and (7C), is the period of five working days beginning with the first working day after the day on which the notification referred to in subsection (7A)(a) is received by the primary authority.

(7E) Where an inspection plan includes a requirement of the type described in subsection (3A), a local authority exercising the function of inspection in relation to the regulated person must provide a report to the primary authority in accordance with the requirement.”

(5) Omit subsection (8).

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, PART 5. (See end of Document for details)*

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- (6) In subsection (9) for “(8)” substitute “ (7A)(a) ”.
- (7) After subsection (9) insert—
- “(9A) A primary authority may, with the consent of the Secretary of State, revoke a plan made by it under this section.
- (9B) If a primary authority revokes a plan under subsection (9A), it must notify the other local authorities with the function of inspection that the plan is no longer in effect.”
- (8) In subsection (10), for “(9)” substitute “ (9B) ”.
- (9) After subsection (10) insert—
- “(11) In subsection (7D), “working day” means a day other than—
- (a) a Saturday or Sunday,
  - (b) Christmas Day or Good Friday, or
  - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in—
    - (i) the part of the United Kingdom where the primary authority is, or
    - (ii) (if different) the part of the United Kingdom where the authority is that has given the notification referred to in subsection (7A)(a).”

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**Commencement Information**

**I12** S. 68 in force at 1.10.2013 by S.I. 2013/2227, art. 2(e) (with art. 5)

*Miscellaneous*

**69 Civil liability for breach of health and safety duties**

- (1) Section 47 of the Health and Safety at Work etc. Act 1974 (civil liability) is amended as set out in subsections (2) to (7).
- (2) In subsection (1), omit paragraph (b) (including the “or” at the end of that paragraph).
- (3) For subsection (2) substitute—
- “(2) Breach of a duty imposed by a statutory instrument containing (whether alone or with other provision) health and safety regulations shall not be actionable except to the extent that regulations under this section so provide.
- (2A) Breach of a duty imposed by an existing statutory provision shall not be actionable except to the extent that regulations under this section so provide (including by modifying any of the existing statutory provisions).
- (2B) Regulations under this section may include provision for—
- (a) a defence to be available in any action for breach of the duty mentioned in subsection (2) or (2A);



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**Changes to legislation:** There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, PART 5. (See end of Document for details)

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- (b) any term of an agreement which purports to exclude or restrict any liability for such a breach to be void.”
- (4) In subsection (3), omit the words from “, whether brought by virtue of subsection (2)” to the end.
- (5) In subsection (4)—
  - (a) for “and (2)” substitute “, (2) and (2A)”, and
  - (b) for “(3)” substitute “ (2B)(a) ”.
- (6) Omit subsections (5) and (6).
- (7) After subsection (6) insert—
  - “(7) The power to make regulations under this section shall be exercisable by the Secretary of State.”
- (8) Where, on the commencement of this section, there is in force an Order in Council made under section 84(3) of the Health and Safety at Work etc. Act 1974 that applies to matters outside Great Britain any of the provisions of that Act that are amended by this section, that Order is to be taken as applying those provisions as so amended.
- (9) The amendments made by this section do not apply in relation to breach of a duty which it would be within the legislative competence of the Scottish Parliament to impose by an Act of that Parliament.
- (10) The amendments made by this section do not apply in relation to breach of a duty where that breach occurs before the commencement of this section.

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**Commencement Information**

- I13** S. 69 partly in force; s. 69 in force for specified purposes at Royal Assent, see s. 103(1)(i)
- I14** S. 69 in force at 1.10.2013 in so far as not already in force by S.I. 2013/2227, art. 2(f)

## 70 Estate agency work

In section 1 of the Estate Agents Act 1979 (estate agency work), for subsection (4) substitute—

- “(4) This Act does not apply to the following things when done by a person who does no other things which fall within subsection (1) above—
  - (a) publishing advertisements or disseminating information;
  - (b) providing a means by which—
    - (i) a person who wishes to acquire or dispose of an interest in land can, in response to such an advertisement or dissemination of information, make direct contact with a person who wishes to dispose of or, as the case may be, acquire an interest in land;
    - (ii) the persons mentioned in sub-paragraph (i) can continue to communicate directly with each other.”

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**Commencement Information**

- I15** S. 70 in force at 1.10.2013 by S.I. 2013/2227, art. 2(g)

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, PART 5. (See end of Document for details)*

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## 71 Bankruptcy applications: determination by adjudicators

- (1) In Part 14 of the Insolvency Act 1986 (public administration (England and Wales)), before section 399 and the cross-heading which precedes it insert—

*“Adjudicators*

### 398A Appointment etc of adjudicators and assistants

- (1) The Secretary of State may appoint persons to the office of adjudicator.
- (2) A person appointed under subsection (1)—
- (a) is to be paid out of money provided by Parliament such salary as the Secretary of State may direct,
  - (b) holds office on such other terms and conditions as the Secretary of State may direct, and
  - (c) may be removed from office by a direction of the Secretary of State.
- (3) A person who is authorised to act as an official receiver may not be appointed under subsection (1).
- (4) The Secretary of State may appoint officers of the Secretary of State's department to assist adjudicators in the carrying out of their functions.”
- (2) In Part 9 of that Act (bankruptcy), before Chapter 1 insert the Chapter set out in Schedule 18 (adjudicators: bankruptcy applications by debtors and bankruptcy orders).
- (3) Schedule 19 (adjudicators: minor and consequential amendments) has effect.

#### Commencement Information

- I16** S. 71 partly in force; s. 71 in force for specified purposes at Royal Assent, see s. 103(1)(i)
- I17** S. 71(1)(2) in force at 6.4.2016 in so far as not already in force by S.I. 2016/191, art. 2
- I18** S. 71(3) in force at 6.4.2016 by S.I. 2016/191, art. 2

## 72 Abolition of Agricultural Wages Board and related English bodies

- (1) The Agricultural Wages Board for England and Wales is abolished.
- (2) Every agricultural wages committee for an area in England is abolished.
- (3) Every agricultural dwelling-house advisory committee for an area in England is abolished.
- (4) Schedule 20 (abolition of Agricultural Wages Board and related English bodies: consequential provision) has effect.

#### Modifications etc. (not altering text)

- C1** S. 72(4) excluded (W.) (30.7.2014) by Agricultural Sector (Wales) Act 2014 (anaw 6), ss. 12(2)(a), 19 (with s. 14(1))

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**Changes to legislation:** There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, PART 5. (See end of Document for details)

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#### Commencement Information

- I19** S. 72(1) in force at 25.6.2013 by [S.I. 2013/1455](#), **art. 2(b)** (with [art. 4\(2\)](#))
- I20** S. 72(2) in force at 16.12.2013 by [S.I. 2013/2979](#), **art. 2(a)**
- I21** S. 72(3) in force at 16.12.2013 by [S.I. 2013/2979](#), **art. 2(b)**
- I22** S. 72(4) in force at 25.6.2013 for specified purposes by [S.I. 2013/1455](#), **art. 2(c)**, **Sch. 1** (with [art. 4\(2\)](#))
- I23** S. 72(4) in force at 1.10.2013 for specified purposes by [S.I. 2013/1455](#), **art. 3**, **Sch. 2** (with [art. 4\(1\)-\(2\)](#), [\(4\)](#), **Sch. 3**)
- I24** S. 72(4) in force at 16.12.2013 for specified purposes by [S.I. 2013/2979](#), **art. 2(d)**, **Sch. Pt. 2**
- I25** S. 72(4) in force at 16.12.2013 for specified purposes for E. by [S.I. 2013/2979](#), **art. 2(c)**, **Sch. Pt. 1** (with [art. 4](#))
- I26** S. 72(4) in force at 31.3.2014 for specified purposes for E. by [S.I. 2013/2979](#), **art. 3** (as amended (26.3.2014) by [S.I. 2014/824](#), **art. 2(a)**)
- I27** [S. 72\(4\)](#) in force at 15.9.2014 for specified purposes by [S.I. 2014/2481](#), **art. 2**
- I28** [S. 72\(4\)](#) in force at 31.12.2014 for specified purposes for E. by [S.I. 2013/2979](#), **art. 3A** (as inserted (26.3.2014) by [S.I. 2014/824](#), **art. 2(b)** and substituted (14.9.2014) by [S.I. 2014/2481](#), **art. 4**)

### 73 Unnecessary regulation: miscellaneous

Schedule 21 (unnecessary regulation: miscellaneous) has effect.

#### Commencement Information

- I29** [S. 73](#) partly in force; [s. 73](#) in force for specified purposes at 25.6.2013, see [s. 103\(2\)\(g\)](#)
- I30** [S. 73](#) in force at 1.10.2013 for specified purposes by [S.I. 2013/2227](#), **art. 2(n)** (with [art. 6](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, PART 5.