EXPLANATORY NOTES

Housing and Planning Act 2016

Chapter 22

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HOUSING AND PLANNING ACT 2016

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Housing and Planning Act 2016 (c. 22) which received Royal Assent on 12 May 2016.

- These Explanatory Notes have been prepared by the Department for Communities and Local Government in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act. So where a provision of the Act does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

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Overview of the Act

1 The Act puts in place measures to support the delivery of the Government's commitments as published in the Conservative Party manifesto and the productivity plan *Fixing the foundations: Creating a more prosperous nation*. Through this Act, the Government aims to take forward proposals to build more homes that people can afford, give more people the chance to own their own home, and to improve the way housing is managed.

2 This Act implements reforms that aim to remove any unnecessary obstacles in the planning system to the delivery of new homes.

3 The Act is made up of nine parts. A summary of these parts and their contents is provided below.

- Part 1: New homes in England
  - Starter homes – provides a statutory framework for the delivery of starter homes.
  - Self-build and custom housebuilding – requires local authorities to meet demand for custom-built and self-built homes by granting permissions for suitable sites.
- Part 2: Rogue landlords and property agents in England
  - Private rented sector – provides greater powers for local authorities to identify and tackle rogue landlords and property agents.
- Part 3: Recovering abandoned premises in England
  - Private rented sector – reforms abandonment to more effectively recycle rented property.
- Part 4: Social housing in England
  - Implementing the Right to Buy on a voluntary basis – enables the Secretary of State to pay for the cost of Right to Buy discounts for housing association tenants and to set criteria for home ownership against which private registered providers may be monitored.
  - Vacant higher value local authority housing – requires local authorities to manage their housing assets more efficiently, with the most valuable vacant properties sold to fund an increase in home ownership and overall housing supply.
  - Rents for high income social tenants – requires local authority tenants in social housing on higher incomes (over £40,000 in London and over £31,000 outside London) to pay a proportionate level of rent. The policy is voluntary for housing associations to operate.
  - Reducing regulation of social housing – reduces the regulatory requirements for private registered providers of social housing.

- Insolvency of registered providers of social housing– allows the Secretary of State or the regulator of social housing with the agreement of the Secretary of State to apply to the Court to appoint a special administrator for private registered providers of social housing that are at risk of entering insolvency proceedings.
- Secure tenancies etc. – requires local authority landlords to grant new tenants a fixed term tenancy, of between 2 and 10 years generally but up to 19 years for tenants with children and restricting the rights of family members to succeed to local authority tenancies.

- Part 5: Housing, estate agents and rentcharges: other changes
  - Electrical safety standards - enables the Secretary of State to make regulations to require private sector landlords to meet electrical safety standards.
  - Accommodation needs in England - amends the legislation governing the assessment of housing and accommodation needs of the community, and aims to ensure that the needs of all members of the community are assessed.
  - Housing regulation in England - a more stringent 'fit and proper' person test for landlords letting out licensed properties, such as Houses in Multiple Occupation, to help ensure that they have the appropriate skills to manage such properties and do not pose a risk to the health and safety of their tenants; allows financial penalties to be imposed as an alternative to prosecution for certain offences; and increases the fine for overcrowding to an unlimited level.
  - Housing information in England - requires Tenancy Deposit Scheme data to be shared with local authorities; and gives the secretary of a tenants' association a right to obtain from the landlord contact information for other leaseholders in a shared block provided that leaseholders have individually consented to their information being made available in this way.
  - Administration charges - amends the Commonhold and Leasehold Reform Act 2002 to give courts and tribunals a discretionary power to restrict the ability of a landlord to recover from the leaseholder as an administrative charge the landlord's costs of taking part in legal proceedings.
  - Enforcement of estate agent legislation - amends the Estate Agents Act 1979 to allow the Secretary of State to appoint the lead enforcement authority.

- Client money protection schemes for property agents - enables the Secretary of State to make regulations to require property agents to join a Client Money Protection scheme.
- Enfranchisement and extension of long leaseholds – enables the manner in which the valuation of minor intermediate leasehold interests in leasehold enfranchisement and lease extension cases is calculated to be changed by regulations.
- Rentcharges - allows the method used for calculating the amount needed to redeem a rentcharge to be amended by secondary legislation.

- Part 6: Planning in England
  - Neighbourhood planning - simplifies and speeds up the neighbourhood planning process to support communities that seek to meet local housing and other development needs through neighbourhood planning.
  - Local planning - gives the Secretary of State more flexible powers to intervene if Local Plans are not effectively delivered.
  - Planning in Greater London - enables the Secretary of State to devolve further powers to the Mayor of London.
  - Permission in principle and local registers of land - enables the Secretary of State to require local authorities to hold a register of various types of land, with the intention of creating a register of brownfield land to facilitate unlocking land to build new homes; and enables "permission in principle" to be given to suitable housing-led sites identified in the brownfield register and in local and neighbourhood plans, and provides an opportunity for applicants to obtain permission in principle for small sites.
  - Planning permission etc - amends the power which enables conditions to be attached to development orders for building operations so that they are consistent with those for change of use; extends the planning performance regime to apply to applications which are not major applications (e.g. smaller applications); puts information about the financial benefits of proposals for development and information about neighbourhood development plans before local authority planning committees; enables local authorities to request alterations to the planning system; and simplifies the Parliamentary process for making changes to planning application fees that affect some authorities but not others.

- Planning obligations - allows the Secretary of State to place restrictions or conditions on the enforceability of planning obligations relating to the provision of affordable housing and provides for the Secretary of State to appoint a person to help resolve outstanding planning obligations issues within set timeframes.
- Nationally significant infrastructure projects – allows developers who wish to bring forward applications for housing relating to a major infrastructure project to apply for consent under the nationally significant infrastructure planning regime.
- Powers for piloting alternative provision of processing service - allows the Secretary of State to introduce, by regulations, pilot schemes to test the benefits of introducing competition in the processing (but not determination) of applications for planning permission.
- Review of minimum energy performance requirements – requires a review of minimum energy performance standards for new dwellings.
- Urban development corporations and new towns – modernising and speeding up the process for creating Urban and New Town Development Areas and Corporations.
- Sustainable drainage – requires a review of elements of the planning system that relate to sustainable drainage.

- Part 7: Compulsory purchase etc
  - Takes steps to improve the compulsory purchase regime, and make it clearer, fairer and faster.
- Part 8: Public Authority land
  - Engagement in relation to disposal of land – creates a duty on Ministers of the Crown to engage with local authorities and relevant public authorities when preparing to dispose of land.
  - Duty to report on surplus land – requires relevant public authorities to prepare reports specifying land which they have retained as surplus for longer than two years; or, in the case of property which is wholly or mainly residential property, longer than six months. In each instance, the report must set out the body's reasons for retaining the surplus land.
  - Power to direct bodies to dispose of land – builds on existing powers for the Secretary of State to direct bodies to dispose of land. Adds further circumstances under which this power may be exercised.

- Reports on efficiency and sustainability of local government estate – creates a new duty on local authorities to prepare an annual report on the efficiency and sustainability of buildings within their estate, including progress towards reducing the size of the estate and efficiency ratings of individual buildings.
- Reports on efficiency and sustainability of military estate – creates a new duty on the Minister for Cabinet Office to prepare an annual report on the efficiency and sustainability of buildings within the military estate, including progress towards reducing the size of the estate and efficiency ratings of individual buildings.

- Part 9: General

Policy background

Home ownership

4 In England most of the available data shows that the aspiration to buy and own a home remains strong for the majority of households. Over half (57%) of private renters and around a quarter (24%) of social renters in the UK think they will eventually buy their own home. This desire to achieve home ownership is also reflected in the latest British Social Attitudes survey which reported that 86% of people aspire to own their own home (https://www.gov.uk/government/statistics/english-housing-survey-2014-to-2015-headline-report).

5 Around two thirds of social renters (68%) and three fifths (60%) of private renters stated, as their main or only reason for why they don't expect to buy their own home in the UK, that they would be unable to afford it.

6 Of the estimated 22.5 million households in England in 2014-15, 14.3 million or 64% were owner occupiers. The proportion of all households in owner occupation increased steadily from the 1980s to 2003 when it reached a peak of 71%. A period of gradual decline in owner occupation followed but this seems to have abated with no change in owner occupation rates between 2013-14 and 2014-15. (https://www.gov.uk/government/statistics/english-housing-survey-2014-to-2015-headline-report).

7 Although now abated, the long-term downward trend in owner occupation has disproportionately affected younger households. Of those households that do own their home 75% are over the age of 45 and nearly half (46%) of households in the 25-34 age group live in the private rented sector (only 21% were renting privately in 2003-04). Over the last twenty years, the proportion of under 40 year olds who own their home has fallen by over a third from 61% to 38% (https://www.gov.uk/government/statistics/english-housing-survey-2014-to-2015-headline-report) and, in 2014, the Office for National Statistics (ONS) reported that 3.3 million people between the ages of 20 and 34 were still living with their parents (accounting for 26% of the age group).

8 The number of first-time buyers since the financial crash of 2007-08, as measured by the number of mortgages issued to first-time buyers, has fallen significantly. Throughout the 1980s and 1990s the number of mortgages to this group averaged over 400,000 per year (https://www.cml.org.uk/news/723/) but between 2008 and 2014 the average annual number of loans has been fewer than 300,000.

9 In its manifesto the Government committed to "build more homes that people can afford, including 200,000 starter homes exclusively for first-time buyers under 40". The Act requires local planning authorities to actively promote the development of starter homes for first-time buyers between the ages of 23 and 40. Starter homes will be sold at a minimum 20% below the market price to provide the opportunity for more young, first-time buyers to get onto the housing ladder.

10 The Government also announced its intention to extend the Right to Buy to the tenants of housing associations in its manifesto. Working with the National Housing Federation, the Government has secured an agreement with housing associations to give their tenants the opportunity to buy their home with an equivalent discount to the Right to Buy.

11 Homes sold to tenants under this agreement will be replaced on a one-for-one basis nationally using the proceeds from the sale of the property. This seeks to support an increase to the overall supply of new housing.

12 The Government will compensate the housing association for the discount offered to the tenant, and housing associations will retain the sales receipt to enable them to reinvest in the delivery of new homes.

Housing supply and the speed of delivery

13 Following the financial crisis, housebuilding in England fell to its lowest point in the post-war era. Since 2010-11, where completions totalled 108,000, the number of new homes built in England has been on the rise, reaching 124,000 completions in the financial year 2014-15 (https://www.gov.uk/government/collections/house-building-statistics). But this number is far short of the number estimated that is required to keep up with the existing demand, with the figure in some cases ranging from 200,000 to 300,000 per year.

14 This Act puts in place various tools for housebuilders and decision-makers in local authorities to support and promote an increase in housing supply and at a quicker pace. It also puts forward a number of reforms that are aimed at streamlining the planning system to help speed up the delivery of housing.

New tools for housebuilders and decision-makers

15 The Government made a commitment to get planning permission in place on 90% of brownfield land suitable for housing by 2020. The Act supports the development of brownfield land by requiring local authorities to prepare, maintain and publish local registers of specified land.

16 The Act enables permission in principle to be granted for housing-led development on sites chosen and allocated by local authorities, parish councils and neighbourhood forums in development plan documents, neighbourhood plans and their brownfield register. It allows development on suitable sites to proceed quicker by agreeing in principle matters upfront.

17 In line with the Government's commitment to devolution, this Act enables the Secretary of State to devolve further planning powers to the Mayor of London and at the request of local authorities to make alterations to the planning system to speed up local delivery.

18 The Government has an ambition to double the number of custom-built and self-built homes by 2020. In March 2015 Parliament passed the Self-build and Custom Housebuilding Act 2015. The Act, which came into force on 1st April 2016, requires local planning authorities to compile a register of persons seeking to acquire land to build or commission their own home and to have regard to that register when carrying out their planning, housing, land disposal and regeneration functions. The Housing and Planning Act 2016 requires local planning authorities to ensure that there are sufficient serviced permissioned plots consistent with the local demand on their custom build registers. This is intended to make it much easier for people to find land to build or commission their own home, diversifying housing supply and revitalising smaller builders who have not experienced the same level of recovery as the large housebuilders since the financial crisis.

19 Since 2012, developers putting forward applications for major development have been able to submit these applications to the Planning Inspectorate for decision should the local planning authority fail to make decisions on time. This has seen the number of major applications decided on time increase to 81% in October to December 2015, compared with 57% in July to September 2012, when the designation approach was first introduced. This Act will extend the cases where planning authorities may be designated for poor performance to include applications for non-major developments. Once designated applicants for non-major development will, unless regulations provide otherwise, have the option to submit their application to the Planning Inspectorate. This will take place where the local planning authority has a track record of very poor performance in the speed or quality of its decision-making.

20 This Act will also take forward the Government's commitment to require local authorities to manage their housing assets more efficiently. Local authorities will be required to make a payment to the Secretary of State based on the value of their vacant higher value housing. These payments would be used to help support people into home ownership, including funding discounts for housing association tenants' Right to Buy. The value of this housing will also be used to fund the building of new homes to meet housing need.

21 The Act introduces a common process for establishing both Urban and New Town Development Corporations and Areas. They will be established, following statutory consultation, through the affirmative (though expressly de-hybridised) resolution procedure in both Houses of Parliament. The process for establishing Urban Development Corporations and Areas and New Town Development Areas previously differed. The reforms aim to speed up the process and to remove any duplication of work undertaken as part of local plan preparations, whilst allowing for proper Parliamentary scrutiny.

Streamlining the planning system

22 Effective regeneration of areas, which could comprise considerable amounts of new housing, often requires the compulsory purchase of land or property. This Act streamlines the process, seeks to make powers of entry for survey in connection with a proposal to acquire land fairer and more consistent, clarifies the remedies available to the Courts where a compulsory purchase order is successfully challenged, improves how compensation is paid, and harmonises procedures for settling disputes about material detriment.

23 The Secretary of State previously could not grant approval for housing as part of an application for a nationally significant infrastructure project, submitted under the Planning Act 2008. This meant either temporary accommodation for workers had to be demolished once construction was completed, or a separate planning application had to be made. This Act changes the approval system to allow developers to include an element of housing as part of their application for consent for an infrastructure project deemed of national significance.

24 On average, the neighbourhood planning process takes two years to complete. This Act seeks to reduce the length of the process. It introduces powers for the Secretary of State to prescribe circumstances in which a local planning authority must designate the whole of a neighbourhood area applied for, and to prescribe dates by which local planning authorities must make key decisions. It also allows the Secretary of State to intervene on the decision to send a plan to referendum in limited circumstances. The Act also enables neighbourhood forums to require a local planning authority to notify them of planning applications in their area, with the intention of enabling them to participate more effectively in local planning.

25 This Act widens the range of matters which a development order may allow local authorities to consider in a prior approval for building operations, beyond approval of matters related to the siting and design of buildings where permission is granted under permitted development rights for the erection, extension, or alteration of any buildings. Any permitted development rights to allow for building operations would be expected to reduce planning application costs.

26 Planning obligations can help mitigate the impact of development to make it acceptable in planning terms. The negotiation of such obligations can become protracted. The Act provides for the Secretary of State to appoint a person to help resolve outstanding issues about planning obligations, and requires that person to produce a report to set timeframes setting out steps taken to resolve those issues and, where issues have not been resolved, recommendations. This is intended to help speed up the negotiation of such obligations. This Act also allows the Secretary of State, through regulations, to place restrictions or conditions on the enforceability of obligations relating to affordable housing.

27 Implementing alternative delivery models, such as outsourcing and shared services, are common for some local authority services but less so for planning services. Choice for the user also has an important part to play in the provision of effective public services. The Act allows for the introduction of pilot schemes to test the benefits of introducing competition in the processing (but not determination) of applications for planning permission.

Housing management

28 This Act seeks to improve the housing system and the way it is managed. The Act puts in place measures to ensure that social homes support those most in need. Protections for private tenants are introduced so that they know that rogue landlords will be tackled and forced to improve or leave the sector, stopping them profiting from dangerous or badly managed properties. The Act allows protections for landlord and tenant money held by property agents to be introduced and a power to require private sector landlords to meet new electrical safety standards. Local authorities will be equipped with greater tools to know and meet the housing need in their area.

29 Social housing is let at low rents on a secure basis to those in housing need. However, there are approximately 300,000 social rented tenants (across the local authority and housing association sectors) with household taxable incomes over £30,000 per annum, including around 50,000 with taxable incomes in excess of £50,000 per year. The Act links more closely social housing rents to the income of social tenants.

30 Since 2012, local authorities have been able to grant flexible tenancies but they are not taking advantage of this flexibility. Instead, the majority of council tenancies continue to be granted on a 'lifetime' basis meaning that tenants have the right to live in their social home for the rest of their life (provided they keep to the conditions of their tenancy), regardless of how the household's circumstances change in the future. Under this Act local authorities can generally only grant new social tenancies of between 2 and 10 years, but up to 19 years where the tenant has children and must carry out a review of the household's circumstances at the end of the fixed term. Further, family members who succeed to a lifetime tenancy may only be granted a 5 year tenancy.

31 There are a small number of rogue or criminal landlords who knowingly rent out unsafe or substandard accommodation. The Act introduces a number of measures to give local authorities tools to ban rogue landlords or property agents, preventing them from exploiting more tenants.

32 Local authorities have a duty to review housing conditions so they can take action to improve them. However, they frequently have a limited picture of the size and scale of the private rented sector in their area. Through this Act the Government allows them access to data relating to nearly 3 million tenancy deposits.

33 This Act reduces the regulatory controls for private registered providers of social housing to increase the freedoms of registered providers to manage their housing stock while maintaining protections for tenants and the viability of the sector. The Act also introduces a Special Administration Regime for private registered providers of social housing that are at risk of entering insolvency proceedings.

Land management

34 Government has committed to release public land with capacity for at least 160,000 homes and raise at least £5 billion from land and property disposals over this Parliament. Government is demonstrating its commitment to engaging with local authorities by introducing a new duty to engage.

35 To incentivise public authorities to release surplus land in a timely manner, this Act introduces a new duty to report on surplus land. This is a transparency measure, ensuring that when bodies retain surplus land for a specified period that they publish details, including their reasons for retaining that land.

36 The Act builds on existing powers contained in the Local Government, Planning and Land Act 1980 for the Secretary of State to direct a body to dispose of land under certain circumstances. The Act makes provision for this power to be exercised under a broader set of circumstances.

37 The Climate Change Act 2008 requires the Minister for Cabinet Office to publish an annual report on the efficiency and sustainability of the central civil estate. The Act applies similar requirements in respect of local government buildings and military estate buildings. Such reports will set out the progress made by the reporting body on reducing the size of its estate, and its performance on sustainability of its buildings.

Legal background

38 The legislation which this Act amends is set out in a number of Acts of Parliament. This legislation is referred to below. Further explanations, where required, are set out in the section-by-section commentary.

39 The principal planning Act is the Town and Country Planning Act 1990 ("1990 Act"). This Act makes several amendments to the 1990 Act, as well as amendments to the following other planning legislation:

a. the Local Government, Planning and Land Act 1980, which makes provision in respect of enterprise zones and urban development corporations;

b. the New Towns Act 1981;

c. the Planning (Listed Buildings and Conservation Areas) Act 1990 concerning special controls of buildings and areas of special historic or architectural interest;

d. the Planning and Compulsory Purchase Act 2004, which brought about changes to the development plan system and to planning control;

e. the Planning Act 2008 in relation to nationally significant infrastructure projects; and

f. the Self-Build and Custom Housebuilding Act 2015.

40 This Act amends the following legislation which deals with housing, including social housing:

a. the Housing Act 1985;

b. the Landlord and Tenant Act 1985;

c. the Housing Act 1988;

d. the Local Government and Housing Act 1989;

e. the Housing Act 1996;

f. the Local Government Act 2003;

g. the Housing Act 2004;

h. the Housing and Regeneration Act 2008; and

i. the Localism Act 2011.

41 The main legislation relating to compulsory purchase, which this Act amends, is as follows:

a. the Land Compensation Act 1961;

b. the Compulsory Purchase Act 1965;

c. the Land Compensation Act 1973;

d. the Acquisition of Land Act 1981;

e. the Compulsory Purchase (Vesting Declarations) Act 1981; and

f. the Planning and Compensation Act 1991.

42 In relation to public authority land, this Act amends the Local Government, Planning and Land Act 1980, Part 10 of which deals with land held by public bodies. The sustainability and efficiency of the central government estate is dealt with by the Climate Change Act 2008; the Act contains provisions which amend that Act.

43 This Act also amends:

a. sections 8 and 9 of the Rentcharges Act 1977;

b. section 33 of the Estate Agents Act 1979, and inserts a new section 24A into that Act;

c. Schedule 11 to the Commonhold and Leasehold Reform Act 2002;

d. the Commissioners for Revenue and Customs Act 2005;

e. the Crossrail Act 2008; and

f. the Consumer Rights Act 2015.

Territorial extent and application

44 Section 215 sets out the territorial extent of the Act - the jurisdictions which the Act forms part of the law of. The extent of an Act can be different from its application. Application is about where an Act produces a practical effect.

45 The Act applies mainly to England only, with some exceptions. In particular:

- Section 136 and Schedule 10 (leaseholds), section 137 (rentcharges), Part 7 and schedules 14 to 19 (Compulsory purchase) and section 209 (Public authority land) apply to England and Wales;
- Sections 207 and 208 (Public authority land) apply to England, Wales and Scotland;
- Section 132 (Estate Agents), Chapter 5 of Part 4 and Schedules 5 and 6 (Insolvency of registered providers of social housing) and section 211 apply to the whole of the UK.

46 More detailed information about the extent and application of the individual provisions of the Act can be found in Annex A.

Commentary on provisions of the Act

Part 1: New Homes in England

Chapter 1: Starter Homes

Section 1: Purpose of this Chapter

47 This section sets out the purpose of this chapter, which is to promote the delivery of starter homes.

48 There are two main duties in this chapter: a general duty to promote the supply of starter homes when planning functions are being carried out, and a specific duty in relation to decisions on planning applications.

Section 2: What is a starter home?

49 This section explains what a starter home is, and enables the Secretary of State to make regulations about the definition of a starter home.

50 A starter home is a new dwelling which is only available for purchase by qualifying first-time buyers and which is made available at a price which is at least 20% less than the market value.

51 The section sets out the essential criteria a person must fulfil in order to be a 'qualifying first-time buyer' which includes that they are a first-time buyer (which is separately defined in the section by reference to the definition in section 57AA(2) of the Finance Act 2003), and that they are at least 23 years old but under the age of 40. Section 57AA(2) provides that a first-time buyer is a person who has not previously acquired freehold or leasehold residential property in the UK, or its equivalent in Scotland or elsewhere, and who has not previously purchased property under alternative finance arrangements. The Secretary of State may amend this definition of first-time buyer through regulations.

52 The Secretary of State may also through regulations specify additional criteria (e.g. nationality) that a first-time buyer must fulfil. The Secretary of State may also provide some flexibility around the age criteria including disapplying the criteria from certain groups of people (for example based on their occupation) or if a starter home is being purchased by joint purchasers and one party does not fulfil the age criteria.

53 This section also specifies a maximum price that a starter home may be sold to a first-time buyer: the price cap is £250,000 outside Greater London and £450,000 in Greater London. That price cap reflects the maximum threshold for the Help to Buy ISA. The Secretary of State can through regulations amend these price caps and set different price caps for different areas. Before making regulations to amend the price caps the Secretary of State must consult each local planning authority, the Mayor of London and any other person he thinks appropriate.

54 The Secretary of State can, through regulations, place restrictions on the sale and letting of starter homes. The purpose of such restrictions would be to ensure that starter homes are purchased by people who wish to own their home rather than by people who wish to use the property for rental investment or short-term speculation. Details about what these regulations may contain are set out in section 3.

Section 3: Power to require payments or discounts on resale (subject to tapering) etc

55 The Secretary of State may make regulations under section 2(1)(e) to specify the sales and letting restrictions to which a starter home is subject. Section 3 provides details of what these restrictions may include, and in particular provides for two models. The first model would require a person selling the starter home to make a payment to a specified person on completion of the sale (the "payment model").

56 Regulations may specify to whom such a payment must be made and how any sums must then be used. The second model would require the person selling the starter home to sell to another qualifying first-time buyer at a discount (the "sales model"). If either the payment model or the sales model is used, subsection (2) sets out that there must be a taper mechanism under which the amount of the payment due (under the payment model), or the discount (under the sales model) would be reduced over time. Regulations must also set out how the payment or discount is to be calculated. This could be done, for example, by reference to the actual value of the original discount or based on the original discount as a percentage of the property's value.

Section 4: General duty to promote supply of starter homes

57 This section requires all planning authorities in England (which for these purposes includes the Secretary of State) to promote the supply of starter homes when carrying out relevant planning functions. These functions include, for instance, preparing local plans, cooperating with neighbouring areas on strategic planning matters, and determining planning applications.

58 Local planning authorities have to have regard to any guidance issued by the Secretary of State about the exercise of this duty.

59 The Secretary of State may amend the definition of 'planning authority' and 'relevant planning function' through regulations.

Section 5: Planning permission: provision of starter homes

60 This section contains a new duty that applies to decisions on planning applications. This follows the announcement in the Government's Productivity Plan published in July 2015. This new requirement, to be brought into force by regulations, is intended to ensure that starter homes become a common feature of new residential developments across England.

61 This section provides that an English planning authority (which is either a local planning authority or the Secretary of State) will only be able to grant planning permission for certain residential developments if specified requirements relating to starter homes are met.

62 These requirements are to be set out in regulations. The requirements could include the provision of a particular number or proportion of starter homes on site or the payment of a commuted sum to the local planning authority for the provision of starter homes. The Secretary of State will have flexibility to apply different requirements to different types of residential developments and to different areas, including conferring discretions on local planning authorities.

63 For example, this section would enable the Secretary of State, through regulations, to require that in relation to applications for residential development above a certain size there must be a planning obligation (under section 106 of the Town and Country Planning Act 1990) securing a certain proportion of starter homes on the site.

64 The regulations may also specify that certain types of residential development should be exempt, or that certain areas should have a higher starter home requirement, or that local planning authorities should have discretion about certain requirements. Regulations must give local planning authorities discretion on the requirement on rural exception sites.

Section 6: Monitoring

65 This section requires a local planning authority to prepare reports about the actions they have taken under the starter homes duties in this Chapter. This will provide transparency about how a local planning authority is delivering starter homes in its area.

66 These reports must be made available to the public, and the Secretary of State can make regulations about the form, content and timing of the reports, including whether they should be combined with the existing statutory Authority Monitoring Report for local plans.

Section 7: Compliance directions

67 If a local authority is failing to comply with its starter homes duties and has a policy contained in a local development document which is incompatible with these duties then the Secretary of State may make a compliance direction directing that the incompatible policy should not be taken into account when certain planning decisions are taken.

68 The compliance direction must set out the Secretary of State's reasons for making the compliance direction and must be published.

Section 8: Interpretation of this Chapter

69 This section is self-explanatory.

Chapter 2: Self-Build and Custom Housebuilding

Section 9: Definitions

70 This chapter amends and supplements the duties placed on local authorities under the Self-build and Custom Housebuilding Act 2015 ("the 2015 Act"). The 2015 Act introduced new duties on local authorities to keep, and have regard to, registers of people seeking land for self-build and custom housebuilding. Those duties were brought into force through regulations on 1 April 2016.

71 This section explains what is meant by "self-build and custom housebuilding" by inserting new definitions and making related amendments. It also substitutes the existing definition of "serviced plot of land" and enables the Secretary of State to amend that definition through regulations. The definitions are self-explanatory.

Section 10: Duty to grant planning permission etc

72 This section inserts a new duty into the 2015 Act. It requires local authorities to grant sufficient suitable development permissions on serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The demand for self-build and custom housebuilding is evidenced by the number of people on the register held by local authorities under the 2015 Act.

73 The Secretary of State has a power to make regulations to prescribe the timeframe in which authorities have to grant sufficient suitable development permissions.

74 A "development permission" includes both planning permission (as defined under the 1990 Act) and permission in principle. Permissions granted by the Secretary of State or the Mayor of London are also counted. Any permission can only be counted once. A permission granted before the register is established cannot be counted.

75 A development permission is "suitable" where it authorises development that could include self-build and custom housebuilding on those plots.

Section 11: Exemption from duty

76 This section enables the Secretary of State to make regulations about how and when authorities can apply for an exemption from the new duty.

77 Those regulations can specify the information that must be supplied by anyone asking for an exemption. That information might include, for example, details about the level of demand for self-build and custom housebuilding and the availability of land for housing.

Section 12: Further and consequential amendments

78 This section makes three further changes to the 2015 Act.

79 The first change relates to the obligation to keep a register under the 2015 Act. This section enables the Secretary of State to provide, in regulations, for the register to have two parts. The second part would be for anyone who had applied to be registered but who failed to meet conditions of eligibility (for example, local authorities might introduce a requirement that a person must have a connection to the local area before they can be registered). Demand as evidenced by the second part of the register would not have to be taken into account in considering whether there were sufficient suitable development permissions. However, authorities have to have regard to the second register in the exercise of their planning, housing, regeneration and land disposal functions in accordance with the provisions of section 2 of the 2015 Act.

80 The second change is about fees. It enables the Secretary of State to provide, through regulations, that local authorities can recover fees connected with their duty to provide sufficient suitable development permissions. It also enables the Secretary of State to specify, through regulations, circumstances in which no fee is payable. It is expected that the fees will be set at a level that broadly reflects the actual costs incurred by the authority.

81 The final change is to section 4 of the 2015 Act and specifies the Parliamentary procedures to which the new regulation making powers will be subject. This confirms that regulations made in connection with the new duty and regulations made to change the definition of "serviced plot of land" will be subject to the affirmative procedure.

Part 2: Rogue Landlords and Property Agents in England

Chapter 1: Introduction

Section 13: Introduction to this Part

82 This section introduces the provisions about rogue landlords and property agents.

Chapter 2: Banning Orders

Banning orders: key definitions

Section 14: "Banning order" and "banning order offence"

83 This section introduces the concept of a banning order, which is an order made by the First-tier Tribunal, which has the effect of banning a person from:

- letting housing in England;
- engaging in letting agency work that relates to housing in England;
- engaging in property management work that relates to housing in England; or
- doing two or more of those things;
- being involved in a body corporate that carries out activities from which the person is banned.

84 The section also introduces the concept of a "banning order offence" and provides the Secretary of State with the power to make affirmative regulations describing the offences which are to be banning order offences.

85 In particular, regulations made by the Secretary of State may describe an offence by reference to the nature of the offence, characteristics of the offender, the place where the offence is committed, the circumstances in which it is committed, the sentencing court or the sentence imposed.

Imposition of banning orders

Section 15: Application and notice of intended proceedings

86 This section provides that a local housing authority in England may apply for a banning order against a person who has been convicted of a banning order offence. Where a banning order application is made in relation to a body corporate, the local housing authority must also make an application for a banning order against any officer of the body corporate who was convicted of the same offence as the body corporate. Before applying for a banning order, the authority must give the person in relation to whom it is proposed to make a banning order a notice of intended proceedings, informing them that the authority is proposing to apply for a banning order for a specified period of time and explaining why, and inviting them to make representations during a 'notice period', which must not be less than 28 days. The authority must consider any representations made during the notice period and wait until this period has ended before applying for a banning order. A notice of intended proceedings must be given within 6 months from the date on which the person is convicted of a banning order offence.

Section 16: Making a banning order

87 This section provides that the First-tier Tribunal may make a banning order against a person who has been convicted of a banning order offence and was a residential landlord or property agent at the time that offence was committed.

88 A banning order can only be made on the application of a local housing authority, where that authority has complied with the provisions regarding a service of a notice of intended proceedings, as set out in section 15.

89 The requirement to comply with the notice provisions in section 15 does not apply where the application is made in respect of an officer of a body corporate convicted of the same offence as the body corporate, as in that case the local authority is required to apply for the banning order against the officer if also seeking one against the body corporate, which would be served with a notice of intended proceedings. Where an application is made for a banning order against an officer of a body corporate, that officer does not need to have been acting in their own capacity as a residential landlord or property agent at the time the offence was committed. This is to ensure that officers of a body corporate can have banning orders made against them where they have been convicted of the same offence as the body corporate, and can be prevented from acting as landlords or property agents in an individual capacity following a banning order made against the body corporate. Section 16(4) provides that in deciding whether to make a banning order and if so, what order to make, the Tribunal must consider:

- the seriousness of the offence;
- any previous convictions that the person has for a banning order offence;
- whether the person is or ever was included in the database of rogue landlords and property agents (as described in section 28);
- the likely effect of the banning order on the person against whom the banning order is proposed to be made and anyone else who may be affected by such an order.

Section 17: Duration and effect of banning order

90 This section requires a banning order to specify the duration of the ban in respect of each of the activities that the person is banned from doing, including being involved in certain bodies corporate. A ban must last for a period of at least 12 months. The section also provides that a banning order may contain exceptions to the ban for some or all of the period to which it relates. This may, for example, allow a landlord to continue letting out a property for a period of time whilst subject to a banning order if there are existing tenants in a property and the landlord cannot end these tenancies immediately. An exception could also allow a property agent to wind down current business

Section 18: Content of banning order: Involvement in bodies corporate

91 This section provides that when making a banning order against a person, the First-tier Tribunal may also make an order prohibiting that person from acting as an officer of a body corporate that carries out activities from which the person is banned or from being involved directly or indirectly in the management of such a body corporate.

Section 19: Power to require information

92 This section provides that a person may be required to give specified information to the local housing authority so it can decide whether to apply for a banning order against that person. It further provides that it is an offence, punishable by way of a fine, to fail to provide the required information or to provide information that is false or misleading. Such information might, for example, include information about the properties that a person owns.

Section 20: Revocation or variation of banning order

93 This section permits a person who is subject to a banning order, to apply to the First-tier Tribunal for the order to be revoked or varied, in certain circumstances. Those circumstances are that one or more of the convictions for banning order offences have been overturned on appeal or one or more of those convictions have become spent (defined by reference to the Rehabilitation of Offenders Act 1974 which provides that convictions may become spent following a specified period of time). Where all convictions have been overturned the Tribunal must revoke the order. In any other case the Tribunal may revoke or vary the order. A variation of a banning order may relate to the activities from which the person is banned, the existing exceptions to that order or its length.

Consequences of banning order, including consequences of breach

Section 21: Offence of breach of banning order

94 This section provides that it is an offence to breach a banning order i.e. to undertake or be involved in activities that the person is banned from. A person who is convicted of breaching a banning order under subsection (1) is liable to a term of imprisonment or a fine or both (see subsection (2)). Where a breach of a banning order continues after conviction the person commits a further offence and is liable on conviction to a fine not exceeding one tenth of the level 2 fine on the standard scales for each day or part of a day on which the breach continues (this would currently equate to a fine of up to £50 per day). However, there is a defence to this further offence where the person can show that they had a reasonable excuse for the continued breach. A person may not be convicted of an offence under this section if they have incurred a financial penalty in relation to the same conduct under section 23.

Section 22: Offences by bodies corporate

95 This section provides that if a breach of a banning order is committed by a body corporate and it is proved that the breach was committed with the approval or connivance of an officer of the body corporate, or is attributable to that person's negligence, then the officer as well as the body corporate commits the offence and the officer is liable to punishment for the offence.

Section 23: Financial penalty for breach of banning order

96 This section sets out that a "responsible local housing authority" may impose a financial penalty as an alternative to prosecution if it is satisfied, beyond reasonable doubt, that a person's conduct amounts to an offence of breaching a banning order. The financial penalty can be imposed by the local housing authority in whose area the offence was, or is being, committed. A person who continues to breach a banning order following the imposition of a civil penalty in relation to the breach, may be subject to further civil penalties for every additional six months, or part of that period, that they continue to breach the banning order. The local authority may determine the amount of the penalty but this may not exceed £30,000. A person cannot be liable to a financial penalty if the person has been convicted of an offence in respect of the same conduct or where criminal proceedings for that offence have begun (but not concluded).

97 A local housing authority must have regard to any guidance issued by the Secretary of State about the exercise of its functions under this section or under Schedule 1. Schedule 1 sets out the procedure to be followed by a local authority where it imposes a financial penalty on a person for a breach of a banning order.

98 The section also enables the Secretary of State to make regulations:

- setting out how local housing authorities are to deal with the money recovered through financial penalties; and
- amending the maximum amount of penalty to be charged, to reflect changes in the value of money over time.

Schedule 1: Financial penalty for breach of banning order

99 This Schedule sets out the procedure to be followed by a local authority where it imposes a financial penalty on a person whose conduct amounts to an offence of breaching a banning order.

100 Before imposing a financial penalty on a person, the local authority must give that person notice of their intention to do so. This notice must be given within a period of 6 months, beginning with the first day on which the authority has evidence of the person's breach of the banning order. The notice must set out the amount of the penalty, the reasons for imposing the penalty and information about the right to make representations.

101 A person who is given a notice of intent may make representations to the local authority within 28 days, beginning with the day after the day on which the notice was given. After the end of the period for representations, the local authority will decide whether or not to impose a financial penalty and if it decides to do so, must decide the amount of the penalty.

102 If the local authority decides to impose a penalty, it must give the person a final notice imposing the penalty. The final notice must require payment of the penalty within 28 days, beginning with the day after the notice was given and must set out certain information, including the amount of penalty, how to pay, the rights of appeal and consequences of failing to comply with the notice.

103 A local authority may at any time withdraw a notice of intent or a final notice. The authority may also reduce the amount specified in a notice of intent or a final notice. The person who has received the notice must be notified in writing of any such withdrawal or reduction.

104 A person to whom a final notice is given may appeal to the First-tier Tribunal against the decision to impose the penalty or against the amount of the penalty. If a person makes an appeal, the final notice is suspended until the appeal is determined or withdrawn. An appeal is to be dealt with by the Tribunal by way of a re-hearing of the local authority's decision, and the Tribunal may have regard to matters of which the local authority was unaware. Following an appeal, the First-tier Tribunal may confirm, vary or cancel the final notice. However, the notice may not be varied so as to increase the financial penalty by more than the amount that the local authority could have imposed.

105 If a person fails to pay all or part of the financial penalty, the local authority may recover the penalty or part of it on the order of the county court, as if it were payable under an order of that court.

Section 24: Saving for illegal contracts

106 This section provides that a breach of a banning order does not invalidate or affect the enforceability of any provision of a tenancy or other contract. In particular, this is to ensure that a tenancy agreement cannot be found to be invalid on the basis that it was granted when a landlord or property agent was subject to a banning order. This provides protection for the parties to a tenancy agreement by ensuring that they do not lose their rights under the agreement as a result of the banning order.

Section 25: Banned person may not hold HMO licence etc

107 This section introduces Schedule 2, which makes changes to the provision in Parts 2 and 3 of the Housing Act 2004 about the granting and revoking of licences where a banning order has been made.

Schedule 2: Banned person may not hold HMO licence etc

108 This Schedule makes amendments to the Housing Act 2004 to provide that where a banning order has been made against a person they are not a fit and proper person for the purposes of the HMO licensing requirements, under section 64(3)(b) or (d) of that Act. A licence may also not be granted in relation to a property where a person who owns an interest in that property is subject to a banning order. A local housing authority is also required to revoke a licence under Part 2 or Part 3 of the Housing Act 2004 if a banning order is made against the licence holder, or against a person who owns an interest or estate in the house and is a lessor or licensor of that house. Amendments are made to Schedule 5 of the Housing Act 2004 to provide that there is no right to make representations to the local authority or right of appeal to the First-tier Tribunal where a licence is refused or revoked due to a banning order.

Section 26: Management orders following banning order

109 This section introduces Schedule 3, which makes amendments to the Housing Act 2004 to allow interim and final management orders to be made in cases where a banning order has been made.

Schedule 3: Management orders following banning order

110 This Schedule makes changes to provisions in Part 4 of the Housing Act 2004 which deal with the making of interim and final management orders by local authorities. Part 4 enables local authorities to make management orders to allow them to take over control of the running of a property in certain situations, such as where a property is unlicensed and a suitable licence holder cannot be found. The amendments made by this Schedule provide an additional circumstance in which a management order can be made, which is that a property is let in breach of a banning order. In this circumstance a local authority may decide to make a management order for example if there are tenants in a property who cannot be evicted or the local authority does not wish to see evicted.

111 Where a management order is made due to a property being let in breach of a banning order, the local authority will receive any rent paid by the tenants instead of the landlord and can use this income to help cover its costs in managing the property. Whereas under the existing management order provisions in the Housing Act 2004 the landlord is entitled to receive any surplus from the local authority at intervals during and at the end of the management order, where a management order is made due to a breach of a banning order, the local authority keeps any surplus and regulations made by the Secretary of State may set out how local authorities are to deal with any surpluses received.

Anti-avoidance

Section 27: Prohibition on certain disposals

112 This section makes provision to prevent a person who is subject to a banning order from transferring property to a 'prohibited person' whilst the banning order is in force. The definition of prohibited persons is set out in the section and includes family members, business partners and a body corporate which the person subject to the banning order has shares or a financial interest in, of which they or an associated person are a director, secretary or other officer. It also provides that a transfer is prohibited between any bodies corporate that share in common one or more officers. This is designed to prevent persons from getting around a banning order by transferring their property to family members or to a body corporate that they own. However, persons subject to a banning order are able to apply to the First-tier Tribunal for authorisation to make a transfer of property to a prohibited person, where they have a genuine reason for making a transfer.

Chapter 3: Database of Rogue Landlords and Property Agents

The database and its contents

Section 28: Database of rogue landlords and property agents

113 This section requires the Secretary of State to establish and operate a database of rogue landlords and property agents. Local housing authorities are responsible for maintaining the content of the database, and are able to edit and update it for the purpose of carrying out their functions under sections 29 to 31 and updating the database under section 34.

Section 29: Duty to include person with banning order

114 This section requires a local housing authority in England to make an entry on the database in relation to a person if a banning order has been made against that person, following that local authority's application for such an order and the person is not already included in the database by virtue of section 30. An entry in the database made under this section is required to be maintained for the period during which the banning order is in force. After that date, the entry must be removed from the database.

Section 30: Power to include person convicted of banning order offence

115 This section enables a local housing authority to make an entry on the database in relation to a person if that person has been convicted of a banning order offence and was a residential landlord or property agent at the time at which the offence was committed. A local authority might, for example, decide to make an entry in the database rather than apply for a banning order in a case where a person's offences are slightly less serious and the local authority considers that monitoring of that person through the database is more appropriate than seeking a banning order at this stage.

116 An entry may also be made if a person has incurred two civil penalties in respect of banning order offences within the last 12 months.

117 An entry in the database is required to be maintained for the period set out in the local authority's decision notice and then removed at the end of that period or, as the case may be, any reduced period under section 36. The Secretary of State is also required to publish guidance setting out criteria to which local housing authorities must have regard when deciding whether to include a person in the database and how long their entry must be maintained for.

Section 31: Procedure for inclusion under section 30

118 This section sets out that if a local housing authority decides to make an entry in relation to a person in the database of rogue landlords and property agents, it must give the person a decision notice before the entry is made. The decision notice must explain that the authority has decided to make the entry in the database after the end of a 21 day notice period and must specify the period for which the person's database entry will be maintained, which must be at least 2 years from the date on which the entry is made. The notice must also summarise the person's appeal right. The authority is required to wait until the notice period has ended before making the entry in the database. If a person appeals, the authority must not make the entry until the appeal has been determined or withdrawn and there is no possibility of any further appeal. A decision notice to make an entry must be given within 6 months of the date of conviction for the offence to which it relates.

Section 32: Appeals

119 This section enables a person who has been given a decision notice setting out that they are to be included in the database of rogue landlords and property agents to appeal to the First-tier Tribunal. They may appeal against the decision to make an entry in relation to them in the database or in relation to the period for which the entry is to be maintained. An appeal under this section must be made before the end of the 21 day notice period, although the Tribunal may allow an appeal to be made after that period if satisfied that there is a good reason for the delay. The Tribunal may confirm, vary or cancel a decision notice following an appeal.

Section 33: Information to be included in the database

120 This section enables the Secretary of State to make regulations about the information that must be included in a person's entry in the database.

Section 34: Updating

121 This section requires a local authority to take reasonable steps to keep information in the database up to date.

Section 35: Power to require information

122 This section provides that a local housing authority may require a person to provide information for the purpose of enabling the authority to decide whether to make an entry in relation to a person in the database. The person may be required to provide any information needed to complete their entry or keep it up to date. For example, a person could therefore be required to provide the local authority with the addresses of all the properties which they own. A person commits an offence if they fail to comply with a requirement to provide information (unless they have reasonable excuse for the failure) or if they knowingly or recklessly provide false or misleading information. A person who commits such an offence is liable on summary conviction to a fine.

Removal or variation

Section 36: Removal or variation of entries made under section 30

123 Section 36 provides that a local housing authority that made an entry on the database in relation to a person must or may in certain circumstances remove the entry. Where a person's conviction for one or all banning order offences has been overturned on appeal, the entry must be removed. Where one, but not all convictions have been overturned, the local housing authority may remove the entry or reduce the period it is to be maintained for, including to less than 2 years. It may also take either of those courses of action if one or more convictions for which the database entry was made have become spent.

124 Where a person has been included in the database because they have incurred two or more civil penalties the local housing authority may revoke or reduce the period of the entry if at least one year has lapsed since the entry was made.

Section 37: Requests for exercise of powers under section 36 and appeals

125 This section permits a person about whom an entry has been made on the database to seek its removal or a reduction in the length of the period for which the entry is to be maintained, within the circumstances set out in section 36. Such a request must be made in writing. The local housing authority must notify the person of its decision. Where it refuses to comply with the request it must give reasons for the decision. Where the authority decides not to comply with the request the person making the request has a right of appeal to the First-tier Tribunal. An appeal must be made within 21 days of the local housing authority's notification of the decision, or such longer period as the tribunal may allow if the person has good reason for delay. If the Tribunal allows the appeal it may order the local housing authority to remove the entry or reduce the period for which it is to be maintained.

Access to information in the database

Section 38: Access to database

126 Section 38 provides that the Secretary of State must give every local housing authority in England access to information in the database of rogue landlords and property agents.

Section 39: Use of information in database

127 This section provides that the Secretary of State may use the information in the database for statistical or research purposes and may disclose to any person information in an anonymised form for those purposes. A local housing authority may only use information obtained from the database of rogue landlords and property agents for certain specified purposes, which includes purposes connected with its functions under the Housing Act 2004, investigating contraventions of housing or landlord and tenant law and promoting compliance with such law. The section also provides that for the purposes of paragraph 17 of Schedule 23 to the Finance Act 2011, the database is to be treated as being maintained by the Secretary of State. This will ensure that Her Majesty's Revenue and Customs are able to use their existing powers to access information held on the database in order to assist them in particular in ensuring that residential landlords comply with their tax obligations.

Chapter 4: Rent Repayment Orders

Rent repayment orders: introduction

Section 40: Introduction and key definitions

128 Chapter 4 empowers the First-tier Tribunal to make rent repayment orders to deter rogue landlords who have committed an offence to which the Chapter applies. This section lists the offences concerned: breaches of improvement orders and prohibition notices and of licensing requirements under the Housing Act 2004, violent entry under the Criminal Law Act 1977, unlawful eviction under the Protection from Eviction Act 1977 and breach of a banning order under this Act. In respect of breach of licensing requirements, the Chapter consolidates existing provisions, with certain modifications. The Chapter newly extends the power to the other cases. This section states that an order requires a landlord to repay rent paid by a tenant, or to repay to a local housing authority housing benefit or universal credit which had been paid in respect of rent.

Application for rent repayment order

Section 41: Application for rent repayment order

129 This section provides that a tenant or a local housing authority may apply for a rent repayment order against a landlord who has committed an offence listed. A tenant may apply in respect of an offence relating to premises let to the tenant, and committed within 12 months before the application is made. Where a local housing authority makes an application, the offence must relate to housing in its area and it must have given the landlord a notice of intended proceedings, as described in section 42.

Section 42: Notice of intended proceedings

130 This section provides that a local housing authority must give the landlord a notice of intended proceedings stating that the authority is planning to apply for a rent repayment order and why, and the amount the authority seeks to recover. The notice must be given within twelve months of the offence. It must invite the landlord to make representations within not less than 28 days. The authority must consider any representations made and in any event must wait until the notice period has ended before applying for the order.

Making of rent repayment order

Section 43: Making of rent repayment order

131 This section enables the First-tier Tribunal to make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which the Chapter applies, on an application made under section 41. The amount of rent to be repaid is to be determined in accordance with section 44 on a tenant's application or with section 45 on an application by a local housing authority.

Section 44: Amount of order: tenants

132 This section sets out the rules by which the First-tier Tribunal must determine the amount of rent to be repaid after an offence on an application by a tenant. The repayment must relate to rent paid in the 12 months preceding an offence of unlawful eviction or violent entry, or in

other cases in the period during which the offence was being committed, up to a maximum of twelve months. Any housing benefit or universal credit paid in respect of rent must be deducted. In determining the amount the Tribunal must take into account the conduct of the landlord and tenant, the financial circumstances of the landlord and whether the landlord has any previous convictions for an offence to which Chapter 4 applies.

Section 45: Amount of order: local housing authorities

133 This section sets out the rules by which the First-tier Tribunal must determine the amount of rent to be repaid after an offence on an application by local housing authority. The repayment must relate to housing benefit or universal credit paid in respect of rent and received by the landlord in the 12 months preceding an offence of unlawful eviction or violent entry, or in other cases in the period during which the offence was being committed, up to a maximum of twelve months. In determining the amount the Tribunal must take into account the conduct and the financial circumstances of the landlord and whether the landlord has any convictions for an offence to which Chapter 4 applies.

Section 46: Amount of order: following conviction

134 The amount of the order in a case under section 43 must be the maximum that the Tribunal may order in favour of a tenant under section 44 except for an offence relating to licensing, or in favour of a local housing authority under section 45, unless in either case by reason of exceptional circumstances the Tribunal considers it would be unreasonable to require the landlord to pay the full amount.

Enforcement of rent repayment order

Section 47: Enforcement of rent repayment orders

135 This section provides that an amount payable under a rent repayment order is recoverable as a debt. Money payable to a local housing authority is not to be treated as recovered housing benefit or universal credit, but the Secretary of State may make regulations providing how local authorities are to deal with money recovered.

Local housing authority functions

Section 48: Duty to consider applying for rent repayment orders

136 This section provides that if a local housing authority becomes aware that a person has been convicted of an offence to which Chapter 4 applies in relation to housing in its area, the authority must consider applying for a rent repayment order.

Section 49: Helping tenants apply for rent repayment orders

137 This section sets out that a local housing authority may help a tenant apply for a rent repayment order, such as by providing advice or by conducting proceedings.

Amendments etc and interpretation

Section 50: Rent repayment orders: consequential amendments

138 This section makes amendments to the Housing Act 2004 in consequence of the fact that the new Chapter applies only in England, housing being a devolved matter in relation to Wales.

Section 51: Housing benefit: inclusion pending abolition

139 This section makes provision with regard to housing benefit. The preceding sections of the Chapter have mainly referred to universal credit but this section provides that these references include housing benefit, pending its eventual abolition.

Section 52: Interpretation of Chapter

140 This section is self-explanatory.

Chapter 5: Appeal under this Part

Section 53: Appeals from the First-tier Tribunal

141 This section is concerned with appeals under Part 2 of this Act from the First-tier Tribunal. It provides that an appeal to the Upper Tribunal cannot be made unless permission is granted by either the First-tier Tribunal or the Upper Tribunal, but any such appeal is not limited to a point of law only. This mirrors the situation in other housing legislation involving appeals to the Upper Tribunal, such as the Housing Act 2004 and the Mobile Homes Act 1983.

Chapter 6: Interpretation of Part 2

Section 54: Meaning of "letting agent" and related expressions

142 This section provides the definition of a "letting agent", and "letting agency work in England". The definition provides an exclusion for those carrying out such work in the course of their employment under a contract of employment, although officers of a body corporate can nevertheless have banning orders made against them, as provided for by sections 15 and 16.

Section 55: Meaning of "property manager" and related expressions

143 Section 55 explains the definition of a "property manager" and "property management work in England". As in section 54, the definition provides an exclusion for those carrying out such work in the course of their employment under a contract of employment, although officers of a body corporate can still have banning orders made against them, as provided for by sections 15 and 16.

Section 56: General interpretation of Part

144 This section is a general interpretation section for Part 2 of the Act.

Part 3: Recovering Abandoned Premises in England

Section 57: Recovering abandoned premises

145 This Part of the Act sets out a procedure that a landlord may follow to recover possession of a property where it has been abandoned, without the need for a court order. Section 57 sets out that a private landlord may give a tenant notice which brings the tenancy to an end on that day, if the tenancy relates to premises in England and certain conditions are met. These conditions are that a certain amount of rent is unpaid (i.e. the 'unpaid rent condition' set out in section 58 has been met), that the landlord has given a series of warning notices as required by section 59 and that neither the tenant or a named occupier or deposit payer has responded in writing to those warning notices before the date specified in the notices.

Section 58: The unpaid rent condition

146 This section sets out the periods for which lawfully due rent which must be unpaid for the unpaid rent condition to be met. It also provides that if any payment of rent (irrespective of the period it relates to) is received after a warning notice has been served, then the unpaid rent condition ceases to apply.

Section 59: Warning notices

147 This section describes the warning notices that a landlord must give to the tenant and any named occupier and deposit payer, where the landlord believes the premises have been abandoned. The section provides that the landlord must give three warning notices, at different times, before bringing the tenancy to an end.

148 The first two warning notices must be addressed to the tenant and any other person named on the tenancy agreement as well as the deposit payer and served in accordance with section 61 (2) or (3). Each of those warning notices must explain that the landlord believes that the premises have been abandoned and that the tenant or named occupier must respond in writing before a specified date if the premises have not been abandoned. The notices must also set out that the landlord proposes to bring the tenancy to an end if neither the tenant nor a named occupier or deposit payer responds in writing before that date. The proposed tenancy end date specified in the notices must be at least eight weeks after the date on which the first warning notice is given to the tenant.

149 The first warning notice may be given even if the unpaid rent condition has not been met, but the second warning notice may only be given after the unpaid rent condition has been met. There must also be at least two weeks but not more than four weeks between the first and second warning notices being given.

150 The third warning notice must be affixed to a conspicuous part of the premises, for example the front door. It must be given at least 5 days before the end of the warning period given to the tenant or named occupier in which to respond. The Secretary of State may make regulations prescribing the form of the third warning notice.

Section 60: Reinstatement

151 This section sets out the remedies available to a tenant where their tenancy has been brought to an end by a notice under section 57, but they had a good reason for failing to respond to the warning notices. In this circumstance the tenant may apply to the county court, within 6 months of the notice bringing the tenancy to an end, for an order reinstating the tenancy. If the county court finds that the tenant had a good reason for not responding to the warning notices, the court may make any order it thinks fit for the purpose of reinstating the tenancy.

Section 61: Methods for giving notices under section 57 and 59

152 Section 61 deals with the methods of service for notice given under sections 57 and 59 (a notice bringing a tenancy to an end and the first two warning notices). Such notices may be given by delivering the notice to the tenant or a named occupier or the deposit payer in person. Where such a notice is not delivered in person, it must be given by leaving it at, or sending it to, the premises to which the tenancy relates; leaving it at, or sending it to, every other postal address in the UK that the tenant or named occupier has given the landlord as a contact address for giving notices; and sending it to every email address that the tenant or named occupier gave the landlord as a contact email address for giving notices. It must also be sent, in the case of the tenant, care of any person who has agreed with the landlord to guarantee the performance of the tenancy.

Section 62: Interpretation of Part

153 This section is self-explanatory.

Section 63: Consequential amendment to Housing Act 1988

154 This Section makes a consequential amendment to section 5 of the Housing Act 1988 to reflect the new circumstance in which a tenancy may be brought to an end.

Part 4: Social Housing in England

Chapter 1: Implementing the Right to Buy on a Voluntary Basis

Funding of discounts offered to tenants

Section 64: Grants by Secretary of State

155 This section enables the Secretary of State to pay grant to private registered providers to cover the cost of a discount awarded to the tenant of a provider when buying their home from that provider.

156 The effect of this section is to enable the Secretary of State to pay for the cost of the discount when a tenant of a private registered provider applies to buy their home under the terms of a voluntary agreement between the Secretary of State and the private registered provider sector.

157 The section sign-posts the ability of the Secretary of State to direct the Homes and Communities Agency to make grants under the Agency's power in section 19 of the Housing and Regeneration Act 2008.

Section 65: Grants by Greater London Authority

158 This section enables the Greater London Authority to make equivalent grants in respect of Right to Buy discounts for dwellings in Greater London.

Monitoring compliance

Section 66: Monitoring

159 This section anticipates the Secretary of State setting criteria for home ownership (which he must publish) against which private registered providers may be monitored. The Regulator must, if requested by the Secretary of State, monitor compliance by providers with these criteria and report to the Secretary of State accordingly. It also gives the Secretary of State the power to publish data about the level of compliance by private registered providers.

160 The effect of this section is to ensure the Regulator has the power to monitor and report on how private registered providers are supporting their tenants into home ownership. It is envisaged that the criteria will initially be set with reference to the voluntary Right to Buy agreement that has been agreed between the Secretary of State and the private registered providers sector.

Amendments to other legislation

Section 67: Consequential changes to HCA's duty to give grants

161 This section amends section 35 of the Housing and Regeneration Act 2008 to remove a duty of the Homes and Communities Agency to make a grant, preventing an overlap of provisions.

Interpretation

Section 68: Interpretation of this Chapter

162 This section is self-explanatory.

Chapter 2: Vacant Higher Value Local Authority Housing

163 Chapter 2 enables the Secretary of State to require local housing authorities to make a payment to the Secretary of State calculated by reference to the market value of the higher value vacant housing owned by the authority. The requirement only applies to local authorities which are required to keep a Housing Revenue Account ("HRA"). The HRA is a record of revenue expenditure and income relating to an authority's own housing stock and there are currently 165 such local authorities in England.

164 The provisions also place a duty on local housing authorities to consider selling such housing and enable the Secretary of State to enter into an agreement with a local authority to reduce the amount of the payment, with the retained money being used to enable the provision of new housing.

165 The provisions are intended to encourage the more efficient use by local authorities of their housing stock through the sale of their higher value housing so that the value locked up in higher value properties can be released to support an increase in home ownership and the supply of more housing.

Payments to Secretary of State by Local Housing Authorities

Section 69: Payments to Secretary of State

166 This section enables the Secretary of State to make a determination requiring local authorities to make a payment to the Secretary of State. The payment must be calculated by reference to the market value of the higher value housing the local authority owns and which is expected to become vacant during a financial year, less any costs or other deductions that are set out in the determination. An example of a deduction could be the transaction costs involved in selling housing such as estate agency fees.

167 "Housing" is defined in section 79 (interpretation) and means a building, or a part of a building, which is intended to be occupied as a dwelling or more than one dwelling. This definition does not include hostels. Housing "becomes vacant" for these purposes when a tenancy comes to an end and is not renewed either expressly by the local authority or by operation of law (see section 79). The definition would not, therefore, capture situations where, for example, a local authority renews a fixed term tenancy to the same tenant(s), where a tenancy is assigned or where someone succeeds to (i.e. inherits) a tenancy. The Secretary of State may specify in regulations cases in which housing is not to be treated as having become vacant (see section 79(2)).

168 The determination must set out the method for calculating the payment (subsection (5)) and some or all of the calculation may be based on a formula (subsection (6)). Subsection (7) provides that a determination may provide for assumptions to be made in making a calculation. This will enable a determination to be made before the start of the financial year to which it relates as required by section 72. Examples might include assumptions about the rate at which an authority's higher value housing will become vacant during the forthcoming financial year based on data from local housing authorities relating to earlier financial years, assumptions about the amount of stock held by local housing authorities at the start of a financial year and assumptions about the transaction costs involved in selling such housing. Any such assumptions must be set out in the determination.

169 The definition of "higher value" in relation to a local authority's housing must be set out in regulations made by the Secretary of State (subsection (8)). The definition of "higher value" may be different for different areas, for different local housing authorities and for different types of housing (subsection (9)). In determining how to define "higher value" in the regulations, the Secretary of State may use any category of housing as a comparator and may take into account other factors considered appropriate. For example, the definition could be determined by reference to the value of each authority's own stock (i.e. as a proportion of each authority's housing stock), or by reference to house values in a particular area or by reference to house values nationally.

Section 70: Housing to be taken into account

170 The housing to be taken into account when calculating the payment for each local authority is any housing above the relevant higher value threshold (as set out in regulations under section 69(8)) which the local authority is required to account for within its HRA (see subsection (2)(a)). Under regulations the Secretary of State can exclude housing from the payment. The exclusion could be framed by reference to, for instance, the characteristics of the housing, its geographical location or other factors.

171 Subsection (3) applies where a local housing authority disposes of some or all of its housing to a private registered provider (i.e. a housing association) under section 32 or 43 of the Housing Act 1985. Such disposals are generally referred to as stock transfers. Subsection (3) enables the Secretary of State to continue to take the housing that has been transferred into account when making a determination in relation to that local authority under section 69. Any such housing must be identified in the determination to ensure that it is clear when this provision is being relied on (subsection (4)).

Section 71: Procedure for determinations

172 This section (and section 72) sets out the procedure that the Secretary of State must follow when making a determination under section 69.

173 The Secretary of State must consult before making a determination and must send a copy of the determination to each local housing authority it relates to as soon as possible after making it (subsection (3)).

174 Subsection (4) provides for the methods of communication by the Secretary of State to each local authority. This ensures that this legislation applies the same methods of communication as other legislation in the housing finance context.

Section 72: More about determinations

175 This section requires a determination to be made before the beginning of the financial year to which it relates (subsection (1)) and enables the Secretary of State to include provision in the determination about when payments must be made (subsection (4)). These provisions are intended to enable the Government and local authorities to plan ahead financially. In addition, subsection (3) provides for a determination to relate to more than one financial year which will enable longer term financial planning if considered appropriate. In the event of a late payment, the Secretary of State may charge a local authority interest if provided for in the determination (subsection (5)).

176 It is possible that there will be a need to vary or revoke a determination after it is made. Subsection (2) provides the power to change the determination if required.

177 Subsection (6) enables the Secretary of State to make different provision in the determination for different areas, different local housing authorities or for other purposes.

Section 73: Determinations in the first year that section 69 comes into force

178 Where section 69 (payments to the Secretary of State) comes into force part way through a financial year, this section enables the Secretary of State to make a determination during that financial year even though in relation to future financial years there is a requirement that the determination is made before the start of the financial year concerned (see section 72(1)). If a determination is made in reliance on this section, then the determination can only relate to housing which is likely to become vacant during the period after the date on which the determination is made.

Section 74: Reduction of payment by agreement

179 This section provides the Secretary of State with the power to make an agreement with a local authority which reduces the amount the local authority is required to pay under the determination (subsection (1)). The agreement will contain terms and conditions specifying the amount of money to be retained and what the local authority must do with the retained money. This approach is similar to that taken in relation to capital housing receipts under section 11(6) of the Local Government Act 2003.

180 Subsection (3) requires that where an agreement is made with an authority outside Greater London, it must require the authority to ensure that one new affordable home (as defined in subsection (7)) is delivered for each of the authority's higher value vacant dwellings taken into account under the determination (see the definition of "old dwelling" in subsection (7)).

181 Subsection (4) requires that when an agreement is made with a local authority in Greater London it must require the authority to provide two new affordable homes for each of the authority's higher value vacant dwellings taken into account under the determination. However, subsection (5) provides for an exception to this requirement where the Greater London Authority (GLA) has agreed to ensure that some of those new affordable homes are provided. For example, if the total number of new affordable homes required to be delivered

is 10 and the GLA has agreed to ensure that 5 of those homes are delivered, the agreement need only require the authority to provide the other 5 new affordable homes. Subsection (6) enables the Secretary of State to create other exceptions to the requirement in subsections (3) or (4) for one or more local housing authorities. Subsection (9) enables the Secretary of State to amend the definition of "new affordable home" in subsection (7) by regulations. Regulations amending the definition of "new affordable home" are subject to the affirmative resolution procedure.

182 A determination may be made in relation to one or more financial years (see section 72(3)) and so subsection (8) makes it clear that an agreement under this section may be made in relation to one, more or all of the financial years covered by a multi-year determination. For example, if a determination is made which relates to three years, an agreement could be entered into to reduce a local authority's payment in respect of one, two or all three of those years in order for it to deliver more housing. Where a multi-year determination is made and the Secretary of State enters into an agreement with a local authority in respect of its payment for one or more of those years, the "new affordable homes" which it is required to deliver because of subsection (3) or (4) of this section will be calculated by reference to the "old dwellings" which have been taken into account in the year (or years) of the determination to which the agreement relates.

Section 75: Set off against repayments under section 69

183 Where a local authority has made an overpayment, this section enables the Secretary of State to offset the amount which needs to be repaid against another payment the local authority is due to make under this Chapter or against any payment which the authority is due to make under section 11 of the Local Government Act 2003. That section concerns capital receipts from the disposal of housing land.

184 This section aims to simplify accounting by reducing the number of payments between the Secretary of State and a local authority, where an overpayment has been made.

Duty to consider selling

Section 76: Duty to consider selling vacant higher value housing

185 This section imposes a free-standing duty on local authorities to consider selling any higher value vacant housing which they own. The definition of "higher value" will be set out in regulations and the Secretary of State may, through regulations, exclude housing from the scope of the duty. The duty would apply even where no determination is made under section 69. Local authorities must have regard to any guidance issued by the Secretary of State about the new duty.

Amendments and interpretation

Section 77: Local authority disposal of housing: consent requirements

186 This section amends section 34(4A) and section 43(4A) of the Housing Act 1985 to add to the list of matters which the Secretary of State may have regard to when considering whether to give consent to a local authority wishing to dispose of (i.e. sell or give away) housing under section 32 or 43 of that Act. The amendments will mean that if disposal of the housing by the local authority to another person or body could result in a reduced payment to the Secretary of State under section 69, the Secretary of State may choose to take this, amongst other factors, into account when deciding whether or not to give consent to the disposal.

Section 78: Set off under section 11 of Local Government Act 2003

187 This section amends section 11 of the Local Government Act 2003 in relation to England only, so that the provisions about set off in section 11 mirror those in section 75 of this Chapter. This means that where a local authority in England has made an overpayment under section 11 of the 2003 Act, the Secretary of State may set off the amount which needs to be repaid against any payment the authority is liable to make under section 11 or under this Chapter.

Section 79: Interpretation of Chapter

188 This section defines certain terms used in this Chapter, some of which are referred to in the explanatory notes for the other sections of this Chapter.

Chapter 3: Rents for High Income Social Tenants

Mandatory rents for local authority tenants

Section 80: Mandatory rents for high income local authority tenants

189 This section gives the Secretary of State the power to set the levels of rent that local authorities must charge high income social tenants ("HISTs"). Regulations will specify how much rent a HIST should pay. Regulations may specify exceptions from the policy for particular categories of tenants. Housing associations who choose to operate a policy for high income social tenants will be able to determine the level of rent payable by their tenants.

Section 81: Meaning of "high income" etc

190 Regulations made under this section will define the meaning of “high income” by reference to income thresholds, the definition of “household”, and the type of “income” to be captured. Regulations could also be used to set out how income should relate to the rent set, in respect of the reference period.

191 Local authorities will also be required to have regard to guidance issued by the Secretary of State.

Section 82: Information about income

192 Under regulations made under this section, local authorities can be given the power to require their tenants to declare what their household income is. The power can determine the type of evidence that is required to satisfy a landlord. This will be used to determine whether that household is over or below the income thresholds that have been set. Regulations will encourage timely declaration of income information by providing that if a tenant fails to declare income in accordance with the regulations the tenant’s rent will be raised to maximum levels.

Section 83: HMRC information

193 Following the declaration of income by tenants, a process of verification may be needed to ensure that declarations of income are correct. The power in this section allows data to be shared between HMRC and local authorities for the purposes of verification – either directly from HMRC to landlords, or via the Secretary of State or a single body nominated by the Secretary of State to act as the ‘gatekeeper’ for this purpose. The Secretary of State must obtain the consent of HMRC before making arrangements with a private body to fulfil this function, or making regulations which give a public body this function.

Section 84: Reverting to original rents

194 This section contains a power to provide in regulations that where a local authority tenant ceases to be a high income social tenant, the rent reverts to the current social rent. The circumstances that would trigger a review of rent can be set by regulations. In particular, regulations can be used to require a review of rent when a tenant has declared relevant evidence of income (having failed to do so within the original timeframe set by the landlord).

Section 85: Power to change rents and procedure for changing rents

195 Where a local authority determines that tenants in social households are high income social tenants, regulations made under this section will give landlords the power to increase the rent payable under a tenancy (if it cannot be done already).

196 This section also provides for other legislation to be amended by regulation. The purpose of this power is to enable amendments to legislation which may otherwise prevent or limit the circumstances in which rents can be raised. Tenants will also, by regulations, be given the right to appeal decisions.

Section 86: Payment by local authority of increased income to Secretary of State

197 Local housing authorities will be required by regulations to pay any additional income received to the exchequer. The exact amounts and the process for paying the money will be set via regulations. Following consultation on the issue of administrative costs, regulations can be used to ensure that local authorities do not incur those costs.

198 Regulations also allow for interest to be charged in the event of late payment.

Section 87: Provision of information to Secretary of State

199 This section provides power for the Secretary of State to collect data from local authorities for the purposes of reviewing the operation of the policy.

Section 88: Interaction with other legislation and consequential amendments

200 Subsection (1) provides that when regulations are made requiring local authority landlords to charge high income tenants of social housing increased rents provision, regulations must also be made to exempt such tenants from the rent reduction requirements in the Welfare Reform and Work Act 2016.

201 Subsection (3) makes changes to the provisions regarding the keeping of the Housing Revenue Account adding to the list of permissible debit items contained in Part 2 of Schedule 4 to the Local Government and Housing Act 1989 a payment under regulations made in reliance on section 81.

Private registered providers: rent policies for high income tenants

Section 89: Private providers: policies for high income social tenants

202 The section requires private registered providers who have adopted a voluntary policy to publish details of that policy. That published policy must allow for an appeal mechanism.

Section 90: HMRC information for private registered providers

203 This section allows HMRC to share data with private registered providers in the same way as section 83 does for local authorities.

Interpretation

Section 91: Interpretation of Chapter

204 This section is self-explanatory.

Chapter 4: Reducing Regulation of Social Housing Etc

Section 92: Reducing social housing regulation

205 Section 92 introduces Schedule 4 which sets out the amendments to reduce the regulation of private registered providers of social housing.

Part 1 - Removal of disposal consents requirement

206 Existing legislation (Housing Act 1985, Housing Act 1988, Local Government and Housing Act 1989, Leasehold Reform, Housing and Urban Development Act 1993, and the Housing and Regeneration Act 2008) previously required registered providers of social housing to seek permission from the social housing regulator to dispose of social housing stock. Part 1 of Schedule 4 (paragraphs 1 to 8, and 11 to 14) sets out the removal of those disposal consents. Disposal of property is defined in section 273 of the Housing and Regeneration Act 2008 as selling, leasing, mortgaging, making the property subject to a charge, disposing of the property or any interest in it in any other way, and may include granting an option to require a disposal.

207 To ensure that when property is charged for security purposes (for example when a private registered provider is raising finance for major repairs or to develop houses) it does not cease to be social housing, the Schedule makes amendments to the circumstances when housing stock is deemed to cease to be social housing. The intention is that property charged for security should not lose its status as social housing. Part 1 of Schedule 4 (paragraphs 7 to 10) sets out the categories of transfers which will result in stock losing its social housing status. It should be noted that this group of 'transfers' is narrower than disposals.

208 In order no longer to be considered social housing, the whole of the interest (whether leasehold or freehold) in a property must be transferred with no ability to claim the interest back. Therefore, a new lease or the granting of a sub-lease will not result in leaving the stock. Further, where a registered provider transfers their entire interest but on terms that mean it has a right to reclaim their interest in the future, the property does not leave the social housing stock.

209 Paragraphs 15 to 21 in part 1 of Schedule 4 set out the new requirements for private registered providers to notify the Regulator of Social Housing about disposals of social housing. There is a power inserted in new section 176 of the Housing and Regeneration Act 2008 for the Regulator to give directions about the timing and content of notifications. It also enables the Regulator to dispense with the requirement for notification.

Part 2 - Restructuring and dissolution: removal of consent requirements etc.

210 Part 2 of Schedule 4 sets out the removal of the Regulator of Social Housing's constitutional consents regime.

211 Under the Housing and Regeneration Act 2008, registered providers are required to gain permission from the Regulator for constitutional changes, restructuring and dissolution. Such changes include mergers, changes to some provisions of the constitution, restructuring of the organisation and winding up.

212 Paragraphs 22 to 29 remove the requirement for private registered providers to gain permission from the social housing regulator for changes to companies, conversion to a registered society, for a registered society to restructure or for dissolution. How an individual private registered provider is constituted will determine which of these provisions apply to them.

213 Although the constitutional consents regime has been removed the Regulator does need to keep the register of social housing providers up to date, therefore it has to be notified if:

- a registered society changes its rules;
- a charity changes its objects; or
- a company changes its articles.

214 Paragraph 29 sets out a power in new section 169D of the Housing and Regeneration Act 2008 that the Regulator may give directions about the timescale and content of the notification. It also enables the Regulator to dispense with the requirement for notification.

215 In some cases the Financial Conduct Authority or Companies House may not register the change until it is satisfied that the Regulator has been notified.

216 Where the restructure creates a new body, the Regulator must decide whether this new body meets its requirements for registration. If it does, the Regulator must register it and designate it as non-profit.

Part 3 - Removal of the Disposal Proceeds Fund

217 Existing legislation (the Housing and Regeneration Act 2008) required private registered providers of social housing to hold a Disposal Proceeds Fund to record proceeds (including historic grant) from certain sales of social housing stock. Money in the Disposals Proceeds Fund may be spent only as directed by the Regulator. If any private registered provider is unable to reinvest the funds within the period specified by the Regulator it must return the funds to the Homes and Communities Agency or the Greater London Authority.

218 Paragraphs 32 and 33 abolish the requirement for private registered providers to hold a Disposal Proceeds Fund. As a transitional measure, any funds in a Disposal Proceeds Fund at the point of commencement of this legislation must still be applied only as directed by the Regulator.

219 After commencement of this provision historic grant which would now go into the Disposal Proceeds Fund will be recycled in accordance with the terms of any grant agreement.

Schedule 4: Reducing social housing regulation

220 Existing legislation (the Housing and Regeneration Act 2008) gave the social housing regulator the power to appoint managers or officers (usually as members of the Board) to a private registered provider under certain circumstances. This section amends the Housing and Regeneration 2008 so that the Social Housing Regulator may only appoint a new manager to a non-profit private registered provider where there has been a breach of legal

requirements (imposed by legislation or regulatory standards). This circumscribes more tightly the existing provisions whilst still enabling the regulator to take action where a private registered provider, or its tenants, are at risk.

Section 93: Reducing local authority influence over private registered providers

221 This section has the same objective as section 92, namely to reduce public sector control over private registered providers of social housing to ensure that these organisations may be properly classified as private organisations.

222 This section confers a power on the Secretary of State by regulations to make provision for the purpose of limiting or removing the ability of local authorities to exert influence over private registered providers of social housing, through the nomination of board members and acting as shareholders. These regulations will be subject to the affirmative resolution procedure, as provided by section 214(2)(h).

Section 94: Recovery of social housing assistance: successors in title

223 Sections 32 to 34 of the Housing and Regeneration Act 2008 enable the Homes and Communities Agency (HCA) to recover financial assistance given for the purpose of providing social housing from recipients and their successors in title. This section amends section 33 to remove the HCA's ability to recover this assistance in circumstances where the social housing provided as a result of the assistance is disposed of outside the regulated sector in consequence of either a lender enforcing its security or the winding up or administration (including a housing administration under Chapter 5 of Part 4 of this Act) of the recipient or a successor in title.

Chapter 5: Insolvency of Registered Providers of Social Housing

Housing administration

Section 95: Housing administration order: providers of social housing in England

224 This is the first of a number of sections which introduce a special administration regime for private registered providers of social housing that are at risk of entering insolvency proceedings. It sets out the remit for the different types of private registered providers.

225 A housing administration may only be commenced by an order of the court. Subsection (1) sets out the meaning of a housing administration order. The order appoints a person (the "housing administrator" – see subsection (2)) to manage the affairs, business and property of a company, registered society or charitable incorporated organisation that is a registered provider of social housing for the duration of the housing administration.

226 Subsection (3) clarifies that for a housing administration order applying to a foreign company, the references in subsection (1)(b) to affairs, business and property are references to those conducted and located in the UK.

Section 96: Objective of housing administration

227 This section sets out the objectives of a housing administration.

228 Subsection (1) states that the housing administrator has two objectives:

- Objective 1: normal administration; and
- Objective 2: keeping social housing in the regulated sector.

229 Subsection (2) states that Objective 1 takes priority over Objective 2 but makes clear that the housing administrator must so far as possible work towards both objectives.

230 Subsection (3) emphasises the hierarchy between the two objectives by making clear that in pursuing Objective 2, the housing administrator must not do anything that would result in a worse distribution to creditors than would be the case if the administrator did not need to pursue Objective 2.

Section 97: Objective 1: normal administration

231 This section sets out the housing administrator's primary objective. It replicates an administrator's objective in a normal administration.

232 Subsection (1) states that this objective is to:

- (a) rescue the registered provider as a going concern;
- (b) achieve a better result for the registered provider's creditors as a whole than would be likely if the registered provider were wound up (without first being in housing administration); or
- (c) realise property in order to make a distribution to one or more secured or preferential creditors.

233 Subsection (4) sets out that in pursuing Objective 1(a),(b) or (c) the housing administrator must act in the interests of the registered provider's creditors as a whole so far as consistent with that Objective.

Section 98: Objective 2: keeping social housing in the regulated sector

234 This section sets out the housing administrator's secondary objective, which is to ensure that the registered provider's social housing remains in the regulated housing sector.

235 Subsection (2) sets out that for the purpose of Objective 2 social housing remains in the regulated sector for so long as it is owned by a private registered provider.

Section 99: Applications for housing administration orders

236 This section sets out the process for applications to the court for housing administration orders.

237 Subsection (1) provides that only the Secretary of State or the Regulator of Social Housing (with consent of the Secretary of State) can make an application for a housing administration order.

238 Subsection (2) provides that when applying for such an order the applicant must give notice of the application to a number of people as follows:

- every person who has appointed an administrative receiver of the registered provider;
- every person who is or may be entitled to appoint an administrative receiver of the registered provider;

- every person who is or may be entitled to make an appointment in relation to the registered provider under paragraph 14 of Schedule B1 to the Insolvency Act 1986 (appointment of administrators by holders of floating charges); and
- any other persons specified by housing administration rules - these are rules that can be made under section 411 of the Insolvency Act 1986 (see section 102(5)).

239 Notice must be given as soon as possible after the making of the application (see subsection (3)).

Section 100: Powers of court

240 This section sets out the powers of the court on hearing an application from the Secretary of State or the Regulator of Social Housing for a housing administration order. Subsection (1) states that the court may:

- make the order;
- dismiss the application;
- adjourn the hearing conditionally or unconditionally;
- make an interim order;
- treat the application as a winding-up petition and make any order the court could make under section 125 of the Insolvency Act 1986 (power of court on hearing winding-up petition); and
- make any other order which it thinks appropriate.

241 Under subsection (2), the court may only make a housing administration order if it is satisfied that:

- the registered provider is unable, or is likely to be unable, to pay its debts; or
- that it would be just and equitable (disregarding the objectives of the housing administration) to wind up the provider in the public interest on a petition from the Secretary of State under section 124A of the Insolvency Act 1986 and the Secretary of State has certified that (disregarding the objectives of the housing administration) a petition for such a winding up would be appropriate see subsection (3)).

242 Section 124A of the Insolvency Act 1986 states:

"(1) Where it appears to the Secretary of State from—

(a) any report made or information obtained under Part XIV (except section 448A) of the Companies Act 1985 (company investigations, etc).

(b) any report made by inspectors under—

(i) section 167, 168, 169 or 284 of the Financial Services and Markets Act 2000, or

(ii) where the company is an open-ended investment company (within the meaning of that Act), regulations made as a result of section 262(2)(k) of that Act;

(bb) any information or documents obtained under section 165, 171, 172, 173 or 175 of that Act.

(c) any information obtained under section 2 of the Criminal Justice Act 1987 or section 28 of the Criminal Law (Consolidation) (Scotland) Act 1995 (fraud investigations), or,

(d) any information obtained under section 83 of the Companies Act 1989 (powers exercisable for purpose of assisting overseas regulatory authorities),

that it is expedient in the public interest that a company should be wound up, he may present a petition for it to be wound up if the court thinks it just and equitable for it to be so."

243 Subsection (4) makes it clear that the court cannot make a housing administration order if the registered provider is already in administration (under Schedule B1of the Insolvency Act 1986) or has gone into liquidation (as defined in section 247(2) of the Insolvency Act 1986).

244 The housing administration order comes into force at the time appointed by the court, or if no time is appointed, when the order is made (see subsection(5)).

245 Subsection (6) explains that where the court makes an interim order it may restrict the exercise of a power of the registered provider or of its relevant officers or make provision to confer discretion on a person qualified to act as an insolvency practitioner in relation to the registered provider.

246 Subsection (7) explains that a relevant officer:

- in relation to a company, means a director;
- in relation to a registered society, means a member of the management committee or other directing body of the society; and
- in relation to a charitable incorporated organisation, means a charity trustee (as defined by section 177 of the Charities Act 2011).

247 Subsection (8) sets out that in the case of a foreign company, the restrictions in subsection (6)(a) would relate to powers of the registered provider or of its directors within the UK. or in relation to the company's UK affairs, business or property.

248 Subsection (9) sets out that for the purposes of this section, the test for whether a registered provider is unable to pay its debts is the same as which applies under the Insolvency Act 1986.

Section 101: Housing administrators

249 This section sets out the status of a housing administrator of a registered provider and how that administrator should exercise their powers.

250 Subsection (1) states that a housing administrator is an officer of the court, and in carrying out functions in relation to the registered provider, is the registered provider's agent.

251 Subsection (2) provides that the housing administrator must aim to achieve the objectives of the housing administration as quickly and as efficiently as is reasonably practicable.

252 Subsection (3) clarifies that the housing administrator has to be qualified to act as an insolvency practitioner in relation to the registered provider.

253 Subsection (4) deals with a situation where the court appoints two or more persons as the housing administrator of a registered provider.

Section 102: Conduct of administration etc

254 This section introduces Schedule 5 which contains provisions applying the provisions of Schedule B1 of the Insolvency Act 1986, and certain other enactments, to housing administration orders in relation to companies.

255 Subsections (2) empowers the Secretary of State to make further regulations to provide for any provision of Schedule B1 and other insolvency legislation (defined in subsection (4)) to apply, with or without modifications, to cases where a housing administration order is made in respect of a registered society or charitable incorporated organisation.

256 Subsection (3) empowers the Secretary of State to make regulations to modify any insolvency legislation (defined in subsection (4)) as it applies in relation to a registered society or a charitable incorporated organisation if he considers the modifications are appropriate for a housing administration.

257 Subsection (5) applies the power to make rules under section 411 of the Insolvency Act 1986 for the purpose of giving effect to this Chapter as it applies for the purpose of giving effect to Parts 1 to 7 of that Act so that detailed procedural rules for a housing administration can be made in the same way that they are for a normal administration.

258 However, under subsection (6) the duty to consult the Insolvency Rules Committee about the rules does not apply in the case of a housing administration.

Section 103: Housing administrator may sell land free from planning obligations.

259 This section allows a housing administrator to dispose of land free of planning obligations under section 106 of the Town and Country Planning Act 1990 in circumstances where any restrictions or requirements imposed by the planning obligation are expressed not to apply in the event that the land is disposed of by a mortgagee.

Restrictions on other insolvency procedures

260 Sections 104 to 108 prevent a housing administration being frustrated by prior orders of various kinds being granted before the Secretary of State or the Regulator of Social Housing have been given an opportunity to apply for a housing administration order, or by other steps being taken when a housing administration order has been made or an application is outstanding.

Section 104: Winding-up orders

261 This section sets out how the court should act in certain circumstances, if a person other than the Secretary of State petitions for the winding-up of a registered provider that is:

- a company;
- a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014; or

- a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.

262 Subsection (2) provides that the court is not to exercise its powers on a winding up petition unless:

- notice of the petition has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given; or
- the Regulator of Social Housing has waived the notice requirement.

263 Subsection (3) clarifies that if an application for a housing administration is made before a winding-up order is made on a winding-up petition the court may exercise its powers under section 100 instead of exercising any of its powers on the petition.

264 Subsection (4) provides that the Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (2)(a) and subsection (5) provides that the Regulator of Social Housing may only waive the notice requirement if it has the Secretary of States consent.

265 The notice and 28 day period are intended to avoid a winding up order being granted before the Secretary of State and the Regulator of Social Housing have been given an opportunity to seek a housing administration order.

266 Subsection (6) clarifies that references in this section to the court's powers on a winding up petition are to:

- its powers under section 125 of the Insolvency Act 1986 (other than its power of adjournment); and
- its powers under section 135 of the Insolvency Act 1986 (for example to appoint a provisional liquidator).

Section 105: Voluntary winding up

267 This section prevents a registered provider passing a resolution for voluntary winding up without permission of the court.

268 Subsection (3) stipulates that the court is not to grant permission unless:

- notice of the application has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since that notice was given; or
- the Regulator of Social Housing has waived the notice requirement.

269 If an application for a Housing Administration Order is made after an application for permission is made under this section but before permission is granted, subsection (5) allows the court to exercise its powers under section 100 to make a housing administration order instead of granting permission.

270 Subsection (6) provides that the Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (4)(a) and subsection (7) provides that the Regulator of Social Housing may only waive the notice requirement if it has the Secretary of States consent.

Section 106: Making of ordinary administration orders

271 This section applies if a person other than the Secretary of State makes an ordinary administration order in relation to a private registered provider that is:

- a company; or
- a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011.

272 It sets out how the court should act in such circumstances.

273 Subsection (2) states that the court must dismiss the application for ordinary administration if a housing administration order is in force in relation to the registered provider, or has been made in relation to the registered provider but is not yet in force.

274 If a housing administration order has not been made, subsection (3) requires that, on hearing the ordinary administration application, the court must not exercise its powers under paragraph 13 of Schedule B1 to the Insolvency Act 1986 (other than its power of adjournment) unless:

- notice of the application has been given to the Regulator of Social Housing and a period of at least 28 days has elapsed since the notice was given; or
- the Regulator of Social Housing has waived the notice requirement; and
- there is no application for a housing administration order which is outstanding.

275 Paragraph 13 of Schedule B1 relates to the powers of the court on hearing an ordinary administration application (for example, to make an administration order, dismiss the application etc).

276 Subsection (4) provides that the Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (3)(a)(i) and subsection (7) provides that the Regulator of Social Housing may only waive the notice requirement in subsection (3)(a)(i) if it has the Secretary of State's consent.

Section 107: Administrator appointments by creditors

277 This section deals with circumstances where secured creditors, directors or other applicable officers of the registered provider seek to appoint an administrator under paragraphs 14 or 22 of Schedule B1 to the Insolvency Act 1986 (powers to appoint administrators).

278 Subsection (2) states that a person may not take any step to make such an appointment when:

- a housing administration order is in force in relation to the registered provider;
- a housing administration order has been made in relation to the registered provider but is not yet in force; or
- an application for a housing administration order in relation to the registered provider is outstanding.

279 Subsection (3) sets out that in any other case, an appointment of an administrator takes effect only if each of the conditions in subsection (4) are met. The conditions are:

- either that notice of the appointment has been given to the Regulator of Social Housing, accompanied by a copy of every document in relation to the appointment that is filed or lodged with the court in accordance with paragraph 18 or 29 of Schedule B1 to the Insolvency Act 1986 and a period of 28 days has elapsed since that notice was given;
- the Regulator of Social Housing has waived the notice requirement; or
- that there is no outstanding application to the court for a housing administration order in relation to the registered provider; and
- that the making of an application for a housing administration order in relation to the registered provider has not resulted in the making of a housing administration order which is in force or is still to come into force.

280 Subsection (5) provides that the Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (4)(a) and subsection (6) provides that the Regulator of Social Housing may only waive the notice requirement in subsection (4)(a) if it has the Secretary of State's consent.

281 Subsection (7) makes it clear that paragraph 44 of Schedule B1 to the Insolvency Act 1986 (interim moratorium) does not prevent or require the permission of the court for the making of an application for a housing administration order at any time before the appointment takes effect.

Section 108: Enforcement of security

282 This section prevents a person taking any step to enforce security over property of a registered provider unless:

- notice of the intention to do so has been given to the Regulator of Social Housing; and a period of at least 28 days has elapsed since the notice was given; or
- the Regulator of Social Housing has waived the notice requirement.

283 In the case of a foreign company, subsection (3) clarifies that the reference to the property of the registered provider is to its property in the UK.

284 Subsection (4) provides that the Regulator of Social Housing must give the Secretary of State a copy of any notice given under subsection (2)(a) and subsection (5) provides that the Regulator of Social Housing may only waive the notice requirement in subsection (2)(a) if it has the Secretary of State's consent.

Financial support for registered providers in housing administration

Section 109: Grants and loans where housing administration order is made

285 This section sets out the conditions on which the Secretary of State can make grants or loans to a registered provider in housing administration.

286 Subsection (1) enables the Secretary of State to make grants or loans to the registered provider of amounts that the Secretary of State considers appropriate for achieving the objectives of the housing administration.

Section 110: Indemnities where housing administration order is made

287 This section sets out that if a housing administration order has been made in relation to a registered provider, the Secretary of State may agree to indemnify specified relevant persons, for example the housing administrator, his employees, partners, fellow employees (see subsection (6)) in respect of liabilities incurred or loss and damage sustained in connection with the carrying out of the housing administrator's functions.

288 Subsection (3) requires the Secretary of State to lay a statement before Parliament as soon as practicable after agreeing an indemnity under this section.

289 Subsection (5) provides that the Secretary of State can only agree to indemnify persons in respect of liabilities, loss and damage incurred or sustained by them as "relevant persons", but can agree to indemnify persons who subsequently become "relevant persons" for example by becoming an employee of the housing administrator.

290 Subsection (6) defines the meaning of "relevant person" for the purposes of this section namely:

- the housing administrator;
- an employee of the housing administrator;
- a partner or employee of a firm of which the housing administrator is a partner;
- a partner or employee of a firm of which the housing administrator is an employee;
- a partner of a firm of which the housing administrator was an employee or partner at a time when the order was in force;
- a body corporate which is the employer of the housing administrator;
- an officer, employee or member of such a body corporate; and
- a Scottish firm which is the employer of the housing administrator or of which the housing administrator is a partner.

Section 111: Indemnities: repayment by registered provider etc

291 This section applies where a sum is paid out by the Secretary of State in consequence of an indemnity agreed to under section 110 in relation to the housing administrator of a registered provider.

292 Subsection (2) allows the Secretary of State to determine the amounts of any repayment the registered provider must make.

293 If a sum has been paid out under an indemnity agreed under section 110, subsection (5) requires the Secretary of State to lay a statement relating to that sum before Parliament as soon as practicable after the end of the financial year in which the sum is paid out; and, where there is an obligation on the registered provider to repay the relevant sums, after the end of each subsequent financial year until the registered provider has discharged the liability (including interest).

Section 112: Guarantees where housing administration order is made

294 This section enables the Secretary of State to give guarantees in relation to a registered provider in housing administration.

295 Subsection (1) states that the Secretary of State may guarantee while a housing administration order is in force:

- the repayment of any sum borrowed by the registered provider while that order is in force;
- the payment of interest on any sum borrowed by the registered provider while that order is in force; and
- the discharge of any other financial obligation of the registered provider in connection with the borrowing of any sum while that order is in force.

296 Subsection (3) requires the Secretary of State to lay a statement before Parliament as soon as practicable after giving a guarantee under this section.

Section 113: Guarantees: repayment by registered provider etc

297 This section applies where a sum is paid out by the Secretary of State under a guarantee in relation to a registered provider.

298 If sums are paid out by the Secretary of State under a guarantee given under section 112 subsection (2) requires that the registered provider must pay the Secretary of State:

- such amounts in or towards repayment as the Secretary of State may direct; and
- interest on amounts outstanding at such rates as the Secretary of State may direct.

299 If a sum has been paid out under a guarantee given under section 112 subsection (4) requires the Secretary of State to lay a statement relating to that sum before Parliament as soon as practicable after the end of the financial year in which the sum is paid out; and after the end of each subsequent financial year until the registered provider has discharged the liability (including interest).

Supplementary provisions

Section 114: Modification of this Chapter under the Enterprise Act 2002

300 Under sections 248, 254 and 277 of the Enterprise Act 2002 the Secretary of State has power to make consequential amendments to the administration regime and to apply it to foreign companies. This section provides that those powers include the power to make such consequential modifications of this Chapter as the Secretary of State considers appropriate.

Section 115: Amendments to housing moratorium consequential amendments

301 This section introduces Schedule 6 which makes amendments to the housing moratorium provisions in the Housing and Regeneration Act 2008 and consequential amendments.

Section 116: Interpretation of Chapter

302 This section is self-explanatory.

Section 117: Application of Part to Northern Ireland

303 This section contains provisions about the application of this Part to Northern Ireland.

Schedule 5: Conduct of housing administration: companies

304 This Schedule contains provisions applying the provisions of Schedule B1 to the Insolvency Act 1986, and certain other enactments, to a housing administration (see section 102). Schedule B1 of the Insolvency Act 1986 sets out the framework for administrations conducted under that Act. Schedule 5 is divided into three parts:

Part 1 - Modifications of Schedule B1 to the 1986 Act

305 This Part makes modifications to a number of paragraphs of Schedule B1 to adapt them to the housing administration regime established by Chapter 5 of Part 4 of this is Act. It makes general modifications e.g. where Schedule B1 uses the term "administrator" that is to be read as "housing administrator", and further specific modifications where a simple substitution of words is not sufficient.

Part 2 - Further modifications of Schedule B1 to the 1986 Act: foreign companies

306 This Part makes further modifications to Schedule B1 to adapt that Schedule as it applies to foreign companies. In particular, section 95(3) provides that a housing administration in respect of a foreign company only affects that company's UK affairs, business and property. This Part makes modification to Schedule B1 to give effect to that limitation.

Part 3 - Other modifications

307 This Part makes further modifications, both general and specific to provisions elsewhere in the Insolvency Act 1986 and in other legislation that refers to administrations. Specific modifications are made to the provisions of the Insolvency Act 1986 relating to company voluntary arrangements so that these do not interfere with the conduct of a housing administration.

308 Paragraph 30 grants the Secretary of State a power to amend Part 2 of Schedule 5 by adding further modifications to the provisions of insolvency law having effect in the case of foreign companies.

309 Paragraph 44 grants the Secretary of State a power to amend Part 3 of Schedule 5 by adding further modifications of insolvency law where the Secretary of State considers the modifications appropriate in relation to the housing administration regime in Chapter 5.

Schedule 6: Amendments to housing moratorium and consequential amendments

This Schedule amends the moratorium provisions for registered providers in the Housing and Regeneration Act 2008 to align them with the new housing administration provisions. Paragraph 3 list the ways in which a moratorium can be triggered. The relevant period of the moratorium is also amended (paragraph 4) to 28 calendar days beginning on the day on which the notice is given.

Chapter 6: Secure Tenancies Etc.

Section 118: Secure tenancies etc: phasing out of tenancies for life

310 This section introduces Schedule 7, which makes changes to the Housing Act 1985 and the Housing Act 1996 in relation to the granting of secure, introductory, demoted and family intervention tenancies.

Schedule 7: Secure tenancies etc: phasing out of tenancies for life

311 This Schedule amends the Housing Act 1985 and the Housing Act 1996 to phase out lifetime tenancies. Secure tenancies will generally have to be for a fixed term and will not automatically be renewed.

312 Paragraph 4 inserts new sections 81A to 81C into the Housing Act 1985. Local authorities may generally only grant secure tenancies for a fixed term of between 2 and 10 years, or where a child under 9 years lives in the property until the child turns 19. Local authorities must have regard to any guidance issued by the Secretary of State when deciding what length of tenancy to grant and a tenant may request a review of the landlord's decision as to the length of the fixed term. If a landlord tries to grant a lifetime tenancy or a tenancy shorter than 2 years or longer than the maximum permitted period, the tenancy defaults to a 5 year fixed term.

313 Existing lifetime tenants must be given a further lifetime tenancy if they are required to move by the landlord and the landlord has discretion to grant a lifetime tenancy in other circumstances to be set out in regulations.

314 If a local authority takes on a property with a tenant who has a periodic tenancy or one that is less than 2 years or more than 5 years, the tenancy becomes a non-secure tenancy and the local authority must offer the tenant a new fixed term tenancy.

315 Paragraph 11 inserts new sections 86A to 86F into the Housing Act 1985 which deal with the process for reviewing, renewing and terminating fixed term tenancies.

316 A landlord must carry out a review between 6 and 9 months before the end of the fixed term to decide whether to grant a new tenancy in the same or a different dwelling house or to end the tenancy without offering another. Where appropriate, the local authority must provide advice on buying a home or other housing options. The landlord must notify the tenant of the outcome of the review and the tenant may ask the landlord to reconsider a decision to terminate the tenancy.

317 Local authorities may not issue a demoted tenancy within 1 year and 9 months of the end of a fixed term tenancy, to allow time to carry out the review. A demoted tenancy is a tool to tackle anti-social behaviour; it puts the tenant on notice to improve their behaviour and lasts for 12 months at the end of which the tenancy reverts to its original type.

318 If the landlord does not grant a new tenancy at the end of the old one, or seeks possession of the property, the default position is that a new 5 year tenancy arises automatically at the end of the tenancy. This does not prevent the landlord from recovering possession of the property but ensures that the tenancy does not become a lifetime tenancy at the end of the term.

319 New section 86E of the Housing Act 1985 provides for the process by which a landlord may recover possession of a property at the end of the fixed term. A tenant may terminate a fixed term tenancy on giving 4 weeks' notice.

320 The right to improve and to be compensated for improvements do not apply to a fixed term secure tenancy.

321 Paragraphs 18 to 22 make corresponding changes to the Housing Act 1996 to allow local authorities to continue to offer introductory tenancies. These are trial tenancies where the trial period lasts for 12 months, extendable to 18 months. A landlord may not extend the trial period within 9 months of the end of the tenancy. This is to allow for a review to take place.

Section 119: Termination of fixed-term secure tenancies without need to forfeit

322 This section ensures that local authorities can terminate new fixed-term tenancies on the statutory fault grounds without the need to take action to forfeit in parallel.

Section 120: Succession to secure tenancies and related tenancies

323 This section introduces Schedule 8, which makes changes to the Housing Act 1985 and the Housing Act 1996 in relation to succession to secure, introductory and demoted tenancies.

Schedule 8: Succession to secure tenancies and related tenancies

324 This Schedule amends the Housing Act 1985 to make the rules governing succession to secure tenancies granted before 1 April 2012 the same as those for tenancies granted from that date.

325 Spouses, civil partners, and those living together as husband and wife continue to have a statutory right to succeed to a lifetime tenancy.

326 The statutory rights of other family members to succeed to a secure tenancy granted before 1 April 2012 are changed. The changes made by this Schedule mean that family members will not have an automatic right to succeed to a lifetime tenancy if they lived with a lifetime tenant for 12 months or more. Instead, under this section, local authorities will have discretion to grant them succession rights. Where the deceased tenant had a lifetime tenancy, persons other than spouses and partners who qualify to succeed cannot be given a lifetime tenancy and must be given a five year fixed term tenancy. The terms and conditions of the new tenancy will be the same and any outstanding possession order will continue to apply.

327 The Housing Act 1996 is amended to make corresponding changes to the rules governing succession to introductory and demoted tenancies.

328 These changes do not apply where the tenant has died before the Schedule comes into force.

Section 121: Secure and assured tenancies: transfer of tenancy

329 This section gives social landlords discretion to grant a further lifetime tenancy to existing lifetime tenants who exchange their property with a new fixed-term tenant.

Part 5: Housing, Estate Agents and Rentcharges: Other Changes

Electrical safety standards

Section 122: Electrical safety standards for properties let by private landlords

330 Section 122 allows the Secretary of State, by regulations, to impose duties on a private landlord to ensure that electrical safety standards are met in a property under their ownership, while a tenancy is in place in that property. The regulations may specify obligations that may be required of the landlord with regards to the frequency of checks and the expertise expected of any persons who undertake such checks.

Section 123: Electrical safety standards: enforcement

331 This section provides for the enforcement of any duties introduced by section 122 including the use of financial penalties and rights of appeal.

Accommodation needs in England

Section 124: Assessment of accommodation needs

332 Section 124 makes amendments to section 8 of the Housing Act 1985 and revokes section 225 and 226 of the Housing Act 2004 (and the secondary legislation and guidance made under them).

333 Section 8 of the Housing Act 1985 requires every local housing authority to consider housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation.

334 Section 225 of the Housing Act 2004 requires that every local housing authority must, when carrying out a review under section 8 of the Housing Act 1985, carry out an assessment of the accommodation needs of Gypsies and Travellers who reside in or who resort to their area. Gypsies and Travellers are defined by the Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) Regulations 2006 (S.I. 2006/3190).

335 Section 226 of the Housing Act 2004 enables the Secretary of State to issue guidance on the carrying out of needs assessments for Gypsies and Travellers and the preparation of strategies to meet those needs and sets out the process by which guidance must be laid before Parliament. The Gypsy and Traveller Accommodation Needs Assessment Guidance dated October 2007 was issued under section 226 of the Housing Act 2004.

336 The amendments remove separate definitions in housing legislation and instead provide that when authorities are carrying out a review of housing needs they consider the needs of all the people residing in or resorting to their district.

337 Subsection (1) adds two subsections to section 8. The first provides that the duty under section 8 includes considering the needs of people residing in or resorting to their district for caravan sites and places where houseboats can be moored. The second defines "caravan" and "houseboat".

Section 125: Licences for HMO and other rented accommodation: additional tests

338 This section amends the fitness test applied to persons who apply for licences to let residential accommodation in a house in multiple occupation under Part 2, and in premises subject to selective licensing under Part 3, of the Housing Act 2004. It adds additional criteria to the tests under each Part, namely that applicants should be entitled to remain in the UK and should not be insolvent or bankrupt. The section also clarifies that past failure to comply with duties concerning the immigration status of prospective tenants may be taken into account, and that regulations specifying information to accompany applications may require supporting evidence. The aim of the provisions is to further identify potential rogue landlords and property agents and prevent licences being granted to them.

Section 126: Financial penalty as alternative to prosecution under Housing Act 2004

339 This section introduces Schedule 9, which amends the Housing Act 2004 to allow financial penalties to be imposed as an alternative to prosecution for certain offences.

Schedule 9: Financial penalty as alternative to prosecution under Housing Act 2004

340 This Schedule makes amendments to the Housing Act 2004 to provide that a financial penalty may be imposed by a local authority as an alternative to prosecution in relation to certain offences under that Act. These are:

- where a person has failed to comply with an improvement notice that has become operative, such as that their conduct would amount to an offence under section 30 of the Housing Act 2004;
- where a person has control of or manages an HMO which is required to be licensed under Part 2 of that Act but is not so licensed; where a person has control of or manages an HMO which is licensed under Part 2 of that Act and that person knowingly permits another person to occupy the house, with the result of the house being occupied by more households or persons than is authorised by the licence; and where a person is a licence holder or person on whom restrictions or obligations under a licence are imposed and that person fails to comply with any condition of the licence (offences under section 72 of that Act);
- where a person has control of or manages a house which is required to be licensed under Part 3 of the Housing Act 2004 but is not so licensed; and where a person is a licence holder or a person on whom restrictions or obligations under a licence are imposed and that person fails to comply with any condition of the licence (offences under section 95 of the that Act);
- where a person has contravened an overcrowding notice such that their conduct amounts to an offence under section 139(7) of the Housing Act 2004; and
- where a person has failed to comply with management regulations in respect of a house in multiple occupation (an offence under section 234(3) of the Housing Act 2004).

341 A local authority has discretion to decide whether to impose a financial penalty or to pursue a prosecution in individual cases. Regardless of the route which the local authority decides to take, the same criminal standard of proof of beyond reasonable doubt must be met in order to bring a successful prosecution or to impose a financial penalty. However, a local authority may not impose a financial penalty if the person has already been convicted of an offence in relation to the conduct or criminal proceedings for the offence have commenced and have not been concluded. If a local authority has imposed a financial penalty on a person, that person may not then be convicted of an offence for that same conduct.

342 Where a financial penalty is imposed, only one such penalty may be imposed in respect of the same conduct. The amount of the financial penalty shall be determined by the local authority but must not exceed £30,000. The Secretary of State may make regulations providing how local authorities are to deal with financial penalties recovered and amending the amount of the maximum financial penalty to reflect changes in the value of money.

343 New Schedule 13A to the Housing Act 2004 sets out the procedure to be followed when imposing a financial penalty as an alternative to prosecution. Before imposing a financial penalty on a person under new section 249A of the Housing Act 2004, the local authority must give that person notice of their intention to do so. The notice must be given within a period of 6 months, beginning with the first day on which the authority has evidence of the conduct to which the penalty relates. The notice must set out the amount of the financial penalty, the reasons for proposing to impose the penalty and information about the right to make representations.

344 A person who is given a notice of intent may make representations to the local authority and must do so within 28 days beginning with the day after the day on which the notice was given. After the end of the period for representations, the local authority must decide whether or not to impose a financial penalty and if it decides to do so, it must decide the amount of the penalty.

345 If the local authority decides to impose a penalty, it must give the person a final notice imposing the penalty. The final notice must require payment of the penalty within 28 days, beginning with the day after the notice was given and must set out certain information, including the amount of penalty, how to pay, the rights of appeal and consequences of failing to comply with the notice.

346 A local authority may at any time withdraw a notice of intent or a final notice. The authority may also reduce the amount specified in a notice of intent or a final notice. The person must be notified in writing of any such withdrawal or reduction.

347 A person to whom a final notice is given may appeal to the First-tier Tribunal against the decision to impose the penalty or the amount of the penalty. If a person makes an appeal, the final notice is suspended until the appeal is determined or withdrawn. Following an appeal, the First-tier Tribunal may confirm, vary or cancel the final notice. The final notice may not be varied so as to increase the financial penalty by more that the amount than the local authority could have imposed.

348 If a person fails to pay all or part of the financial penalty, the local authority may recover the penalty or part of it on the order of the county court, as if it were payable under an order of that court.

349 A local housing authority must have regard to any guidance issued by the Secretary of State about the exercise of its functions under Schedule 13A or section 249A of the Housing Act 2004.

Section 127: Offence of contravening an overcrowding notice: level of fine

350 This section deals with the contravention of an overcrowding notice under section 139 of the Housing Act 2004. The maximum fine that could be imposed on conviction was set at level 4 (£2,500). This section brings the fine up to an unlimited fine thereby removing the restriction on the level of fine that may be imposed.

Housing information in England

Section 128: Tenancy deposit information

351 This section introduces new section 212A into the Housing Act 2004. Section 212A allows a local housing authority in England to obtain specified information held by tenancy deposit scheme administrators in order to carry out its functions under Parts 1 to 4 of that Act. This information will assist local housing authorities to identify privately rented housing and to target enforcement action towards the minority of landlords that fail to comply with the relevant statutory requirements.

352 So, for example, where multiple deposits are registered against a single address which does not hold an HMO licence a local housing authority will be able to investigate the property to identify whether any action needs to be taken under Part 2 of the Housing Act 2004.

353 Section 212A(3) provides for the charging of costs associated with providing the specified information.

354 This section restricts the manner in which the data may be used by a local housing authority to the purposes as set out in Parts 1 to 4 of the Housing Act 2004 and the purpose of investigating whether an offence has been committed under any of those Parts in relation to the premises. This is to ensure that the use of the data accords with data protection principles. This section provides that the purposes for which the data may be used can be amended by way of regulations made under the affirmative procedure.

355 A local housing authority may also share the data with other bodies providing services to it in the discharge of statutory functions under Parts 1 to 4 of the Housing Act 2004.

Section 129: Use of information obtained for certain other statutory purposes

356 This section amends section 237 of the Housing Act 2004 to provide that the Secretary of State may make regulations, under the affirmative procedure to change the list of purposes for which a local authority may use the data that it has obtained in exercise of its functions under section 134 of the Social Security Administration Act 1992 or Part 1 of the Local Government Finance Act 1992. Such data may be used by a local authority in exercise of its functions under Parts 1 to 4 of the Housing Act 2004. However, it may be necessary to amend the list of purposes in order to ensure that data obtained under section 212A and section 237 of the Housing Act 2004 can still be matched with one another should changes be made to the list of purposes in section 212A(5) of that Act.

Section 130: Tenants' associations: power to request information about tenants

357 This section gives the secretary of a tenants' association a right to obtain from the landlord contact information for other leaseholders in a shared block provided that leaseholders have individually consented to their information being made available in this way. Requiring a landlord to supply contact information could provide a means for the secretary of the association to increase the association's membership to the number needed for statutory recognition of the association where membership falls below that level. In particular, it could allow the secretary to contact absent leaseholders who might not otherwise be contactable. Where a tenants' association is recognised by statute it acquires additional rights over and above those enjoyed by individual leaseholders, including the right to be consulted about the appointment of managing agents and to be notified of works proposed by the landlord and to receive copies of estimates.

Administration charges

Section 131: Limitation of administration charges: cost of proceedings

358 This section amends Schedule 11 to the Commonhold and Leasehold Reform Act 2002 to give courts and tribunals a discretionary power to restrict the ability of a landlord to recover from the leaseholder as an administrative charge the landlord's costs of taking part in legal proceedings.

359 Prior to the passing of this Act, the courts and tribunals had power only to restrict a landlord from recovering their legal costs through the service charge. This section strengthens the powers of the courts and tribunals so that on the application of a leaseholder they may restrict recovery of a landlord's costs through the service charge or as an administration charge.

Enforcement of estate agents legislation

Section 132: Estate agents: lead enforcement authority

360 Subsections (1) and (2) insert into the Estate Agents Act 1979 new section 24A. Section 24A(1) makes the Secretary of State the lead enforcement authority for the purposes of the Estate Agents Act 1979. Section 24A(2) gives the Secretary of State the power to make arrangements for a trading standards authority to carry out the functions of the lead enforcement authority.

361 New section 24A(3)(a) makes clear that the Secretary of State may make payment to a trading standards authority to carry out the functions of the lead authority. Section 24A(3)(b) provides that any arrangements made by the Secretary of State are not permanent.

362 Subsection (3) amends section 33(1) of the Estate Agents Act 1979 so that the lead enforcement authority is defined as the Secretary of State or a trading standards authority who is carrying out the functions of the lead enforcement authority pursuant to arrangements made under section 24A of the Estate Agents Act 1979.

363 Subsection (4) amends paragraph 13(9) of Schedule 5 to the Consumer Rights Act 2015 to provide the Department of Enterprise, Trade and Investment in Northern Ireland and the Secretary of State with powers in relation to the production of information which could be used to carry out the functions of the lead enforcement authority.

Client money protection schemes for property agents

Section 133: Power to require property agents to join client money protection schemes

364 Section 133 provides the Secretary of State with the power to make regulations requiring property agents to be a member of a client money protection scheme. A client money protection schemes protects the money of landlords and tenants in the event of a property agent going into administration and against theft or misappropriation by the agent whilst it is in their custody or control. Regulations may impose requirements about the nature of membership of a client money protection scheme that an agent must obtain, and shall impose requirements in relation to the certificate that a property agent must obtain, display and produce to show that they are a member of a relevant scheme.

Section 134: Client money protection schemes: approval or designation

365 This section allows the Secretary of State to make regulations to provide for the approval or designation of client money protection schemes. Subsection (2) specifies that the regulations may make provision about the approval or designation of schemes including conditions on which approval is granted or a designation made and conditions which approved or designated schemes and their administrators must comply with. The regulations may also make provision about the withdrawal of approval or revocation of a designation.

Section 135: Enforcement of client money protection scheme regulations

366 This section provides for the enforcement of any duties introduced by section 133 to require property agents to belong to a client money protection scheme, including the use of financial penalties and rights of appeal against such penalties. The regulations may confer functions on a local authority, including requiring authorities to have regard to any guidance given by the Secretary of State when carrying out their enforcement functions.

Enfranchisement and extension of long leaseholds

Section 136: Enfranchisement and extension of long leaseholds: calculations

367 This introduces Schedule 7 which makes amendments to the Leasehold Reform Act 1967 (the 1967 Act) and to the Leasehold Reform, Housing and Urban Development Act 1993 (the 1993 Act).

Schedule 10: Enfranchisement and extension of long leaseholds: calculations

368 This Schedule amends Schedule 1 to the 1967 Act to enable the Secretary of State in relation to a tenancy in Wales or the Welsh Ministers in relation to a tenancy in England to set out in regulations the method for calculating the price payable for a minor superior tenancy. This is where a tenant of a leasehold house exercises the right to acquire the freehold of that house. The amendments apply to cases where the notice that the tenant wishes to acquire the freehold is given before this Act is passed but on or after 11 July 2015.

369 Schedule 10 also amends Schedule 6 to the 1993 Act so that the Secretary of State in the case of a leasehold interest in England and the Welsh Ministers in the case of a leasehold interest in Wales can make regulations setting out the method by which the value of a minor intermediate leasehold interest is calculated. This is where a group of tenants exercise their right to acquire collectively the freehold of a block of flats. The amendments apply to cases where the notice of claim to exercise the right to enfranchise is given before this Act is passed but on or after 11 July 2015.

370 Paragraph 5 amends Schedule 13 to the 1993 Act so that the value of a minor intermediate leasehold interest in relation to the individual right of a tenant of a flat to acquire a new lease is calculated in accordance with regulations made by the Secretary of State or the Welsh Ministers. The amendments apply to cases where the relevant time (as defined in section 39(8) of the 1993 Act) is before this Act is passed but on or after 11 July 2015.

Rentcharges

Section 137: Redemption price for rentcharges

371 This section amends sections 9 and 10 of the Rentcharges Act 1977 ("the 1977 Act"). This is to require that the price to be paid by a rent payer on the redemption of a rentcharge be calculated in accordance with regulations made by the Secretary of State.

372 The amendments made by this section apply to applications for rentcharge certificates which are made before Royal Assent and for which instructions for redemption have not been served under section 9(4) of the 1977 Act before that date. They also apply to any redemption application which is made after Royal Assent.

Section 138: Procedure for redeeming English rentcharges

373 This section makes further amendments to the Rentcharges Act 1977.

374 New section 7A of the 1977 Act (power to make procedure for redeeming English rentcharges) gives the Secretary of State a power to make provision in regulations to prescribe a new procedure for redeeming rentcharges which would apply in England only; lists the categories of rentcharge which are excluded from redemption under the new procedure and specifies the provision that can be made in regulations in relation to that procedure.

375 The procedure existing prior to the passing of this Act continues to apply in relation to Wales and to a conditional apportionment order.

Part 6: Planning in England

Neighbourhood Planning

Section 139: Designation of neighbourhood areas

376 This section amends section 61G of the 1990 Act (meaning of "neighbourhood area"). That section provides for local planning authorities in England to designate neighbourhood areas within which neighbourhood planning activities may take place. A local planning authority may only designate a neighbourhood area where a relevant body (a parish council, where there is one, or an organisation or body which is, or is capable of being, designated as a neighbourhood forum) has applied to the authority for an area specified in the application to be designated. The authority must designate at least some of the area applied for (unless all of the area applied for is already designated).

377 The amendment enables the Secretary of State to make regulations requiring a local planning authority to designate all of the area applied for if the application meets prescribed criteria or has not been determined within a prescribed period (subject to prescribed exceptions).

Section 140: Timetable in relation to neighbourhood development orders and plans

378 This section amends the 1990 Act and the Planning and Compulsory Purchase Act 2004 to enable the Secretary of State to prescribe time periods within which local planning authorities must undertake key neighbourhood planning functions.

379 Paragraph 12 of Schedule 4B to the 1990 Act sets out what a local planning authority must do on receipt of a report by an independent examiner of a proposal for a neighbourhood development order or plan. The key decision is whether a referendum should be held on the proposal. If the authority propose to make a decision which differs from that recommended by the examiner, paragraph 13 of Schedule 4B requires prescribed persons to be consulted. The authority may also refer the issue to independent examination. New paragraph 13A of Schedule 4B, inserted by subsection (1) of this section, enables the Secretary of State to prescribe in regulations time limits for authorities to decide whether to hold a referendum and for other actions under paragraphs 12 or 13.

380 Section 140 also amends section 61E of the 1990 Act and section 38A of the Planning and Compulsory Purchase Act 2004 to enable the Secretary of State to prescribe a date by which a local planning authority must make a neighbourhood development order or plan that has been approved in each applicable referendum (unless the authority considers that making the order or plan would not be compatible with any EU obligation or Convention right).

Section 141: Making neighbourhood development orders and plans: intervention powers

381 Section 141 inserts new paragraphs 13B and 13C into Schedule 4B to the 1990 Act.

382 New paragraph 13B enables the Secretary of State, at the request of a parish council or neighbourhood forum responsible for neighbourhood planning in an area, to intervene in a local planning authority's decision whether to hold a referendum on a neighbourhood development order or plan proposal.

383 This power is exercisable in three circumstances: where a local planning authority has failed, by the date prescribed under the new paragraph 13A (inserted by section 139) to decide whether to hold a referendum; where the authority do not follow the recommendations of the independent examiner of the proposal; or where the authority make a modification to the proposal that was not recommended by the examiner (other than to secure compliance with EU obligations or Convention rights, or to correct an error).

384 Where the power is exercised, the Secretary of State may direct the authority to make arrangements for a referendum or to refuse the proposal. The Secretary of State may also direct the authority to extend the area in which the referendum is (or referendums are) to take place and to publish a map of that area. New paragraph 13B also makes provision for notification and consultation of prescribed persons, and possible further examination, where the Secretary of State proposes to direct the authority not to act in accordance with the examiner's recommendations. Where the Secretary of State directs an authority to arrange a referendum, the authority may only modify the proposal to secure compliance with EU obligations or Convention rights, or to correct errors.

385 New paragraph 13C enables the Secretary of State to make regulations for the procedure to be followed by those requesting intervention, and by the Secretary of State in considering and responding to any such request, and when intervening in response to a request.

Section 142: Local planning authority to notify neighbourhood forum of applications

386 Section 142 inserts a new paragraph 8A into Schedule 1 to the 1990 Act. The new provision requires a local planning authority, at the request of a neighbourhood forum in their area, to notify the forum of planning applications in the neighbourhood area for which the forum is designated. This would extend to neighbourhood forums a right afforded to parish councils by paragraph 8 of Schedule 1 to the 1990 Act.

Local Planning

Section 143: Power to direct amendment of local development scheme

387 Section 143 inserts a new subsection (3A) into, and amends subsection (4) of, section 15 of the Planning and Compulsory Purchase Act 2004. The existing provision in section 15(4) enables the Secretary of State, or the Mayor of London if the local planning authority are a London borough, to direct the authority to amend their local development scheme (which sets out the development plan documents that the authority intend to produce and the timetable for their production).

388 The amendment to section 15(4) is intended to ensure that directions made under the power can relate to the subject matter of documents specified in a scheme. This addresses concern that the current wording may be open to an unnecessarily narrow interpretation. New subsection (3A) ensures that the Secretary of State, or the Mayor in the case of a London borough, may prepare a local development scheme for an authority that has failed to prepare one and direct the authority to bring the scheme into effect.

Section 144: Power to give direction to examiner of development plan document

389 Section 144 inserts a new subsection (6A) of section 20 of the Planning and Compulsory Purchase Act 2004. Section 20 requires local planning authorities to submit development plan documents to the Secretary of State for independent examination and sets out the purpose of the examination and the recommendations that the person appointed to carry out the examination may make.

390 New subsection (6A) enables the Secretary of State to direct the appointed person to 'suspend' the examination, to consider specified matters, to hear from specified persons, or to take other specified procedural steps. Directions are given by notice to the appointed person.

Section 145: Intervention by Secretary of State

391 Section 145 amends section 21 of the Planning and Compulsory Purchase Act 2004 (intervention by the Secretary of State).

392 Subsections (4) to (9) of section 21 enable the Secretary of State to direct that a development plan document (or any part of it) is submitted to the Secretary of State for approval and make provision for what is to happen to a document following an intervention.

393 Section 145 amends subsection (5) of section 21 and inserts a new subsection (5A) to make clear what is to happen where the Secretary of State withdraws (or partially withdraws) a direction.

394 Section 145 also inserts a new subsection (11) into section 21 to require a local planning authority to reimburse the Secretary of State for any expenditure incurred in relation to an intervention that is specified in a notice to the authority.

395 This section also inserts a new section 21A of the Planning and Compulsory Purchase Act 2004 that enables the Secretary of State to issue a 'holding direction' to a local planning authority not to take any step in connection with the adoption of a development plan document while the Secretary of State considers whether to intervene under section 21. The document has no effect while a direction is in force, which is until it is withdrawn by the Secretary of State or until a direction under section 21 is given.

Section 146: Secretary of State's default powers

396 Section 146 substitutes a new section 27 of the Planning and Compulsory Purchase Act 2004. Section 27 applies where 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. Under the existing power, the Secretary of State may prepare or revise (as the case may be) the document and approve it as part of the development plan for the authority's area.

397 The new section retains the current powers but also enables the Secretary of State to direct a local planning authority to prepare or revise a document, to submit that document to independent examination, to publish the recommendations of the person appointed to carry out the examination, and to consider whether to adopt the document. Existing requirements for the Secretary of State to give reasons for exercising these default powers, and for a local planning authority to reimburse the Secretary of State for expenditure incurred in connection with their exercise, are retained.

Section 147: Default powers exercisable by Mayor of London or combined authority

398 Section 147 inserts a new section 27A into the Planning and Compulsory Purchase Act 2004, which introduces a new Schedule A1 to that Act (set out in Schedule 11 to the Act).

Schedule 11: Default powers exercisable by Mayor of London or combined authority: Schedule to be inserted in the Planning and Compulsory Purchase Act 2004

399 Schedule 11 sets out the new Schedule A1 to the Planning and Compulsory Purchase Act 2004. These provisions enable the Secretary of State to invite the Mayor of London or a combined authority to prepare a development plan document for a local planning authority that are a London borough or a constituent authority of the combined authority (as the case may be).

400 The power may be exercised in the same circumstances as the power under section 27 of the Planning and Compulsory Purchase Act 2004 (as substituted by section 146); where the Secretary of State thinks that the 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 the document. The Mayor or combined authority would be responsible for preparing the document and having it examined. They may then approve the document (or approve it subject to modifications recommended by the inspector) or direct the local planning authority to consider adopting it. The Schedule also enables the Secretary of State to intervene in the preparation of a document by the Mayor or a combined authority.

Section 148: Costs of independent examinations held by Secretary of State

401 Section 148 amends section 303A of the 1990 Act to enable the Secretary of State to recover from the relevant local planning authority the costs of the independent examination of a development plan document prepared by the authority or by the Secretary of State under section 27 of the Planning and Compulsory Purchase Act 2004.

Planning in Greater London

Section 149: Planning powers of the Mayor of London

402 The Mayor of London has existing powers under the 1990 Act to 'call in' for his own decision certain planning applications of potential strategic importance for Greater London or to direct a local planning authority to refuse planning permission. The Secretary of State prescribes in secondary legislation which applications are subject to these powers (see the Mayor of London Order 2008 (S.I. 2008/580), as amended by the Mayor of London (Amendment) Order 2011 (S.I. 2011/550)).

403 Section 149 amends sections 2A and 74(1B) of the 1990 Act to enable the Secretary of State to prescribe these applications by reference to the Mayor's spatial development strategy under Part 8 of the Greater London Authority Act 1999 or London borough development plan documents adopted or approved under Part 2 of the Planning and Compulsory Purchase Act 2004.

404 Section 149 also enables the Secretary of State, by development order, to enable the Mayor to direct a London borough to consult the Mayor before granting planning permission for development described in the direction. Similar directions are currently given by the Secretary of State under existing powers and are used, in conjunction with the Mayor's power to direct refusal of planning applications in prescribed circumstances, to restrict development that might have an impact on wharves on the River Thames or key London 'sightlines'.

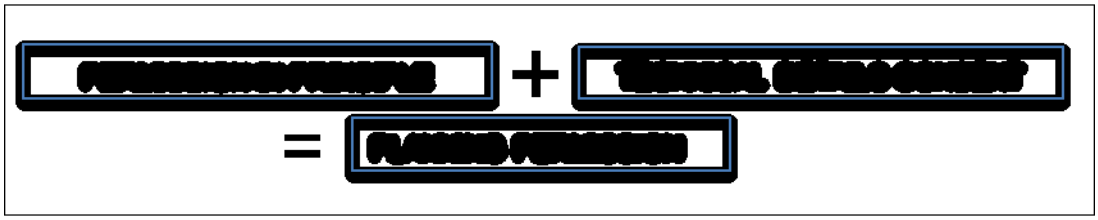
Permission in principle and local registers of land

Section 150: Permission in principle for development of land

New section 58A of the Town and Country Planning Act 1990: Permission in principle: general

405 Section 150 inserts a new section 58A into Part 3 of the Town and Country Planning Act 1990 to enable permission in principle to be granted for housing-led development of land in England. Section 58A(2) expressly excludes development consisting of the winning and working of minerals from the possibility of a grant of permission in principle.

406 Section 150(3) amends section 70 of the 1990 Act to provide that an application for technical details consent must be determined in accordance with permission in principle previously granted. The result of permission in principle together with a grant of technical details consent is a grant of full planning permission.



New Section 59A of the 1990 Act: Development orders: permission in principle

407 Section 59A makes provision for permission in principle to be granted in two ways: on allocation in plans and registers, and on direct application to the local authority.

Permission in principle on allocation through plans and registers

408 Section 59A(1)(a) enables permission in principle to be granted for housing-led development on sites chosen and allocated by local authorities, parish and neighbourhood groups in a qualifying document. Qualifying documents are a register maintained under section 14A of the Planning and Compulsory Purchase Act 2004 (see commentary on section 151 of this Act), a development plan document within the meaning of Part 2 of the 2004 Act and a neighbourhood development plan (see section 59A(3)).

409 The Secretary of State, in a development order, sets out which particular matters can be granted permission in principle. The aim of permission in principle is to give up-front certainty on the core matters underpinning the basic suitability of a site for a particular development and allow matters of detail to be agreed subsequently. The Government's intention is that the particulars that can be granted permission in principle are limited to the location, the uses (which must be housing-led) and the amount of development. If local authorities, parish and neighbourhood groups choose to allocate land in such a document, the particulars that can be granted permission in principle are set out and the document indicates that the land in question is suitable for permission in principle, the development order will in turn grant the land permission in principle.

410 Section 59A(4) provides that permission in principle will be granted at the time when a qualifying document is adopted or made or revised to allocate land with permission in principle by the local authority. Subsection (4) also enables the Secretary of State to set out, in a development order, the circumstances where local authorities can vary the start date of a permission in principle granted through a locally prepared plan and register.

411 Section 59A(6) provides that permission in principle is not necessarily brought to end when a qualifying document is reviewed or revised. This allows permission in principle to remain valid, although the plan or register that grants it, is updated or revised.

412 Section 59A(7) provides that permission in principle granted on allocation in a development plan document, a neighbourhood plan or register will be valid for 5 years, unless granted for a shorter or longer period by the local planning authority.

Permission in principle on application to the local authority

413 Section 59A(1)(b) allows applicants to apply directly to their local authority for permission in principle for housing-led development and gives the Secretary of State the power to set out, in a development order, the process that local authorities must follow in handling an application. The Government's intention is to limit this option to applications for minor development (i.e. development that is not major development or householder development as defined by Article 2 of The Town and Country Planning (Development Management Procedure)(England) Order 2015).

414 Section 59A(8)(a) provides that permission in principle granted by a local planning authority is valid for 3 years, unless the authority choose to grant this for a shorter or longer period.

Technical details consent

415 A permission in principle (where granted on allocation or application) must be followed by an application for technical details consent before full planning permission is granted (see section 70(2ZZB) as amended by this Act). Section 59A(10)(a) provides that a development order may set out the process that must be followed for an application for technical details consent.

General

416 Section 59A(9) provides that the Secretary of State may reduce the duration that permission in principle can be granted for (either on allocation in a plan, a register or on application to a local authority) by laying regulations before Parliament. The development order must expressly be approved by both Houses of Parliament by virtue of new section 333(3ZA) of the 1990 Act inserted by section 150 of this Act.

417 Section 59A(10)(b) requires the local planning authority to hold a register of all permissions in principle for land in their area whether they are generated on allocation in local plans, registers or granted on application.

418 Section 59A(11) set outs that when considering, either to vary the start date of permission in principle granted through local plan or register, or, to grant permission in principle for a shorter or longer period, local authorities must have regard to the local development plan and any other material considerations.

419 Section 59A(12) gives the Secretary of State the power to issue statutory guidance that local authorities must have regard to in relation to a grant of permission in principle or technical details consent.

Section 70: new subsections (1A) and (2ZZA) to (2ZZC)

420 Section 150 of this Act also amends section 70 of the 1990 Act. Section 70 sets out how a local planning authority must determine planning applications. Section 150 inserts new subsection (1A) into section 70, allowing the local planning authority, on receiving an application for permission in principle, to either grant or refuse it. Permission in principle cannot be granted subject to any conditions. A local planning authority may, in granting planning permission at the technical details stage, include such conditions as they consider appropriate.

421 Section 150 of this Act also inserts new subsections (2ZZA), (2ZZB) and (2ZZC) into section 70 of the 1990 Act. New subsection (2ZZB) defines technical details consent as an application for planning permission that relates to, and is in accordance with, the permission in principle in force on the land.

422 New subsection (2ZZA) provides that in determining an application for technical details consent the local authority is not able to re-open or reconsider the 'principle of the development' (which, as expressed above, the Government intends to limit to use, location and amount of housing-led development). It does not mean that permission in principle removes the need for technical details to be considered properly against the National Planning Policy Framework and local policy. Technical details consent may be refused by the local planning authority, if the detail proposed is not acceptable.

423 Subsection (2ZZC) provides that the duty to determine a technical details consent in accordance with the permission in principle under section 70(2ZZA) does not apply where a the periods set out in sections 59A(6)(a) and 59A(7)(a) have passed and there has been a material change of circumstance since it was granted.

Schedule 12: Permission in principle for development of land: minor and consequential amendments

424 This Schedule is self-explanatory.

Section 151: Local planning authority to keep register of particular kinds of land

425 This section inserts a new section 14A into the Planning and Compulsory Purchase Act 2004. The new section enables the Secretary of State to make regulations requiring a local planning authority in England to compile and maintain a register of particular kinds of land either wholly or partly within that authority's area. The Secretary of State intends to use the power to require local planning authorities which are responsible for deciding applications for housing development, usually the district council, to each compile a register of previously developed land in their area, commonly known as "brownfield land", which is suitable for housing development. The power might also be used to require local planning authorities to prepare other registers of land, for example, a register of small sites which would help promote self-build and custom housebuilding.

426 Subsection (1) allows the Secretary of State both to prescribe the description of land (subsection (1)(a)) and to prescribe any criteria which the land must meet for entry in the register (subsection (1)(b)). The criteria prescribed by the Secretary of State could for example include that the land must be available already or in the near future for housing development, that it must not be affected by physical or environmental constraints that cannot be mitigated and that it must be capable of supporting five dwellings or more.

427 Under subsection (2) the Secretary of State might, for example, require the register of brownfield land to be kept in two parts: the first part could list brownfield land suitable for housing which meets the prescribed criteria, and the second part could list land from the first part of the register which the local planning authority considers is suitable for a grant of permission in principle (see section 150) and which has additionally been through a process of consultation.

428 In addition, regulations made under subsection (3) may provide that the local planning authority is permitted to include land in the register which does not meet all of the specified criteria, that is, land which would otherwise be excluded from the register. In the example above, the Secretary of State might exercise this power so that a local planning authority could enter land in the register where it considered it was suitable for housing development but it was only capable of supporting four dwellings or fewer. When exercising any of its functions under regulations made under new section 14A, the local planning authority will need to have regard to the development plan, national policies and advice and any guidance issued by the Secretary of State for the purposes of the regulations, see subsection (7). Therefore for example, if a piece of brownfield land had been designated for employment purposes in the local plan, the local planning authority would not enter it in the register as being suitable for housing.

429 Subsection (4) sets out what the regulations may specify in relation to the register. For example, the Secretary of State may specify that certain descriptions of land are not to be entered in the register (subsection (4)(b)). This power could be used to provide that land which already has planning permission for new housing is to be excluded from the second part of the register as not being suitable for a grant of permission in principle.

430 Subsection (4)(c) provides that the Secretary of State may allow for some discretion on the part of the local planning authority to exclude land from the register where they would otherwise be obliged to enter it in the register. The Secretary of State might provide for example that the local planning authority could exercise their discretion in exceptional circumstances such as where development of the land would be particularly controversial and the authority considers that development decisions should be made through the usual planning application route.

431 The Secretary of State may also specify in the regulations, certain types of information for inclusion into the register alongside the entries (subsection (4)(e)). For example, the site reference, address, size, an estimate of the maximum number of dwellings that the site would be likely to support, and its planning status.

432 Subsection (5) allows the Secretary of State to specify a description of land, in regulations, by reference to a description of land in national policies and advice contained in guidance. For example, the regulations could refer to the definition of previously developed land within the National Planning Policy Framework.

433 The Secretary of State might use the power in subsection (6) to require a local planning authority to provide particular information to him in order to measure their progress towards compiling a register.

434 Section 151(2) amends section 33 of the Planning and Compulsory Purchase Act 2004. Under that section, the Secretary of State has the power to direct that Part 2 of that Act should not apply to the area of an urban development corporation. The amendment allows the Secretary of State additionally to disapply by direction any particular regulations made under new section 14A. If a direction were made disapplying Part 2 from the area of an urban development corporation, so that it did not have to prepare a local plan, it might not be appropriate for the urban development corporation to have to prepare a register of brownfield land under regulations made under section 14A. In addition, there might be circumstances in the future in which it is decided that Part 2 of the Planning and Compulsory Purchase Act 2004 and certain regulations made under section 14A should apply to an urban development corporation, but not in their entirety.

Planning permission etc

Section 152: Approval condition where development order grants permission for building

435 This section amends an existing power in section 60 of the Town and Country Planning Act 1990 under which planning permission may be granted by a development order subject to conditions or limitations. Planning permissions granted by development order are known as "permitted development rights".

436 Subsection (2A) of section 60 already makes provision for development orders to require the approval of the local planning authority or the Secretary of State for a change of use, or in respect of matters relating to that new use. For example, in relation to a change of use which might generate extra traffic and be noisier than the existing use, the local planning authority may be given the opportunity to approve a transport strategy prepared by the developer, and a plan to address noise impacts.

437 New subsection (1A) of section 60 makes similar provision for permitted development rights in respect of building operations (as listed under section 55(1A) under the 1990 Act). It enables development orders to require the approval of the local planning authority or the Secretary of State for any matters related to the building operations or the use of the land following those building operations. This enables certain aspects of the permitted development right to be delegated to the local planning authority, so that local conditions and sensitivities can be taken into account.

Section 153: Planning applications that may be made directly to Secretary of State

438 This section expands sections 62A and 62B of the Town and Country Planning Act 1990 under which: (a) local planning authorities may be designated for not adequately performing their function of determining applications for major development; and (b) the developer may choose to make an application for major development directly to the Secretary of State where the authority has been designated.

439 The amendments allow the Secretary of State to designate a local authority for its performance in determining applications for categories of development described in regulations made by him (which could now include a separate category of non-major development). The developer may then choose to make an application for development of that description directly to the Secretary of State. The amendments also allow the Secretary of State to provide that certain applications may not be made directly to him under section 62A. For example, if a local planning authority was designated for its performance in determining non-major applications, it may be appropriate for certain minor applications to continue to be dealt with at a local level.

440 Subsection (4) is an unrelated amendment which simply removes reference to conservation area consent, as this was abolished in England by the Enterprise and Regulatory Reform Act 2013.

Section 154: Planning freedoms: right for local areas to request alterations to planning system

441 This section enables the Secretary of State, by regulations, to make planning freedom schemes in England. Planning freedom schemes may only be made following a request from the local planning authority for the relevant area and only if the Secretary of State considers the scheme will lead to additional homes being built.

442 Before bringing forward proposals for a scheme the local planning authority must consult in their local area.

443 Such schemes will operate for a specified period (although subsection (7) includes the power to bring schemes to an end early, for example, where the local planning authority asks the Secretary of State to do so).

444 Planning freedom schemes will apply in relation to a specified planning area which will be the area of a local planning authority or an area comprising two or more adjoining areas of local planning authorities. The Secretary of State may restrict the number of planning freedom schemes in force at any one time.

Section 155: Local planning authorities: information about financial benefits

445 Section 155 inserts a new section 75ZA into the Town and Country Planning Act 1990 to ensure that potential financial benefits of certain development proposals are made public when a local planning authority is considering whether to grant planning permission.

446 The majority of decisions on planning applications are taken under delegated authority by an officer of a local planning authority, with the more controversial or larger developments being considered by a committee or sub-committee. Where a committee is considering an application, it will normally be assisted by a report prepared by an officer (and made public) which includes a recommendation as to how an application should be determined. The new section 75ZA requires local planning authorities to make arrangements for officers' reports to planning committees, or to the authority itself, containing such a recommendation to include a list of financial benefits which appear to the person making the report to be likely to be obtained by the authority as a result of the proposed development if it is carried out.

447 The financial benefits to be listed include local finance considerations (which will include sums payable under the Community Infrastructure Levy, and grants or other financial assistance provided by central government) or any other benefit which is set out by the Secretary of State in secondary legislation. A financial benefit must be recorded regardless of whether it is material to an authority's decision on a planning application, but the officer will need to indicate their opinion as to whether the benefit is material to the application or not. The section does not in any way change those matters that are capable of being material to planning decisions.

448 The Secretary of State has power to require a financial benefit to be recorded where it is payable to another person or body rather than to the authority making the planning determination. The Secretary of State also has power to set out in regulations any further information about a financial benefit which must be recorded in a planning report. This might include, for example, an estimate of the amount of the benefit in question.

Section 156: Local planning authorities: information about neighbourhood development plans

449 This section inserts a new section 75ZB (information about neighbourhood development plans) of the Town and Country Planning Act 1990. This requires local planning authorities in England, where a report to the authority's planning committee recommends granting planning permission or permission in principle for development in an area where a neighbourhood is in force, to set out how the proposed development was taken into account in making the recommendation and to identify any points of conflict between the plan and the recommendation.

Section 157: Planning applications etc: setting of fees

450 Section 157 amends section 303 of the Town and Country Planning Act 1990 (fees for planning applications etc), so that regulations made under that section which would previously have required the hybrid procedure in Parliament are now subject to the usual affirmative procedure instead.

451 Under section 303, the Secretary of State may make regulations which allow a local planning authority to charge a certain fee when a planning application is made to them. The fee varies depending on the type and complexity of the planning application. Such regulations are usually subject to the affirmative procedure in Parliament, which requires that they are debated and voted upon before they can come into force. However, if changes were made to the level of fees charged by only some authorities rather than all authorities, then previously it is likely that the regulations concerned would be treated as a 'hybrid instrument' and would be subject to an extended Parliamentary procedure. Regulations which apply different fee scales to different areas could include those which allow for greater fee flexibility in areas that bring forward radical proposals for service reform under devolution deals, or where local

authorities act as pilots in order to test the benefits of competition in the processing of planning applications. This section provides that all fees regulations made under section 303, regardless of whether they apply to all or only some authorities, will follow the normal affirmative procedure.

Planning obligations

Section 158: Resolution of disputes about planning obligations

452 Section 106 of the Town and Country Planning Act 1990 enables someone with an interest in land to enter into a planning obligation enforceable by the local planning authority. Such obligations are usually entered into in conjunction with an application for planning permission. The negotiation of such obligations can become protracted. This section inserts a new section and Schedule into the 1990 Act to introduce new procedures aimed at resolving issues connected with the negotiation of such obligations.

Schedule 13: Resolution of disputes about planning obligations: Schedule to be inserted in the Town and Country Planning Act 1990

Appointment of a person to help resolve disputes

453 This Schedule requires the Secretary of State to appoint someone to resolve issues that are holding up the completion of planning obligations.

454 The duty to make an appointment arises where certain conditions are met. There must be an existing planning application. The local planning authority must be likely to grant planning permission if satisfactory planning obligations are entered into. There must usually be a request from the local planning authority or from the applicant.

455 The Secretary of State can also make regulations setting out:

- who, other than the local planning authority and applicant, could make a request for the appointment of a person;
- the timing and form of requests;
- that a person can be appointed if outstanding issues have not been resolved within set timeframes (regardless of whether there is a request);
- further detail about appointments, including about when a request cannot be made and about when a request could be refused;
- what qualifications or experience the appointed person must have; and
- any fees payable.

456 There are temporary restrictions on the steps that can be taken in relation to the application until the dispute resolution process concludes.

The appointed person

457 The local planning authority and the applicant must co-operate with the appointed person and comply with any reasonable requests. Regulations can also enable the appointed person to award costs if one of those parties fails to comply or behaves unreasonably.

458 The appointed person must produce a report that sets out:

- the unresolved issues and the steps taken to resolve them; and
- the terms agreed, or where the terms have not been agreed, recommendations as to what terms would be appropriate.

459 The appointed person must take into account any template or model terms published by the Secretary of State. Regulations can also set out other details about what the appointed person must and must not take account of.

460 The local planning authority must publish the report in line with any requirements set out in regulations. Regulations may also provide a process for making revisions to a report.

461 An appointed person may be appointed to consider two or more planning applications at the same time if the same or similar issues arise under them. In such circumstances a single report may be produced.

After the appointed person's report

462 After the appointed person issues a report, a local planning authority must comply with the obligations in this Schedule.

463 Where planning obligations are entered into in line with the report, then the local planning authority must not refuse permission for reasons relating to the appropriateness of the planning obligations.

464 The parties may agree different terms, but they will only have a limited period to do so, which will be set out in regulations.

465 Where no obligations are entered into within a set period, the application must be refused. This is to ensure that the matters come to a conclusion quickly.

466 Regulations can also set out restrictions on the local planning authority's ability to ask for additional obligations at this time. Any such restrictions would be designed to ensure that the report is given proper effect by the local planning authority. Regulations can also set out:

- periods for determining planning applications after a report is issued;
- circumstances or cases where the consequences in this Schedule don't apply; and
- any further steps required to be taken by the appointed person, the local planning authority or the applicant in connection with the report.

467 Where an appeal is lodged, the person determining the appeal must have regard to the report but is not bound by it.

Section 159: Planning obligations and affordable housing

468 This section inserts a new section 106ZB into the 1990 Act.

469 Subsections (1) and (2) provide the Secretary of State with the power to make regulations which restrict, or impose other conditions on, the enforceability of planning obligations which relate to the provision of affordable housing.

470 For example regulations may restrict or place conditions on the enforceability of planning obligations which provide for affordable housing on sites of a certain size, or where the development is of a specific nature (such as providing a certain type of housing). This does not prevent parties from entering into planning obligations relating to affordable housing provision on these sites, but it will limit the remedy available should these obligations be breached.

471 The conditions or restrictions may also be varied based on the type of affordable housing.

472 This section does not apply to planning obligations where permission was granted wholly or partly on the basis of a policy for the provision of housing on rural exception sites, or in relation to development in a National Park or in an area of outstanding natural beauty.

473 Subsection (3) sets out the definition of "affordable housing". This includes a general category of new dwellings in England which are made available for people whose needs are not adequately served by the commercial housing market, as well as starter homes which are defined in Part 1 of this Act.

474 The Secretary of State may amend the definition of "affordable housing" through regulations.

Nationally significant infrastructure projects

Section 160: Development consent for projects that involve housing

475 Section 160 enables the Secretary of State to grant development consent for housing alongside a nationally significant infrastructure project in England. The housing must be on the same site, next to, or close to the relevant infrastructure development, or otherwise associated with it (see subsection (4)).

476 Section 160 also provides that the Secretary of State must consider factors set out in guidance when determining whether to grant consent for related housing development.

477 Draft guidance was published by the Department for Communities and Local Government during the passage of the Bill through Parliament. The draft guidance refers to housing which is functionally linked to the infrastructure project (for example, housing that is required for workers during the construction phase of an infrastructure project or for key workers during the operation phase) and housing where there is no functional link but there is a close geographical link between the housing and the infrastructure project.

Powers for piloting alternative provision of processing services

Section 161: Processing of planning applications by alternative providers

478 Section 161 allows the Secretary of State to introduce, by regulations, pilot schemes to test the benefits of introducing competition in the processing of applications for planning permission and other applications connected to the development of the site.

479 At the moment applicants for planning permission are required to submit their application to the local planning authority for the area where the proposed development is to take place. In the pilot schemes, which will take place in specified areas, applicants would be able to choose to submit their application for processing to either the local planning authority or one of a number of alternative designated persons.

480 Subsection (7) makes clear that responsibility for determining a planning application will remain with the local planning authority. Where an applicant chooses to submit an application to an alternative designated person in a pilot scheme, then it will be solely for them to process the application and make a recommendation to the local planning authority on how, in their professional opinion, the application might be determined. Subsection (8) provides that the recommendation of the designated person will not be binding on the local authority that makes the final decision.

481 Subsection (3) makes clear that any pilot schemes introduced by the Secretary of State will be for a time limited period, not longer than five years from the regulations coming into force. Within one year of the pilots coming to an end, the Secretary of State must conduct a review of the pilots and present it to both Houses of Parliament by written report, or make an oral statement to the House of which the Secretary of State is a member, as set out in subsection (4).

482 Before making regulations that introduce pilot schemes, the Secretary of State must consult local authorities and other interested parties. Sections 162 to 164 set out what may be included in those regulations.

Section 162: Regulations under section 161: general

483 Section 162 provides that regulations introducing pilot schemes may set out how the schemes should operate. This includes:

- the eligibility of persons to be designated participants in the pilot schemes, how they will be designated, performance standards to be met and being clear how conflicts of interest and the investigation of complaints are to be dealt with;
- the actions and procedures that must be followed by local planning authorities, designated persons and applicants during the pilot schemes.

484 Subsection (1)(b) stipulates that if a planning application is processed by a designated person, any other connected applications (defined in section 161(6A)) must usually be processed by the same person.

Section 163: Regulations under section 161: fees and payments

485 Section 163 provides that regulations may set out how fees will be set, published and charged by designated persons and local planning authorities in pilot areas, and for the refunding of fees in specific circumstances. It would also enable the Secretary of State to intervene where he considers that excessive fees are being charged.

Section 164: Regulations under section 161 : information

486 Section 164 provides that regulations may set out what information is to be shared between designated persons and local planning authorities and restricting the use to which the information shared may be put. It also enables the Secretary of State to set out what information must be shared with him, for example, to evaluate how the pilots are progressing.

Review of minimum energy performance requirements

Section 165: Review of minimum energy performance requirements

487 Section 165 inserts in the Building Act 1984 a requirement that the Secretary of State carry out a review of the minimum energy performance requirements for new dwellings approved under building regulations made under that Act for England.

Urban development corporations

Section 166 and Section 167: Designation of urban development areas: procedure and Establishment of urban development corporations: procedure

488 Sections 166 and 167 amend the Local Government, Planning and Land Act 1980 to introduce a new requirement on the Secretary of State to consult local people, local businesses, the relevant local authorities and others with an interest before making Orders designating an Urban Development Corporation and an Urban Development Area in England.

489 The Orders themselves, whilst remaining subject to the affirmative Parliamentary process, are expressly "de-hybridised" by sections 166 and 167. This means that any right to petition against the Orders is removed.

Section 168: Sections 166 and 167: consequential repeals

490 This section is self-explanatory.

New towns

Section 169: Designation of new town areas and establishment of corporations: procedure

491 Section 169 amends the New Towns Act 1981. It brings the process for establishing New Town Development Corporations and Areas in England into line with the process for establishing Urban Development Corporations and Areas set out above.

Section 170: New towns: objects of development corporations in England

492 Section 170 amends the New Towns Act 1981 to require New Town Development Corporations in England to contribute to achieving sustainable development and good design in pursuing their objectives of securing the laying out and development of the new town.

Sustainable drainage

Section 171: Sustainable drainage

493 This section requires the Secretary of State to undertake a review of the planning system in so far as it applies to the provision of sustainable drainage in developments.

Part 7: Compulsory Purchase Etc

Right to enter and survey land

Section 172: Right to enter and survey land

494 Any acquiring authority which is considering using its compulsory purchase powers may need to enter the land to survey and value it before it decides to make a compulsory purchase order. For example, the authority may need to find out if there are any underground structures or contaminated land which might hamper a proposed scheme. Only some acquiring authorities (such as local authorities, urban development corporations, and the Homes and Communities Agency) have had the power to enter land in such circumstances.

495 Sections 172 to 179 introduce a new general power of entry for survey and valuation purposes which is available to all acquiring authorities in connection with a proposal to acquire land. Section 172 provides that an acquiring authority may authorise a person to enter and survey land in connection with a proposal to acquire land. An authorisation may relate to the land which is the subject of the proposal or to other land.

496 The authorised person may not use force unless this is authorised by a warrant.

Section 173: Warrant authorising use of force to enter and survey land

497 Section 173 provides that a justice of the peace may only issue a warrant authorising a person to use force if satisfied that another person has prevented or is likely to prevent entry, and that it is reasonable to use force.

Section 174: Notice of survey and copy of warrant

498 Section 174 requires acquiring authorities to give owners and occupiers of the land at least 14 days' notice of entry so they may make any necessary arrangements. The notice must explain whether the survey will involve certain activities such as searching or boring and, if so, what is proposed. It must also inform the owners / occupiers of their right to compensation in respect of any damage done in exercise of the power.

499 The notice must also include a copy of any warrant obtained. If the authority obtains a warrant after giving notice, it must separately give a copy of the warrant to every owner or occupier of the land.

Section 175: Enhanced authorisation procedures etc. for certain surveys

500 Section 175 sets out particular requirements where the land to be surveyed is held by statutory undertakers or includes a street. If the survey is to be carried out on land held by a statutory undertaker and the undertaker objects because it would seriously interfere with the carrying on of its undertaking, the consent of the appropriate Minister is needed before the authority can enter the land.

501 Section 175 also refers to additional procedures in the Water Industry Act 1991 and the Water Resources Act 1991 that need to be followed when the power of entry is exercised on behalf of a water undertaker, the Environment Agency or the Natural Resources Body for Wales.

Section 176: Right to compensation after entry on or survey of land

502 Section 176 makes provision for compensation to be recovered from the acquiring authority for any damage done as a result of the exercise of the power of entry.

Section 177: Offences in connection with powers to enter land

503 Section 177 sets out details of offences in connection with the power of entry. An offence is committed if a person without reasonable excuse obstructs another person in the exercise of the power. A person who commits such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).

504 In addition, a person exercising the power of entry commits an offence if the person obtains and discloses confidential information other than for the purposes for which the person was exercising the power. A person who commits such an offence is liable on summary conviction to a fine and on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or both.

Section 178: Right to enter and survey Crown land

505 Section 178 provides that sections 172 to 177 apply in relation to Crown land if the authorised person has the permission of the appropriate authority. The meaning of "Crown land" and "the appropriate authority" is set out in section 293 of the Town and Country Planning Act 1990.

Section 179: Amendments to do with sections 172 to 178

506 Section 179 introduces Schedule 14 which clarifies how existing powers of entry will interact with the new general power of entry in section 172.

Schedule 14: Right to enter and survey land: consequential amendments

507 Schedule 14 amends existing powers of entry so that, in future, the new general power of entry will apply for the purposes of survey and valuation in connection with a proposal to acquire an interest in or a right over land instead. Where the new general power covers all the purposes of the existing power, the existing power has been repealed. Where the existing power is wider in scope than the new general power, the existing power has been disapplied only for the purposes for which the new general power will be available in the future.

508 Some of the existing powers which have been repealed also allow entry in connection with any claim for compensation in respect of an acquisition. The new general power of entry in section 172 does not cover this purpose. However, the amendment made by paragraph 6 of Schedule 14 to the Act clarifies that the power of entry in section 11(3) of the Compulsory Purchase Act 1965 can be used for this purpose.

Confirmation and time limits

Section 180: Timetable for confirmation of compulsory purchase order

509 The confirmation stage of a compulsory purchase order comprises a number of discrete steps.

510 Section 180 inserts new sections 14B and 14C into the Acquisition of Land Act 1981. Section 14B requires the Secretary of State to publish one or more timetables setting out the steps to be taken by confirming authorities in confirming a compulsory purchase order. Section 14C provides that the Welsh Ministers may also publish one or more timetables in relation to steps to be taken by them in confirming a compulsory purchase order.

511 This section requires the Secretary of State/Welsh Ministers to publish an annual report to Parliament/ the Welsh Assembly setting out the extent to which confirming authorities have complied with any applicable timetable.

Section 181: Confirmation by inspector

512 Compulsory purchase orders must be submitted by the acquiring authority to the relevant Minister for confirmation. Where an order has been objected to, an Inspector is appointed to hold a public inquiry or consider the case through written representations. The Inspector then submits a report and recommendation to the relevant Minister who makes the decision on the order.

513 Section 181 inserts a new section 14D into Acquisition of Land Act 1981. This enables a confirming authority to appoint an Inspector to act instead of it in relation to the confirmation of a compulsory order to which section 13A of the Acquisition of Land Act 1981 applies. The Inspector has the same functions as the confirming authority under Part 2 of the Acquisition of Land Act 1981.

514 This section also enables a confirming authority to revoke its appointment of an Inspector at any time until a decision is made.

Section 182: Time limits for notice to treat or general vesting declaration

515 Section 182(1) substitutes section 4 of the Compulsory Purchase Act 1965 with a new provision. Substituted section 4 clarifies the time limit for exercising compulsory powers where the notice to treat procedure is to be followed. A notice to treat may not be served after the end of the period of 3 years beginning on the day on which the compulsory purchase order becomes operative. This has already been established by case law (Salisbury (Marquis) v G. N. Ry (1852) 17 Q.B. 840; approved in Tiverton, etc Ry v Loosemore (1884) 9 App.Cas. 480).

516 Section 182(2) inserts a new section 5A into the Compulsory Purchase (Vesting Declarations) Act 1981. New section 5A clarifies that a general vesting declaration may not be executed after the end of the period of 3 years beginning with the day on which the compulsory purchase order becomes operative. This ends any uncertainty on this issue created by the inconsistent decisions of Westminster City Council v Quereschi (1990) 60 P. & C.R. 380 and Co-operative Insurance Society Limited v Hastings BC (1993) 91 L.G.R. 608.

Vesting declarations: procedure

Section 183: Notice of general vesting declaration procedure

517 Section 183 introduces Schedule 15 which changes the notice requirements for general vesting declarations.

Schedule 15: Notice of general vesting declaration procedure

518 Schedule 15 repeals section 3 and section 5(1) of the Compulsory Purchase (Vesting Declarations) Act 1981 so that a preliminary notice of intention is no longer required before a general vesting declaration may be executed. Instead, a prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 must be included in the confirmation notice under section 15 of the Acquisition of Land Act 1981 (see paragraph 2 of Schedule 15). An invitation to any person who would be entitled to claim compensation if a general vesting declaration were made to give the acquiring authority information about the person's name, address and interest (using a prescribed form) must also be included in a confirmation notice.

Section 184: Earliest vesting date under general vesting declaration

519 Section 184 amends section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 so as to extend the minimum period after which land may vest in an acquiring authority after the service of the notices required by section 6 of that Act. This extends the notice period for taking possession under the general vesting declaration procedure to a minimum of 3 months, from the current minimum of 28 days.

Section 185: No general vesting declaration after notice to treat

520 Section 185 amends section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 to confirm that an acquiring authority may not execute a general vesting declaration in respect of land if they have already served a notice to treat in respect of that land (and not withdrawn it). This does not apply to deemed notices to treat that may, for example, arise from a blight notice or purchase notice.

Possession following notice to treat etc

Section 186: Extended notice period for taking possession following notice to treat

521 Subsection (2) amends section 11 of the Compulsory Purchase Act 1965 (1965 Act) so as to extend the notice period for taking possession under the notice to treat / notice of entry procedure to a minimum of 3 months, from the current minimum of 14 days.

522 Subsection (3) inserts a new section 11A into the 1965 Act. Section 11A applies where after having served notice of entry, but before entering on taking possession of the land, the acquiring authority becomes aware of an owner, lessee or occupier to whom they ought to have given a notice to treat under section 5 of the 1965 Act. Any notices of entry already served remain valid, but the authority may not enter and take possession unless they serve a notice to treat and notice of entry on the recently discovered person. New section 11A(3) and (4) provide that where the newly identified person is not an occupier, or the authority had been unaware of the person because they received misleading information in response to their inquiries, a shorter minimum notice period will apply. That period will be a minimum of 14 days, or until the end of the period specified in the last notice of entry, whichever is the longer.

Section 187: Counter-notice requiring possession to be taken on specified date

523 Where an acquiring authority does not enter and take possession on the date specified in a notice of entry served under section 11(1) of the Compulsory Purchase Act 1965, the delay can cause uncertainty and have a number of adverse effects for the occupier. There may, for example, be a continuing liability to pay rent or insure the land and property that is the subject of the compulsory purchase order.

524 Section 187 inserts a new section 11B into the Compulsory Purchase Act 1965. New section 11B enables an occupier with an interest in the land to serve a counter-notice requiring the acquiring authority to take possession of the land on a specified date. The date specified in the counter-notice must not be less than 28 days after the date on which the counter notice is served and must not be before the end of the period specified in the notice of entry under section 11(1) or any extended period that the person has agreed with the acquiring authority.

525 Subsections (4) and (5) of new section 11B set out circumstances where a counter-notice requiring possession to be taken has no effect: either because the notice to treat has been withdrawn or ceases to have effect; or where the acquiring authority is prohibited from taking possession by other provisions of the 1965 Act. In the latter case, the occupier may serve a further counter-notice once the prohibition ceases.

Section 188: Agreement to extend notice period for possession following notice to treat

526 Section 188 inserts new subsections (1D) and (1E) into section 11 of the Compulsory Purchase Act 1965. The new subsections make clear that an acquiring authority may extend the period specified in a notice of entry by agreement with each person on whom it was served.

Section 189: Corresponding amendments to the New Towns Act 1981

527 Section 189 makes corresponding changes to those made by sections 186 to 188 in relation to the New Towns Act 1981.

Section 190: Abolition of alternative possession procedure following notice to treat

528 Section 190 is a tidying up measure. It introduces Schedule 16 to this Act.

Schedule 16: Abolition of alternative possession procedure following notice to treat

529 Schedule 16 abolishes the alternative procedure for taking possession of land under section 11(2) of, and Schedule 3 to, the Compulsory Purchase Act 1965. This procedure is no longer used.

Section 191: Extended notice period for taking possession following vesting declaration

530 Section 191 amends section 9 of the Compulsory Purchase (Vesting Declarations) Act 1981 so as to extend the minimum notice period for taking possession from 14 days to three months. This replicates the change made by section 186(2)(b) to the minimum notice period to be provided in a notice of entry under section 11(1) of the Compulsory Purchase Act 1965.

Compensation

Sections 192: Making a claim for compensation

531 Section 192 inserts a new section 4A into the Land Compensation Act 1961 to provide a power for the "appropriate national authority" (being the Secretary of State in England and the Welsh Ministers in Wales) to make regulations to impose further requirements about the notice claimants must give the acquiring authority detailing the compensation sought by them. These regulations may make provision about the form and content of the notice, and the time at which the notice must be given. They may also permit or require a specified person to design a form to be used in making a request and may require the acquiring authority to supply copies of the form to be used.

Sections 193: Compensation after withdrawal of notice to treat

532 Section 193 amends section 31 of the Land Compensation Act 1961 to clarify that compensation to a claimant payable for losses or expenses resulting from the withdrawal of a notice to treat may also be claimed by a successor in title to the original claimant (for example by inheritance), even if the successor has not been served with a notice to treat.

Sections 194 through 196: Making a request for advance payment of compensation; Power to make and timing of advance payment; Interest on advance payments of compensation

533 The purpose of advance payments is to put the claimant in a financial position, so far as is possible and as early as is possible, so that they can re-order their affairs with the minimum of disruption. In the majority of cases the claimant will find it necessary either to move house, if their home is acquired, or to move to other business premises in order to avoid closure of their business. Before this Act comes into force, an advance payment will only be paid when, or after, possession is taken by the acquiring authority.

534 Sections 194 through 196 make changes to the advance payments system to facilitate clearer claims and earlier payments. They also require the payment of interest if the acquiring authority fails to make a payment on time.

535 To help enable acquiring authorities to make a faster and earlier advance payment, section 194(2) amends section 52(2) of the Land Compensation Act 1973 (1973 Act) to clarify the information that must be included in a request for an advance payment. New section 52(2A) provides that within 28 days of receiving a request an acquiring authority must request further information from the claimant (if necessary) so that there is greater certainty about the timing of the process.

536 Section 194(3) makes a corresponding change to section 52ZC of the 1973 Act. Within 28 days of receiving a request for a payment to a mortgagee, the acquiring authority must require the claimant to provide any further information needed to give effect to section 52ZA or, as the case may be, section 52ZB of the 1973 Act.

537 Section 194(4) inserts a new section 52ZD into the 1973 Act to give the "appropriate national authority" (being the Secretary of State in England and the Welsh Ministers in Wales) the power to make regulations detailing the form and content of a claimant's request for an advance payment or a payment to a mortgagee under section 52ZA(3) or 52ZB(3). The regulations may also require acquiring authorities to supply the claimant with copies, at specified stages of the process, of a form to be used when making any such request.

538 Section 195(2) amends section 52 of the 1973 Act to facilitate earlier advance payments by: allowing an acquiring authority to make an advance payment at any time after a request has been submitted and the compulsory acquisition has become authorised; and requiring an authority to make an advance payment if it gives a notice of entry or executes a general vesting declaration in respect of the land. The payment must be made before the end of the day on which the notice of entry is given or the general vesting declaration is executed, or, if later, before the end of the period of two months beginning with the day on which the authority received the request for the payment or any further information required under section 52(2A)(b).

539 New subsections (1A) and (4) of section 52 of the 1973 Act make special provision for where the compulsory acquisition is one to which the Lands Clauses Consolidation Act 1845 applies. In this case, the acquiring authority may not make an advance payment if they have not taken possession of the land, but must do so if they have. The payment must be made before the end of the day on which possession is taken, or, if later, before the end of the period of two months beginning with the day on which the authority received the request for the payment or any further information required under section 52(2A)(b).

540 Section 195(5) makes corresponding changes to section 52ZC of the 1973 Act to set out by when a payment to a mortgagee under section 52ZA or 52ZB must be made.

541 Section 196(2) and (3) amends section 52A of the 1973 Act, and inserts a new section 52B into that Act. New section 52B provides for the payment by the acquiring authority of interest if it fails to make an advance payment when it is due. Interest will be payable on the amount of the advance payment that is paid late, and from the date it should have been paid, until payment has been made in full. New section 52B(4) requires the Treasury to make regulations to specify the rate of interest that will be payable.

Section 197: Repayment of advance payment where no compulsory purchase

542 Section 197(3) repeals subsection (5) of section 52 of the Land Compensation Act 1973. Section 197(4) amends subsection (9) of section 52 to make clear that, where the claimant's interest in some or all of the land has been acquired by another person (perhaps by sale or inheritance), the amount of the advance payment (together with any amount paid under section 52A) is to be set off against any sum payable by the authority to that other person in respect of the compulsory acquisition of the interest acquired.

543 Section 197(5) inserts new section 52AZA into the 1973 Act. It replaces section 52(5) of the 1973 Act and provides for repayment of an advance payment by the claimant if the notice to treat is withdrawn or ceases to have effect after the advance payment is made. If another person has since acquired the whole of the claimant's interest in the land, the successor will be required to repay the advance payment (provided it was registered as a local land charge in accordance with section 52(8A) of the 1973 Act).

Section 198: Repayment of payment to mortgagee if land not acquired

544 Section 198 inserts new section 52ZE (payment to mortgagee recoverable if notice to treat withdrawn) into the Land Compensation Act 1973. This provides for the recovery of an advance payment to a mortgagee if the notice to treat has been withdrawn or ceases to have effect. In these circumstances, the claimant must repay the advance payment unless someone else has acquired the claimant's interest in the land. In this case, the successor to the claimant must make the repayment.

Disputes

Section 199: Objection to division of land

545 Land needed for development projects often cuts across parts of landowners' property. In such cases, acquiring authorities would only seek to compulsorily purchase the relevant parts required. This may result in "material detriment" to the claimant's retained land, where the retained land will be less useful or less valuable to some significant degree.

546 Where claimants wish to challenge the acquiring authority's proposal to take only part of their land, because of the material detriment that will be suffered to their retained land, they can serve a counter-notice on the acquiring authority requesting that they purchase the entire property. The acquiring authority can either withdraw, decide to take all the land or refer the matter to the Upper Tribunal (Lands Chamber) for determination.

547 The procedure for claiming "material detriment" has differed depending on whether an acquiring authority has used a notice to treat or a general vesting declaration to exercise its compulsory purchase powers. Where a general vesting declaration has been executed, the procedure for serving a counter-notice in Schedule 1 to the Compulsory Purchase (Vesting Declarations) Act 1981 has been followed. A reference to the Upper Tribunal has prevented entry onto land being taken until the issue of material detriment has been resolved.

548 Where a notice to treat has been served, divided land is covered by section 8 of the Compulsory Purchase Act 1965. There has, however, been no statutory procedure for serving a counter-notice; the procedure has been established by case law (see Glasshouse Properties Ltd v Secretary of State for Transport (1993) 66 P&CR 285).

549 Section 199(1) introduces Schedule 17 to the Act.

550 Section 199(2) introduces Schedule 18 to the Act.

551 The intention is to harmonise (as far as possible) the approach to the treatment of material detriment under the vesting declaration and notice to treat procedures and to allow the acquiring authority to enter and take possession of the land they are authorised to take, before any dispute about material detriment has been determined by the Upper Tribunal.

Schedule 17: Objection to division of land following notice to treat

Part 1 - Amendments to Compulsory Purchase Act 1965

552 Part 1 of Schedule 17 inserts a new Schedule 2A into the Compulsory Purchase Act 1965, which sets out the process for serving counter-notices requiring the purchase of land not in the notice to treat. (New Schedule 2A does not apply where a notice to treat is deemed to have been served under section 154(5) of the Town and Country Planning Act 1990 in relation to blighted land.)

553 Part 1 of Schedule 2A sets out detailed provisions in relation to when a counter-notice can be served, the effect of the counter-notice on the notice of entry, the options available to the acquiring authority to respond to the counter-notice and the effects of accepting a counter-notice or referring it to the Upper Tribunal. Part 1 applies in circumstances where the acquiring authority has served a notice to treat but not taken possession of the land before any counter-notice is served.

554 Under Part 1, if an owner serves a counter-notice, any notice of entry served on him in respect of the land proposed to be acquired ceases to have effect (paragraph 6 of new Schedule 2A).

555 Where the acquiring authority accepts a counter-notice or decides to refer it to the Upper Tribunal, it may serve a new notice of entry on the owner. If the authority have already served a notice of entry in respect of the land proposed to be acquired, the normal minimum three month notice period does not apply to the new notice of entry in respect of that land (see section 11(1B) of the Compulsory Purchase Act 1965 inserted by section 186(2)(b)). The period specified in any new notice of entry must be a period that ends no earlier than the end of the period in the last notice of entry (paragraph 13 of new Schedule 2A).This enables the acquiring authority to enter the land proposed to be acquired without delay. The normal three month minimum notice period will, however, apply in respect of "the additional land" (where the counter-notice is accepted).

556 The procedure in Part 2 of Schedule 2A applies (instead of Part 1) if the acquiring authority has taken possession of part of the claimant's land unlawfully (for instance, because they have not served a notice to treat).

557 Part 3 of Schedule 2A deals with the determination of counter-notices referred to the Upper Tribunal by the acquiring authority, the factors that must be taken into account in the determination and the effect of a determination that more land should be acquired.

Part 2 - Consequential amendments

558 The remainder of Schedule 17 sets out consequential amendments.

Schedule 18: Objection to division of land following general vesting declaration

Part 1 - Amendments to Compulsory Purchase (Vesting Declarations) Act 1981

559 Schedule 18 makes similar provision to Schedule 17 for counter-notices following the making of a general vesting declaration. This is achieved principally through the insertion of a new Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 to replace Part 1 of the existing Schedule 1 to that Act.

560 Where the acquiring authority refers the counter-notice to the Upper Tribunal and the counter-notice was served before the original vesting date, paragraph 12(2) of new Schedule A1 allows the authority to serve notice on the owner specifying a new vesting date for the land proposed to be acquired. This allows for the vesting of the land the authority is authorised to take before the Upper Tribunal has made a determination.

Part 2 - Consequential amendments

561 Part 2 of Schedule 18 makes two consequential amendments, including an amendment to section 5A of the Land Compensation Act 1961.

Section 200: Objection to division of land: blight notices

562 Section 200 amends section 153 (reference of objection to Upper Tribunal) and section 166 (saving for claimant's right to sell whole hereditament etc.) of the Town and Country Planning Act 1990 (1990 Act) in order to preserve the current procedure for objections to the division of land following a blight notice.

563 Section 200(3) omits section 166(1)(b) and (2) of the 1990 Act. It is no longer possible to refer to a right under section 8 of the Compulsory Purchase Act 1965 (as the wording of that section is amended by paragraph 2 of Schedule 17 to this Act). New subsection (4A) of section 153 of the 1990 Act (inserted by subsection (2)) is, however, intended to preserve the status quo. Where the effect of a blight notice would be a compulsory purchase to which Part 1 of the Compulsory Purchase Act 1965 applies, the Upper Tribunal may uphold an objection on the grounds in section 151(4)(c) of the 1990 Act only if it is satisfied that this would not result in material detriment to the house, building or factory.

564 Paragraphs 2 and 15 of new Schedule 2A to the Compulsory Purchase Act 1965 (inserted by Schedule 17) disapply that Schedule where a notice to treat is deemed to have been served under section 154(5) of the 1990 Act, in respect of part only of a house, building or factory, following a counter-notice objecting to a blight notice on the grounds in section 151(4)(c) of the 1990 Act.

Section 201: Power to quash decision to confirm compulsory purchase order

565 Once a compulsory purchase order has been confirmed, any person who disputes the validity of the order or any of its provisions can challenge the order through an application to the High Court under section 23 of the Acquisition of Land Act 1981.

566 Section 201 amends section 24 of the Acquisition of Land Act 1981 to clarify that the court has the power to quash the decision to confirm the compulsory purchase order as well as the power to quash the whole or any provision of the order itself. Where the compulsory purchase order itself is found to be sound but there is an error in the decision to confirm the order, the court may decide to quash the decision alone. This means the order will go back to the confirming Minister for reconsideration.

Section 202: Extension of compulsory purchase time limit during challenge

567 Once a compulsory purchase order becomes operative (see section 26 of the Acquisition of Land Act 1981), acquiring authorities have three years to exercise their compulsory purchase powers. Where the validity of an order is challenged under section 23 of the Acquisition of Land Act 1981, acquiring authorities will usually wait until a final decision has been reached on the challenge, leaving them less time to implement the order.

568 Section 202 inserts a new section 4A into the Compulsory Purchase Act 1965 and a new section 5B into the Compulsory Purchase (Vesting Declarations) Act 1981 to extend the time period allowed to implement a compulsory purchase order where an application is made under section 23 of the Acquisition of Land Act 1981. The extended period will be for either (a) a period equivalent to the period from the date an application is made under section 23 until it is finally determined or withdrawn or (b) one year, whichever is the shorter period. Where an appeal is brought, an application is not finally determined until the appeal is finally determined or withdrawn.

Power to override easements and other rights

Section 203: Power to override easements and other rights

569 Easements and restrictive covenants on land can complicate the design of schemes and cause delay in their implementation. Local planning authorities and agencies with regeneration powers have statutory powers to override these rights when undertaking development (subject to the payment of compensation).

570 Section 203 introduces a new power which extends the existing powers to override easements and restrictive covenants under the Town and Country Planning Act 1990 and other legislation to acquiring authorities, such as statutory undertakers, which do not already have those powers.

571 Section 203 enables a person to interfere with easements and other rights when undertaking building or maintenance works on, or using, land which has been vested in or acquired by a "specified authority". The reference to "a person" would include a successor in title to the "specified authority".

572 There are several conditions / limitations on the use of the power. There must be planning consent for the building or maintenance work / use of the land.

573 The "specified authority" must be able (i.e. have the necessary "enabling powers" in legislation) to acquire the land compulsorily for the purpose of the building or maintenance work / the purpose of erecting or constructing any building, or carrying out any works, for the use.

574 In addition, the development, whether by the specified authority or a successor, must be related to the purposes for which the land was acquired or appropriated by the "specified authority". This codifies the judgment in Midtown Ltd v City of London Real Property Company Ltd [2005] EWHC 33 (Ch). The Honourable Mr Justice Peter Smith held, at paragraph 47 of his judgment, that, if a local authority or a successor in title wished to rely upon the power to override easements in section 237 of the Town and Country Planning Act 1990, the proposed development must be related to the planning purposes for which the land was acquired or appropriated.

575 The land must also have become vested in or acquired by a "specified authority" (or been appropriated for planning purposes by a local authority) after section 203 comes into force or be "other qualifying land" (as defined in section 205(1)).

576 The provisions in respect of "other qualifying land" ensure that authorities that already have the statutory power to override easements etc. (being "the qualifying authority in relation to the land") will be able to exercise the new general power in the same way after commencement. Schedule 19 repeals the existing powers.

577 The power to override easements etc. is not available in respect of a "protected right" (as defined in section 205(1)). There are also protections in place for the National Trust in section 203(10).

Section 204: Compensation for overridden easements etc

578 Section 204 requires the payment of compensation where rights are overridden and provides for compensation to be calculated on the same basis as compensation payable under sections 7 and 10 of the Compulsory Purchase Act 1965. Any dispute about the compensation payable may be referred to and determined by the Upper Tribunal.

Section 205: Interpretation of sections 203 and 204

579 Section 205 defines the terms used in sections 203 and 204. This includes a "specified authority", which is defined so as to limit it to an acquiring authority that is a public body or has statutory functions. It also defines a "qualifying authority" which is an authority who had the statutory power to override easements etc. before the commencement of these provisions.

Section 206: Amendments to do with sections 203 and 204

580 Section 206 introduces Schedule 19 to the Act.

Schedule 19: Amendments to do with sections 203 and 204

581 Schedule 19 makes amendments that are consequential on sections 203 and 204. It repeals existing powers to override easements and other rights which have been replaced by the new power in section 203.

Part 8: Public Authority Land

Section 207: Engagement with public authorities in relation to proposals to dispose of land

582 This section provides for engagement, when Ministers of the Crown or other public authorities specified in regulations are developing proposals to dispose of land, with the local authority and other relevant public authorities to ensure local policy considerations are taken into account before decisions are made.

583 This section therefore contains a duty that applies to Ministers of the Crown when developing a proposal to dispose of land. The duty requires a Minister of the Crown to engage on an ongoing basis with a) each local authority in whose area the land is situated, and b) any public authority, or public authority of a description, specified in regulations made by the Minister for the Cabinet Office (MCO).

584 This section also gives a power to the MCO to specify additional public authorities which are subject to a duty to engage when developing a proposal to dispose of land, and to specify which public authorities they must engage with. Regulations made by the MCO may also specify land, or descriptions of land, which a Minister of the Crown or other specified public authority can develop proposals to dispose of without complying with the duty to engage.

585 Any person who is subject to a duty under this section must have regard to guidance given by the MCO about how to comply with the duty. The guidance could, for example, specify what themes and commercial issues the engagement should cover and what level of engagement is appropriate in different cases.

586 This section extends to England and Wales and Scotland. However, the MCO's power to specify public authorities that must carry out engagement whilst developing a proposal to sell land (and to specify those authorities which must be engaged with) is limited in Scotland and Wales. In relation to Scotland the power may only be used to specify Her Majesty's Revenue and Customs or a body to which paragraph 3 of Part 3 of Schedule 5 to the Scotland Act 1998 applies. Bodies to which paragraph 3 applies include for example, the Equality and Human Rights Commission.

587 In relation to Wales, the power may not be used to impose duties on an authority which has functions that are exercisable only in relation to Wales and relate to a matter which the Welsh Ministers have power to deal with, or which the National Assembly for Wales can legislate about.

Section 208: Duty of public authorities to prepare report of surplus land holdings

588 This section is a transparency measure intended to make public whether (and if so why) public authorities are holding surplus land. This section therefore contains a duty on relevant public authorities to publish a report containing details of surplus land which they hold in England, Wales or Scotland.

589 For these purposes surplus land is land which the authority has determined is surplus and has been retained for longer than two years after the date of that determination; or, in the case of land which is used wholly or mainly for residential purposes, for longer than six months after the date of that determination. Reports must set out why the body has not disposed of any surplus land.

590 Under this section a public authority which must prepare a report includes a Minister of the Crown and any public authority (or kind of public authority) which the Secretary of State specifies in regulations. However, in relation to land in Scotland the power may only be used to specify Her Majesty's Revenue and Customs or a body to which paragraph 3 of part 3 of Schedule 5 to the Scotland Act 1998 applies. Bodies to which paragraph 3 applies include for example the Equality and Human Rights Commission.

591 In relation to land in Wales, the power may not be used to impose duties on an authority which has functions that are exercisable only in relation to Wales and relate to a matter which the Welsh Ministers have power to deal with, or which the National Assembly for Wales can legislate about.

592 In determining whether land is surplus to requirements, and in carrying out other functions under this section, a relevant public authority must have regard to guidance given by the Secretary of State.

593 This section also gives the Secretary of State power to provide in regulations that for the purposes of this section, land is to be counted as surplus in relation to a specified public authority or type of public authority notwithstanding the timescales referred to above. Regulations may also exclude specified land or descriptions of land from the duty to report. They may also make further provision about reports such as what must be included in a report and the form and timing of reports.

Section 209: Power to direct bodies to dispose of land

594 The purpose of this section is to enable the Secretary of State to direct certain public authorities to dispose of land. To achieve that this section amends section 98 of the Local Government, Planning and Land Act 1980.

595 The existing section 98 contains a power for the Secretary of State to direct a public authority to dispose of land where the Secretary of State considers the land is not being sufficiently used for that authority's functions. This section adds a further power of direction to section 98 which can be exercised only in circumstances specified by the Secretary of State in regulations.

596 For these purposes a relevant public authority is anybody to which section 98 applies and which is also required to prepare a report on surplus land under section 184 (section 98 applies to bodies which are listed in Schedule 16 to the 1980 Act and the Secretary of State can amend Schedule 16 by order).

597 The new power of direction is subject to the same conditions as the existing power of direction in section 98. A direction can only be made after the authority concerned has had an opportunity to make representations. If representations are received then a direction cannot be given unless the Secretary of State considers the disposal can be made without serious detriment to the performance of the authority's functions.

Section 210: Reports on improving efficiency and sustainability of buildings owned by local authorities

598 This section is intended to ensure local authorities are focused on improving the efficiency and sustainability of their estate; and that progress towards that objective is made transparent. It contains a duty on local authorities which is similar to the duty contained in the Climate Change Act 2008 requiring the MCO to publish a report in respect of the central government civil estate.

599 The new duty requires local authorities listed in Schedule 20 to prepare an annual report containing a buildings efficiency and sustainability assessment. All the authorities listed in Schedule 20 are local authorities in England. Such an assessment must set out the progress made by the authority towards improving the efficiency and contribution to sustainability of the buildings that are part of the authority's estate. In particular, reports must include an assessment of the authority's progress towards reducing the size of the authority's estate and ensuring that buildings which are part of the authority's estate fall within the top quartile of energy performance. If a building that does not fall within the top quartile of energy performance becomes part of a local authority's estate in the year to which a report relates, the report must explain why the building has nevertheless become part of the estate.

600 This section gives the MCO a power to specify in regulations the kinds of building that must be treated as being, or as not being, part of an authority's estate for the purpose of preparing a report. In carrying out its functions under this section, any local authority must have regard to guidance issued by the MCO. The guidance could make detailed provision about the form and content of the report. The power also leaves the MCO flexibility to address technical questions about how contributions to efficiency or sustainability should be assessed in the report.

Schedule 20: Authorities specified for purposes of section 210

601 This Schedule is self-explanatory.

Section 211: Reports on improving efficiency and sustainability of buildings in military estate

602 This section is intended to ensure the Government is focused on improving the efficiency and sustainability of the central government military estate; and that progress towards that objective is made transparent.

603 This section amends section 86 of the Climate Change Act 2008, which requires the MCO to report annually on the progress made in the year towards improving the efficiency and contribution to sustainability of the central government civil estate. It extends that duty to the military estate. For this purpose "the military estate" means central government buildings used for the purpose of Her Majesty's armed forces which are not part of the civil estate.

604 This section gives the MCO a power to specify by order buildings of a description which are not part of the military estate for the purpose of preparing a report. This could for example be used to exclude from a report buildings, which are only held on a very short-term basis.

Part 9: General

Section 212: Power to make transitional provision

Section 213: Power to make consequential provision

Section 214: Regulations: general

Section 215: Extent

Section 216: Commencement

Section 217: Short title

605 Sections 212 to 217 are self-explanatory.

Commencement

606 The provisions about extent, commencement and short title of this Act, together with the powers conferred by the Act to make secondary legislation to make saving, transitory or transitional provision in connection with the coming into force of any provision of the Act, came into force on the day on which it was passed. Chapter 2 of Part 4, sections 136, 137, schedule 10, sections 139, 140, 149, 151, 152(1), 157, and sections 161 to 168 come into force on the day on which this Act was passed. Section 124, 130, 150(1) to 150(3), and 153 come into force at the end of the period of two months beginning on the day on which this Act is passed. Other provisions of this Act come into force on such day as the Secretary of State may by regulations appoint.

Related documents

607 The following documents are relevant to the Act and can be read at the stated locations:

- *The Conservative Party Manifesto 2015*, April 2015
https://www.conservatives.com/manifesto
- Queen's Speech 2015, May 2015
https://www.gov.uk/government/speeches/queens-speech-2015
- Summer Budget 2015, July 2015
https://www.gov.uk/government/publications/summer-budget-2015
- *Fixing the foundations: Creating a more prosperous nation*, July 2015
https://www.gov.uk/government/publications/fixing-the-foundations-creating-a-more-prosperous-nation
- *Nationally significant infrastructure projects and housing: briefing note*, October 2015
https://www.gov.uk/government/publications/nationally-significant-infrastructure-projects-and-housing-briefing-note
- *Rentcharges Act 1977: a technical discussion paper*, October 2015
https://www.gov.uk/government/consultations/rentcharges-a-technical-discussion-paper
- *Tackling rogue landlords and improving the private rental sector*, November 2015
https://www.gov.uk/government/consultations/tackling-rogue-landlords-and-improving-the-private-rental-sector
- *Compulsory purchase process*, October 2015
https://www.gov.uk/government/consultations/improving-the-compulsory-purchase-process
- *Consultation on proposed changes to National Planning Policy*, December 2015
https://www.gov.uk/government/consultations/national-planning-policy-consultation-on-proposed-changes
- *Technical consultation on implementation of planning changes*, February 2016
https://www.gov.uk/government/consultations/implementation-of-planning-changes-technical-consultation
- *Pay to stay: fairer rents in social housing*, March 2016
https://www.gov.uk/government/consultations/pay-to-stay-high-income-social-tenants
- *Starter homes regulations: technical consultation*, March 2016
https://www.gov.uk/government/consultations/starter-homes-regulations-technical-consultation

Annex A - Territorial extent and application

608. The Act applies mainly to England only, with some exceptions. The table below sets out the extent and application [1] of each provision in the Act.

Provision	England	Wales	Scotland	Northern Ireland
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Extends and applies to Scotland?**	**Extends and applies to Northern Ireland?**
Part 1: New Homes in England - Chapter 1: Starter Homes				
Sections1-8	Yes	No	No	No
Part 1 - Chapter 2: Self-build and Custom Housebuilding				
Sections 9-12	Yes	No	No	No
Part 2: Rogue Landlords and Property Agents in England				
Sections13-56 and Schedules 1-3	Yes	No	No	No
Part 3: Recovering Abandoned Premises in England				
Sections 57-63	Yes	No	No	No
Part 4: Social Housing in England - Chapter 1: Implementing the Right to Buy on a Voluntary Basis				
Sections 64-68	Yes	No	No	No
Part 4 - Chapter 2: Vacant High Value Local Authority Housing				
Sections 69-79	Yes	No	No	No
Part 4 - Chapter 3: High Income Social Tenants: Mandatory Rents				
Sections 80-91	Yes	No	No	No
Part 4 - Chapter 4: Reducing Regulation of Social Housing Etc.				
Sections 92-94	Yes	No	No	No
Schedule 4	Yes	No	No	No
Part 4 - Chapter 5: Insolvency of Registered Providers of Social Housing				
Sections 95-117	Yes	Yes	Yes	Yes

1 For consistency with standing order 83J of the Standing Orders of the House of Commons, the analysis of the application of each provision disregards any minor or consequential effects.

Provision	England	Wales	Scotland	Northern Ireland
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Extends and applies to Scotland?**	**Extends and applies to Northern Ireland?**
Schedules 5 & 6	Yes	Yes	Yes	Yes
Part 4 - Chapter 6: Secure Tenancies Etc.				
Sections 118-121	Yes	No	No	No
Schedules 7 & 8	Yes	No	No	No
Part 5: Housing, Estates Agents and Rentcharges: Other Changes				
Sections 122-131, 133-135 & 138	Yes	No	No	No
Section 132	Yes	Yes	Yes	Yes
Sections 136 & 137	Yes	Yes	No	No
Schedule 9	Yes	No	No	No
Schedule 10	Yes	Yes	No	No
Part 6: Planning in England				
Sections 139-171	Yes	No	No	No
Schedules 11-13	Yes	No	No	No
Part 7: Compulsory Purchase Etc.				
Sections 172-206	Yes	Yes	No	No
Schedules 14-19	Yes	Yes	No	No
Part 8: Public Authority Land				
Sections 207 & 208	Yes	Yes	Yes	No
Section 209	Yes	Yes	No	No
Section 210	Yes	No	No	No
Section 211	Yes	Yes	Yes	Yes
Sch. 20	Yes	No	No	No

Annex B - Hansard References

609. The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
House of Commons		
Introduction	13 October 2015	Vol. 600, Col. 188
http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm151013/debtext/151013-0002.htm#15101362000004		
Second Reading	02 November 2015	Vol. 601, Col. 721
http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm151102/debtext/151102-0001.htm#1511024000001		
Public Bill Committee 1st Sitting	10 November 2015	Vol. 602, Col. 3
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151110/am/151110s01.htm		
Public Bill Committee 2nd Sitting	10 November 2015	Vol. 602, Col. 41
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151110/pm/151110s01.htm		
Public Bill Committee 3rd Sitting	17 November 2015	Vol. 602, Col. 93
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151117/am/151117s01.htm		
Public Bill Committee 4th Sitting	19 November 2015	Vol. 602, Col. 133
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151119/am/151119s01.htm		
Public Bill Committee 5th Sitting	19 November 2015	Vol. 602, Col. 157
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151119/pm/151119s01.htm		
Public Bill Committee 6th Sitting	24 November 2015	Vol. 602, Col. 203
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151124/am/151124s01.htm		
Public Bill Committee 7th Sitting	24 November 2015	Vol. 602, Col. 239
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151124/pm/151124s01.htm		
Public Bill Committee 8th Sitting	26 November 2015	Vol. 602, Col. 307
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151126/am/151126s01.htm		
Public Bill Committee 9th Sitting	26 November 2015	Vol. 602, Col. 333
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151126/pm/151126s01.htm		
Public Bill Committee 10th Sitting	01 December 2015	Vol. 602, Col. 363
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151201/am/151201s01.htm		
Public Bill Committee 11th Sitting	01 December 2015	Vol. 602, Col. 397
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151201/pm/pt1/151201s01.htm		
Public Bill Committee 12th Sitting	03 December 2015	Vol. 602, Col. 471

Stage	Date	Hansard Reference
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151203/am/151203s01.htm		
Public Bill Committee 13th Sitting	03 December 2015	Vol. 602, Col. 497
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151203/pm/151203s01.htm		
Public Bill Committee 14th Sitting	08 December 2015	Vol. 602, Col. 563
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151208/am/151208s01.htm		
Public Bill Committee 15th Sitting	08 December 2015	Vol. 602, Col. 595
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151208/pm/151208s01.htm		
Public Bill Committee 16th Sitting	10 December 2015	Vol. 602, Col. 643
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151210/am/151210s01.htm		
Public Bill Committee 17th Sitting	10 December 2015	Vol. 602, Col. 675
http://www.publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/151210/pm/151210s01.htm		
Report 1st Sitting	05 January 2016	Vol. 604, Col. 124
http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm160105/debtext/160105-0003.htm#16010534000003		
Report 2nd Sitting	12 January 2016	Vol. 604, Col. 706
http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm160112/debtext/160112-0001.htm#16011271000002		
Legislative Grand Committee	12 January 2016	Vol. 604, Col. 794
http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm160112/debtext/160112-0003.htm#16011280004400		
Third Reading	12 January 2016	Vol. 604, Col. 807
http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm160112/debtext/160112-0004.htm#16011280002762		
House of Lords		
Introduction	13 January 2016	Vol. 768, Col. 271
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160113-0001.htm#16011323000242		
Second Reading	26 January 2016	Vol. 768, Col. 1174
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160126-0001.htm#16012626000624		
Grand Committee 1st Sitting	09 February 2016	Vol. 768, Col. 2133
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160209-0001.htm#16020973000406		
Grand Committee 2nd Sitting	01 March 2016	Vol. 769, Col. 702
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160301-0001.htm#16030141000372		
Grand Committee 3rd Sitting	03 March 2016	Vol. 769, Col. 943
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160303-0001.htm#16030339001107		
Grand Committee 4th Sitting	08 March 2016	Vol. 769, Col. 1164
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160308-0001.htm#16030862000414		
Grand Committee 5th Sitting	10 March 2016	Vol. 769, Col. 1408
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160310-0001.htm#16031034000787		
Grand Committee 6th Sitting	14 March 2016	Vol. 769, Col. 1583
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160314-0001.htm#1603149000452		

Stage	Date	Hansard Reference
Grand Committee 7th Sitting	17 March 2016	Vol. 769, Col. 1941
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160317-0001.htm#16031730000398		
Grand Committee 8th Sitting	22 March 2016	Vol. 769, Col. 2235
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160322-0001.htm#16032237000360		
Grand Committee 9th Sitting	23 March 2016	Vol. 769, Col. 2382
http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160323-0001.htm#16032350000361		
Report 1st Sitting	11 April 2016	Vol. 771 Col. 12
https://hansard.parliament.uk/lords/2016-04-11/debates/1604115001380/HousingAndPlanningBill		
Report 2nd Sitting	13 April 2016	Vol. 771 Col. 263
https://hansard.parliament.uk/lords/2016-04-13/debates/16041337000951/HousingAndPlanningBill		
Report 3rd Sitting	18 April 2016	Vol. 771 Col. 445
https://hansard.parliament.uk/lords/2016-04-18/debates/1604189001310/HousingAndPlanningBill		
Report 4th Sitting	20 April 2016	Vol. 771 Col. 633
https://hansard.parliament.uk/lords/2016-04-20/debates/16042041000833/HousingAndPlanningBill		
Report 5th Sitting	25 April 2016	Vol. 771 Col. 917
https://hansard.parliament.uk/lords/2016-04-25/debates/16042518000934/HousingAndPlanningBill		
Third Reading	27 April 2016	Vol. 771 Col. 1144
https://hansard.parliament.uk/lords/2016-04-27/debates/16042772001422/HousingAndPlanningBill		
Ping Pong		
Commons Consideration of Lords Amendments	03 May 2016	Vol. 609 Col. 58
https://hansard.parliament.uk/Commons/2016-05-03/debates/16050323000001/HousingAndPlanningBill		
Lords Consideration of Commons Amendments	04 May 2016	Vol. 771 Col. 1428
https://hansard.parliament.uk/lords/2016-05-04/debates/16050461001406/HousingAndPlanningBill		
Commons Consideration of Lords Amendments	09 May 2016	Vol. 609 Col. 458
https://hansard.parliament.uk/Commons/2016-05-09/debates/16050922000002/HousingAndPlanningBill		
Lords Consideration of Commons Amendments	10 May 2016	Vol. 771, Col. 1678
https://hansard.parliament.uk/lords/2016-05-10/debates/16051041000142/HousingAndPlanningBill		
Commons Consideration of Lords Amendments	11 May 2016	Vol. 609, Col. 641
https://hansard.parliament.uk/commons/2016-05-11/debates/16051145000001/HousingAndPlanningBill		
Lords Consideration of Commons Amendments	11 May 2016	Vol. 771, Col. 1741
https://hansard.parliament.uk/lords/2016-05-11/debates/16051151000393/HousingAndPlanningBill		
ROYAL ASSENT	**12 May 2016**	**House of Commons Vol. 609, Col. 762**
		House of Lords Vol. 771 Col. 1831

Stage	Date	Hansard Reference
https://hansard.parliament.uk/Commons/2016-05-12/debates/16051229000006/RoyalAssent **(HoC)**		
https://hansard.parliament.uk/lords/2016-05-12/debates/16051248000398/RoyalAssent **(HoL)**		

Annex C - Progress of Bill Table

610. This Annex shows how each section and Schedule of the Act was numbered during its passage through Parliament.

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2	Clause 2	Clause 2	Clause 2
Section 3					
Section 4	Clause 3	Clause 3	Clause 3	Clause 3	Clause 3
Section 5	Clause 4	Clause 4	Clause 4	Clause 4	Clause 4
Section 6	Clause 5	Clause 5	Clause 5	Clause 5	Clause 5
Section 7	Clause 6	Clause 6	Clause 6	Clause 6	Clause 6
Section 8	Clause 7	Clause 7	Clause 7	Clause 7	Clause 7
Section 9	Clause 8	Clause 8	Clause 8	Clause 8	Clause 8
Section 10	Clause 9	Clause 9	Clause 9	Clause 9	Clause 9
Section 11	Clause 10	Clause 10	Clause 10	Clause 10	Clause 10
Section 12	Clause 11	Clause 11	Clause 11	Clause 11	Clause 11
Section 13	Clause 12	Clause 12	Clause 12	Clause 12	Clause 12
Section 14	Clause 13	Clause 13	Clause 13	Clause 13	Clause 13
Section 15	Clause 14	Clause 14	Clause 14	Clause 14	Clause 14
Section 16	Clause 15	Clause 15	Clause 15	Clause 15	Clause 15
Section 17	Clause 16	Clause 16	Clause 16	Clause 16	Clause 16
Section 18			Clause 17	Clause 17	Clause 17
Section 19		Clause 17	Clause 18	Clause 18	Clause 18
Section 20		Clause 18	Clause 19	Clause 19	Clause 19
Section 21		Clause 19	Clause 20	Clause 20	Clause 20
Section 22		Clause 20	Clause 21	Clause 21	Clause 21
Section 23	Clause 17	Clause 21	Clause 22	Clause 22	Clause 22
Section 24	Clause 18	Clause 22	Clause 23	Clause 23	Clause 23
Section 25	Clause 19	Clause 23	Clause 24	Clause 24	Clause 24
Section 26	Clause 20	Clause 24	Clause 25	Clause 25	Clause 25
Section 27	Clause 21	Clause 25	Clause 26	Clause 26	Clause 26
Section 28	Clause 22	Clause 26	Clause 27	Clause 27	Clause 27
Section 29	Clause 23	Clause 27	Clause 28	Clause 28	Clause 28

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 30	Clause 24	Clause 28	Clause 29	Clause 29	Clause 29
Section 31	Clause 25	Clause 29	Clause 30	Clause 30	Clause 30
Section 32	Clause 26	Clause 30	Clause 31	Clause 31	Clause 31
Section 33	Clause 27	Clause 31	Clause 32	Clause 32	Clause 32
Section 34	Clause 28	Clause 32	Clause 33	Clause 33	Clause 33
Section 35	Clause 29	Clause 33	Clause 34	Clause 34	Clause 34
Section 36		Clause 34	Clause 35	Clause 35	Clause 35
Section 37		Clause 35	Clause 36	Clause 36	Clause 36
Section 38	Clause 30	Clause 36	Clause 37	Clause 37	Clause 37
Section 39	Clause 31	Clause 37	Clause 38	Clause 38	Clause 38
Section 40	Clause 32	Clause 38	Clause 39	Clause 39	Clause 39
Section 41	Clause 33	Clause 39	Clause 40	Clause 40	Clause 40
Section 42	Clause 34	Clause 40	Clause 41	Clause 41	Clause 41
Section 43		Clause 41	Clause 42	Clause 42	Clause 42
Section 44		Clause 42	Clause 43	Clause 43	Clause 43
Section 45		Clause 43	Clause 44	Clause 44	Clause 44
Section 46		Clause 44	Clause 45	Clause 45	Clause 45
Section 47	Clause 41	Clause 45	Clause 46	Clause 46	Clause 46
Section 48	Clause 42	Clause 46	Clause 47	Clause 47	Clause 47
Section 49	Clause 43	Clause 47	Clause 48	Clause 48	Clause 48
Section 50	Clause 44	Clause 48	Clause 49	Clause 49	Clause 49
Section 51	Clause 45	Clause 49	Clause 50	Clause 50	Clause 50
Section 52	Clause 46	Clause 50	Clause 51	Clause 51	Clause 51
Section 53					Clause 52
Section 54	Clause 47	Clause 51	Clause 52	Clause 52	Clause 53
Section 55		Clause 52	Clause 53	Clause 53	Clause 54
Section 56	Clause 48	Clause 53	Clause 54	Clause 54	Clause 55
Section 57	Clause 49	Clause 54	Clause 55	Clause 55	Clause 56
Section 58	Clause 50	Clause 55	Clause 56	Clause 56	Clause 57
Section 59	Clause 51	Clause 56	Clause 57	Clause 57	Clause 58
Section 60	Clause 52	Clause 57	Clause 58	Clause 58	Clause 59
Section 61	Clause 53	Clause 58	Clause 59	Clause 59	Clause 60
Section 62	Clause 54	Clause 59	Clause 60	Clause 60	Clause 61
Section 63	Clause 55	Clause 60	Clause 61	Clause 61	Clause 62
Section 64	Clause 56	Clause 61	Clause 62	Clause 62	Clause 63

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 65	Clause 57	Clause 62	Clause 63	Clause 63	Clause 64
Section 66	Clause 58	Clause 63	Clause 64	Clause 64	Clause 65
Section 67	Clause 60	Clause 65	Clause 65	Clause 65	Clause 66
Section 68	Clause 61	Clause 66	Clause 66	Clause 66	Clause 67
Section 69	Clause 62	Clause 67	Clause 67	Clause 67	Clause 68
Section70	Clause 63	Clause 68	Clause 68	Clause 68	Clause 69
Section 71	Clause 64	Clause 69	Clause 69	Clause 69	Clause70
Section 72	Clause 65	Clause70	Clause70	Clause70	Clause 71
Section 73	Clause 66	Clause 71	Clause 71	Clause 71	Clause 72
Section 74	Clause 67	Clause 72	Clause 72	Clause 72	Clause 73
Section 75	Clause 68	Clause 73	Clause 73	Clause 73	Clause 74
Section 76	Clause 69	Clause 74	Clause 74	Clause 74	Clause 75
Section 77	Clause70	Clause 75	Clause 75	Clause 75	Clause 76
Section 78	Clause 71	Clause 76	Clause 76	Clause 76	Clause 77
Section 79	Clause 72	Clause 77	Clause 77	Clause 77	Clause 78
Section 80	Clause 74	Clause 79	Clause 78	Clause 78	Clause 79
Section 81	Clause 75	Clause 80	Clause 79	Clause 79	Clause 80
Section 82	Clause 76	Clause 81	Clause 80	Clause 80	Clause 81
Section 83	Clause 77	Clause 82	Clause 81	Clause 81	Clause 82
Section 84			Clause 82	Clause 82	Clause 83
Section 85	Clause 78	Clause 83	Clause 83	Clause 83	Clause 84
Section 86	Clause 79	Clause 84	Clause 84	Clause 84	Clause 85
Section 87	Clause 80	Clause 85	Clause 85	Clause 85	Clause 86
Section 88	Clause 82	Clause 87	Clause 86	Clause 86	Clause 87
Section 89			Clause 87	Clause 87	Clause 88
Section 90			Clause 88	Clause 88	Clause 89
Section 91	Clause 83	Clause 88	Clause 89	Clause 89	Clause 90
Section 92	Clause 73	Clause 78	Clause 90	Clause 90	Clause 91
Section 93					Clause 92
Section 94			Clause 91	Clause 91	Clause 93
Section 95			Clause 92	Clause 92	Clause 94
Section 96			Clause 93	Clause 93	Clause 95
Section 97					Clause 96
Section 98					Clause 97
Section 99			Clause 94	Clause 94	Clause 98

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 100			Clause 95	Clause 95	Clause 99
Section 101			Clause 96	Clause 96	Clause 100
Section 102			Clause 97	Clause 97	Clause 101
Section 103					Clause 102
Section 104			Clause 98	Clause 98	Clause 103
Section 105			Clause 99	Clause 99	Clause 104
Section 106			Clause 100	Clause 100	Clause 105
Section 107			Clause 101	Clause 101	Clause 106
Section 108			Clause 102	Clause 102	Clause 107
Section 109			Clause 103	Clause 103	Clause 108
Section 110			Clause 104	Clause 104	Clause 109
Section 111			Clause 105	Clause 105	Clause 110
Section 112			Clause 106	Clause 106	Clause 111
Section 113			Clause 107	Clause 107	Clause 112
Section 114			Clause 108	Clause 108	Clause 113
Section 115			Clause 110	Clause 110	Clause 114
Section 116			Clause 111	Clause 111	Clause 115
Section 117			Clause 112	Clause 112	Clause 116
Section 118		Clause 89	Clause 113	Clause 113	Clause 117
Section 119					Clause 118
Section 120		Clause 90	Clause 114	Clause 114	Clause 119
Section 121					Clause 120
Section 122					Clause 121
Section 123					Clause 122
Section 124	Clause 84	Clause 91	Clause 115	Clause 115	Clause 123
Section 125	Clause 85	Clause 92	Clause 116	Clause 116	Clause 124
Section 126	Clause 86	Clause 93	Clause 117	Clause 117	Clause 125
Section 127			Clause 118	Clause 118	Clause 126
Section 128	Clause 87	Clause 94	Clause 119	Clause 119	Clause 127
Section 129	Clause 88	Clause 95	Clause 120	Clause 120	Clause 128
Section 130					Clause 129
Section 131					Clause 130
Section 132	Clause 89	Clause 96	Clause 121	Clause 121	Clause 131
Section 133					Clause 132
Section 134					Clause 133

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 135					Clause 134
Section 136	Clause 90	Clause 97	Clause 122	Clause 122	Clause 135
Section 137	Clause 91	Clause 98	Clause 123	Clause 123	Clause 136
Section 138		Clause 99	Clause 124	Clause 124	Clause 137
Section 139	Clause 92	Clause 100	Clause 125	Clause 125	Clause 138
Section 140	Clause 93	Clause 101	Clause 126	Clause 126	Clause 139
Section 141	Clause 94	Clause 102	Clause 127	Clause 127	Clause 140
Section 142	Clause 95	Clause 103	Clause 128	Clause 128	Clause 141
Section 143	Clause 96	Clause 104	Clause 129	Clause 129	Clause 143
Section 144	Clause 97	Clause 105	Clause 130	Clause 130	Clause 144
Section 145	Clause 98	Clause 106	Clause 131	Clause 131	Clause 145
Section 146	Clause 99	Clause 107	Clause 132	Clause 132	Clause 146
Section 147		Clause 108	Clause 133	Clause 133	Clause 147
Section 148	Clause 100	Clause 109	Clause 134	Clause 134	Clause 148
Section 149	Clause 101	Clause 110	Clause 135	Clause 135	Clause 149
Section 150	Clause 102	Clause 111	Clause 136	Clause 136	Clause 150
Section 151	Clause 103	Clause 112	Clause 137	Clause 137	Clause 151
Section 152	Clause 104	Clause 113	Clause 138	Clause 138	Clause 152
Section 153	Clause 105	Clause 114	Clause 139	Clause 139	Clause 153
Section 154					Clause 154
Section 155	Clause 106	Clause 115	Clause 140	Clause 140	Clause 155
Section 156					
Section 157			Clause 141	Clause 141	Clause 156
Section 158			Clause 142	Clause 142	Clause 157
Section 159			Clause 143	Clause 143	Clause 158
Section 160	Clause 107	Clause 116	Clause 144	Clause 144	Clause 162
Section 161			Clause 145	Clause 145	Clause 163
Section 162			Clause 146	Clause 146	Clause 164
Section 163			Clause 147	Clause 147	Clause 165
Section 164			Clause 148	Clause 148	Clause 166
Section 165					
Section 166	Clause 108	Clause 117	Clause 149	Clause 149	Clause 167
Section 167	Clause 109	Clause 118	Clause 150	Clause 150	Clause 168
Section 168	Clause 110	Clause 119	Clause 151	Clause 151	Clause 169
Section 169					Clause 170

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 170					Clause 171
Section 171					
Section 172	Clause 111	Clause 120	Clause 152	Clause 152	Clause 172
Section 173	Clause 112	Clause 121	Clause 153	Clause 153	Clause 173
Section 174	Clause 113	Clause 122	Clause 154	Clause 154	Clause 174
Section 175	Clause 114	Clause 123	Clause 155	Clause 155	Clause 175
Section 176	Clause 115	Clause 124	Clause 156	Clause 156	Clause 176
Section 177	Clause 116	Clause 125	Clause 157	Clause 157	Clause 177
Section 178	Clause 117	Clause 126	Clause 158	Clause 158	Clause 178
Section 179		Clause 127	Clause 159	Clause 159	Clause 179
Section 180	Clause 118	Clause 128	Clause 160	Clause 160	Clause 180
Section 181	Clause 119	Clause 129	Clause 161	Clause 161	Clause 181
Section 182	Clause 120	Clause 130	Clause 162	Clause 162	Clause 182
Section 183	Clause 121	Clause 131	Clause 163	Clause 163	Clause 183
Section 184	Clause 122	Clause 132	Clause 164	Clause 164	Clause 184
Section 185					Clause 185
Section 186	Clause 123	Clause 133	Clause 165	Clause 165	Clause 186
Section 187	Clause 124	Clause 134	Clause 166	Clause 166	Clause 187
Section 188	Clause 125	Clause 135	Clause 167	Clause 167	Clause 188
Section 189	Clause 126	Clause 136	Clause 168	Clause 168	Clause 189
Section 190	Clause 127	Clause 137	Clause 169	Clause 169	Clause 190
Section 191	Clause 128	Clause 138	Clause 170	Clause 170	Clause 191
Section 192	Clause 129	Clause 139	Clause 171	Clause 171	Clause 192
Section 193					Clause 193
Section 194	Clause 130	Clause 140	Clause 172	Clause 172	Clause 194
Section 195	Clause 131	Clause 141	Clause 173	Clause 173	Clause 195
Section 196	Clause 132	Clause 142	Clause 174	Clause 174	Clause 196
Section 197	Clause 133	Clause 143	Clause 175	Clause 175	Clause 197
Section 198					Clause 198
Section 199	Clause 134	Clause 144	Clause 176	Clause 176	Clause 199
Section 200					Clause 200
Section 201	Clause 135	Clause 145	Clause 177	Clause 177	Clause 201
Section 202	Clause 136	Clause 146	Clause 178	Clause 178	Clause 202
Section 203	Clause 137	Clause 147	Clause 179	Clause 179	Clause 203
Section 204	Clause 138	Clause 148	Clause 180	Clause 180	Clause 204

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 205		Clause 149	Clause 181	Clause 181	Clause 205
Section 206	Clause 139	Clause 150	Clause 182	Clause 182	Clause 206
Section 207			Clause 183	Clause 183	Clause 207
Section 208			Clause 184	Clause 184	Clause 208
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