



# Deregulation Act 2015

## 2015 CHAPTER 20

An Act to make provision for the reduction of burdens resulting from legislation for businesses or other organisations or for individuals; make provision for the repeal of legislation which no longer has practical use; make provision about the exercise of regulatory functions; and for connected purposes. [26th March 2015]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Measures affecting the workplace: general*

#### **1 Health and safety at work: general duty of self-employed persons**

- (1) Section 3 of the Health and Safety at Work etc. Act 1974 (general duty of employers and self-employed to persons other than their employees) is amended in accordance with subsections (2) and (3).
- (2) In subsection (2) (which imposes a general duty with respect to health and safety on self-employed persons)—
  - (a) after “self-employed person” insert “ who conducts an undertaking of a prescribed description ”;
  - (b) for “his undertaking” substitute “ the undertaking ”.
- (3) After subsection (2) insert—

“(2A) A description of undertaking included in regulations under subsection (2) may be framed by reference to—

  - (a) the type of activities carried out by the undertaking, where those activities are carried out or any other feature of the undertaking;
  - (b) whether persons who may be affected by the conduct of the undertaking, other than the self-employed person (or his employees), may thereby be exposed to risks to their health or safety.”

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- (4) In section 11 of that Act (functions of the Executive), after subsection (4A) insert—
- “(4AA) Subsection (4)(b)(i) does not apply in relation to the making of regulations under section 3(2) for the railway safety purposes (and, accordingly, the Executive shall submit under subsection (3) such proposals as the Executive considers appropriate for the making of regulations under section 3(2) for those purposes).”
- (5) In section 82 of that Act (general provisions as to interpretation and regulations)—
- (a) in subsection (3)(b) for “subsection (3A) or (4)” substitute “ subsection (3A), (3B) or (4) ”;
- (b) after subsection (3A) insert—
- “(3B) Regulations under section 3(2) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”
- (6) Where this section comes into force at a time when there is in force an Order in Council made under section 84(3) of the Health and Safety at Work etc. Act 1974 that applies section 3 or 11 of that Act to matters outside Great Britain, that Order is to be taken as applying that section as amended by this section.

#### Commencement Information

- II** [S. 1](#) in force for certain purposes at Royal Assent, see [s. 115](#)

VALID FROM 01/10/2015

## 2 Removal of employment tribunals' power to make wider recommendations

- (1) In section 124 of the Equality Act 2010 (remedies available to an employment tribunal in discrimination cases etc), in subsection (3) (which describes the recommendations that an employment tribunal may make)—
- (a) in the opening words, after “adverse effect” insert “ on the complainant ”;
- (b) omit paragraphs (a) and (b).
- (2) In consequence of subsection (1)—
- (a) in section 124(7) of that Act omit “in so far as it relates to the complainant”;
- (b) omit section 125 of that Act (remedies: national security).

## 3 Apprenticeships: simplification

- (1) Schedule 1 makes provision about apprenticeships.
- (2) Part 1 of the Schedule amends Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 (“the 2009 Act”) so as to simplify the provision made by that Part about English apprenticeships.
- (3) Part 2 of the Schedule contains further amendments of the 2009 Act in consequence of the amendments made by Part 1.

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- (4) Part 3 of the Schedule contains minor amendments of the provision made by Part 1 of the 2009 Act about Welsh apprenticeships.
- (5) Part 4 of the Schedule contains transitional provision.

#### Commencement Information

I2 S. 3 in force for certain purposes at Royal Assent, see s. 115

VALID FROM 26/05/2015

#### 4 English apprenticeships: funding arrangements

- (1) The Secretary of State may make arrangements with the Commissioners for Her Majesty's Revenue and Customs under which the Commissioners are responsible for the administration of apprenticeship payments.
- (2) “Apprenticeship payments” are payments that may be made by the Secretary of State to any person—
  - (a) for the purpose of encouraging the provision of opportunities for individuals to complete approved English apprenticeships or to undertake work following the completion of such apprenticeships, or
  - (b) otherwise in connection with approved English apprenticeships.
- (3) The arrangements that may be made under subsection (1) include arrangements under which the Commissioners are responsible for recovery where an apprenticeship payment is made but the whole or any part of it is (for whatever reason) recoverable by the Secretary of State.
- (4) The Commissioners may by regulations make provision as to the administration of payments where arrangements are made under subsection (1).
- (5) The regulations may, in particular, provide that the Commissioners may, instead of making payments to persons of a description specified in the regulations—
  - (a) permit them to deduct equivalent amounts from payments that they are required to make to the Commissioners and that are of a kind specified in the regulations;
  - (b) provide them with vouchers of equivalent amounts which may be used by them in connection with approved English apprenticeships.
- (6) The regulations may, in particular, also provide that, where the Commissioners are responsible for recovering the whole or any part of an apprenticeship payment from a person of a description specified in the regulations, they may do so by deducting the amount from any payments that they would otherwise be required to make to that person and that are of a kind specified in the regulations.
- (7) The regulations may make different provision for different cases.
- (8) Regulations under this section may be made only with the consent of the Secretary of State.
- (9) Regulations under this section must be made by statutory instrument.

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- (10) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section “approved English apprenticeship” has the same meaning as in Chapter A1 of the Apprenticeships, Skills, Children and Learning Act 2009 (see Schedule 1).

VALID FROM 26/05/2015

## 5 English apprenticeships: disclosure of information

- (1) The Commissioners may disclose information held by them to the Secretary of State, or to a person providing services to the Secretary of State, for the purpose of the Secretary of State's functions in relation to approved English apprenticeships.
- (2) The Secretary of State, or a person providing services to the Secretary of State, may disclose information to the Commissioners, or to a person providing services to them, for the purpose of arrangements made under section 4(1) or for the purpose of requesting the Commissioners to disclose information under subsection (1) of this section.
- (3) Information disclosed under subsection (1) may not be disclosed by the recipient of the information to any other person without the consent of the Commissioners.
- (4) If a person discloses, in contravention of subsection (3), any revenue and customs information relating to a person whose identity—
- (a) is specified in the disclosure, or
  - (b) can be deduced from it,
- section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.
- (5) In this section—
- “approved English apprenticeship” has the same meaning as in Chapter A1 of the Apprenticeships, Skills, Children and Learning Act 2009 (see Schedule 1);
- “revenue and customs information relating to a person” has the same meaning as in section 19 of the Commissioners for Revenue and Customs Act 2005 (see section 19(2) of that Act).

VALID FROM 01/10/2015

## 6 Requirements to wear safety helmets: exemption for Sikhs

- (1) Section 11 of the Employment Act 1989 (exemption of Sikhs from requirements as to wearing of safety helmets on construction sites) is amended in accordance with subsections (2) to (10).
- (2) In subsection (1), for “on a construction site” substitute “at a workplace”.

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- (3) In subsection (2), in paragraph (a), for “on a construction site” substitute “ at a workplace ”.
- (4) In subsection (5), in the opening words, for “on a construction site” substitute “ at a workplace ”.
- (5) After subsection (6) insert—
- “(6A) This section does not apply to a Sikh who—
- (a) works, or is training to work, in an occupation that involves (to any extent) providing an urgent response to fire, riot or other hazardous situations, and
  - (b) is at the workplace—
    - (i) to provide such a response in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or
    - (ii) to receive training in how to provide such a response in circumstances of that kind.
- (6B) This section also does not apply to a Sikh who—
- (a) is a member of Her Majesty's forces or a person providing support to Her Majesty's forces, and
  - (b) is at the workplace—
    - (i) to take part in a military operation in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or
    - (ii) to receive training in how to take part in such an operation in circumstances of that kind.”
- (6) In subsection (7)—
- (a) omit the definitions of “building operations”, “works of engineering construction” and “construction site”;
  - (b) before the definition of “injury”, insert—

““Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006;”;
  - (c) at the end insert—

““workplace” means any premises where work is being undertaken, including premises occupied or normally occupied as a private dwelling; and “premises” includes any place and, in particular, includes—

    - (a) any vehicle, vessel, aircraft or hovercraft,
    - (b) any installation (including a floating installation or one resting on the seabed or its subsoil or on other land covered with water or its subsoil), and
    - (c) any tent or moveable structure.”
- (7) In subsection (8), in paragraph (b), for “on a construction site” substitute “ at a workplace ”.
- (8) In subsection (9)—
- (a) for “relevant construction site” substitute “ relevant workplace ”;

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- (b) for “construction site” (in the second place where it occurs) substitute “workplace”.
- (9) In subsection (10), for the words from “ “relevant construction site” to the end of the subsection substitute “ “relevant workplace” means any workplace where work is being undertaken if the premises and the activities being undertaken there are premises and activities to which the Health and Safety at Work etc. Act 1974 applies by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2013.”
- (10) In the sidenote, for “on construction sites” substitute “ at workplaces ”.
- (11) Section 12 of that Act (protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets) is amended as follows.
- (12) In subsection (1)—
  - (a) in paragraph (a), for “on a construction site” substitute “ at a workplace ”;
  - (b) in paragraph (b), for “on such a site” substitute “ at such a workplace ”.
- (13) In subsection (3), for “Subsections (7) to (10)” substitute “ Subsections (6A) to (10) ”.

VALID FROM 01/10/2015

## 7 Requirements to wear safety helmets: exemption for Sikhs: Northern Ireland

- (1) Article 13 of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/246) is amended in accordance with subsections (2) to (8).
- (2) In paragraph (1), for “on a construction site” substitute “ at a workplace ”.
- (3) In paragraph (2), in sub-paragraph (a), for “on a construction site” substitute “ at a workplace ”.
- (4) In paragraph (5), in the opening words, for “on a construction site” substitute “ at a workplace ”.
- (5) After paragraph (6) insert—
  - “(6A) This Article does not apply to a Sikh who—
    - (a) works, or is training to work, in an occupation that involves (to any extent) providing an urgent response to fire, riot or other hazardous situations, and
    - (b) is at the workplace—
      - (i) to provide such a response in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or
      - (ii) to receive training in how to provide such a response in circumstances of that kind.
  - (6B) This Article also does not apply to a Sikh who—
    - (a) is a member of Her Majesty's forces or a person providing support to Her Majesty's forces, and
    - (b) is at the workplace—

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- (i) to take part in a military operation in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or
  - (ii) to receive training in how to take part in such an operation in circumstances of that kind.”
- (6) In paragraph (7)—
  - (a) omit the definitions of “building operations”, “works of engineering construction” and “construction site”;
  - (b) before the definition of “injury”, insert—
    - ““Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006;”;
  - (c) at the end insert—
    - ““workplace” means any premises where work is being undertaken, including premises occupied or normally occupied as a private dwelling; and “premises” includes any place and, in particular, includes—
      - (a) any vehicle, vessel, aircraft or hovercraft,
      - (b) any installation (including a floating installation or one resting on the seabed or its subsoil or on other land covered with water or its subsoil), and
      - (c) any tent or moveable structure.”
- (7) In paragraph (8), in sub-paragraph (b), for “on a construction site” substitute “ at a workplace ”.
- (8) In the heading, for “on construction sites” substitute “ at workplaces ”.
- (9) Article 13A of that Order (protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets) is amended as follows.
- (10) In paragraph (1)—
  - (a) in sub-paragraph (a), for “on a construction site” substitute “ at a workplace ”;
  - (b) in sub-paragraph (b), for “on such a site” substitute “ at such a workplace ”.
- (11) In paragraph (3), for “Paragraphs (7) and (8)” substitute “ Paragraphs (6A) to (8) ”.

*Measures affecting business: particular areas*

## **8 Driving instructors**

- (1) Schedule 2 makes provision to simplify the regulation of driving instructors by removing the separate system for the registration of disabled instructors.
- (2) Part 1 of the Schedule contains amendments of Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006.
- (3) Part 2 of the Schedule contains transitory amendments of Part 5 of the Road Traffic Act 1988 which have effect before the commencement of Schedule 6 to the Road Safety Act 2006.



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(4) Part 3 of the Schedule contains consequential and related amendments.

### Commencement Information

**I3** S. 8 in force for certain purposes at Royal Assent, see s. 115

VALID FROM 30/06/2015

### 9 Motor insurers

- (1) In Part 6 of the Road Traffic Act 1988 (compulsory insurance or security against third-party risks), section 147 (issue and surrender of certificates of insurance and of security) is amended as follows.
- (2) In subsection (1), for “A policy of insurance shall be of no effect for the purposes of this Part of this Act unless and until there is delivered by the insurer” substitute “ An insurer issuing a policy of insurance for the purposes of this Part of this Act must deliver ”.
- (3) In subsection (2), for “A security shall be of no effect for the purposes of this Part of this Act unless and until there is delivered by the person giving the security” substitute “ A person giving a security for the purposes of this Part of this Act must deliver ”.
- (4) Omit subsections (4) to (5) (obligation to surrender certificate following cancellation of policy of insurance or security).
- (5) Schedule 3 makes amendments in consequence of this section.

VALID FROM 01/10/2015

### 10 Taxis and private hire vehicles: duration of licences

- (1) The Local Government (Miscellaneous Provisions) Act 1976 is amended as follows.
- (2) In section 53 (drivers' licences for hackney carriages and private hire vehicles)—
  - (a) in subsection (1)(a), for “for such lesser period as the district council may specify in such licence” substitute “ for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case ”;
  - (b) in subsection (1)(b), for “for such lesser period as they may specify in such licence” substitute “ for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case ”.
- (3) In section 55 (licensing of operators of private hire vehicles), for subsection (2) substitute—
  - “(2) Every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.”



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VALID FROM 01/10/2015

## 11 Private hire vehicles: sub-contracting

In the Local Government (Miscellaneous Provisions) Act 1976, after section 55 insert—

### “55A Sub-contracting by operators

- (1) A person licensed under section 55 who has in a controlled district accepted a booking for a private hire vehicle may arrange for another person to provide a vehicle to carry out the booking if—
  - (a) the other person is licensed under section 55 in respect of the same controlled district and the sub-contracted booking is accepted in that district;
  - (b) the other person is licensed under section 55 in respect of another controlled district and the sub-contracted booking is accepted in that district;
  - (c) the other person is a London PHV operator and the sub-contracted booking is accepted at an operating centre in London; or
  - (d) the other person accepts the sub-contracted booking in Scotland.
- (2) It is immaterial for the purposes of subsection (1) whether or not sub-contracting is permitted by the contract between the person licensed under section 55 who accepted the booking and the person who made the booking.
- (3) Where a person licensed under section 55 in respect of a controlled district is also licensed under that section in respect of another controlled district, subsection (1) (so far as relating to paragraph (b) of that subsection) and section 55B(1) and (2) apply as if each licence were held by a separate person.
- (4) Where a person licensed under section 55 in respect of a controlled district is also a London PHV operator, subsection (1) (so far as relating to paragraph (c) of that subsection) and section 55B(1) and (2) apply as if the person holding the licence under section 55 and the London PHV operator were separate persons.
- (5) Where a person licensed under section 55 in respect of a controlled district also makes provision in the course of a business for the invitation or acceptance of bookings for a private hire car or taxi in Scotland, subsection (1) (so far as relating to paragraph (d) of that subsection) and section 55B(1) and (2) apply as if the person holding the licence under section 55 and the person making the provision in Scotland were separate persons.

In this subsection, “private hire car” and “taxi” have the same meaning as in sections 10 to 22 of the Civic Government (Scotland) Act 1982.

- (6) In this section, “London PHV operator” and “operating centre” have the same meaning as in the Private Hire Vehicles (London) Act 1998.

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### **55B Sub-contracting by operators: criminal liability**

(1) In this section—

“the first operator” means a person licensed under section 55 who has in a controlled district accepted a booking for a private hire vehicle and then made arrangements for another person to provide a vehicle to carry out the booking in accordance with section 55A(1);

“the second operator” means the person with whom the first operator made the arrangements (and, accordingly, the person who accepted the sub-contracted booking).

(2) The first operator is not to be treated for the purposes of section 46(1)(e) as operating a private hire vehicle by virtue of having invited or accepted the booking.

(3) The first operator is guilty of an offence if—

- (a) the second operator is a person mentioned in section 55A(1)(a) or (b),
- (b) the second operator contravenes section 46(1)(e) in respect of the sub-contracted booking, and
- (c) the first operator knew that the second operator would contravene section 46(1)(e) in respect of the booking.”

VALID FROM 01/10/2015

## **12 Space activity: limit on indemnity required**

(1) The Outer Space Act 1986 is amended as follows.

(2) In section 3 (prohibition of unlicensed activities), after subsection (3) insert—

“(3A) An order under subsection (3) may—

- (a) provide that section 10(1) does not apply to a person to the extent that the person is carrying on activities that do not require a licence by virtue of the order;
- (b) specify the maximum amount of a person's liability under section 10(1) so far as the liability relates to the carrying on of activities that do not require a licence by virtue of the order.”

(3) In section 5 (terms of licence), after subsection (2) insert—

“(3) A licence must specify the maximum amount of the licensee's liability to indemnify Her Majesty's government in the United Kingdom under section 10 in respect of activities authorised by the licence.”

(4) In section 10 (obligation to indemnify government against claims), after subsection (1) insert—

“(1A) Subsection (1) is subject to—

- (a) any limit on the amount of a person's liability that is specified in a licence, and

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(b) any order made under section 3(3).”

- (5) The Secretary of State may vary any licence under section 4 of the 1986 Act that is held at the time when this section comes into force so as to specify the maximum amount of the licensee's liability under section 10 of that Act.
- (6) A variation under subsection (5) is to be made by giving notice in writing to the licensee.
- (7) The power under section 15(6) of the 1986 Act may be exercised so as to extend to any of the Channel Islands, the Isle of Man or any British overseas territory any provision made by this section (subject to any specified exceptions or modifications).

VALID FROM 26/05/2015

**13 Agricultural Holdings Act 1986: resolution of disputes by third party determination**

Schedule 4 amends the Agricultural Holdings Act 1986 to provide for certain matters arising under the Act to be capable of third party determination.

VALID FROM 26/05/2015

**14 Shippers etc of gas**

- (1) In Part 1 of the Energy Act 2008 (gas importation and storage), after section 3 insert—

**“3A Exception for unloading to an installation in certain circumstances**

The prohibition in section 2(1) does not apply to a person (“A”) who uses a controlled place for the unloading of gas to an installation if—

- (a) the installation is maintained by another person (“B”) who has a licence in respect of the maintenance of the installation and the use of a controlled place for the unloading of gas to it, and
- (b) B consents to the use by A of the controlled place for the unloading of gas to the installation.”

- (2) In consequence of subsection (1), in section 2(2) of the 2008 Act, for “section 3” substitute “sections 3 and 3A”.

VALID FROM 01/10/2015

**15 Suppliers of fuel and fireplaces**

- (1) Part 3 of the Clean Air Act 1993 (smoke control areas) is amended as follows.

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- (2) In section 20 (offence of emitting smoke in smoke control area where emission caused by use of fuel other than authorised fuel), after subsection (5) insert—
- “(5ZA) In the application of this Part to England, “authorised fuel” means a fuel included in a list of authorised fuels kept by the Secretary of State for the purposes of this Part.
- (5ZB) The Secretary of State must—
- (a) publish the list of authorised fuels, and
  - (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.
- (5ZC) The list must be published in such manner as the Secretary of State considers appropriate.”
- (3) In that section, in subsection (6) as it applies in relation to England and Wales (definition of “authorised fuel”), for “In” substitute “ Except as provided by subsection (5ZA), in ”.
- (4) In section 21 (power by order to exempt certain fireplaces), at the beginning insert—
- “(A1) For the purposes of the application of this Part to England, the Secretary of State may exempt any class of fireplace from the provisions of section 20 (prohibition of smoke emissions in smoke control area) if he is satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.
- (A2) An exemption under subsection (A1) may be made subject to such conditions as the Secretary of State considers appropriate.
- (A3) The Secretary of State must—
- (a) publish a list of those classes of fireplace that are exempt under subsection (A1) including details of any conditions to which an exemption is subject;
  - (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to the classes of fireplace that are so exempt or to the conditions to which an exemption is subject.
- (A4) The list must be published in such manner as the Secretary of State considers appropriate.”
- (5) In that section as it applies in relation to England and Wales, the existing text becomes subsection (5) and in that subsection, for “ The ” substitute “ Except where subsection (A1) applies, the ”.
- (6) In the sidenote to that section, omit “by order”.
- (7) In section 29 (interpretation of Part 3), in the definition of “authorised fuel”, for “20(6)” substitute “ 20 ”.

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VALID FROM 26/05/2015

## 16 Sellers of knitting yarn

- (1) The Weights and Measures (Knitting Yarns) Order 1988 (S.I. 1988/895) (quantities in which yarn is to be sold) is revoked.
- (2) In consequence of subsection (1), in the Weights and Measures (Specified Quantities) (Pre-packed Products) Regulations 2009 (S.I. 2009/663), omit regulation 3.

VALID FROM 01/10/2015

### *Companies and insolvency*

## 17 Authorisation of insolvency practitioners

- (1) Part 13 of the Insolvency Act 1986 (insolvency practitioners and their qualification) is amended in accordance with subsections (2) to (4).
- (2) In section 390 (persons not qualified to act as insolvency practitioners), for subsection (2) substitute—
  - “(2) A person is not qualified to act as an insolvency practitioner at any time unless at that time the person is appropriately authorised under section 390A.”
- (3) After section 390 insert—

### “390A Authorisation

- (1) In this Part—
  - “partial authorisation” means authorisation to act as an insolvency practitioner—
    - (a) only in relation to companies, or
    - (b) only in relation to individuals;
  - “full authorisation” means authorisation to act as an insolvency practitioner in relation to companies, individuals and insolvent partnerships;
  - “partially authorised” and “fully authorised” are to be construed accordingly.
- (2) A person is fully authorised under this section to act as an insolvency practitioner—
  - (a) by virtue of being a member of a professional body recognised under section 391(1) and being permitted to act as an insolvency practitioner for all purposes by or under the rules of that body, or
  - (b) by holding an authorisation granted by the Department of Enterprise, Trade and Investment in Northern Ireland under Article 352 of the Insolvency (Northern Ireland) Order 1989.

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- (3) A person is partially authorised under this section to act as an insolvency practitioner—
- (a) by virtue of being a member of a professional body recognised under section 391(1) and being permitted to act as an insolvency practitioner in relation only to companies or only to individuals by or under the rules of that body, or
  - (b) by virtue of being a member of a professional body recognised under section 391(2) and being permitted to act as an insolvency practitioner by or under the rules of that body.

### **390B Partial authorisation: acting in relation to partnerships**

- (1) A person who is partially authorised to act as an insolvency practitioner in relation to companies may nonetheless not accept an appointment to act in relation to a company if at the time of the appointment the person is aware that the company—
- (a) is or was a member of a partnership, and
  - (b) has outstanding liabilities in relation to the partnership.
- (2) A person who is partially authorised to act as an insolvency practitioner in relation to individuals may nonetheless not accept an appointment to act in relation to an individual if at the time of the appointment the person is aware that the individual—
- (a) is or was a member of a partnership other than a Scottish partnership, and
  - (b) has outstanding liabilities in relation to the partnership.
- (3) Subject to subsection (9), a person who is partially authorised to act as an insolvency practitioner in relation to companies may nonetheless not continue to act in relation to a company if the person becomes aware that the company—
- (a) is or was a member of a partnership, and
  - (b) has outstanding liabilities in relation to the partnership,
- unless the person is granted permission to continue to act by the court.
- (4) Subject to subsection (9), a person who is partially authorised to act as an insolvency practitioner in relation to individuals may nonetheless not continue to act in relation to an individual if the person becomes aware that the individual—
- (a) is or was a member of a partnership other than a Scottish partnership, and
  - (b) has outstanding liabilities in relation to the partnership,
- unless the person is granted permission to continue to act by the court.
- (5) The court may grant a person permission to continue to act for the purposes of subsection (3) or (4) if it is satisfied that the person is competent to do so.
- (6) A person who is partially authorised and becomes aware as mentioned in subsection (3) or (4) may alternatively apply to the court for an order (a “replacement order”) appointing in his or her place a person who is fully

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authorised to act as an insolvency practitioner in relation to the company or (as the case may be) the individual.

- (7) A person may apply to the court for permission to continue to act or for a replacement order under—
- (a) where acting in relation to a company, this section or, if it applies, section 168(5B) (member of insolvent partnership: England and Wales);
  - (b) where acting in relation to an individual, this section or, if it applies, section 303(2C) (member of insolvent partnership: England and Wales).
- (8) A person who acts as an insolvency practitioner in contravention of any of subsections (1) to (4) is guilty of an offence under section 389 (acting without qualification).
- (9) A person does not contravene subsection (3) or (4) by continuing to act as an insolvency practitioner during the permitted period if, within the period of 7 business days beginning with the day after the day on which the person becomes aware as mentioned in the subsection, the person—
- (a) applies to the court for permission to continue to act, or
  - (b) applies to the court for a replacement order.
- (10) For the purposes of subsection (9)—
- “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of Great Britain;
  - “permitted period” means the period beginning with the day on which the person became aware as mentioned in subsection (3) or (4) and ending on the earlier of—
    - (a) the expiry of the period of 6 weeks beginning with the day on which the person applies to the court as mentioned in subsection (9)(a) or (b), and
    - (b) the day on which the court disposes of the application (by granting or refusing it);
  - “replacement order” has the meaning given by subsection (6).”
- (4) For section 391 (recognised professional bodies) substitute—

**“391 Recognised professional bodies**

- (1) The Secretary of State may by order declare a body which appears to the Secretary of State to meet the requirements of subsection (4) to be a recognised professional body which is capable of providing its insolvency specialist members with full authorisation or partial authorisation.
- (2) The Secretary of State may by order declare a body which appears to the Secretary of State to meet the requirements of subsection (4) to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only.
- (3) An order under subsection (2) must state whether the partial authorisation relates to companies or to individuals.



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- (4) The requirements are that the body—
- (a) regulates the practice of a profession, and
  - (b) maintains and enforces rules for securing that its insolvency specialist members—
    - (i) are fit and proper persons to act as insolvency practitioners, and
    - (ii) meet acceptable requirements as to education and practical training and experience.
- (5) The Secretary of State may make an order revoking an order under subsection (1) or (2) in relation to a professional body if it appears to the Secretary of State that the body no longer meets the requirements of subsection (4).
- (6) The Secretary of State may make an order revoking an order under subsection (1) and replacing it with an order under subsection (2) in relation to a professional body if it appears to the Secretary of State that the body is capable of providing its insolvency specialist members with partial authorisation only.
- (7) An order of the Secretary of State under this section has effect from such date as is specified in the order.
- (8) An order revoking an order made under subsection (1) or (2) may make provision whereby members of the body in question continue to be treated as fully or partially authorised to act as insolvency practitioners (as the case may be) for a specified period after the revocation takes effect.
- (9) In this section—
- (a) references to members of a recognised professional body are to persons who, whether members of that body or not, are subject to its rules in the practice of the profession in question (and the references in section 390A to members of a recognised professional body are to be read accordingly);
  - (b) references to insolvency specialist members of a professional body are to members who are permitted by or under the rules of the body to act as insolvency practitioners.”
- (5) In section 415A of the Insolvency Act 1986 (fees orders (general))—
- (a) in subsection (1) (fees for grant or maintenance of recognition of professional body), in paragraph (b) (power to refuse recognition, or revoke order of recognition, where fee not paid), after “391(1)” insert “ or (2) ”;
  - (b) after subsection (1) (fees for grant or maintenance of recognition of professional body) insert—
 

“(1A) Fees under subsection (1) may vary according to whether the body is recognised under section 391(1) (body providing full and partial authorisation) or under section 391(2) (body providing partial authorisation).”
- (6) An order under section 391(1) of the Insolvency Act 1986 (recognised professional bodies) made before the coming into force of this section is, following the coming

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into force of this section, to be treated as if it were made under section 391(1) as substituted by subsection (4) of this section.

## **18 Auditors ceasing to hold office**

(1) Chapter 4 of Part 16 of the Companies Act 2006 (audit: removal, resignation, etc of auditors) is amended as follows.

(2) In section 519 (statement by auditor to be deposited with company on ceasing to hold office), for subsections (1) to (3) substitute—

“(1) An auditor of a public interest company who is ceasing to hold office (at any time and for any reason) must send to the company a statement of the reasons for doing so.

(2) An auditor (“A”) of a non-public interest company who is ceasing to hold office must send to the company a statement of the reasons for doing so unless A satisfies the first or second condition.

(2A) The first condition is that A is ceasing to hold office—

- (a) in the case of a private company, at the end of a period for appointing auditors;
- (b) in the case of a public company, at the end of an accounts meeting.

(2B) The second condition is that—

- (a) A's reasons for ceasing to hold office are all exempt reasons (as to which see section 519A(3)), and
- (b) there are no matters connected with A's ceasing to hold office that A considers need to be brought to the attention of members or creditors of the company.

(3) A statement under this section must include—

- (a) the auditor's name and address;
- (b) the number allocated to the auditor on being entered in the register of auditors kept under section 1239;
- (c) the company's name and registered number.

(3A) Where there are matters connected with an auditor's ceasing to hold office that the auditor considers need to be brought to the attention of members or creditors of the company, the statement under this section must include details of those matters.

(3B) Where—

- (a) an auditor (“A”) of a non-public interest company is required by subsection (2) to send a statement, and
- (b) A considers that none of the reasons for A's ceasing to hold office, and no matters (if any) connected with A's ceasing to hold office, need to be brought to the attention of members or creditors of the company,

A's statement under this section must include a statement to that effect.”

(3) After section 519 insert—

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### **“519A Meaning of “public interest company”, “non-public interest company” and “exempt reasons”**

- (1) In this Chapter—
- “public interest company” means a company—
- (a) any of whose transferable securities are included in the official list (within the meaning of Part 6 of the Financial Services and Markets Act 2000), or
  - (b) any of whose equity share capital is officially listed in an EEA state;
- “non-public interest company” means a company that is not a public interest company.
- (2) For the purposes of the definition of “public interest company”, “transferable securities” means anything which is a transferable security for the purposes of Directive [2004/39/EC](#) of the European Parliament and of the Council on markets in financial instruments.
- (3) In the application of this Chapter to an auditor (“A”) of a company ceasing to hold office, the following are “exempt reasons”—
- (a) A is no longer to carry out statutory audit work within the meaning of Part 42 (see section 1210(1));
  - (b) the company is, or is to become, exempt from audit under section 477, 479A or 480, or from the requirements of this Part under section 482, and intends to include in its balance sheet a statement of the type described in section 475(2);
  - (c) the company is a subsidiary undertaking of a parent undertaking that is incorporated in the United Kingdom and—
    - (i) the parent undertaking prepares group accounts, and
    - (ii) A is being replaced as auditor of the company by the auditor who is conducting, or is to conduct, an audit of the group accounts;
  - (d) the company is being wound up under Part 4 of the Insolvency Act 1986 or Part 5 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), whether voluntarily or by the court, or a petition under Part 4 of that Act or Part 5 of that Order for the winding up of the company has been presented and not finally dealt with or withdrawn.
- (4) But the reason described in subsection (3)(c) is only an exempt reason if the auditor who is conducting, or is to conduct, an audit of the group accounts is also conducting, or is also to conduct, the audit (if any) of the accounts of each of the subsidiary undertakings (of the parent undertaking) that is incorporated in the United Kingdom and included in the consolidation.
- (5) The Secretary of State may by order amend the definition of “public interest company” in subsection (1).
- (6) An order under subsection (5) is subject to negative resolution procedure.”
- (4) In section 523 (duty of company to notify appropriate audit authority), for subsections (1) to (3) substitute—

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- “(1) This section applies if an auditor is ceasing to hold office—
- (a) in the case of a private company, at any time other than at the end of a period for appointing auditors;
  - (b) in the case of a public company, at any time other than at the end of an accounts meeting.
- (1A) But this section does not apply if the company reasonably believes that the only reasons for the auditor's ceasing to hold office are exempt reasons (as to which see section 519A(3)).
- (2) Where this section applies, the company must give notice to the appropriate audit authority that the auditor is ceasing to hold office.
- (2A) The notice is to take the form of a statement by the company of what the company believes to be the reasons for the auditor's ceasing to hold office and must include the information listed in section 519(3).
- This is subject to subsection (2C).
- (2B) Subsection (2C) applies where—
- (a) the company receives a statement from the auditor under section 519,
  - (b) the statement is sent at the time required by section 519(4), and
  - (c) the company agrees with the contents of the statement.
- (2C) Where this subsection applies, the notice may instead take the form of a copy of the statement endorsed by the company to the effect that it agrees with the contents of the statement.
- (3) A notice under this section must be given within the period of 28 days beginning with the day on which the auditor ceases to hold office.”
- (5) Schedule 5 (auditors ceasing to hold office) makes provision about the following matters—
- (a) the notification requirements that apply on an auditor ceasing to hold office;
  - (b) the requirements that apply if there is a failure to re-appoint an auditor;
  - (c) the replacement of references to documents being deposited at a company's registered office.

## **19 Insolvency and company law: miscellaneous**

Schedule 6 makes provision about the following matters—

- (a) deeds of arrangement;
- (b) administration and winding up of companies;
- (c) disqualification of unfit directors of insolvent companies;
- (d) bankruptcy;
- (e) insolvency practitioners;
- (f) liabilities of administrators etc and preferential debts;
- (g) appointment of proxies under company law.

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## Use of land

PROSPECTIVE

### 20 Recorded rights of way: additional protection

In the Countryside and Rights of Way Act 2000, after section 55 (bridleway rights over ways shown as bridleways) insert—

#### “55A Other protected rights: England

- (1) A surveying authority in England may not, at any time after the cut-off date, make a modification to a definitive map and statement under section 53(2)(b) of the Wildlife and Countryside Act 1981 if—
  - (a) the modification might affect the exercise of a protected right of way, and
  - (b) the only basis for the authority considering that the modification is requisite is the discovery by the authority of evidence that the right of way did not exist before 1 January 1949.
- (2) In subsection (1), “protected right of way” means any right of way over land shown in the definitive map and statement on the cut-off date as a footpath, bridleway, restricted byway or byway open to all traffic.
- (3) In this section, “cut-off date” has the meaning given in section 56.”

PROSPECTIVE

### 21 Unrecorded rights of way: protection from extinguishment

In the Countryside and Rights of Way Act 2000, after section 56 (cut-off date for extinguishment of certain unrecorded rights of way) insert—

#### “56A Unrecorded rights of way: protection from extinguishment

- (1) The provision that may be made by regulations under section 56(2) by the Secretary of State includes—
  - (a) provision enabling a surveying authority to designate, at any time during the period of one year beginning with the cut-off date, public rights of way in their area that were extinguished immediately after that date, subject to any conditions or exceptions specified in the regulations;
  - (b) provision for a designated right of way to cease to be regarded as extinguished as from the time of the designation;
  - (c) provision requiring a surveying authority to determine, within a period specified in the regulations, whether to make an order under section 53(2) of the 1981 Act making modifications to a definitive map and statement to show a designated right of way;

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- (d) provision as to the procedure applicable in relation to such a determination, including provision for an application to be made to a magistrates' court where a surveying authority fails to make the determination within a period specified in the regulations;
  - (e) provision for a designated right of way to be extinguished if a surveying authority determines not to make an order under section 53(2) of the 1981 Act or if such an order is made but is not confirmed or is quashed, subject to any exceptions specified in the regulations;
  - (f) provision requiring a surveying authority to keep such information as may be specified in the regulations about designated rights of way in a separate part of the register maintained by them under section 53B of the 1981 Act.
- (2) The provision that may be made by virtue of subsection (1)(d) includes provision applying Schedule 14A to the 1981 Act, subject to such modifications as may be specified in the regulations.
- (3) Regulations under section 56(2) made by the Secretary of State may also provide—
- (a) that an enactment specified in the regulations which would otherwise apply in relation to a designated right of way does not so apply, or so applies with modifications specified in the regulations, in relation to times during the designation period (see subsection (4) below);
  - (b) where an order under section 53(2) of the 1981 Act making modifications to a definitive map and statement to show a designated right of way takes effect, that the modifications are to be treated, for the purposes of section 55A, as having taken effect immediately before the cut-off date.
- (4) In subsection (3)(a), “the designation period” means the period which—
- (a) begins when the right of way is designated, and
  - (b) ends when—
    - (i) an order under section 53(2) of the 1981 Act making modifications to a definitive map and statement to show the right of way takes effect, or
    - (ii) if no such order is made, the right of way is extinguished in accordance with the regulations.
- (5) In this section—
- “cut-off date” has the meaning given in section 56;
  - “enactment” means a provision of an Act or of subordinate legislation (within the meaning of the Interpretation Act 1978).”

PROSPECTIVE

## 22 Conversion of public rights of way to private rights of way

- (1) In the Countryside and Rights of Way Act 2000, after section 56A (as inserted by section 21) insert—



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### **“56B Conversion of certain public rights of way to private rights of way**

- (1) This section applies where—
  - (a) a public right of way over land in England would be extinguished under section 53 immediately after the cut-off date, and
  - (b) on the cut-off date, the exercise of the right of way—
    - (i) is reasonably necessary to enable a person with an interest in land to obtain access to it, or
    - (ii) would have been reasonably necessary to enable that person to obtain access to a part of that land if the person had an interest in that part only.
- (2) The public right of way becomes, immediately after the cut-off date, a private right of way of the same description for the benefit of the land or (as the case may be) the part of the land.
- (3) For the purposes of subsection (1)(b), it is irrelevant whether the person is, on the cut-off date, in fact—
  - (a) exercising the existing public right of way, or
  - (b) able to exercise it.
- (4) In this section, “cut-off date” has the meaning given in section 56.”

- (2) In consequence of the amendments made by sections 20 and 21 and this section, in section 56 of the 2000 Act, in subsection (1), for “sections 53 and 55” substitute “sections 53, 55, 55A, 56A and 56B”.

PROSPECTIVE

### **23 Applications by owners etc for public path orders**

- (1) The Highways Act 1980 is amended as follows.
- (2) In section 118ZA(1) (which makes provision for owners, lessees or occupiers of certain land to be able to apply for a public path extinguishment order), after “horses” insert “, or of any land in England of a prescribed description,”.
- (3) In section 119ZA(1) (which makes provision for owners, lessees or occupiers of certain land to be able to apply for a public path diversion order), after “horses” insert “, or of any land in England of a prescribed description,”.
- (4) In section 121E(1) (which specifies the duties of the Secretary of State on certain appeals relating to the extinguishment or diversion of public paths), after “section 121D(1)(a) above,” insert “ in relation to an application made under section 118C or 119C above or an application made under section 118ZA or 119ZA above to a council in Wales,”.
- (5) After section 121E(1) insert—
  - “(1A) Where an appeal to the Secretary of State is brought under section 121D(1) (a) above, in relation to an application made under section 118ZA or 119ZA above to a council in England, the Secretary of State shall either—



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- (a) determine not to make an order on the application, or
- (b) take the steps mentioned in subsection (1)(a) to (c).

(1B) Where the Secretary of State determines under subsection (1A)(a) not to make an order, the Secretary of State shall inform the applicant of the decision and the reasons for it.”

(6) In Schedule 6, in paragraph 2A(1)(b), after “section 121E(1)(c)” insert “ or (1A)(a) ”.

PROSPECTIVE

## 24 Extension of powers to authorise erection of gates at owner's request

(1) Section 147 of the Highways Act 1980 (which allows highway authorities etc to authorise the erection of stiles and gates etc on footpaths or bridleways crossing agricultural land) is amended as follows.

(2) In subsection (1), after “For the purposes of this section” insert “ as it applies in relation to footpaths or bridleways, ”.

(3) After subsection (1) insert—

“(1A) The following provisions of this section, so far as relating to the erection of gates, also apply where the owner, lessee or occupier of agricultural land in England, or of land in England which is being brought into use for agriculture, represents to a competent authority in England, as respects a restricted byway or byway open to all traffic that crosses the land, that for securing that the use, or any particular use, of the land for agriculture shall be efficiently carried on, it is expedient that gates for preventing the ingress or egress of animals should be erected on the byway.

For the purposes of this section the following are competent authorities—

- (a) in the case of a restricted byway which is for the time being maintained by a non-metropolitan district council by virtue of section 42 above, that council and also the highway authority; and
- (b) in the case of any other restricted byway or in the case of a byway open to all traffic, the highway authority.”

(4) In subsection (3), for “footpath or bridleway” substitute “ footpath, bridleway or byway ”.

(5) After subsection (5) insert—

“(5A) In this section, “byway open to all traffic” has the same meaning as in Part 3 of the Wildlife and Countryside Act 1981 (see section 66(1) of that Act).”

(6) In consequence of the amendments made by this section to section 147, section 146 of the 1980 Act is amended as follows—

- (a) in subsection (1), after “restricted byway” (in the first place it occurs) insert “ or across a byway open to all traffic in England ”;
- (b) in that subsection, for “or restricted byway” (in the second place it occurs) substitute “ , restricted byway or byway open to all traffic ”;

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- (c) in subsection (2)(b), after “restricted byway” insert “ or in the case of a byway open to all traffic ”;
- (d) after subsection (5) insert—
  - “(6) In this section, “byway open to all traffic” has the same meaning as in Part 3 of the Wildlife and Countryside Act 1981 (see section 66(1) of that Act).”;
- (e) in the heading to the section, for “restricted byways” substitute “ byways ”.

PROSPECTIVE

## 25 Applications for certain orders under Highways Act 1980: cost recovery

- (1) The Highways Act 1980 is amended as follows.
- (2) In section 118ZA(3) (which deals with the making of regulations imposing charges in connection with applications by owners etc for a public path extinguishment order), in paragraph (a), after “this section” insert “ to a council in Wales ”.
- (3) In section 119ZA(5) (which deals with the making of regulations imposing charges in connection with applications by owners etc for a public path diversion order), in paragraph (a), after “this section” insert “ to a council in Wales ”.
- (4) In section 121A(1) (which confers power to make regulations about applications for public path extinguishment and diversion orders), in paragraph (f), for “prescribed charge” substitute “ charge prescribed under the section ”.
- (5) In section 121E(8) (which makes provision about what may be included in regulations about appeals under section 121D(1)), in paragraph (j), for “prescribed charge” substitute “ charge prescribed under section 118ZA(3) or 119ZA(5) ”.
- (6) In Part 1 of Schedule 6 (procedure for making and confirming certain orders relating to footpaths, bridleways and restricted byways), in paragraph 2B (which makes supplemental provision about hearings held under paragraph 2 of the Schedule), after sub-paragraph (3) insert—
  - “(4) For the purposes of sub-paragraph (1) as it applies in relation to section 250(4) of the Local Government Act 1972, the consideration by a person appointed as mentioned in sub-paragraph (2)(b), (2A)(b), (3)(b) or (5) of paragraph 2 of any representations or objections about an order relating to land in England is to be treated as a hearing which the Secretary of State has caused to be held under that paragraph.”

PROSPECTIVE

## 26 Public rights of way: procedure

- (1) Schedule 7 makes changes to the law about the ascertainment of public rights of way in England and the making and confirmation of orders relating to such rights.
- (2) Part 1 of the Schedule amends Part 3 of the Wildlife and Countryside Act 1981 (“the 1981 Act”) so as to—

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- (a) alter the test that applies where a local authority is deciding whether to modify a definitive map and statement on the basis of evidence relating to the existence of a right of way not currently shown on the map;
  - (b) enable regulations to be made to simplify the procedure that applies where a modification of a definitive map and statement is needed because of an administrative error;
  - (c) enable regulations to be made so that applications made to a local authority seeking a modification of a definitive map and statement do not need to be included in the register of applications unless the authority have given notice that there is a reasonable basis for the applicant's belief that the map should be modified;
  - (d) facilitate the making of modifications of a definitive map and statement by consent in cases based on documentary evidence of the existence of a right of way before 1949.
- (3) Part 2 of the Schedule inserts a new Schedule 13A in Part 3 of the 1981 Act, which sets out an amended procedure that applies in relation to the making and determination of applications to a local authority in England for a modification of a definitive map and statement.
- (4) Part 3 of the Schedule inserts a new Schedule 14A in Part 3 of the 1981 Act, which sets out an amended procedure that applies in relation to the making and confirmation of orders making modifications of a definitive map and statement.
- (5) Part 4 of the Schedule amends Schedule 6 to the Highways Act 1980 so as to make changes to the procedure for the making and confirmation of public path creation orders and certain other orders relating to public paths in England.
- (6) Part 5 of the Schedule makes amendments that are consequential on the other Parts.
- (7) The Secretary of State may by regulations make provision for an amendment made by paragraph 5 of Part 1 or by Part 2 or 3 of Schedule 7 to apply, in relation to applications for an order under section 53(2) of the 1981 Act that are made before the amendment comes into force, with modifications specified in the regulations.
- (8) Regulations under subsection (7) may make different provision for different purposes.
- (9) Regulations under subsection (7) must be made by statutory instrument.
- (10) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament.

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#### **Extent Information**

**E1** S. 26(1)-(6) extends to England and Wales and Scotland; s. 26(7)-(10) extends to England and Wales only

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VALID FROM 26/05/2015

**27 Erection of public statues (London): removal of consent requirement**

In the Public Statues (Metropolis) Act 1854, omit section 5 (which requires the consent of the Secretary of State to the erection of public statues in London).

*Housing and development*

VALID FROM 26/05/2015

**28 Reduction of qualifying period for right to buy**

- (1) The Housing Act 1985 is amended as follows.
- (2) In section 119 (which sets out the qualifying period for the right to buy), before subsection (1) insert—
  - “(A1) In the application of this Part to England, the right to buy does not arise unless the period which, in accordance with Schedule 4, is to be taken into account for the purposes of this section is at least three years.”
- (3) In subsection (1), at the beginning insert “ In the application of this Part to Wales, ”.
- (4) In subsection (2), after “subsection” insert “ (A1) or ”.

VALID FROM 26/05/2015

**29 Removal of power to require preparation of housing strategies**

- (1) Section 87 of the Local Government Act 2003 (which confers power on the Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, to require local housing authorities to have housing strategies and to prepare housing statements) ceases to have effect in relation to England.
- (2) Accordingly, that section is amended as follows.
- (3) In subsection (1)—
  - (a) in the opening words, for “The appropriate person” substitute “ The Welsh Ministers ”;
  - (b) in paragraph (a)—
    - (i) after “a local housing authority” insert “ in Wales ”;
    - (ii) for “the appropriate person” substitute “ the Welsh Ministers ”.
- (4) In subsection (2)—
  - (a) for “The appropriate person” substitute “ The Welsh Ministers ”;
  - (b) after “a local housing authority” insert “ in Wales ”;
  - (c) for “the appropriate person” (in each place where it occurs) substitute “ the Welsh Ministers ”.

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- (5) In subsection (3)—
- (a) in the opening words, for “The appropriate person” substitute “ The Welsh Ministers ”;
  - (b) in paragraph (c), for “the appropriate person” substitute “ the Welsh Ministers ”.
- (6) In consequence of the amendments made by this section to section 87 of the 2003 Act—
- (a) in section 88(2) of that Act, in paragraph (a), after “an authority” insert “ in Wales ”;
  - (b) in section 333D(3) of the Greater London Authority Act 1999, in the definition of “local housing strategy”—
    - (i) omit paragraph (a);
    - (ii) in paragraph (b), omit “other”.

### **30 Tenancy deposits: provision of information by agents**

- (1) The Housing (Tenancy Deposits) (Prescribed Information) Order 2007 (S.I. 2007/797) is amended as follows.
- (2) In article 2 (prescribed information relating to tenancy deposits), after paragraph (2) insert—
- “(3) In a case where the initial requirements of an authorised scheme have been complied with in relation to the deposit by a person (“the initial agent”) acting on the landlord's behalf in relation to the tenancy—
- (a) references in paragraph (1)(b), (g)(iii) and (vii) to the landlord are to be read as references to either the landlord or the initial agent;
  - (b) references in paragraphs (1)(d), (e), (g)(iv) and (vi) and (2) to the landlord are to be read as references to either the landlord or a person who acts on the landlord's behalf in relation to the tenancy.
- (4) In any other case, references in paragraphs (1)(d), (e), (g)(iv) and (vi) and (2) to the landlord are to be read as references to either the landlord or a person who acts on the landlord's behalf in relation to the tenancy.
- (5) Section 212(9)(a) of the Act (references to landlord include persons acting on landlord's behalf) does not apply for the purposes of this article.”
- (3) After article 2 insert—

#### **“3 Article 2(3) to (5): transitional provisions**

- (1) Paragraphs (3) to (5) of article 2 are treated as having had effect since 6th April 2007, subject to the following provisions of this article.
- (2) Paragraphs (3) to (5) of article 2 do not have effect in relation to—
- (a) a claim under section 214 of the Act or section 21 of the Housing Act 1988 in respect of a tenancy which is settled before the commencement date (whether or not proceedings in relation to the claim have been instituted), or

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- (b) proceedings under either of those sections in respect of a tenancy which have been finally determined before the commencement date.
- (3) Paragraph (5) applies in respect of a tenancy if—
- (a) proceedings under section 214 of the Act in respect of the tenancy have been instituted before the commencement date but have not been settled or finally determined before that date, and
  - (b) because of paragraphs (3) to (5) of article 2, the court decides—
    - (i) not to make an order under section 214(4) of that Act in respect of the tenancy, or
    - (ii) to allow an appeal by the landlord against such an order.
- (4) Paragraph (5) also applies in respect of a tenancy if—
- (a) proceedings for possession under section 21 of the Housing Act 1988 in respect of the tenancy have been instituted before the commencement date but have not been settled or finally determined before that date, and
  - (b) because of paragraphs (3) to (5) of article 2, the court decides—
    - (i) to make an order for possession under that section in respect of the tenancy, or
    - (ii) to allow an appeal by the landlord against a refusal to make such an order.
- (5) Where this paragraph applies, the court must not order the tenant or any relevant person (as defined by section 213(10) of the Act) to pay the landlord's costs, to the extent that the court reasonably considers those costs are attributable to the proceedings under section 214 of the Act or (as the case may be) section 21 of the Housing Act 1988.
- (6) Proceedings have been “finally determined” for the purposes of this article if—
- (a) they have been determined by a court, and
  - (b) there is no further right to appeal against the determination.
- (7) There is no further right to appeal against a court determination if there is no right to appeal against the determination, or there is such a right but—
- (a) the time limit for making an appeal has expired without an appeal being brought, or
  - (b) an appeal brought within that time limit has been withdrawn.
- (8) In this article “the commencement date” means the date on which the Deregulation Act 2015 is passed.”
- (4) The amendments made by this section to the Housing (Tenancy Deposits) (Prescribed Information) Order 2007 (S.I. 2007/797) do not affect a power to use subordinate legislation to amend or revoke that Order.
- (5) In subsection (4), “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

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### 31 Tenancy deposits: non-compliance with requirements

- (1) Chapter 4 of Part 6 of the Housing Act 2004 (Tenancy Deposit Schemes) is amended as follows.
- (2) In section 214 (proceedings relating to tenancy deposits), in subsection (1), after “shorthold tenancy” insert “ on or after 6 April 2007 ”.
- (3) In section 215 (sanctions for non-compliance)—
  - (a) for subsection (1) substitute—
    - “(1) Subject to subsection (2A), if (whether before, on or after 6 April 2007) a tenancy deposit has been paid in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy at a time when the deposit is not being held in accordance with an authorised scheme.
    - (1A) Subject to subsection (2A), if a tenancy deposit has been paid in connection with a shorthold tenancy on or after 6 April 2007, no section 21 notice may be given in relation to the tenancy at a time when section 213(3) has not been complied with in relation to the deposit.”;
  - (b) in subsection (2A), after “Subsections (1)” insert “, (1A) ”.

### 32 Tenancy deposits: deemed compliance with requirements

In Chapter 4 of Part 6 of the Housing Act 2004 (Tenancy Deposit Schemes), after section 215 insert—

#### “215A Statutory periodic tenancies: deposit received before 6 April 2007

- (1) This section applies where—
  - (a) before 6 April 2007, a tenancy deposit has been received by a landlord in connection with a fixed term shorthold tenancy,
  - (b) on or after that date, a periodic shorthold tenancy is deemed to arise under section 5 of the Housing Act 1988 on the coming to an end of the fixed term tenancy,
  - (c) on the coming to an end of the fixed term tenancy, all or part of the deposit paid in connection with the fixed term tenancy is held in connection with the periodic tenancy, and
  - (d) the requirements of section 213(3), (5) and (6) have not been complied with by the landlord in relation to the deposit held in connection with the periodic tenancy.
- (2) If, on the commencement date—
  - (a) the periodic tenancy is in existence, and
  - (b) all or part of the deposit paid in connection with the fixed term tenancy continues to be held in connection with the periodic tenancy,section 213 applies in respect of the deposit that continues to be held in connection with the periodic tenancy, and any additional deposit held in connection with that tenancy, with the modifications set out in subsection (3).



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- (3) The modifications are that, instead of the things referred to in section 213(3) and (5) being required to be done within the time periods set out in section 213(3) and (6)(b), those things are required to be done—
- (a) before the end of the period of 90 days beginning with the commencement date, or
  - (b) (if earlier) before the first day after the commencement date on which a court does any of the following in respect of the periodic tenancy—
    - (i) determines an application under section 214 or decides an appeal against a determination under that section;
    - (ii) makes a determination as to whether to make an order for possession in proceedings under section 21 of the Housing Act 1988 or decides an appeal against such a determination.
- (4) If, on the commencement date—
- (a) the periodic tenancy is no longer in existence, or
  - (b) no deposit continues to be held in connection with the periodic tenancy, the requirements of section 213(3), (5) and (6) are treated as if they had been complied with by the landlord in relation to any deposit that was held in connection with the periodic tenancy.
- (5) In this section “the commencement date” means the date on which the Deregulation Act 2015 is passed.

#### **215B Shorthold tenancies: deposit received on or after 6 April 2007**

- (1) This section applies where—
- (a) on or after 6 April 2007, a tenancy deposit has been received by a landlord in connection with a shorthold tenancy (“the original tenancy”),
  - (b) the initial requirements of an authorised scheme have been complied with by the landlord in relation to the deposit (ignoring any requirement to take particular steps within any specified period),
  - (c) the requirements of section 213(5) and (6)(a) have been complied with by the landlord in relation to the deposit when it is held in connection with the original tenancy (ignoring any deemed compliance under section 215A(4)),
  - (d) a new shorthold tenancy comes into being on the coming to an end of the original tenancy or a tenancy that replaces the original tenancy (directly or indirectly),
  - (e) the new tenancy replaces the original tenancy (directly or indirectly), and
  - (f) when the new tenancy comes into being, the deposit continues to be held in connection with the new tenancy, in accordance with the same authorised scheme as when the requirements of section 213(5) and (6) were last complied with by the landlord in relation to the deposit.
- (2) In their application to the new tenancy, the requirements of section 213(3), (5) and (6) are treated as if they had been complied with by the landlord in relation to the deposit.

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- (3) The condition in subsection (1)(a) may be met in respect of a tenancy even if the tenancy deposit was first received in connection with an earlier tenancy (including where it was first received before 6 April 2007).
- (4) For the purposes of this section, a tenancy replaces an earlier tenancy if—
  - (a) the landlord and tenant immediately before the coming to an end of the earlier tenancy are the same as the landlord and tenant at the start of the new tenancy, and
  - (b) the premises let under both tenancies are the same or substantially the same.

### **215C Sections 215A and 215B: transitional provisions**

- (1) Sections 215A and 215B are treated as having had effect since 6 April 2007, subject to the following provisions of this section.
- (2) Sections 215A and 215B do not have effect in relation to—
  - (a) a claim under section 214 of this Act or section 21 of the Housing Act 1988 in respect of a tenancy which is settled before the commencement date (whether or not proceedings in relation to the claim have been instituted), or
  - (b) proceedings under either of those sections in respect of a tenancy which have been finally determined before the commencement date.
- (3) Subsection (5) applies in respect of a tenancy if—
  - (a) proceedings under section 214 in respect of the tenancy have been instituted before the commencement date but have not been settled or finally determined before that date, and
  - (b) because of section 215A(4) or 215B(2), the court decides—
    - (i) not to make an order under section 214(4) in respect of the tenancy, or
    - (ii) to allow an appeal by the landlord against such an order.
- (4) Subsection (5) also applies in respect of a tenancy if—
  - (a) proceedings for possession under section 21 of the Housing Act 1988 in respect of the tenancy have been instituted before the commencement date but have not been settled or finally determined before that date, and
  - (b) because of section 215A(4) or 215B(2), the court decides—
    - (i) to make an order for possession under that section in respect of the tenancy, or
    - (ii) to allow an appeal by the landlord against a refusal to make such an order.
- (5) Where this subsection applies, the court must not order the tenant or any relevant person (as defined by section 213(10)) to pay the landlord's costs, to the extent that the court reasonably considers those costs are attributable to the proceedings under section 214 of this Act or (as the case may be) section 21 of the Housing Act 1988.
- (6) Proceedings have been “finally determined” for the purposes of this section if —

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- (a) they have been determined by a court, and
  - (b) there is no further right to appeal against the determination.
- (7) There is no further right to appeal against a court determination if there is no right to appeal against the determination, or there is such a right but—
- (a) the time limit for making an appeal has expired without an appeal being brought, or
  - (b) an appeal brought within that time limit has been withdrawn.
- (8) In this section “the commencement date” means the date on which the Deregulation Act 2015 is passed.”

VALID FROM 01/10/2015

### 33 Preventing retaliatory eviction

- (1) Where a relevant notice is served in relation to a dwelling-house in England, a section 21 notice may not be given in relation to an assured shorthold tenancy of the dwelling-house—
- (a) within six months beginning with the day of service of the relevant notice, or
  - (b) where the operation of the relevant notice has been suspended, within six months beginning with the day on which the suspension ends.
- (2) A section 21 notice given in relation to an assured shorthold tenancy of a dwelling-house in England is invalid where—
- (a) before the section 21 notice was given, the tenant made a complaint in writing to the landlord regarding the condition of the dwelling-house at the time of the complaint,
  - (b) the landlord—
    - (i) did not provide a response to the complaint within 14 days beginning with the day on which the complaint was given,
    - (ii) provided a response to the complaint that was not an adequate response, or
    - (iii) gave a section 21 notice in relation to the dwelling-house following the complaint,
  - (c) the tenant then made a complaint to the relevant local housing authority about the same, or substantially the same, subject matter as the complaint to the landlord,
  - (d) the relevant local housing authority served a relevant notice in relation to the dwelling-house in response to the complaint, and
  - (e) if the section 21 notice was not given before the tenant's complaint to the local housing authority, it was given before the service of the relevant notice.
- (3) The reference in subsection (2) to an adequate response by the landlord is to a response in writing which—
- (a) provides a description of the action that the landlord proposes to take to address the complaint, and
  - (b) sets out a reasonable timescale within which that action will be taken.

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- (4) Subsection (2) applies despite the requirement in paragraph (a) for a complaint to be in writing not having been met where the tenant does not know the landlord's postal or e-mail address.
- (5) Subsection (2) applies despite the requirements in paragraphs (a) and (b) not having been met where the tenant made reasonable efforts to contact the landlord to complain about the condition of the dwelling-house but was unable to do so.
- (6) The court must strike out proceedings for an order for possession under section 21 of the Housing Act 1988 in relation to a dwelling-house in England if, before the order is made, the section 21 notice that would otherwise require the court to make an order for possession in relation to the dwelling-house has become invalid under subsection (2).
- (7) An order for possession of a dwelling-house in England made under section 21 of the Housing Act 1988 must not be set aside on the ground that a relevant notice was served in relation to the dwelling-house after the order for possession was made.
- (8) Subsection (1) does not apply where the section 21 notice is given after—
  - (a) the relevant notice has been wholly revoked under section 16 of the Housing Act 2004 as a result of the notice having been served in error,
  - (b) the relevant notice has been quashed under paragraph 15 of Schedule 1 to that Act,
  - (c) a decision of the relevant local housing authority to refuse to revoke the relevant notice has been reversed under paragraph 18 of Schedule 1 to that Act, or
  - (d) a decision of the relevant local housing authority to take the action to which the relevant notice relates has been reversed under section 45 of that Act.
- (9) Subsection (2) does not apply where the operation of the relevant notice has been suspended.
- (10) References in this section and section 34 to a relevant notice served, or complaint made, in relation to a dwelling-house include a relevant notice served, or complaint made, in relation to any common parts of the building of which the dwelling-house forms a part.
- (11) But subsection (10) applies only if—
  - (a) the landlord has a controlling interest in the common parts in question, and
  - (b) the condition of those common parts is such as to affect the tenant's enjoyment of the dwelling-house or of any common parts which the tenant is entitled to use.
- (12) In this section and section 34 a reference to a complaint to a landlord includes a complaint made to a person acting on behalf of the landlord in relation to the tenancy.
- (13) In this section and section 34—

“assured shorthold tenancy” means a tenancy within section 19A or 20 of the Housing Act 1988;

“common parts”, in relation to a building, includes—

  - (a) the structure and exterior of the building, and
  - (b) common facilities provided (whether or not in the building) for persons who include one or more of the occupiers of the building;

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“controlling interest” means an interest which is such as to entitle the landlord to decide whether action is taken in relation to a complaint within this section or a relevant notice;

“dwelling-house” has the meaning given by section 45 of the Housing Act 1988;

“relevant local housing authority”, in relation to a dwelling-house, means the local housing authority as defined in section 261(2) and (3) of the Housing Act 2004 within whose area the dwelling-house is located;

“relevant notice” means—

- (a) a notice served under section 11 of the Housing Act 2004 (improvement notices relating to category 1 hazards),
- (b) a notice served under section 12 of that Act (improvement notices relating to category 2 hazards), or
- (c) a notice served under section 40(7) of that Act (emergency remedial action);

“section 21 notice” means a notice given under section 21(1)(b) or (4)(a) of the Housing Act 1988 (recovery of possession on termination of shorthold tenancy).

VALID FROM 01/10/2015

### 34 Further exemptions to section 33

- (1) Subsections (1) and (2) of section 33 do not apply where the condition of the dwelling-house or common parts that gave rise to the service of the relevant notice is due to a breach by the tenant of—
  - (a) the duty to use the dwelling-house in a tenant-like manner, or
  - (b) an express term of the tenancy to the same effect.
- (2) Subsections (1) and (2) of section 33 do not apply where at the time the section 21 notice is given the dwelling-house is genuinely on the market for sale.
- (3) For the purposes of subsection (2), a dwelling-house is not genuinely on the market for sale if, in particular, the landlord intends to sell the landlord's interest in the dwelling-house to—
  - (a) a person associated with the landlord,
  - (b) a business partner of the landlord,
  - (c) a person associated with a business partner of the landlord, or
  - (d) a business partner of a person associated with the landlord.
- (4) In subsection (3), references to a person who is associated with another person are to be read in accordance with section 178 of the Housing Act 1996.
- (5) For the purposes of subsection (3), a business partner of a person (“P”) is a person who is—
  - (a) a director, secretary or other officer of a company of which P is also a director, secretary or other officer,
  - (b) a director, secretary or other officer of a company in which P has a shareholding or other financial interest,

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- (c) a person who has a shareholding or other financial interest in a company of which P is a director, secretary or other officer,
  - (d) an employee of P,
  - (e) a person by whom P is employed, or
  - (f) a partner of a partnership of which P is also a partner.
- (6) Subsections (1) and (2) of section 33 do not apply where the landlord is a private registered provider of social housing.
- (7) Subsections (1) and (2) of section 33 do not apply where—
- (a) the dwelling-house is subject to a mortgage granted before the beginning of the tenancy,
  - (b) the mortgagee is entitled to exercise a power of sale conferred on the mortgagee by the mortgage or by section 101 of the Law of Property Act 1925, and
  - (c) at the time the section 21 notice is given the mortgagee requires possession of the dwelling-house for the purpose of disposing of it with vacant possession in exercise of that power.
- (8) In subsection (7)—
- (a) “mortgage” includes a charge, and
  - (b) “mortgagee” includes a receiver appointed by the mortgagee under the terms of the mortgage or in accordance with the Law of Property Act 1925.

VALID FROM 01/10/2015

### **35 Notice to be provided in relation to periodic assured shorthold tenancies**

In section 21 of the Housing Act 1988 (recovery of possession on termination of shorthold tenancy), after subsection (4) insert—

“(4ZA) In the case of a dwelling-house in England, subsection (4)(a) above has effect with the omission of the requirement for the date specified in the notice to be the last day of a period of the tenancy.”

VALID FROM 01/10/2015

### **36 Time limits in relation to section 21 notices and proceedings**

(1) Section 21 of the Housing Act 1988 is amended as follows.

(2) After subsection (4A) insert—

“(4B) A notice under subsection (1) or (4) may not be given in relation to an assured shorthold tenancy of a dwelling-house in England—

- (a) in the case of a tenancy which is not a replacement tenancy, within the period of four months beginning with the day on which the tenancy began, and

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(b) in the case of a replacement tenancy, within the period of four months beginning with the day on which the original tenancy began.

(4C) Subsection (4B) does not apply where the tenancy has arisen due to section 5(2).

(4D) Subject to subsection (4E), proceedings for an order for possession under this section in relation to a dwelling-house in England may not be begun after the end of the period of six months beginning with the date on which the notice was given under subsection (1) or (4).

(4E) Where—

(a) a notice under subsection (4) has been given in relation to a dwelling-house in England, and

(b) paragraph (b) of that subsection requires the date specified in the notice to be more than two months after the date the notice was given,

proceedings for an order for possession under this section may not be begun after the end of the period of four months beginning with the date specified in the notice.”

(3) In subsection (6), for “subsection” substitute “ subsections (4B)(b) and ”.

VALID FROM 01/07/2015

### 37 Prescribed form of section 21 notices

In section 21 of the Housing Act 1988, after subsection (7) insert—

“(8) The Secretary of State may by regulations made by statutory instrument prescribe the form of a notice under subsection (1) or (4) given in relation to an assured shorthold tenancy of a dwelling-house in England.

(9) A statutory instrument containing regulations made under subsection (8) is subject to annulment in pursuance of a resolution of either House of Parliament.”

VALID FROM 01/07/2015

### 38 Compliance with prescribed legal requirements

After section 21 of the Housing Act 1988 insert—

#### “21A Compliance with prescribed legal requirements

(1) A notice under subsection (1) or (4) of section 21 may not be given in relation to an assured shorthold tenancy of a dwelling-house in England at a time when the landlord is in breach of a prescribed requirement.

(2) The requirements that may be prescribed are requirements imposed on landlords by any enactment and which relate to—



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- (a) the condition of dwelling-houses or their common parts,
  - (b) the health and safety of occupiers of dwelling-houses, or
  - (c) the energy performance of dwelling-houses.
- (3) In subsection (2) “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.
- (4) For the purposes of subsection (2)(a) “common parts” has the same meaning as in Ground 13 in Part 2 of Schedule 2.
- (5) A statutory instrument containing regulations made under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

VALID FROM 01/07/2015

### 39 Requirement for landlord to provide prescribed information

After section 21A of the Housing Act 1988 insert—

#### “21B Requirement for landlord to provide prescribed information

- (1) The Secretary of State may by regulations require information about the rights and responsibilities of a landlord and a tenant under an assured shorthold tenancy of a dwelling-house in England (or any related matters) to be given by a landlord under such a tenancy, or a person acting on behalf of such a landlord, to the tenant under such a tenancy.
- (2) Regulations under subsection (1) may—
- (a) require the information to be given in the form of a document produced by the Secretary of State or another person,
  - (b) provide that the document to be given is the version that has effect at the time the requirement applies, and
  - (c) specify cases where the requirement does not apply.
- (3) A notice under subsection (1) or (4) of section 21 may not be given in relation to an assured shorthold tenancy of a dwelling-house in England at a time when the landlord is in breach of a requirement imposed by regulations under subsection (1).
- (4) A statutory instrument containing regulations made under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.”

VALID FROM 01/10/2015

### 40 Repayment of rent where tenancy ends before end of a period

After section 21B of the Housing Act 1988 insert—

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### “21C Repayment of rent where tenancy ends before end of a period

- (1) A tenant under an assured shorthold tenancy of a dwelling-house in England is entitled to a repayment of rent from the landlord where—
  - (a) as a result of the service of a notice under section 21 the tenancy is brought to an end before the end of a period of the tenancy,
  - (b) the tenant has paid rent in advance for that period, and
  - (c) the tenant was not in occupation of the dwelling-house for one or more whole days of that period.
- (2) The amount of repayment to which a tenant is entitled under subsection (1) is to be calculated in accordance with the following formula—

$$R \times \frac{D}{P}$$

where—

R is the rent paid for the final period;

D is the number of whole days of the final period for which the tenant was not in occupation of the dwelling-house; and

P is the number of whole days in that period.

- (3) If the repayment of rent described in subsections (1) and (2) has not been made when the court makes an order for possession under section 21, the court must order the landlord to repay the amount of rent to which the tenant is entitled.
- (4) Nothing in this section affects any other right of the tenant to a repayment of rent from the landlord.”

VALID FROM 01/10/2015

#### 41 Application of sections 33 to 40

- (1) Subject to subsections (2) and (3), a provision of sections 33 to 40 applies only to an assured shorthold tenancy of a dwelling-house in England granted on or after the day on which the provision comes into force.
- (2) Subject to subsection (3), a provision of sections 33 to 40 does not apply to an assured shorthold tenancy that came into being under section 5(2) of the Housing Act 1988 after the commencement of that provision and on the coming to an end of an assured shorthold tenancy that was granted before the commencement of that provision.
- (3) At the end of the period of three years beginning with the coming into force of a provision of sections 33 to 38 or section 40, that provision also applies to any assured shorthold tenancy of a dwelling-house in England—
  - (a) which is in existence at that time, and

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- (b) to which that provision does not otherwise apply by virtue of subsection (1) or (2).

## 42 Optional building requirements

After section 2A of the Building Act 1984 insert—

### “2B Optional requirements

- (1) Building regulations made by the Secretary of State in relation to England may include a requirement that applies only where a planning authority makes compliance with the requirement a condition of a grant of planning permission.
- (2) In the following provisions of this section, a requirement included in building regulations by virtue of subsection (1) is referred to as an “optional requirement”.
- (3) Building regulations may specify that an optional requirement is capable of applying only in respect of development of a kind described in the regulations.
- (4) Building regulations may specify conditions that must be satisfied before a planning authority may make compliance with an optional requirement a condition of the grant of planning permission.
- (5) Building regulations may specify the steps that a planning authority must take to inform a person subject to an optional requirement of the requirement.
- (6) Where building regulations include an optional requirement that would (to any extent) be inconsistent with another requirement imposed by the regulations, the building regulations must provide—
  - (a) that the other requirement does not apply in any case where the optional requirement applies, or
  - (b) that the other requirement applies in any such case with modifications specified in the regulations.
- (7) In this section —
  - “development” has the same meaning as in the Town and Country Planning Act 1990 (see section 55 of that Act);
  - “planning authority” means—
    - (a) a local planning authority within the meaning of that Act (see section 336(1));
    - (b) the Secretary of State (in the exercise of functions of granting planning permission);
  - “planning permission” has the same meaning as in that Act (see section 336(1)).”

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PROSPECTIVE

#### 43 Amendment of Planning and Energy Act 2008

In the Planning and Energy Act 2008, in section 1 (energy policies), after subsection (1) insert—

“(1A) Subsection (1)(c) does not apply to development in England that consists of the construction or adaptation of buildings to provide dwellings or the carrying out of any work on dwellings.”

VALID FROM 26/05/2015

#### 44 Short-term use of London accommodation: relaxation of restrictions

(1) The Greater London Council (General Powers) Act 1973 is amended as follows.

(2) In section 25 (provision of temporary sleeping accommodation to constitute material change of use), after subsection (1) insert—

“(1A) Subsection (1) is subject to section 25A.”

(3) After section 25 insert—

##### “25A Exception to section 25

(1) Despite section 25(1), the use as temporary sleeping accommodation of any residential premises in Greater London does not involve a material change of use if two conditions are met.

(2) The first is that the sum of—

(a) the number of nights of use as temporary sleeping accommodation, and

(b) the number of nights (if any) of each previous use of the premises as temporary sleeping accommodation in the same calendar year,

does not exceed ninety.

(3) The second is that, in respect of each night which falls to be counted under subsection (2)(a)—

(a) the person who provided the sleeping accommodation for the night was liable to pay council tax under Part 1 of the Local Government Finance Act 1992 in respect of the premises, or

(b) where more than one person provided the sleeping accommodation for the night, at least one of those persons was liable to pay council tax under Part 1 of that Act in respect of the premises.

(4) For the purposes of subsection (2)(b), it does not matter whether any previous use was by the same person.”

(4) After section 25A (inserted by subsection (3) above) insert—

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#### **“25B Further provision about section 25A**

- (1) The local planning authority or the Secretary of State may direct that section 25A is not to apply—
  - (a) to particular residential premises specified in the direction;
  - (b) to residential premises situated in a particular area specified in the direction.
- (2) A direction under subsection (1) may be given only if the local planning authority or (as the case may be) the Secretary of State considers that it is necessary to protect the amenity of the locality.
- (3) The local planning authority may give a direction under subsection (1) only with the consent of the Secretary of State.
- (4) A direction under subsection (1) may be revoked by the person who gave it, whether or not an application is made for the revocation.
- (5) The Secretary of State may—
  - (a) delegate the functions of the Secretary of State under subsection (1) or (4) to the local planning authority;
  - (b) direct that a local planning authority may give directions under this section without the consent of the Secretary of State.
- (6) The Secretary of State may revoke a delegation under subsection (5)(a) or a direction under subsection (5)(b).
- (7) The Secretary of State may by regulations made by statutory instrument make provision—
  - (a) as to the procedure which must be followed in connection with the giving of a direction under subsection (1) or in connection with the revocation of such a direction under subsection (4);
  - (b) as to the information which must be provided where the local planning authority seeks the consent of the Secretary of State to the giving of a direction under subsection (1).
- (8) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this section, “local planning authority” has the same meaning as in the Town and Country Planning Act 1990 (see section 336(1) of that Act).”

VALID FROM 26/05/2015

#### **45 Short-term use of London accommodation: power to relax restrictions**

- (1) The Secretary of State may by regulations made by statutory instrument provide that section 25(1) of the Greater London Council (General Powers) Act 1973 does not apply if conditions specified by the regulations are met.
- (2) Regulations under subsection (1) must include provision corresponding to section 25B of that Act.

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- (3) Regulations under this section may amend the Greater London Council (General Powers) Act 1973.
- (4) Regulations under this section may—
  - (a) make different provision for different purposes;
  - (b) include incidental, supplementary, consequential, transitional, transitory or saving provision.
- (5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

#### 46 Designation of urban development areas: procedure

- (1) Section 134 of the Local Government, Planning and Land Act 1980 (urban development areas) is modified as follows in relation to an order under subsection (1) of that section designating any area of land in England as an urban development area that is contained in an instrument laid before Parliament on or before 31 March 2016.
- (2) The section has effect as if after subsection (1) there were inserted—
 

“(1A) Before making an order under subsection (1), the Secretary of State must consult the following persons—

  - (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the proposed urban development area;
  - (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the proposed urban development area;
  - (c) each local authority for an area which falls wholly or partly within the proposed urban development area; and
  - (d) any other person whom the Secretary of State considers it appropriate to consult.”
- (3) The section has effect as if for subsection (4) there were substituted—
 

“(4) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (4) The duty to consult under section 134(1A) of the Local Government, Planning and Land Act 1980 (inserted by subsection (2) above) may be satisfied by consultation before this section comes into force.

#### 47 Establishment of urban development corporations: procedure

- (1) Section 135 of the Local Government, Planning and Land Act 1980 (urban development corporations) is modified as follows in relation to an order under that section establishing an urban development corporation for an urban development area in England that is contained in an instrument laid before Parliament on or before 31 March 2016.
- (2) The section has effect as if after subsection (1) there were inserted—

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“(1A) Before making an order under this section, the Secretary of State must consult the following persons—

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

(3) The section has effect as if for subsection (3) there were substituted—

“(3) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

(4) The duty to consult under section 135(1A) of the Local Government, Planning and Land Act 1980 (inserted by subsection (2) above) may be satisfied by consultation before this section comes into force.

## 48 Provision of advice etc about residential licences

In the Housing Act 1996, after section 220 insert—

### “220A Provision of general advice etc about residential licences: England

- (1) The Secretary of State may give financial assistance to any person in relation to the provision by that person of—
  - (a) information, training or general advice about any matter relating to residential licences in England, or
  - (b) a dispute resolution service in connection with any matter relating to residential licences in England.
- (2) Financial assistance under this section may be given in such form and on such terms as the Secretary of State considers appropriate.
- (3) The terms on which financial assistance under this section may be given may, in particular, include provision as to the circumstances in which the assistance must be repaid or otherwise made good to the Secretary of State and the manner in which that is to be done.”

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#### Commencement Information

**I4** S. 48 in force at 1.4.2015 by S.I. 2015/994, art. 2(a)



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## Transport

### 49 Removal of restrictions on provision of passenger rail services

- (1) In Part 2 of the Transport Act 1968 (integrated transport areas and passenger transport areas), in section 10(1) (general powers of Executive)—
- (a) before paragraph (ii) insert—
    - “(ia) to carry passengers by railway—
      - (a) where that area is in England, between places in that area, between such places and any place in Great Britain which is outside that area, or between places in Great Britain which are outside that area, or
      - (b) where that area is in Wales or Scotland, between places in that area or between such places and any place outside that area but within the permitted distance, that is to say, the distance of twenty-five miles from the nearest point on the boundary of that area;”;
  - (b) in paragraph (ii), for “other form of land transport” substitute “ form of land transport other than road or railway ”.
- (2) Schedule 8 contains—
- (a) amendments in consequence of subsection (1), and
  - (b) further amendments in connection with the provision of passenger rail services.

#### Commencement Information

**I5** [S. 49](#) in force for certain purposes at Royal Assent, see [s. 115](#)

VALID FROM 26/05/2015

### 50 Road traffic legislation: use of vehicles in emergency response by NHS

- (1) Section 87 of the Road Traffic Regulation Act 1984 (exemptions from speed limits), as substituted by section 19 of the Road Safety Act 2006, is amended in accordance with subsections (2) and (3).
- (2) In subsection (1)—
- (a) in paragraph (a), omit “, for ambulance purposes”;
  - (b) after paragraph (a) insert—
    - “(aa) it is being used for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service”;
  - (c) in paragraph (c), after “paragraph (a)” insert “, (aa) ”.
- (3) After subsection (1) insert—
- “(1A) In subsection (1)(aa), “an NHS ambulance service” means—

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- (a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services;
  - (b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services;
  - (c) the Scottish Ambulance Service Board.”
- (4) If this section comes into force before section 19 of the Road Safety Act 2006, section 87 of the Road Traffic Regulation Act 1984 (as it has effect until section 19 comes into force) is amended as follows.
- (5) After subsection (1) insert—
- “(1A) Subsection (1) above applies in relation to a vehicle that, although not being used for ambulance purposes, is being used for the purpose of providing a response to an emergency at the request of an NHS ambulance service.
- (1B) In subsection (1A), “an NHS ambulance service” means—
- (a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services;
  - (b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services;
  - (c) the Scottish Ambulance Service Board.”
- (6) Schedule 9 makes further amendments to road traffic legislation in connection with the use of vehicles in the provision of an emergency response by the NHS.

## 51 Reduction of burdens relating to the use of roads and railways

Schedule 10 makes provision about the following matters—

- (a) the duration of driving licences to be granted to drivers with relevant or prospective disabilities;
- (b) permit schemes;
- (c) road humps;
- (d) pedestrian crossings;
- (e) off-road motoring events;
- (f) testing of vehicles;
- (g) rail vehicle accessibility regulations: exemption orders.

### Commencement Information

**I6** [S. 51](#) in force for certain purposes at Royal Assent, see [s. 115](#)

## 52 Reduction of burdens relating to enforcement of transport legislation

Schedule 11 makes provision about the following matters—

- (a) drink and drug driving offences;
- (b) bus lane contraventions.

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#### Commencement Information

**I7** S. 52 in force for certain purposes at 26.5.2015, see s. 115

**I8** S. 52(a) in force at 10.4.2015 by S.I. 2015/994, art. 4

### 53 Civil penalties for parking contraventions: enforcement

- (1) Part 6 of the Traffic Management Act 2004 (civil enforcement of traffic contraventions) is amended as follows.
- (2) After section 78 (notification of penalty charge) insert—

#### “78A Notification of penalty charge: parking contraventions in England

- (1) Regulations under section 78 must include provision requiring notification of a penalty charge to be given by a notice affixed to the vehicle where the charge is in respect of a parking contravention on a road in a civil enforcement area in England.
- (2) The regulations may, however, provide that the requirement does not apply in circumstances specified in the regulations (which may be framed by reference to the type of contravention, the circumstances in which a contravention occurs or in any other way) and, where the regulations so provide, they may make any such alternative provision for notification as is authorised by section 78.”
- (3) After section 87 insert—

#### “87A Power to prohibit use of devices etc: parking contraventions in England

- (1) The Secretary of State may by regulations make provision to prohibit the use by civil enforcement officers of a device of a description specified in the regulations, or of records produced by such a device, in connection with the enforcement of parking contraventions on a road in a civil enforcement area in England.
- (2) The prohibition may be—
  - (a) general, or
  - (b) limited to particular uses specified in the regulations.
- (3) The regulations may provide that a general or limited prohibition does not apply in circumstances specified in the regulations (which may be framed by reference to the type of contravention, the circumstances in which a contravention occurs or in any other way).
- (4) Regulations under this section may amend this Part or any provision made under it.”

#### Commencement Information

**I9** S. 53 in force for certain purposes at Royal Assent, see s. 115

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**110** S. 53 in force at 1.4.2015 in so far as not already in force by S.I. 2015/994, art. 2(b)

VALID FROM 26/05/2015

**54 Removal of restriction on investigation of tramway accidents in Scotland by RAIB**

- (1) The Railways and Transport Safety Act 2003 is amended as follows.
- (2) In section 14 (extent of Part 1: investigation of railway accidents by Rail Accident Investigation Branch), omit subsection (2) (which prevents the Part from applying to tramways in Scotland).
- (3) In consequence of subsection (2), omit section 1(3).

VALID FROM 26/05/2015

**55 Removal of duty to order re-hearing of marine accident investigations**

In section 269(1) of the Merchant Shipping Act 1995 (power to order re-hearing of investigation into marine accident and duty to do so in certain cases)—

- (a) omit paragraph (a) (duty to order re-hearing where new and important evidence discovered), and the “or” following it;
- (b) in paragraph (b), omit “other”.

VALID FROM 26/05/2015

*Communications*

**56 Repeal of power to make provision for blocking injunctions**

In the Digital Economy Act 2010, omit sections 17 and 18 (which confer power on the Secretary of State to make regulations about the granting by courts of injunctions requiring the blocking of websites that infringe copyright).

*The environment etc*

VALID FROM 26/05/2015

**57 Reduction of duties relating to energy and climate change**

- (1) In the Climate Change and Sustainable Energy Act 2006, omit the following—
  - (a) section 3 (which imposes a duty on local authorities to have regard to energy measure reports published by the Secretary of State);

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- (b) sections 4 and 5 (which confer functions on the Secretary of State with respect to the setting of national targets for microgeneration etc);
  - (c) sections 7(1) to (6) and 8 (which confer functions on the Secretary of State for the purpose of increasing the sale of electricity generated by microgeneration);
  - (d) section 10 (which confers functions on the Secretary of State with respect to the review of development orders to facilitate the installation in dwelling-houses of equipment etc for microgeneration);
  - (e) section 12 (which is spent);
  - (f) section 21 (which imposes a duty on the Secretary of State with respect to promoting the use of heat produced from renewable sources).
- (2) Section 14 of that Act (which confers functions on the Secretary of State and Welsh Ministers with respect to the laying of reports before Parliament or (as the case may be) the National Assembly for Wales about steps taken to secure greater compliance with building regulations made for energy conservation related purposes etc) ceases to apply in relation to England.
- (3) In consequence of subsection (1)—
- (a) in the Taxation of Chargeable Gains Act 1992, in section 263AZA(2), for the definition of “microgeneration system” substitute—
    - ““microgeneration system” means any plant (including any equipment, apparatus or appliance) or system of plant for generating electricity or producing heat—
    - (a) which, in generating electricity or (as the case may be) producing heat, relies wholly or mainly on a source of energy or a technology mentioned in subsection (7) of section 82 of the Energy Act 2004, and
    - (b) whose capacity to generate electricity or (as the case may be) to produce heat does not exceed the capacity mentioned in subsection (8) of that section,”;
  - (b) in the Income Tax (Trading and Other Income) Act 2005, in section 782A(2), for the definition of “microgeneration system” substitute—
    - ““microgeneration system” has the same meaning as in section 263AZA of the Taxation of Chargeable Gains Act 1992.”
- (4) In consequence of subsection (1)—
- (a) in the Sustainable Energy Act 2003, omit section 1(1A)(bb);
  - (b) in the Climate Change Act 2008, omit section 81(3);
  - (c) in the Energy Act 2008, omit section 87(2).
- (5) The repeal made by subsection (1)(c) does not affect the operation of section 33(1)(c) of the Utilities Act 2000 in relation to times after the repeal comes into force; and, accordingly, modifications of standard conditions made under section 7 of the Climate Change and Sustainable Energy Act 2006 before the day on which the repeal comes into force continue to have effect on or after that day for the purposes of section 33(1) of that Act of 2000.

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## **58 Household waste: de-criminalisation**

- (1) Part 2 of the Environmental Protection Act 1990 (waste on land) is amended in accordance with subsections (2) to (5).
- (2) In section 46 (receptacles for household waste), in subsection (6) (offence of failing to comply with requirements relating to receptacles), after “requirements imposed” insert “ by a waste collection authority in Scotland or Wales ”.
- (3) After section 46 insert—

### **“46A Written warnings and penalties for failure to comply with requirements relating to household waste receptacles: England**

- (1) This section applies where an authorised officer of a waste collection authority in England is satisfied that—
  - (a) a person has failed without reasonable excuse to comply with a requirement imposed by the authority under section 46(1), (3)(c) or (d) or (4) (a “section 46 requirement”), and
  - (b) the person's failure to comply—
    - (i) has caused, or is or was likely to cause, a nuisance, or
    - (ii) has been, or is or was likely to be, detrimental to any amenities of the locality.
- (2) Where this section applies, the authorised officer may give a written warning to the person.
- (3) A written warning must—
  - (a) identify the section 46 requirement with which the person has failed to comply,
  - (b) explain the nature of the failure to comply,
  - (c) explain how the failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b),
  - (d) if the failure to comply is continuing, specify the period within which the requirement must be complied with and explain the consequences of the requirement not being complied with within that period, and
  - (e) whether or not the failure to comply is continuing, explain the consequences of the person subsequently failing to comply with the same or a similar section 46 requirement.
- (4) Where a written warning has been given in respect of a failure to comply that is continuing, an authorised officer of the waste collection authority may require the person to whom the written warning was given to pay a fixed penalty to the authority if satisfied that the person has failed to comply with the section 46 requirement identified in the warning within the period specified by virtue of subsection (3)(d).
- (5) Where a person has been required to pay a fixed penalty under subsection (4) and that requirement has not been withdrawn on appeal, an authorised officer of the authority may require the person to pay a further fixed penalty to the authority if satisfied that the failure to comply is still continuing at the end of a relevant period which falls within the period of one year beginning with the day the written warning was given.

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- (6) For the purposes of subsection (5)—
- (a) a “relevant period” is a period beginning with the day a final notice is served on the person under section 46C(5) in respect of the failure to comply that is continuing and ending with—
    - (i) where the person appeals against the requirement to pay a fixed penalty imposed by the final notice, the day on which the appeal that is the final appeal made by the person against the requirement is dismissed or withdrawn;
    - (ii) where the person does not appeal, the day on which the period for appealing expires;
  - (b) there is no relevant period where the person appeals as mentioned in paragraph (a)(i) and the requirement to pay the fixed penalty is withdrawn on appeal.
- (7) Where a written warning has been given, whether or not in respect of a failure to comply that is continuing, an authorised officer of the waste collection authority may require the person to whom the written warning was given to pay a fixed penalty to the authority if satisfied that, within the period of one year beginning with the day the written warning was given —
- (a) the person has again failed without reasonable excuse to comply with the section 46 requirement identified in the warning and the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b), or
  - (b) the person has failed without reasonable excuse to comply with a section 46 requirement that is similar to the one identified in the warning and the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b).
- (8) An authorised officer may require a person to pay a fixed penalty under subsection (5) or (7) each time that the authorised officer is satisfied of the matters mentioned in the subsection.
- (9) An authorised officer imposing a requirement to pay a fixed penalty under subsection (4), (5) or (7) must act in accordance with section 46C.
- (10) A “fixed penalty” means a monetary penalty of an amount determined in accordance with section 46B.
- (11) An “authorised officer”, in relation to a waste collection authority, means—
- (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving written warnings and requiring payment of fixed penalties under this section;
  - (b) any person who, under arrangements made with the authority, has the function of giving such warnings and requiring such payments and is authorised in writing by the authority to perform that function;
  - (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such warnings and requiring such payments.



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#### **46B Amount of penalty under section 46A and recovery of penalty**

- (1) The amount of the monetary penalty that a person may be required to pay to a waste collection authority under section 46A is—
  - (a) the amount specified by the waste collection authority in relation to the authority's area, or
  - (b) if no amount is so specified, £60.
- (2) A waste collection authority may make provision for treating a fixed penalty under section 46A as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (3) The Secretary of State may by regulations make provision in connection with the powers conferred on waste collection authorities in England under subsections (1)(a) and (2).
- (4) Regulations under subsection (3) may (in particular)—
  - (a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;
  - (b) restrict the extent to which, and the circumstances in which, a waste collection authority may make provision under subsection (2).
- (5) The Secretary of State may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).
- (6) A fixed penalty under section 46A—
  - (a) is recoverable summarily as a civil debt;
  - (b) is recoverable as if it were payable under an order of the High Court or the county court, if the court in question so orders.

#### **46C Penalties under section 46A: procedure regarding notices of intent and final notices**

- (1) Before requiring a person to pay a fixed penalty under section 46A, an authorised officer must serve on the person notice of intention to do so (a “notice of intent”) in accordance with subsections (2) to (4).
- (2) A notice of intent must contain information about—
  - (a) the grounds for proposing to require payment of a fixed penalty,
  - (b) the amount of the penalty that the person would be required to pay, and
  - (c) the right to make representations under subsection (3).
- (3) A person on whom a notice of intent is served may make representations to the authorised officer as to why payment of a fixed penalty should not be required.
- (4) Representations under subsection (3) must be made within the period of 28 days beginning with the day service of the notice of intent is effected.
- (5) In order to require a person to pay a fixed penalty under section 46A, an authorised officer must serve on the person a further notice (the “final notice”) in accordance with subsections (6) to (8).

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- (6) A final notice may not be served on a person by an authorised officer before the expiry of the period of 28 days beginning with the day service of the notice of intent on the person was effected.
- (7) Before serving a final notice on a person, an authorised officer must consider any representations made by the person under subsection (3).
- (8) The final notice must contain information about—
  - (a) the grounds for requiring payment of a fixed penalty,
  - (b) the amount of the penalty,
  - (c) how payment may be made,
  - (d) the period within which payment is required to be made (which must not be less than the period of 28 days beginning with the day service of the final notice is effected),
  - (e) any provision giving a discount for early payment made by virtue of section 46B(2),
  - (f) the right to appeal under section 46D, and
  - (g) the consequences of not paying the penalty.

#### **46D Appeals against penalties under section 46A**

- (1) A person on whom a final notice is served under section 46C may appeal to the First-tier Tribunal against the decision to require payment of a fixed penalty.
- (2) On an appeal under this section the First-tier Tribunal may withdraw or confirm the requirement to pay the fixed penalty.
- (3) The requirement to pay the fixed penalty is suspended pending the determination or withdrawal of the appeal that is the final appeal made by the person against the decision to require payment of the penalty.  
(This is subject to subsection (4).)
- (4) Where the requirement to pay the fixed penalty is confirmed at any stage in the proceedings on appeal, payment must be made before the end of the period of 28 days beginning with the day on which the requirement is so confirmed unless the person makes a further appeal before the end of that period.
- (5) The reference in subsection (4) to the requirement to pay the fixed penalty being confirmed on appeal includes a reference to an appeal decision confirming the requirement to pay the fixed penalty being upheld on a further appeal.”
- (4) In consequence of subsection (2), in section 47ZB(2)(b) (amount of fixed penalty for offence)—
  - (a) omit sub-paragraph (i), and the “and” following it;
  - (b) in sub-paragraph (ii), omit “in any other case.”.
- (5) In section 73A (use of fixed penalty receipts), in subsection (2) (power for waste collection authority to use fixed penalty receipts for purposes of its functions under Part 2 and other functions specified in regulations), after “34A” insert “, 46A ”.
- (6) Schedule 12 makes amendments to the London Local Authorities Act 2007 that correspond to those made by subsection (3).

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#### Commencement Information

**111** [S. 58](#) in force for certain purposes at Royal Assent, see [s. 115](#)

VALID FROM 26/05/2015

### **59 Other measures relating to animals, food and the environment**

Schedule 13 makes provision about the following matters—

- (a) destructive imported animals;
- (b) the Farriers Registration Council;
- (c) joint waste authorities;
- (d) air quality assessments;
- (e) noise abatement zones.

#### Commencement Information

**112** [S. 59](#) in force for certain purposes at 26.5.2015, see [s. 115](#)

### *Regulation of child trust funds*

VALID FROM 26/05/2015

### **60 Management of child trust funds: looked after children**

- (1) The Child Trust Funds Act 2004 is amended as follows.
- (2) In section 3 (requirements to be satisfied in relation to child trust funds), in subsection (10) (which provides for the making of regulations authorising the Official Solicitor or, in Scotland, the Accountant of Court to manage child trust funds) for the words from “is to be” to the end of the subsection substitute “ is to be a person appointed by the Treasury or by the Secretary of State. ”
- (3) In that section, after subsection (11) insert—
  - “(11A) Regulations under subsection (10) may provide that, where the terms on which a person is appointed by the Treasury or by the Secretary of State include provision for payment to the person, the payment must be made by a government department specified in the regulations (instead of by the person making the appointment).
  - (11B) Regulations may provide that, where a person authorised to manage a child trust fund by virtue of subsection (10) ceases to be so authorised, the person must provide any information held by that person in connection with the management of the fund to the person (if any) who becomes authorised by virtue of that subsection to manage the trust fund instead.”
- (4) In section 16 (information about children in care of authority), in subsection (1)—

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- (a) at the end of paragraph (a) (before “, or”), insert “ or by a person appointed under regulations under section 3(10) ”;
- (b) in paragraph (b), before “any information” insert “ or to such a person ”;
- (c) in the words following paragraph (b), before “may require” insert “ or (as the case may be) the person ”.

VALID FROM 26/05/2015

## 61 Management of child trust funds: children 16 or over

- (1) Section 3 of the Child Trust Funds Act 2004 (requirements to be satisfied) is amended as follows.
- (2) In subsection (6), for paragraphs (a) and (b) substitute—
  - “(a) if the child is 16 or over and has elected to manage the child trust fund, is the child;
  - (b) in any other case, is the person who has that authority by virtue of subsection (7) (but subject to subsection (10)).”
- (3) In subsection (8), omit “under 16” (where it first occurs).
- (4) In subsection (10), omit “under 16”.

## 62 Child trust funds: transfers

- (1) The Child Trust Funds Act 2004 is amended as follows.
- (2) After section 7 insert—

### “7A Transfers to other accounts for children

- (1) Regulations may make provision requiring an account provider, at the request of a person who has the authority to manage a child trust fund, to—
  - (a) transfer all the investments under the fund, or an amount representing their value in cash, to a protected child account that is provided by a person chosen by the person making the request, and
  - (b) when all the investments have been transferred, close the child trust fund.
- (2) An account is a protected child account if—
  - (a) there is relief from income tax and capital gains tax in respect of investments under it,
  - (b) it may be held only by a child, and
  - (c) it satisfies any other conditions prescribed in regulations under this section.”
- (3) After section 7A (as inserted by subsection (2)) insert—

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### “7B Transfers on child reaching 18

- (1) Regulations may make provision requiring an account provider to transfer all the investments under a child trust fund held by a person immediately before his or her 18th birthday to a protected account of a description prescribed in the regulations.
- (2) Regulations under subsection (1) must include provision that the requirement does not apply if the person gives instructions, in accordance with the regulations, to the account provider as to what is to be done with the investments.
- (3) An account is a protected account if—
  - (a) there is relief from income tax and capital gains tax in respect of investments under it, and
  - (b) it satisfies any other conditions prescribed in regulations under this section.”
- (4) In section 3 (requirements to be satisfied), in subsection (4)(d), after “regulations” insert “ under this section or any other provision of this Act ”.
- (5) In section 20 (penalties), in subsection (7)(b), after “7” insert “ , 7A, 7B ”.

#### Commencement Information

**I13** S. 62 in force for certain purposes at Royal Assent, see s. 115

**I14** S. 62 in force at 6.4.2015 in so far as not already in force by S.I. 2015/994, art. 3(a)

## 63 Child trust funds: safeguards for children's interests

After section 7B of the Child Trust Funds Act 2004 (as inserted by section 62) insert—

*“Powers to safeguard interests of children*

### 7C Powers to safeguard interests of children

- (1) The Treasury may make regulations under this section if the Treasury think it appropriate to do so for the purpose of safeguarding the financial interests of children, or any group of children, who hold child trust funds.
- (2) The regulations may authorise the Treasury to permit withdrawals from—
  - (a) any child trust funds;
  - (b) any child trust funds held with an account provider that is prescribed, or of a description prescribed, in the regulations.
- (3) The regulations may authorise the Treasury to require any account provider or any account provider that is prescribed, or of a description prescribed, in the regulations to take one or more of the following steps in relation to every child trust fund held with it—
  - (a) to seek to transfer the fund to another account provider;

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- (b) to seek to transfer all the investments under the fund to a protected child account that can be used for investments of that kind and is provided by a person chosen by the account provider;
  - (c) to seek to transfer an amount in cash representing the value of all the investments under the fund (whether consisting of cash or stocks and shares) to a protected child account that can be used for investments in cash and is provided by a person chosen by the account provider;
  - (d) to transfer an amount in cash representing the value of all the investments under the fund (whether consisting of cash or stocks and shares) to a protected child account that can be used for investments in cash and is provided by a person specified by the Treasury.
- (4) The regulations may provide—
- (a) that child trust funds held with an account provider that is prescribed, or of a description prescribed, in the regulations are to be treated for all purposes as if they were protected child accounts of a description so prescribed;
  - (b) that, where child trust funds are (under the regulations) to be treated as protected child accounts of a particular description, the account provider is to be treated, for such purposes as may be prescribed in the regulations, as a person who lawfully provides protected child accounts of that description.
- (5) If the regulations authorise the Treasury to require that one or more of the steps mentioned in subsection (3)(b) to (d) be taken, the regulations may also authorise the Treasury to require an account provider who, in pursuance of such a requirement, transfers all the investments under a child trust fund, or an amount representing the value of all the investments, to close the child trust fund.
- (6) If the regulations authorise the Treasury to require an account provider to take more than one of the steps mentioned in subsection (3), the regulations must also—
- (a) authorise the Treasury to specify the order in which the steps are to be taken, and
  - (b) provide that if (as a result of complying with a requirement to take a particular step) an account holder no longer holds investments under any child trust fund, any requirement imposed on that provider to take another step lapses.
- (7) The Treasury is not liable in respect of—
- (a) the selection by an account provider of a person to whom to make a transfer in response to a requirement of a kind mentioned in subsection (3)(a) to (c), or
  - (b) a decision made by it as to the person to be specified in a requirement of a kind mentioned in subsection (3)(d).
- (8) In this section, “protected child account” means an account which is a protected child account for the purposes of section 7A.”

#### Commencement Information

**I15** S. 63 in force for certain purposes at Royal Assent, see s. 115

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**I16** S. 63 in force at 6.4.2015 in so far as not already in force by S.I. 2015/994, art. 3(b)

VALID FROM 26/05/2015

### *Education and training*

#### **64 Abolition of office of Chief Executive of Skills Funding**

- (1) The office of the Chief Executive of Skills Funding (established by Part 4 of the Apprenticeships, Skills, Children and Learning Act 2009) is abolished.
- (2) The property, rights and liabilities of the Chief Executive of Skills Funding are transferred to the Secretary of State.
- (3) Schedule 14 makes amendments to Part 4 of the Apprenticeships, Skills, Children and Learning Act 2009 in consequence of the abolition of the office of the Chief Executive of Skills Funding.

#### **Extent Information**

- E2** S. 64(1)(2) extends to England and Wales only; s. 64(3) extends to England and Wales and Scotland.

#### **65 Further and higher education sectors: reduction of burdens**

Schedule 15 makes provision for the reduction of burdens in the further and higher education sectors.

VALID FROM 01/10/2015

#### **66 Schools: reduction of burdens**

- (1) Section 19 of the Education Act 1997 (which confers power on the Secretary of State and Welsh Ministers to make regulations requiring governing bodies of maintained schools to set school performance targets) ceases to have effect in relation to schools in England.
- (2) Accordingly, in subsection (1) of that section—
  - (a) for “The Secretary of State” substitute “ The Welsh Ministers ”;
  - (b) for “the Secretary of State considers” substitute “ the Welsh Ministers consider ”;
  - (c) after “maintained schools” insert “ in Wales ”.
- (3) Omit section 102 of the Education Act 2005 (which confers power on the Secretary of State to make regulations requiring local authorities in England to set annual targets in respect of educational performance at schools maintained by them etc).
- (4) In consequence of subsection (3), omit section 122(3)(c) of that Act of 2005.



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- (5) Schedule 16 makes further provision for the reduction of burdens relating to schools in England.

*Alcohol, sport and entertainment*

PROSPECTIVE

**67 Sale of alcohol: community events etc and ancillary business sales**

- (1) In section 2 of the Licensing Act 2003 (authorisation for licensable activities etc), after subsection (1) insert—
- “(1A) The licensable activity of selling alcohol by retail may be carried on if each sale is a permitted sale by virtue of Part 5A.”
- (2) After Part 5 of that Act, insert the Part set out in Schedule 17 to this Act.
- (3) In section 136 of that Act (unauthorised licensable activities), at the end of subsection (5) insert—
- “In addition, for the purposes of this Part the licensable activity of selling alcohol by retail is under and in accordance with an authorisation if each sale is a permitted sale by virtue of Part 5A.”
- (4) In section 140 of that Act (allowing disorderly conduct on licensed premises etc)—
- (a) omit the “and” before subsection (2)(d);
  - (b) after that paragraph insert “, and
  - (e) in the case of premises specified in a Part 5A notice, to the person who gave the notice.”
- (5) In section 141 of that Act (sale of alcohol to a person who is drunk)—
- (a) omit the “and” before subsection (2)(d);
  - (b) after that paragraph insert “, and
  - (e) in the case of premises specified in a Part 5A notice, to the person who gave the notice.”;
  - (c) in subsection (3), after “This section” insert “ (except subsection (2)(e)) ”.
- (6) In section 143 of that Act (failure to leave licensed premises etc)—
- (a) omit the “and” before subsection (2)(d);
  - (b) after that paragraph insert “, and
  - (e) in the case of premises specified in a Part 5A notice, to the person who gave the notice.”
- (7) In section 144 of that Act (keeping of smuggled goods)—
- (a) omit the “and” before subsection (2)(d);
  - (b) after that paragraph insert “, and
  - (e) in the case of premises specified in a Part 5A notice, to the person who gave the notice.”
- (8) In section 147A of that Act (persistently selling alcohol to children)—

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- (a) in subsection (1)(b), for the words from “either” to “Part 5” substitute “licensed premises, premises authorised to be used for a permitted temporary activity by virtue of Part 5 or premises specified in a Part 5A notice”;
- (b) in subsection (4), after paragraph (b) insert “; or
- (c) the person or one of the persons who gave a Part 5A notice in respect of the premises.”
- (9) In section 153 of that Act (prohibition of unsupervised sales by children)—
- (a) omit the “and” before subsection (4)(c);
- (b) after that paragraph insert “, and
- (d) in relation to a sale by retail that is a permitted sale by virtue of Part 5A—
- (i) the person who gave the Part 5A notice, or
- (ii) any individual aged 18 or over who is authorised for the purposes of this section by that person.”
- (10) In section 159 of that Act (interpretation of Part 7), at the end of the definition of “relevant premises” insert “, or
- (d) except in sections 145 and 152, premises that (by reason of being specified in a Part 5A notice) are premises on which a sale by retail of alcohol is capable of being a permitted sale by virtue of Part 5A;”.
- (11) In section 194 of that Act (index of defined expressions) insert the following entries at the appropriate places—
- |   |                    |
|---|--------------------|
| “Part 5A notice                           | section 110A(2)”   |
| “relevant licensing authority, in Part 5A | section 110N”      |
| “relevant person, in Part 5A              | section 110D(11)”. |
- (12) In section 197 of that Act (regulations and orders)—
- (a) in subsection (3) (which lists exceptions to the use of the negative procedure), after paragraph (c) insert—
- “(cza) regulations under section 110B(2), (3) or (7) or 110C(2), (3), (5) or (6) (regulations relating to sales of alcohol permitted by virtue of Part 5A);”;
- (b) in subsection (4) (which specifies when the affirmative procedure is required)—
- (i) after “or (g)” insert “ or regulations within subsection (3)(cza) ”;
- (ii) after “the order” insert “ or regulations ”.

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VALID FROM 26/05/2015

**68 Temporary event notices: increase in maximum number of events per year**

- (1) In section 107 of the Licensing Act 2003 (counter notice where permitted limits exceeded), in subsection (4) (maximum number of events per year), for “12” substitute “ 15 ”.
- (2) The amendment made by this section has effect for the year 2016 and subsequent years.

**69 Personal licences: no requirement to renew**

- (1) In section 115 of the Licensing Act 2003 (period of validity of personal licence), in subsection (1), for the words after “A personal licence” substitute “ has effect indefinitely. ”
- (2) The amendment made by subsection (1), and the consequential amendments made by Schedule 18, apply in relation to—
  - (a) a personal licence granted under section 120 of the Licensing Act 2003 on or after the day on which this section comes into force;
  - (b) a personal licence granted under section 120 of that Act before that day, or renewed under section 121 of that Act before that day, for a period expiring on or after that day.
- (3) Accordingly, any term in a personal licence granted as mentioned in subsection (2) (b) which provides for it to have effect only for a particular period has no effect on or after the day on which this section comes into force.

**Commencement Information**

**117** S. 69 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

VALID FROM 26/05/2015

**70 Sale of liqueur confectionery to children under 16: abolition of offence**

Section 148 of the Licensing Act 2003 (sale of liqueur confectionery to children under 16) is repealed.

VALID FROM 01/10/2015

**71 Late night refreshment**

- (1) Schedule 2 to the Licensing Act 2003 (provision of late night refreshment) is amended as follows.

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(2) In paragraph 1(1) (definition of “provides late night refreshment”), in the words after paragraph (b), after “paragraph” insert “ 2A, ”.

(3) After paragraph 2 insert—

**2A “Exempt supplies: designated areas, descriptions of premises and times**

(1) The supply of hot food or hot drink is an exempt supply for the purposes of paragraph 1(1) if it takes place—

- (a) on or from premises which are wholly situated in an area designated by the relevant licensing authority;
- (b) on or from premises which are of a description designated by the relevant licensing authority; or
- (c) during a period (beginning no earlier than 11.00 p.m. and ending no later than 5.00 a.m.) designated by the relevant licensing authority.

(2) A licensing authority may designate a description of premises under sub-paragraph (1)(b) only if the description is one that is prescribed by regulations.

(3) A designation under sub-paragraph (1) may be varied or revoked by the licensing authority that made it.

(4) A licensing authority that makes, varies or revokes a designation under sub-paragraph (1) must publish the designation, variation or revocation.

(5) In sub-paragraph (1) references to the “relevant licensing authority”, in relation to a supply of hot food or hot drink, are references to—

- (a) the licensing authority in whose area the premises on or from which the food or drink is supplied are situated, or
- (b) where those premises are situated in the areas of two or more licensing authorities, any of those authorities.”

VALID FROM 26/05/2015

**72 Removal of requirement to report loss or theft of licence etc to police**

In the Licensing Act 2003, omit the following provisions (which impose requirements for the loss or theft of certain documents to be reported to the police before copies may be issued)—

- (a) in section 25 (premises licence or summary), subsection (3)(b), and the “and” before it;
- (b) in section 79 (club premises certificate or summary), subsection (3)(b), and the “and” before it;
- (c) in section 110 (temporary event notice), subsection (4)(b), and the “and” before it;
- (d) in section 126 (theft, loss, etc of personal licence), subsection (3)(b), and the “and” before it.

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VALID FROM 10/03/2017

### 73 Motor racing on public roads: general

- (1) The Road Traffic Act 1988 is amended as follows.
- (2) In section 12 (motor racing on public ways), after subsection (1) insert—
  - “(1A) Subsection (1) is subject to—
    - (a) in relation to England and Wales, sections 12A to 12F (which make provision to allow the holding of races or trials of speed between motor vehicles on public ways in England and Wales);
    - (b) in relation to Scotland, sections 12G to 12I (which make provision to allow the holding of races or trials of speed between motor vehicles on public ways in Scotland).”
- (3) After section 12 insert—

#### “12A Motor race orders: England and Wales: overview

- (1) Sections 12A to 12F allow highway authorities to make orders relating to the holding of a race or trial of speed between motor vehicles on a highway in England and Wales (“motor race orders”).
- (2) A motor race order is made on the application of the person promoting the event, with the permission of a motor sport governing body (see sections 12B to 12D).
- (3) The effect of a motor race order is set out in section 12E.

#### 12B Permission to apply for motor race order

- (1) A person who wishes to promote a race or trial of speed between motor vehicles on a highway in England and Wales may apply for a permit to a motor sport governing body authorised by regulations made by the appropriate national authority to issue permits in respect of a race or trial of speed of that kind.
- (2) Before issuing a permit, the motor sport governing body must consult—
  - (a) the highway authority for each area in which the event is to take place or which is otherwise likely to be significantly affected by the event,
  - (b) the local authority for each such area,
  - (c) the police authority for each such area,
  - (d) in the case of an event that is to take place in Greater London, the Greater London Authority,
  - (e) each person who has given the motor sport governing body written notice within the previous 12 months that the person wishes to be consulted about applications under this section, and
  - (f) such other persons as the motor sport governing body thinks appropriate.

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- (3) The motor sport governing body must issue the permit if satisfied that—
  - (a) the applicant intends to promote the proposed event,
  - (b) the applicant has the necessary financial and other resources to make appropriate arrangements for the event,
  - (c) the applicant has arranged or will arrange appropriate insurance cover in connection with the event, in accordance with guidance issued by the motor sport governing body, and
  - (d) the application includes all necessary details of the safety and other arrangements proposed for the event.
- (4) A permit must specify—
  - (a) any route to be followed in the course of the event;
  - (b) arrangements for the approval by the motor sport governing body of drivers participating in the event;
  - (c) arrangements for the approval by the motor sport governing body of vehicles to be used in the course of the event;
  - (d) arrangements made or to be made for insurance in connection with the event.
- (5) A permit may set out conditions that the motor sport governing body thinks should be included in any motor race order made in relation to the event.
- (6) The appropriate national authority must by regulations list motor sport governing bodies that are authorised to issue permits for the purposes of this section.
- (7) The regulations may specify the kinds of races or trials of speed between motor vehicles on a highway in respect of which each listed governing body may issue permits.
- (8) The regulations may provide that a listed motor sport governing body ceases to be authorised to issue permits if the rules of the governing body—
  - (a) include provision of a kind specified in the regulations;
  - (b) do not include provision of a kind so specified.
- (9) In this section—
  - “the appropriate national authority” means—
    - (a) in relation to England, the Secretary of State;
    - (b) in relation to Wales, the Welsh Ministers;
  - “local authority” means —
    - (a) a county or district council in England;
    - (b) a parish council in England;
    - (c) a London borough council;
    - (d) the Common Council of the City of London in its capacity as a local authority;
    - (e) the Council of the Isles of Scilly;
    - (f) a county or county borough council in Wales.

### **12C Application for motor race order**

- (1) A motor race order may only be made on an application under this section.

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- (2) An application may be made only by a person who—
  - (a) wishes to promote a race or trial of speed between motor vehicles on a highway in England and Wales, and
  - (b) has a permit issued in accordance with section 12B in relation to the event.
- (3) The application must be made to the highway authority for the area in which the event is to take place (and, where the event is to take place in the area of more than one highway authority, separate applications must be made under this section to each authority).
- (4) The application must be made not less than 6 months before the event.
- (5) The application must be accompanied by—
  - (a) the permit issued in accordance with section 12B;
  - (b) details of any orders under section 16A of the Road Traffic Regulation Act 1984 (prohibition or restriction on roads in connection with certain events), and of any other orders, regulations or other legislative instruments, that will be needed in connection with the event;
  - (c) a risk assessment in such form as the highway authority may specify;
  - (d) such fee as the highway authority may specify.

#### **12D Determination of applications for motor race orders**

- (1) Before determining whether to make a motor race order, a highway authority must consider—
  - (a) the likely impact of the event on the local community,
  - (b) the potential local economic and other benefits (in respect of tourism or otherwise), and
  - (c) any other local considerations that the authority thinks relevant.
- (2) The highway authority may make the motor race order if satisfied that—
  - (a) adequate arrangements have been made to allow the views of the local community to be taken into account,
  - (b) the person proposing to promote the event has shown that the event is commercially viable, and
  - (c) effective arrangements have been made to involve local residents, the police and other emergency services in the planning and implementation of the event.
- (3) A motor race order must—
  - (a) specify the event to which it relates, including the date or (in the case of an event that is to take place on more than one day) the dates on which it is to take place,
  - (b) include a map of the area to be used for the event (showing, in particular, the roads which participants will use, and areas which will be available for occupation by spectators), and
  - (c) include any other information specified by the appropriate national authority by regulations.



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- (4) A motor race order may include conditions which must be satisfied before, during or after the event.
- (5) A motor race order may, in particular, include conditions designed to ensure that the arrangements mentioned in subsection (2)(c) continue throughout the planning and implementation of the event.
- (6) In this section, “the appropriate national authority” means—
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.

### **12E Effect of motor race order**

- (1) A motor race order made under section 12D has the effect described in this section.
- (2) Section 12(1) does not apply to the promoter of the event if that person—
  - (a) promotes the event in accordance with any conditions imposed on the promoter by the motor race order, and
  - (b) takes reasonable steps to ensure that any other conditions specified in the motor race order are met.
- (3) The provisions listed in the Table do not apply in relation to a participant or an official or (as the case may be) in relation to a vehicle used by a participant or an official provided that—
  - (a) the participant has been approved by the motor sport governing body that issued a permit in respect of the event or (as the case may be) the official has been authorised by the promoter,
  - (b) the participant or official complies with any conditions specified in the motor race order that apply to participants or (as the case may be) officials, and
  - (c) the participant or official also complies with any conditions imposed on him or her by the promoter.

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<i>Provision</i>	<i>Topic</i>
Road Traffic Regulation Act 1984	
Section 18(3)	Contravention of order relating to one-way traffic on trunk roads
Section 20(5)	Contravention of order relating to use on roads of vehicles of certain classes
Section 81(1), an order under section 84(1), section 86(1), an order under section 88(1) and section 89(1)	Speed limits
Regulations under section 99	Removal of vehicles illegally parked etc
Section 104(1)	Immobilisation of vehicles illegally parked
Road Traffic Act 1988	
Section 1	Causing death by dangerous driving

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Section 1A	Causing serious injury by dangerous driving
Section 2	Dangerous driving
Section 2B	Causing death by careless, or inconsiderate, driving
Section 3	Careless, and inconsiderate, driving
Section 3ZB	Causing death by driving: unlicensed, disqualified or uninsured drivers
Section 12(1)	Motor racing on public ways
Section 21(1)	Prohibition of driving or parking on cycle tracks
Section 22	Leaving vehicles in dangerous positions
Section 22A	Causing danger to road-users
Section 36(1)	Drivers to comply with traffic signs
The Highway Code, as it has effect under section 38	
Section 40A	Using vehicle in dangerous condition etc
Regulations under section 41	Regulation of construction, weight, equipment and use of vehicles
Section 41A	Breach of requirement as to brakes, steering-gear or tyres
Section 41C	Breach of requirement as to speed assessment equipment detection devices
Section 42	Breach of other construction and use requirements
Section 47(1)	Obligatory test certificates
Section 87(1)	Drivers of motor vehicles to have driving licences
Section 103(1)(b)	Driving while disqualified
Section 143(1) and (2)	Users of motor vehicles to be insured or secured against third-party risks
Sections 164 and 165	Powers of constables to require production of driving licence, obtain information etc
Section 165A	Power to seize vehicles driven without licence or insurance
Section 170	Duty of driver to stop, report accident and give information or documents
Vehicle Excise and Registration Act 1994	

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Section 1(1)(b)	Circumstances in which vehicle excise duty is chargeable on unregistered mechanically propelled vehicles
Section 29(1)	Offence of using or keeping an unlicensed vehicle

- (4) The appropriate national authority may by regulations amend this section so as to—
- add or omit an entry in the Table in subsection (3);
  - provide that subsection (3) applies in relation to a provision for the time being included in the Table only for purposes specified in the regulations;
  - provide that subsection (3) applies in relation to a provision for the time being included in the Table only if a condition specified in the regulations is included in the motor race order.
- (5) However, regulations under subsection (4) may not add any provision of sections 3A to 11 of this Act (motor vehicles: drink and drugs) to the Table in subsection (3).
- (6) The promoter of an event in respect of which a motor race order has been made is liable in damages if personal injury or damage to property is caused by anything done—
- by or on behalf of the promoter in connection with the event, or
  - by or on behalf of a participant or an official,
- unless it is proved that the promoter took reasonable steps to prevent the injury or damage occurring.
- (7) For the purposes of the Law Reform (Contributory Negligence) Act 1945, the Fatal Accidents Act 1976 and the Limitation Act 1980 any injury or damage for which a person is liable under subsection (6) is to be treated as due to the fault of that person.
- (8) In this section—
- “the appropriate national authority” means—
- in relation to England, the Secretary of State;
  - in relation to Wales, the Welsh Ministers;
- “official” means a person who facilitates the holding of a race or trial of speed.

#### **12F Regulations by appropriate national authority: procedure**

- A power to make regulations conferred on the Secretary of State or the Welsh Ministers by section 12B(6), 12D(3)(c) or 12E(4) is exercisable by statutory instrument.
- A statutory instrument containing regulations made by the Secretary of State under section 12E(4) (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

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- (3) A statutory instrument containing regulations made by the Secretary of State under section 12B(6) or 12D(3)(c) (other than regulations to which subsection (2) applies) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing regulations made by the Welsh Ministers under section 12E(4) (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (5) A statutory instrument containing regulations made by the Welsh Ministers under section 12B(6) or 12D(3)(c) (other than regulations to which subsection (4) applies) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

### **12G Authorisation of races and trials of speed in Scotland**

- (1) The Scottish Ministers may by regulations authorise, or make provision for authorising, the holding of races or trials of speed on public roads in Scotland.
- (2) Regulations under this section may in particular—
  - (a) specify the persons by whom authorisations may be given;
  - (b) limit the circumstances in which, and the places in respect of which, authorisations may be given;
  - (c) provide for authorisations to be subject to conditions imposed by or under the regulations;
  - (d) provide for authorisations to cease to have effect in circumstances specified in the regulations;
  - (e) provide for the procedure to be followed, the particulars to be given, and the amount (or the persons who are to determine the amount) of any fees to be paid, in connection with applications for authorisations.
- (3) Regulations under this section may make different provision for different cases.

### **12H Races and trials of speed in Scotland: further provision**

- (1) Section 12(1) does not apply to the promoter of an event that has been authorised by or under regulations under section 12G if that person—
  - (a) promotes the event in accordance with any conditions imposed on the promoter by or under the regulations, and
  - (b) takes reasonable steps to ensure that any other conditions imposed by or under the regulations are met.
- (2) Section 12(1) does not apply to a participant in an event that has been authorised by or under regulations under section 12G, provided that the participant complies with any conditions imposed on participants by or under the regulations.
- (3) Sections 1, 1A, 2, 2B and 3 do not apply to a participant in an event that has been authorised by or under regulations under section 12G or to any

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other person of a description specified in regulations made by the Scottish Ministers, provided that the participant or other person complies with any conditions imposed on participants or on persons of that description by or under regulations under section 12G.

- (4) The Scottish Ministers may by regulations make provision for specified provisions of legislation of a kind mentioned in subsection (5)—
- (a) not to apply in relation to participants in events authorised by or under regulations under section 12G or (as appropriate) in relation to vehicles used by such persons;
  - (b) to apply in relation to such persons or vehicles subject to modifications specified in the regulations;
  - (c) not to apply in relation to persons of a description specified in regulations under this subsection or (as appropriate) in relation to vehicles used by such persons;
  - (d) to apply in relation to such persons or vehicles subject to modifications specified in the regulations.
- (5) The kinds of legislation are—
- (a) legislation restricting the speed of vehicles or otherwise regulating the use of vehicles on a public road;
  - (b) legislation regulating the construction, maintenance or lighting of vehicles;
  - (c) legislation requiring a policy of insurance or security to be in force in relation to the use of any vehicle;
  - (d) legislation relating to the duty chargeable on, or the licensing and registration of, vehicles;
  - (e) legislation requiring the driver of a vehicle to hold a licence to drive it;
  - (f) legislation relating to the enforcement of any legislation mentioned in paragraphs (a) to (e).
- (6) However, regulations under subsection (4) may not disapply, or otherwise alter the application of, sections 3A to 11 of this Act (motor vehicles: drink and drugs).
- (7) The Scottish Ministers may by regulations amend section 16A of the Road Traffic Regulation Act 1984 so as to enable orders under that section that are made for the purposes of an event authorised by or under regulations under section 12G to suspend statutory provisions in addition to those specified in section 16A(11).
- (8) The promoter of an event that has been authorised by or under regulations under section 12G is liable in damages if personal injury or damage to property is caused by anything done—
- (a) by or on behalf of the promoter in connection with the event,
  - (b) by or on behalf of a participant, or
  - (c) by or on behalf of a person of a description specified in regulations made by the Scottish Ministers,
- unless it is proved that the promoter took reasonable steps to prevent the injury or damage occurring.

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(9) For the purposes of the Law Reform (Contributory Negligence) Act 1945, any injury or damage for which a person is liable under subsection (8) is to be treated as due to the fault of that person.

(10) In this section, “legislation” means—

- (a) an Act or subordinate legislation (within the meaning of the Interpretation Act 1978);
- (b) an Act of the Scottish Parliament or an instrument made under an Act of the Scottish Parliament.

#### **12I Regulations under section 12G or 12H: procedure**

- (1) Before making regulations under section 12H(3), (4), (7) or (8), the Scottish Ministers must consult such persons as they consider appropriate.
- (2) Regulations under section 12G are subject to the negative procedure.
- (3) Regulations under section 12H(3), (4), (7) or (8) are subject to the affirmative procedure.”

VALID FROM 10/03/2017

#### **74 Motor racing: road closures**

- (1) Section 16A of the Road Traffic Regulation Act 1984 (which allows a traffic authority to impose by order restrictions or temporary prohibitions on the use of roads in connection with certain events) is amended as follows.
- (2) In subsection (4), in paragraph (a), after “(motor racing on public ways)” insert “ unless a motor race order under section 12D of that Act is made in relation to the race or trial or it is authorised by or under regulations under section 12G of that Act ”.
- (3) After subsection (11) insert—
  - “(12) An order under this section that is made for the purposes of a race or trial of speed in relation to which a motor race order under section 12D of the Road Traffic Act 1988 has been made may also suspend—
    - (a) regulations under section 25(1);
    - (b) section 28(1);
    - (c) an order under section 29(1);
    - (d) byelaws under section 31(1);
    - (e) any provision made by or under Part 4.”

VALID FROM 10/03/2017

#### **75 Motor racing: consequential amendments**

- (1) The Road Traffic Act 1988 is amended in accordance with subsections (2) to (5).

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- (2) For the italic cross-heading before section 12 substitute “ Motor racing on public ways ”.
- (3) Before section 13 insert the italic cross-heading “ Other motor events ”.
- (4) In section 193A (tramcars and trolley vehicles), after subsection (3) insert—  
“(3A) Sections 12A to 12I do not apply to tramcars or to trolley vehicles.”
- (5) In section 195 (provisions as to regulations), after subsection (5) insert—  
“(6) This section does not apply in relation to regulations under section 12B(6), 12D(3)(c) or 12E(4) (provision as to which is made by section 12F) or regulations under section 12G or 12H(3), (4), (7) or (8) (provision as to which is made by section 12I).”
- (6) The Secretary of State may by regulations made by statutory instrument repeal any local Act passed before this Act which makes provision for authorising races or trials of speed between motor vehicles on highways in England and Wales (and, for this purpose, “highway” has the same meaning as in the Road Traffic Act 1988).
- (7) Regulations under subsection (6) may include transitional, transitory or saving provision.
- (8) Before making regulations under subsection (6), the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (9) A statutory instrument containing regulations under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) The Scottish Ministers may by regulations repeal any local Act passed before this Act which makes provision for authorising races or trials of speed between motor vehicles on public roads in Scotland (and, for this purpose, “public road” has the same meaning as in the Road Traffic Act 1988).
- (11) Regulations under subsection (10) may include transitional, transitory or saving provision.
- (12) Before making regulations under subsection (10), the Scottish Ministers must consult such persons as they consider appropriate.
- (13) Regulations under subsection (10) are subject to the negative procedure.

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#### **Extent Information**

**E3** S. 75(1)-(5) extends to England and Wales and Scotland; s. 75(6)-(9) extends to England and Wales only; s. 75(10)-(13) extends to Scotland only

## **76 Exhibition of films in community premises**

In the Licensing Act 2003, in Schedule 1 (provision of regulated entertainment), in Part 2 (exemptions), after paragraph 6 insert—



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**“Film exhibitions: community premises**

- 6A (1) The provision of entertainment consisting of the exhibition of a film at community premises is not to be regarded as the provision of regulated entertainment for the purposes of this Act if the following conditions are satisfied.
- (2) The first condition is that prior written consent for the entertainment to take place at the community premises has been obtained, by or on behalf of a person concerned in the organisation or management of the entertainment—
- (a) from the management committee of the community premises, or
  - (b) where there is no management committee, from—
    - (i) a person who has control of the community premises (as occupier or otherwise) in connection with the carrying on by that person of a trade, business or other undertaking (for profit or not), or
    - (ii) where there is no such person, an owner of the community premises.
- (3) The second condition is that the entertainment is not provided with a view to profit.
- (4) The third condition is that the entertainment takes place in the presence of an audience of no more than 500 persons.
- (5) The fourth condition is that the entertainment takes place between 8am and 11pm on the same day.
- (6) The fifth condition is that the film classification body or the relevant licensing authority has made a recommendation concerning the admission of children to an exhibition of the film and—
- (a) where a recommendation has been made only by the film classification body, the admission of children is subject to such restrictions (if any) as are necessary to comply with the recommendation of that body;
  - (b) where a recommendation has been made only by the relevant licensing authority, the admission of children is subject to such restrictions (if any) as are necessary to comply with the recommendation of that authority;
  - (c) where recommendations have been made both by the film classification body and the relevant licensing authority, the admission of children is subject to such restrictions (if any) as are necessary to comply with the recommendation of the relevant licensing authority.
- (7) In sub-paragraph (6) the reference to the “relevant licensing authority”, in relation to the exhibition of a film at particular community premises, is a reference to—
- (a) the licensing authority in whose area the premises are situated, or



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- (b) where the premises are situated in the areas of two or more licensing authorities, those authorities or (as the context requires) such of those authorities as have made a recommendation.
- (8) In this paragraph—
- “children” and “film classification body” have the same meaning as in section 20;
  - “owner”, in relation to community premises, means—
    - (a) a person who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, or
    - (b) a person who holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than 3 years.”

#### Commencement Information

**118** S. 76 in force at 6.4.2015 by S.I. 2015/994, art. 3(c)

VALID FROM 26/05/2015

#### 77 TV licensing: duty to review sanctions

- (1) The Secretary of State must carry out a review of the sanctions that are appropriate in respect of contraventions of section 363 of the Communications Act 2003 (licence required for installation or use of television receiver).
- (2) A review under subsection (1) must—
  - (a) examine proposals for decriminalisation of offences under section 363 of the Communications Act 2003;
  - (b) begin before the end of the period of 3 months beginning with the day on which this Act is passed;
  - (c) be completed no later than 12 months after the day on which it begins; and
  - (d) be laid before both Houses of Parliament by the Secretary of State on completion and be presented to the BBC Trust.
- (3) The Secretary of State must, before the end of the period of 3 months beginning with the day on which the review is completed, lay before both Houses of Parliament a report setting out the Secretary of State's response to the review which must include—
  - (a) a statement as to whether the Secretary of State proposes to exercise the power to make regulations under section 78(1)(a) or (b), and
  - (b) if the Secretary of State proposes to do so, an outline of the steps that the Secretary of State proposes to take in consequence and when those steps will be taken.

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VALID FROM 26/05/2015

## 78 TV licensing: alternatives to criminal sanctions

- (1) The Secretary of State may by regulations made by statutory instrument—
  - (a) replace the TV licensing offences with civil monetary penalties payable to the BBC, or
  - (b) amend Part 3 of the Regulatory Enforcement and Sanctions Act 2008 so as to enable an order to be made under section 36 of that Act conferring power on the BBC to impose in relation to a TV licensing offence—
    - (i) a fixed monetary penalty (within the meaning of that Part);
    - (ii) a variable monetary penalty (within the meaning of that Part).
- (2) Regulations under subsection (1)(a) may provide for the amount of a monetary penalty to be—
  - (a) a fixed amount specified in, or determined in accordance with, the regulations, or
  - (b) such amount, not exceeding a maximum amount specified in the regulations, as may be determined by a body so specified.
- (3) Regulations under subsection (1)(a) must—
  - (a) make provision as to the steps that must be taken before a monetary penalty is imposed;
  - (b) make provision conferring rights to appeal against the imposition of a monetary penalty.
- (4) Regulations under subsection (1)(a) may make provision corresponding to any provision that could be included in an order under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 by virtue of section 52 of that Act (early payment discounts, late payment and enforcement).
- (5) Regulations under subsection (1)(a) may—
  - (a) confer powers to obtain information for the purpose of determining whether to impose a monetary penalty;
  - (b) confer powers of entry, search or seizure for that purpose.
- (6) Regulations under subsection (1)(a) may repeal or otherwise amend any provision of Part 4 of the Communications Act 2003.
- (7) Any sums received by the BBC by virtue of regulations under this section must be paid into the Consolidated Fund.
- (8) Regulations under this section may include—
  - (a) consequential provision, or
  - (b) transitional, transitory or saving provision,and any such provision may be made by repealing, revoking or otherwise amending or modifying legislation.
- (9) Regulations under this section may make different provision for different purposes or areas.

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- (10) A statutory instrument containing regulations under this section may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.
- (11) Regulations under subsection (1) may not be made so as to come into force before 1 April 2017.
- (12) Unless the power conferred by subsection (1) is exercised before the end of the period of 24 months beginning with the day on which the review required by section 77 is completed, this section expires at the end of that period.
- (13) “The TV licensing offences” are—
- (a) the offence under section 363(2) of the Communications Act 2003 (installing or using a television receiver without a licence), and
  - (b) the offence under section 363(3) of that Act (having a receiver in a person's possession intending to install or use it without a licence etc).
- (14) In this section—
- “the BBC” means the British Broadcasting Corporation;
  - “legislation” means—
- (a) an Act or subordinate legislation (within the meaning of the Interpretation Act 1978);
  - (b) an Act of the Scottish Parliament or an instrument made under an Act of the Scottish Parliament;
  - (c) a Measure or Act of the National Assembly for Wales or an instrument made under a Measure or Act of that Assembly; and
  - (d) Northern Ireland legislation or an instrument made under Northern Ireland legislation.

*Administration of justice*

VALID FROM 26/05/2015

**79 Repeal of Senior President of Tribunals' duty to report on standards**

In section 15A of the Social Security Act 1998 (functions of Senior President of Tribunals), omit subsections (2) and (3) (which require the preparation and publication of an annual report on standards of decision-making in the making of certain decisions of the Secretary of State against which an appeal lies to the First-tier Tribunal).

VALID FROM 26/05/2015

**80 Criminal procedure: written witness statements**

- (1) Section 9 of the Criminal Justice Act 1967 (proof by written statement) is amended as follows.

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- (2) In subsection (2)(d) (objections to the tendering of written statements), for “within seven days from the service of the copy of the statement” substitute “ within the relevant period ”.
- (3) After subsection (2) insert—
- “(2A) For the purposes of subsection (2)(d), “the relevant period” is—
- (a) such number of days, which may not be less than seven, from the service of the copy of the statement as may be prescribed by Criminal Procedure Rules, or
  - (b) if no such number is prescribed, seven days from the service of the copy of the statement.”
- (4) Omit the following—
- (a) subsections (3) and (3A) (which make provision about the content of written statements etc);
  - (b) subsection (6) (which provides for written statements to be read aloud unless the court otherwise directs);
  - (c) subsection (8) (which deals with the service of documents).
- (5) In consequence of subsections (2) and (3), paragraph 10 of Schedule 4 to the Wireless Telegraphy Act 2006 is amended as follows—
- (a) after sub-paragraph (2) insert—
- “(2A) The statement is to be treated as properly served for the purposes of section 9 of the Criminal Justice Act 1967 (proof by written statement), even though the manner of service is not authorised by Criminal Procedure Rules.”;
- (b) in sub-paragraph (3)—
    - (i) omit paragraph (a) and the “and” following it;
    - (ii) in the closing words, for “either of those sections” substitute “ that section ”;
  - (c) after sub-paragraph (5) insert—
- “(5A) If the alleged offender makes a request to be tried, section 9(2A) of the Criminal Justice Act 1967 (time for objection) is to apply—
- (a) with the substitution for the reference in paragraph (a) to such number of days, which may not be less than seven, from the service of the copy of the statement of a reference to such number of days, which may not be less than seven, beginning with the day after the one on which the request to be tried was made, and
  - (b) with the substitution for the reference in paragraph (b) to seven days from the service of the copy of the statement of a reference to seven days beginning with the day after the one on which the request to be tried was made.”;
- (d) in sub-paragraph (6)—
    - (i) omit paragraph (a) and the “and” following it;
    - (ii) in the closing words, for “are to apply” substitute “ is to apply ”.
- (6) In consequence of subsection (4)—

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- (a) in the Magistrates' Courts Act 1980, in section 12(3)(b)(ii), for “subsections (2)(a) and (b) and (3)” substitute “ subsection (2)(a) and (b) ”;
- (b) in the Road Traffic Offenders Act 1988, in section 79(4), for “subsection (8) of that section” substitute “ Criminal Procedure Rules ”;
- (c) in the Criminal Justice and Public Order Act 1994, in Schedule 9, omit paragraph 6(1);
- (d) in the Criminal Procedure and Investigations Act 1996, omit section 69.

VALID FROM 26/05/2015

### **81 Criminal procedure: written guilty pleas**

- (1) Section 12 of the Magistrates' Courts Act 1980 (non-appearance of accused: plea of guilty) is amended as follows.
- (2) In subsection (7), after “shall” insert “ , subject to rules of court made under subsection (7ZA), ”.
- (3) After subsection (7) insert—

“(7ZA) Rules of court may—

  - (a) specify which of paragraphs (a) to (d) of subsection (7) (if any) are to apply;
  - (b) provide that any such paragraph is to apply only in circumstances specified in the rules.

(7ZB) Where rules of court are made under subsection (7ZA), subsection (7) applies only to the extent provided for by the rules.”

VALID FROM 26/05/2015

### **82 Criminal procedure: powers to make Criminal Procedure Rules**

- (1) In the Administration of Justice (Miscellaneous Provisions) Act 1933, in section 2 (procedure for indictment of offenders)—
  - (a) in subsection (6), for “Rules” substitute “ Criminal Procedure Rules ”;
  - (b) omit subsection (6A).
- (2) In that section, in subsection (2), in paragraph (i) of the proviso, for “section 57D(1)” substitute “ section 51D(1) ”.
- (3) In the Police and Criminal Evidence Act 1984, in Schedule 1 (making of orders and issue of warrants in respect of excluded or special procedure material)—
  - (a) in paragraph 7, after “paragraph 4 above” insert “ that relates to material that consists of or includes journalistic material ”;
  - (b) in paragraph 8, for “such an order” substitute “ an order under paragraph 4 above that relates to material that consists of or includes journalistic material ”;

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- (c) in paragraph 9, for “Such a notice” substitute “ Notice of an application for an order under paragraph 4 above that relates to material that consists of or includes journalistic material ”;
- (d) in paragraph 10, for “this Schedule” (in each place where it occurs) substitute “ paragraph 8 ”;
- (e) after paragraph 15 insert—

#### 15A “Procedural rules

Criminal Procedure Rules may make provision about proceedings under this Schedule, other than proceedings for an order under paragraph 4 above that relates to material that consists of or includes journalistic material.”

- (4) In the Terrorism Act 2000, in Part 1 of Schedule 5 (making of orders and issue of warrants in respect of obtaining information in terrorist investigations: England and Wales and Northern Ireland), in paragraph 11 (which deals with the issue of warrants in respect of excluded or special procedure material), after sub-paragraph (4) insert—

“(5) Criminal Procedure Rules may make provision about proceedings relating to a warrant under this paragraph.”

- (5) In the Criminal Justice and Police Act 2001, in section 59 (applications for the return of seized property etc), after subsection (12) insert—

“(13) Criminal Procedure Rules may make provision about proceedings under this section on an application to a judge of the Crown Court in England and Wales.”

- (6) In the Proceeds of Crime Act 2002, in section 352 (applications for search and seizure warrants), after subsection (7) insert—

“(8) Criminal Procedure Rules may make provision about proceedings under this section on an application to a judge entitled to exercise the jurisdiction of the Crown Court in England and Wales.”

VALID FROM 26/05/2015

#### 83 “MAPPA arrangements” to cease to apply to certain offenders

- (1) Section 327 of the Criminal Justice Act 2003 (which makes provision about the offenders in respect of whom multi-agency public protection arrangements - sometimes referred to as “MAPPA arrangements” - must be made) is amended as follows.
- (2) In subsection (1), for “subsections (2) to (5)” substitute “ subsections (2) to (4) ”.
- (3) In subsection (3), in paragraph (a), after “Schedule 15” insert “ or in subsection (4A) below ”.
- (4) In subsection (4), in paragraph (a), after “Schedule 15” insert “ or in subsection (4A) below ”.
- (5) After subsection (4) insert—

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“(4A) The offences specified in this subsection are—

- (a) an offence under section 1 of the Child Abduction Act 1984 (abduction of child by parent);
- (b) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (trafficking people for exploitation), where the offence is committed against a child;
- (c) an offence under section 4(3) of the Misuse of Drugs Act 1971 where the offence is committed by—
  - (i) supplying or offering to supply a Class A drug to a child,
  - (ii) being concerned in the supplying of such a drug to a child, or
  - (iii) being concerned in the making to a child of an offer to supply such a drug;
- (d) an offence of aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this subsection;
- (e) an offence of conspiring to commit an offence so specified;
- (f) an offence of attempting to commit an offence so specified.”

(6) Omit subsection (5).

(7) In subsection (6), after “In this section” insert “—  
child” means a person under 18;”.

VALID FROM 26/05/2015

#### **84 Removal of requirement that prison closures be made by order**

- (1) The Prison Act 1952 is amended as follows.
- (2) In section 37 (closing of prisons)—
  - (a) in subsection (1)—
    - (i) omit “Subject to the next following subsection,”;
    - (ii) omit “by order”;
  - (b) omit subsections (2) and (3).
- (3) In section 43 (remand centres and young offender institutions), as it has effect on and after the day on which section 38 of the Criminal Justice and Courts Act 2015 comes into force, in the Table in subsection (4)—
  - (a) in the entry for “Young offender institutions”, in the second column, for “Sections 28 and 37(2)” substitute “Section 28”;
  - (b) in the entry for “Secure training centres or secure colleges”, in the second column, for “, 28 and 37(2)” substitute “and 28”.
- (4) Until section 38 of the Criminal Justice and Courts Act 2015 comes into force, in section 43 (remand centres and young offender institutions)—
  - (a) in subsection (5), for “sections 28 and 37(2)” substitute “section 28”;
  - (b) in subsection (5A), for “28 and 37(2) and (3)” substitute “and 28”.
- (5) In section 52 (exercise of power to make orders, rules and regulations)—
  - (a) in subsection (1), omit “, 37”;



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- (b) in subsection (2), omit “or an order made under section thirty-seven of this Act”.

## 85 Power of HMRC to disclose information for purposes of certain litigation

- (1) The Commissioners for Her Majesty's Revenue and Customs may disclose information held by them—
- (a) to a person who is entitled to bring proceedings under the fatal accidents legislation or for whose benefit such proceedings may be brought, for use in connection with the proceedings or in reaching a settlement without the need to bring proceedings;
  - (b) to a person who is entitled to bring proceedings for damages for personal injury for the benefit of the estate of a deceased person, for use in connection with the proceedings or in reaching a settlement without the need to bring proceedings;
  - (c) to a person who has made or who wishes to make an application for a payment under the Diffuse Mesothelioma Payment Scheme on the basis that he or she is eligible for such a payment under section 3 of the Mesothelioma Act 2014 (eligibility of dependants for payments under the Scheme), for use in connection with the application.
- (2) “The fatal accidents legislation” means—
- (a) the Fatal Accidents Act 1976;
  - (b) the Fatal Accidents (Northern Ireland) Order 1977 (S.I. 1977/1251 (N.I. 18));
  - (c) section 4 of the Damages (Scotland) Act 2011.

VALID FROM 29/06/2015

## 86 CLC practitioner services bodies

- (1) Section 32 of the Administration of Justice Act 1985 (provision of conveyancing services by recognised bodies) is amended as follows.
- (2) In the heading, after “conveyancing” insert “ or other ”.
- (3) In subsection (1)—
- (a) in paragraph (a), after “bodies” insert “ or CLC practitioner services bodies ”;
  - (b) in paragraph (b), for “such bodies” substitute “ conveyancing services bodies ”;
  - (c) in paragraph (b), for the words from “undertake” to the end substitute “undertake—
    - (i) the provision of conveyancing services,
    - (ii) the exercise of a right of audience,
    - (iii) the conduct of litigation,
    - (iv) probate activities,
    - (v) the administration of oaths, or
    - (vi) the provision of relevant legal services not covered by sub-paragraphs (i) to (v);”;
  - (d) after paragraph (b) insert—



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- “(bza) prescribing the circumstances in which CLC practitioner services bodies may be recognised by the Council as being suitable bodies to undertake—
- (i) the exercise of a right of audience,
  - (ii) the conduct of litigation,
  - (iii) probate activities,
  - (iv) the administration of oaths, or
  - (v) the provision of relevant legal services not covered by sub-paragraphs (i) to (iv);”;
- (e) in paragraph (ba), for the words from “bodies” to the end substitute “bodies to carry on—
- (i) the exercise of a right of audience,
  - (ii) the conduct of litigation,
  - (iii) reserved instrument activities, where the recognised body is a conveyancing services body,
  - (iv) probate activities, or
  - (v) the administration of oaths;”;
- (f) in paragraph (c), after “requirements” insert “, including requirements about the carrying on of activities which are not reserved legal activities, ”.
- (4) In subsection (3)(e), after “those bodies” insert “ (including information about disciplinary measures taken) ”.
- (5) In subsection (3C), after paragraph (a) insert—
- “(aa) conditions restricting the kinds of CLC practitioner services that may be provided by the body;”.
- (6) For subsection (8) substitute—
- “(8) In this section—
- “administration of oaths” has the same meaning as in the Legal Services Act 2007 (see section 12 of, and Schedule 2 to, that Act);
  - “CLC practitioner services” has the meaning given by section 32B;
  - “CLC practitioner services body” has the meaning given by section 32B;
  - “conduct of litigation” has the same meaning as in the Legal Services Act 2007 (see section 12 of, and Schedule 2 to, that Act);
  - “conveyancing services body” has the meaning given by section 32A;
  - “probate activities” has the same meaning as in the Legal Services Act 2007 (see section 12 of, and Schedule 2 to, that Act);
  - “relevant legal services”—
    - (a) in relation to a conveyancing services body, has the meaning given by section 32A; and
    - (b) in relation to a CLC practitioner services body, has the meaning given by section 32B;  - “reserved instrument activities” has the same meaning as in the Legal Services Act 2007 (see section 12 of, and Schedule 2 to, that Act);

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“right of audience” has the same meaning as in the Legal Services Act 2007 (see section 12 of, and Schedule 2 to, that Act).”

(7) After subsection (8) insert—

“(8A) Nothing in this section affects section 13 of the Legal Services Act 2007 (entitlement to carry on a reserved legal activity).”

(8) After section 32A (definition of “conveyancing services body”) insert—

**“32B CLC practitioner services bodies**

(1) For the purposes of section 32 a “CLC practitioner services body” means a body (corporate or unincorporate) in respect of which—

- (a) the management and control condition,
- (b) the services condition, and
- (c) the authorised person condition,

are satisfied.

(2) The management and control condition is satisfied in the case of a partnership if at least one of the partners is a licensed conveyancer or a licensed CLC practitioner.

(3) The management and control condition is satisfied in the case of an unincorporated body (other than a partnership), or a body corporate which is managed by its members, if at least one of those members is a licensed conveyancer or a licensed CLC practitioner.

(4) The management and control condition is satisfied in the case of any other body corporate if at least one director of the body is a licensed conveyancer or a licensed CLC practitioner.

(5) The services condition is satisfied in respect of a body if—

- (a) the body is carrying on a business consisting of the provision of—
  - (i) CLC practitioner services; or
  - (ii) CLC practitioner services and other relevant legal services;
 and
- (b) the body does not provide conveyancing services.

(6) The authorised person condition is satisfied if the licensed conveyancer or licensed CLC practitioner by reference to whom the management and control condition is satisfied, or one of the persons by reference to whom that condition is satisfied, is an authorised person in relation to any reserved legal activity involved in the CLC practitioner services that are provided by the body.

(7) For the purposes of this section—

- (a) a reference to CLC practitioner services is a reference to services involving the carrying on of such of the following as are reserved legal activities in relation to which the Council is designated as an approved regulator—
  - (i) the exercise of a right of audience;
  - (ii) the conduct of litigation;

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- (iii) probate activities;
- (iv) the administration of oaths;
- (b) a reference to designation as an approved regulator is a reference to designation as an approved regulator—
  - (i) by Part 1 of Schedule 4 to the Legal Services Act 2007, or
  - (ii) under Part 2 of Schedule 4 to that Act;
- (c) a person has an interest in a body if the person has an interest in the body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act).

(8) In this section—

“administration of oaths” has the same meaning as in the Legal Services Act 2007 (see section 12 of, and Schedule 2 to, that Act);

“authorised person” means an authorised person in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007);

“conduct of litigation” has the same meaning as in the Legal Services Act 2007 (see section 12 of, and Schedule 2 to, that Act);

“probate activities” has the same meaning as in the Legal Services Act 2007 (see section 12 of, and Schedule 2 to, that Act);

“relevant legal services”, in relation to a body, means—

- (a) CLC practitioner services, and
- (b) where authorised persons are managers or employees of, or have an interest in, the body, services such as are provided by individuals practising as such authorised persons (whether or not those services involve the carrying on of reserved legal activities), except for conveyancing services;

“reserved legal activity” has the same meaning as in the Legal Services Act 2007 (see section 12 of, and Schedule 2 to, that Act);

“right of audience” has the same meaning as in the Legal Services Act 2007 (see section 12 of, and Schedule 2 to, that Act).”

VALID FROM 29/06/2015

## 87 Licensed CLC practitioners

- (1) Section 53 of the Courts and Legal Services Act 1990 (the Council for Licensed Conveyancers: authorisation of individuals to carry on reserved legal activities) is amended as follows.
- (2) In subsection (2), omit “only if the person is a licensed conveyancer”.
- (3) In subsection (3)—
  - (a) for “a licensed conveyancer” substitute “ a person ”;
  - (b) for “the licensed conveyancer” substitute “ the person in respect of that activity ”.
- (4) In subsection (4), for “Any such” substitute “ If the person granted a licence under this section is a licensed conveyancer, the ”.

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(5) After subsection (4) insert—

“(4A) If the person granted a licence under this section is not a licensed conveyancer, the licence may be granted as a separate licence or as part of a composite licence comprising that and any other licence under this section which the Council may grant to the person.

(4B) A licence under this section granted to a person who is not a licensed conveyancer ceases to have effect if the person becomes a licensed conveyancer.”

(6) In subsection (9)—

(a) in the opening words, after “respect to” insert “ persons who apply for, or hold, an advocacy, litigation or probate licence and ”;

(b) in paragraph (c), for “licensed conveyancer” substitute “ person ”;

(c) after paragraph (d) insert—

“(da) any case of an individual who describes himself or herself, or holds himself or herself out, as a licensed CLC practitioner without holding a licence in force under this section;”;

(d) in the words following paragraph (f), after “respect to” insert “ persons who apply for, or hold, a licence under Part 2 of the Act of 1985 and ”.

(7) After subsection (9) insert—

“(9A) The modifications mentioned in subsection (9) may differ depending on whether the person applying for, or holding, an advocacy, litigation or probate licence is or is not a licensed conveyancer.

(9B) Subsection (9) does not apply to section 34 of the Act of 1985 (modification of existing enactments relating to conveyancing etc).”

(8) After subsection (10) insert—

“(11) In this section—

“advocacy licence” means a licence issued under this section by which the Council authorises the person concerned to exercise a right of audience;

“CLC practitioner services” has the same meaning as in section 32B of the Act of 1985;

“licensed CLC practitioner” means a person, other than a licensed conveyancer, who holds a licence under this section;

“litigation licence” means a licence issued under this section by which the Council authorises the person concerned to carry on activities which constitute the conduct of litigation;

“the practice of a licensed CLC practitioner” means the provision by a person, as the holder of a licence under this section, of CLC practitioner services in accordance with the licence; and

“probate licence” means a licence issued under this section by which the Council authorises the person concerned to carry on activities that constitute probate activities.”

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(9) In the italic heading preceding section 53, after “conveyancers” insert “and licensed CLC practitioners”.

VALID FROM 29/06/2015

**88 CLC practitioner services: consequential amendments**

Schedule 19 contains consequential amendments relating to sections 86 and 87.

VALID FROM 29/06/2015

**89 The Council for Licensed Conveyancers: other amendments**

Schedule 20 contains other amendments relating to the Council for Licensed Conveyancers.

*Other measures to reduce burdens on public authorities*

**90 Poisons and explosives precursors**

Schedule 21 introduces a common system for regulating the possession etc of non-medicinal poisons and explosives precursors.

**Commencement Information**

**I19** S. 90 in force for certain purposes at Royal Assent, see s. 115

**I20** S. 90 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

VALID FROM 02/03/2016

**91 London street trading appeals: removal of role of Secretary of State in appeals**

(1) The London Local Authorities Act 1990 is amended in accordance with subsections (2) and (3).

(2) After section 30 insert—

**“30A Other Part III appeals**

(1) Any person aggrieved—

(a) by a resolution rescinding or varying a designating resolution;

(b) by a resolution under subsection (1)(b) of section 24 (Designation of licence streets) of this Act;

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- (c) by a standard condition prescribed by regulations under subsection (3) of section 27 (Conditions of street trading licences) of this Act; or
- (d) by the amount of a fee or charge under section 32 (Fees and charges) of this Act;

may appeal to a magistrates' court acting for the area of the borough council which passed the resolution, prescribed the condition or determined the amount of the fee or charge (as the case may be).

(2) An appeal under subsection (1) may be brought—

- (a) in the case of an appeal under paragraph (a) or (b) of that subsection, at any time before the expiration of the period of three months beginning with the date on which notice of the passing of the resolution is published for the second time in accordance with subsection (10) of section 24 (Designation of licence streets) of this Act;
- (b) in the case of an appeal under paragraph (c) of that subsection, at any time before the expiration of the period of three months beginning with the date upon which the licence holders or a body or bodies representative of them were notified of the making of the regulations;
- (c) in the case of an appeal under paragraph (d) of that subsection—
  - (i) if it relates to the amount of a fee payable under subsection (1) of section 32 (Fees and charges) of this Act, at any time before the expiration of the period of three months beginning with the date on which the fee payable is notified to the licence holders or a body or bodies representative of them;
  - (ii) if it relates to the amount of a charge under subsection (2) of section 32 (Fees and charges) of this Act, at any time before the expiration of the period of three months beginning with the date on which notice of the determination of the charge has been given to the licence holders or a body or bodies representative of them.

(3) A person desiring to appeal under subsection (1) shall give written notice to the magistrates' court and to the borough council specifying the matter about which the person is aggrieved and the grounds upon which the appeal is made.

(4) On an appeal to a magistrates' court under this section, the court may make such order as it thinks fit.”

(3) In section 30—

- (a) omit subsections (11) and (12);
- (b) in the sidenote, after “Part III appeals” insert “ : refusal to grant a licence etc. ”.

(4) Section 19 of the City of Westminster Act 1999 is amended as follows.

(5) In subsection (1), for the words from “the Secretary of State” to the end of the subsection substitute “a magistrates' court acting for the area of the council”.

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(6) After subsection (2) insert—

“(3) A person desiring to appeal under subsection (1) shall give written notice to the magistrates' court and to the council specifying the matter about which the person is aggrieved and the grounds upon which the appeal is made.

(4) On an appeal to a magistrates' court under this section, the court may make such order as it thinks fit.”

(7) For the sidenote substitute “Appeals to a magistrates' court”.

PROSPECTIVE

## 92 Gangmasters (Licensing) Act 2004: enforcement

In section 15 of the Gangmasters (Licensing) Act 2004 (enforcement and compliance officers), after subsection (6) insert—

“(7) This section does not prevent the Secretary of State from making arrangements for ensuring that functions relating to the institution or conduct of proceedings in England and Wales for an offence under this Act are carried out by the Director of Public Prosecutions and, accordingly, the terms of appointments under subsection (1), or arrangements under subsection (2), may include provision, or be modified so as to include provision, for enforcement officers not to carry out such functions at any time when they are being carried out by the Director.”

VALID FROM 26/05/2015

## 93 Reduction in regulation of providers of social work services

(1) In the Care Standards Act 2000, omit section 4(10) (which provides for the Act to apply to a provider of social work services as it applies to an agency to which that Act applies).

(2) In consequence of subsection (1)—

(a) in that Act, omit—

(i) section 5(1A)(f), and the “and” before it;

(ii) section 30A(6)(f);

(iii) section 121(4A);

(b) in the Children and Young Persons Act 2008, omit section 4.

VALID FROM 01/01/2016

## 94 Electoral Commission: changes to facilitate efficient administration

(1) Schedule 1 to the Political Parties, Elections and Referendums Act 2000 (the Electoral Commission) is amended as follows.



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- (2) Paragraph 15 (five-year plan) is amended as set out in subsections (3) and (4).
- (3) In sub-paragraph (1), after “paragraph 14” insert “ in respect of the first financial year to begin after the day on which Parliament meets for the first time following a parliamentary general election, ”.
- (4) After that sub-paragraph insert—
  - “(1A) The Speaker's Committee may require the Commission to submit a plan under sub-paragraph (1) when the Commission submit such an estimate as is mentioned in paragraph 14 in respect of a financial year other than one mentioned in that sub-paragraph.”
- (5) In paragraph 16 (annual examination of Commission by Comptroller and Auditor General), in sub-paragraph (1)—
  - (a) after “paragraphs 14 and 15” insert “ in respect of any year when both an estimate under paragraph 14 and a five-year plan under paragraph 15 are submitted to them, ”;
  - (b) for “in each year” substitute “ before the Committee consider the estimate and plan ”.
- (6) In the cross-heading preceding paragraph 16, for “Annual examination” substitute “ Examination ”.

VALID FROM 01/01/2016

## 95 LGBC for England: changes to facilitate efficient administration

- (1) Schedule 1 to the Local Democracy, Economic Development and Construction Act 2009 (Local Government Boundary Commission for England) is amended as follows.
- (2) In paragraph 5 (committees), for sub-paragraph (3) substitute—
  - “(3) A committee established under this paragraph to review the economy, efficiency or effectiveness with which the Commission has used its resources, or any sub-committee of such a committee, may include up to two people who are not also members of the Commission (“independent members”).
  - (4) The Commission may not appoint as an independent member anyone who would be ineligible for appointment as a member of the Commission because of paragraph 1(3).
  - (5) An independent member must be appointed on such terms and conditions, including terms and conditions as to remuneration, as the Commission may determine.
  - (6) Except as provided by sub-paragraph (3), only a member of the Commission may be a member of one of its committees or sub-committees.”
- (3) Paragraph 12 (five-year plan) is amended as set out in subsections (4) and (5).



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- (4) In sub-paragraph (1), after “paragraph 11” insert “ in respect of the first financial year to begin after the day on which Parliament meets for the first time following a parliamentary general election ”.
- (5) After that sub-paragraph insert—
  - “(1A) The Speaker's Committee may require the Commission to submit a plan under sub-paragraph (1) when the Commission submits such an estimate as is mentioned in paragraph 11 in respect of a financial year other than one mentioned in that sub-paragraph.”
- (6) In paragraph 13 (annual examination by Comptroller and Auditor General), in sub-paragraph (1)—
  - (a) for “For the purposes of paragraphs 11 and 12” substitute “ For the purpose of assisting the Speaker's Committee to discharge their functions under paragraphs 11 and 12 in respect of any year when both an estimate under paragraph 11 and a five-year plan under paragraph 12 are submitted to them, ”.
  - (b) for “in each year” substitute “ before the Committee consider the estimate and plan ”.
- (7) In the cross-heading preceding paragraph 13, for “Annual examination” substitute “ Examination ”.

VALID FROM 26/05/2015

## 96 NHS foundation trusts and NHS trusts: acquisitions and dissolutions etc

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In section 56A (acquisitions), after subsection (4) insert—
  - “(4A) Where the regulator proposes to grant the application, it may by order make provision for the transfer of employees of B to A on the grant of the application.”
- (3) After section 56A insert—

**“56AA Acquisitions under section 56A: supplementary**

  - (1) On the grant of an application under section 56A—
    - (a) any order made by the regulator under section 56A(4A) takes effect,
    - (b) the property and liabilities of the acquired NHS foundation trust or NHS trust are transferred to the acquiring NHS foundation trust (other than rights and liabilities which may be dealt with by order under section 56A(4A)),
    - (c) the acquired NHS foundation trust or NHS trust is dissolved, and
    - (d) where the acquired trust is an NHS trust, the NHS trust order establishing it is revoked.
  - (2) So far as may be necessary for the purposes of subsection (1)(b)—

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- (a) anything done before the grant of the application by or in relation to the acquired trust is to be treated (on and after the grant) as having been done by or in relation to the acquiring trust;
  - (b) any reference in a document to the acquired trust is to be read as a reference to the acquiring trust.
- (3) Anything (including legal proceedings) that, immediately before the grant of the application, is in the process of being done by or in relation to the acquired trust may continue to be done afterwards by or in relation to the acquiring trust.
- (4) In subsection (1)—
- (a) “liabilities” includes criminal liabilities;
  - (b) “property” includes trust property.”
- (4) In section 57 (sections 56 to 56B: supplementary), after subsection (3) insert—
- “(3A) The order may include provision for the transfer of employees of the trust or trusts dissolved by the order.”
- (5) In section 64 (orders and regulations under this Chapter)—
- (a) in subsection (4), before paragraph (c) insert—  
“(ba) section 56A(4A),”;
  - (b) in subsection (4A), after “section” insert “ 56A(4A), ”.
- (6) In section 65LA (trusts to be dissolved), in subsection (3)(b), for the words following “trust” to the end substitute “—
- (i) to an NHS body;
  - (ii) to the Secretary of State;
  - (iii) between more than one NHS body or between one or more NHS bodies and the Secretary of State.”
- (7) In that section, in subsection (5), for “to an NHS foundation trust” substitute “ to an NHS body ”.
- (8) In paragraph 31 of Schedule 4 (NHS trusts established under section 25), as it has effect until its repeal by section 179(2) of the Health and Social Care Act 2012, at the beginning insert “ Subject to section 56AA, ”.

VALID FROM 26/05/2015

## 97 Access to registers kept by Gas and Electricity Markets Authority

- (1) Section 36 of the Gas Act 1986 (keeping of register under Part 1 of that Act: gas supply) is amended in accordance with subsections (2) to (4).
- (2) In subsection (1) (duty on Authority to maintain register), omit “at such premises and”.
- (3) For subsection (4) substitute—  
“(4) The contents of the register must be shown on the Authority's website.”

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- (4) In consequence of the amendment made by subsection (3) of this section, in subsection (5), for “so made” substitute “ made by the Secretary of State ”.
- (5) Section 49 of the Electricity Act 1989 (keeping of register under Part 1 of that Act: electricity supply) is amended in accordance with subsections (6) to (8).
- (6) In subsection (1) (duty on Authority to maintain register), omit “at such premises and”.
- (7) For subsection (5) substitute—  
    “(5) The contents of the register must be shown on the Authority's website.”
- (8) In consequence of the amendment made by subsection (7) of this section, in subsection (6), for “so made” substitute “ made by the Secretary of State ”.

VALID FROM 26/05/2015

## 98 Information contained in entries of births and deaths

- (1) The Births and Deaths Registration Act 1953 is amended as follows.
- (2) After section 34 (entry in register as evidence of birth or death) insert—

### “34A Searches and records of information: additional provision

- (1) The Minister may make regulations for the purpose of enabling the Registrar General—
  - (a) to carry out, on request, a search to find out whether the Registrar General's certified copies contain a particular entry;
  - (b) to provide, on request, a record of information contained in an entry in the Registrar General's certified copies, otherwise than in the form of a certified copy.
- (2) The regulations may authorise or require the Registrar General to charge a fee of an amount specified in the regulations for carrying out a search or providing a record.
- (3) The regulations may make provision—
  - (a) as to how a request for a search or a record may be made;
  - (b) as to the forms in which a record may be provided.
- (4) The provision that may be made in the regulations includes provision for a record to be provided in a form that does not include all of the information contained in an entry.
- (5) This section does not affect the entitlement under this Act of any person to a certified copy of an entry in the Registrar General's certified copies.
- (6) In this section, “the Registrar General's certified copies” means the certified copies of entries in registers sent to the Registrar General under this Act or under any enactment repealed by this Act and kept in the General Register Office.

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(7) Section 30(4) applies for the purposes of this section as it applies for the purposes of section 30.”

(3) In section 39 (regulations), in paragraph (a), for “and 10C” substitute “ , 10C and 34A ”.

(4) In section 39A (regulations made by the Minister: further provisions), in subsection (5), for “and 10C” substitute “ , 10C and 34A ”.

VALID FROM 26/05/2015

## 99 Information contained in entries of marriages and civil partnerships

(1) After section 65 of the Marriage Act 1949 (searches of indexes kept by Registrar General) insert—

### “65A Searches and records of information: additional provision

(1) The Secretary of State may make regulations for the purpose of enabling the Registrar General—

- (a) to carry out, on request, a search to find out whether the Registrar General's certified copies contain a particular entry;
- (b) to provide, on request, a record of information contained in an entry in the Registrar General's certified copies, otherwise than in the form of a certified copy.

(2) The regulations may authorise or require the Registrar General to charge a fee of an amount specified in the regulations for carrying out a search or providing a record.

(3) The regulations may make provision—

- (a) as to how a request for a search or a record may be made;
- (b) as to the forms in which a record may be provided.

(4) The provision that may be made in the regulations includes provision for a record to be provided in a form that does not include all of the information contained in an entry.

(5) Before making regulations under this section, the Secretary of State must consult the Registrar General.

(6) Regulations under this section are to be made by statutory instrument.

(7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

(8) This section does not affect the entitlement of any person to a certified copy of an entry in the Registrar General's certified copies.

(9) In this section, “the Registrar General's certified copies” means the certified copies of entries in marriage register books sent to the Registrar General under this Part of this Act and kept in the General Register Office.”

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(2) In section 36 of the Civil Partnership Act 2004 (regulations and orders), in subsection (2), after paragraph (f) insert—

“(g) for the carrying out by the Registrar General, on request, of searches of entries in the register and the provision, on request, of information contained in the entries (otherwise than in the form of certified copies).”

(3) In section 9 of the Marriage (Same Sex Couples) Act 2013 (conversion of civil partnership into marriage), in subsection (5), after paragraph (b) insert—

“(ba) the carrying out, on request, of searches of any information recorded and the provision, on request, of records of any information recorded (otherwise than in the form of certified copies).”

VALID FROM 26/05/2015

#### **100 Repeal of duty to prepare sustainable community strategy**

(1) In the Local Government Act 2000, omit section 4 (which requires local authorities in England to prepare sustainable community strategies).

(2) In consequence of subsection (1), omit the following provisions—

- (a) in that Act of 2000, section 4A;
- (b) in the Planning and Compulsory Purchase Act 2004, section 19(2)(f) and (g) and (7);
- (c) in the Sustainable Communities Act 2007, section 7;
- (d) in the Local Government and Public Involvement in Health Act 2007, sections 78, 106(2)(c)(i), 111(4)(c)(i) and 114;
- (e) in the Housing and Regeneration Act 2008, section 126;
- (f) in the Child Poverty Act 2010, section 24;
- (g) in the Equality Act 2010, section 1(4) and (5);
- (h) in the Local Government (Wales) Measure 2009, in Schedule 2, paragraph 3.

VALID FROM 26/05/2015

#### **101 Repeal of duties relating to local area agreements**

(1) In Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007—

- (a) omit sections 105 to 113 (which impose duties on local authorities in England to make local area agreements specifying local improvement targets if so directed by the Secretary of State);
- (b) in section 117—
  - (i) omit the definitions of “designated target”, “local area agreement”, “local improvement target” and “revision proposal”;
  - (ii) in the definition of “responsible local authority” omit the words from “and “the responsible local authority”, in relation to a local area agreement” to the end of the definition;

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(c) omit section 118(1) and (2) (which make transitional provision in relation to local area agreements).

(2) In consequence of subsection (1), in the heading of the Chapter, omit “Local Area Agreements and”.

VALID FROM 26/05/2015

### 102 Repeal of provisions relating to multi-area agreements

(1) Omit Part 7 of the Local Democracy, Economic Development and Construction Act 2009 (which makes provision for the approval by the Secretary of State of multi-area agreements prepared by local authorities in England and for the effect of such approval etc).

(2) In consequence of subsection (1)—

- (a) in the Police Reform and Social Responsibility Act 2011, in Schedule 16, omit paragraph 377;
- (b) in the Education Act 2011, in Schedule 16, omit paragraph 45;
- (c) in the Health and Social Care Act 2012, in Schedule 5, omit paragraph 172.

VALID FROM 26/05/2015

### 103 Repeal of duties relating to consultation or involvement

(1) In the Local Government Act 1999, omit section 3A (which makes provision for best value authorities to involve local representatives in the exercise of their functions).

(2) In consequence of subsection (1)—

- (a) in the Local Government Act 1999, in section 28(2), omit “3A,”;
- (b) in the Local Government and Public Involvement in Health Act 2007, omit section 138;
- (c) in the Police Reform and Social Responsibility Act 2011, in Schedule 16, omit paragraph 243.

(3) Schedule 22 makes provision for disapplying certain other requirements about consultation etc imposed on public bodies.

VALID FROM 26/05/2015

### *Legislative reform*

### 104 Power to spell out dates described in legislation

(1) A Minister of the Crown may by order made by statutory instrument—

- (a) replace a reference in legislation to the commencement of a provision with a reference to the actual date on which the provision comes into force;

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- (b) replace a reference in legislation to the date on which any other event occurs with a reference to the actual date on which that event occurs.
- (2) An order under subsection (1) may amend the legislation to include an explanation of the date and may make other consequential amendments to legislation.
- (3) An order under this section may not amend subordinate legislation made by the Welsh Ministers or by the National Assembly for Wales constituted by the Government of Wales Act 1998.
- (4) An order under this section may not amend provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.
- (5) An order under this section may not amend provision that would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, unless—
  - (a) a Bill for an Act of that Assembly containing the provision would require the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998, and
  - (b) the provision does not affect, other than incidentally, a transferred matter (within the meaning of that Act).
- (6) In this section—
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
  - “legislation” means an Act or subordinate legislation;
  - “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

#### **105 Combining different forms of subordinate legislation**

- (1) Any provision that may be made by order, regulations or rules made by statutory instrument may be made by any other of those forms of legislation made by statutory instrument.
- (2) Subsection (1) does not affect the procedure for making the instrument.
- (3) A reference in any enactment or other instrument to an order, regulations or rules under an enactment (however expressed) includes a reference to provision made under it because of subsection (1).
- (4) Subsection (1) does not apply in relation to any power of the Welsh Ministers to make provision by statutory instrument.

#### **106 Ambulatory references to international shipping instruments**

After section 306 of the Merchant Shipping Act 1995 insert—

##### **“306A Power to make ambulatory references to international instruments**

- (1) This section applies where—



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- (a) a person has power under this Act to make subordinate legislation, and
  - (b) the person proposes to exercise that power to make subordinate legislation which refers to an international instrument.
- (2) The power may be exercised so as to have the effect that the reference to the instrument is construed—
- (a) as a reference to the instrument as modified from time to time;
  - (b) if the instrument is replaced by another instrument, as a reference to that other instrument.
- (3) For the purposes of subsection (2)(a), an instrument is modified if—
- (a) omissions, additions or other alterations to the text of the instrument take effect, or
  - (b) supplementary provision made under the instrument takes effect.
- (4) In this section, provision included in subordinate legislation by virtue of subsection (2) is referred to as ambulatory provision.
- (5) Subordinate legislation which makes ambulatory provision may make provision as to—
- (a) when a modification of an international instrument is to be treated as taking effect for the purposes of subsection (2)(a) (read with subsection (3));
  - (b) when an international instrument is to be treated as having been replaced by another instrument for the purposes of subsection (2)(b).
- (6) In this section—
- (a) “international instrument” means an international convention or treaty or an instrument made under such a convention or treaty except that “international instrument” does not include an EU instrument;
  - (b) “subordinate legislation” has the same meaning as in the Interpretation Act 1978.”

VALID FROM 26/05/2015

*Legislation no longer of practical use*

**107 Legislation no longer of practical use**

Schedule 23 makes provision for legislation which is no longer of practical use to cease to apply.

**Commencement Information**

**I21** S. 107 in force for certain purposes at 26.5.2015, see s. 115

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### *Exercise of regulatory functions*

VALID FROM 09/03/2017

#### **108 Exercise of regulatory functions: economic growth**

- (1) A person exercising a regulatory function to which this section applies must, in the exercise of the function, have regard to the desirability of promoting economic growth.
- (2) In performing the duty under subsection (1), the person must, in particular, consider the importance for the promotion of economic growth of exercising the regulatory function in a way which ensures that—
  - (a) regulatory action is taken only when it is needed, and
  - (b) any action taken is proportionate.

#### **109 Functions to which section 108 applies**

- (1) A Minister of the Crown may by order specify the regulatory functions to which section 108 applies.
- (2) Before making an order under subsection (1), the Minister must consult—
  - (a) any person exercising functions to be specified in the order, and
  - (b) such other persons as the Minister considers appropriate.
- (3) An order under this section may not specify—
  - (a) a regulatory function so far as exercisable in Scotland, if or to the extent that the function relates to matters which are not reserved matters;
  - (b) a regulatory function so far as exercisable in Northern Ireland, if or to the extent that the function relates to matters which are transferred matters;
  - (c) a regulatory function so far as exercisable in Wales, if or to the extent that the function relates to matters which are devolved Welsh matters.
- (4) An order under this section must be made by statutory instrument.
- (5) A statutory instrument containing an order under this section may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.
- (6) In this section—
  - “devolved Welsh matter” means a matter within the legislative competence of the National Assembly for Wales;
  - “reserved matter” and “Scotland” have the same meanings as in the Scotland Act 1998;
  - “transferred matter” and “Northern Ireland” have the same meanings as in the Northern Ireland Act 1998;
  - “Wales” has the same meaning as in the Government of Wales Act 2006.

#### **110 Guidance on duty under section 108**

- (1) A Minister of the Crown may from time to time issue guidance as to the performance of the duty under section 108(1).

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- (2) The guidance may include guidance—
  - (a) as to the ways in which regulatory functions may be exercised so as to promote economic growth;
  - (b) as to how persons who have the duty may demonstrate, in a way that is transparent and accountable, that they are complying with it.
- (3) A person who has a duty under section 108(1) must have regard to any guidance issued under subsection (1).
- (4) Before issuing guidance under subsection (1), the Minister must prepare a draft of the guidance.
- (5) The Minister must then consult the following about the draft—
  - (a) persons who appear to be representative of persons who have a duty under section 108;
  - (b) such other persons as the Minister considers appropriate.
- (6) If the Minister decides to proceed with issuing the guidance (either in its original form or with modifications), the Minister must lay the draft before Parliament.
- (7) Where the draft is approved by a resolution of each House of Parliament, the Minister may issue the guidance.
- (8) Guidance issued under subsection (1) is to come into force on such date as the Minister may by order made by statutory instrument appoint.

#### Commencement Information

I22 S. 110(1)(2)(4)-(8) in force at Royal Assent, see s. 115

### 111 Sections 108 to 110: interpretation

- (1) In sections 108 to 110, “regulatory function” means—
  - (a) a function under or by virtue of an Act or subordinate legislation of imposing requirements, restrictions or conditions, or setting standards or giving guidance, in relation to an activity, or
  - (b) a function which relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which, under or by virtue of an Act or subordinate legislation, relate to an activity.
- (2) In subsection (1)(a) and (b) the references to a function—
  - (a) include a function exercisable by or on behalf of the Crown;
  - (b) do not include—
    - (i) a function of instituting or conducting criminal proceedings;
    - (ii) a function of conducting civil proceedings.
- (3) In subsection (1)(a) and (b) the references to an activity include—
  - (a) providing goods and services, and
  - (b) employing or offering employment to a person.

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- (4) In sections 109 and 110, “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.
- (5) In this section, “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

### *General*

## **112 Consequential amendments, repeals and revocations**

- (1) The Secretary of State may by order made by statutory instrument make such provision as the Secretary of State considers appropriate in consequence of this Act.
- (2) An order under subsection (1)—
  - (a) may include transitional, transitory or saving provision;
  - (b) may repeal, revoke or otherwise amend or modify any provision of primary or subordinate legislation (including legislation passed or made in the same Session as this Act).
- (3) A statutory instrument containing (whether alone or with other provision) an order under this section which repeals, revokes or otherwise amends or modifies any provision of primary legislation is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A statutory instrument containing an order under this section which does not repeal, revoke or otherwise amend or modify any provision of primary legislation is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section—

“primary legislation” means—

  - (a) an Act;
  - (b) an Act of the Scottish Parliament;
  - (c) a Measure or Act of the National Assembly for Wales;
  - (d) Northern Ireland legislation;

“subordinate legislation” means—

  - (a) subordinate legislation within the meaning of the Interpretation Act 1978;
  - (b) an instrument made under an Act of the Scottish Parliament;
  - (c) an instrument made under a Measure or Act of the National Assembly for Wales;
  - (d) an instrument made under Northern Ireland legislation.

## **113 Financial provision**

There is to be paid out of money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of money so provided.

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## 114 Extent

- (1) Except as provided by subsections (2) and (3), a repeal, revocation or other amendment or modification made by this Act has the same extent as the provision repealed, revoked or otherwise amended or modified.
- (2) Paragraphs 4, 31(b) and (c), 32(2), 32(3) so far as relating to paragraphs 9 and 68 of Schedule 13 to the Merchant Shipping Act 1995, 32(4) and (5) and 39 of Schedule 23 extend only to England and Wales and Northern Ireland.
- (3) Section 15, Parts 4 and 5 of Schedule 13 and paragraphs 5, 35, 36, 41, 42 and 45 of Schedule 23 extend only to England and Wales.
- (4) Sections 4, 5, 26(7) to (10), 33, 34, 41, 45, 64(1) and (2) and 75(6) to (9) extend only to England and Wales.
- (5) Section 75(10) to (13) extends only to Scotland.
- (6) Sections 77, 78, 85, 104, 105 and 108 to 113, this section and sections 115 and 116 extend to England and Wales, Scotland and Northern Ireland.
- (7) Her Majesty may by Order in Council provide for any of the provisions of section 78 to extend, with or without modifications, to any of the Channel Islands or the Isle of Man.

## 115 Commencement

- (1) The following provisions come into force on the day on which this Act is passed—
  - (a) sections 30 to 32;
  - (b) section 42;
  - (c) sections 46 and 47;
  - (d) section 85;
  - (e) sections 109, 110(1), (2) and (4) to (8) and 111;
  - (f) sections 112 to 114, this section and section 116.
- (2) The following provisions also come into force on the day on which this Act is passed but only so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument—
  - (a) section 1;
  - (b) section 53;
  - (c) section 58 and Schedule 12;
  - (d) sections 62 and 63;
  - (e) Parts 1 and 4 of Schedule 1, Schedules 2, 4 and 8, Parts 2 and 6 of Schedule 10 and Schedule 21 (and the sections to which those Schedules relate).
- (3) The following provisions come into force at the end of the period of 2 months beginning with the day on which this Act is passed—
  - (a) section 13 and Schedule 4 (so far as not already in force by virtue of subsection (2));
  - (b) section 16;
  - (c) section 27 to 29;
  - (d) section 50 and Schedule 9;
  - (e) sections 54 to 57;
  - (f) sections 60 and 61;

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- (g) section 64 and Schedule 14;
  - (h) section 65 and Schedule 15;
  - (i) section 79;
  - (j) sections 83 and 84;
  - (k) section 97 to 102;
  - (l) section 103 and Schedule 22;
  - (m) sections 104 to 106;
  - (n) in Schedule 6, paragraph 5 and Parts 7 and 8;
  - (o) in Schedule 10, Parts 1, 4 and 5;
  - (p) in Schedule 11, Part 2;
  - (q) in Schedule 13, Parts 1, 2 and 4;
  - (r) Schedule 23 other than paragraphs 35, 36 and 41 of that Schedule.
- (4) Part 3 of Schedule 1 and, as respects Wales, paragraphs 35, 36 and 41 of Schedule 23 come into force on such day as the Welsh Ministers may by order made by statutory instrument appoint.
- (5) Where a provision of a Schedule comes into force in accordance with subsection (3) (n) to (r) or (4), the section to which that Schedule relates comes into force (so far as relating to that provision) at the same time.
- (6) The following provisions come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint—
- (a) sections 86 and 87;
  - (b) section 88 and Schedule 19;
  - (c) section 89 and Schedule 20.
- (7) Except as provided by subsections (1) to (6), the provisions of this Act come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (8) The Welsh Ministers may by order made by statutory instrument make such transitional, transitory or saving provision as they consider appropriate in connection with the coming into force of Part 3 of Schedule 1 or, as respects Wales, paragraphs 35, 36 and 41 of Schedule 23.
- (9) The Secretary of State may by order made by statutory instrument make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act (other than transitional, transitory or saving provision that the Welsh Ministers have power to make under subsection (8)).
- (10) The Lord Chancellor may by order made by statutory instrument make such transitional, transitory or saving provision as the Lord Chancellor considers appropriate in connection with the coming into force of sections 86 to 89 and Schedules 19 and 20.
- (11) Any power to make an order under subsections (4) and (6) to (10) includes power to make different provision for different purposes.

## 116 Short title

This Act may be cited as the Deregulation Act 2015.

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## SCHEDULES

### SCHEDULE 1

Section 3

#### APPROVED ENGLISH APPRENTICESHIPS

#### PART 1

##### MAIN AMENDMENTS

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

#### “CHAPTER A1

##### APPRENTICESHIPS: ENGLAND

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

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



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

### **Approved apprenticeship standards**

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

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

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

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### **Delegation**

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

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

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

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

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

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

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

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

#### Commencement Information

**I23** Sch. 1 para. 1 in force for certain purposes at Royal Assent, see s. 115

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

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(b) otherwise in connection with approved English apprenticeships.”

(4) In subsection (3), after “subsection (1)” insert “ or (1A) ”.

(5) In subsection (4), after “subsection (1)(c)” insert “ or (1A) ”.

#### Commencement Information

**I24** Sch. 1 para. 2 in force for certain purposes at Royal Assent, see s. 115

3 (1) Section 101 of that Act (financial resources: conditions) is amended as follows.

(2) In subsection (2)—

(a) after “may” insert “ (among other things) ”;

(b) omit paragraph (b).

(3) Omit subsections (4) and (5).

#### Commencement Information

**I25** Sch. 1 para. 3 in force for certain purposes at Royal Assent, see s. 115

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

#### Commencement Information

**I26** Sch. 1 para. 4 in force for certain purposes at Royal Assent, see s. 115

VALID FROM 26/05/2015

## PART 2

### CONSEQUENTIAL AMENDMENTS

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

#### *Amendments of Part 1*

6 For the title of Chapter 1, substitute “ Apprenticeships: Wales ”.

7 Omit section 1, and the italic cross-heading before it.

8 Omit sections 3 to 6, and the italic cross-heading before them.

9 In section 11—

(a) in subsection (2), for “the appropriate national authority” substitute “ the Welsh Ministers ”;

(b) omit subsection (3);

(c) in the italic cross-heading before that section, omit “England and”.

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

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

VALID FROM 21/09/2018

### PART 3

#### APPRENTICESHIPS: WALES

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

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

## PART 4

### TRANSITIONAL PROVISION

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

#### Commencement Information

**I27** Sch. 1 para. 28 in force for certain purposes at Royal Assent, see s. 115

## SCHEDULE 2

Section 8

### DRIVING INSTRUCTORS

## PART 1

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

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

#### Commencement Information

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



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

#### Commencement Information

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

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

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#### Commencement Information

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

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

#### Commencement Information

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

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

#### Commencement Information

**I32** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

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#### Commencement Information

**I33** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

#### Commencement Information

**I34** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

#### Commencement Information

**I35** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

- 9 After section 128A insert—

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

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

#### Commencement Information

**I36** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

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#### Commencement Information

**I37** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

#### Commencement Information

**I38** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

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(6) After subsection (5) insert—

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

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

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

#### Commencement Information

**I39** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

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

#### Commencement Information

**I40** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

(2) Before subsection (2) insert—

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

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

(4) After subsection (3) insert—

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

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

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

#### Commencement Information

**I41** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

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

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

#### Commencement Information

**I42** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

## PART 2

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

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

#### Commencement Information

**I43** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

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

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(b) after paragraph (d) insert—

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

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

(a) that, so long as his name is on the register, the person will, if at any time required to do so by the Registrar, submit himself for—

(i) such test of continued ability and fitness to give instruction in the driving of motor cars (which may consist of practical and other means of assessment) as may be prescribed;

(ii) an emergency control assessment (whether or not the person already holds an emergency control certificate) on the day (within such period as may be prescribed) and at the place specified by the Registrar; and

(b) that, so long as his name is on the register, if instruction in the driving of a motor car is to be given in circumstances where there is a reasonable expectation of an emergency arising which necessitates the instructor taking control of the motor car, the person will only give such instruction if he would be able to take control of the motor car if such an emergency arose while he was giving the instruction.”

(5) After subsection (5) insert—

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

(6) After subsection (7) insert—

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

(a) the Secretary of State is satisfied that satisfactory provision is made by the law of Northern Ireland for purposes corresponding to section 133A, and

(b) the person satisfies the Registrar that he holds a current certificate granted under that law which corresponds to an emergency control certificate granted under section 133A.”

(7) After subsection (8) insert—

“(8A) Subsection (8B) applies if—

(a) a person undergoes an emergency control assessment in accordance with a requirement imposed under subsection (2C) or as mentioned in subsection (5)(a)(ii),

(b) the assessor refuses to grant the applicant an emergency control certificate, and

(c) as a result the person is not registered, or the person's name is removed from the register (as the case may be).

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



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

(8) Omit subsection (9).

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

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

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

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

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

**Commencement Information**

**I44** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

**Commencement Information**

**I45** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

**Commencement Information**

**I46** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

(2) In subsection (3)—

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

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- (d) after paragraph (d) insert—
- “(da) that, in the case of a person who—
- (i) when he applied to be registered, was required under section 125(2C) to submit himself for an emergency control assessment, or
- (ii) at any time during the period mentioned in paragraph (a) was required as mentioned in section 125(5)(a)(ii) to submit himself for such an assessment,
- he holds a current emergency control certificate, and”.

(3) Omit subsection (3A).

(4) In subsection (4)—

- (a) in paragraph (a), omit “in the case of its retention by virtue of subsection (3) above,”;
- (b) in paragraph (a), for “condition” substitute “ conditions ”;
- (c) omit the “and” at the end of paragraph (a);
- (d) omit paragraph (b).

#### Commencement Information

**I47** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

21 (1) Section 128 (removal of names from register) has effect as if it were amended as follows.

(2) In subsection (2)—

- (a) in the opening words, omit “Except in the case of a registered disabled instructor,”;
- (b) in paragraph (c), for “test such as is mentioned in section 125(5)” substitute “ test or assessment such as is mentioned in section 125(5)(a)(i) or (ii) ”;
- (c) after paragraph (d) insert—
- “(da) that an assessor refused to grant him an emergency control certificate on completing an emergency control assessment of him following a requirement imposed as mentioned in section 125(5)(a)(ii),
- (db) that he gave instruction in the driving of a motor car in breach of the condition in section 125(5)(b) (ability to take control of motor car in an emergency),”.

(3) Omit subsection (2A).

(4) In subsection (8)(b), for “(5)” substitute “ (5)(a)(i) ”.

(5) Omit subsection (9).

#### Commencement Information

**I48** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

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#### Commencement Information

**I49** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

#### Commencement Information

**I50** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

#### Commencement Information

**I51** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

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(2) Omit subsection (1).

(3) After subsection (2) insert—

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

(a) he has been required to submit himself for an emergency control assessment—

(i) under section 125(2C) or 129(1B), or

(ii) as mentioned in section 125(5)(a)(ii) or 129(5ZA),

(b) on completing that assessment, the assessor refused to grant him an emergency control certificate, and

(c) the application for the further assessment is made in such circumstances as may be prescribed.”

(4) Omit subsection (3).

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

(6) After subsection (5) insert—

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

(a) the period of six months beginning with the date of his most recent previous assessment, or

(b) such other period as may be prescribed by regulations,

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

#### Commencement Information

**I52** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

(2) In subsection (1)—

(a) for paragraph (a) substitute—

“(a) persons whose names are in the register, and”;

(b) in paragraph (b), omit “granted by virtue of subsection (2)(b) of that section”.

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

#### Commencement Information

**I53** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

(2) For subsection (1) substitute—

“(1) This section applies to—

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

#### Commencement Information

**I54** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

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

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

#### Commencement Information

**I55** Sch. 2 in force for certain purposes at Royal Assent, see s. 115

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

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

#### Commencement Information

**I56** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

### PART 3

#### CONSEQUENTIAL AND RELATED AMENDMENTS

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

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

#### Commencement Information

**I57** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

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

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

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

**Commencement Information**

**I58** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

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

**Commencement Information**

**I59** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

*Road Safety Act 2006*

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

**Commencement Information**

**I60** [Sch. 2](#) in force for certain purposes at Royal Assent, see [s. 115](#)

VALID FROM 30/06/2015

SCHEDULE 3

Section 9

MOTOR INSURANCE INDUSTRY: CERTIFICATES OF INSURANCE

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



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

## SCHEDULE 4

Section 13

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

1 The Agricultural Holdings Act 1986 is amended as follows.

**Commencement Information**

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

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

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

**Commencement Information**

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

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

**Commencement Information**

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

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

**Commencement Information**

**I64** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

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

#### Commencement Information

**I65** [Sch. 4](#) in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see [s. 115](#)

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

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#### Commencement Information

**I66** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

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

#### Commencement Information

**I67** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

- 8 (1) Section 12 (arbitration of rent) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The landlord and tenant may instead refer for third party determination under this Act the question of how much rent is to be payable in respect of the holding as from the next termination date.”
- (3) In subsection (2) (arbitrator's duty to determine rent properly payable)—
- (a) after “arbitrator” insert “ or third party ”;
- (b) after “demand for arbitration” insert “ or (as the case may be) the reference for third party determination ”.
- (4) In subsection (4) (references to the next termination date following the date of a demand for arbitration)—
- (a) after “a demand for arbitration” insert “ , or reference for third party determination, ”;
- (b) after “the demand” (in each place where it occurs) insert “ or reference ”.
- (5) In the sidenote, after “Arbitration” insert “ or third party determination ”.

#### Commencement Information

**I68** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

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

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### Commencement Information

**I69** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

### Commencement Information

**I70** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

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**Commencement Information**

**I71** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

**Commencement Information**

**I72** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

**Commencement Information**

**I73** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

**Commencement Information**

**I74** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

#### Commencement Information

**I75** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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



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**Commencement Information**

**I76** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

**Commencement Information**

**I77** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

**Commencement Information**

**I78** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

**Commencement Information**

**I79** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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



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

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

#### Commencement Information

**I80** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

21 After section 84 (arbitrations) insert—

#### “84A Third party determinations

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

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#### Commencement Information

**I81** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

#### Commencement Information

**I82** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

#### Commencement Information

**I83** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

#### Commencement Information

**I84** Sch. 4 in force for certain purposes at Royal Assent and 26.5.2015 in so far as not already in force, see s. 115

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

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

#### Commencement Information

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

VALID FROM 01/10/2015

## SCHEDULE 5

Section 18

### AUDITORS CEASING TO HOLD OFFICE

#### PART 1

##### NOTIFICATION REQUIREMENTS

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

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

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

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## PART 2

### MISCELLANEOUS

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

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

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

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

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

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

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

But this is subject to subsection (2A).

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

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

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

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

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

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

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

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

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

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

But this is subject to subsection (2A).

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

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

(3) In subsection (3)—

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

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

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

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

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

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

(2) In subsection (2)—

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

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

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

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

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



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

## SCHEDULE 6

Section 19

## INSOLVENCY AND COMPANY LAW

VALID FROM 01/10/2015

**PART 1**

## DEEDS OF ARRANGEMENT

*Repeal of Deeds of Arrangement Act 1914*

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



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

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

## PART 2

### ADMINISTRATION OF COMPANIES

VALID FROM 01/10/2015	
4	Schedule B1 to the Insolvency Act 1986 (administration of companies) is amended in accordance with paragraphs 5 to 7.

#### *Appointment of administrators*

VALID FROM 26/05/2015	
5	<p>After paragraph 25 (circumstances in which an administrator of a company may not be appointed under paragraph 22) and before the italic cross-heading following paragraph 25 insert—</p> <p>“25A(1) Paragraph 25(a) does not prevent the appointment of an administrator of a company if the petition for the winding up of the company was presented after the person proposing to make the appointment filed the notice of intention to appoint with the court under paragraph 27.</p> <p>(2) But sub-paragraph (1) does not apply if the petition was presented under a provision mentioned in paragraph 42(4).”</p>

VALID FROM 01/10/2015	
6	In paragraph 26 (notice by company, or directors of company, of intention to appoint administrator), in sub-paragraph (2) (requirement to give additional notice), for “proposes to make an appointment under paragraph 22” substitute “gives notice of intention to appoint under sub-paragraph (1) ”.

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VALID FROM 01/10/2015

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

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

VALID FROM 01/10/2015

**PART 3**

WINDING UP OF COMPANIES

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

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

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

*Release of liquidator where winding-up order rescinded*

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

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VALID FROM 01/10/2015

## PART 4

### DISQUALIFICATION OF UNFIT DIRECTORS OF INSOLVENT COMPANIES

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

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

## PART 5

### BANKRUPTCY

VALID FROM 01/10/2015

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

VALID FROM 06/04/2017

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

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

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

VALID FROM 06/04/2017

*Statement of affairs*

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

VALID FROM 01/10/2015

*After-acquired property of bankrupt*

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

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

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

(4) After subsection (4) insert—

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

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

VALID FROM 01/10/2015

## PART 6

### AUTHORISATION OF INSOLVENCY PRACTITIONERS

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

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

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

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

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

(2) In the Insolvency Act 1986—

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

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

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

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

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

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

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

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

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

(5) In the Insolvency Act 1986—

(a) omit section 415A(2);

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

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

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

(8) In the Tribunals and Inquiries Act 1992—

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

(b) in Schedule 3, omit paragraph 19.

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

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

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

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

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

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

(15) In the Companies Act 2006—

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

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

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

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



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(b) in Schedule 10, omit paragraph 19.

(17) In the Civil Aviation Act 2012, in Schedule 6, in paragraph 4(2), omit the entry for the Insolvency Practitioners Tribunal.

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



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## PART 7

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

VALID FROM 26/05/2015

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

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

VALID FROM 26/05/2015

## PART 8

### REQUIREMENTS OF COMPANY LAW: PROXIES

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

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

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PROSPECTIVE

## SCHEDULE 7

Section 26

## ASCERTAINMENT OF RIGHTS OF WAY

## PART 1

## WILDLIFE AND COUNTRYSIDE ACT 1981

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

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

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

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

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

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

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

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

5 After section 54A insert—

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

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

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

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

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

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

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

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

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

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

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

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

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

## PART 2

### NEW SCHEDULE 13A TO THE 1981 ACT

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

#### “SCHEDULE 13A

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

##### *Form of applications*

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

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

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

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

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

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

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

#### *Determination by authority*

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

The events are—

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

#### *Failure by authority to determine application*

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



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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

#### *Transfer of applications*

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

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

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

#### *Interpretation*

- 13 (1) In this Schedule—

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

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

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

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

### PART 3

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

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

#### “SCHEDULE 14A

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

### PART 1

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

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



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## PART 2

### OTHER ORDERS

#### *Application of Part 2*

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

#### *Consultation*

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

#### *Coming into operation*

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

#### *Publicity for orders*

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

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



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

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

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

*Irrelevant representations or objections*

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

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

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

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*Severance of orders - only some representations etc relevant*

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

*Confirmation - modification consent orders*

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

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

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

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

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

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

*Restriction on power to confirm orders with modifications*

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

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

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

#### *Appointment of inspectors etc*

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

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

#### *Hearings and local inquiries*

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

### PART 3

#### ORDERS: GENERAL

#### *Notice of final decisions on orders*

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

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

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

#### *Proceedings for questioning validity of orders*

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

#### *Supplemental*

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



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

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

## PART 4

### HIGHWAYS ACT 1980

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



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

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

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

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

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

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

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

(6) After paragraph 2 insert—

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

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

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

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

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

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- (4) Where notice is given under sub-paragraph (3), paragraph 2 and the following provisions of this Schedule apply as if only the opposed order had been submitted to the Secretary of State for confirmation.
- (5) Any reference in sub-paragraph (1) or (3) to an order includes a reference to any part of an order which, by virtue of one or more previous elections under that sub-paragraph, has effect as a separate order.”
- (7) In paragraph 4A (publication of orders)—
- (a) the existing text becomes sub-paragraph (1);
  - (b) in that sub-paragraph, for the words from “in at least one local newspaper” to the end of the sub-paragraph substitute “ (within the meaning of sub-paragraph (2)) ”;
  - (c) after that sub-paragraph insert—
    - “(2) In sub-paragraph (1), “publication” means—
      - (a) in relation to England, publication on a website maintained by the authority and on such other websites or through the use of such other digital communications media as the authority may consider appropriate;
      - (b) in relation to Wales, publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated.”
- (8) In paragraph 5 (proceedings for questioning validity of orders) omit the “and” after paragraph (b) and insert—
- “(ba) the Schedule has effect as if after paragraph 3 there were inserted—
    - “3A (1) Sub-paragraph (2) applies if the application relates to an order of an authority in England that has been submitted to, and confirmed by, the Secretary of State.
    - (2) The High Court may quash the decision of the Secretary of State confirming the order or any part of it (either generally or in so far as it affects the interests of the applicant), instead of quashing the order or any provision of it.”; and”.

## PART 5

### CONSEQUENTIAL AMENDMENTS

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

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

## SCHEDULE 8

Section 49

### PROVISION OF PASSENGER RAIL SERVICES

#### *Consequential amendments*

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

#### **Commencement Information**

**I86** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

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

#### **Commencement Information**

**I87** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

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

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#### Commencement Information

**I88** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

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

#### Commencement Information

**I89** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

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

#### Commencement Information

**I90** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

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

#### Commencement Information

**I91** Sch. 8 in force for certain purposes at Royal Assent, see s. 115

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

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### Commencement Information

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

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

8 After section 24 of the Railways Act 1993 insert—

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

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

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

(5) In this section—

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

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

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

“relevant company” means—

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

#### Commencement Information

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

#### *Minor correcting amendments*

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

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

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

**Commencement Information**

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

10 (1) In section 30 of the Railways Act 1993 (duty of relevant franchising authority), subsection (3) is amended as follows.

- (2) In paragraph (b)—
- (a) for “notice” substitute “ proposal ”;
  - (b) for “the proposal date specified for the purposes of subsection (5)(a)(ii) of that section” substitute “ the date for the discontinuance of services specified in the proposal ”.

(3) In paragraph (c), for “subsection (2)” substitute “ subsection (3) ”.

**Commencement Information**

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

VALID FROM 26/05/2015

SCHEDULE 9

Section 50

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



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## SCHEDULE 10

Section 51

### REGULATION OF THE USE OF ROADS AND RAILWAYS

VALID FROM 26/05/2015

#### PART 1

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

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

#### PART 2

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

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

##### Commencement Information

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

- 5 (1) Section 33 (preparation of permit schemes) is amended as follows.
  - (2) For subsection (1) substitute—

“(1) A permit scheme may be prepared by—
    - (a) a strategic highways company,

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

#### Commencement Information

**I97** Sch. 10 para. 5 in force for certain purposes at Royal Assent and at 26.5.2015 in so far as not already in force

VALID FROM 30/06/2015

6 After section 33 insert—

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

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

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

VALID FROM 30/06/2015

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

VALID FROM 30/06/2015

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

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

VALID FROM 30/06/2015

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

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

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

VALID FROM 30/06/2015

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

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

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

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

- (4) After subsection (5) insert—

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

VALID FROM 30/06/2015

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

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

VALID FROM 30/06/2015

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

PROSPECTIVE

### PART 3

#### ROAD HUMPS

- 13 The Highways Act 1980 is amended as follows.

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

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

- (2) In subsection (1)—

- (a) in the opening words, for “Secretary of State” substitute “ Welsh Ministers ”;
- (b) in the opening words, for “he is” substitute “ they are ”;
- (c) in paragraph (b), for “him” substitute “ them ”;

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(d) in the closing words, for “him” substitute “ them ”.

(3) After subsection (1) insert—

“(1A) Subsection (1) does not apply in relation to the following parts of Wales—

- (a) the part of road to which section 329(5) applies;
- (b) the part of the M4 Motorway in Wales that comprises “the new toll plaza area” and “the new bridge”, as defined in section 39(1) of the Severn Bridges Act 1992.”

(4) In subsection (3)—

- (a) for “Secretary of State”, in the first place those words occur, substitute “ Welsh Ministers ”;
- (b) for “Secretary of State has” substitute “ Welsh Ministers have ”.

(5) In subsection (4), for “Secretary of State” substitute “ Welsh Ministers ”.

(6) In subsection (5), for “Secretary of State so directs” substitute “ Welsh Ministers so direct ”.

(7) In subsection (6)—

- (a) for “Secretary of State” substitute “ Welsh Ministers ”;
- (b) for “his” substitute “ their ”.

(8) In the heading, for “Secretary of State” substitute “ Welsh Ministers ”.

16 (1) Section 90C (road humps: consultation and local inquiries) is amended as follows.

(2) In subsection (1)—

- (a) for the words from “Where the Secretary of State” to “he, it or they” substitute “ Where a highway authority proposes to construct a road hump under section 90A, or the Welsh Ministers propose to construct a road hump under section 90B, the highway authority or the Welsh Ministers (as the case may be) ”;
- (b) omit paragraph (a) and the “and” following it;
- (c) in paragraph (b)—
  - (i) omit “other”;
  - (ii) for “the Secretary of State” substitute “ the appropriate national authority ”.

(3) For subsection (2) substitute—

“(2) The highway authority or the Welsh Ministers (as the case may be) shall also comply with such requirements as may be specified in regulations made by the appropriate national authority in relation to—

- (a) the publication of—
  - (i) details of proposals to construct road humps, and
  - (ii) procedures for making objections to such proposals, and
- (b) procedures for dealing with such objections.

(2A) Regulations under subsection (2)(b) may, in particular, contain provision about—

- (a) local inquiries in relation to proposals to construct road humps, and

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



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

#### PART 4

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

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

#### PART 5

##### OFF-ROAD MOTORING EVENTS

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

#### PART 6

##### TESTING OF VEHICLES

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

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

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“(kb) make provision as to the keeping by persons mentioned in paragraph (ka) of registers of test certificates in the prescribed form and containing the prescribed particulars, and the inspection of such registers by such persons and in such circumstances as may be prescribed,

(kc) make provision as to the keeping of records by persons mentioned in paragraph (ka) and the providing by them of returns and information to the Secretary of State.”.

(4) After subsection (1) insert—

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

(a) the making to the Secretary of State at prescribed times of payments, of such amounts as may be determined by him in accordance with regulations, on account of charges that may become payable, and

(b) where forms for test certificates and notifications of the refusal of test certificates are supplied by the Secretary of State, the payment to him of charges for the supply of such forms,

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

VALID FROM 01/10/2015

## PART 7

### RAIL VEHICLE ACCESSIBILITY REGULATIONS: EXEMPTION ORDERS

28 The Equality Act 2010 is amended as follows.

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

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

(3) After subsection (6) insert—

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

30 In consequence of paragraph 29—

(a) omit section 184 (procedure for making exemption orders);

(b) in section 185 (annual report on exemption orders)—

(i) omit subsection (1)(b);

(ii) in subsection (2)(b), for “sections 183(4) and 184(2)” substitute “section 183(4)”;

(c) in section 208 (Ministers of the Crown, etc)—

(i) omit subsection (5)(g);

(ii) omit subsection (7)(a).

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

## SCHEDULE 11

Section 52

### ENFORCEMENT OF TRANSPORT LEGISLATION

#### PART 1

##### DRINK AND DRUG DRIVING OFFENCES

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

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

#### Commencement Information

**I98** Sch. 11 para. 1 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

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#### Commencement Information

**I99** Sch. 11 para. 2 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

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

#### Commencement Information

**I100** Sch. 11 para. 3 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

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

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

**Commencement Information**

**I101** Sch. 11 para. 4 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

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

**Commencement Information**

**I102** Sch. 11 para. 5 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

**Commencement Information**

**I103** Sch. 11 para. 6 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

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

**Commencement Information**

**I104** Sch. 11 para. 7 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

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

“(7) In this section—

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

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

**Commencement Information**

**I105** Sch. 11 para. 8 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

**Commencement Information**

**I106** Sch. 11 para. 9 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

**Commencement Information**

**I107** Sch. 11 para. 10 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

**Commencement Information**

**I108** Sch. 11 para. 11 in force at 10.4.2015 by S.I. 2015/994, art. 4



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- 12 (1) Section 31A (specimens of blood taken from persons incapable of consenting) is amended as follows.
- (2) In subsections (1) and (2)(a), for “a medical practitioner” substitute “ a medical or health care practitioner ”.
- (3) In subsection (2)(b), for “a medical practitioner other than a police medical practitioner” substitute “ a practitioner other than a police medical or health care practitioner ”.
- (4) In subsection (2)(b)(i), for “to made to a police medical practitioner” substitute “ to be made to a police medical or health care practitioner ”.
- (5) In subsection (2)(b)(ii), omit “medical”.
- (6) In subsection (3), for “a medical practitioner” substitute “ a medical or health care practitioner ”.
- (7) For subsection (7) substitute—

“(7) In this section—

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

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

**Commencement Information**

**I109** Sch. 11 para. 12 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

**Commencement Information**

**I110** Sch. 11 para. 13 in force at 10.4.2015 by S.I. 2015/994, art. 4

*Application of Road Traffic Act provisions in shipping regime*

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

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

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

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

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

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

“Subsection (1A) shall be disregarded.

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

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

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

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

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

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

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

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

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

- (c) after the last sentence insert—

“Subsection (3A) shall be disregarded.”

#### Commencement Information

**1111** Sch. 11 para. 14 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

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### Commencement Information

**II12** Sch. 11 para. 15 in force at 10.4.2015 by S.I. 2015/994, art. 4

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

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

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

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

(b) subsection (3).

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

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

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“Subsection (1A) shall be disregarded.

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

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

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

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

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

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(b) after the first sentence insert—

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

(c) after the last sentence insert—

“Subsection (3A) shall be disregarded.”

### Commencement Information

**I113** Sch. 11 para. 16 in force at 10.4.2015 by S.I. 2015/994, art. 4

VALID FROM 26/05/2015

## PART 2

### BUS LANE CONTRAVENTIONS

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

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## SCHEDULE 12

Section 58

### HOUSEHOLD WASTE: LONDON

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

#### Commencement Information

**I114** Sch. 12 in force for certain purposes at Royal Assent, see s. 115

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

#### Commencement Information

**I115** Sch. 12 in force for certain purposes at Royal Assent, see s. 115

3 After section 20 insert—

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

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

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

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

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

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

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

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



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

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

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

#### Commencement Information

**I116** Sch. 12 in force for certain purposes at Royal Assent, see s. 115

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

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### Commencement Information

**II17** Sch. 12 in force for certain purposes at Royal Assent, see s. 115

## SCHEDULE 13

Section 59

### OTHER MEASURES RELATING TO ANIMALS, FOOD AND THE ENVIRONMENT

#### PART 1

##### DESTRUCTIVE IMPORTED ANIMALS

VALID FROM 26/05/2015

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

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

VALID FROM 26/05/2015

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

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

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## PART 2

### FARRIERS

VALID FROM 26/05/2015

#### *Constitution of Farriers Registration Council*

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

VALID FROM 26/05/2015

## PART 3

### JOINT WASTE AUTHORITIES

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

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

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(7) In the Local Government Act 1972—

- (a) in section 70(1) and (3), for “, combined authority or joint waste authority” substitute “ or combined authority ”;
- (b) in section 80(2)(b), omit “, joint waste authority”;
- (c) in section 85(4), for “, a combined authority and a joint waste authority” substitute “ and a combined authority ”;
- (d) in section 86(2), for “, a combined authority and a joint waste authority” substitute “ and a combined authority ”;
- (e) in section 92, omit subsections (7A) and (7B);
- (f) in section 100J—
  - (i) in subsection (1), omit paragraph (ba);
  - (ii) in subsection (2), omit “(ba),”;
  - (iii) in subsection (2B), omit paragraph (a);
  - (iv) in subsection (3), omit “(ba),”;
  - (v) in subsection (4)(a), omit “, a joint waste authority”;
- (g) in section 101(13), omit “a joint waste authority,”;
- (h) in section 146A(1), omit “a joint waste authority,”;
- (i) in section 175(3B), omit “, a joint waste authority”;
- (j) in section 176(3), omit “, a joint waste authority”;
- (k) in section 223(2), omit “a joint waste authority,”;
- (l) in section 224(2), for “, combined authority or joint waste authority” substitute “ or combined authority ”;
- (m) in section 225(3), for “, a combined authority and a joint waste authority” substitute “ and a combined authority ”;
- (n) in section 228, omit subsection (7B);
- (o) in section 229(8), omit “, a joint waste authority”;
- (p) in section 230(2), for “, a combined authority and a joint waste authority” substitute “ and a combined authority ”;
- (q) in section 231(4), omit “, a joint waste authority”;
- (r) in section 232(1A), omit “, a joint waste authority”;
- (s) in section 233(11), omit “, a joint waste authority”;
- (t) in section 234(4), omit “, a joint waste authority”;
- (u) in section 239(4A), for “, a combined authority and a joint waste authority” substitute “ and a combined authority ”;
- (v) in section 270(1), omit the definition of “joint waste authority”.

(8) In the Employment Agencies Act 1973, in section 13(7), omit paragraph (fza).

(9) In the Local Government Act 1974—

- (a) in section 25(1), omit paragraph (cd);
- (b) in section 26C(6), omit paragraph (d).

(10) In the Health and Safety at Work etc. Act 1974, in section 28(6), omit the words from “, an authority” to “(joint waste authorities)”.

(11) In the Local Government (Miscellaneous Provisions) Act 1976, in section 44(1), in the definition of “local authority”—

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

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

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## PART 4

### AIR QUALITY

VALID FROM 26/05/2015

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

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

VALID FROM 01/10/2015

## PART 5

### NOISE ABATEMENT ZONES

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

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



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

VALID FROM 26/05/2015

SCHEDULE 14

Section 64

ABOLITION OF OFFICE OF THE CHIEF EXECUTIVE OF SKILLS FUNDING

.....

VALID FROM 26/05/2015

SCHEDULE 15

Section 65

FURTHER AND HIGHER EDUCATION: REDUCTION OF BURDENS

.....

VALID FROM 01/01/2016

SCHEDULE 16

Section 66

SCHOOLS: REDUCTION OF BURDENS

PROSPECTIVE

*Responsibility for determining behaviour policy*

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

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

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

#### *Home-school agreements*

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

PROSPECTIVE

#### *Determining school terms*

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

#### *Staffing matters*

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

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

PROSPECTIVE

#### *Publication of reports*

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

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

PROSPECTIVE

## SCHEDULE 17

Section 67

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

#### “PART 5

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

##### *Conditions for permitted sales*

#### **General conditions**

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

#### **Community event conditions**

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

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

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

110(1) The ancillary business sales conditions, in relation to a sale by retail of alcohol, are the conditions set out in subsections (2) to (5) and any additional conditions set out in regulations under subsection (6).

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

#### *Part 5A notices*

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

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

- (2) The notice must specify whether—

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- (a) the community event conditions (set out in section 110B or in regulations under that section), or
  - (b) the ancillary business sales conditions (set out in section 110C or in regulations under that section),
- will be satisfied in relation to sales of alcohol on the premises in question.
- (3) The notice must specify (for the purposes of section 110A(2))—
- (a) in the case of a notice that specifies the ancillary business sales conditions, the set of premises to which it relates;
  - (b) in the case of a notice that specifies the community event conditions, no more than three sets of community premises, each of which must be wholly or partly in the area of the same licensing authority.
- (4) The notice must be given, on behalf of the body by or on whose behalf the sale of alcohol on the premises would take place, by a person who is aged 18 or over and is concerned in the management of the body.
- (5) The notice must be given to the relevant licensing authority, accompanied by the prescribed fee.
- (6) Unless the notice is given to the relevant licensing authority by means of a relevant electronic facility, a copy of the notice must be given to each relevant person.
- (7) The notice must be in the prescribed form.
- (8) The notice must specify the date when it takes effect.
- (9) The specified date must be at least 10 working days, but no more than 3 months, after the day on which the notice is given.
- Where subsection (6) applies, the notice is treated as given only when that subsection is complied with.
- (10) The notice must contain any other information that regulations require it to contain.
- (11) In this Part, “relevant person”, in relation to any premises, means—
- (a) the chief officer of police for any police area in which the premises are situated;
  - (b) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health.

### Special restriction on giving of notices

110E) This section applies where—

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

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

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

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

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

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

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

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

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

- (3) The acknowledgment must be given—

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

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

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

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

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

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

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

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



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### *Objections and counter notices*

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

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

#### **Counter notices**

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

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

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

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

#### *Rights of entry, production of notice, etc*

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

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

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

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

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is prominently displayed at the premises.

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

### *Supplementary*

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

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

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## SCHEDULE 18

Section 69

### AMENDMENTS CONSEQUENTIAL ON SECTION 69

#### *Licensing Act 2003 (c. 17)*

1 The Licensing Act 2003 is amended as follows.

##### **Commencement Information**

**I118** Sch. 18 para. 1 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

##### **Commencement Information**

**I119** Sch. 18 para. 2 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

##### **Commencement Information**

**I120** Sch. 18 para. 3 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

4 (1) In the italic heading before section 117 (application for grant or renewal of personal licence), omit “and renewal”.

(2) In the heading, omit “or renewal”.

(3) Omit subsection (1).

(4) In subsection (2), after “An application” insert “by an individual”.

(5) Omit subsections (3), (4) and (6).

##### **Commencement Information**

**I121** Sch. 18 para. 4 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

5 Omit section 119 (licence continued pending renewal).

##### **Commencement Information**

**I122** Sch. 18 para. 5 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

##### **Commencement Information**

**I123** Sch. 18 para. 6 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

**Commencement Information**

**I124** Sch. 18 para. 7 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

**Commencement Information**

**I125** Sch. 18 para. 8 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

**Commencement Information**

**I126** Sch. 18 para. 9 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

**Commencement Information**

**I127** Sch. 18 para. 10 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

**Commencement Information**

**I128** Sch. 18 para. 11 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

**Commencement Information**

**I129** Sch. 18 para. 12 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

**Commencement Information**

**I130** Sch. 18 para. 13 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

**Commencement Information**

**I131** Sch. 18 para. 14 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

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

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

**Commencement Information**

**I132** Sch. 18 para. 15 in force at 1.4.2015 by S.I. 2015/994, art. 2(c)

VALID FROM 29/06/2015

SCHEDULE 19

Section 88

CLC PRACTITIONER SERVICES: CONSEQUENTIAL AMENDMENTS

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

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

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



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

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

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

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

(6) After paragraph 6 insert—

*“Register of licensed CLC practitioners*

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

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

*“Effect of suspension or revocation*

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

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

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

*Legal Services Act 2007 (c. 29)*

14 The Legal Services Act 2007 is amended as follows.

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

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

(3) After subsection (2) insert—

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

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

(2) After sub-paragraph (1) insert—

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

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

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

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

(5) After sub-paragraph (3) insert—

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

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

(7) For sub-paragraph (5) substitute—

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“(5) In this paragraph—

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

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

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

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

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

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

## SCHEDULE 20

Section 89

### THE COUNCIL FOR LICENSED CONVEYANCERS: OTHER AMENDMENTS

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

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

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

(3) After subsection (3) insert—

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

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

(2) After subsection (2C) insert—

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

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

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

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

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

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

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

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

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

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



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

(3) In subsection (2D), after “(2A)” insert “, (2CA), (2CB) or (2CC) ”.

(4) In subsection (2G), for “High Court” substitute “ First-tier Tribunal ”.

(5) Omit subsection (2H).

4 (1) Section 19 (register of licensed conveyancers) is amended as follows.

(2) After subsection (1) insert—

“(1A) The Council may make rules specifying the further information, including information about disciplinary measures taken, to be recorded in the register in relation to a person.”

(3) In subsection (2), omit “accordingly”.

5 In section 20 (rules as to professional practice, conduct and discipline), omit subsection (2).

6 (1) Section 24 (preliminary investigation of disciplinary cases) is amended as follows.

(2) In subsection (10), for “High Court” substitute “ First-tier Tribunal ”.

(3) In subsection (11), for “High Court” substitute “ First-tier Tribunal ”.

(4) Omit subsection (12).

7 (1) Section 24A (determination of allegations by the Investigating Committee) is amended as follows.

(2) In subsection (8), for “High Court” substitute “ First-tier Tribunal ”.

(3) In subsection (9), for “High Court” substitute “ First-tier Tribunal ”.

(4) Omit subsection (10).

8 (1) Section 26 (proceedings in disciplinary cases) is amended as follows.

(2) For subsection (7) substitute—

“(7) Where the Discipline and Appeals Committee make an order by virtue of subsection (1)—

(a) the person against whom the order is made, or

(b) the Council,

may appeal to the First-tier Tribunal, and on any such appeal the First-tier Tribunal may make such order as it thinks fit.”

(3) In subsection (7A), for “High Court” (in both places where it occurs) substitute “ First-tier Tribunal ”.

(4) Omit subsection (8).

9 In Schedule 3 (the Council for Licensed Conveyancers: supplementary provisions), in paragraph 4 (appointment of persons to Council), in subparagraph (2), omit “by one”.



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- 10 (1) Schedule 6 (bodies recognised under section 32: supplementary provisions) is amended as follows.
- (2) In paragraph 3A (orders made by the Investigating Committee)—
- (a) in sub-paragraph (8), for “High Court” substitute “ First-tier Tribunal ”;
  - (b) in sub-paragraph (9), for “High Court” substitute “ First-tier Tribunal ”;
  - (c) omit sub-paragraph (10).
- (3) In paragraph 6 (appeals against orders of the Discipline and Appeals Committee)—
- (a) for sub-paragraph (1) substitute—
 

“(1) Where the Committee make an order by virtue of paragraph 4(1) or (2A) or 5(1)—

    - (a) the person as regards whom the order is made, or
    - (b) the Council,

may appeal to the First-tier Tribunal, and on any such appeal the First-tier Tribunal may make such order as it thinks fit.”;
  - (b) in sub-paragraph (1A), for “High Court” (in both places where it occurs) substitute “ First-tier Tribunal ”;
  - (c) omit sub-paragraph (2).

## SCHEDULE 21

Section 90

## POISONS AND EXPLOSIVES PRECURSORS

*Abolition of Poisons Board*

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

**Commencement Information**

**I133** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

**I134** [Sch. 21 para. 1](#) in force at 20.4.2015 for specified purposes by [S.I. 2015/994](#), [art. 5](#)

*Establishment of common regulatory system*

- 2 The Poisons Act 1972 is amended as follows.

**Commencement Information**

**I135** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

**I136** [Sch. 21 para. 2](#) in force at 20.4.2015 for specified purposes by [S.I. 2015/994](#), [art. 5](#)

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3 For section 2 substitute—

**“2 Regulated substances and reportable substances**

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

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

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

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

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

#### Commencement Information

**I137** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**I138** Sch. 21 para. 3 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

4 For section 3 substitute—

### “3 Activities prohibited without a licence

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

### 3A Supply of regulated substances

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

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

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

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

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

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

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

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

#### Commencement Information

**I139** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**I140** Sch. 21 para. 4 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

- 5 Omit section 4.

#### Commencement Information

**I141** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**I142** Sch. 21 para. 5 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

- 6 After that section insert—

#### “4A Licences

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



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

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

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

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

#### Commencement Information

**I143** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

**I144** [Sch. 21 para. 6](#) in force at 20.4.2015 for specified purposes by [S.I. 2015/994](#), [art. 5](#)

7 Omit sections 5 and 6.

#### Commencement Information

**I145** [Sch. 21](#) in force for certain purposes at Royal Assent, see [s. 115](#)

**I146** [Sch. 21 para. 7](#) in force at 20.4.2015 for specified purposes by [S.I. 2015/994](#), [art. 5](#)

8 For section 7 substitute—

### “7 Regulations about poisons and explosives precursors

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

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

#### Commencement Information

**1147** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**1148** Sch. 21 para. 8 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

9 After section 7 insert—

#### “7A Proof of lack of knowledge

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

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fact been that regulated substance, the accused would not at the material time have been committing any offence to which this section applies.

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

#### Commencement Information

**I149** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**I150** Sch. 21 para. 9 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

10 For section 8 substitute—

#### “8 Penalties

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

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

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

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

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that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

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

#### Commencement Information

**I151** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**I152** Sch. 21 para. 10 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

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

#### Commencement Information

**I153** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**I154** Sch. 21 para. 11 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

- 12 After section 9 insert—

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### “9A Application of PACE powers

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

#### Commencement Information

**I155** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**I156** Sch. 21 para. 12 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

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

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

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



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#### Commencement Information

**I157** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**I158** Sch. 21 para. 13 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

14 For section 10 substitute—

#### “10 Regulations

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

#### Commencement Information

**I159** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**I160** Sch. 21 para. 14 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

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

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““reportable substance”, “reportable explosives precursor” and “reportable poison” have the meanings given in section 2;”, and

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

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

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

(6) After subsection (2) insert—

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

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

#### Commencement Information

**I161** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

**I162** Sch. 21 para. 15 in force at 20.4.2015 for specified purposes by S.I. 2015/994, art. 5

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

### “SCHEDULE 1A

#### REGULATED SUBSTANCES AND REPORTABLE SUBSTANCES

#### PART 1

##### REGULATED EXPLOSIVES PRECURSORS

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

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## PART 2

### REGULATED POISONS

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

## PART 3

### REPORTABLE EXPLOSIVES PRECURSORS

Hexamine (CAS RN 100-97-0)

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Sulphuric acid (CAS RN 7664-93-9)  
Acetone (CAS RN 67-64-1)  
Potassium nitrate (CAS RN 7757-79-1)  
Sodium nitrate (CAS RN 7631-99-4)  
Calcium nitrate (CAS RN 10124-37-5)  
Calcium ammonium nitrate (CAS RN 15245-12-2)  
Ammonium nitrate (CAS RN 6484-52-2) in concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher

#### PART 4

##### REPORTABLE POISONS

<i>Name of substance and Chemical Abstracts Service Registry number (CAS RN)</i>	<i>Concentration limit (weight in weight or, where specified, total caustic alkalinity)</i>
Aldicarb (CAS RN 116-06-3)	
Alpha-chloralose (CAS RN 15879-93-3)	
Ammonia (CAS RN 7664-41-7 and CAS RN 1336-21-6)	10% w/w
Arsenic, compounds of, the following—calcium arsenites; copper acetoarsenite; copper arsenates; copper arsenites; lead arsenates	
Barium, salts of, the following—barium carbonate; barium silicofluoride	
Carbofuran (CAS RN 1563-66-2)	
Cycloheximide (CAS RN 66-81-9)	
Dinitrocresols (DNOC) (CAS RN 534-52-1); their compounds with a metal or a base	
Dinoseb (CAS RN 88-85-7); its compounds with a metal or a base	
Dinoterb (CAS RN 1420-07-1)	
Drazoxolon; its salts	
Endosulfan (CAS RN 115-29-7)	
Endothal (CAS RN 145-73-3); its salts	
Endrin (CAS RN 72-20-8)	
Fentin (CAS RN 668-34-8), compounds of	
Formaldehyde (CAS RN 50-00-0)	5% w/w
Formic acid (CAS RN 64-18-6)	25% w/w

*Note:* for circumstances where requirements of this Act do not apply to a specified substance or mixture, see regulations made under section 9B.

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Hydrochloric acid (CAS RN 7647-01-0)	10% w/w
Hydrofluoric acid (CAS RN 7664-39-3); alkali metal bifluorides; ammonium bifluoride (CAS RN 1341-49-7); alkali metal fluorides; ammonium fluoride (CAS RN 12125-01-8); sodium silicofluoride (CAS RN 16893-85-9)	
Mercuric chloride (CAS RN 7487-94-7); mercuric iodide; organic compounds of mercury except compounds that contain a methyl (CH <sub>3</sub> ) group directly linked to the mercury atom	
Metallic oxalates	
Methomyl (CAS RN 16752-77-5)	
Nicotine (CAS RN 54-11-5); its salts; its quaternary compounds	
Nitrobenzene (CAS RN 98-95-3)	0.1% w/w
Oxamyl (CAS RN 23135-22-0)	
Paraquat (CAS RN 4685-14-7), salts of	
Phenols (as defined in Part 2 of this Schedule) in substances containing no more than 60%, weight in weight, of phenols; compounds of phenols with a metal in substances containing no more than the equivalent of 60%, weight in weight, of phenols	
Phosphoric acid (CAS RN 7664-38-2)	
Phosphorus compounds, the following—azinphos-methyl, chlorfenvinphos, demephion, demeton-S-methyl, demeton-S-methyl sulphone, dialifos, dichlorvos, dioxathion, disulfoton, fonofos, mecarbam, mephosfolan, methidathion, mevinphos, omethoate, oxydemeton-methyl, parathion, phenkapton, phorate, phosphamidon, pirimiphos-ethyl, quinalphos, thiometon, thionazin, triazophos, vamidothion	
Potassium hydroxide (CAS RN 1310-58-3)	17% of total caustic alkalinity
Sodium hydroxide (CAS RN 1310-73-2)	12% of total caustic alkalinity
Sodium nitrite	
Thiofanox (CAS RN 39196-18-4)	
Zinc phosphide (CAS RN 1314-84-7)”	

*Note: for circumstances where requirements of this Act do not apply to a specified substance or mixture, see regulations made under section 9B.*

#### Commencement Information

**I163** Sch. 21 in force for certain purposes at Royal Assent, see s. 115

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**I164** [Sch. 21 para. 16](#) in force at 20.4.2015 for specified purposes by [S.I. 2015/994](#), [art. 5](#)

VALID FROM 26/05/2015

SCHEDULE 22

Section 103

REMOVAL OF CONSULTATION REQUIREMENTS

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VALID FROM 26/05/2015

SCHEDULE 23

Section 107

LEGISLATION NO LONGER OF PRACTICAL USE

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**Status:**

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