

*Status: This version of this schedule contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the Levelling-up and Regeneration Act 2023, Schedule 12. (See end of Document for details)*

## SCHEDULES

PROSPECTIVE

### SCHEDULE 12

Section 137

#### INFRASTRUCTURE LEVY

#### PART 1

#### INFRASTRUCTURE LEVY: ENGLAND

1 After Part 10 of the Planning Act 2008 insert—

#### “PART 10A

#### INFRASTRUCTURE LEVY: ENGLAND

#### 204A The levy

- (1) The Secretary of State may with the consent of the Treasury make regulations providing for the imposition, in England, of a charge to be known as Infrastructure Levy (IL).
- (2) In making the regulations, the Secretary of State must aim to ensure that the overall purpose of IL is to ensure that costs incurred in—
  - (a) supporting the development of an area, and
  - (b) achieving any purpose specified under section 204N(5), 204O(3) or 204P(3),can be funded (wholly or partly) by owners or developers of land in a way that does not make development of the area economically unviable.
- (3) The Table describes the provisions of this Part.

Section	Topic
Section 204B	The charge
Section 204C	Joint committees
Sections 204D and 204E	Liability
Section 204F	Charities
Section 204G	Amount
Sections 204H to 204M	Charging schedule

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Section	Topic
Sections 204N to 204P	Application
Section 204Q	Infrastructure delivery strategy
Section 204R	Collection
Section 204S	Enforcement
Section 204T	Compensation
Section 204U	Procedure
Section 204V	Appeals
Sections 204W to 204Y	Secretary of State: powers
Section 204Z1	IL regulations: general
Section 204Z2	Relationship with other powers

(4) In this Part—

“affordable housing” means—

- (a) social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, and
- (b) any other description of housing that IL regulations may specify;

“IL” has the meaning given in [subsection \(1\)](#);

“IL regulations” means regulations under this section.

#### **204B The charge**

- (1) A charging authority in England must, in accordance with IL regulations, charge IL in respect of development in its area.
- (2) A local planning authority is the charging authority for its area.
- (3) But—
  - (a) the Council of the Isles of Scilly is the only charging authority for the Isles of Scilly, and
  - (b) the Homes and Communities Agency is the charging authority for an area only to the extent provided in a designation order made under section 13 of the Housing and Regeneration Act 2008.
- (4) IL regulations may provide for any of the following to be the charging authority for an area in England in place of the charging authority under [subsection \(2\)](#) or [\(3\)\(a\)](#)—
  - (a) a county council in England,
  - (b) a district council,
  - (c) a metropolitan district council, and
  - (d) a London borough council (within the meaning of TCPA 1990).
- (5) In this section, “local planning authority” has the meaning given by section [15LH](#) of PCPA 2004, except that a development corporation is a local planning authority for the purposes of this section only if it is the local

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planning authority for the whole of its area for all purposes of Part 2 of PCPA 2004.

- (6) IL regulations may make transitional provision in connection with, or in anticipation of, any person or body—
- (a) becoming a charging authority, or
  - (b) ceasing to be a charging authority.

#### **204C Joint committees**

- (1) This section applies if a joint committee that includes a charging authority is established under section 15J of PCPA 2004.
- (2) IL regulations may provide that the joint committee is to exercise specified functions, in respect of the area specified in the agreement under section 15J(1) of PCPA 2004, on behalf of the charging authority.
- (3) The regulations may make provision corresponding to provisions relating to joint committees in Part 6 of the Local Government Act 1972 in respect of the discharge of the specified functions.

#### **204D Liability**

- (1) Where liability to IL would arise in respect of proposed development (in accordance with provision made by a charging authority under and by virtue of section 204B and IL regulations) a person may assume liability to pay the levy.
- (2) An assumption of liability—
  - (a) may be made before development commences, and
  - (b) must be made in accordance with any provision of IL regulations about the procedure for assuming liability.
- (3) A person who assumes liability for IL before the commencement of development becomes liable when development is commenced in reliance on planning permission.
- (4) IL regulations must make provision for an owner or developer of land or another specified person to be liable for IL where development is commenced in reliance on planning permission if—
  - (a) nobody assumes liability in accordance with the regulations, or
  - (b) other specified circumstances arise (such as the insolvency or withdrawal of a person who has assumed liability).
- (5) IL regulations may make provision about—
  - (a) joint liability (with or without several liability);
  - (b) liability of partnerships;
  - (c) assumption of partial liability (and subsection (4)(a) applies where liability has not been wholly assumed);
  - (d) apportionment of liability (which may include provision for referral to a specified person or body for determination);
  - (e) withdrawal of assumption of liability;

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- (f) cancellation of assumption of liability by a charging authority (in which case subsection (4)(a) applies);
  - (g) transfer of liability (whether before or after development commences and whether or not liability has been assumed);
  - (h) exemption from, or reduction in, liability.
- (6) The amount of any liability for IL is to be calculated by reference to the charging schedule which has effect at the time when planning permission first permits the development as a result of which the levy becomes payable.
- (7) IL regulations may make provision for liability for IL to arise where development which requires planning permission is commenced without it (and subsection (6) is subject to this subsection).
- (8) IL regulations may provide for liability to IL to arise in respect of a development where—
- (a) the development was exempt from IL, or subject to a reduced rate of IL, and
  - (b) the description or purpose of the development changes.

#### **204E Liability: interpretation of key terms**

- (1) In section 204D “development” means—
- (a) anything done by way of or for the purpose of the creation of a new building,
  - (b) anything done to or in respect of an existing building, or
  - (c) any change in the use of an existing building or part of a building.
- (2) IL regulations may provide for—
- (a) works, or changes in use, of a specified kind not to be treated as development;
  - (b) the creation of, or anything done to or in respect of, a structure of a specified kind to be treated as development.
- (3) IL regulations must include provision for determining when development is treated as commencing.
- (4) Regulations under subsection (3) may, in particular, provide for development to be treated as commencing when some specified activity or event is undertaken or occurs, where the activity or event—
- (a) is not development within the meaning of subsection (1), but
  - (b) has a specified kind of connection with a development within the meaning of that subsection.
- (5) IL regulations must define planning permission (which may include planning permission within the meaning of TCPA 1990 and any other kind of permission or consent (however called, and whether general or specific)).
- (6) IL regulations must include provision for determining the time at which planning permission is treated as first permitting development; and the regulations may, in particular, make provision—
- (a) about outline planning permission;

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- (b) for permission to be treated as having been given at a particular time in the case of general consents.
- (7) For the purposes of section 204D—
- (a) “owner” of land means a person who owns an interest in the land, and
  - (b) “developer” means a person who is wholly or partly responsible for carrying out a development.
- (8) IL regulations may make provision for a person to be or not to be treated as an owner or developer of land in specified circumstances.

#### **204F Charities**

- (1) IL regulations must provide for an exemption from liability to pay IL in respect of a development where—
- (a) the person who would otherwise be liable to pay IL in respect of the development is a relevant charity in England and Wales, and
  - (b) the building or structure in respect of which IL liability would otherwise arise is to be used wholly or mainly for a charitable purpose of the charity within the meaning of section 2 of the Charities Act 2011.
- (2) IL regulations may—
- (a) provide for an exemption from liability to pay IL where the person who would otherwise be liable to pay IL in respect of the development is an institution established for a charitable purpose;
  - (b) require charging authorities to make arrangements for an exemption from, or reduction in, liability to pay IL where the person who would otherwise be liable to pay IL in respect of the development is an institution established for a charitable purpose.
- (3) Regulations under subsection (1) or (2) may provide that an exemption or reduction does not apply if specified conditions are satisfied.
- (4) For the purposes of subsection (1), a relevant charity in England and Wales is an institution which—
- (a) is registered in the register of charities kept by the Charity Commission under section 29 of the Charities Act 2011, or
  - (b) is a charity within the meaning of section 1(1) of the Charities Act 2011 but is not required to be registered in the register kept under section 29 of that Act.
- (5) In subsection (2), a charitable purpose is a purpose falling within section 3(1) of the Charities Act 2011; but IL regulations may provide for an institution of a specified kind to be, or not to be, treated as an institution established for a charitable purpose.

#### **204G Amount**

- (1) A charging authority must, in accordance with IL regulations, issue a document (a “charging schedule”) setting rates, or other criteria, by

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reference to which the amount of IL chargeable in respect of development in its area is to be determined.

- (2) A charging authority, in setting rates or other criteria, must, to the extent and in the manner specified by IL regulations, seek to ensure that—
- (a) the level of affordable housing which is funded by developers and provided in the authority's area, and
  - (b) the level of funding provided by developers of affordable housing provided in the authority's area,
- can be maintained at a level which, over a specified period, is equal to or exceeds the level of such housing and funding provided over an earlier specified period of the same length.
- (3) Subsection (2) does not apply if the charging authority considers that complying with it would make development of the authority's area economically unviable.
- (4) The references in subsection (2) to the funding of affordable housing by developers are to its funding by developers through IL or by any other means.
- (5) For the purposes of subsection (2), IL regulations may make provision about—
- (a) how the level of affordable housing provided in the area is to be measured, and
  - (b) how the level of funding provided by developers is to be measured.
- (6) A charging authority, in setting rates or other criteria, must have regard, to the extent and in the manner specified by IL regulations, to—
- (a) matters specified by IL regulations relating to the economic viability of development (which may include, in particular, actual or potential economic effects of the imposition of IL);
  - (b) matters specified by IL regulations relating to the actual or potential economic effects (including increases in the value of land) of—
    - (i) a development plan (construed in accordance with section 38 of PCPA 2004),
    - (ii) planning permission,
    - (iii) the provision of infrastructure, or
    - (iv) any other matter that may affect the value of land;
  - (c) the amount of IL, and anything else specified in IL regulations, provided in connection with development in the authority's area over such period as may be specified in IL regulations;
  - (d) its infrastructure delivery strategy (see section 204Q).
- (7) IL regulations may make other provision about setting rates or other criteria.
- (8) The regulations may, in particular, permit or require charging authorities in setting rates or other criteria—
- (a) to have regard, to the extent and in the manner specified by the regulations, to actual or expected administrative expenses in connection with IL;

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- (b) to have regard, to the extent and in the manner specified by the regulations, to actual and expected costs of anything other than infrastructure that is concerned with addressing demands that development places on an area (whether by reference to lists prepared by virtue of section 204N(7)(a) or otherwise);
  - (c) to have regard, to the extent and in the manner specified by the regulations, to other actual and expected sources of funding for anything other than infrastructure that is concerned with addressing demands that development places on an area;
  - (d) to have regard, to the extent and in the manner specified by the regulations, to values used or documents produced for other statutory purposes;
  - (e) to integrate the process, to the extent and in the manner specified by the regulations, with processes undertaken for other statutory purposes;
  - (f) to provide for rates or other criteria to change over time or on the occurrence of specified events (and, for these purposes, the regulations may make provision about how and when they are to change);
  - (g) to produce charging schedules having effect in relation to specified periods (subject to revision).
- (9) The regulations may permit or require charging schedules to adopt specified methods of calculation.
- (10) In particular, the regulations may—
- (a) permit or require charging schedules to operate by reference to descriptions or purposes of development;
  - (b) permit or require charging schedules to operate by reference to any measurement of the amount or nature of development (whether by reference to measurements of floor space, to numbers or intended uses of buildings, to numbers or intended uses of units within buildings, to allocation of space within buildings or units, to values or expected values or in any other way);
  - (c) permit or require charging schedules to operate by reference to the nature or existing use of the place where development is undertaken;
  - (d) permit or require charging schedules to operate by reference to an index used for determining a rate of inflation;
  - (e) permit or require charging schedules to operate by reference to values used or documents produced for other statutory purposes;
  - (f) provide, or permit or require provision, for differential rates, which may include provision for supplementary charges, a nil rate, increased rates or reductions;
  - (g) permit or require any threshold below which IL is charged at a nil rate or a reduced rate to be determined in a specified way, including for it to be increased or decreased by reference to the costs of development in a charging authority's area (and, for these purposes, the regulations may require the charging authority to publish information relating to the costs of development in its area).



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- (11) The regulations may require a charging authority to provide estimates in connection with the IL chargeable in respect of development (including estimates of the amount of IL that is chargeable and estimates in connection with any payments in a form other than money permitted or required under section 204R(4)).
- (12) A charging authority may revise or replace a charging schedule.
- (13) Subsections (2) to (10) and sections 204H to 204L apply in relation to a revision or replacement of a charging schedule as they apply in relation to a charging schedule.

#### **204H Charging schedule: consultation and evidence**

- (1) A charging authority may consult, or take other steps, in connection with the preparation of a charging schedule (subject to IL regulations).
- (2) A charging authority must use appropriate available evidence to inform the charging authority's preparation of a charging schedule.
- (3) IL regulations may make provision about the application of subsection (2) including, in particular—
  - (a) provision as to evidence that is to be taken to be appropriate,
  - (b) provision as to evidence that is to be taken to be not appropriate,
  - (c) provision as to evidence that is to be taken to be available,
  - (d) provision as to evidence that is to be taken to be not available,
  - (e) provision as to how evidence is, and as to how evidence is not, to be used,
  - (f) provision as to evidence that is, and as to evidence that is not, to be used,
  - (g) provision as to evidence that may, and as to evidence that need not, be used, and
  - (h) provision as to how the use of evidence is to inform the preparation of a charging schedule.

#### **204I Charging schedule: examination**

- (1) Before approving a charging schedule a charging authority must appoint a person (“the examiner”) to examine a draft.
- (2) The charging authority must appoint someone who, in the opinion of the authority—
  - (a) is independent of the charging authority, and
  - (b) has appropriate qualifications and experience.
- (3) The charging authority may, with the agreement of the examiner, appoint persons to assist the examiner.
- (4) In this section and section 204J, “the drafting requirements” means the requirements of this Part and IL regulations (including the requirements to have regard to the matters listed in section 204G(2), (6) and (8)), so far as relevant to the drafting of the schedule.



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- (5) The examiner must consider whether the drafting requirements have been complied with and—
  - (a) make recommendations in accordance with section 204J, and
  - (b) give reasons for the recommendations.
- (6) The charging authority must publish the recommendations and reasons.
- (7) IL regulations must require a charging authority to allow anyone who makes representations about a draft charging schedule to be heard by the examiner; and the regulations may make provision about timing and procedure.
- (8) IL regulations may make provision for examiners to reconsider their decisions with a view to correcting errors (before or after the approval of a charging schedule).
- (9) The charging authority may withdraw a draft charging schedule.

#### **204J Charging schedule: examiner's recommendations**

- (1) This section applies in relation to the examination, under section 204I, of a draft charging schedule.
- (2) If the examiner considers—
  - (a) that there is any respect in which the drafting requirements have not been complied with, and
  - (b) that the non-compliance with the drafting requirements cannot be remedied by the making of modifications to the draft,the examiner must recommend that the draft be rejected.
- (3) Subsection (4) applies if the examiner considers—
  - (a) that there is any respect in which the drafting requirements have not been complied with, and
  - (b) that the non-compliance with the drafting requirements could be remedied by the making of modifications to the draft.
- (4) The examiner must—
  - (a) specify the respects in which the drafting requirements have not been complied with,
  - (b) recommend modifications that the examiner considers sufficient and necessary to remedy that non-compliance, and
  - (c) recommend that the draft be approved with—
    - (i) those modifications, or
    - (ii) other modifications sufficient and necessary to remedy that non-compliance.
- (5) Subject to subsections (2) to (4), the examiner must recommend that the draft be approved.
- (6) If the examiner makes recommendations under subsection (4), the examiner may recommend other modifications with which the draft should be approved in the event that it is approved.

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- (7) If the examiner makes recommendations under subsection (5), the examiner may recommend modifications with which the draft should be approved in the event that it is approved.

#### **204K Charging schedule: approval**

- (1) A charging authority may approve a charging schedule only if—
- (a) the examiner makes recommendations under section 204J(4) or (5), and
  - (b) the charging authority has had regard to those recommendations and the examiner’s reasons for them.
- (2) Accordingly, a charging authority may not approve a charging schedule if, under section 204J(2), the examiner recommends rejection.
- (3) If the examiner makes recommendations under section 204J(4), the charging authority may approve the charging schedule only if it does so with modifications that are sufficient and necessary to remedy the non-compliance specified under section 204J(4)(a) (although those modifications need not be the ones recommended under section 204J(4)(b)).
- (4) If a charging authority approves a charging schedule, it may do so with all or none, or some one or more, of the modifications (if any) recommended under section 204J(6) or (7).
- (5) The modifications with which a charging schedule may be approved include only—
- (a) modifications required by subsection (3), and
  - (b) modifications allowed by subsection (4).
- (6) A charging authority must approve a charging schedule—
- (a) at a meeting of the authority, and
  - (b) by a majority of votes of members present.
- (7) Subsection (8) applies if—
- (a) the examiner makes recommendations under section 204J(4), and
  - (b) the charging schedule is approved by the charging authority.
- (8) The charging authority must publish a report setting out how the charging schedule as approved remedies the non-compliance specified under section 204J(4)(a).
- (9) IL regulations may make provision about the form or contents of a report under subsection (8).
- (10) IL regulations may make provision for the correction of errors in a charging schedule after approval.
- (11) In this section “examiner” means the examiner under section 204I.

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#### **204L Charging schedule: application and effect**

- (1) A charging schedule approved under section 204K may not take effect before the charging authority issues the schedule (by publishing it).
- (2) IL regulations may, subject to subsection (1), make provision about when a charging schedule may, must or may not take effect.
- (3) IL regulations may make provision about publication of a charging schedule after approval.
- (4) The provision that may be made under subsection (3) includes provision about information or documents that must be published alongside the charging schedule.

#### **204M Charging schedule: due date**

- (1) IL regulations may make provision as to when a charging authority must issue a charging schedule.
- (2) But the regulations may not require a charging authority to issue a charging schedule before the end of the period of 12 months beginning with the day on which the Secretary of State publishes, or provides to the authority, written notice that it will be required to issue a charging schedule.
- (3) If a charging authority does not issue its charging schedule in accordance with provision made under subsection (1), the Secretary of State may appoint a person to prepare and issue it on behalf of the charging authority.
- (4) IL regulations may make provision about—
  - (a) procedures for appointing a person under subsection (3),
  - (b) conditions which must be met before such an appointment may be made,
  - (c) procedures which must be followed by the person in preparing and issuing the charging schedule,
  - (d) the appointment of assistants for the person,
  - (e) circumstances in which the person may be replaced,
  - (f) duties of a charging authority where a person is appointed to act on its behalf under subsection (3), and
  - (g) liability for costs incurred as a result of the appointment of the person.

#### **204N Application**

- (1) Subject to this section and sections 204O(1) to (3), 204P(2) and (3), and 204T(5), IL regulations must require the authority that charges IL to apply it, or cause it to be applied, to supporting the development of an area by funding the provision, improvement, replacement, operation or maintenance of infrastructure.
- (2) IL regulations may make provision about the extent to which the IL paid to a charging authority may or must be applied to funding the provision,

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improvement, replacement, operation or maintenance of infrastructure of a particular description.

- (3) In this section (except subsection (4)) and sections 204G, 204O(2), 204P(2), 204Q and 204Z “infrastructure” includes—
- (a) roads and other transport facilities,
  - (b) flood defences,
  - (c) schools and other educational facilities,
  - (d) medical facilities,
  - (e) sporting and recreational facilities,
  - (f) open spaces,
  - (g) affordable housing,
  - (h) facilities and equipment for emergency and rescue services,
  - (i) facilities and spaces which—
    - (i) preserve or improve the natural environment, or
    - (ii) enable or facilitate enjoyment of the natural environment,
 and
  - (j) facilities and spaces for the mitigation of, and adaptation to, climate change.
- (4) The regulations may amend this section so as to—
- (a) add, remove or vary an entry in the list of matters included within the meaning of “infrastructure”;
  - (b) list matters excluded from the meaning of “infrastructure”.
- (5) The regulations may make provision about circumstances in which authorities may apply a specified amount of IL, or cause a specified amount of IL to be applied, towards specified purposes which are not mentioned in subsection (1).
- (6) The regulations may specify—
- (a) works, installations and other facilities whose provision, improvement or replacement may or is to be, or may not be, funded by IL,
  - (b) maintenance activities and operational activities (including operational activities of a promotional kind) in connection with infrastructure that may or are to be, or may not be, funded by IL,
  - (c) things within section 204O(2)(b) that may or are to be, or may not be, funded by IL passed to a person in discharge of a duty under section 204O(1),
  - (d) things within section 204P(2)(b) that may or are to be, or may not be, funded by IL to which provision under section 204P(2) relates,
  - (e) criteria for determining the areas that may benefit from funding by IL, and
  - (f) what is to be, or not to be, treated as funding.
- (7) The regulations may—
- (a) require charging authorities to prepare and publish a list of what is to be, or may be, wholly or partly funded by IL;

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- (b) include provision about the procedure to be followed in preparing a list (which may include provision for consultation or for the appointment of an independent person or both);
  - (c) include provision about the circumstances in which a charging authority may and may not apply IL to anything not included on the list;
  - (d) permit or require the list to be prepared and published as part of an infrastructure delivery strategy (see section 204Q).
- (8) In making provision about funding the regulations may, in particular—
- (a) permit IL to be used to reimburse expenditure already incurred;
  - (b) permit IL to be reserved for expenditure that may be incurred in the future;
  - (c) permit IL to be applied (either generally or subject to limits set by or determined in accordance with the regulations) to administrative expenses in connection with infrastructure or anything within section 204O(2)(b) or 204P(2)(b) or in connection with IL;
  - (d) include provision for the giving of loans, guarantees or indemnities;
  - (e) make provision about the application of IL where anything to which it was to be applied no longer requires funding.
- (9) The regulations may—
- (a) require a charging authority to account separately, and in accordance with the regulations, for IL received or due;
  - (b) require a charging authority to monitor the use made and to be made of IL in its area;
  - (c) require a charging authority to report on actual or expected charging, collection and application of IL;
  - (d) permit a charging authority to cause money to be applied in respect of things done outside its area;
  - (e) permit a charging authority or other body (including a collecting authority under section 204R(7)) to spend or retain money;
  - (f) permit a charging authority to pass money to another body (and in paragraphs (a) to (e) a reference to a charging authority includes a reference to a body to which a charging authority passes money in reliance on this paragraph).

#### **204O Duty to pass receipts to other persons**

- (1) IL regulations may require that IL received in respect of development in an area is to be passed by the charging authority that charged the IL to a person other than that authority.
- (2) IL regulations must contain provision to secure that money passed to a person in discharge of a duty under subsection (1) is used to support the development of the area to which the duty relates, or of any part of that area, by funding—
  - (a) the provision, improvement, replacement, operation or maintenance of infrastructure, or

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- (b) anything else that is concerned with addressing demands that development places on an area.
- (3) The regulations may make provision about circumstances in which a specified amount of the money may be used for specified purposes which are not mentioned in subsection (2).
- (4) A duty under subsection (1) may relate to—
  - (a) the whole of a charging authority’s area or the whole of the combined area of two or more charging authorities, or
  - (b) part only of such an area or combined area.
- (5) IL regulations may make provision about the persons to whom IL may or must, or may not, be passed in discharge of a duty under subsection (1).
- (6) A duty under subsection (1) may relate—
  - (a) to all IL (if any) received in respect of the area to which the duty relates, or
  - (b) such part of that IL as is specified in, or determined under or in accordance with, IL regulations.
- (7) IL regulations may make provision in connection with the timing of payments in discharge of a duty under subsection (1).
- (8) IL regulations may, in relation to IL passed to a person in discharge of a duty under subsection (1), make provision about—
  - (a) accounting for the IL,
  - (b) monitoring its use,
  - (c) reporting on its use,
  - (d) responsibilities of charging authorities for things done by the person in connection with the IL,
  - (e) recovery of the IL, and any income or profits accruing in respect of it or from its application, in cases where—
    - (i) anything to be funded by it has not been provided, or
    - (ii) it has been misapplied,
 including recovery of sums or other assets representing it or any such income or profits, and
  - (f) use of anything recovered in cases where—
    - (i) anything to be funded by the IL has not been provided, or
    - (ii) the IL has been misapplied.
- (9) This section does not limit section 204N(9)(f).

#### **204P Use of IL in an area to which section 204O(1) duty does not relate**

- (1) Subsection (2) applies where—
  - (a) there is an area to which a particular duty under section 204O(1) relates, and
  - (b) there is also an area to which that duty does not relate (“the uncovered area”).

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- (2) IL regulations may provide that the charging authority that charges IL received in respect of development in the uncovered area may apply the IL, or cause it to be applied, to—
  - (a) support development by funding the provision, improvement, replacement, operation or maintenance of infrastructure, or
  - (b) support development of the uncovered area, or of any part of that area, by funding anything else that is concerned with addressing demands that development places on an area.
- (3) The regulations may make provision about circumstances in which the authority may apply a specified amount of IL, or cause a specified amount of IL to be applied, towards specified purposes which are not mentioned in subsection (2).
- (4) Provision under subsection (2) may relate to the whole, or part only, of the uncovered area.
- (5) Provision under subsection (2) may relate—
  - (a) to all IL (if any) received in respect of the area to which the provision relates, or
  - (b) such part of that IL as is specified in, or determined under or in accordance with, IL regulations.

#### **204Q Infrastructure delivery strategy**

- (1) A charging authority must prepare and publish an infrastructure delivery strategy for its area.
- (2) The infrastructure delivery strategy must—
  - (a) set out the strategic plans (however expressed) of the charging authority in relation to the application of IL, and
  - (b) include such other information as may be prescribed by IL regulations.
- (3) The infrastructure delivery strategy may and, if required by IL regulations, must set out the plans (however expressed) of the charging authority in relation to the provision, improvement, replacement, operation and maintenance of infrastructure in the authority's area.
- (4) The charging authority may at any time prepare and publish a revision to, or replacement of, its infrastructure delivery strategy.
- (5) The charging authority must prepare and publish a revision to, or replacement of, its infrastructure delivery strategy if it is necessary or expedient in consequence of the publication, revision or replacement of a charging schedule in relation to the charging authority's area.
- (6) IL regulations must make provision for the independent examination of—
  - (a) infrastructure delivery strategies, and
  - (b) revisions to, or replacements of, such strategies.
- (7) The regulations must make provision for the examination to be combined with—
  - (a) an examination under this Part in relation to a charging schedule, or



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- (b) an examination under Part 2 of PCPA 2004 in relation to a local plan.
- (8) The regulations may, in particular, make provision—
  - (a) about who is to carry out the examination;
  - (b) about what the examiner must, may or may not consider;
  - (c) about the procedure to be followed;
  - (d) about recommendations, or other consequences, arising from or in connection with the examination;
  - (e) about circumstances in which an examination is not required;
  - (f) applying, or corresponding to, any provision made by or under this Part relating to an examination in relation to a charging schedule (with or without modifications).
- (9) The charging authority must have regard to any guidance published by the Secretary of State in relation to the preparation, publication, revision or replacement of infrastructure delivery strategies.
- (10) IL regulations may provide that a public authority other than the charging authority is to exercise a function under this section in place of, or on behalf of, the charging authority.
- (11) IL regulations must make provision about—
  - (a) the form and content of infrastructure delivery strategies;
  - (b) the publication of infrastructure delivery strategies and any related documents;
  - (c) the procedures to be followed in relation to the preparation, revision or replacement of infrastructure delivery strategies;
  - (d) consultation in connection with infrastructure delivery strategies.
- (12) IL regulations may make provision about—
  - (a) the timing of any steps in connection with the preparation, publication, revision or replacement of infrastructure delivery strategies;
  - (b) the evidence required to inform the preparation of infrastructure delivery strategies;
  - (c) the preparation of joint infrastructure delivery strategies;
  - (d) the period of time for which infrastructure delivery strategies are valid.

### **204R Collection**

- (1) IL regulations must include provision about the collection of IL.
- (2) The regulations may make provision for payment—
  - (a) on account;
  - (b) by instalments.
- (3) The regulations may make provision about repayment (with or without interest) in cases of overpayment.
- (4) The regulations may make provision about payment in forms other than money (such as providing, improving, replacing, operating or maintaining

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infrastructure, making land available, carrying out works or providing services), including about what provision may or must be made by a charging authority in its charging schedule or elsewhere if payment in a form other than money is to be permitted or required.

- (5) So long as affordable housing falls within the meaning of “infrastructure” given by [section 204N\(3\)](#), regulations under subsection (4) must permit charging authorities, in the circumstances and to the extent specified in the regulations, to require IL to be paid by providing affordable housing on the development site.
- (6) In subsection (5) “development site” means the site on which the development in respect of which the IL is charged takes place.
- (7) The regulations may permit or require a charging authority or other public authority to collect IL charged by another authority; and [section 204N\(9\)\(a\)](#) and (c) apply to a collecting authority in respect of collection as to a charging authority.
- (8) Regulations under this section may make provision corresponding to or applying (with or without modifications) any enactment relating to the collection of a tax.
- (9) Regulations under this section may make provision about the source of payments in respect of Crown interests.

#### **204S Enforcement**

- (1) IL regulations must include provision about enforcement of IL.
- (2) The regulations must make provision about the consequences of failure to assume liability, late payment and failure to pay.
- (3) The regulations may make provision about the consequences of failure to give a notice or to comply with another procedure under IL regulations in connection with IL.
- (4) The regulations may, in particular, include provision—
  - (a) for the payment of interest;
  - (b) for the imposition of a penalty or surcharge;
  - (c) for the suspension or cancellation of a decision relating to planning permission;
  - (d) enabling an authority to prohibit development pending assumption of liability for IL or pending payment of IL;
  - (e) conferring a power of entry onto land;
  - (f) creating a criminal offence (including, in particular, offences relating to evasion or attempted evasion or to the provision of false or misleading information or failure to provide information, and offences relating to the prevention or investigation of other offences created by the regulations);
  - (g) conferring power to prosecute an offence;
  - (h) for enforcement of sums owed (whether by action on a debt, by distraint against goods or in any other way);

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- (i) conferring jurisdiction on a court to grant injunctive or other relief to enforce a provision of the regulations (including a provision included in reliance on this section);
  - (j) for enforcement in the case of death or insolvency of a person liable for IL.
- (5) IL regulations may include provision (whether or not in the context of late payment or failure to pay) about registration or notification of actual or potential liability to IL.
- (6) IL regulations may make provision for the prohibition or restriction of the use or occupation of all or part of the site of, or anything created in the course of, a development pending payment of IL in respect of the development.
- (7) IL regulations may include provision—
  - (a) for the creation of local land charges;
  - (b) for the registration of local land charges;
  - (c) for enforcement of local land charges (including, in particular, for enforcement—
    - (i) against successive owners, and
    - (ii) by way of sale or other disposal with consent of a court);
  - (d) for making entries in statutory registers;
  - (e) for the cancellation of charges and entries.
- (8) Regulations under this section may make provision corresponding to or applying (with or without modifications) any enactment relating to the enforcement of a tax.
- (9) Regulations under this section may provide that any interest, penalty or surcharge payable by virtue of the regulations is to be treated for the purposes of sections 204N to 204U as if it were IL.
- (10) The regulations providing for a surcharge or penalty must ensure that no surcharge or penalty in respect of an amount of IL exceeds the higher of—
  - (a) 40% of that amount, and
  - (b) £50,000.
- (11) But the regulations may provide for more than one surcharge or penalty to be imposed in relation to an IL charge.
- (12) The regulations may not authorise entry to a private dwelling without a warrant issued by a justice of the peace.
- (13) Regulations under this section creating a criminal offence may not provide for—
  - (a) imprisonment for a term exceeding the maximum term for summary offences, on summary conviction for an offence triable summarily only,
  - (b) imprisonment for a term exceeding the general limit in a magistrates' court, on summary conviction for an offence triable either way, or

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(c) imprisonment for a term exceeding 2 years, on conviction on indictment.

(14) In subsection (13)(a), “the maximum term for summary offences” means—

- (a) in relation to an offence committed before the time when section 281(5) of the Criminal Justice Act 2003 comes into force, 6 months;
- (b) in relation to an offence committed after that time, 51 weeks.

(15) In this Part a reference to administrative expenses in connection with IL includes a reference to enforcement expenses.

### **204T Compensation**

- (1) IL regulations may require a charging authority or other public authority to pay compensation in respect of loss or damage suffered as a result of enforcement action.
- (2) In this section, “enforcement action” means action taken under regulations under section 204S, including—
  - (a) the suspension or cancellation of a decision relating to planning permission,
  - (b) the prohibition of development pending assumption of liability for IL or pending payment of IL, and
  - (c) the prohibition or restriction of the use or occupation of all or part of the site of, or anything created in the course of, a development pending payment of IL.
- (3) The regulations must not require payment of compensation—
  - (a) to a person who has failed to satisfy a liability to pay IL, or
  - (b) in other circumstances specified by the regulations.
- (4) Regulations under this section may make provision about—
  - (a) the time and manner in which a claim for compensation is to be made, and
  - (b) the sums, or the method of determining the sums, payable by way of compensation.
- (5) IL regulations may permit or require a charging authority to apply IL (either generally or subject to limits set by or determined in accordance with the regulations) for expenditure incurred under this section.
- (6) A dispute about compensation may be referred to and determined by the Upper Tribunal.
- (7) In relation to the determination of any such question, the provisions of section 4 of the Land Compensation Act 1961 apply subject to any necessary modifications and to the provisions of IL regulations.

### **204U Procedure**

- (1) IL regulations may include provision about procedures to be followed in connection with IL.

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- (2) In particular, the regulations may make provision about—
- (a) procedures to be followed by a charging authority in relation to charging IL;
  - (b) consultation;
  - (c) valuation, including provision about—
    - (i) what factors may, must or may not be taken into account in a valuation;
    - (ii) who may carry out a valuation;
    - (iii) the procedure for a valuation;
    - (iv) any documentation that must be prepared in connection with a valuation;
    - (v) the payment of fees in relation to a valuation;
    - (vi) the consequences of failing to carry out a valuation, or to prepare any documentation in connection with a valuation, in accordance with the regulations;
  - (d) the resolution of disputes;
  - (e) the time by or at which anything may or must be done;
  - (f) reports (including the publication or other treatment of reports);
  - (g) methods of publication of documents;
  - (h) making documents available for inspection;
  - (i) providing copies of documents (with or without charge);
  - (j) the form and content of documents;
  - (k) giving notice;
  - (l) serving notices or other documents;
  - (m) examinations to be held in public in the course of setting or revising rates or other criteria or of preparing lists;
  - (n) the terms and conditions of appointment of independent persons;
  - (o) remuneration and expenses of independent persons (which may be required to be paid by the Secretary of State or by a charging authority);
  - (p) other costs in connection with examinations;
  - (q) reimbursement of expenditure incurred by the Secretary of State (including provision for enforcement);
  - (r) apportionment of costs;
  - (s) combining procedures in connection with IL with procedures for another purpose of a charging authority (including a purpose of that authority in another capacity);
  - (t) procedures to be followed in connection with actual or potential liability for IL.
- (3) IL regulations may make provision about the procedure to be followed in respect of an exemption from IL or a reduction of IL; in particular, the regulations may include provision—
- (a) about the procedure for determining whether any conditions are satisfied;
  - (b) requiring a charging authority or other person to notify specified persons of any exemption or reduction;

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- (c) requiring a charging authority or other person to keep a record of any exemption or reduction;
  - (d) about what provision may or must be made by a charging authority in its charging schedule or elsewhere in connection with exemptions or reductions.
- (4) A provision of this Part conferring express power to make procedural provision in a specified context includes, in particular, power to make provision about the matters specified in subsection (2).
- (5) A power in this Part to make provision about publishing something includes a power to make provision about making it available for inspection.
- (6) Sections 229 to 231 do not apply to this Part (but IL regulations may make similar provision).

#### **204V Appeals**

- (1) IL regulations may make provision about appeals in connection with IL.
- (2) Regulations under this section may, in particular, make provision about—
- (a) who may make an appeal,
  - (b) the grounds upon which an appeal may be made,
  - (c) the court, tribunal or other person who is to determine an appeal,
  - (d) the period within which a right of appeal may be exercised,
  - (e) the procedure on an appeal, and
  - (f) the payment of fees, and award of costs, in relation to an appeal.
- (3) IL regulations must provide for a right of appeal on a question of fact in relation to the application of methods for calculating IL (including any questions in relation to valuation).
- (4) In any proceedings for judicial review of a decision on an appeal, the defendant is to be such person as is specified in the regulations (and the regulations may also specify a person who is not to be the defendant for these purposes).

#### **204W Secretary of State: guidance**

The Secretary of State may give guidance to a charging authority or other public authority (including an examiner appointed under this Part) about any matter connected with IL; and the authority must have regard to the guidance.

#### **204X Secretary of State: power to permit alteration of IL rates and thresholds**

- (1) Subsections (2) to (4) apply in relation to a charging authority—
- (a) if the Secretary of State considers that—
    - (i) the economic viability of development, or development of a particular description, in the charging authority's area is significantly impaired, or

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- (ii) there is a substantial risk that it will become significantly impaired,  
as a result of the IL which is or will be chargeable in respect of development in that area, or
- (b) in any other circumstances that IL regulations may specify.
- (2) The Secretary of State may publish a notice which permits the charging authority, during a period specified in the notice, to—
- (a) amend its charging schedule so as to reduce rates of IL, or increase any threshold below which IL is charged at a nil or a reduced rate—
- (i) in accordance with the provisions of the notice, and
- (ii) for no longer than a period specified in the notice;
- (b) amend its charging schedule so as to cancel, or delay for no longer than a period specified in the notice—
- (i) any increase in rates of IL, or
- (ii) any decrease in a threshold below which IL is charged at a nil or a reduced rate,  
which is to take place under the authority’s charging schedule;
- (c) cancel, or delay for no longer than a period specified in the notice, the issue of the authority’s charging schedule, or any revision or replacement of the authority’s charging schedule, which—
- (i) has been approved under section 204K,
- (ii) would result in an increase in rates of IL or a decrease in a threshold below which IL is charged at a nil or a reduced rate, but
- (iii) has not yet taken effect.
- (3) The Secretary of State may include provision in a notice under subsection (2)(a)(i) which confers a discretionary power on the charging authority—
- (a) with regards to how it can amend its charging schedule for the purposes of subsection (2)(a), or
- (b) to allow for the amount of any liability to IL in respect of a development, which was first permitted by planning permission prior to the publication of the notice, to be recalculated by reference to the charging schedule as amended in accordance with the provisions of the notice (notwithstanding section 204D(6)).
- (4) Section 204G(13) does not apply in relation to an amendment of a charging schedule under subsection (2).
- (5) IL regulations may specify—
- (a) criteria which must be met, or
- (b) procedures which must be followed,  
in order for a charging authority to amend its charging schedule under subsection (2).
- (6) IL regulations may restrict the exercise of the power in subsection (2), including by specifying the extent to which rates may be reduced, or thresholds may be increased, under subsection (2)(a).



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- (7) IL regulations may make consequential, transitional, transitory or saving provision in connection with, or in anticipation of, permission being given under subsection (2).

#### **204Y Secretary of State: power to require review of charging schedules**

- (1) The Secretary of State may direct a charging authority to review its charging schedule—
- (a) if the Secretary of State considers that—
    - (i) the economic viability of development, or development of a particular description, in the charging authority's area is significantly impaired, or
    - (ii) there is a substantial risk that it will become significantly impaired,as a result of the IL which is or will be chargeable in respect of development in that area,
  - (b) if the Secretary of State considers that a significant period of time has elapsed since the later of the time that—
    - (i) the schedule was issued,
    - (ii) the schedule was last reviewed,
    - (iii) the schedule was last revised, and
    - (iv) the schedule was last replaced, or
  - (c) in any other circumstances that IL regulations may specify.
- (2) If a charging authority is directed to review its charging schedule under subsection (1), it must—
- (a) consider whether to revise or replace the charging schedule under section 204G(12), and
  - (b) notify the Secretary of State of its decision with reasons.
- (3) If the charging authority decides to revise or replace the charging schedule, it must do so within a reasonable time.
- (4) If a charging authority has not complied with a direction given under subsection (1) within a reasonable time and to a standard which the Secretary of State considers adequate, the Secretary of State may appoint a person to do so on behalf of the charging authority.
- (5) If a person appointed under subsection (4) decides that the charging schedule should be revised or replaced, the charging authority must revise or replace the schedule accordingly within a reasonable time.
- (6) If the charging authority fails to revise or replace the charging schedule in accordance with subsection (3) or (5), the Secretary of State may appoint a person to do so on behalf of the charging authority.
- (7) IL regulations may make provision about—
- (a) procedures for appointing a person under subsection (4) or (6),
  - (b) conditions which must be met before such an appointment may be made,

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- (c) procedures which must be followed by the person in complying with a direction given under subsection (1) or revising or replacing the charging schedule under subsection (6),
- (d) circumstances in which the person may be replaced,
- (e) duties of a charging authority where a person is appointed to act on its behalf under subsection (4) or (6),
- (f) liability for costs incurred as a result of the appointment of the person, and
- (g) what constitutes a reasonable time under subsections (3) to (5).

#### **204Z Parliamentary scrutiny: affordable housing**

- (1) The Secretary of State must prepare a report which—
  - (a) provides information, in relation to each charging authority which charges IL in respect of development in its area, about the amount of affordable housing provision that has been funded by IL charged by that authority,
  - (b) assesses whether the charging of IL has resulted in more or less affordable housing being available in areas in respect of which IL is charged than would otherwise be the case, and
  - (c) sets out such other information as the Secretary of State considers appropriate in connection with the effect of IL on the provision, improvement, replacement, operation or maintenance of affordable housing or other infrastructure.
- (2) The Secretary of State must lay the report before each House of Parliament before the end of the period of 5 years beginning with the date on which the first charging schedule takes effect under this Part.
- (3) The Secretary of State must publish the report as soon as is reasonably practicable after it has been laid before each House of Parliament.

#### **204Z1 Regulations: general**

- (1) IL regulations—
  - (a) may make provision that applies generally or only to specified cases, circumstances or areas,
  - (b) may make different provision for different cases, circumstances or areas,
  - (c) may disapply any provision made by or under this Part in relation to an area, or a charging authority, specified or described in the regulations,
  - (d) may make provision requiring the provision of information in connection with IL,
  - (e) may provide, or allow a charging schedule to provide, for exceptions,
  - (f) may confer, or allow a charging schedule to confer, a discretionary power on the Secretary of State, a local authority or another specified person,
  - (g) may make provision treating CIL as if it were IL,
  - (h) may apply an enactment, with or without modifications, and

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- (i) may include provision of a kind permitted by section 232(3)(b) (and incidental, supplemental or consequential provision may include provision disapplying, modifying the effect of or amending an enactment).
- (2) IL regulations are to be made by statutory instrument.
- (3) A statutory instrument containing IL regulations may not be made unless a draft has been laid before and approved by a resolution of the House of Commons

### **204Z2 Relationship with other powers**

- (1) IL regulations may include provision about how the following powers are to be used, or are not to be used—
  - (a) Part 11 (Community Infrastructure Levy) (including any power conferred by CIL regulations under that Part),
  - (b) section 70 of TCPA 1990 (planning permission),
  - (c) section 106 of TCPA 1990 (planning obligations) (including provision about obtaining sums under subsection (1)(d) of that section for use in connection with IL), and
  - (d) section 278 of the Highways Act 1980 (execution of works).
- (2) IL regulations may include provision about the exercise of any other power relating to planning or development.
- (3) IL regulations may, in particular, provide that—
  - (a) a specified matter may not, or may only, constitute a reason for granting planning permission for development in specified circumstances;
  - (b) planning permission for development may not, or may only, be granted subject to a condition which is of a specified description.
- (4) The Secretary of State may give guidance to a charging or other authority about how a power relating to planning or development is to be exercised; and authorities must have regard to the guidance.
- (5) Provision may be made under subsection (1) to (3), and guidance may be given under subsection (4), only if the Secretary of State thinks it necessary or expedient—
  - (a) in consequence of, or to supplement, provision made under section 204Z1(1)(c),
  - (b) for delivering the overall purpose of IL mentioned in section 204A(2),
  - (c) for enhancing the effectiveness, or increasing the use, of IL regulations,
  - (d) for preventing agreements, undertakings or other transactions from being used to undermine or circumvent IL regulations,
  - (e) for preventing agreements, undertakings or other transactions from being used to achieve a purpose that the Secretary of State thinks would better be achieved through the application of IL regulations, or

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- (f) for preventing or restricting the imposition of burdens, the making of agreements or the giving of undertakings, in addition to IL.
- (6) IL regulations may provide that a power to give guidance or directions may not be exercised—
- (a) in relation to matters specified in the regulations,
  - (b) in cases or circumstances specified in the regulations,
  - (c) for a purpose specified in the regulations, or
  - (d) to an extent specified in the regulations.”

#### Commencement Information

**II** Sch. 12 para. 1 not in force at Royal Assent, see [s. 255\(4\)](#)

## PART 2

### CONSEQUENTIAL AMENDMENTS

#### *Local Government Act 1972*

- 2 In section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities), after subsection (6) insert—
- “(6ZA) Infrastructure Levy under Part 10A of the Planning Act 2008 is not a rate for the purposes of subsection (6).”

#### Commencement Information

**I2** Sch. 12 para. 2 not in force at Royal Assent, see [s. 255\(4\)](#)

#### *Town and Country Planning Act 1990*

- 3 In section 70(4) of the TCPA 1990 (determination of applications: general considerations), in paragraph (b) of the definition of “local finance consideration”, after “payment of” insert “Infrastructure Levy or”.

#### Commencement Information

**I3** Sch. 12 para. 3 not in force at Royal Assent, see [s. 255\(4\)](#)

#### *Deregulation and Contracting Out Act 1994*

- 4 In section 71(3) of the Deregulation and Contracting Out Act 1994 (functions excluded from sections 69 and 70), omit the word “and” at the end of paragraph (h) and after that paragraph insert—
- “(ha) sections 204R and 204S of the Planning Act 2008 (Infrastructure Levy: collection and enforcement); and”.

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**Commencement Information**

**I4** Sch. 12 para. 4 not in force at Royal Assent, see [s. 255\(4\)](#)

*Planning Act 2008*

5 The Planning Act 2008 is amended as follows.

**Commencement Information**

**I5** Sch. 12 para. 5 not in force at Royal Assent, see [s. 255\(4\)](#)

6 In the following sections, for “Part 11”, in each place it occurs, substitute “Parts 10A and 11”—

- (a) section 32 (meaning of “development”);
- (b) section 155(1) (when development begins);
- (c) section 235(1) (interpretation).

**Commencement Information**

**I6** Sch. 12 para. 6 not in force at Royal Assent, see [s. 255\(4\)](#)

7 In section 232(1)(d) (orders and regulations), after “Part” insert “10A or”.

**Commencement Information**

**I7** Sch. 12 para. 7 not in force at Royal Assent, see [s. 255\(4\)](#)

**Commencement Information**

**I5** Sch. 12 para. 5 not in force at Royal Assent, see [s. 255\(4\)](#)

**I6** Sch. 12 para. 6 not in force at Royal Assent, see [s. 255\(4\)](#)

**I7** Sch. 12 para. 7 not in force at Royal Assent, see [s. 255\(4\)](#)

**Status:**

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**Changes to legislation:**

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