

# HOUSING AND PLANNING BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Housing and Planning Bill as introduced in the House of Commons on 13 October 2015 (Bill 75).

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

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## Overview of the Bill

- 1 The Bill is intended to support the delivery of the Government's commitments as put forward in the Conservative Party manifesto and the productivity plan *Fixing the foundations: Creating a more prosperous nation*. Through this Bill, the Government aims to take forward proposals to build more homes that people can afford, give more people the chance to own their own home, and ensure the way housing is managed is improved.
- 2 This Bill seeks to achieve this, in part, by implementing reforms that will make sure that the planning system does not add any unnecessary obstacles to the delivery of new homes.
- 3 This Bill is made up of eight parts. A summary of these parts and their contents is provided below.
  - Part 1: New Homes in England
    - Starter Homes – providing a statutory framework for the delivery of starter homes
    - Self-build and custom housebuilding – requiring local authorities to meet demand for custom-built and self-built homes by granting permissions for suitable sites
  - Part 2: Rogue landlords and letting agents in England
    - Private rented sector – providing greater powers for local authorities to identify and tackle rogue landlords
  - Part 3: Recovering abandoned premises in England
    - Private rented sector – reforming abandonment to more effectively recycle rented property
  - Part 4: Social housing in England
    - Right to acquire – extending Right to Buy discount levels to housing association tenants
    - Vacant high value local authority housing – requiring local authorities to manage their housing assets more efficiently, with the most expensive vacant properties sold and replaced with new affordable housing in the area
    - Reducing regulation – allows the Secretary of State to reduce regulations on Housing Associations
    - High income social tenants – requiring tenants in social housing on higher incomes (over £40,000 in London and over £30,000 outside London) to pay market rate, or near market rate, rents
  - Part 5: Housing, estate agents and rentcharges: other changes
    - Housing needs in England – simplifying the legislation governing the assessment of housing and accommodation needs of the community, whilst ensuring that the needs of all members of the community are

assessed on an equal basis

- Regulation and enforcement – a more stringent ‘fit and proper’ person test for landlords letting out licensed properties, such as Houses in Multiple Occupation, to help ensure that they have the appropriate skills to manage such properties and do not pose a risk to the health and safety of their tenants; allowing financial penalties to be imposed as an alternative to prosecution for certain offences; requiring Tenancy Deposit Scheme data to be shared with local authorities; and amending the Estate Agents Act 1977 to allow the Secretary of State to appoint the regulating authority
- Enfranchisement and extension of long leaseholds –makes provision for the valuation of minor intermediate leasehold interests in leasehold enfranchisement and lease extension cases to continue to be possible when using the legislation
- Rentcharges – allowing the formula for calculating the amount needed to redeem a rentcharge to be amended by secondary legislation
- Part 6: Planning in England
  - Neighbourhood planning – simplifying and speeding up the neighbourhood planning process to support communities that seek to meet local housing and other development needs through neighbourhood planning
  - Local planning – giving the Secretary of State further powers to intervene if Local Plans are not effectively delivered
  - Planning in Greater London – devolving further powers to the Mayor of London
  - Local registers of land and permission in principle – creating a duty for local authorities to hold a register of various types of land, with the intention of creating a register of brownfield land to facilitate unlocking land to build new homes; and giving housing sites identified in the brownfield register, local and neighbourhood plans planning permission in principle, and providing an opportunity for applicants to obtain permission in principle for small scale housing sites
  - Planning permission etc – levelling up the power which enables conditions to be attached to development orders for physical works so that they are consistent with those for change of use; extending the planning performance regime to apply to smaller applications; and putting the economic benefits of proposals for development before local authority planning committees
  - Nationally significant infrastructure projects – allowing developers who wish to include housing within major infrastructure projects to apply for consent under the nationally significant infrastructure planning regime

- Urban development corporations – creating a faster and more efficient process for creating Urban Development Areas and Corporations whilst ensuring that those with an interest locally are properly consulted at an early stage
- Part 7: Compulsory purchase etc
  - improving the compulsory purchase regime, so it is clearer, fairer and faster
- Part 8: General

## Policy background

### Home ownership

- 4 In England most of the available data shows that the aspiration to buy and own a home remains strong for the majority of households. Three fifths (61%) of private renters and around a quarter (25%) of social renters in the UK think they will eventually buy their own home. This desire to achieve homeownership is also reflected in the latest British Social Attitudes survey which reported that 86% of people want to own their own home (<https://www.gov.uk/government/statistics/english-housing-survey-2013-to-2014-household-report>).
- 5 Furthermore, around two thirds of social renters (68%) and three fifths (60%) of private renters stated, as their main or only reason for why they don't expect to buy their own home in the UK, that they would be unable to afford it.
- 6 The proportion of English households that owned their own home, either outright or with the help of a mortgage peaked in 2003 (71%) and has been falling ever since (<https://www.gov.uk/government/statistics/english-housing-survey-2013-to-2014-household-report>). By 2013-14 only 63% of households owned their own home.
- 7 Within this trend, the change in the chances of becoming a homeowner has disproportionately affected younger households. Of those households that do own their home 75% are over the age of 45 and nearly half (48%) of households in the 25-34 age group live in the private rented sector (only 21% were renting privately in 2003-04). In the last twenty years, the proportion of under-40 year-olds who own their own homes has fallen from 62% to 41% (<https://www.gov.uk/government/statistics/english-housing-survey-2013-to-2014-headline-report>), and, in 2014, the Office for National Statistics reported that 3.3 million people between the ages of 20 and 34 were still living with their parents (accounting for 26% of the age group).
- 8 The number of first-time buyers since the financial crash of 2007-08, as measured by the number of mortgages issued to first-time buyers, has fallen significantly. Throughout the 1980s and 1990s the number of mortgages to this group averaged over 400,000 per year (<https://www.cml.org.uk/news/723/>) but between 2008 and 2014 the average annual number of loans has been fewer than 300,000.
- 9 In its manifesto the Government committed to "build more homes that people can afford, including 200,000 starter homes exclusively for first-time buyers under 40". The Bill will require local planning authorities to actively promote the development of starter homes for first-time buyers under 40. Starter homes will be sold at 20% below the market price to provide the opportunity for more young, first-time buyers to get onto the housing ladder.

- 10 The Government also announced its intention to extend the Right to Buy to the tenants of Housing Associations in its manifesto. Working with the National Housing Federation, the Government has secured a deal with housing associations to give their tenants the opportunity to buy their home with an equivalent discount to the Right to Buy.
- 11 Homes sold to tenants under this deal will be replaced on a one for one basis using the proceeds from the sale of the property. This will support an increase to the overall supply of new housing.
- 12 The Government will compensate the housing association for the discount offered to the tenant, and housing associations will retain the sales receipt to enable them to reinvest in the delivery of new homes.

### Housing supply and the speed of delivery

- 13 Following the financial crisis, housebuilding in England fell to its lowest point in the post-war era. Since 2010-11, where completions totalled 108,000, the number of new homes built in England has been on the rise, reaching 125,000 completions in the financial year 2014-15 (<https://www.gov.uk/government/collections/house-building-statistics>). But this number is far short of the number estimated that is required to keep up with the existing demand, with the figure in some cases ranging from 200,000 to 300,000 per year.
- 14 The difference in the supply of new homes and the demand for new homes has implications for cost. At present, one of the main obstacles to home ownership in England is affordability. As of July 2015, according to the ONS average mix-adjusted house prices in England stood at £295,000, up 5.6% on the previous year. London also continued to be the English region with the highest average house price at £525,000.
- 15 This Bill intends to put in place various measures to ensure that housebuilders and decision-makers in local authorities have the tools necessary to support and promote an increase in housing supply and at a quicker pace. It will also put forward a number of reforms that will streamline the planning system to help speed up the delivery of housing.

### **New tools for housebuilders and decision-makers**

- 16 The Government made a commitment to get planning permission in place on 90% of brownfield land suitable for housing by 2020. The development of brownfield land will be supported by requiring local authorities to prepare, maintain and publish local registers of specified land.
- 17 The Bill will enable local planning authorities or neighbourhood groups to grant planning permission in principle for housing sites at the point when a site is allocated in an adopted local or neighbourhood plan document or a local brownfield register. This will allow suitable sites for housing to avoid unnecessary delays during the planning process where they might be tested for suitability multiple times.
- 18 In line with Government's commitment to devolution, this Bill will devolve further planning powers to the Mayor of London. This will ensure that London's housing supply is fully considered, particularly in those areas where it would have the most impact.
- 19 To ensure that the public are aware of the potential financial benefits of planning applications, the Bill will require that prescribed financial benefits, which might accrue to the local area as a result of granting planning permission, are recorded in reports to planning committees and the authority itself.
- 20 In March 2015 Parliament passed the Self-build and Custom Housebuilding Act 2015. The Act will require local planning authorities to compile a register of persons seeking to acquire land

to build or commission their own home and to have regard to that register when carrying out their planning, housing, disposal and regeneration functions. These requirements are expected to come into force in Spring 2016, once the necessary secondary legislation has been passed. The Housing and Planning Bill will go further and require local planning authorities to ensure that there are sufficient serviced permissioned plots consistent with the local demand on their custom build registers. This, in turn, intends to make it much easier for people to find land to build or commission their own home, diversifying housing supply and revitalising smaller builders who have not experienced the same level of recovery as the large housebuilders since the financial crisis.

- 21 Since 2012, developers putting forward applications for major development have been able to submit these applications to the Planning Inspectorate for decision should the local planning authority not make a decision on time. This has seen the number of major applications decided on time increase to 78% in April to June 2015, compared with 57% in July to September 2012, when the designation was first introduced. This Bill will allow planning applications for non-major development to be submitted to and decided by the Planning Inspectorate where the local planning authority has a track record of very poor performance in the speed or quality of its decision-making.
- 22 This Bill will also take forward the Government's commitment to require local authorities to manage their housing assets more efficiently. Local authorities will be required to make a payment to the Secretary of State based on the value of their vacant high-value assets. These payments would be used to help support people into home ownership, including through the extended Right to Acquire. Any vacant high-value assets identified and made available by the authority will provide new opportunities for people to own their own home.
- 23 At present planning authorities may be delayed while an Urban Development Corporation is established. This is in part due to the uncertainty of the timescales associated with the Parliamentary process. This Bill will therefore change the procedure to allow Urban Development Corporations and Areas to be established through negative resolutions. The Government will also ensure that people with an interest locally are properly consulted at an early stage before any Urban Development Corporation is established.
- 24 Local Plans are the primary basis for identifying what development is needed in an area. Where there is no Local Plan, there is less certainty of where development will take place. Whilst the Secretary of State can intervene, he is required to take over plan-making in its entirety with decisions made in Whitehall. The Government will therefore allow more targeted and proportionate intervention, allowing the majority of local decisions to remain at the lowest appropriate level whilst ensuring a local plan is in place.

#### **Streamlining the planning system**

- 25 Effective regeneration of areas, which could comprise of considerable amounts of new housing, often requires the compulsory purchase of land or property. The existing process remains too convoluted and complex. This Bill will therefore streamline the process, make powers of entry for survey fairer and more consistent, widen the remedies available to the Courts to allow faster reconsideration in some cases, ensure possession of acquired land is made easier, improve how compensation is paid, and harmonise procedures for settling disputes about material detriment.
- 26 The Secretary of State cannot currently grant approval for housing if included within an application for a nationally significant infrastructure project, submitted under the Planning Act 2008. This means either temporary accommodation for workers must be demolished once construction is completed, or a separate planning application has to be made. This Bill therefore changes the approval system to allow developers to include an element of housing as

part of their application for consent for an infrastructure project deemed of national significance.

- 27 On average, the neighbourhood planning process takes two years to complete. This Bill is intended to reduce this by introducing powers to allow automatic decisions on the designation of whole parish areas (or other types of area after a set time period), introducing time periods for making key decisions by the local planning authority, and allowing the Secretary of State to intervene on the decision to send a plan to referendum. The Bill will also allow neighbourhood forums to request notification of planning applications in their area, enabling them to participate more effectively in local planning and promote appropriate new development.
- 28 Currently, local authorities can only consider approval of matters related to the siting and design of buildings where permission is granted under permitted development rights for change of use. This Bill will widen the range of matters which local authorities can consider where prior approval is required for building operations. Any permitted development rights to allow for building operations would be expected to reduce planning application costs.

## Housing management

- 29 This Bill also intends to improve the housing system and the way it is managed. The Bill will ensure that social homes support those most in need. Protections for private tenants will be introduced so that they know that rogue landlords will be tackled and forced to improve or leave the sector, stopping them profiting from dangerous or badly managed properties. Local authorities will be equipped with greater tools to know and meet the housing need in their area.
- 30 Social housing is let at low rents on a secure basis to those who have low incomes. But there are approximately 350,000 social rented tenants with household incomes over £30,000 per annum, including over 40,000 with incomes in excess of £50,000 per year. The Bill ensures that social housing rents are more closely linked to the income of social tenants.
- 31 There are a small number of rogue or criminal landlords who knowingly rent out unsafe or substandard accommodation. The Bill introduces a number of measures to give local authorities tools to ban rogue landlords, preventing them from exploiting more tenants.
- 32 Local authorities have a duty to review housing conditions so they can take action to improve them. However, they frequently have a limited picture of the size and scale of the private rented sector in their area. The Government will therefore allow them access to data relating to nearly 3 million tenancy deposits, which is estimated to cover over 70 per cent of private rented sector properties.
- 33 Section 8 of the Housing Act 1985 requires every local housing authority to review the housing conditions and the needs of their district. Currently, the Housing Act 2004 identifies 'gypsies and travellers' as requiring specific assessment for their accommodation needs when carrying out reviews of housing needs. The Government will amend Housing Act governing the assessment of accommodation needs to include all people residing in or resorting to the district in caravans or houseboats.
- 34 Rentcharges are an annual sum paid by the owner of freehold land to another person who has no other legal interest in the land. The means by which payments are calculated can no longer be used. The Government will therefore amend the related formula.
- 35 The current Lead Enforcement Authority for the Estate Agents Act 1979 is named in primary legislation as Powys County Council. Should it fail to secure a further contract, the Lead Enforcement Authority would be unable to exercise its powers. The Bill enables the Secretary

of State to appoint an authority of his choice.

- 36 This Bill intends to reduce the regulatory controls for private registered providers of social housing to increase the freedoms of registered providers to manage their housing stock while maintaining protections for tenants and the viability of the sector.

## Legal background

- 37 The legislation which this Bill amends is set out in a number of Acts of Parliament. This legislation is referred to below with further explanations, where required, set out in the section-by-section commentary.
- 38 The principal planning Act is the Town and Country Planning Act 1990 ("1990 Act"). This Bill amends the 1990 Act, as well as the following other planning legislation:
- a. the Local Government, Planning and Land Act 1980, which makes provision in respect of enterprise zones and urban development corporations;
  - b. the Planning (Listed Buildings and Conservation Areas) Act 1990 concerning special controls of buildings in areas of special historic or architectural interest;
  - c. the Planning and Compulsory Purchase Act 2004 which brought about changes to the development plan system and to planning control;
  - d. the Planning Act 2008 in relation to nationally significant infrastructure projects..
- 39 Rentcharges are dealt with in the Rentcharges Act 1977; this Bill amends sections 8 and 9 of that Act. The Estate Agents Act 1979 sets out provisions concerning Estate agents. This Bill inserts a new section 24A into that Act, and amends section 33.
- 40 This Bill also amends the following legislation which makes provision concerning housing, including social housing:
- a. the Housing Act 1985;
  - b. the Housing Act 1988;
  - c. the Local Government and Housing Act 1989;
  - d. the Housing Act 1996;
  - e. the Housing Act 2004;
  - f. the Commissioners for Revenue and Customs Act 2005;
  - g. the Housing and Regeneration Act 2008.
- 41 The main legislation relating to compulsory purchase, which this Bill amends, is as follows:
- a. the Land Compensation Act 1961;
  - b. the Compulsory Purchase Act 1965;
  - c. the Land Compensation Act 1973;
  - d. the Acquisition of Land Act 1981; and
  - e. the Compulsory Purchase (Vesting Declarations) Act 1981.

## Territorial extent and application

- 42 The Bill will apply to England only, with some exceptions:
- a. Clause 88 (Estate Agents) extends to England and Wales, Scotland and Northern Ireland;
  - b. Clauses 90 (long leaseholds), 91 (Rentcharges), and Part 7 (Compulsory purchase) apply to England and Wales.
  - c. Clauses 108 to 110 (urban development corporations) extend to England, Wales and Scotland.

## Commentary on provisions of Bill

### Part 1: New Homes in England

#### Chapter 1: Starter Homes

##### **Clause 1: Purpose of this Chapter**

- 43 This clause sets out the purpose of this chapter, which is to promote the delivery of starter homes.
- 44 There are two main duties in this chapter: a general duty to promote the supply of starter homes when planning functions are being carried out, and a specific duty in relation to decisions on planning applications.

##### **Clause 2: What is a starter home?**

- 45 This clause explains what a starter home is, and enables the Secretary of State to make regulations about the definition of a starter home.
- 46 A starter home is a new dwelling which is only available for purchase by qualifying first-time buyers and which is made available at price which is at least 20% less than the market value.
- 47 The clause sets out the essential characteristics of a qualifying first-time buyer which includes that they are a first-time buyer (which is separately defined in the clause by reference to the definition in section 57AA(2) of the Finance Act 2003) and that they are under the age of 40. The Secretary of State may also, through regulations specify additional characteristics (e.g. minimum age or nationality) that a first-time buyer must have.
- 48 This clause also specifies a maximum price that a starter home may be sold to a first-time buyer: the price cap is £250,000 outside Greater London and £450,000 in Greater London. That price cap reflects the published proposed maximum threshold for the Help to Buy ISA. The Secretary of state can through regulations amend these price caps and set different price caps for different areas.
- 49 The Secretary of State can, through regulations, place restrictions on the sale and letting of starter homes. The purpose of such restrictions would be to ensure that starter homes are purchased by people who wish to own their home rather than by people who wish to use the

property for rental investment or short-term speculation.

### **Clause 3: General duty to promote supply of starter homes**

- 50 This clause requires all planning authorities in England (which for these purposes includes the Secretary of State) to promote the supply of starter homes when carrying out relevant planning functions. These functions include, for instance, preparing local plans, cooperating with neighbouring areas on strategic planning matters, and determining planning applications.
- 51 Local planning authorities will also have to have regard to any guidance issued by the Secretary of State about the exercise of this duty.
- 52 The Secretary of State may amend the definition of ‘planning authority’ and ‘relevant planning function’ through regulations.

### **Clause 4: Planning permission: provision of starter homes**

- 53 This clause contains a new duty that applies to decisions on planning applications. This follows the announcement in the Government’s Productivity Plan published in July 2015. This new requirement, to be brought into force by regulations, is intended to ensure that starter homes become a common feature of new residential developments across England.
- 54 This clause provides that an English planning authority (which is either a local planning authority or the Secretary of State) will only be able to grant planning permission for certain residential developments if specified requirements relating to starter homes are met.
- 55 These requirements are to be set out in regulations. The requirements could include the provision of a particular number or proportion of starter homes on site or the payment of a commuted sum to the local planning authority for the provision of starter homes. The Secretary of State will have flexibility to apply different requirements to different types of residential developments and to different areas, including conferring discretions on local planning authorities.
- 56 For example, the clause would enable the Secretary of State, through regulations, to require all that in relation to applications for residential development above a certain size there must be a planning obligation (under section 106 of the 1990 Act) securing a certain proportion of starter homes on the site.
- 57 The regulations may also specify that certain types of residential development should be exempt, or that certain areas should have a higher starter home requirement, or that local planning authorities should have discretion about certain requirements.

### **Clause 5: Monitoring**

- 58 This clause requires a local planning authority to prepare reports about the actions they have taken under the starter homes duties in this Chapter. This will provide transparency about how a local planning authority is delivering starter homes in its area.
- 59 These reports must be made available to the public, and the Secretary of State can make regulations about the form, content and timing of the report, including whether they should be combined with the existing statutory Authority Monitoring Report for local plans.

### **Clause 6: Compliance directions**

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

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

### **Clause 7: Interpretation of this Chapter**

- 62 This clause is self-explanatory.

## **Chapter 2: Self-Build and Custom Housebuilding**

### **Clause 8: Definitions**

- 63 This chapter amends and supplements the duties placed on local authorities under the Self-build and Custom Housebuilding Act 2015 ("the 2015 Act"). The 2015 Act introduced new duties on local authorities to keep, and have regard to, registers of people seeking land for self-build and custom housebuilding. Those duties will be brought into force through regulations.
- 64 This clause explains what is meant by "self-build and custom housebuilding" by inserting new definitions and making related amendments. It also substitutes the existing definition of "serviced plot of land" and enables the Secretary of State to amend that definition through regulations. The definitions are self-explanatory.

### **Clause 9: Duty to grant planning permission etc**

- 65 This clause inserts a new duty into the 2015 Act. It requires local authorities to grant sufficient suitable development permissions on serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The demand for self-build and custom housebuilding is evidenced by the number of people on the register held by local authorities under the 2015 Act.
- 66 The Secretary of State has a power to make regulations to prescribe the timeframe in which authorities have to grant sufficient suitable development permissions.
- 67 A "development permission" includes both planning permission (as defined under the 1990 Act) and permission in principle. Permissions granted by the Secretary of State or the Mayor of London are also counted. Any permission can only be counted once. A permission granted before the register is established cannot be counted.
- 68 A development permission is "suitable" where it authorises development that could include self-build and custom housebuilding on those plots.

### **Clause 10: Exemption from duty**

- 69 This clause enables the Secretary of State to make regulations about how and when authorities can apply for an exemption from the new duty.
- 70 Those regulations can specify the information that must be supplied by anyone asking for an exemption. That information might include, for example, details about the level of demand for self-build and custom housebuilding and the availability of land for housing.

### **Clause 11: Further and consequential amendments**

- 71 This clause makes two further changes to the 2015 Act.
- 72 The first change relates to the obligation to keep a register under the 2015 Act. This clause enables the Secretary of State to provide, in regulations, for the register to have two parts. The second part would be for anyone who had applied to be registered but who failed meet conditions of eligibility (for example, local authorities might introduce a requirement that a

person must have a connection to the local area before they can be registered). Demand as evidenced by the second part of the register would not have to be taken into account in considering whether there were sufficient suitable development permissions. However authorities would have to have regard to the second register in the exercise of their planning, housing, regeneration and land disposal functions accordance with the provisions of section 2 of the 2015 Act.

- 73 The second change is about fees. It enables the Secretary of State to provide, through regulations, that local authorities can recover fees connected with their duty to provide sufficient suitable development permissions. It also enables the Secretary of State to specify, through regulations, circumstances in which no fee is payable. It is expected that the fees will be set at level a level that broadly reflects the actual costs incurred by the authority.
- 74 The final change is to section 4 of the 2015 Act and specifies the parliamentary procedures to which the new regulation making powers will be subject. This confirms that regulations made in connection with the new duty and regulations made to change the definition of “serviced plot of land” will be subject to the affirmative procedure.

## Part 2: Rogue Landlords and Letting Agents in England

### Chapter 1: Introduction

#### **Clause 12: Introduction to this Part**

- 75 This clause introduces the provisions about rogue landlords and letting agents.

### Chapter 2: Banning Orders

#### *Banning orders: key definitions*

#### **Clause 13: "Banning order" and "banning order offence"**

- 76 This clause introduces the concept of a banning order, which is an order made by the First-tier Tribunal, which has the effect of banning a person from:
- letting housing in England;
  - engaging in letting agency work that relates to housing in England;
  - engaging in property management work that relates to housing in England; or
  - doing two or more of those things.
- 77 The clause also introduces the concept of a “banning order offence” and provides the Secretary of State with the power to make regulations describing the offences which are to be banning order offences.
- 78 In particular, regulations made by the Secretary of State may describe an offence by reference to the nature of the offence, characteristics of the offender, the place where the offence is committed, the circumstances in which it is committed, the sentencing court or the sentence

imposed.

### *Imposition of banning orders*

#### **Clause 14: Application and notice of intended proceedings**

79 This clause provides that a local housing authority in England may apply for a banning order against a person who has been convicted of a banning order offence (as defined in clause 13 above). Before applying for a banning order, the authority must give the person a notice of intended proceedings, informing them that the authority is proposing to apply for a banning order and explaining why, and inviting them to make representations during a 'notice period', which must not be less than 28 days. The authority must consider any representations made during the notice period and wait until this period has ended before applying for a banning order. A notice of intended proceedings must be given within 6 months from the date on which the person is convicted of a banning order offence.

#### **Clause 15: Making a banning order**

80 This clause provides that the First-tier Tribunal may make a banning order against a person who has been convicted of a banning order offence and was a residential landlord or letting agent at the time that offence was committed. A banning order can only be made on the application of a local housing authority, where that authority has complied with the provisions regarding a service of a notice of intended proceedings, as set out in clause 14.

81 The clause provides that in deciding whether to make a banning order and if so, what order to make, the Tribunal must consider:

- the seriousness of the offence;
- any previous convictions that the person has for a banning order offence;
- whether the person is or ever was included in the database of rogue landlords and letting agents (as described in clause 22);
- the likely effect of the banning order on the person against whom the banning order is proposed to be made and anyone else who may be affected by such an order.

#### **Clause 16: Duration and effect of banning order**

82 This clause requires a banning order to specify the duration of the ban in respect of each of the activities that the person is banned from doing. A ban must last for a period of at least 6 months. The clause also provides that a banning order may contain exceptions to the ban for some or all of the period to which it relates. This may, for example, allow a landlord to continue letting out a property for a period of time whilst subject to a banning order if there are existing tenants in a property and the landlord cannot end these tenancies immediately. An exception could also allow a letting agent to wind down current business.

### *Consequences of banning order, including consequences of breach*

#### **Clause 17: Financial penalty for breach of banning order**

83 This clause sets out that a "responsible local housing authority" may impose a financial penalty if it is satisfied that a person has breached a banning order. In this context the

responsible local housing authority is the local housing authority which applied for the banning order. The local authority may determine the amount of the penalty but this may not exceed £5,000. A local housing authority must have regard to any guidance issued by the Secretary of State about the exercise of its functions under this section or under Schedule 1. Schedule 1 sets out the procedure to be followed by a local authority where it imposes a financial penalty on a person for a breach of a banning order.

- 84 The clause also enables the Secretary of State to make regulations:
- setting out how local housing authorities are to deal with the money recovered through financial penalties; and
  - amending the maximum amount of penalty to be charged, to reflect changes in the value of money over time.

### **Schedule 1: Financial penalty for breach of banning order**

- 85 This Schedule sets out the procedure to be followed by a local authority where it imposes a financial penalty on a person for breach of a banning order.
- 86 Before imposing a financial penalty on a person, the local authority must give that person notice of their intention to do so. This notice must be given within a period of 6 months, beginning with the first day on which the authority has evidence of the person's breach of the banning order. The notice must set out the amount of the penalty, the reasons for imposing the penalty and information about the right to make representations.
- 87 A person who is given a notice of intent may make representations to the local authority within 28 days, beginning with the day after the day on which the notice was given. After the end of the period for representations, the local authority will decide whether or not impose a financial penalty and if it decides to do so, must decide the amount of the penalty.
- 88 If the local authority decides to impose a penalty, it must give the person a final notice imposing the penalty. The final notice must require payment of the penalty within 28 days, beginning with the day after the notice was given and must set out certain information, including the amount of penalty, how to pay, the rights of appeal and consequences of failing to comply with the notice.
- 89 A local authority may at any time withdraw a notice of intent or a final notice. The authority may also reduce the amount specified in a notice of intent or a final notice. The person who has received the notice must be notified in writing of any such withdrawal or reduction.
- 90 A person to whom a final notice is given may appeal to the First-tier Tribunal against the decision to impose the penalty or against the amount of the penalty. If a person makes an appeal, the final notice is suspended until the appeal is determined or withdrawn. Following an appeal, the First-tier Tribunal may confirm, vary or cancel the final notice. However, the notice may not be varied so as to increase the financial penalty by more than the amount that the local authority could have imposed.
- 91 If a person fails to pay all or part of the financial penalty, the local authority may recover the penalty or part of it on the order of the county court, as if it were payable under an order of that court.

### **Clause 18: Saving for illegal contracts**

- 92 This clause provides that a breach of a banning order does not invalidate or affect the enforceability of any provision of a tenancy or other contract. In particular, this is to ensure that a tenancy agreement cannot be found to be invalid on the basis that it was granted when a

landlord or letting agent was subject to a banning order. This provides protection for the parties to a tenancy agreement by ensuring that they do not lose their rights under the agreement as a result of the banning order.

#### **Clause 19: Banned person may not hold HMO licence etc**

- 93 This clause introduces Schedule 2, which makes changes to the provision in Parts 2 and 3 of the Housing Act 2004 (“the 2004 Act”) about the granting and revoking of licences where a banning order has been made.

#### **Schedule 2: Banned person may not hold HMO licence etc**

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

#### **Clause 20: Management orders following banning order**

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

#### **Schedule 3: Management orders following banning order**

- 96 This Schedule makes changes to provisions in Part 4 of the 2004 Act which deal with the making of interim and final management orders by local authorities. Local authorities are currently able to make management orders to allow them to take over control of the running of a property in certain situations, such as where a property is unlicensed and a suitable licence holder cannot be found. The amendments made by this Schedule provide an additional circumstance in which a management order can be made, which is that a property is let in breach of a banning order. In this circumstance a local authority may decide to make a management order for example if there are tenants in a property who cannot or the local authority does not wish to see evicted.
- 97 Where a management order is made due to a property being let in breach of a banning order, the local authority will receive any rent paid by the tenants instead of the landlord and can use this income to help cover its costs in managing the property. Whereas under the existing management order provisions in the 2004 Act the landlord is entitled to receive any surplus from the local authority at intervals during and at the end of the management order, where a management order is made due to a breach of a banning order, the local authority keeps any surplus and regulations made by the Secretary of State may set out how local authorities are to deal with any surpluses received.

### *Anti-avoidance*

#### **Clause 21: Prohibition on certain disposals**

- 98 This clause makes provision to prevent a person who is subject to a banning order from transferring property to a ‘prohibited person’ whilst the banning order is in force. The definition of prohibited persons is set out in the clause and includes family members, business

partners and companies which the person subject to the banning order has shares or a financial interest in, of which they or an associated person are a director, secretary or other officer. This is designed to prevent persons from getting around a banning order by transferring their property to family members or to a company that they own. However, persons subject to a banning order are able to apply to the First-tier Tribunal for authorisation to make a transfer of property to a prohibited person.

## Chapter 3: Database of Rogue Landlords and Letting Agents

### *The database and its contents*

#### **Clause 22: Database of rogue landlords and letting agents**

99 This clause requires the Secretary of State to establish and operate a database of rogue landlords and letting agents. Local housing authorities are responsible for maintaining the content of the database, and are able to edit and update it for the purpose of carrying out their functions under in clauses 23, 24 and 28.

#### **Clause 23: Duty to include person with banning order**

100 This clause requires a local housing authority in England to enter a person on the database if a banning order has been made against that person, following that local authority's application for such an order. An entry in the database made under this section is required to be maintained for the period during which the banning order is in force. After that date, the entry must be removed from the database.

#### **Clause 24: Power to include person convicted of banning order offence**

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

102 An entry in the database is required to be maintained for the period set out in the local authority's decision notice (as described in clause 25 below) and then removed at the end of that period. The Secretary of State is also required to publish guidance setting out criteria to which local housing authorities must have regard when deciding whether to include a person in the database and how long their entry must be maintained for.

#### **Clause 25: Procedure for inclusion under section 24**

103 This clause sets out that if a local housing authority decides to include a person in the database of rogue landlords and letting agents (as described in clause 24), it must give the person a decision notice before the entry is made. The decision notice must explain that the authority has decided to include the person in the database after the end of a 21 day notice period and must specify the period for which the person's database entry will be maintained, which must be at least 2 years from the date on which the entry is made. The notice must also summarise the person's appeal rights (as described in clause 26). The authority is required to wait until the notice period has ended before entering the person in the database. If a person appeals, the authority must not enter the person in the database until the appeal has been determined or withdrawn and there is no possibility of any further appeal. A decision notice must be given within 6 months of the date of conviction for the offence to which it relates.

### **Clause 26: Appeals**

104 This clause enables a person who has been given a decision notice setting out that they are to be included in the database of rogue landlords and letting agents (see clause 25) to appeal to the First-tier Tribunal. They may appeal against the decision to include them in the database or in relation to the period for which the entry is to be maintained. An appeal under this section must be made before the end of the 21 day notice period as specified in clause 25, although the Tribunal may allow an appeal to be made after that period if satisfied that there is a good reason for the delay. The Tribunal may confirm vary or cancel a decision notice following an appeal.

### **Clause 27: Information to be included in the database**

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

### **Clause 28: Updating**

106 This clause requires a local authority to take reasonable steps to keep information on the database up to date.

### **Clause 29: Power to require information**

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

## *Access to information in the database*

### **Clause 30: Access to database**

108 Clause 30 provides that the Secretary of State must give every local housing authority in England access to information in the database of rogue landlords and letting agents.

### **Clause 31: Use of information in database**

109 This clause provides that the Secretary of State may use the information in the database for statistical or research purposes. A local housing authority may only use information obtained from the database of rogue landlords and letting agents for certain specified purposes, which include purposes connected with its functions under the 2004 Act, investigating contraventions of housing or landlord and tenant law and promoting compliance with such law.

## **Chapter 4: Rent Repayment Orders**

### *Rent repayment orders: introduction*

### **Clause 32: Introduction and key definitions**

110 Chapter 4 empowers the First-tier Tribunal to make rent repayment orders to deter rogue landlords who have committed an offence to which the Chapter applies, or rented housing in

breach of the new banning order made under Chapter 2. This clause lists the offences concerned: breaches of improvement orders and prohibition notices and of licensing requirements under the Housing Act 2004, violent entry under the Criminal Law Act 1977, and unlawful eviction under the Protection from Eviction Act 1977. In respect of breach of licensing requirements, the Chapter consolidates existing provisions, with certain modifications. The Chapter newly extends the power to the other cases. This clause states that an order requires a landlord to repay rent paid by a tenant, or to repay to a local housing authority housing benefit or universal credit which had been paid in respect of rent.

### *Application for rent repayment order*

#### **Clause 33: Application for rent repayment order**

111 This clause provides that a tenant or a local housing authority may apply for a rent repayment order against a landlord who has committed an offence listed or has rented out housing in breach of the new banning order made under Part 2. A tenant may apply in respect of an offence or breach relating to premises let to the tenant, and committed within 12 months before the application is made. Where a local housing authority makes an application, the offence or breach must relate to housing in its area and it must have given the landlord a notice of intended proceedings, as described in the clause 34.

#### **Clause 34: Notice of intended proceedings**

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

### *Rent repayment order for breach of banning order*

#### **Clause 35: Order following breach of banning order**

113 This clause sets out that the First-tier Tribunal may make a rent repayment order on application by a tenant or a local housing authority if satisfied that a landlord has let housing in breach of a banning order. The amount of rent to be repaid is to be determined in accordance with the next clause.

#### **Clause 36: Amount or order under section 35**

114 This clause sets out how the First-tier Tribunal must determine the amount of rent to be repaid in respect of a letting in breach of a banning order. On an application by a tenant the repayment must be the rent received in the period in which the breach was being committed, less any housing benefit or universal credit paid in respect of rent. Where the local housing authority applies, the repayment must be the amount of housing benefit or universal credit paid in respect of rent and received by the landlord in the period in which the breach was being committed. In either case, payment of that sum may not be required if the Tribunal considers that it would be unreasonable to do so because of exceptional circumstances.

### *Rent repayment order following offence*

### **Clause 37: Order following offence**

115 This clause enables the First-tier Tribunal to make a rent repayment order if satisfied that a landlord has committed an offence to which the Chapter applies, and an application made under clause 33. The amount of rent to be repaid is to be determined in accordance with clause 38 on a tenant's application or with clause 39 on an application by a local housing authority.

### **Clause 38: Amount of order under section 37: tenants**

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

### **Clause 39: Amount of order under section 37: local housing authorities**

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

### **Clause 40: Amount of order following conviction**

118 The amount of the order in a case under clause 37 must be the maximum that the Tribunal may order in favour of a tenant under clause 38 except for an offence relating to licensing, or in favour of a local housing authority under clause 39, unless in either case by reason of exceptional circumstances the Tribunal considers it would be unreasonable to require the landlord to pay the full amount.

## *Enforcement of rent repayment order*

### **Clause 41: Enforcement of rent repayment orders**

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

## *Local housing authority functions*

### **Clause 42: Duty to consider applying for rent repayment orders**

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

### **Clause 43: Helping tenants apply for rent repayment orders**

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

### *Amendments etc and interpretation*

### **Clause 44: Rent repayment orders: consequential amendments**

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

### **Clause 45: Housing benefit: inclusion pending abolition**

123 This clause makes provision with regard to housing benefit. The preceding clauses of the Chapter have referred to universal credit only but the clause provides that these references include housing benefit, pending its eventual abolition.

### **Clause 46: Interpretation of Chapter**

124 This clause is self-explanatory.

## **Chapter 5: Interpretation of Part 2**

### **Clause 47: Meaning of "letting agent" and related expressions**

125 This clause provides the definition of a "letting agent", "letting agency work" and "property management work". It also describes what is meant by "English letting agency work" and "English property management work".

### **Clause 48: General interpretation of Part**

126 This clause is a general interpretation section for Part 2 of the Bill.

## **Part 3: Recovering Abandoned Premises in England**

### **Clause 49: Recovering abandoned premises**

127 This Part of the Bill sets out a procedure that a landlord may follow to recover possession of a property where it has been abandoned, without the need for a court order. Clause 49 sets out that a private landlord may give a tenant notice which brings the tenancy to an end on that day, if the tenancy relates to premises in England and certain conditions are met. These conditions are that a certain amount of rent is unpaid (i.e. the 'unpaid rent condition' set out in clause 50 has been met); that the landlord has given a series of warning notices as required by clause 52 and that neither the tenant or a named occupier has responded in writing to those warning notices before the date specified in the notices.

### **Clause 50: The unpaid rent condition**

128 This clause sets out the amount of rent which must be unpaid for the unpaid rent condition to be met.

### **Clause 51: Warning notices**

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

130 Each warning notice must explain that the landlord believes that the premises have been abandoned and that the tenant or named occupier must respond in writing before a specified date if the premises have not been abandoned. The notices must also set out that the landlord proposes to bring the tenancy to an end if neither the tenant nor a named occupier responds in writing before that date. The date specified in the notice must be at least eight weeks after the date on which the first warning notice is given to the tenant.

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

### **Clause 52: Reinstatement**

132 This clause sets out the remedies available to a tenant where their tenancy has been brought to an end by a notice under clause 49, but they had a good reason for failing to respond to the warning notices. In this circumstance the tenant may apply to the county court, within 6 months of the notice bringing the tenancy to an end, for an order reinstating the tenancy. If the county court finds that the tenant had a good reason for not responding to the warning notices, the court may make any order it thinks fit for the purpose of reinstating the tenancy.

### **Clause 53: Methods for giving notices under section 49 and 51**

133 Clause 53 deals with the methods of service for notice given under clauses 49 and 51 (a notice bringing a tenancy to an end and a warning notice). Such notices may be given by delivering the notice to the tenant or a named occupier in person. Where such a notice is not delivered in person, it must be given by leaving it at, or sending it to, the premises to which the tenancy relates; leaving it at, or sending it to, every other postal address in the UK that the tenant or named occupier has given the landlord as a contact address for giving notices; and sending it to every email address that the tenant or named occupier gave the landlord as a contact address for giving notices.

### **Clause 54: Interpretation of Part**

134 This clause is self-explanatory.

### **Clause 55: Consequential amendment to Housing Act 1988**

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

## **Part 4: Social Housing in England**

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

## *Funding of discounts offered to tenants*

### **Clause 56: Grants by Secretary of State**

- 136 Clause 56 enables the Secretary of State to pay grant to private registered providers to cover the cost of a discount awarded to the tenant of a provider when buying their home from that provider.
- 137 The effect of this clause would be to enable the Secretary of State to pay for the cost of the discount when a tenant of a private registered provider applies to buy their home under the terms of a voluntary deal between the Secretary of State and the private registered provider sector.
- 138 The clause sign-posts the ability of the Secretary of State to direct the Homes and Communities Agency to make grants under the Agency's power in section 19 of the Housing and Regeneration Act 2008.

### **Clause 57: Grants by Greater London Authority**

- 139 Clause 57 makes provision for the Greater London Authority to make equivalent grants in respect of right to buy discounts for dwellings in Greater London.

## *Monitoring compliance*

### **Clause 58: Monitoring**

- 140 This clause is based upon the Secretary of State setting criteria for home ownership (which he must publish) against which private registered providers may be monitored. The Regulator must, if requested by the Secretary of State, monitor compliance by providers with these criteria and report to the Secretary of State accordingly. It also gives the Secretary of State the power to publish data about the level of compliance by private registered providers.
- 141 The effect of this clause is to ensure the Regulator has the power to monitor and report on how private registered providers are supporting their tenants into home ownership. It is envisaged that the criteria will initially be set with reference to the voluntary right to buy deal that has been agreed between the Secretary of State and the private registered providers sector. Compliance with this deal is expected to be sufficient to meet the expected level of compliance with the home ownership criteria. It would be open to private registered providers to meet the criteria in ways other than compliance with the voluntary deal, but these ways will be expected to be of an equal, or greater, level of support to tenants to help them into home ownership to that afforded through the deal.

## *Amendments to other legislation*

### **Clause 59: Disposal consents**

- 142 This clause makes the necessary amendments to allow for disposals to be subject to a general consent of the Regulator, as exercised under the power in section 172 (with reference to section 174) of the Housing and Regeneration Act 2008.

### **Clause 60: Consequential changes to HCA's duty to give grants**

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

## *Interpretation*

### **Clause 61: Interpretation of this Chapter**

144 This clause is self-explanatory.

## **Chapter 2: Vacant High Value Local Authority Housing**

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

146 The provisions also place a duty on local housing authorities to consider selling such housing and enable the Secretary of State to enter into an agreement with a local authority to reduce the amount of the payment, so long as the money is spent on housing or on things that will facilitate the provision of housing.

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

## *Payments to Secretary of State by Local Housing Authorities*

### **Clause 62: Payments to Secretary of State**

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

149 “Housing” is defined in clause 71 (interpretation) and means a building, or a part of a building, which is intended to be occupied as a dwelling or more than one dwelling. This definition is not intended to include hostels. Housing “becomes vacant” for these purposes when a tenancy comes to an end and is not renewed either expressly by the local authority or by operation of law (see clause 71). The definition would not, therefore, capture situations where, for example, a local authority renews a fixed term tenancy to the same tenant(s), where a tenancy is assigned or where someone succeeds to (i.e. inherits) a tenancy. The Secretary of State may specify in regulations cases in which housing is not to be treated as having become vacant (see clause 71(2)).

150 The determination must set out the method for calculating the payment (subsection (5)) and some or all of the calculation may be based on a formula (subsection (6)). Subsection (7) provides that a determination may provide for assumptions to be made in making a calculation. This will enable a determination to be made before the start of the financial year to which it relates as required by clause 62. Examples might include assumptions about the

rate at which an authority's high value housing will become vacant during the forthcoming financial year based on data from local housing authorities relating to earlier financial years and assumptions about the transaction costs involved in selling such housing. Any such assumptions must be set out in the determination.

- 151 The definition of "high value" must be set out in regulations made by the Secretary of State (subsection (8)). The definition of "high value" may be different in different areas (subsection (9)).

#### **Clause 63: Housing to be taken into account**

- 152 The housing to be taken into account when calculating the payment for each local authority is any housing above the relevant high value threshold (as set out in regulations under clause 62(8)) which the local authority is required to account for within its HRA (see subsection (2)(a)). Under regulations the Secretary of State can exclude housing from the calculation. The exclusion could be framed by reference to, for instance, the characteristics of the housing, its geographical location or other factors.
- 153 Subsection (3) applies where a local housing authority disposes of some or all of its housing to a private registered provider (i.e. a housing association) under section 32 or 43 of the Housing Act 1985. Such disposals are generally referred to as stock transfers. Subsection (3) enables the Secretary of State to continue to take the housing that has been transferred into account when making a determination in relation to that local authority under clause 62. Any such housing must be identified in the determination to ensure that it is clear when this provision is being relied on (subsection (4)).

#### **Clause 64: Procedure for determinations**

- 154 This clause (and clause 65) sets out the procedure that the Secretary of State must follow when making a determination under clause 62.
- 155 The Secretary of State must consult before making a determination and must send a copy of the determination to each local housing authority it relates to as soon as possible after making it (subsection (3)).
- 156 Subsection (4) provides for the methods of communication by the Secretary of State to each local authority. This ensures that this legislation applies the same methods of communication as other legislation in the housing finance context.

#### **Clause 65: More about determinations**

- 157 This clause requires a determination to be made before the beginning of the financial year to which it relates (subsection (1)) and enables the Secretary of State to include provision in the determination about when payments must be made (subsection (4)). These provisions are intended to enable the Government and local authorities to plan ahead financially. In addition, subsection (3) provides for a determination to relate to more than one financial year which will enable longer term financial planning if considered appropriate. In the event of a late payment, the Secretary of State may charge a local authority interest if provided for in the determination (subsection (5)).
- 158 It is possible that there will be a need to vary or revoke a determination after it is made. Subsection (2) provides the power to change the determination if required.
- 159 Subsection (6) enables the Secretary of State to make different provision in the determination for different areas, different local housing authorities or for other purposes.

#### **Clause 66: Determinations in the first year that section 62 comes into force**

160 Where clause 62 (payments to the Secretary of State) comes into force part way through a financial year, this clause enables the Secretary of State to make a determination during that financial year even though in relation to future financial years there is a requirement that the determination is made before the start of the financial year concerned (see clause 65(1)). If a determination is made in reliance on this clause, then the determination can only relate to housing which is likely to become vacant during the period after the date on which the determination is made.

#### **Clause 67: Reduction of payment by agreement**

161 This clause provides the Secretary of State with the power to make an agreement with a local authority which reduces the amount the local authority is required to pay under the determination (subsection (1)). The agreement will contain terms and conditions specifying what the local authority must do with the retained money. This approach is similar to that taken in relation to capital housing receipts under section 11(3) of the Local Government Act 2003.

162 Under subsection (2) of this clause the terms and conditions contained in the agreement will require the provision of housing or things that facilitate housing. This could include the provision of infrastructure or land remediation.

163 As an example, if a local authority wanted to lead on a programme to build new housing then the Secretary of State could decide to enter into an agreement with the authority which would reduce the amount it had to pay under the determination. The local authority would then use that money to fund the building of new housing in accordance with the terms and conditions set out in the agreement.

#### **Clause 68: Set off against repayments under section 62**

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

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

### *Duty to consider selling*

#### **Clause 69: Duty to consider selling vacant high value housing**

166 This clause imposes a free-standing duty on local housing authorities to consider selling any high value vacant housing which they own. The definition of "high value" will be set out in regulations and the Secretary of State may, through regulations, exclude housing from the scope of the duty. The duty would apply even where no determination is made under clause 62. Local authorities must have regard to any guidance issued by the Secretary of State about the new duty.

### *Amendments and interpretation*

#### **Clause 70: Local authority disposal of housing: consent requirements**

167 This clause amends section 34(4A) and section 43(4A) of the Housing Act 1985 to add to the list

of matters which the Secretary of State may have regard to when considering whether to give consent to a local authority wishing to dispose of (i.e. sell or give away) housing under section 32 or 43 of that Act. The amendments will mean that if disposal of the housing by the local authority to another person or body could result in a reduced payment to the Secretary of State under clause 62, the Secretary of State may choose to take this, amongst other factors, into account when deciding whether or not to give consent to the disposal.

#### **Clause 71: Set off under section 11 of Local Government Act 2003**

168 This clause amends section 11 of the Local Government Act 2003 so that the provisions about set off in section 11 mirror those in clause 68 of this Chapter. This means that where a local housing authority has made an overpayment under section 11 of the 2003 Act, the Secretary of State may set off the amount which needs to be repaid against any payment the authority is liable to make under section 11 or under this Chapter.

#### **Clause 72: Interpretation of Chapter**

169 This clause defines certain terms used in this Chapter, some of which are referred to in the explanatory notes for the other clauses of this Chapter.

### **Chapter 3: Reducing Regulation**

#### **Clause 73: Reducing social housing regulation**

170 The clause enables the Secretary of State to make regulations to amend regulatory provisions in the Housing and Regeneration Act 2008, with the intention of reducing regulatory control over private registered providers. The Bill provides that such regulations must be made by affirmative procedure.

### **Chapter 4: High Income Social Tenants: Mandatory Rents**

#### **Clause 74: Mandatory rents for high income social tenants**

171 The clause gives the Secretary of State the power to set the levels of rent that registered provider of social housing must charge high income social tenants ('HISTs'). Following consultation on some of the detail, regulations will determine how much rent a HIST should pay. Guidance may also be issued by the Secretary of State, which registered providers of social housing must follow.

#### **Clause 75: Meaning of "high income" etc**

172 Regulations made under this provision will define the meaning of "high income" by reference to income thresholds, including deciding what type of "income" is captured (for example, earnings or all types of taxable income). As indicated in the Budget announcement starting income thresholds will initially be set at £30,000 outside London and £40,000 in London, but the enabling powers are worded flexibly giving power to vary thresholds as may be considered necessary in the future.

173 The Regulations will also set out what type of 'income' should be taken into account (for example, earnings or all types of taxable income) and the reference period for calculation of income which will be used to determine rent levels. It is very likely that this will need to be a

period in the past and linked to financial years.

174 The policy intent is to take 'household' income into account when determining whether the high income thresholds are met and the legislation makes it clear that the definition of household can be set by the Secretary of State.

175 The intention is to use regulations to set out all of these vital elements of the policy, as it will be important to be able to respond to changing circumstances and evidence of the impact of the policy.

#### **Clause 76: Information about income**

176 Under regulations made under this clause, registered providers of social housing will be given the power to require their tenants to declare what their household income is. This will be used to determine whether that household is over or below the income thresholds that have been set. Regulations will encourage timely declaration of income information by providing that if a tenant fails to declare income in accordance with the Regulations the tenant's rent will be raised to maximum HIST levels.

#### **Clause 77: HMRC information**

177 Following the declaration of income by tenants, a process of verification will be needed to ensure that declarations of income are correct. The power in this clause allows data to be shared between HMRC and landlords for the purposes of verification – either directly from HMRC to landlords, or via the Secretary of State or a single body nominated by the Secretary of State to act as the 'gatekeeper' for this purpose. The Secretary of State must obtain the consent of HMRC before making arrangements with a private body to fulfil this function, or making regulations which give a public body this function. The level of verification needed to ensure the policy is operating correctly will be set out in guidance.

#### **Clause 78: Power to increase rents and procedure for changing rents**

178 Where a landlord determines that tenants in social households are high income social tenants, regulations made under this clause will give landlords the power to increase the rent payable. This clause also provides for other legislation to be amended by Regulation. The purpose of this power is to enable amendments to legislation which may otherwise prevent or limit the circumstances in which rents can be raised.

179 The power also allows the Secretary of State to set out the circumstances in which a review of the rent payable should be made by the landlord (outside of the normal rent setting processes). The types of circumstances that could trigger a review of rent could be, for example, on the death of a member of the household or when evidence of redundancy is provided. The circumstances and the process will be set by regulations.

180 Tenants will also, by regulations, be given the right to appeal decisions that they think are wrong.

#### **Clause 79: Payment by local authority of increased income to Secretary of State**

181 Local housing authorities will be required by regulations to return any additional income received to the exchequer. The exact amounts and the process for returning the money will be set via regulations. Following consultation on the issue of administrative costs, regulations can be used to ensure that local authorities do not incur those costs. Regulations also allow for interest to be charged in the event of late payment.

#### **Clause 80: Provision of information to Secretary of State**

182 This clause provides power for the Secretary of State to collect data from local authorities for

the purposes of reviewing the operation of the policy.

### **Clause 81: Enforcement by Regulator of Social Housing**

183 The clause provides for the enforcement of mandatory rents for social tenants (set by Regulations made under powers in the Bill) by the Regulator of Social Housing by way of amendments to Part 2 of the Housing and Regeneration Act 2008.

### **Clause 82: Interaction with other legislation and consequential amendments**

184 Subsection (1) provides that when regulations are made requiring registered providers of social housing to charge high income tenants of social housing increased rents provision regulations must also be made to except such tenants from the rent reduction requirements in the Welfare Reform and Work Bill.

185 Subsection (3) makes changes to the provisions regarding the keeping of the Housing Revenue Account adding to the list of permissible debit items contained in Part 2 of Schedule to the Local Government and Housing Act 1989 a payment under regulations made in reliance on clause 79.

### **Clause 83: Interpretation of Chapter**

186 This clause is self-explanatory.

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

### *Accommodation needs in England*

#### **Clause 84: Assessment of accommodation needs**

187 Clause 84 makes amendments to Section 8 of the Housing Act 1985 and revokes section 225 and 226 of the Housing Act 2004.

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

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

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

191 The amendments move away from separate definitions in housing legislation to make clear that when authorities are carrying out a review of housing needs that it considers the needs of all the people residing in or resorting to their district, without any references to Gypsies and Travellers. The clause revokes sections 225 and 226 of the Housing Act 2004 (and the

secondary legislation and guidance made under them).

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

193 Subsection (2) revokes sections 225 and section 226 from the Housing Act 2004.

## *Housing regulation in England*

### **Clause 85: Licences for HMO and other rented accommodation: additional tests**

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

### **Clause 86: Financial penalty as alternative to prosecution under Housing Act 2004**

195 This clause introduces Schedule 4, which amends the 2004 Act to allow financial penalties to be imposed as an alternative to prosecution for certain offences.

### **Schedule 4: Financial penalty as alternative to prosecution under Housing Act 2004**

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

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

- where a person has contravened an overcrowding notice such that their conduct amounts to an offence under section 139(7) of the 2004 Act.

197 A local authority has discretion to decide whether to impose a financial penalty or to pursue a prosecution in individual cases. However, a local authority may not impose a financial penalty if the person has already been convicted of an offence in relation to the conduct or criminal proceedings for the offence have commenced and have not been concluded. If a local authority has imposed a financial penalty on a person, that person may not then be convicted of an offence for that same conduct.

198 Where a financial penalty is imposed, only one such penalty may be imposed in respect of the same conduct. The amount of the financial penalty shall be determined by the local authority but must not exceed £5,000, or in the case of an offence under section 139(7), £2,000. The Secretary of State may make regulations providing how local authorities are to deal with financial penalties recovered and amending the amount of the maximum financial penalty to reflect changes in the value of money.

199 New Schedule 2A to the 2004 Act sets out the procedure to be followed when imposing a financial penalty as an alternative prosecution. Before imposing a financial penalty on a person under new sections 30A, 72A, 95A and 144A of the 2004 Act, the local authority must give that person notice of their intention to do so. The notice must be given within a period of 6 months, beginning with the first day on which the authority has evidence of the conduct to which the penalty relates. The notice must set out the amount of the financial penalty, the reasons for proposing to impose the penalty and information about the right to make representations.

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

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

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

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

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

205 A local housing authority must have regard to any guidance issued by the Secretary of State about the exercise of its functions under Schedule 2A or section 30A, 72A, 95A or 144A of the

2004 Act.

### *Housing information in England*

#### **Clause 87: Tenancy deposit information**

- 206 This clause introduces new section 212A into the Housing Act 2004. Section 212A allows a local housing authority to obtain specified information held by tenancy deposit scheme administrators in order to carry out its functions under Parts 1 to 4 of this Act.
- 207 So, for example, where multiple deposits are registered against a single address which does not hold an HMO licence a local housing authority will be able to investigate the property to identify whether any action needs to be taken under Part 2 of the Act.
- 208 Section 212A(3) provides for the charging of costs associated with providing the specified information.
- 209 The clause restricts the manner in which the data may be used by a local housing authority to the purposes as set out in Parts 1-4 of this Act and the purpose of investigating whether an offence has been committed under any of those Parts in relation to the premises. This is to ensure that the use of the data accords with data protection principles. The clause provides that the purposes for which the data may be used can be amended by way of regulations made under the affirmative procedure.
- 210 A local housing authority may also share the data with other bodies providing services to it in the discharge of statutory functions under Parts 1-4 of this Act.

#### **Clause 88: Use of information obtained for certain other statutory purposes**

- 211 This clause amends section 237 of the Housing Act 2004 to provide that the Secretary of State may make regulations, under the affirmative procedure to change the list of purposes for which a local authority may use the data that it has obtained in exercise of its functions under section 134 of the Social Security Administration Act 1992 or Part 1 of the Local Government Finance Act 1992. Such data may currently be used a local authority in exercise of its functions under Parts 1 - 4 of the Housing Act 2004.

### *Enforcement of estate agents legislation*

#### **Clause 89: Estate agents: lead enforcement authority**

- 212 Subsections (1) and (2) insert into the Estate Agents Act 1979 new section 24A. Section 24A(1) makes the Secretary of State the lead enforcement authority for the purposes of the Estate Agents Act 1979. Section 24A(2) gives the Secretary of State the power to make arrangements for a trading standards authority to carry out the functions of the lead enforcement authority.
- 213 New section 24A(3)(a) makes clear that the Secretary of State may make payment to a trading standards authority to carry out the functions of the lead authority. Section 24A(3)(b) makes clear that any arrangements made by the Secretary of State are not permanent.
- 214 Subsection (3) amends section 33(1) Estate Agents Act 1979 so that the lead enforcement authority is defined as the Secretary of State or a trading standards authority who is carrying out the functions of the lead enforcement authority pursuant to arrangements made under section 24A of the Estate Agents Act 1979.

### *Enfranchisement and extension of long leaseholds*

*These Explanatory Notes relate to the Housing and Planning Bill as introduced in the House of Commons on 13 October 2015 (Bill 75)*

### **Clause 90: Enfranchisement and extension of long leaseholds: calculations**

215 This introduces Schedule 5 which makes amendments to the 1967 Act and to the 1993 Act.

### **Schedule 5: Enfranchisement and extension of long leaseholds: calculations**

216 Paragraph 1 amends Schedule 1 to the 1967 Act so that the price payable for a minor superior tenancy is calculated in accordance with regulations made by the Secretary of State. It also allows transitional provision to be made in the regulations. The amendments apply to cases where the relevant time (as defined in section 37(1)(d) of the 1967 Act) is before this Act is passed but on or after 11 July 2015.

217 Paragraph 3 amends Schedule 6 to the 2003 Act so that the value of an intermediate leasehold interest is calculated in accordance with regulations made by the Secretary of State. The amendments apply to cases where the relevant time (as defined in section 1(8) of the 1993 Act) is before this Act is passed but on or after 11 July 2015.

218 Paragraph 4 amends Schedule 13 to the 2003 Act so that the value of an intermediate leasehold interest is calculated in accordance with regulations made by the Secretary of State. The amendments apply to cases where the relevant time (as defined in section 39(8) of the 1993 Act) is before this Act is passed but on or after 11 July 2015.

## *Rentcharges*

### **Clause 91: Redemption price for rentcharges**

219 Subsection (2) amends section 9 of the 1977 Act. It requires that the price to be paid by a rent payer on the redemption of a rentcharge be calculated in accordance with regulations made by the Secretary of State.

220 Subsection (5) enables transitional provision to be made in any regulations that are made under that Act.

221 Subsection (6) ensures that the amendments made by the clause apply to applications for rentcharge certificates which are made before Royal Assent and for which instructions for redemption have not been served under section 9(4) of the 1977 Act before that date. It also ensures that the amendments apply to any redemption application which is made after Royal Assent.

## **Part 6: Planning in England**

### *Neighbourhood Planning*

### **Clause 92: Designation of neighbourhood areas**

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

the area applied for is already designated).

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

### **Clause 93: Timetable in relation to neighbourhood development orders and plans**

- 224 This clause amends the 1990 Act and Planning and Compulsory Purchase Act 2004 Act ("2004 Act") to enable the Secretary of State to prescribe time periods within which local planning authorities must undertake key neighbourhood planning functions.

- 225 Paragraph 12 of Schedule 4B to the 1990 Act sets out what a local planning authority must do on receipt of a report by an independent examiner of a proposal for a neighbourhood development order or plan. The key decision is whether a referendum should be held on the proposal. If the authority propose to make a decision which differs from that recommended by the examiner, paragraph 13 of Schedule 4B requires prescribed persons to be consulted. The authority may also refer the issue to independent examination. New paragraph 13A of Schedule 4B, inserted by clause 93, enables the Secretary of State to prescribe in regulations time limits for authorities to decide whether to hold a referendum and for other actions under paragraphs 12 or 13.

- 226 Clause 93 also amends section 61E of the 1990 Act and section 38A of the 2004 Act to enable the Secretary of State to prescribe a date by which a local planning authority must make a neighbourhood development order or plan that has been approved in each applicable referendum (unless the authority considers that making the order or plan would not be compatible with any EU obligation or Convention right).

### **Clause 94: Making neighbourhood development orders and plans: intervention powers**

- 227 Clause 94 inserts new paragraphs 13B and 13C into Schedule 4B to the 1990 Act.

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

- 229 This power is exercisable in three circumstances: where a local planning authority has failed, by the date prescribed under the new paragraph 13A (inserted by clause 94) to decide whether to hold a referendum; where the authority do not follow the recommendations of the independent examiner of the proposal; or where the authority make a modification to the proposal that was not recommended by the examiner (other than to secure compliance with EU obligations or Convention rights, or to correct an error).

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

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

### **Clause 95: Local planning authority to notify neighbourhood forum of applications**

232 Clause 95 inserts a new paragraph 8A into Schedule 1 to the 1990 Act. The new provision requires a local planning authority, at the request of a neighbourhood forum in their area, to notify the forum of planning applications in the neighbourhood area for which the forum is designated. This would extend to neighbourhood forums a right afforded to parish councils by paragraph 8 of Schedule 1.

## *Local Planning*

### **Clause 96: Power to direct amendment of local development scheme**

233 Clause 96 amends section 15(4) of the 2004 Act. The existing provision enables the Secretary of State, or the Mayor of London if the local planning authority are a London borough, to direct the authority to amend their local development scheme (which sets out the development plan documents that the authority intend to produce and the timetable for their production). The amendment to section 15(4) is intended to ensure that directions made under the power can relate to the subject matter of documents specified in a scheme. This addresses concern that the current wording may be open to an unnecessarily narrow interpretation.

### **Clause 97: Power to give direction to examiner of development plan document**

234 Clause 97 inserts a new subsection (6A) of section 20 of the 2004 Act. Section 20 requires local planning authorities to submit development plan documents to the Secretary of State for independent examination and sets out the purpose of the examination and the recommendations that the person appointed to carry out the examination may make.

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

### **Clause 98: Intervention by Secretary of State**

236 Clause 98 amends section 21 of the 2004 Act (intervention by the Secretary of State).

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

238 Clause 98 amends subsection (5) of section 21 and inserts a new subsection (5A) to make clear what is to happen where the Secretary of State withdraws (or partially withdraws) a direction.

239 Clause 98 also inserts a new subsection (11) of section 21 to require a local planning authority to reimburse the Secretary of State for any expenditure incurred in relation to an intervention that is specified in a notice to the authority.

240 Clause 98 also inserts a new section 21A of the 2004 Act that enables the Secretary of State to issue a 'holding direction' to a local planning authority not to take any step in connection with the adoption of a development plan document while the Secretary of State considers whether to intervene under section 21. The document has no effect while a direction is in force, which is until it is withdrawn by the Secretary of State or until a direction under section 21 is given. The direction also ceases to be in force at the end of the suspension period specified in it.

241 This clause clarifies an amendment to section 21(4).

### **Clause 99: Secretary of State's default powers**

242 Clause 99 substitutes a new section 27 of the 2004 Act. Section 27 applies where the Secretary

of State thinks that a local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document. Under the existing power; the Secretary of State may prepare or revise (as the case may be) the document and approve it as part of the development plan for the authority's area.

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

#### **Clause 100: Costs of independent examinations held by Secretary of State**

- 244 Clause 100 amends section 303A of the 1990 Act to enable the Secretary of State to recover from the relevant local planning authority the costs of the independent examination of a development plan document prepared by the authority or by the Secretary of State under section 27 of the 2004 Act.

### *Planning in Greater London*

#### **Clause 101: Planning powers of the Mayor of London**

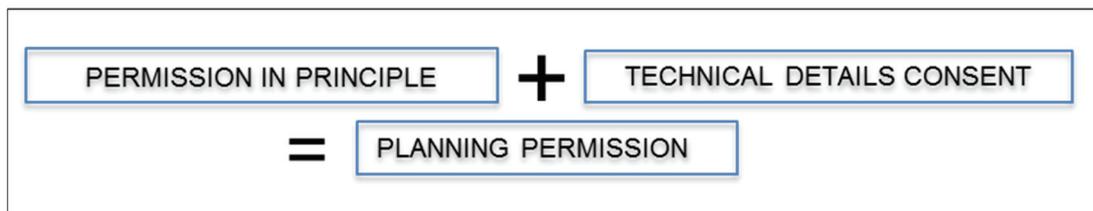
- 245 The Mayor of London has existing powers under the 1990 Act to 'call in' for his own decision certain planning applications of potential strategic importance for Greater London or to direct a local planning authority to refuse planning permission. The Secretary of State prescribes in secondary legislation which applications are subject to these powers (see the Mayor of London Order 2008 (S.I. 2008/580), as amended by the Mayor of London (Amendment) Order 2011 (S.I. 2011/550)).
- 246 Clause 101 amends sections 2A and 74(1B) of the 1990 Act to enable the Secretary of State to prescribe these applications by reference to the Mayor's spatial development strategy under Part 8 of the Greater London Authority Act 1999 or London borough development plan documents adopted or approved under Part 2 of the 2004 Act.
- 247 Clause 101 also enables the Secretary of State, by development order, to enable the Mayor to direct a London borough to consult the Mayor before granting planning permission for development described in the direction. Similar directions are currently given by the Secretary of State under existing powers and are used, in conjunction with the Mayor's power to direct refusal of planning applications in prescribed circumstances, to restrict development that might have an impact on wharves on the River Thames or key London 'sightlines'. In July 2015, the Government announced in its Productivity Plan, "Fixing the Foundations: Creating a more prosperous nation", that it would proceed with devolution to the Mayor of planning powers over wharves and sightlines. These amendments allow for the making of secondary legislation with a view to giving effect to that commitment.

### *Permission in principle and local registers of land*

#### **Clause 102: Permission in principle for development of land**

##### **New section 58A: Permission in principle**

248 Clause 102 inserts into Part 3 of the Town and Country Planning Act new section 58A. This section sets out that permission in principle may be granted for development of land in England. It also refers to section 70 of the 1990 Act as amended by the Bill, under which an application for technical details consent (as defined in that section - see paragraph 262 below) has to be determined in accordance with permission in principle. The result would be the grant of full planning permission.



### **Section 59A Development Orders Permission in Principle**

249 Section 59(2)(a) of the Town and Country Planning Act 1990 gives the Secretary of State the power to provide for the granting of planning permission in a development order itself. For example, the Town and Country Planning (General Permitted Development) (England) Order 2015 is made under this power.

250 Section 59(2)(b) of the Town and Country Planning Act 1990 gives the power to grant permission to the local planning authority on a planning application (provided that application is in accordance with the provisions of a development order). The Town and Country Planning (Development Management Procedure)(England) Order 2015 ('Development Management Procedure Order 2015') provides the form and content of, and the process to be followed for, such planning applications.

#### *Permission in Principle through plans and registers*

251 The new section 59A inserted by clause 102 is closely modelled on the existing section 59(2). Section 59A(1)(a) gives the Secretary of State the power, by a development order, to grant permission in principle to land that is allocated for development in a qualifying document. The development order will set out the detail of the type of document which will allocate land for a permission in principle. Initially, the Government intends only land allocated in the Brownfield Register (see commentary on clause 103), Development Plan Documents and Neighbourhood Plans will be capable of obtaining permission in principle. The development order will also set out what type and scope of development will be granted permission in principle. The Government's current intention is that this will initially be limited to sites suitable for housing (use), location and amount of development. If land is allocated in such a document and satisfies the requirements of the development order as to type and scope of development the development order will automatically grant it a permission in principle.

252 Section 59A(4) provides that permission in principle will be granted at the time when a qualifying document is adopted or made by the local authority and that a development order will set out how long the permission in principle will be valid for.

253 Section 59A(5) sets out the development order may also contain transitional arrangements in relation to cases where permission in principle expires.

#### *Permission in principle following an application*

254 Section 59A(1)(b) gives the Secretary of State the power to set out, in a development order, the process that local authorities must follow in order to grant permission in principle following an application. The Development Management Procedure Order 2015 will therefore be amended

to set out the process that applicants and local authorities must follow, as well as the type and scope of development for which permission in principle may be granted by local planning authorities. The Government's current intention is to limit the type of development to minor housing development (the creation of fewer than 10 units). Section 59A(5) provides that the Development Management Procedure Order 2015 may also be amended to set out the process for an application for technical details consent. The Government intend to consult on the details of the application process for technical detail consent in due course.

255 Section 59A(7) provides that the local planning register authority must hold and maintain a register of all permissions in principle for land in their area whether they are generated automatically by the development order or granted on application.

256 Section 59A(8) gives the Secretary of State the power to issue statutory guidance that local authorities must have regard to in relation to permission in principle.

#### **Section 70: new subsections (1A) and (2ZA) to (2ZC)**

257 Clause 102 amends section 70 of the Town and Country Planning Act 1990. Section 70 provides how a local planning authority must determine planning applications. Clause 102 will insert new subsection 70(1A) allowing the local planning authority, on receiving a direct application for permission in principle, to either grant or refuse. It is to be noted that the local planning authority may not grant permission in principle subject to any conditions. It is the Government's view that conditions are not appropriate at the 'in principle' stage and should be reserved for the technical details consent stage.

258 Clause 102 inserts new Subsections (2ZA), (2ZB), (2ZC) into section 70. New subsection (2ZB) defines technical details consent as an application for planning permission that relates to, and is consistent with, the permission in principle approval on the site. Where a fee is payable it will be set at a level that is consistent with similar types of existing applications in the planning system.

259 New subsection (2ZA) makes it clear that a subsequent application for technical details consent must be made in accordance with the permission in principle already granted. This means that in determining the technical details associated with the development the local authority will not be able to re-open or reconsider the principle of the development as that has been granted at the permission in principle stage. The local planning authority may then grant or refuse an application for technical details consent only on the grounds of previously unconsidered technical matters. A local planning authority may, in granting planning permission at the technical details stage, include such conditions as they consider appropriate.

260 Subsection 70(2ZC) provides that in the cases where a permission in principle has existed for a prolonged period and there has been a material change of circumstance since it was granted, the local planning authority is not bound by the principles of the permission in principle in determining an application for technical details consent. The Government will also consult on the length of this period in due course.

#### **Schedule 6: Permission in principle for development of land: minor and consequential amendments**

261 This Schedule is self-explanatory.

#### **Clause 103: Local planning authority to keep register of particular kinds of land**

262 This clause inserts a new section 14A into the Planning and Compulsory Purchase Act 2004 (the 2004 Act). The new section will enable the Secretary of State to make regulations requiring a local planning authority in England to compile and maintain a register of particular

kinds of land either wholly or partly within that authority's area. The Secretary of State intends to use the power to require local planning authorities which are responsible for deciding applications for housing development, usually the district council, to each compile a register of previously developed land in their area, commonly known as "brownfield land", which is suitable for housing development.

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

264 Under subsection (2) the Secretary of State might, for example, require the register of brownfield land to be kept in two parts: the first part could list brownfield land suitable for housing which meets certain prescribed criteria, and the second part could list land from the first part of the register which the local planning authority considers is suitable for a grant of permission in principle (see clause 102) and which has additionally been through a process of consultation.

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

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

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

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

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

the National Planning Policy Framework.

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

271 Clause 103(2) amends section 33 of the 2004 Act. Under that section, the Secretary of State has the power to direct that Part 2 of the 2004 Act should not apply to the area of an urban development corporation. The amendment will allow the Secretary of State additionally to disapply by direction any particular regulations made under new section 14A. If a direction were made disapplying Part 2 from the area of an urban development corporation, so that it did not have to prepare a local plan, it might not be appropriate for the urban development corporation to have to prepare a register of brownfield land under regulations made under section 14A. In addition, there might be circumstances in the future in which it is decided that Part 2 of the 2004 Act and certain regulations made under section 14A should apply to an urban development corporation, but not all of those regulations

### *Planning permission etc*

#### **Clause 104: Approval condition where development order grants permission for building**

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

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

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

#### **Clause 105: Planning applications that may be made directly to Secretary of State**

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

276 The amendments allow the Secretary of State to designate a local authority for its performance in determining applications for categories of development described in regulations made by him (which could now include a separate category of non-major development). The developer may then choose to make an application for development of that description directly to the Secretary of State. The amendments also allow the Secretary of State to provide that

certain applications may not be made directly to him under section 62A. For example, if a local planning authority was designated for its performance in determining non-major applications, it may be appropriate for certain minor applications to continue to be dealt with at a local level.

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

### **Clause 106: Local Planning Authorities: information about financial benefits**

278 Clause 106 inserts a new section 75A into the Town and Country Planning Act 1990 to ensure that potential financial benefits of certain development proposals are made public when a local planning authority is considering whether to grant planning permission.

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

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

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

### *Nationally significant infrastructure projects*

### **Clause 107: Development consent for projects that involve housing**

282 Clause 107 provides the Secretary of State with the power to grant development consent for housing which is linked to an application for a nationally significant infrastructure project. Clause 107 also provides that the Secretary of State must consider factors set out in guidance when determining whether to grant consent for housing.

283 Guidance produced by the Department for Communities and Local Government will set out details of the amount of housing that may be granted consent within a development consent order. This will include housing which is functionally linked to the infrastructure project (for example, housing that is required for workers during the construction phase of an infrastructure project or for key workers during the operation phase). It will also allow the

Secretary of State to grant consent or housing where there is no functional link but there is a close geographical link between the housing and the infrastructure project.

284 Subsection (2) amends section 115(1) of the 2008 Act so that related housing development may be granted development consent. Subsection (3) makes a clarifying amendment to section 115 and consequential on the wording of the inserted subsection (4B). Subsection (4) adds a new subsection (4B) to section 115 that defines related housing development as development in England which is on the same site, next to, or close to any part of the development for which development consent is required, or is otherwise associated with that development or any part of it. It also adds a new subsection (4C) which restricts the granting of consent for related housing development to infrastructure projects in England. Subsection (5) makes a consequential amendment to section 115 to apply section 33 to related housing development. Subsection (6) provides that the Secretary of State must have regard to guidance when determining an application that seeks to include housing.

### *Urban development corporations*

#### **Clause 108 and Clause 109: Designation of urban development areas: procedure and Establishment of urban development corporations: procedure**

285 Clauses 108 and 109 make two changes in relation to orders establishing urban development areas and urban development corporations in England.

- First, they impose new consultation requirements.
- Secondly, they change the parliamentary procedure for making orders.

286 Orders are currently subject to the affirmative procedure but the clauses change this to the negative procedure. These changes put on a permanent footing the temporary changes that were made by sections 46 and 47 Deregulation Act 2015 (which were limited to orders laid before Parliament on or before 31 March 2016).

#### **Clause 110: Sections 108 and 109: consequential repeals**

287 This clause is self-explanatory.

## **Part 7: Compulsory Purchase Etc**

### *Right to enter and survey land*

#### **Clause 111: Right to enter and survey land**

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

289 Clauses 111 to 117 introduce a new general power of entry for survey purposes which will be available to all acquiring authorities in connection with a proposal to compulsorily acquire

land. Clause 111 provides that an acquiring authority may authorise a person to enter and survey land in connection with a proposal to compulsorily acquire land. An authorisation may relate to the land which is the subject of the proposal or to other land.

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

#### **Clause 112: Warrant authorising use of force to enter and survey land**

291 Clause 112 provides that a justice of the peace may only issue a warrant authorising a person to use force if satisfied that another person has prevented or is likely to prevent entry, and that it is reasonable to use force.

#### **Clause 113: Notice of survey and copy of warrant**

292 Clause 113 requires acquiring authorities to give owners and occupiers of the land at least 14 days' notice of entry so they may make any necessary arrangements. The notice must explain whether the survey will involve certain activities such as searching or boring and, if so, what is proposed. It must also inform the owners / occupiers of their right to compensation in respect of any damage done in exercise of the power.

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

#### **Clause 114: Enhanced authorisation procedures etc. for certain surveys**

294 Clause 114 sets out particular requirements where the land to be surveyed is held by statutory undertakers or includes a street. If the survey is to be carried out on land held by a statutory undertaker and the undertaker objects because it would seriously interfere with the carrying on of its undertaking, the consent of the appropriate Minister is needed before the authority can enter the land.

#### **Clause 115: Right to compensation after entry on or survey of land**

295 Clause 115 makes provision for compensation to be recovered from the acquiring authority for any damage done as a result of the exercise of the power of entry.

#### **Clause 116: Offences in connection with powers to enter land**

296 Clause 116 sets out details of offences in connection with the power of entry. An offence is committed if a person without reasonable excuse obstructs another person in the exercise of the power. A person who commits such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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

#### **Clause 117: Right to enter and survey Crown land**

298 Clause 117 provides that clauses 111 to 116 apply in relation to Crown land if the authorised person has the permission of the appropriate authority. The meaning of "Crown land" and "the appropriate authority" is set out in section 293 of the Town and Country Planning Act 1990.

### *Confirmation and time limits*

*These Explanatory Notes relate to the Housing and Planning Bill as introduced in the House of Commons on 13 October 2015 (Bill 75)*

### **Clause 118: Timetable for confirmation of compulsory purchase order**

- 299 The confirmation stage of a compulsory purchase order comprises a number of discrete steps. At present, once a compulsory purchase order has been submitted to the confirming authority the process can be lengthy and the timescales for a decision unclear.
- 300 Clause 118 inserts new sections 14B and 14C into the Acquisition of Land Act 1981. Section 14B requires the Secretary of State to publish one or more timetables setting out the steps to be taken by confirming authorities in confirming a compulsory purchase order. Section 14C provides that the Welsh Ministers may also publish one or more timetables in relation to steps to be taken by them in confirming a compulsory purchase order.
- 301 The clause requires the Secretary of State/Welsh Ministers to publish an annual report to Parliament/ the Welsh Assembly setting out the extent to which confirming authorities have complied with any applicable timetable.

### **Clause 119: Confirmation by inspector**

- 302 Compulsory purchase orders must be submitted by the acquiring authority to the relevant Minister for confirmation. Where an order has been objected to, an Inspector is appointed to hold a public inquiry or consider the case through written representations. The Inspector then submits a report and recommendation to the relevant Minister who makes the decision on the order.
- 303 Clause 119 inserts a new section 14D into Acquisition of Land Act 1981. This enables a confirming authority to appoint an Inspector to act instead of it in relation to the confirmation of a compulsory order to which section 13A of the Acquisition of Land Act 1981 applies. The Inspector has the same functions as the confirming authority under Part 2 of the Acquisition of Land Act 1981.
- 304 The clause also introduces provision for a confirming authority to revoke its appointment of an Inspector at any time until a decision is made.

### **Clause 120: Time limits for notice to treat or general vesting declaration**

- 305 Clause 120(1) substitutes section 4 of the Compulsory Purchase Act 1965 with a new provision. Substituted section 4 clarifies the time limit for exercising compulsory powers where the notice to treat procedure is to be followed. A notice to treat may not be served after the end of the period of 3 years beginning on the day on which the compulsory purchase order becomes operative. This has already been established by case law (*Salisbury (Marquis) v G. N. Ry* (1852) 17 Q.B. 840; approved in *Tiverton, etc Ry v Loosemore* (1884) 9 App.Cas. 480).
- 306 Clause 120(2) inserts a new section 5A into the Compulsory Purchase (Vesting Declarations) Act 1981. New section 5A clarifies that a general vesting declaration may not be made after the end of the period of 3 years beginning with the day on which the compulsory purchase order becomes operative. This ends any uncertainty on this issue created by the inconsistent decisions of *Westminster City Council v Quereschi* (1990) 60 P. & C.R. 380 and *Co-operative Insurance Society Limited v Hastings BC* (1993) 91 L.G.R. 608.

### *Vesting declarations: procedure*

### **Clause 121: Notice of general vesting declaration procedure**

- 307 Clause 121 introduces Schedule 7 which changes the notice requirements for general vesting declarations.

### **Schedule 7: Notice of general vesting declaration procedure**

308 Schedule 7 repeals section 3 and section 5(1) of the Compulsory Purchase (Vesting Declarations) Act 1981 so that a preliminary notice of intention is no longer required before a general vesting declaration may be executed. Instead, a prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 must be included in the confirmation notice under section 15 of the Acquisition of Land Act 1981 (see paragraph 2 of Schedule 8). An invitation to any person who would be entitled to claim compensation if a general vesting declaration were made to give the acquiring authority information about the person's name, address and interest (using a prescribed form) must also be included in a confirmation notice.

### **Clause 122: Earliest vesting date under general vesting declaration**

309 Clause 122 amends section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 so as to extend the minimum period after which land may vest in an acquiring authority after the service of the notices required by section 6 of the Act. This extends the notice period for taking possession under the general vesting declaration procedure to a minimum of 3 months, from the current minimum of 28 days.

### *Possession following notice to treat etc*

### **Clause 123: Extended notice period for taking possession following notice to treat**

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

311 Subsection (3) inserts a new section 11A into the Compulsory Purchase Act 1965. Section 11A(1) provides that a notice of entry ceases to have effect if, before entering on taking possession of the land, the acquiring authority becomes aware of an owner, lessee or occupier to whom they have not given a notice to treat. This may occur where a new interest in land comes to light (or there is a change in the terms of interested parties – such as a transfer of that interest to another person), after notice of entry has been given, but before possession is taken. If the acquiring authority serve a notice to treat on the recently discovered owner, lessee or occupier, the acquiring authority may serve a new notice of entry on all the owners, lessees and occupiers of the land. New section 11A(3) provides for a shorter notice period in these circumstances provided the recently discovered person is not in occupation of the land. That period will be a minimum of 14 days, or until the end of the period specified in the last notice of entry, whichever is the longer.

### **Clause 124: Counter-notice requiring possession to be taken on specified date**

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

313 Clause 124 inserts a new section 11B into the Compulsory Purchase Act 1965. New section 11B enables a person in possession of the land to serve a counter notice requiring the acquiring authority to take possession of the land on a specified date. The date specified in the counter-notice must be not less than 28 days after the date the counter notice is served and must not be before the end of the period specified in the notice of entry under section 11(1) or any extended period that the person has agreed with the acquiring authority.

### **Clause 125: Agreement to extend notice period for possession following notice to treat**

314 Clause 125 inserts new subsections (1D) and (1E) into section 11 of the Compulsory Purchase Act 1965. The new subsections make clear that an acquiring authority may extend the period specified in a notice of entry by agreement with each person on whom it was served.

### **Clause 126: Corresponding amendments to the New Towns Act 1981**

315 Clause 126 makes corresponding changes to those made by clauses 123 to 125 in relation to the New Towns Act 1981.

### **Clause 127: Abolition of alternative possession procedure following notice to treat**

316 Clause 127 is a tidying up measure. It introduces Schedule 8 to the Bill.

### **Schedule 8: Abolition of alternative possession procedure following notice to treat**

317 Schedule 8 abolishes the alternative procedure for taking possession of land under section 11(2) of, and Schedule 3 to, the Compulsory Purchase Act 1965. This procedure is no longer used.

### **Clause 128: Extended notice period for taking possession following vesting declaration**

318 Clause 128 amends section 9 of the Compulsory Purchase (Vesting Declarations) Act 1981 so as to extend the minimum notice period for taking possession from 14 days to three months. This replicates the change made by clause 124(2)(b) to the minimum notice period to be provided in a notice of entry under section 11(1) of the Compulsory Purchase Act 1965.

## *Compensation*

### **Clauses 129: Making a claim for compensation**

319 Clause 129 inserts a new section 4A into the Land Compensation Act 1961 to provide a power for the Secretary of State to make regulations to impose further requirements about the notice claimants must give the acquiring authority detailing the compensation sought by them. These regulations may make provision about the form and content of the notice, and the time at which the notice must be given. They may also permit or require a specified person to design a form to be used in making a request and may require the acquiring authority to supply copies of the form to be used.

### **Clause 130 through 133: Making a request for advance payment of compensation; Power to make and timing of advance payment; Interest on advance payments of compensation; Repayment of advance payment where no compulsory purchase**

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

321 Clauses 127 through 131 make changes to the advance payments system to facilitate clearer claims and earlier payments. They also require the payment of interest if the acquiring authority fails to make a payment on time.

322 To help enable acquiring authorities to make a faster and earlier advance payment clause 130(2) amends section 52(2) of the Land Compensation Act 1973 to provide greater clarity as to

the information that must be included in a request for an advance payment. New section 52(2A) provides that within 28 days of receiving a request an acquiring authority must request further information from the claimant (if necessary) so that there is greater certainty about the timing of the process.

323 Clause 130(3) inserts a new section 52ZD into the Land Compensation Act 1973 to give a power for the Secretary of State to make regulations detailing the form and content of the claimant's request for an advance payment or a request to make a payment to a mortgagee under section 52ZA(3) or 52ZB(3). The regulations may also require acquiring authorities to supply the claimant with copies, at specified stages of the process, of a form to be used when making any such request.

324 Clause 131(2) amends section 52 of the Land Compensation Act 1973 to facilitate earlier advance payments by: allowing an acquiring authority to make an advance payment at any time after a request has been submitted and the compulsory acquisition has become authorised; and requiring that an advance payment must be made within two months of the day the authority receives a request for the payment, the day on which the acquiring authority receives any further information required under section 52(2A)(b), the day on which the claimant is given notice to treat, or the day on which the authority make a vesting declaration, whichever is the later.

325 Clause 132(2) and (3) amends section 52A of, and inserts a new section 52B to, the Land Compensation Act 1973 to provide for the payment by the acquiring authority of interest if it fails to make an advance payment when it is due. Interest will be payable on the amount of the advance payment that should have been paid, and from the date it should have been paid, until payment has been made in full. New section 52B(4) requires the Treasury to make regulations to specify the rate of interest that will be payable.

326 Clause 133(2) and (3) inserts new subsections 5(A) and (8A) to section 52 and section 52ZC respectively of the Land Compensation Act 1973 to provide for repayment of any advance compensation where the authority does not end up taking possession of the land.

## *Disputes*

### **Clause 134: Objection to division of land**

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

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

329 Currently the procedure for claiming "material detriment" differs depending on whether an acquiring authority uses a notice to treat or a general vesting declaration to exercise its compulsory purchase powers. Where a general vesting declaration has been executed, the procedure for serving a counter-notice is set out in Schedule 1 to the Compulsory Purchase (Vesting Declarations) Act 1981. A reference to the Upper Tribunal will prevent entry onto land being taken until the issue of material detriment is resolved.

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

331 Clause 134(1) introduces Schedule 9 to the Bill.

332 Clause 134(2) introduces Schedule 10 to the Bill.

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

## **Schedule 9: Objection to division of land following notice to treat**

### **Part 1 - Amendments to Compulsory Purchase Act 1965**

334 Part 1 of Schedule 9 inserts a new Schedule 2A into the Compulsory Purchase Act 1965, which sets out the process for serving counter notices requiring the purchase of land not in the notice to treat.

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

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

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

### **Part 2 - Consequential amendments**

338 The remainder of Schedule 9 sets out consequential amendments.

## **Schedule 10: Objection to division of land following general vesting declaration**

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

339 Schedule 10 makes similar provision to Schedule 9 for counter-notices following the making of a general vesting declaration. This is achieved principally through the substitution of a new Schedule 1 to the Compulsory Purchase (Vesting Declarations) Act 1981.

340 Where the acquiring authority refers the counter-notice to the Upper Tribunal and the counter-notice was served before the original vesting date, paragraph 12(2) of new Schedule 1 allows the authority to serve notice on the owner specifying a new vesting date for the land proposed to be acquired. This allows for the vesting of the land the authority is authorised to take before the Upper Tribunal has made a determination.

### **Part 2 - Consequential amendment**

341 Part 2 of Schedule 9 makes a consequential amendment to section 5A of the Land Compensation Act 1961.

### **Clause 135: Power to quash decision to confirm compulsory purchase order**

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

343 Clause 135 amends section 24 of the Acquisition of Land Act 1981 to clarify that the court has the power to quash the decision to confirm the compulsory purchase order as well as the power to quash the whole or any provision of the order itself. Where the compulsory purchase order itself is found to be sound but there is an error in the decision to confirm the order, the court may decide to quash the decision alone. This means the order will go back to the confirming Minister for reconsideration.

### **Clause 136: Extension of compulsory purchase time limit during challenge**

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

345 Section 136 inserts a new section 4A into the Compulsory Purchase Act 1965 and a new section 5B into the Compulsory Purchase (Vesting Declarations) Act 1981 to extend the time period allowed to implement a compulsory purchase order where an application is made under section 23 of the Acquisition of Land Act 1981. The extended period will be for either (a) a period equivalent to the period from the date an application is made under section 23 until it is finally determined or withdrawn or (b) one year, whichever is the shorter period. Where an appeal is brought, an application is not finally determined until the appeal is finally determined or withdrawn.

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

### **Clause 137: Power to override easements and other rights**

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

347 Clause 137 introduces a new power which extends the existing powers to override easements and restrictive covenants under the Town and Country Planning Act 1990 and other legislation to acquiring authorities, such as statutory undertakers, which do not already have those powers.

348 Clause 137 enables a person to interfere with easements and other rights (except where the right is a “protected right”) when undertaking building or maintenance works on, or using, land which has been vested in or acquired by a “specified authority”.

349 A “specified authority” is defined in clause 137(7) so as to limit it to an acquiring authority that is a public body.

350 The conditions / limitations on the use of the power are set out in clause 137(2) and (4). There must be planning consent for the building or maintenance work / use of the land, the land must have become vested in or acquired by a “specified authority” after clause 137 comes into force, and the authority must have been able to acquire the land compulsorily for the purpose of the building or maintenance work / the purpose of erecting or constructing any building for the

use.

### **Clause 138: Compensation for overridden easements etc**

351 Clause 138 requires the payment of compensation where rights are overridden and provides for compensation to be calculated on the same basis as compensation payable under sections 7 and 10 of the Compulsory Purchase Act 1965.

### **Clause 139: Amendments to do with sections 137 and 138**

352 Clause 139 introduces Schedule 11 to the Bill.

### **Schedule 11: Amendments to do with sections 137 and 138**

353 Schedule 11 makes amendments that are consequential on clauses 137 and 138. It repeals existing powers to override easements and other rights which will be replaced by the new power in clause 137.

## **Part 8: General**

### **Clause 140: Power to make transitional provision**

### **Clause 141: Power to make consequential provision**

### **Clause 142: Regulations: general**

### **Clause 143: Extent**

### **Clause 144: Commencement**

### **Clause 145: Short title**

354 Clauses 140 to 145 are self-explanatory.

## **Commencement**

355 The provisions about extent, commencement and short title of this Bill, together with the powers conferred by the Bill to make secondary legislation to make saving, transitory or transitional provision in connection with the coming into force of any provision of the Bill, will come into force on the day on which it is passed. Clauses 90 to 93, and 101, and Schedule 5, and clause 104(1), and clauses 108 to 110 will come into force on the day on which this Bill is passed. Clauses 62 to 72, clause 84, and clauses 102(1) to 102(3) and clauses 103 and 105 will come into force at the end of the period of two months beginning on the day on which this Bill is passed. Other provisions of this Bill come into force on such day as the Secretary of State may by regulations appoint.

## **Financial implications of the Bill**

356 An impact assessment is being prepared for the whole Bill and will be available at [www.gov.uk](http://www.gov.uk). This covers the implications on private sector bodies and local authorities which derive from this Bill. It does not cover the potential financial and economic implications from new housing and planning policies announced by Government which are not delivered directly by this Bill.

357 On Right to Buy and High-Value Assets we expect fiscal neutrality between these two policy

areas as Government will receive, via a formula calculation, receipts from the sale of High-Value Assets to support the extension of Right to Buy to housing association tenants. With agreement local authorities will be able to retain an element of the receipts for house building locally and also some resources to cover estimates of transaction and debt costs.

- 358 The High Income Social Tenant policy will mean that additional rents paid by some tenants will be provided, via local authority landlords, to the Government as income. Further detail will be provided following a public consultation.
- 359 Some clauses of the Bill set duties on local authorities, and Government is currently assessing these to determine whether new burdens will be created. Government will also consider potential additional costs on Departments. The Bill is not expected to have any other direct impact on public sector manpower.
- 360 The Bill has been drafted to limit the regulatory impacts on business. However, a small number of policies in the Bill will impact business and are in scope of the better regulation framework. Clauses on nationally significant infrastructure projects, permission in principle, approval conditions and High Income Social Tenants have been assessed as deregulatory and will deliver net benefits to business. The Private Rented Sector package falls into the low cost regulation category (less than £1 million per annum). Compulsory purchase and starter homes policies both have a regulatory impact. Outline costs and benefits for these policies are included in the Bill IA and separate assessments for scrutiny by the Regulatory Policy Committee are being prepared and will be published in due course.

## Parliamentary approval for financial costs or for charges imposed

- 361 The Bill will require a money resolution to cover increased expenditure under the Bill (because of the functions conferred on the Secretary of State under Parts 1 and 4) and increased expenditure under other Acts (because of the numerous additional functions conferred on the Secretary of State, local authorities, planning authorities and the Homes and Community Agency). A ways and means resolution is also needed to cover clause 11(2)(a).

## Compatibility with the European Convention on Human Rights

- 362 Greg Clark, Secretary of State for Department for Communities and Local Government, has stated that in his view the provisions of the Housing and Planning Bill are compatible with the Convention rights.

## Related documents

- 363 The following documents are relevant to the Bill and can be read at the stated locations:

- Self-build and Custom Housebuilding Act 2015, March 2015  
<http://services.parliament.uk/bills/2014-15/selfbuildandcustomhousebuilding.html>
- *The Conservative Party Manifesto 2015*, April 2015  
<https://www.conservatives.com/manifesto>

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- Queen's Speech 2015, May 2015  
<https://www.gov.uk/government/speeches/queens-speech-2015>
- Summer Budget 2015, July 2015  
<https://www.gov.uk/government/publications/summer-budget-2015>
- *Fixing the foundations: Creating a more prosperous nation*, July 2015  
<https://www.gov.uk/government/publications/fixing-the-foundations-creating-a-more-prosperous-nation>

## Annex A - Territorial extent and application

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion required?	Extends to Scotland?	Legislative Consent Motion required?	Extends to Northern Ireland?	Legislative Consent Motion required?
<b>Part 1: New Homes in England - Chapter 1: Starter Homes</b>							
Clause 1	Yes	No	No	No	No	No	No
Clause 2	Yes	No	No	No	No	No	No
Clause 3	Yes	No	No	No	No	No	No
Clause 4	Yes	No	No	No	No	No	No
Clause 5	Yes	No	No	No	No	No	No
Clause 6	Yes	No	No	No	No	No	No
Clause 7	Yes	No	No	No	No	No	No
<b>Part 1 - Chapter 2: Self-build and Custom Housebuilding</b>							
Clause 8	Yes	No	No	No	No	No	No
Clause 9	Yes	No	No	No	No	No	No
Clause 10	Yes	No	No	No	No	No	No
Clause 11	Yes	No	No	No	No	No	No
<b>Part 2: Rogue Landlords and Letting Agents in England - Chapter 1: Introduction</b>							
Clause 12	Yes	No	No	No	No	No	No
<b>Part 2 - Chapter 2: Banning Orders</b>							
Clause 13	Yes	No	No	No	No	No	No
Clause 14	Yes	No	No	No	No	No	No
Clause 15	Yes	No	No	No	No	No	No
Clause 16	Yes	No	No	No	No	No	No
Clause 17	Yes	No	No	No	No	No	No
Clause 18	Yes	No	No	No	No	No	No
Clause 19	Yes	No	No	No	No	No	No
Clause 20	Yes	No	No	No	No	No	No
Clause 21	Yes	No	No	No	No	No	No
<b>Part 2 - Chapter 3: Database of Rogue Landlords and Letting Agents</b>							
Clause 22	Yes	No	No	No	No	No	No
Clause 23	Yes	No	No	No	No	No	No
Clause 24	Yes	No	No	No	No	No	No

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Clause 25	Yes	No	No	No	No	No	No
Clause 26	Yes	No	No	No	No	No	No
Clause 27	Yes	No	No	No	No	No	No
Clause 28	Yes	No	No	No	No	No	No
Clause 29	Yes	No	No	No	No	No	No
Clause 30	Yes	No	No	No	No	No	No
Clause 31	Yes	No	No	No	No	No	No
<b>Part 2 - Chapter 4: Rent Repayment Orders</b>							
Clause 32	Yes	No	No	No	No	No	No
Clause 33	Yes	No	No	No	No	No	No
Clause 34	Yes	No	No	No	No	No	No
Clause 35	Yes	No	No	No	No	No	No
Clause 36	Yes	No	No	No	No	No	No
Clause 37	Yes	No	No	No	No	No	No
Clause 38	Yes	No	No	No	No	No	No
Clause 39	Yes	No	No	No	No	No	No
Clause 40	Yes	No	No	No	No	No	No
Clause 41	Yes	No	No	No	No	No	No
Clause 42	Yes	No	No	No	No	No	No
Clause 43	Yes	No	No	No	No	No	No
Clause 44	Yes	No	No	No	No	No	No
Clause 45	Yes	No	No	No	No	No	No
Clause 46	Yes	No	No	No	No	No	No
<b>Part 2 - Chapter 5: Interpretation of Part 2</b>							
Clause 47	Yes	No	No	No	No	No	No
Clause 48	Yes	No	No	No	No	No	No
<b>Part 3: Recovering Abandoned Premises in England</b>							
Clause 49	Yes	No	No	No	No	No	No
Clause 50	Yes	No	No	No	No	No	No
Clause 51	Yes	No	No	No	No	No	No
Clause 52	Yes	No	No	No	No	No	No
Clause 53	Yes	No	No	No	No	No	No
Clause 54	Yes	No	No	No	No	No	No
Clause 55	Yes	No	No	No	No	No	No
<b>Part 4: Social Housing in England - Chapter 1: Implementing the Right to Buy on a Voluntary Basis</b>							
Clause 56	Yes	No	No	No	No	No	No

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Clause 57	Yes	No	No	No	No	No	No
Clause 58	Yes	No	No	No	No	No	No
Clause 59	Yes	No	No	No	No	No	No
Clause 60	Yes	No	No	No	No	No	No
Clause 61	Yes	No	No	No	No	No	No
<b>Part 4 - Chapter 2: Vacant High Value Local Authority Housing</b>							
Clause 62	Yes	No	No	No	No	No	No
Clause 63	Yes	No	No	No	No	No	No
Clause 64	Yes	No	No	No	No	No	No
Clause 65	Yes	No	No	No	No	No	No
Clause 66	Yes	No	No	No	No	No	No
Clause 67	Yes	No	No	No	No	No	No
Clause 68	Yes	No	No	No	No	No	No
Clause 69	Yes	No	No	No	No	No	No
Clause 70	Yes	No	No	No	No	No	No
Clause 71	Yes	No	No	No	No	No	No
Clause 72	Yes	No	No	No	No	No	No
<b>Part 4 - Chapter 3: Reducing Regulation</b>							
Clause 73	Yes	No	No	No	No	No	No
<b>Part 4 - Chapter 4: High Income Social Tenants: Mandatory Rents</b>							
Clause 74	Yes	No	No	No	No	No	No
Clause 75	Yes	No	No	No	No	No	No
Clause 76	Yes	No	No	No	No	No	No
Clause 77	Yes	No	No	No	No	No	No
Clause 78	Yes	No	No	No	No	No	No
Clause 79	Yes	No	No	No	No	No	No
Clause 80	Yes	No	No	No	No	No	No
Clause 81	Yes	No	No	No	No	No	No
Clause 82	Yes	No	No	No	No	No	No
Clause 83	Yes	No	No	No	No	No	No
<b>Part 5: Housing, Estates Agents and Rentcharges: Other Changes</b>							
Clause 84	Yes	No	No	No	No	No	No
Clause 85	Yes	No	No	No	No	No	No
Clause 86	Yes	No	No	No	No	No	No
Clause 87	Yes	No	No	No	No	No	No
Clause 88	Yes	No	No	No	No	No	No

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Clause 89	Yes	Yes	No	Yes	No	Yes	Yes
Clause 90	Yes	Yes	Yes	No	No	No	No
Clause 91	Yes	Yes	No	No	No	No	No
<b>Part 6: Planning in England</b>							
Clause 92	Yes	No	No	No	No	No	No
Clause 93	Yes	No	No	No	No	No	No
Clause 94	Yes	No	No	No	No	No	No
Clause 95	Yes	No	No	No	No	No	No
Clause 96	Yes	No	No	No	No	No	No
Clause 97	Yes	No	No	No	No	No	No
Clause 98	Yes	No	No	No	No	No	No
Clause 99	Yes	No	No	No	No	No	No
Clause 100	Yes	No	No	No	No	No	No
Clause 101	Yes	No	No	No	No	No	No
Clause 102	Yes	No	No	No	No	No	No
Clause 103	Yes	No	No	No	No	No	No
Clause 104	Yes	No	No	No	No	No	No
Clause 105	Yes	No	No	No	No	No	No
Clause 106	Yes	No	No	No	No	No	No
Clause 107	Yes	No	No	No	No	No	No
Clause 108	Yes	Yes	No	Yes	No	No	No
Clause 109	Yes	Yes	No	Yes	No	No	No
Clause 110	Yes	Yes	No	Yes	No	No	No
<b>Part 7: Compulsory Purchase etc</b>							
Clause 111	Yes	Yes	No	No	No	No	No
Clause 112	Yes	Yes	No	No	No	No	No
Clause 113	Yes	Yes	No	No	No	No	No
Clause 114	Yes	Yes	No	No	No	No	No
Clause 115	Yes	Yes	No	No	No	No	No
Clause 116	Yes	Yes	No	No	No	No	No
Clause 117	Yes	Yes	No	No	No	No	No
Clause 118	Yes	Yes	No	No	No	No	No
Clause 119	Yes	Yes	No	No	No	No	No
Clause 120	Yes	Yes	No	No	No	No	No
Clause 121	Yes	Yes	No	No	No	No	No
Clause 122	Yes	Yes	No	No	No	No	No

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Clause 123	Yes	Yes	No	No	No	No	No
Clause 124	Yes	Yes	No	No	No	No	No
Clause 125	Yes	Yes	No	No	No	No	No
Clause 126	Yes	Yes	No	No	No	No	No
Clause 127	Yes	Yes	No	No	No	No	No
Clause 128	Yes	Yes	No	No	No	No	No
Clause 129	Yes	Yes	No	No	No	No	No
Clause 130	Yes	Yes	No	No	No	No	No
Clause 131	Yes	Yes	No	No	No	No	No
Clause 132	Yes	Yes	No	No	No	No	No
Clause 133	Yes	Yes	No	No	No	No	No
Clause 134	Yes	Yes	No	No	No	No	No
Clause 135	Yes	Yes	No	No	No	No	No
Clause 136	Yes	Yes	No	No	No	No	No
Clause 137	Yes	Yes	No	No	No	No	No
Clause 138	Yes	Yes	No	No	No	No	No
Clause 139	Yes	Yes	No	No	No	No	No

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# HOUSING AND PLANNING BILL

## EXPLANATORY NOTES

These Explanatory Notes relate to the Housing and Planning Bill as introduced in the House of Commons on 13 October 2015 (Bill 75).

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