PLANNING AND INFRASTRUCTURE BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Planning and Infrastructure Bill as brought from the House of Commons on 12 June 2025 (HL Bill 110).

- These Explanatory Notes have been prepared by the Ministry of Housing, 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.

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Overview of the Bill

Policies in the Bill

1 The Planning and Infrastructure Bill ("the Bill") intends to speed up and streamline the delivery of new homes and critical infrastructure, supporting delivery of the Government's Plan for Change milestones of building 1.5 million safe and decent homes in England and fast-tracking 150 planning decisions on major economic infrastructure projects by the end of this Parliament. It will also support delivery of the Government's Clean Power 2030 target by ensuring that clean energy projects are built as quickly as possible. To achieve this, the Bill seeks to:

a. Provide for a faster and more certain consenting process for critical infrastructure and strengthen the policy framework around National Policy Statements (NPSs);

b. Deliver a more efficient and predictable system for energy infrastructure projects, including:

i. Reforms to update the electricity grid connection process;

ii. Establishing a new cap and floor scheme to support the deployment of long duration electricity storage (LDES);

iii. Reforms to electricity infrastructure consenting in Scotland, to reduce system inefficiencies and insert elements of best practice;

iv. Establishing a bill discount scheme for those living closest to new electricity transmission infrastructure; and

v. Updating a process for offshore electricity transmission, by extending the generator commissioning clause period.

c. Streamline and improve the efficiency of delivering transport infrastructure projects, including:

i. Changing the process of street works approval in order to accelerate the installation of electric vehicle public charge points;

ii. Various reforms to the Transport and Works Act 1992 and Highways Act 1980 to streamline processes and accelerate delivery of projects;

iii. Improving cost recovery for Harbour Revision Orders.

d. Introduce a more strategic approach to nature recovery in relation to development, enabling developers to fund restoration more efficiently through a new Nature Restoration Fund, whilst securing improved outcomes for the environment;

e. Improve certainty and decision-making in the planning system, including through introducing a new scheme of delegation to modernise local planning committees, and increasing the capacity of local planning authorities (LPAs) and statutory consultees by enabling the cost recovery of planning fees and through the imposition of a surcharge on these fees respectively;

f. Unlock land and secure public value for large-scale investment through reforms to the compulsory purchase order process and compensation rules;

g. Strengthen development corporation powers for infrastructure delivery, including transport, and clarify and update development corporation remits and objectives; and

h. Provide for the introduction of a strategic planning system for England.

2 The Bill was introduced in the House of Commons on 11 March 2025 and completed its Second Reading on 24 March 2025. It was considered in Public Bill Committee over 12 sittings between 29 April to 22 May 2025. It completed Report Stage and Third Reading on 10 June 2025. The Bill was brought to the House of Lords on 12 June 2025.

Structure of the Bill

Part	Summary
Part 1: Infrastructure	This Part provides for infrastructure reforms in the following areas: ● Nationally Significant Infrastructure Projects (NSIPs), including: reforms to National Policy Statements (NPSs); the power to disapply requirement for development consent; applications for development consent; - the removal of certain pre-application consultation requirements, changes to the acceptance stage, award of costs for certain applications; the right to enter and survey land; changes made to development consent orders; and reforms to legal challenges. ● Electricity infrastructure, including: reforms to connections to the electricity network; consents for electricity infrastructure in Scotland; long duration electricity storage; benefits for homes near benefits for homes near new or significantly upgraded electricity transmission projects; electricity transmission systems: extension of commissioning period; and electricity generation on forestry land. ● Transport infrastructure, including: amendments to the Highways Act 1980; amendments to the Transport and Works Act 1992; Harbour orders fee charging; and Electric Vehicle charge points.
Part 2: Planning	This Part provides for reforms to the planning system in the following areas: ● Planning decisions, including: fees for planning applications; a planning fee surcharge; training for local planning authorities; and delegation of planning decisions. ● Strategic planning and spatial development strategies.
Part 3: Nature Recovery	This Part defines a new strategic approach to nature recovery in relation to development, including provisions on: ● Environmental Delivery Plans. ● Nature Restoration Fund. ● Natural England powers and duties.

Part 4: Development Corporations	This Part concerns the delivery of reforms to Development Corporations, including: • Areas for development and remit. • Duties to have regard to sustainable development and climate change. • Powers in relation to infrastructure. • Exercise of transport functions.
Part 5: Compulsory Purchase Order	This Part provides for reforms to the compulsory purchase process and compensation rules, including: • Delegating more decisions to inspectors and allowing authorities to take earlier possession of land. • Allowing the electronic service of notices and simplifying content of newspaper notices. • Amendments relating to section 14A of the Land Compensation Act 1961 and changes to the loss payments regime.
Part 6: Miscellaneous and General Provision	This Part provides for: • Reporting on extra-territorial environmental outcomes. • Overview of territorial extent. • Overview of commencement timings and transitional provision.
Schedules	This includes: • Schedule 1 – Minor and consequential amendments to the Electricity Act 1989 (in relation to Scottish consenting reforms in Part 1). • Schedule 2 – Section 37: consequential amendments (in relation to transport infrastructure reforms in Part 1). • Schedule 3 – Section 47: minor and consequential amendments (in relation to strategic planning reforms in Part 2). • Schedule 4 – Environmental Delivery Plans: effect on environmental obligations (in relation to nature recovery reforms in Part 3). • Schedule 5 – Compulsory acquisition of land under section 71 (c. 67) (in relation to nature recover reforms in Part 3). • Schedule 6 – Amendments relating to Part 3 (in relation to nature recovery reforms in Part 3).

Policy background

3 The Government's Plan for Change set out its mission to kickstart economic growth and rebuild Britain through the delivery of new homes and critical infrastructure.[1] The Plan for Change highlighted how the current planning regime has left England without the housing it needs. Rising numbers of people are unable to buy a home of their own, with homeownership for 19 to 29 year-olds more than halving since 1990.[2] Last year, housebuilding fell and the number of homes granted planning permission has also fallen significantly – from 325,000 (in the year 2021 Q3) down to 239,000 (in the year to 2024 Q3).[3] This lack of housing supply and responsiveness of the planning system over a sustained period has led to the average home costing eight times the annual earnings of an average worker.[4]

4 The Plan for Change also highlighted how Britain lacks key infrastructure, including for transport and energy. It is slower and more costly to build economic infrastructure in England than other major countries, like France and Italy, and infrastructure costs have increased by 30% more than GDP per capita since 2007.[5] The time it takes to secure planning permission for major economic infrastructure projects has almost doubled in the last decade to more than four years.[6] As set out in the Government's recent working paper on streamlining infrastructure planning, limited infrastructure delivery is adding real-world costs to working people's lives – including increased bills, longer commuting times, and an increased risk of drought, water supply and scarcity.[7]

5 Through this Bill, the Government intends to address these issues to deliver a pro-growth planning system that can deliver more homes and infrastructure more quickly. The Government has already begun this work through introducing a wide set of growth-focused interventions to the National Planning Policy Framework (NPPF) last year and updates to secondary legislation, including to bring onshore wind back into the Nationally Significant Infrastructure Projects (NSIPs) regime.[8] The Bill aims to work alongside these changes, including provisions relating to the following areas.

Delivering a faster and more certain consenting process for critical infrastructure

Nationally Significant Infrastructure Projects

6 Since 2010, most major economic infrastructure projects have been consented through the Nationally Significant Infrastructure Projects (NSIPs) system established under the Planning Act 2008. These are large-scale infrastructure projects deemed to be of national importance and can include new highways, major road and rail improvement schemes, airports and significant aviation related developments, new power stations, offshore and onshore wind farms, significant reservoir projects, and waste and waste-water processing plants. The Planning Act 2008 established the core framework for the process of obtaining development consent required for NSIPs, and also sets out the threshold at which projects become NSIPs.

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[1] Plan for Change (2024).

[2] Kickstarting Economic Growth - GOV.UK (2024).

[3] Planning applications in England: July to September 2024 - GOV.UK (2025).

[4] Housing affordability in England and Wales - Office for National Statistics (2024).

[5] Cost drivers of major infrastructure projects in the UK (2024).

[6] Nationally Significant Infrastructure: action plan for reforms to the planning process - GOV.UK (2023).

[7] Planning Reform Working Paper: Streamlining Infrastructure Planning - GOV.UK (2025).

[8] Government response to the proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation - GOV.UK (2024).

For example, for projects in England this could include offshore wind projects over 50MW or certain railway projects over 2km in length. Examples of specific NSIP projects include: Sizewell C, Lincolnshire Reservoir, Bramford to Twinstead Network Reinforcement, and Norfolk Vanguard (offshore wind).

7 Amendments through the Localism Act 2011 brought democratic accountability with decisions made by the relevant Secretary of State. It also made the Planning Inspectorate the Government agency responsible for operating the planning process for NSIPs. The regime was extended in 2013 to include large scale business and commercial schemes, and again in 2016 to allow related housing development to be consented as part of a development consent order (DCO).

8 Prior to the Planning Act 2008, major infrastructure projects were consented through extensive and complex planning inquiries which required significant time, resource and expertise to reach informed decisions. For example, the Heathrow Terminal 5 development was subject to numerous planning applications involving a lengthy public inquiry and took eight years (1993-2001) to reach a decision from the point of submission of a planning application. Similarly, Sizewell B nuclear power station (1987) spent 7 years in planning.

9 The Eddington Review commissioned by the Department for Transport (DfT) in 2006 found that the existing consenting system was insufficient in promoting strategic infrastructure planning, with the emphasis on localised decision-making presenting a significant challenge.[9] A major transport project could face approval in one region but rejection in another, which would lead to the pursuit of a venture that was innately disjointed and inefficient. This lack of coherence was a significant barrier to the development of integrated cross-sectoral national infrastructure networks, and the Review called for a more centralised and coordinated approach to decision making. Further Government commissioned reviews, such as the Barker Review and the Killian Pretty Review, also supported the call for a more proportionate and streamlined consenting process for infrastructure projects that are critical to the UK's economic development.[10]

10 The NSIP regime, a product of these reviews, was created by the Planning Act 2008 and was introduced in 2010 to create a one-stop shop for consenting major infrastructure projects. Its main objectives were to:

- give investors certainty of timescales for decision-making (with statutory deadlines for each stage of the examination process, meaning a decision could be made within 12 months from the start of the examination process);
- pull together all required consents, including compulsory purchase orders, into one DCO; and
- support the social acceptance of major infrastructure decisions by requiring extensive upfront consultation and engagement with stakeholders, and examination of the proposal by Inspectors from the Planning Inspectorate.

The current NSIP system

11 The NSIP regime has consented over 140 projects to date (with 95% of projects being approved).[11] However, the system's performance has deteriorated in recent years. In 2021, it

[9] Department for Transport - The Eddington Transport Study (2006).

[10] Barker Review of Land Use Planning Final Report - Recommendations (2006); Planning Portal - The Killian Pretty Review (2008).

[11] Welcome to Find a National Infrastructure Project

took on average 4.2 years for a project to secure development consent, compared to 2.6 years in 2012.[12] The documentation underpinning consents has been getting longer, and there is increased uncertainty that statutory timescales will be met, with increased litigation causing further delays and introducing additional risk and costs for developers.

12 In April 2023, the National Infrastructure Commission (NIC) published a review of the causes of these issues for the NSIP regime. This review identified challenges including (i) lack of clear Government policy, (ii) repetitive and disproportionate consultations and (iii) lack of a strategic approach to environmental mitigation. In addition, the NIC review noted a sharp rise in judicial reviews of DCOs in recent years (up to 58% from a long-term average of 10%). This led the previous Government to commission Lord Banner KC in February 2024 to carry out an independent review into legal challenges of DCOs.[13] The current Government published the review in October 2024 alongside a call for evidence.[14] A more recent report from the NIC (October 2024) concluded that the inefficiencies in the planning system were one of the key drivers of high infrastructure costs[15]. In response, the previous Government issued an NSIP Action Plan in February 2023 and launched a subsequent consultation in Summer 2023 on the Government's operational reforms to the NSIP consenting process.[16] Following this, Government published its response to the consultation in March 2024 before proceeding to publish new National Infrastructure Planning Guidance and amendments to infrastructure planning related secondary legislation.[17]

13 This Government endorsed the continued implementation of those reforms in a working paper that was published on streamlining consent for major infrastructure projects on 26 January 2025.[18] This also set out the case for decisive action on several fronts to tackle these challenges, including through primary legislation, to streamline the development of critical infrastructure.

How the NSIP regime currently operates

14 The Planning Act 2008 established a policy framework for major infrastructure projects through the creation of National Policy Statements (NPSs). NPSs are the cornerstone of the NSIP regime, setting out the need for major infrastructure in advance. They also set out the clear policy tests to be met by each NSIP project, ensuring that environmental, community and safety impacts are properly considered and that the national need for infrastructure is fully established. These are owned by the relevant consenting Government departments: Department for Energy Security and Net Zero, Department for Environment; Food and Rural Affairs; and Department for Transport. Across Government there are 13 NPSs covering energy, transport, water, wastewater and waste sectors.

15 NPSs are designated by the relevant Secretary of State after completing the statutory pre-requisites set out in the Planning Act 2008 and all mandatory regulatory assessments. These include: undertaking an Appraisal of Sustainability, Habitats Regulations Assessment and carrying out consultation and publicity on the draft NPS; submitting the draft NPS to parliamentary scrutiny; and laying before Parliament a statement setting out the Secretary of State's response to any resolution or Select Committee recommendations by either Houses of

[12] Infrastructure planning system - NIC (2023).

[13] Independent review into legal challenges against Nationally Significant Infrastructure Projects - GOV.UK (2024).

[14] Judicial Review and Nationally Significant Infrastructure Projects - GOV.UK (2024).

[15] Cost drivers of major infrastructure projects in the UK - NIC

[16] Nationally Significant Infrastructure Projects (NSIP) reforms: action plan - GOV.UK (2023); Operational reforms to the Nationally Significant Infrastructure Project (NSIP) consenting process – GOV.UK (2023).

[17] National Infrastructure Planning Guidance Portal - GOV.UK (2024).

[18] Planning Reform Working Paper: Streamlining Infrastructure Planning - GOV.UK (2025).

Parliament within the defined period for parliamentary scrutiny. At the end of that period, the draft NPS must be laid before Parliament. Parliament has a 21-day consideration period during which it may agree a resolution to approve or disapprove the NPS. If Parliament votes to approve the NPS or the consideration period passes without a vote, the NPS can be designated by the relevant Secretary of State and come into effect. The relevant Secretary of State must arrange for the publication of the designated NPS.

16 NPSs are reviewed by the relevant consenting department to make sure that they remain up to date and relevant. If material amendments are to be made to existing NPS policy, the current procedural requirements for amending an NPS are the same as for the preparation of a new NPS.

17 Amongst other things, the Planning Act 2008 also sets out the key stages of the application process, which are:

- **Pre-application:** Before submitting an application for development consent, applicants must carry out consultations and environmental assessments on their proposals. This stage involves engaging with stakeholders, including local communities, statutory consultees, and local authorities to gather feedback and refine their application before submitting it to the Planning Inspectorate. Applicants may also engage with the Planning Inspectorate in obtaining pre-application advice under section 51 of the Planning Act 2008, to support the development of their application. There is no statutory timeframe for this stage of the development consent process, with timelines driven by the applicant.

- **Acceptance**: The applicant submits their application and associated documents to the Planning Inspectorate. On behalf of the Secretary of State, they have 28 days to decide whether the application meets the required standard to be accepted for examination.

- **Pre-examination:** At this stage members of the public can register as 'interested parties' by making relevant representations. An Examining Authority is appointed by the Planning Inspectorate. Depending on the complexity of the proposal, the Examining Authority is typically a panel of two or three Planning Inspectors. At the conclusion of the pre-examination stage, a preliminary meeting is held to discuss the examination process including setting the timetable. The pre-examination stage on average takes three to four months to complete, although there is no statutory timeframe.

- **Examination:** This stage involves a detailed examination of the application, where interested parties can submit written representations and participate in hearings. The Examining Authority assesses the evidence and conducts site inspections if necessary. The Examining Authority has up to six months to complete its examination.

- **Recommendation:** Upon completion of its examination, the Examining Authority has up to three months to make a recommendation to the relevant Secretary of State on whether it considers development consent should be granted.

- **Decision:** At the decision stage, the Secretary of State has up to three months to decide whether to grant or refuse development consent. The Secretary of State may defer their decision on a development consent application if they require further information. If

so, the relevant Secretary of State must inform Parliament and the applicant of their decision and set out the timescales for when they expect to make their final decision.

- **Post-decision and Implementation:** If consent is granted, and a development consent order (DCO) is made, the decision to grant the consent will be subject to a six-week window which is made available for prospective claimants to submit an application to judicially review the Secretary of State's decision. DCOs may have requirements attached to them which the developer must comply with and discharge. During this period, the developer may also wish to apply for changes to the DCO known as 'material' or 'non-material' changes.

Bill measures

18 The Bill gives effect to the proposals in the Government's 2025 working paper on streamlining consent for major infrastructure projects. As set out in that paper, the measures seek to improve and streamline the planning processes for critical infrastructure, including transport and clean energy, with the intention of delivering a faster and less costly regime, boosting the development of clean energy and economic growth across the nations and regions. This aligns with the Government's ambition to enable the delivery of 150 major infrastructure decisions, as set out in the Plan for Change. The bill measures are also intended to make the planning system less rigid and more strategic, and better able to adapt to current and future infrastructure demands, as per the Government ambitions set out in the Working Paper. The Bill contains several measures that will impact upon the future delivery of major infrastructure projects across England and Wales and, in limited circumstances, Scotland.

19 These measures include:

- **Strengthening the policy framework** for NPSs to require that each NPS is updated at least every five years. Some NPSs, such as wastewater and hazardous waste, have not been updated for over ten years. The Bill will also enable a faster alternative process for amending NPSs to reflect legislative changes, published relevant Government policy, or relevant court decisions that have taken place since the last full review and update.

- Removing certain pre-application consultation and engagement requirements, and amending the acceptance stage for development consent orders. The NIC found that the statutory consultation requirements, and uncertainty about meeting them, has encouraged risk-adverse tendencies amongst developers during pre-application. This often results in gold-plating and disproportionately lengthy consultation – particularly for similar infrastructure projects – which delays projects coming forward and can confuse communities. The Bill's measures intend to:

  a. remove legislative requirements for applicants to consult statutory consultees, landowners, local authorities and the community before submitting their application to the Secretary of State. This includes removing the requirement for applicants to consult on Preliminary Environmental Information, and the requirement for applicants to submit a consultation report with their application. A new requirement for the Secretary of State to issue guidance on best practice to assist applicants in preparing their applications has been introduced;

b. expand the scope of the existing requirement on applicants to notify the Secretary of State of their intention to submit an application, to include host local authorities (and the Marine Management Organisation where applicable);

c. amend the application acceptance requirements to support the Planning Inspectorate to take a more proportionate approach in determining whether to accept an application for examination, and to enable minor changes to the application in advance of a decision if these are necessary to enable it to be accepted; and

d. introduce a new duty for statutory consultees and local authorities to have regard to guidance issued by the Secretary of State in relation to preparing local impact reports and engaging with examinations.

- Enabling development to be directed out of the Planning Act 2008 regime so that it can be considered by an alternative consenting route. Building on feedback received from infrastructure stakeholders in response to the Government's consultation on changes to the NPPF, the Bill amends the Planning Act 2008 to add a power for the Secretary of State to give a direction, on a case-by-case basis, disapplying the requirement for development consent for specified development, the effect of which will mean that an alternative consenting route, such as the Town and Country Planning Act 1990 could be used. This will enable development where a clear case can be made by the applicant or the Secretary of State for using an alternative regime, for example where this would be more proportionate for the scheme in question, while in turn ensuring the capacity of the NSIP regime is maintained for those projects that need to use it. The Government's intention is to create a more flexible regime so that it can accommodate the complexity and volume of development expected over the coming years.

- **Streamlining the judicial review process.** In response to the recommendations made in Lord Banner KC's independent review, the Bill makes provision for the removal of the paper permission stage for judicial reviews of NPSs and DCOs, and removes the right to appeal for cases deemed totally without merit at the oral permission hearing.[19]

- **Clarifying existing legislation to ensure that Examining Authorities can award costs** in circumstances where an application has been accepted for examination but is withdrawn before the preliminary meeting. This is a small and technical measure that clarifies and puts beyond doubt that an Examining Authority can make an order for costs at any time after they have been appointed, including where an application is withdrawn before commencement of the statutory six-month period for examining the application.

- **Creating a single legislative framework process for post consent changes** by removing the distinction between material and non-material changes in the Planning Act 2008 to enable a single, proportionate process to be developed in its place that will deal with all proposed changes. This will allow the Secretary of State to determine the appropriate level of publicity, consultation and scrutiny of a proposed change and also give the Secretary of State greater flexibility to direct what is required to determine an application. This will provide greater certainty to applicants and faster decision-

[19] Written statements - Written questions, answers and statements - UK Parliament (2025).

making and delivery on the ground. The minor change to primary legislation will be supported by an overhaul of the existing regulations and the publication of updated guidance.

- **Making it easier for applicants and proposed applicants for development consent to gain access to land required for environmental impact surveys**, by bringing Planning Act 2008 provisions into line with the rights of entry available under other planning and consenting processes in the Housing and Planning Act 2016. This will remove the need to obtain written authorisation from the Secretary of State when accessing land where a private agreement cannot be reached with the owner or occupier of the land. Authorised persons will be required to provide at least 14 day's notice to the landowner or occupier before entering land. Applicants may apply for a warrant from a Justice of the Peace or Sheriff or Summary Sheriff, which if granted would authorise the use of reasonable force to gain access to the land and enable the applicant to conduct necessary surveys.

- **Supporting more focused examinations, by giving more legislative weight to the Initial Assessment of Principal Issues (IAPI) process** requiring Examining Authorities to consider the IAPI when making procedural decisions under section 89 of the Planning Act 2008. This will ensure that examinations are focused and that the critical issues are given proper scrutiny, enabling succinct and conclusive recommendations to be made to the relevant Secretary of State.

Energy infrastructure reform

20 As set out in the Labour Party manifesto, the Government has committed to delivering clean power by 2030.[20] Clean power by 2030 would mean Great Britain generates enough clean power to meet its total annual domestic electricity demand, backed up by unabated gas supply to be used only when essential. In practice this would mean clean sources produce at least 95% of Great Britain's electricity generation. This figure currently stands at 60%. Delivering Clean Power 2030 paves the way to decarbonising the wider economy by 2050 as the Government pursues the electrification of heat in buildings, transport, and industry. By 2050, annual electricity demand is likely to at least double. Clean power by 2030 would prepare for the rapid growth in power demand expected over the 2030s and 40s.

21 In the Clean Power 2030 Action Plan, the Government outlined its pathway to delivering the target and the barriers that would need to be removed to do so.[21] All routes to a clean power system will require mass deployment and connection of offshore wind, onshore wind, and solar across Great Britain, with renewables providing the vast majority of generation, and nuclear continuing to deliver a backbone of vital firm low carbon power.

22 Amongst the most immediate barriers to clean power projects getting delivered more quickly are the planning system, the connections system, and the regulatory uncertainty around the deployment of particular clean power technologies – for example, long duration electricity storage and large offshore wind projects which need to connect to the transmission network. Measures in this Bill intend to address these barriers and ensure communities benefit from hosting new network transmission infrastructure too.

[20] Labour Party Manifesto 2024: Our plan to change Britain – The Labour Party (2024).

[21] Clean Power 2030 Action Plan (2024).

Connections to the electricity transmission and distribution systems

23 As set out in the Clean Power Action Plan, the Government expects a doubling in demand for electricity by 2050, as electrification and decarbonisation increases, which is estimated to require thousands of new and upgraded electricity network connections.

24 As of December 2024, the queue of electricity generation and storage projects waiting to connect to the electricity grid was 714 gigawatts (GW), far surpassing the predicted requirements needed to achieve Net Zero by 2050. The current 'first come, first served' connection system gives little value to how ready a project is, which is preventing more viable projects from being able to connect ahead of slower moving ones. It also overlooks the technological and locational mix of projects connecting to the grid, and therefore does not consider impacts on the efficiency, cost or security of the electricity system, nor take account of strategic planning of the system as a whole.

25 In November 2023, the previous Government and Ofgem jointly published the Connections Action Plan to support reform to the process for managing electricity network connections. The plan recommended the need to move from a 'first come, first served' approach towards a 'first ready, first connected' approach. It also highlighted the benefits of aligning the connection process with future strategic network and spatial energy planning.

26 The National Energy System Operator (NESO) is leading this connections reform. Changes to date include requiring developers to meet project milestones to show that they are progressing to retain connection agreements and providing that projects can only join the queue if they have landowner permission under a letter of authority. Further proposed reforms would prioritise existing and future projects that are 'ready' and 'needed' to meet strategic plans. Ofgem approved these proposals in April 2025 and updated connections agreements are expected to be issued from Autumn 2025.

Bill measures:

27 Delivery of an efficient and strategically aligned connections process aligns with Government's Clean Energy Superpower mission, and it is working closely with NESO and Ofgem to achieve this. Reflecting this commitment, the Government is bringing forward legislation to support Ofgem and NESO and Distribution Network Operators (DNOs) to deliver necessary reforms.

28 The legislation will ensure that the reforms already underway by NESO and Ofgem deliver the intended benefits in full, and any further action can be taken at pace, in particular to ensure connections reform supports the Government's missions. The Government's willingness to legislate is also intended to provide certainty to all parties on the direction of travel for connections.

29 The Bill will confer on the Secretary of State and Ofgem powers to affect the aforementioned connections reforms directly, or direct NESO and the Distribution Network Operators (DNOs) to make any necessary changes. The powers will be available should existing reform processes face significant delays or fail to deliver intended benefits, including alignment with strategic energy plans. Additionally, through the provisions in the Bill, NESO and DNOs will have to have regard to strategic plans designated by the Secretary of State when carrying out functions related to connections, such as Clean Power 2030 Action Plan. The proposed measures will support implementation of connections reform and will provide guidance and support for NESO and DNOs when making decisions on issuing new connection offers.

Scottish consenting

30 The Scottish Government determines applications to construct or install electricity infrastructure – both generating stations over 50MW (or over 1MW for offshore generating stations between 0 and 12 nautical miles from shore) and network projects –- under the Electricity Act 1989.

31 The existing electricity infrastructure consenting process was not designed to deal with modern energy demands. As recognised by the Electricity Networks Commissioner in his report to the previous UK Government in August 2023, delays are caused by inefficient and outdated features of this process.[22]

32 The current electricity infrastructure process in Scotland is lengthy and it can take up to four years to consent large-scale onshore electricity infrastructure projects. The current process means that it is hard for developers to predict how long the consenting process might take, or where delays might appear, which is likely to affect investment confidence. There is a lack of a mandatory pre-application process, which means inconsistent notification and engagement between applicants with communities, and relevant planning authorities before an application is made. There are currently only very limited legislative requirements for the information to be contained in applications, which leads to delays during the application process where the Scottish Government is obliged to gather further information from the applicant. The existing legislation provides only limited powers for deadlines to be set within the application process, which inhibits the Scottish Government's ability to manage the pace of the process. There is a disparity in the mechanism and timescales available for challenging Scottish Ministers' onshore and offshore consenting decisions respectively. There is limited ability to vary consents which can result in new applications being required for relatively minor changes.

33 Furthermore, the devolution picture for planning and electricity infrastructure consenting in Scotland is complex. In the case of electricity infrastructure consenting, the UK Parliament remains responsible for the overall legislative framework in Scotland, set out in the Electricity Act 1989, in line with the general reservation of energy policy. Scottish Ministers have executive competence for consenting to electricity infrastructure in Scotland (they make decisions and are responsible for operating the system), but legislative competence is retained by the UK Parliament. The Scottish Government has used non-statutory guidance to modernise its process as far as possible, but such guidance is, by its nature, non-binding.

34 The UK and Scottish Governments have worked jointly to develop reforms to modernise the Electricity Act 1989 process and remove inefficiencies. The UK Government ran a public consultation on reform proposals in October-November 2024, and the reforms implemented by these measures are informed by the responses to that consultation.[23]

Bill measures:

35 This Bill will give effect to the proposals set out in the Government's consultation, informed by responses received, allowing for:

- pre-application requirements to be established; and for the Scottish Government to be able to charge fees for this stage of the process;
- application information requirements to be set;

[22] Accelerating electricity transmission network deployment: Electricity Networks Commissioner's recommendations - GOV.UK (2023).

[23] Electricity Infrastructure Consenting in Scotland: consultation document (2024).

- management of the pace of key stages of the application phase;
- a new examination process to respond to an objection from a relevant planning authority;
- a prescribed process for variations to consents for overhead lines to be established;
- Scottish Ministers to make variations to consents where necessitated by technological and environmental factors and to correct errors where necessary;
- extending the statutory appeal process which currently applies to offshore consenting decisions to onshore consenting decisions and variation decisions;
- fees for necessary wayleaves to be charged; and
- a power to enable amendment of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 for limited purposes, to enable delivery of the objectives of the reform package.

36 The Bill will look to make technical amendments to a system in Scotland which did not benefit from the 2008 reforms to streamline the electricity infrastructure consenting processes in England and Wales. Reform in Scotland will help to decarbonise the power sector to correct the negative externality of emissions, to help meet renewable generation targets by 2030 and beyond and meet the increased levels of electricity demand across the country.

Long duration electricity storage

37 Long duration electricity storage (LDES) is infrastructure that can store electricity and then discharge continuously at eight hours or longer at full power. Pumped Storage Hydro (PSH) is currently the main technology used, both in Great Britain and internationally, to provide LDES, but various other approaches exist at various stages of development and deployment.

38 The Government's Clean Power 2030 Action Plan sets out that the energy system could need 4-6GW of LDES capacity by 2030. LDES technologies can reduce electricity system costs while supporting energy security. Analysis for the Department for Energy Security and Net Zero (DESNZ) finds that 20GW of LDES would save, in a central scenario, £24 billion in costs for the Great British electricity system over the period 2030-2050. However, despite operating costs being low, upfront capital costs are relatively high and payback periods long. No new LDES facility has been constructed in Great Britain for over 40 years. In response to a call for evidence in 2022, investors set out a strong case for Government to de-risk and support investment in LDES technologies.[24]

39 A further Government consultation was published in January 2024 on the policy framework to enable investment in LDES.[25] This consultation proposed introducing a cap and floor arrangement, similar to the approach successfully used for electricity interconnection investment, which has significantly increased capacity over the last decade without the need for any support payments. The cap and floor proposal was strongly supported by industry and by parliamentary committees.[26] In the Government response to the January 2024

[24] Facilitating the deployment of large-scale and long-duration electricity storage: call for evidence - GOV.UK (2021).

[25] Long duration electricity storage: proposals to enable investment - GOV.UK (2024).

[26] E.g. House of Lords Science and Technology Select Committee, Long-duration energy storage: get on with it (2024).

consultation, published in October 2024, the Government set out its decision to introduce an LDES cap and floor scheme with Ofgem as the delivery body.[27]

Bill measures:

40 The Bill gives effect to the proposals set out in the Government response to the January 2024 consultation to introduce an LDES cap and floor scheme, with Ofgem as the delivery body.

41 Ofgem opened this scheme to applications in April 2025 and intends to make final decisions on successful projects in the first half of 2026. This legislation will impose a duty on Ofgem to establish and implement this scheme. To inform delivery, Ofgem published a Call for Input on LDES in December 2024.

Benefits for homes near electricity transmission projects

42 As set out in the Clean Power 2030 Action Plan, the Government's mission for clean power by 2030 means that some communities will see an increase in the amount of transmission network infrastructure being built in their area, transporting new clean energy from where it is generated, to where it is needed.

43 Network constraints occur when the electricity transmission system is unable to transmit power to electricity users because the maximum capacity of the network is reached. Constraints are managed by paying generators to switch-off in locations where the network is congested and/or switch-on in locations closest to electricity users. This cost is paid for by electricity consumers via energy bills, and previous analysis from National Grid Electricity System Operator (ESO) indicates that, if delays to network build persist, annual constraint costs could rise from around £1.4 billion per year in 2023 to around £8 billion per year in the late 2020s. This could add around £80 to electricity bills per household per year by the late 2020s.[28]

44 In 2023, the Department for Energy Security and Net Zero (DESNZ) commissioned research to better understand communities' views and preferences towards transmission infrastructure, and measures that can be taken to improve acceptability of transmission infrastructure, including community benefits. This research concluded that knowledge of eligibility for bill discounts may increase community acceptability, which may indirectly minimise the risk of delays to network build due to opposition.[29]

45 The Electricity Networks Commissioner Nick Winser's independent report into accelerating electricity transmission network deployment made recommendations with the aim to halve the total development time for transmission infrastructure. The report specifically recommended providing community benefits to increase acceptability of new network infrastructure.[30]

Bill measures:

46 The Bill will confer on the Secretary of State powers to establish a scheme through regulations, to recognise communities living near new eligible onshore, above ground transmission network infrastructure, and certain major upgrades of existing projects. This will largely be through applying credits to the accounts of eligible billpayers living in properties closest to

[27] Long duration electricity storage: proposals to enable investment - GOV.UK (2024).

[28] The Department for Energy Security & Net Zero commissioned National Grid ESO to estimate constraint costs with a 3-year delay to network build. This analysis was carried out under the previous Government.

[29] Community benefits for electricity transmission network infrastructure - GOV.UK (2024).

[30] Accelerating electricity transmission network deployment: Electricity Networks Commissioner's recommendations - GOV.UK (2023).

this transmission network infrastructure, with alternative arrangements in place for an opt in scheme where eligible persons do not have a direct relationship with an electricity supplier, so cannot receive credits to their account.

47 The intention of the scheme is to recognise communities living near new transmission network infrastructure and help increase community acceptability.

48 The Bill will also confer on the Secretary of State powers to make regulations, relating to the management and administration of the scheme, to ensure that benefits are received by or passed onto the intended eligible person, to enable disclosure and use of information in relation to the scheme and to enable the enforcement of the requirements under the scheme.

Electricity transmission systems: extension of commissioning period

49 The current Offshore Transmission Owner (OFTO) regime was implemented in 2009. Since then, the complexity and size of offshore windfarms has increased considerably which means that it is difficult for developers to transfer the transmission assets they build (such as cables and substations) to an OFTO within the 18-month generator commissioning period (GCC). If the transfer of assets is not likely to be completed within the GCC period, generators must apply for an exemption, often at short notice.

50 Without an exemption, they would have to shut down the windfarm as they would be engaging in transmission without a transmission licence, which is an offence. Between 2016 and mid-2024, 9 out of 11 offshore wind farms going through the OFTO process have had to request, and have been granted, individual transmission licence exemptions from DESNZ. Providing individual exemptions is costly and requires considerable Government and developer time.

51 A Government call for evidence in 2023 confirmed industry concerns about the GCC period being insufficiently long for the transfer of the transmission assets, and support for a longer GCC.[31]

Bill measures:

52 The Bill will enable an extension of the GCC period from 18 to 27 months, which will reduce the number of offshore wind farm projects requiring exemptions.

Electricity generation on forestry land

53 As set out in the Plan for Change, the Government has outlined a long-term mission to deliver clean power, such as solar and wind. Furthermore, in July 2024, the Government's onshore wind policy statement committed to doubling onshore wind by 2030.[32] In alignment with these aims, the Bill grants powers to the "appropriate forestry authorities" (Forestry Commissioners in England and the Natural Resources Body for Wales), to enable renewable electricity projects on forestry land, increasing the amount of electricity produced from renewable sources with the aim of contributing towards the Government's energy and climate change targets. This measure will also benefit the longer-term funding of the appropriate forestry authorities.

54 Forestry England (the executive agency of the Forestry Commission who will be exercising these new powers) generate most of their own revenue by sustainably harvesting and selling timber and by working with commercial partners to develop business activities. They are already investing in low-carbon renewable energy sources as part of a plan to achieve net-zero by 2030 and play a key role in supporting businesses and local economies around the country,

[31] Offshore Transmission Owner (OFTO) regime - GOV.UK (2023).

[32] Policy statement on onshore wind - GOV.UK (2024).

supporting over 640 private businesses through their cafes, shops, recreational, woodland and estate management.

Bill measures:

55 The Bill will amend the Forestry Act 1967 for the purpose of enabling the appropriate forestry authorities in England and Wales to use and permit the use of forestry land for the generation, transmission, storage and supply of electricity from renewable sources.

56 These powers will exist alongside the appropriate forestry authorities' existing duties and functions in respect of forestry land, which relate primarily to timber production and recreational facilities (amongst others more ancillary).

Transport infrastructure reform

57 Delivering transport infrastructure for national connectivity that supports economic growth, and tackles congestion and overcrowding, requires an efficient planning system.

58 In March 2024, the previous Government published a Call for Evidence seeking views on how to ensure the requisite consenting processes for delivering transport infrastructure were effective and resilient.[33]

59 To this end, the Bill will include measures to streamline and improve the planning processes for transport projects as consented under the Highways Act 1980 and Transport and Works Act 1992 regimes. The measures will complement the overarching reforms to the NSIP regime set out above.

60 Further measures in this part of the Bill will make changes to improve specific existing systems where problems or delays have been identified, including in relation to harbour order fees and electric vehicle charge points.

Amendments to the Highways Act 1980

61 The Highways Act 1980 (HA80) is concerned with the management and operation of the strategic road network and major roads in England and Wales. Applications for transport orders under the HA80 regime are made by (or on behalf of) the promoters of the scheme. For the strategic road network (motorways and trunk roads), the Government has a dual role as both a promoter of orders and as the decision-maker. The highway authority for motorways and trunk roads in England is National Highways.

62 Beyond the construction and maintenance of the strategic road network and major roads, orders under the HA80 regime can also relate to local bypass or link roads, off-street car parking and the construction of a bridge over or a tunnel under any specified navigable waters as part of a trunk road, special road, highway, and roads that join trunk or classified roads.

63 Promoters often need a range of powers to put their scheme into practice. Matters that can be authorised by a HA80 order include:

- powers to construct, alter, maintain and operate (or transfer the operation of) a highway;

[33] Review of transport infrastructure legislation: definitions for highway and railway Nationally Significant Infrastructure Projects in the Planning Act 2008 - GOV.UK (2024).

- authority to restrict the use of a proposed new highway to certain types of traffic (Section 16), as well as existing highways (Section 18);
- compulsory powers to permanently buy land (Sections 239, 240, 246, 250 and 260);
- powers to enter land for the purpose of maintaining existing structures (Section 291);
- ability to construct a bridge over, or a tunnel under, a navigable waterway (Section 106) and the authority to divert navigable waterways as a result of this construction (Section 108);
- ability to stop, divert, provide as new or improve highways that cross or enter route of a different new or improved classified road, and provide new private means of access to premises in context of the road works (Section 14 and 125);
- ability to close off a private means of access from a highway to any premises where it is considered that there is an existing danger (Section 124); and
- directing that any highway, or any proposed highway, should become or cease to be a trunk road (Section 10).

64 Given the potential impact of schemes on personal property and the environment, as well as local road connectivity, applications for HA80 orders have to follow a set procedure that allows people to give their views on proposals. HA80 applications are only made by National Highways and Local Highway Authorities and the Welsh Government.

65 The timely delivery of major road infrastructure projects consented under HA80 can be hampered by lengthy and disproportionate consenting processes. For example, the HA80 process does not currently have statutory timeframes governing the duration of the decision stages, leading to sector uncertainty. Furthermore, the current six-week objection period is unnecessary for most cases and can be confusing for stakeholders due to this being inconsistent with many other consenting regimes. Enabling road transport projects to access proportionate consenting processes would reduce or remove excessive burdens on both applicants and public authorities, and developers are likely to benefit from time and cost savings.

66 Furthermore, under the current HA80 system, project promoters have to rely on compulsory acquisition powers to enable the use of land to access development sites, despite this land only being required on a temporary basis. This both hampers the negotiation process for developers and does not provide landowners with the certainty that land will be returned to them, or the mechanism for so doing, once access is no longer needed. This also impacts the ability of highway authorities to temporarily enter and use land for the maintenance of existing highway structures, requiring authorities to negotiate access to land, which can be costly.

67 A working paper on streamlining infrastructure planning was published in January 2025, which set out the Government's proposals to help ensure the timely delivery of transport infrastructure projects under the HA80 system, which will be given effect by this Bill.[34]

Bill measures:

68 The Bill will make various technical amendments to HA80, with the intention of streamlining and improving the efficiency of delivering road infrastructure schemes, and ensuring

[34] Planning Reform Working Paper: Streamlining Infrastructure Planning - GOV.UK (2025).

processes within the HA80 regime are fit for purpose and proportionate. These measures include:

- establishing powers to enable temporary possession of land to better frame land negotiations and reduce time taken to do this;
- enabling cost recovery for defined statutory consultees and local authorities when providing advice or services relating to orders and schemes, to support their resourcing strategies and encourage quality and timely inputs into the process;
- introducing statutory deadlines for the Secretary of State decision stage of the process and amending objection periods to align with other planning regimes to provide certainty to stakeholders; and
- simplifying the various ways of handling orders and schemes under the HA80 by removing the requirement for statutory instruments for certain schemes and orders, and enabling the strategic highway authority to initiate the making or unmaking of trunk roads.

Amendments to Transport and Works Act 1992

69 Concerns have been expressed in recent years in relation to the unnecessary administrative burdens placed on applicants pursuing transport infrastructure projects under the Transport and Works Act 1992 (TWA92) regime.[35]

70 Currently, an order made under the TWA92 is the usual way to authorise new railways or tramways in England and Wales (as well as guided transport schemes and inland waterways). Matters that can be authorised by a TWA92 order include:

- powers to construct, alter, maintain and operate (or transfer the operation of) a transport system or inland waterway;
- powers to carry out and use works that interfere with navigation rights;
- compulsory powers to buy land and take temporary possession;
- the right to use land on short-term arrangements or long-term provisions (for example, for access or for a work site);
- amendments to, or exclusion of, other legislation;
- the closure or alteration of roads and footpaths;
- provision of temporary alternative routes;
- safeguards for public service providers and others;
- transfers of undertakings; and
- powers for making bylaws or introducing penalty fares.

[35] Review of transport infrastructure legislation: definitions for highway and railway Nationally Significant Infrastructure Projects in the Planning Act 2008 - GOV.UK (2024).

71 Under the current system, in certain circumstances, multiple applications and authorisations are required for a single project, which can be an inefficient allocation of resources and cost to firms seeking to make applications, and lead to lengthy consenting processes for projects.

72 In its working paper on streamlining infrastructure planning, the Government set out a number of proposals to help ensure the timely delivery of transport infrastructure projects under the TWA92 regime, which will be given effect by this Bill.

Bill measures:

73 The Bill will make various technical amendments to the TWA92 to ensure the regime is fit for purpose and proportionate, with the intention of streamlining and improving the efficiency of delivering new transport schemes. These include:

- enabling cost recovery by defined statutory consultees and local authorities when dealing with applications;
- introducing statutory deadlines for determination of applications to provide certainty to stakeholders;
- providing for the inclusion of additional authorisations to streamline multiple processes;
- replacing model clauses with guidance so they can be more easily updated; and
- providing points of clarification through legislative amendments.

Harbour order fees

74 The Marine Maritime Organisation (MMO) currently charges fees for harbour orders, but these fees are charged per service, rather than based on an hourly rate (as is already the case for the larger marine licence applications under the Marine & Coastal Access Act 2009).

75 The current system does not accurately reflect the complexity or time required for each application and does not allow for enough flexibility in charging, which currently leads to inefficiencies, inaccurate cost recovery and slows down application processing.

Bill measures:

76 The Bill will improve cost recovery for harbour revision orders, by amending the Harbours Act 1964 and through downstream regulations. This measure will enable fees to be set more flexibly, improving MMO cost-recovery but also helping it to plan and manage resources and deliver faster decision-making.

77 Businesses will have the opportunity to respond to consultation when specific fees are newly proposed.

Electric vehicle charge points

78 As of October 2023, there are more than 49,000 public charge points for electric vehicles (EVs) in the UK, an increase of 42% from a year earlier.[36] Going forwards, this number will continue to grow with the increasing uptake of EVs, and the Government is expecting there to be a minimum of 300,000 by 2030.[37]

[36] Electric vehicle charging device statistics: October 2023 - GOV.UK (2023).

[37] Boost for electric vehicle drivers as 50,000 public chargepoints installed across the UK - GOV.UK (2023).

79 The installation of EV charge points on the public road network is currently subject to various highways and consents procedures. The New Roads and Street Works Act 1991 (NRSWA) and the Traffic Management Act 2004 (TMA) require those carrying out street works to apply for either a permit or a licence under section 50 of NRSWA from the relevant Highway Authority before carrying out works. Permits are available to those with a statutory right to carry out works on the highway, whereas those who do not have a statutory right can apply for a section 50 licence.

80 During the February 2024 Government consultation on the proposal to grant electric vehicle charge point operators access to the street works permit scheme, charge point operators identified significant barriers to the installation of new charge points caused by the costly and time-consuming application process for a licence.[38]

Bill measures:

81 The Bill will streamline the approval of street works needed for the installation of EV public charge points by removing the need for licences where the works are capable of being authorised by permits.

82 By streamlining the approval process through the use of permits, the Government intends to expedite the roll out of EV charging infrastructure and incentivise the transition to zero emission vehicles.

Introducing a more strategic approach to nature recovery

The current approach

83 Currently, where development is required to discharge an environmental obligation there is often little or no strategic coordination as to how these obligations are or should be discharged.

84 Environmental obligations are typically discharged on a project-by-project basis, which means this often does little to collectively address wider issues affecting protected sites and species. Providing mitigation at the level of an individual development requires developers to pay for localised and often costly mitigation measures which only maintain the environmental status quo. This perpetuates a situation in which the lack of environmental headroom continues to restrict development coming forward.

85 While the current approach addresses the specific impact of a development, by not taking a holistic view, this site-by-site approach fails to secure the best outcomes for the environment. This approach may also lead to higher than necessary administrative costs at the system level, because of multiple transactions and information exchanges, as well as inefficient allocation of limited specialist capacity such as ecologists, whose focus is solely on project level mitigation work rather than the wider recovery of habitats and species.

86 These delays can slow housing delivery, with accompanying burdens on developers and local authorities. For example, for local authorities these delays can result in challenges meeting their local housing need. In areas where there are significant delays caused by environmental issues it can result in housing needing to be placed in alternative locations. This can result in increased infrastructure demand being overly concentrated in specific areas.

87 A working paper on development and nature recovery was published on 15 December 2024, which set out the Government's proposals for a new approach to how housing and

[38] Street works access: electric vehicle chargepoint operators - GOV.UK (2024).

infrastructure development can meet its environmental obligations and contribute to nature recovery.[39]

Bill measures

88 The Nature Restoration Fund (NRF) establishes an alternative approach for developers to discharge certain environmental obligations relating to protected sites and species. The NRF is made up of contributions from developers through the nature restoration levy. This will provide funding for Natural England (or another designated delivery body) to bring forward Environmental Delivery Plans (EDPs), that will set out the strategic action to be taken to address the impact that development has on a protected site or species and, crucially, how these actions go further than the current approach and support nature recovery. Where an EDP is in place and a developer utilises it through paying the nature restoration levy, the developer would no longer be required to undertake their own assessments, or deliver project-specific interventions, for issues addressed by the EDP.

89 Natural England will produce EDPs on one or more environmental effects of development relating to a specific geographic area and will specify the amount and type of development that can benefit from its cover. EDPs will set out:

- the environmental feature the EDP seeks to protect. This will be a protected feature of a protected site (a European Site, SSSI or Ramsar site), or a protected species.
- the environmental impacts the EDP seeks to address. This includes information on the type and amount of development that can benefit from the EDP's cover.
- the conservation measures to be taken, both to address those impacts and contribute to nature restoration. It should clearly set out whether conservation measures are being delivered locally or at the broader network scale.
- the amount payable by development to cover the costs of these conservation measures. Whilst EDPs will usually be voluntary, there may be circumstances where use of an EDP may be mandatory if that is necessary.
- the environmental obligations that are disapplied once the developer is liable to pay the nature restoration levy.

90 The EDP will also set out how its interventions will be monitored. Natural England will be required to publish reports on an EDP at the halfway and end points.

91 Through an EDP, developers will be relieved of the requirement to conduct relevant environmental assessments, to the extent that the impacts covered by that requirement is instead dealt with through payment to the EDP. Natural England will then take responsibility for delivering the conservation measures in the EDP and, in doing so, secure positive environmental outcomes.

92 When preparing an EDP Natural England must:

- notify the Secretary of State that it is preparing an EDP on a particular issue in a particular area;
- prepare the draft EDP – having regard to relevant strategies and guidance;

[39] Planning Reform Working Paper: Development and Nature Recovery - GOV.UK (2024).

- consult the public, statutory consultees, local authorities and any other bodies Natural England or the Secretary of State considers relevant taking their views into account; and
- send the final EDP to the Secretary of State for consideration as to whether to approve or "make" the EDP.

93 Once made, EDPs will have a defined 6-week challenge period and it will not be possible to then challenge an individual development on this basis at the grant of planning permission stage.

94 When making a decision on whether to make an EDP, the Secretary of State must be satisfied that the conservation measures set out in the EDP outweigh the negative effects of the development. In making this decision, the Secretary of State will benefit from the views of consultees and, where applicable, the expertise of Natural England in preparing the EDP, as to the adequacy of the proposed measures and the safeguards included in the EDP.

95 The Government believes this approach will facilitate a more strategic approach to the discharge of environmental obligations and result in improved environmental outcomes being delivered more efficiently. By reducing delays to development, this new approach may also facilitate faster delivery of housing across England.

96 The Bill will establish the core framework for this new approach, as well as secure the necessary changes to existing legislation. As set out in the Working Paper, whilst the Government will maintain or improve outcomes for the environment, it will be necessary to make targeted amendments to existing environmental legislation, like the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") and the Wildlife and Countryside Act 1981, in order to deliver those improved outcomes. Amendments to further legislation will be required to support this new model as set out in the detailed commentary of the provisions.

Improving certainty and decision-making in the planning system

97 The Bill contains a number of measures to ensure local planning authorities (LPAs) are adequately equipped to deliver a more predictable service for developers and investors, and that statutory consultees are suitably financed to support the work they do in relation to planning applications.

Local fee setting

98 Planning fees are an integral part of the planning system, necessary to ensure that LPAs have the adequate funding to appropriately cover delivery of services to determine planning applications submitted under the Town and Country Planning Act 1990.

99 Planning fees are set nationally for England by the Secretary of State for Housing, Communities and Local Government, through affirmative regulations pursuant to section 303(1) of Town and Country Planning Act 1990. Currently, LPAs are not able to set their fees locally.

100 Despite previous fee increases, there remains an estimated annual overall funding shortfall for local planning authority development management services of £362 million per year, which in turn is hampering LPA capacity and causing a poorer planning service.[40] In addition to overall

[40] Local authority revenue expenditure and financing - GOV.UK.

funding shortfalls, nationally set fees cannot easily account for local variations in costs of running development management services in individual LPAs across England.

101 In 2024, the Government consulted upon reforms to the NPPF, including proposals for LPAs to set their own planning fees. Following responses to this consultation, the Bill will give effect to these proposals.

Bill measures:

102 The Bill will make changes to the planning fees model to ensure that LPAs (which includes the Mayor of London and a specified person acting in its capacity as LPA) can recover the costs of delivering their relevant planning functions through fee revenue.

103 The Bill will provide the Secretary of State with a power to sub-delegate the setting of fees or charges to LPAs. This would enable LPAs to set a planning fee or charge at a level that reflects the individual costs to the LPA to carry out the function for which it is imposed.

104 The Bill will further introduce a power that the income from planning fees or charges is applied towards the delivery of the planning function. This will ensure improved service delivery and provide for greater transparency for applicants on where their money is being spent.

Statutory consultees funding

105 Statutory consultees—bodies that provide expert advice on planning applications (for example, on environmental, heritage, or safety matters)—are currently unable to charge for their statutory functions under the Town and Country Planning Act 1990 (TCPA). This has led to a fragmented and unreliable funding model, resulting in delays and lower-quality advice in the planning process. This in turn affects housing delivery and economic growth.

106 Other planning regimes, such as for Nationally Significant Infrastructure Projects, already provide for cost recovery by statutory consultees. The TCPA regime, which handles a much higher volume of applications (c.50,000 per year for the Big 6 alone) lacks this mechanism, creating an imbalance.[41]

107 The Bill provides for a funding mechanism to support the Government's growth agenda and broader reforms of the statutory consultation process, in turn to bolster the capacity and capabilities of statutory consultees to deliver on performance and timeliness in the planning application space.

Bill measures:

108 The Bill will introduce a power to provide for a planning fee surcharge to be used to fund statutory consultees and other bodies that support the planning process (for example, through training or advisory roles). The surcharge will be set with reference to the costs incurred by these bodies and will be collected by local planning authorities or other relevant entities (for example, the Mayor of London or the Secretary of State).

109 The Bill provides for the Secretary of State to make regulations setting the level of the surcharge (for example, as a percentage of the planning fee); define different surcharge levels for different types of applications or circumstances; and specify how and when surcharge payments must be transferred to the Secretary of State by collecting authorities.

[41] "Big 6" refers to the following statutory consultees: Environment Agency, Natural England, Historic England, National Highways, Health and Safety Executive, and The Mining Remediation Authority.

Planning committee reform

110 Planning committees are a critical part of the planning system. In England planning decisions by LPAs are the responsibility of planning committees, although they can delegate decisions to officers. As set out in a working paper published in December 2024, the Government believes that planning committees are not currently operating as effectively as possible.[42] The paper identifies a lack of clarity as to who will be taking decisions on applications, that too much time is spent on applications compliant with the local plan, and a lack of transparency as to the consequences of committee decisions.

111 Currently, each LPA has their own scheme of delegation which sets out which types of planning application should be determined by planning officers, and which should be determined by committee. These committees are made up of elected members who represent various political parties and wards within the local planning authority. For the remaining applications that go to planning committees (often the most consequential for an area), the current system can delay decisions on schemes which have already been considered through the local plans process. In turn, this delays good outcomes for places and for communities, wasting the time of councillors and applicants.

112 Additionally, the current approach to training for planning committee members is inconsistent and variable. There is no statutory requirement for member training, resulting in varying levels of expertise across the country. There is existing non-mandatory training offered by LPA officers and the Planning Advisory Service for LPA members, but the lack of requirement and monitoring results in inconsistencies of knowledge relating to planning law and practice amongst planning committee members. This impacts a members' ability to apply the relevant laws, when acting on behalf of the LPA. A significant number of committee local planning authority decisions (when they depart from officers' advice) are overturned on appeal. It is unusual for a regulatory function as complex as planning to not require core training.

Bill measures:

113 The Bill will enable reforms to the operation of planning committees, giving effect to the proposals in the Government's working paper on this area.

114 This includes introducing a national scheme of delegation that will through regulations set out which planning functions should be delegated to planning officers for a decision and which should go instead to a planning committee or subcommittee. This measure will ensure that there is greater consistency and certainty across England about who in a local planning authority will be responsible for making planning decisions.

115 The Bill will provide a regulation-making power to issue statutory guidance on the national scheme of delegation alongside a power to limit the size of planning committees.

116 The Bill will also require committee members to undertake mandatory training before they can take planning decisions. The power to require planning committee members to complete training aims to create consistency in training and ensure that key areas of law that are relevant to a planning committee member's decision-making functions are understood to an adequate standard across in England.

Compulsory Purchase Order (CPO) reforms

117 Compulsory purchase is the power to acquire land and property without the consent of the owner to facilitate development or regeneration schemes in the public interest. Much of the

[42] Planning Reform Working Paper: Planning Committees - GOV.UK (2024).

compulsory purchase order (CPO) process is established through Land Compensation Act 1961, Compulsory Purchase Act 1965, Land Compensation Act 1973, Acquisition of Land Act 1981, and Compulsory Purchase (Vesting Declarations) Act 1981.

118 Compulsory purchase powers are an important tool for the acquisition of land or property critical to the delivery of housing, regeneration and infrastructure. As set out in its consultation on 'Compulsory Purchase Process and Compensation Reforms' launched in December 2024, the Government believes further intervention is required to reform the statutory compulsory purchase process and land compensation rules to enable more effective land assembly through public sector-led schemes.[43]

Bill measures:

119 The Bill will improve the CPO process and land compensation rules to enable more effective land assembly through public sector-led schemes. This includes allowing statutory notices to be delivered electronically, simplifying information required to be included in newspaper notices, more delegation of decisions, quicker vesting of land/properties, and changes to the loss payments regime. A more streamlined and efficient process will also enable authorities to make greater use of their compulsory purchase powers, with associated cost savings realised through faster acquisition decisions.

120 The Bill also extends an existing power to remove value attributed to the prospect of planning permissions ("hope value") by direction under section 15A of the Acquisition of Land Act 1981 ("the 1981 Act") to town/parish and community councils where they are using CPO powers to facilitate affordable or social housing provision. It will also be achieved by ensuring directions removing hope value apply to assessment of all open market value where it forms part of a compensation claim.

Development corporation reforms

121 Development corporations are statutory bodies established for the purpose of urban development and regeneration. They have been historically important vehicles for delivering large-scale and complex regeneration and property development projects.

122 Current legislation provides for five types of development corporation: the New Town Development Corporation (NTDC), the Urban Development Corporation (UDC), the Mayoral Development Corporation (MDC), the Locally-led New Town Development Corporation (LNTDC), and the Locally-led Urban Development Corporation (LUDC, subject to commencement of provisions in the Levelling Up and Regeneration Act 2023). Each model has different powers, remits, and objectives, reflecting the time and circumstances in which it was introduced.

123 The Levelling Up and Regeneration Act 2023 recently updated and equalised the local authority planning powers that development corporations can access and introduced a new model of development corporation available to local authorities (LUDCs). However, limitations remain on the powers available to development corporations, and the use of existing development corporation models does not always sit squarely with the needs of modern-day developments, e.g. in relation to transport infrastructure and sustainability.

124 A public consultation on locally-led development corporations (launched April 2024) highlighted appetite for changes to the objectives of development corporations.[44] Further targeted consultation was held later in 2024 to develop the wider reforms included in the Bill.

[43] Compulsory Purchase Process and Compensation Reforms - GOV.UK (2024).

[44] Locally-led Development Corporation consultation - GOV.UK (2024).

Roundtables were held with mayoral, local and central Government officials – including the Greater London Authority, upper tier and unitary local authorities – as well as existing development corporations and other experts.

Bill measures:

125 Through the Bill, the Government intends to create a clearer, more flexible, and robust framework for the operation of development corporations to support development and regeneration. The Bill will enable greater flexibility for development corporations in terms of the variety, extent and types of the geographical areas over which they can operate. The Bill will also modernise and correct an inconsistency in the legislative framework concerning development corporation objectives, ensuring all types of development corporation must aim to contribute to sustainable development and climate change mitigation and adaption.

126 Currently, each type of development corporation has differing powers to provide utilities and infrastructure. There is also an inconsistency in the legislative framework in relation to sustainable transport powers, and development corporations cannot currently take on local transport powers. The Bill will standardise the list of infrastructure development corporations can provide, add heat networks to the list of infrastructure all development corporations can provide, and remove restrictions on provision of railways, light railway, and tramways. It also places a duty on relevant local transport authorities to cooperate with development corporations, with powers for Secretary of State direction and, ultimately, transfer of specific transport powers to the development corporation where this duty to cooperate is not fulfilled.

Introducing cross-boundary strategic planning

127 There has been a long history of strategic planning in England, with previous systems including structure plans produced by county councils, regional planning guidance produced by Government and most recently regional spatial strategies (RSS) produced by regional planning bodies. The Localism Act 2011 abolished RSSs, with the exception of London, where the Mayor has retained the power to produce a spatial development strategy (SDS, the equivalent of an RSS for the capital).

128 Since 2011, the power to produce an SDS has been extended through devolution deals to four mayoral combined authorities. However, most of England is not currently covered by a strategic plan, and the current development plans system depends on individual authorities cooperating with each other to address cross-boundary issues through the local plans system.

129 As set out in the Labour Party manifesto, the Government believes that housing need in England cannot be met without planning for growth on a larger than local scale, and that reform is needed to introduce effective new mechanisms for cross-boundary strategic planning. Further to this, the Government published the English Devolution White Paper in December 2024, setting out the desire to move towards a system of strategic planning.

Bill measures:

130 The Bill will provide for the implementation of a system of strategic planning for England. The Bill will require combined authorities and combined county authorities, both mayoral and non-mayoral, to produce an SDS. Where combined authorities do not currently exist, upper tier county councils and unitary authorities will be given the SDS duty and the Bill will include a power for the Secretary of State to direct groupings of upper-tier county councils, unitary councils and, if appropriate combined authorities, in order to deliver an SDS.

131 The scope and content of an SDS will be kept at a strategic level to preserve the role of the local plan, produced by local planning authorities. This includes not being able to allocate

specific sites. Once the SDS is adopted, it will become part of the development plan for the area and local plans will need to be in general conformity with it.

Miscellaneous

Reporting on extra-territorial environmental outcomes

132 A new system of Environmental Outcomes Reports (EORs) will replace the EU processes of Environmental Impact Assessment and Strategic Environmental Assessment. Powers to do so were provided in the Levelling Up and Regeneration Act 2023.

133 The UK is a member of the Convention on Environmental Impact Assessment in a Transboundary Context (informally known as the Espoo convention) which requires member states to assess the environmental impact of certain activities at an early stage of planning, and notify and consult each other on the activities listed in the convention that are likely to have a significant adverse transboundary (cross-border) impact.

Bill measures:

134 The Bill includes a minor amendment to the Levelling Up and Regeneration Act 2023, which will enable these international obligations to be met under the new system of EORs; requiring developers to consider whether their project will likely have significant effects on the environment in another state that is signatory to the Espoo Convention.

Legal background

135 The UK's legislative framework in relation to planning and infrastructure is governed by a wide range of different pieces of legislation, a number of which are amended by this Bill. The principal pieces of legislation, and a brief description of the main changes relevant to each, is listed below to help the reader in placing some of the details described in these Explanatory Notes in context.

136 The Town and Country Planning Act 1990 is amended for the purpose of allowing LPAs to set their own planning fees to cover the actual costs incurred. The Act is also amended to mandate training for members of planning committees, the Mayor of London and the Mayor of any mayoral combined authority upon whom corresponding decision-taking functions have been conferred and to introduce a national scheme of delegation requiring certain applications to be determined by officers or by planning committees.

137 The Planning Act 2008 is amended for the purpose of requiring National Policy Statements (NPSs) to be reviewed at least every 5 years and to introduce an additional streamlined procedure for approving certain types of amendments to NPSs. . The Act is also amended to include a power for the Secretary of State to give a direction disapplying the requirement for development consent for certain specified development . Amendments are made to consultation requirements in respect of applications for development consent and to enable the examining authority to make orders as to costs. Amendments have been made to section 89(1) of the Act to require the Examining Authority to make all procedural decisions about how the examination is run in light of the Initial Assessment of Principle Issues. The Act is amended to streamline the process for applicants/proposed applicants for Development Consent to be able to enter private land for the purpose of carrying out surveys connected with their application. The process for making amendments to DCOs once granted has been amended to remove separate processes for non-material and material changes: all changes will be considered under a single unified process.

138 The Electricity Act 1989 is amended for the purpose of:

- enabling distributors to prioritise the connections queue in line with a strategic plan set out by Government;
- reforming the consenting regime for electricity infrastructure in Scotland;
- requiring the Gas and Electricity Markets Authority (GEMA) to deliver a cap and floor scheme for long duration electricity storage;
- extending the period for offshore wind farms to transfer transmission assets that they build to a third-party OFTO from 18 months to 27 months; and
- to enable the Secretary of State to establish a scheme in regulations under which eligible persons are entitled to a financial benefit where they are located close to new or significantly upgraded transmission network infrastructure.

139 The Energy Act 2023 is also amended for the purpose of requiring the Independent System Operator and Planner to have regard to designated strategic plans.

140 The Forestry Act 1967 is amended for the purpose of enabling the appropriate forestry authority to use and permit the use of "forestry land" for the generation, transmission, storage and supply of electricity from renewable sources.

141 The Highways Act 1980 is amended for the purpose of establishing powers to enable temporary possession of land, providing for cost recovery by defined bodies, introducing a statutory deadline for the decision stage and aligning the various format and handling processes for orders and schemes under the Act. This will provide more certainty to stakeholders and streamline the process.

142 The Transport and Works Act 1992 is amended for the purpose of cost recovery by defined statutory consultees and local authorities, replacement of model clauses with guidance, removal of special procedure for projects of national significance, costs of inquiries, deadlines for decisions, publication of decisions, heritage regimes, deemed consent under marine licence, and authorisation of applications by local authorities.

143 The Harbours Act 1964 is amended for the purpose of aligning the arrangements for determining fees for harbour orders with those applicable to marine licences. This will, through regulations, enable harbour authorities to charge hourly for processing applications for consent, rather than requiring a set fee to be paid upfront.

144 The New Roads and Street Works Act 1991 and the Highways Act 1980 are amended for the purpose of speeding up approvals for street works needed for the installation of electric vehicle charge points.

145 The legal framework for development corporations was first introduced by the New Towns Act 1946, allowing the Government to designate areas as new towns, as well as the transfer of development management and the task of delivery of the new town to an NTDC. This and subsequent New Town Acts were consolidated into the New Towns Act 1981, providing NTDCs with broad powers to assemble and develop land in order to affect their primary goal of delivering new large-scale settlements. Further types of development corporation were introduced via the Local Government Planning and Land Act 1980 (UDCs), Localism Act 2011 (MDCs), New Towns Act 1981 (Local Authority Oversight) Regulations 2018 (LNTDCs), and Levelling Up and Regeneration Act 2023 (LUDCs, subject to commencement).

146 The New Towns Act 1981, Local Government, Planning and Land Act 1980 and Localism Act 2011 are amended for the purposes of clarifying and expanding the remits and objectives of development corporations. The Acts are also amended to update the infrastructure powers of all development corporation types and make provisions for a duty on local transport authorities to cooperate with new town and urban development corporations, with further provisions for Secretary of State to direct local transport authorities to cooperate and, if necessary, transfer select transport powers to development corporations. Amendments are also made to allow inspectors to confirm compulsory purchase orders made under the New Towns Act 1981.

147 The Planning and Compulsory Purchase Act 2004 is amended to insert provisions that will require strategic planning authorities in England to produce spatial development strategies. The Levelling-up and Regeneration Act 2023 introduced a new plan making tool called the joint spatial development strategy through provisions which were to be inserted into the Planning and Compulsory Purchase Act 2004. These provisions have not yet been commenced and, given that the provisions in this Bill will create a mandatory system of spatial development strategies covering England, this Bill will repeal the joint spatial development strategy provisions.

148 The Land Compensation Act 1961, Compulsory Purchase Act 1965, Land Compensation Act 1973, Acquisition of Land Act 1981, Compulsory Purchase (Vesting Declarations) Act 1981 and Neighbourhood Planning Act 2017 all make provision related to the compulsory purchase regime. Amendments are made to:

- delegate decisions on the confirmation of compulsory purchase orders (CPOs) with directions applying section 14A of the Land Compensation Act 1961 to acquiring authorities;
- ensure value attributed to the prospect of planning permission being granted ('hope value') is removed from all assessments of market value under CPOs confirmed with directions applying section 14A of the Land Compensation Act 1961;
- extend the power to remove hope value from compensation by directions where justified in the public interest to CPOs made on behalf of town/parish or community councils for the purpose of facilitating affordable or social housing;
- delegate decisions on the confirmation of CPOs which require modifications to acquiring authorities;
- allow acquiring authorities to enter and take earlier possession of land/property in certain circumstances;
- ensure temporary possession powers under the Neighbourhood Planning Act 2017 can be commenced for CPOs authorised under the Acquisition of Land Act 1981 and the New Towns Act 1981;
- allow the serving of statutory notices under the CPO process by electronic methods;
- simplify the information required to be included in newspaper notices about the making and confirmation of CPOs;
- rebalance the loss payment share for landlords and occupiers under sections 33A – 33C of the Land Compensation Act 1973; and

- exclude home loss payments where certain statutory enforcement notices/order have not been complied with under the Land Compensation Act 1973.

149 The Senior Courts Act 1981 is amended for the purpose of removing the right of appeal for applications for permission to apply for judicial review against National Policy Statements and development consent decisions under sections 13 and 118 of the Planning Act 2008, respectively, which are deemed totally without merit. Provision is made to require amendments to the Civil Procedure Rules to remove the paper permission stage and also to confirm that judges can certify such claims as totally without merit at the oral permission hearing (which becomes the only permission stage for these cases).

150 A list of primary legislation amended in consequence of provisions in the Bill is as follows:

- Ancient Monuments and Archaeological Areas Act 1979;
- Electricity Act 1989;
- Historic Environment (Wales) Act 2023;
- Levelling-up and Regeneration Act 2023;
- Marine and Coastal Access Act 2009;
- Planning (Listed Buildings and Conservation Areas) Act 1990;
- Protection of Badgers Act 1992;
- Utilities Act 2000;
- Wildlife and Countryside Act 1981;
- Localism Act 2011;
- Infrastructure Act 2015;
- Wales Act 2017;

Territorial extent and application

151 Clause 109 sets out the territorial extent of the Bill, that is the jurisdictions in which the Bill forms part of the law. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect rather than where it forms part of the law.

152 Much of the Bill amends existing primary legislation, and those amendments have the same extent as the provision being amended (see clause 109(1)).

153 In Part 1 (Infrastructure):

- clauses 1 to 11 extend and apply to England and Wales (and to a limited extent Scotland i.e. where a project is a pipeline one end of which is in Scotland).
- clause 12 (Planning Act 2008: legal challenges) extends and applies to England and Wales.
- clauses 13 to 17 (connections to the electricity network) extend and apply to England, Wales and Scotland.
- clauses 18 to 23 (consents for electricity infrastructure in Scotland) extend to England, Wales and Scotland but apply to Scotland only. The legislative consent process will be engaged in the Scottish Parliament.
- clause 24 (environmental impact assessments for electricity works) extends and applies to Scotland only. The legislative consent process will be engaged in the Scottish Parliament.
- clause 25 (long duration electricity storage), clause 26 (benefits for homes near electricity transmission projects), clause 27 (electricity transmission systems: extension of commissioning period) extend and apply to England, Wales and Scotland;
- clause 28 (Electricity generation on forestry land) extends and applies to England and Wales. The legislative consent process will be engaged in the Senedd Cymru.
- clauses 29 and 33 (Amendments to the Highways Act 1980) extend and apply to England and Wales and clauses 30 to 32 apply to England only (and to a limited extent Wales i.e. highways in Wales for which the SoS retains responsibility). The legislative consent process will be engaged in the Senedd Cymru.
- clauses 34 to 45 (Amendments to the Transport and Works Act 1992) extend to England, Wales and Scotland but apply to England and Wales only (apart from clause 40 which extends to Scotland only but has no application, as the provisions being amended by this clause do not apply to Scotland). The legislative consent process will be engaged in the Senedd Cymru.
- clause 46 (fee for applications for harbour orders) extends and applies to England, Wales and Scotland. The legislative consent process will be engaged in the Scottish Parliament and the Senedd Cymru.
- clause 47 (Electric vehicle charge points) extends to England and Wales but applies to England only.

154 Part 2 (Planning) extends to England and Wales but applies to England only.

155 Part 3 (Development and Nature Recovery) extends to England and Wales but applies to England only.

156 Part 4 (Development Corporations) amends provisions which either extend to England and Wales, or to England, Wales and Scotland, but the amendments apply to England only.

157 Part 5 (Compulsory Purchase) extends and applies to England and Wales. The legislative consent process will be engaged in the Senedd Cymru.

158 Part 6 (Miscellaneous and General Provision) extends and applies UK-wide.

159 Repeals and amendments made by the Bill have the same territorial extent as the legislation that they are repealing or amending.

160 There are provisions in the Bill which amend legislation that applies in Wales, but only for the purpose of retaining the application of the legislation in Wales (whilst disapplying the legislation in England).

161 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned and their consent will be sought in relation to these measures. In line with the Sewel Convention, the UK Government will seek the legislative consent of the devolved legislatures where the provisions engage the Legislative Consent Motion process

162 Part 1, Chapter 2 (Electricity Infrastructure) mainly concerns the reserved matter of 'generation, transmission, distribution and supply of electricity). Clauses 18 to 24 (consents for electricity infrastructure in Scotland) alter the executive competence of Scottish Ministers and a legislative consent motion is being sought from the Scottish Parliament. Clause 28 (use of forestry estate for renewable electricity) alters the executive competence of Welsh Ministers and a legislative consent motion will be sought from the Senedd Cymru.

163 Clauses 29 to 33 (Amendments to the Highways Act 1980) and clauses 34 to 45 (Amendments to the Transport and Works Act 1992) concerns transport and road which are generally devolved in Wales. A legislative consent motion is being sought from the Senedd Cymru.

164 Clause 46 (fees for applications for harbour orders) concerns the largely devolved matter of harbours, which extends and applies to England, Wales and Scotland. A legislative consent motion is being sought from the Senedd Cymru and the Scottish Parliament.

165 Clauses 97 to 106 (compulsory purchase) for the most part concerns matters which are not within the devolved competence of Senedd Cymru. The clauses do however alter executive function of the Welsh Ministers.

166 Clause 107 (reporting on extra-territorial environmental outcomes) relates to environmental assessment for plans, projects and consents including for devolved matters with the legislative competence of the Northern Ireland Assembly, the Scottish Parliament and Senedd Cymru. However, this amendment is an instance where only the context in which a power is exercised is changing, rather than a direct change to the power itself. This does not constitute a modification of executive competence.

167 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Part 1: Infrastructure

Chapter 1: Nationally Significant Infrastructure Projects

Clause 1: National policy statements: review

168 This clause establishes a new requirement for National Policy Statements (NPSs) to be subject to a full review and updated at least every five years through amendments to section 6(1) and (2) of the Planning Act 2008. The Secretary of State's existing obligation to review the whole or part of an NPS at any time, where the relevant statutory criteria in section 6 are met and the Secretary of State considers it appropriate to do so, is retained. If a Secretary of State has not otherwise undertaken a review, the amendments to section 6 inserted by this clause will require that a full review of each NPS is undertaken at times that will enable the Secretary of State to comply with the timeframes set out in inserted subsection (5A).

169 The timeframes set out in subsection (5A) require that, following a full review (i.e. a single review of the entire NPS), the Secretary of State must amend the NPS within both:

- the "initial period"; and
- subsequently at intervals of no more than five years until such a point that the NPS is withdrawn.

170 The "initial period" referred to in inserted section 6(5A)(a) is effectively a transitional period to bring all NPSs into the new cycle of required regular updates. Each subsection of inserted section 6ZA defines the "initial period" that will apply to each NPS subject to its date of designation and any subsequent amendments in relation to when inserted subsection (5A) came into effect. Inserted section 6ZA(6) provides that following a review of an NPS during the 'initial period', the SoS does not have the option of leaving the NPS as it is under section 6(5)(c) of the Planning Act 2008.

171 New subsection (5C) of section 6 of the Planning Act provides that the Secretary of State may update an NPS at a later time than is required than the deadline set out in subsection (5A), only if and for so long as there are exceptional circumstances which the Secretary of State considers make the delay unavoidable. Before the relevant deadline expires, the Secretary of State must lay a statement before Parliament explaining the reasons for the extension and when they expect to update and amend the NPS (new subsection (5D)).

172 The territorial extent and application of this clause is England, Wales and Scotland (in Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipeline, one end of which is in England or Wales, and the other end of which is in Scotland).

173 The clause will be commenced through regulations.

Clause 2: National Policy Statements: parliamentary requirements

174 This clause amends section 9 of the Planning Act 2008 to provide an additional parliamentary procedure for making material policy amendments to National Policy Statements (NPSs) where the proposed amendments fall into the definition set out at new subsection 9(11) of the Planning Act 2008. This definition is intended to capture categories of changes made since the NPS was last reviewed. These are:

a. reflecting legislative changes or revocations which have come into force of legislation referred to in an NPS, or the coming into force, amendment or repeal of legislation relevant to nationally significant development addressed in an NPS;

b. reflecting court decisions relevant to NPSs or development consent orders, or other proceedings relevant to the interpretation of an NPS or legislation referred to in an NPS which have been issued;

c. Government policy published relevant to nationally significant development addressed in an NPS; or

d. changes to published documents referred to in the NPS that do not fall within category (a) or (c).

175 The statutory and regulatory pre-requisites of an Appraisal of Sustainability and a Habitats Regulations Assessment will continue to apply to proposed amendments that fall within this definition. The existing publication and consultation requirements for proposed material changes to an NPS in Part 2 of the Planning Act 2008 will also continue to apply.

176 Inserted subsection (8A) provides that for proposed amendments falling within new subsection (11), the current requirement for the Secretary of State to respond to any resolutions made by Parliament or any recommendations made by a committee by either House of Parliament on the proposed amendments to the NPS will be disapplied. The requirement for an amended NPS to be laid in Parliament for 21 sitting days before being designated is retained to preserve parliamentary oversight.

177 The territorial extent and application of this clause is England, Wales and Scotland (in Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipeline, one end of which is in England or Wales, and the other end of which is in Scotland).

178 The clause will be commenced through regulations.

Clause 3: Power to disapply requirement for development consent

179 This clause (which inserts new sections 35B, 35C and 35D into the Planning Act 2008) provides a new power for the Secretary of State to give a direction disapplying the requirement for development consent for certain specified development falling within the meaning and description of a Nationally Significant Infrastructure Project (NSIP) in the Act. Section 35 of the Planning Act 2008 already gives a power to the Secretary of State to direct that certain development may be treated as development for which development consent is required. This clause enhances flexibility in the NSIP regime by allowing a development that would otherwise require development consent under the Planning Act 2008 to be taken out of the regime and consented under alternative consenting routes, where this is considered appropriate.

180 The Secretary of State may only give a direction if no application for development consent under the Planning Act 2008 has been made (subject to a minor transitional provision), if the Secretary of State considers that an alternative consenting regime is appropriate for the development, and if the development will be one of the specified areas, as set out in subsection (2) of new section 35B (see below).

181 Inserted section 35B requires that a direction may only be given where:

a. the Secretary of State has received a request (similarly to the existing provisions in section 35 of the Planning Act 2008) from a specified person;

b. the Secretary of State is the person who proposes to carry out the development; or

c. the Secretary of State considers that the appropriate alternative consenting regime is that under section 59 of the Town and Country Planning Act 1990 (development orders).

182 Where the Secretary of State considers a request for a direction, new section 35B provides a clear set of conditions which must be met by the person making the request (as set out in subsections (5) and (6) of new section 35B).

183 The clause sets out conditions (under subsection (5) of new section 35B) where requests are made by a person who proposes to carry out any of the development to which the request relates. The request must be in writing, specify the development it is in relation to, identify an appropriate alternative consenting regime, explain why the alternative regime is appropriate, and includes evidence that the alternative consenting authority is aware of the request.

184 The clause also sets out conditions (under subsection (6) of new section 35B) where requests are made by a person who has the power to make a local development order, mayoral development order, or a simplified planning zone scheme (these persons may include local planning authorities or Mayoral Development Corporations). The request must be in writing, specify the development it is in relation to, and indicate that the person making the request considers that the appropriate alternative consenting regime for the development is that under section 61A (local development orders), 61DA (mayoral development orders) or 82 (simplified planning zone schemes) of the Town and Country Planning Act 1990 (as the case may be), giving reasons for that view.

185 Inserted section 35C makes supplementary provision that the direction may include provision for a proposed application for a development consent order to be treated as a proposed application to a specified alternative consenting regime. It also provides for pre-application work undertaken before the direction is given to be treated as complying with requirements under the alternative regime (with any specified modifications). This enables work undertaken by applicants in preparing to apply for a development consent order under the Planning Act 2008 to be carried over to the alternative regime (with possible modifications).

186 This clause also requires that directions made by the Secretary of State are published, and that reasons for the decision are given to the person who made the request, if applicable.

187 Inserted section 35D provides a power for the Secretary of State to make regulations about the timetable for deciding requests under new section 35B and in connection with the provision of information to the Secretary of State, such as requesting additional details from the person making the request. The matter is left to delegated legislation to ensure that the statutory timescales for decision-making on requests can be adjusted as needed. The regulations will set out the deadline by which the Secretary of State must make a decision after receiving a request for a direction.

188 This clause also makes consequential amendment to the Electricity Act 1989 and the Marine and Coastal Access Act 2009 to ensure that where a direction has been made, onshore generating stations do not require consent under section 36(1) of the Electricity Act 1989, so that they can apply for consent through an alternative consenting route, and to ensure that the Marine Management Organisation is able to perform their electricity consent functions for applicable development subject to a section 35B(1) direction.

189 The territorial extent of the clause mirrors the NSIP provisions in the Planning Act 2008, and application of this clause will mirror section 35(3) of the Planning Act 2008. This means that directions may only be given where the development will (when completed) be wholly in

England (or waters adjacent to England up to the seaward limits of the territorial sea), or in the case of development in the field of energy, in a Renewable Energy Zone (except any part of the Zone where the Scottish Ministers have functions).

190 The clause will be brought into force by regulations.

Clause 4: Applications for development consent: removal of certain pre-application requirements

191 This clause removes sections 42 to 45, 47 and 49 of Part 5, Chapter 2 of Planning Act 2008 related to statutory pre-application consultation. The effect of this clause is that an applicant submitting an application for development consent will no longer be required by statute to consult statutory consultees, landowners, local authorities and the community before submitting their application to the Secretary of State. As a consequence of this change, the clause also removes the definitions of local authorities and categories of persons for the purposes of the statutory consultation and the requirement for an applicant to take responses to consultation and publicity into account when preparing their application.

192 The territorial extent and application of this clause is England, Wales and Scotland (in Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipeline, one end of which is in England or Wales, and the other end of which is in Scotland).

193 The clause will be brought into force by regulations.

Clause 5: Applications for development consent: changes related to section 4

194 This clause makes several changes to the Planning Act 2008 as a consequence of Clause 4 and the removal of pre-application consultation requirements. The clause removes references to statutory requirements for consultation in other sections of the Planning Act 2008, associated documentation (such as the need for a consultation report) and alters guidance requirements.

195 The effect of subsection (2) is that an applicant is no longer required to provide a consultation report as part of the documentation required when submitting their application for development consent to the Secretary of State. As the requirement to prepare a consultation report has been removed, subsection (3) removes the requirement for the consultation report to be made available to the public for inspection.

196 Section 46 of the Planning Act 2008 currently places a duty on applicants to notify the Secretary of State of a proposed application. Subsection (5) extends this duty to require applicants to also notify each host local authority (defined within this subsection) and, where applicable, the Marine Management Organisation. Subsection (5) also includes details of what this notification should contain.

197 Section 48 of the Planning Act 2008 includes requirements for applicants to publicise their application. Subsection (6) removes the requirement for applicants to include a deadline for receipt of responses to this publicity.

198 Subsection (7) substitutes the existing section 50 of the Planning Act 2008 with a new section. Section 50 currently sets out that an applicant must have regard to guidance issued by the Secretary of State about requirements relating to pre-application under Chapter 2. The new section 50 requires applicants to have regard to the publicity requirements under section 48. Subsection (7) also requires the Secretary of State to issue guidance to assist applicants. This guidance will set out what is considered to be best practice for applicants to ensure a proposed application is ready for submission and can proceed to examination.

199 Subsection (8) amends section 52 of the Planning Act 2008 to ensure that applicants can still obtain information about interests in land under section 52 in order to comply with requirements under section 37 of the Planning Act 2008, namely completing the Book of Reference.

200 Subsection (10) removes the requirement for the applicants to consult on preliminary environmental information and any references in the Infrastructure Planning (Environmental Impact Assessment) Regulations to omitted sections under Clause 4.

201 The territorial extent and application of this clause is England, Wales and Scotland (in Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipeline, one end of which is in England or Wales, and the other end of which is in Scotland).

202 The clause will be brought into force by regulations.

Clause 6: Applications for development consent: acceptance stage

203 Applicants must submit applications for development consent, in line with section 37 of the Planning Act 2008, to the Secretary of State. The Secretary of State then decides whether or not to accept the application for examination under section 55 of the Act. This is referred to as the acceptance stage.

204 This clause sets out several amendments to the Planning Act 2008 in relation to the acceptance stage. The clause amends section 37(3), specifically the standard which an application must meet. The new clause requires the Secretary of State to conclude that the application is suitable to proceed to examination. This replaces the existing test of whether the application is of a standard that the Secretary of State considers satisfactory.

205 The clause amends section 55(4) of the Planning Act 2008 and substitutes amended criteria for the Secretary of State to consider in deciding whether the application is suitable to proceed to examination. This amended criteria reflects the removal of the statutory requirements to consult in consequence of clause 4, including removing the requirement to prepare a consultation report. Subsection (8) also inserts new subsection (4A) which provides for the Secretary of State to consider the extent to which the applicant has had regard to guidance regarding publicising their application under section 48 of the Planning Act 2008.

206 Subsections (5) and (6) amend the time limit for the Secretary of State to accept an application under section 55. The effect is that within 28 days of submitting an application, the Secretary of State can decide to accept or reject an application or request further information from the applicant (see new section 55A in subsection (13)).

207 Subsection (7) provides that applications should only be accepted where the applicant has notified the Secretary of State and others (namely host local authorities or the Marine Management Organisation if applicable) of the proposed application.

208 Subsection (11) requires the Secretary of State to provide the applicant with reasons if the decision is made to reject their application. The clause also omits subsection (8) of section 55, as new section 55A establishes a process for amendments to applications.

209 Subsection (13) inserts new section 55A into the Planning Act 2008. This enables the Secretary of State to request that an applicant either provide supplementary information, make minor corrections to the application, or make other limited changes to enable the application to be accepted. Where such changes or information is requested, the applicant will have a period of 28 days to respond. This period can be extended by the Secretary of State. Where no response is given by the applicant, the Secretary of State must make a decision on whether to accept the application for examination within seven days.

210 The territorial extent and application of this clause is England, Wales and Scotland (in Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipeline, one end of which is in England or Wales, and the other end of which is in Scotland).

211 The clause will come into effect through regulations.

Clause 7: Applications for development consent: local impact reports and representations

212 Under section 60(2) of the Planning Act 2008, the Secretary of State is required to give notice to the local authority and the Greater London Authority to submit a local impact report. The clause inserts new subsections (6) and (7) after Section 60(5), adding a duty on these authorities to have regard to guidance about the preparation of a local impact report.

213 The clause also introduces new section 96A which similarly requires that in making any representation (written or oral) on an application for the purposes of its examination, a relevant public authority (defined in subsection (2) of new section 96A), should have regard to such guidance issued by the Secretary of State.

214 The territorial extent and application of this clause is England, Wales and Scotland (in Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipeline, one end of which is in England or Wales, and the other end of which is in Scotland). The clause will come into force through regulations.

Clause 8: Examination of applications for development consent

215 This clause will amend section 89 (Examining authority's decisions about how application is to be examined) of the Planning Act 2008 to require Examining Authorities to have regard to the Initial Assessment of Principal Issues ("IAPI") when making procedural decisions about how an application for Development Consent is to be examined. The purpose of this amendment is to ensure that the main issues identified by the Examining Authority at the beginning of the examination informs the approach taken to the rest of the examination process, giving it a clear focus, and helping to streamline the process and make it as efficient as possible.

216 This clause also amends section 97 of the Planning Act 2008, which provides the power to make rules which regulate the procedure which the Examining Authority must follow when examining an application for Development Consent. This amendment clarifies that the power in section 97 includes the ability to make transitional provisions through a new subsection (5A).

217 The territorial extent and application of this clause is England Wales and Scotland (in Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line, one end of which is in England or Wales, and the other end of which is in Scotland).

218 These amendments will come into force through the introduction of regulations.

219 The amendment to section 89 will not apply to applications where an IAPI has already been drafted before the amendment comes into force.

Clause 9: Applications for development consent: costs

220 This clause enables an Examining Authority to make an order for costs incurred by parties in relation to an application for a development consent order (DCO) for a Nationally Significant

Infrastructure Project (NSIP). The Examining Authority is appointed to examine the application in accordance with section 65 or 79 of the Planning Act 2008.

221 This clause repeals section 95(4) and 95(5) of the Planning Act 2008 and replaces it with new section 96A. The clause expressly enables an Examining Authority to make an order for costs incurred by persons in relation to an application for a DCO. This clarifies and puts beyond doubt that an Examining Authority can make an order for costs at any time after they have been appointed, including where an application is withdrawn before commencement of the statutory six-month period for examining the application.

222 The clause confirms that an order made by an Examining Authority may be made a rule of the High Court on application by a party named in the order. This is necessary to ensure that an order for costs can be enforced.

223 The territorial extent and application of this clause is England, Wales and Scotland (in Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipeline, one end of which is in England or Wales, and the other end of which is in Scotland).

224 The clause will come into force two months after Royal Assent.

Clause 10: Planning Act 2008: right to enter and survey land

225 This clause amends section 53 of the Planning Act 2008 (rights of entry) to change how persons may be authorised to enter land in order to survey it or take levels in connection with an application, proposed application for development consent or the implementation of a Development Consent Order (DCO).

226 Section 53 previously required authorisation to be provided by the Secretary of State to an applicant before a survey could be undertaken and, where it related to a proposed application, only where the proposed applicant for development consent was "considering a distinct project of real substance genuinely requiring entry onto the land". This clause removes this requirement for Secretary of State authorisation and instead now allows "an authorised person" to enter land to conduct surveys. An authorised person is defined in inserted subsection (1B) as a person who is authorised to enter land on behalf of an applicant or proposed applicant for Development Consent, or a person who has been granted the benefit of a Development Consent.

227 This clause reflects the process for similar entry provisions in the Housing and Planning Act 2016, which govern access to land for housing developments whereby Secretary of State isn't required to authorise access. By harmonising these procedures, the amendment promotes a consistent approach to rights of entry in planning and development across different regimes.

228 This clause retains the existing requirement under section 53(4)(b) for an authorised person to provide at least 14-days' notice to the landowner or occupier before entering land but includes a new power for details of the information the notice must contain being prescribed in regulations.

229 Inserted under subsection (6) of this clause, if a landowner or occupier prevents or is likely to prevent the entry, is the provision for an authorised person to apply for a warrant from a Justice of the Peace (in England and Wales) or a Sheriff or Summary Sheriff (in Scotland). This warrant authorises the use of reasonable force to gain access to the land and conduct the necessary surveys.

230 Where a person has suffered damage to their property as a result of entry to, or surveying of land under the exercise of section 53, they continue to be able to claim compensation under

subsection (7). This clause provides that section 4 of the Land Compensation Act 1961 now applies to proceedings for compensation under section 53 of the Planning Act 2008.

231 The territorial extent and application of this clause is England, Wales and Scotland (in Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line, one end of which is in England or Wales, and the other end of which is in Scotland).

232 The clause will be brought into force by regulations.

Clause 11: Changes to, and revocation of, development consent orders

233 This clause will amend the process set out in Schedule 6 of the Planning Act 2008 for making changes to Development Consent Orders (DCOs) once granted for Nationally Significant Infrastructure Projects (NSIPs).

234 Paragraph 2 of Schedule 6 provides a framework process for making changes to a DCO which are non-material and paragraphs 3-5 provides a framework process for making changes to and revoking a DCO. This clause removes the distinction between material and non-material changes, with the effect being to enable a single unified process for considering all proposed changes to DCOs. The details of this new unified process will be set out in secondary legislation.

235 The clause removes paragraph 2 of Schedule 6 and all references to it elsewhere in the Act. This clause further amends paragraph 3(5A) of Schedule 6 to make clear that, when considering whether the result of an application to make a change should properly be the subject of an application for a new DCO, the Secretary of State should consider the proposed change in conjunction with any other changes already made. New sub-paragraph (6A) to be inserted in paragraph 4 of Schedule 6 sets out the effect on the DCO of a change and new sub-paragraph (6B) details when the effect of a change or revocation of a DCO will take effect. Publication requirements are addressed in new paragraph (6C).

236 Section 118 of the Planning Act 2008 deals with judicial review challenges to DCOs. As a consequential change to the removal of paragraph 2 of Schedule 6 and the framework for non-material changes, this clause removes s118(5) which relates to challenges questioning a decision made in relation to a non-material change. To ensure consistency with other revisions made by this clause, this clause also revises section 118(6) relating to judicial review challenges to decisions relating to decisions made under paragraph 3(1) of Schedule 6 relating to changes to, or revocations of DCOs, specifically the time period within which challenges must be made.

237 Subsection (6) of this clause makes consequential changes to the specified legislation to reflect the removal of paragraph 2 of Schedule 6 from the Planning Act 2008.

238 The territorial extent and application of this clause is England, Wales and Scotland (in Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross country pipeline), except for subsection (5) which extends to England and Wales only.

239 This clause will be commenced by regulations.

Clause 12: Planning Act 2008: legal challenges

240 This clause will make changes to the process for judicial reviews of National Policy Statements (NPSs) and development consent decisions made by the Secretary of State for Nationally Significant Infrastructure Projects (NSIPs) ("development consent decisions"), as provided for under sections 13 and 118 of the Planning Act 2008 respectively.

241 Subsection (1) inserts new section 18(1)(ca) in the Senior Courts Act 1981. The effect of new section 18(1)(ca) is that applications for judicial review of NPSs or development consent decisions, which are refused permission at the oral permission hearing in the High Court and are deemed "totally without merit", will not be able to appeal that decision to the Court of Appeal.

242 Subsection (2) requires the Civil Procedure Rules to be amended to ensure any disputed question of permission in applications for judicial review of NPSs or development consent decisions will be determined at an oral hearing at the High Court. This will in effect remove the ability for the permission determination of these cases to be made on the papers as currently provided for under Civil Procedure Rules 54.12. The provision also confirms the ability of the High Court Judge to certify such cases as "totally without merit" at the oral permission hearing.

243 This clause extends and applies only to England and Wales.

244 This clause comes into force on such day as the Secretary of State may appoint by regulations.

Overview of the new process

Claimants seeking to challenge a NPS or development consent decision would make an application to the High Court within six weeks of the NPS or decision being published. Subject to the application being completed within the time limit and providing all the required information, an oral permission hearing at the High Court would be scheduled. The court would then consider the claimant's permission request at that hearing. The court may grant permission for judicial review without a hearing where all the parties agree.

Should the court grant permission for judicial review, the case would progress to a substantive hearing. Should the court refuse permission for judicial review and the claim be deemed totally without merit, that decision would be final, and the case could not be appealed to the Court of Appeal. If the High Court refuses permission for judicial review at the oral permission hearing but the case is not deemed totally without merit, the claimant may appeal the refusal of permission to the Court of Appeal.

Chapter 2: Electricity infrastructure
Connections to the electricity transmission and distribution systems

Clause 13: Connections to electricity network: licence and other modifications

245 This clause empowers the relevant Secretary of State and the Gas and Electricity Markets Authority (GEMA) to amend electricity licences (both terms and conditions of particular licences, and standard conditions of a particular licence type), documents maintained in accordance with the conditions of licences, agreements made in accordance with a document so maintained, and qualifying distribution agreements.

246 The clause is intended for the purpose of improving the process for managing connections to the transmission or distribution system, by ensuring that the Secretary of State or the GEMA

can step in, if necessary, to ensure that any required modifications can be made. Such improvements may include changing the order in which connections are made. When exercising the power, the Secretary of State or the GEMA must comply with relevant obligations under section 3A of the Electricity Act 1989.

247 Subsection (5) limits the exercise of the power in subsection (1) to three years after the commencement of this power.

248 Subsection (7) provides that the Secretary of State or the GEMA can make a modification to an agreement made in accordance with a document so maintained or a qualifying distribution agreement, even if the effect of that change may amount to the repudiation of that agreement.

249 The extent of the power to modify is identical for the Secretary of State and the GEMA. Granting powers to the GEMA is intended to streamline the modification process and utilise their expertise as the independent regulatory authority. In addition, the Secretary of State may also direct the GEMA to exercise the power.

250 This clause extends and applies to England, Wales and Scotland.

251 The clause will come into force upon Royal Assent.

Example: Electricity network connections reform faces delays

A reformed connections process will require complex amendments to codes and licences and the existing processes for modifications may not deliver the required amendments in time. In the event of delays to implementation, the Government or GEMA could use the powers in clause 13 to expedite a set of changes outside the standard process.

Clause 14: Scope of modification power under section 13

252 This clause sets out the scope for making modifications under the power in clause 13 of this Bill.

253 Subsection (1) clarifies that the power to "modify" includes power to amend, add to or remove (and, specifically, empowers the relevant authority to add a person as a party to an agreement or to release a party from its obligations under an agreement).

254 Subsections (2) and (3) make further provision regarding how the power may be exercised and the types of modifications that the Secretary of State or the Gas and Electricity Markets Authority (GEMA) may make. Subsection (2) allows the Secretary of State or the GEMA to use the modification power to make modifications which are general or specific or subject to exceptions. It also allows the exercise of powers differently for different purposes and to make incidental, supplemental, consequential or transitional modifications.

255 Subsection (3) clarifies that provisions included in a licence through a modification may include provision of a kind mentioned under section 7 of the Electricity Act 1989 and need not relate to the activities that the licence authorises.

256 Subsection (4) clarifies that any modification of part of a standard condition does not change the status of other parts of that condition for the purposes of the Electricity Act 1989.

257 Subsection (5) requires the GEMA, where the Secretary of State or the GEMA makes a modification to standard licence conditions, to reflect this change when granting licences of that type in the future.

258 Subsection (6) enables provisions included in the terms of a particular electricity licence to detail the conditions under which the licence may be revoked or suspended.

259 Subsection (7) enables agreements to include provisions that require certain conditions to be met ahead of taking specific steps under the agreement or about the procedure for varying the agreement.

260 Subsection (8) provides those modifications made under this clause to standard conditions of electricity licences, are reflected in subsection (1) of section 33 of the Utilities Act 2000, which govern the standard conditions of those licences.

261 This clause extends and applies to England, Wales and Scotland.

262 The clause will come into force upon Royal Assent.

Clause 15: Procedure relating to modifications under section 13

263 This clause sets out procedural requirements for making modifications under the power in clause 13 of this Bill.

264 Subsection (1) obliges the Secretary of State or the Gas and Electricity Markets Authority (GEMA) to consult a list of named persons before making any modifications under a relevant power, as well any other person they consider appropriate.

265 Subsection (2) clarifies that this requirement to consult can be satisfied by a consultation undertaken before or after the passing of the proposed legislation.

266 Subsection (3) obligates the Secretary of State or the GEMA to publish the details of any modification as soon as reasonably practicable after it takes place.

267 Subsection (4) provides the Secretary of State or the GEMA with the discretion to withhold the publication of information mandated by subsection (3), if such publication could harm the commercial interests of any individual or entity. This provision ensures that sensitive commercial information is protected from disclosure.

268 This clause extends and applies to England, Wales and Scotland.

269 This clause will come into force upon Royal Assent.

Clause 16: Directions to modify connection agreements

270 This clause empowers the Secretary of State or the Gas and Electricity Markets Authority (GEMA) to direct the National Energy System Operator (NESO), referred to in the legislation as the Independent System Operator and Planner (ISOP). It also empowers an electricity distributor to amend an agreement. In the case of the ISOP, this refers to agreements entered into by the ISOP pursuant to a document maintained under an electricity licence. In the case of a distributor this refers to qualifying distribution agreements.

271 This clause follows clause 13 in its intention to improve the process for managing connections to the transmission or distribution systems. Such improvements may include changing the order in which connections are made.

272 Subsection (3) provides that the Secretary of State or the GEMA must describe the types of modifications they expect to be made to the party being directed.

273 The procedural requirements for giving a direction under subsection (1) are set out in a similar manner to clause 15 of this Bill. This includes the Secretary of State or the GEMA consulting a list of named persons, clarifying that a consultation can be undertaken before or

after the passing of this Bill and obligating the Secretary of State or the GEMA to publish details of the direction. The authority may redact commercially sensitive information.

274 Subsection (10) obligates the ISOP or electricity distributors to comply with the direction to amend as given by the Secretary of State or the GEMA, even if the resulting modification may lead to repudiation of the agreement.

275 Subsection (14) amends Schedule 6A of the Electricity Act 1989 to provide for enforcement of the duty to comply with a direction given under this clause.

276 The exercise of this direction is limited to three years after commencement.

277 This clause extends and applies to England, Wales and Scotland.

278 This clause will come into force upon Royal Assent.

Clause 17: Managing connections to the network: strategic plans etc

279 This clause imposes duties on the National Energy System Operator (NESO), referred to in the legislation as the Independent System Operator and Planner (ISOP), and electricity distributors, to have regard to designated strategic plans when exercising their functions relating to connection applications and the management of the connection queues.

280 For the ISOP, this duty is created through the addition of new section 165A in Part 5 of the Energy Act 2023, as set out in subsection (1).

281 The new section 165A additionally empowers the Secretary of State to designate, by way of regulations, one or more strategic plans to which regard must be had by the ISOP when managing connections to the transmission system.

282 Section 16 of the Electricity Act 1989 is amended so as to place a duty on electricity distributors to have regard to any designated strategic plan in deciding how to comply with their duty to connect on request. This includes adding an additional exception in respect of the duty on electricity distributors to connect in cases where it would not be in accordance with the designated strategic plans.

283 Subject to designation, these strategic plans could include the Clean Power 2030 Action Plan and could apply technological and locational criteria to the decision-making process for connecting to the electricity network.

284 This clause extends and applies to England, Wales and Scotland.

285 This clause will come into force upon Royal Assent.

Consents for electricity infrastructure in Scotland

Clause 18: Consents for generating stations and overhead lines: applications

286 This clause sets out regulation-making powers to make provision about applications, including to set requirements for pre-application actions which must be completed prior to an application being made (pre-application requirements), and to set information requirements for applications. It also introduces a new reporter-led process to address an objection to an application made by a relevant planning authority, and a power to enable time limits to be set for key stages of the pre-application and application process through regulations, via various amendments to Schedule 8 of the Electricity Act 1989.

287 The Secretary of State or the Scottish Ministers will be able to make regulations on specified matters relating to applications made to Scottish Ministers seeking consent under section 36 (electricity generating stations) and section 37 (overhead lines) of the Electricity Act 1989.

These regulations may include provisions on pre-application requirements, information that must be included in an application, an acceptance stage where Scottish Ministers accept or decline an application, fees to be paid to Scottish Ministers on applications and for pre-application services, and on requests by Scottish Ministers for additional information. Regulations made under this power are subject to the negative procedure.

288 Pre-application requirements may include notification of the proposed application, publication of the proposed application, and consultation on the proposed application (new paragraph 1A(3)). Powers to introduce pre-application requirements enables amendments to the current position where applications can be submitted to the Scottish Ministers without any pre-application activity, in contrast to applications made under the Town and Country Planning Act Scotland 1997 for certain developments. This clause further inserts new section 7B to Schedule 8 to the Electricity Act 1989, to enable deadlines to be set in regulations for all parties, including statutory consultees and relevant planning authorities, to respond to pre-application consultation.

289 New paragraph 1A(2)(b) provides that the Secretary of State or the Scottish Ministers may also set information requirements for applications, which will compel applicants when submitting their application to submit all the information (as specified in regulation) that the Scottish Government needs to process their application. The objective is to increase the efficiency of consenting, by ensuring the Scottish Ministers have all the information they need to process consents from the outset, alleviating the need to request further information from applicants.

290 New paragraph 1A(2)(c) provides that the Secretary of State or the Scottish Minsters may make regulations to enable Scottish Ministers to accept or decline applications, based on their fulfilment of requirements imposed by regulations. This is similar to the acceptance stage of the Planning Act 2008 and amends the current position, where Scottish Ministers must accept and process all applications regardless of their readiness for processing.

291 The Secretary of State or the Scottish Minsters will also be able to make regulations to enable Scottish Ministers to charge applicants fees on an application for consent as well as for services provided in the pre-application period (new paragraphs 1A(2)(d)). Currently the Scottish Government charges fees for applications, but it has no powers to charge fees for services provided before applications are submitted. This means that the Scottish Government is providing unfinanced services to applicants. By comparison, pre-application fees are charged in England and Wales under the Planning Act 2008. This regulation-making power is subject to the negative procedure.

292 Subsection (3) replaces the default requirement for a public inquiry with a new reporter-led examination process. Where the relevant planning authority objects to an application and does not withdraw its objection, the Scottish Ministers will appoint a reporter to conduct an examination (the procedure for which is set out in new paragraph 2A), at the end of which the reporter will make a final report to the Scottish Ministers, which the Scottish Ministers must then consider alongside the objection when determining whether to give consent to the application. This examination procedure replaces the requirement for a public inquiry in every such case under the existing legislation. As with the current requirement for a public inquiry, it does not apply where Scottish Ministers propose to accede to an application subject to modifications or conditions which give effect to the objection.

293 Under the examination procedure set out in new paragraph 2A of Schedule 8 to the Electricity Act 1989, the intent is to enable the reporter to determine a proportionate procedure to the requirements of the particular application, to enable outstanding issues to be assessed and, where necessary, further information gathered. The reporter may select from the options listed in new paragraph 2A(2), as they consider appropriate which may include seeking

further written representations from particular persons, inspecting the land to which the application relates, holding hearing sessions or holding inquiry sessions.

294 The reporter will communicate their proposed examination procedure to interested parties as well as publishing it to enable interested parties and members of the public to provide input before a final decision is taken on the appropriate procedure. This will include the reporter's reasons for the proposals, and – where the proposal includes gathering further information via requests for further written representations, hearing sessions or inquiry sessions – the reporter will state which issues each of these proceedings will address. The reporter may hold a pre-examination meeting to hear representations about the proposed procedure. The reporter will then publish their final decision on the procedure. On completing the examination, the reporter must prepare a final report to Scottish Ministers on the application. The Secretary of State or the Scottish Ministers are able to make regulations to amend or add further details to this procedure. This regulation-making power is subject to the affirmative procedure.

295 Subsection (3) also makes various textual amendments to paragraph 2 of Schedule 8 to the Electricity Act 1989 to replace the term "Secretary of State" with "appropriate authority." This has been done to reflect the position following the transfer of functions relating to electricity consenting in Scotland by virtue of The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, and The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2006. These amendments have been inserted to make it clear that consenting functions in Scotland are carried out by Scottish Ministers, and to distinguish these from the functions carried out by the Secretary of State.

296 Under existing legislation, when managing the process of an application Scottish Government has only limited and piecemeal powers to set and maintain the pace of the application process through time limits. Subsection (5) creates a new power enabling the Secretary of State or the Scottish Ministers to set time limits for key elements of the process. Regulations made under this power may specify the consequences if such time limits are not met. Regulations made under this power are subject to the negative procedure.

297 This clause extends to England and Wales, and Scotland, but applies to Scotland only.

298 This clause will come into force two months after Royal Assent, with the exception of all regulation-making powers and subsections (1) and (6), which will come into force upon Royal Assent.

Clause 19: Variation of consents etc

299 This clause sets out new options for changes to be made to electricity infrastructure consents after they have been given. These include a statutory procedure for the consent-holder of a consent for an overhead line to apply for a variation to that consent (which is already in place for electricity generating stations), a power for Scottish Ministers to propose changes to either electricity generation station or overhead lines consents due to changes in environmental or technological factors, and a power for Scottish Ministers to correct errors in a consent.

300 The clause inserts new section 37A into the Electricity Act 1989, which gives Scottish Ministers the power to prescribe a statutory process for applications to be made for the variation of section 37 (overhead lines) consents. Currently Scottish Ministers may grant variations, but there is no statutory process set out in legislation, as there is for section 36 consents (electricity generation stations). The intention is to streamline the process by enabling applicants to make variations (of a size or nature that do not require a new application) to section 37 consents, instead of submitting a new application. The process is expected to mirror the existing process

under section 36C of the 1989 Act. This regulation-making power is subject to the negative procedure.

301 Given the extended duration of electricity infrastructure projects, sometimes conditions evolve which might include environmental or technological factors. As consents are in place for the operational life of a generating station or network project, variations may be required to ensure they do not become outdated and the infrastructure can adapt to future changes. New section 37B of the Electricity Act 1989 enables Scottish Ministers to vary an existing consent if there has been a change of technological or environmental circumstances. The consent-holder's agreement would be required for the variation to the consent to be made. The Scottish Ministers or the Secretary of State will be able to make regulations which make provision for procedure such as the process for getting agreement, publicity, notification, and consultation requirements, and the right to make representations (as set out in new section 37B(4)). Regulations made under this power are subject to the negative procedure.

302 New section 37C of the Electricity Act 1989 enables Scottish Ministers to correct an error in a decision document recording a consent or a variation of a consent previously issued under section 36 or section 37 of the Electricity Act. The procedure would be initiated by Scottish Ministers. The consent-holder may notify the Scottish Ministers if it feels an error has been made. Subsection (2) limits the scope for corrections to errors or omissions and specifies that these may only be to the decision as recorded in the decision document, and not to the statement of reasons for the consent. The requirements of the process, such as notification of parties, may be set in regulations (under subsection (4)). This regulation-making power is subject to the negative procedure.

303 This clause extends to England, Wales and Scotland, but applies to Scotland only.

304 This clause will come into force two months after Royal Assent, with the exception of regulation-making powers.

Clause 20: Proceedings for questioning certain decisions on consents

305 This clause amends section 36D of the Electricity Act 1989, which provides for a statutory appeal to be brought by any person who is aggrieved by a decision made by the Scottish Ministers. It previously only applied to offshore electricity infrastructure consenting decisions made under section 36 of the 1989 Act, but will now be extended so that it applies to onshore electricity infrastructure consenting decisions made under section 36, decisions made under section 37 and all variation decisions.

306 A consequential amendment is also made to the Town and Country Planning (Scotland) Act 1997 in respect of directions relating to deemed planning permission. The clause creates a unified approach for challenging the decisions of Scottish Ministers for onshore and offshore electricity infrastructure consents made under the Electricity Act 1989.

307 The clause also amends section 36D(4) and paragraph 5B of Schedule 8 of the 1989 Act which previously provided that challenges had to be brought within six weeks of a decision being made. The amendment means that challenges must now be brought within six weeks of the decision being published. Challenges will be made to the Inner House of the Court of Session with a route to appeal to the Supreme Court of the United Kingdom.

308 This clause extends to England, Wales and Scotland, but applies to Scotland only.

309 This clause will come into force two months after Royal Assent.

Clause 21: Applications for necessary wayleaves: fees

310 Necessary wayleaves are statutory rights that allow electricity licence holders to install and access their overhead electricity lines and associated infrastructure on land owned by others. They are granted in Scotland by Scottish Ministers.

311 This clause inserts a new paragraph 6A into Schedule 4 to the Electricity Act 1989, empowering Scottish Ministers to make regulations to charge and set fees for necessary wayleaves applications in Scotland. Fees are already charged for necessary wayleaves applications in England and Wales, but the Scottish Government does not currently have the power to levy them in Scotland. The intention is that fees would be charged on a cost recovery basis, in line with the Scottish Government policy obligations on managing public money (as set out in the Scottish Public Finance Manual), in order to resource the processing of necessary wayleaves applications by the Scottish Government.

312 Changes to fee arrangements for section 36 and section 37 consents can be found in subsection (2) of clause 17. This regulation-making power is subject to the negative procedure.

313 This clause extends to England, Wales and Scotland, but applies to Scotland only.

314 This clause will come into force upon Royal Assent.

Clause 22: Regulations

315 This clause amends section 106 of the Electricity Act 1989 to make provision for procedural requirements that apply to the new powers conferred by the provisions in clauses 18, 19, and 21.

316 This clause extends to England, Wales and Scotland, but applies to Scotland only.

317 This clause will come into force upon Royal Assent.

Clause 23: Sections 14 to 18: Minor and consequential amendments

318 This clause gives effect to Schedule 1 which makes consequential amendments to the Electricity Act 1989 and reflects previous transfers of functions to Scottish Ministers.

319 This clause extends to England, Wales and Scotland, but applies to Scotland only.

320 This clause will come into force two months after Royal Assent. Schedule 1 will also come into force two months after Royal Assent, with the exception of paragraph 7 which will come into force on a day specified by regulations.

Clause 24: Environmental Impact Assessment for Electricity Works

321 This clause creates a power for the Secretary of State or Scottish Ministers to make limited procedural amendments to the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (EIA Regulations). As part of the consenting process for electricity infrastructure in Scotland under sections 36, 36C and 37 of the Electricity Act 1989, Scottish Ministers are required to assess the likely significant environmental effects arising from a proposed Environmental Impact Assessment (EIA) development. Before the UK left the European Union, Scottish Ministers and UK Government ministers had concurrent powers under the European Communities Act 1972 (ECA72) to make regulations for electricity works EIAs. However, although the EIA Regulations remained in force as assimilated law after the ECA72 was repealed, the result is that neither Government has powers to amend them.

322 Subsection (2) sets out the purposes for which the EIA Regulations may be amended in relation to section 36 and 37 consents, and variation of those consents under the Electricity Act 1989. These relate to procedural areas that will need to be brought into alignment with the

wider reforms to Scottish consenting made by clauses 18, 19, 20, 21, 22, and the regulations made under them.

323 Subsection (3) sets out the purposes for which the EIA regulations may be amended in relation to variations of section 37 consents under the Electricity Act 1989. These align with the matters currently provided for in relation to the variation of consents granted under section 36 of the Electricity Act 1989.

324 This regulation-making power is subject to the negative procedure.

325 This clause extends and applies to Scotland only.

326 This clause will come into force upon Royal Assent.

Long duration electricity storage

Clause 25: Long duration electricity storage

327 This clause inserts new section 10P into the Electricity Act 1989 to require "the Authority" (the Gas and Electricity Markets Authority (GEMA)) to create and implement a long duration electricity storage (LDES) cap and floor scheme, to encourage the development and use of LDES installations (new sections 10P(1) and (2)). GEMA carries out its functions through the Office of Gas and Electricity Markets ("Ofgem") which is an independent regulator with defined powers, functions and duties.

328 Subsections (3)-(6) of new section 10P define the eligibility requirements and mechanics of the cap and floor scheme. This includes the "cap" which is the assessed revenue threshold above which developers will pay back some or all revenues, and the "floor" which is the minimum assessed revenue level, below which NESO will fully or partially compensate the LDES operator. The scheme will therefore provide LDES operators with revenue certainty and confidence to invest. Ofgem will regulate the LDES scheme under its standard licence conditions for generators (new section 10P (4), (5) and (8)).

329 The "cap" and the "floor" may be funded by the National Energy System Operator (NESO) through electricity network charges as set out in Article 18(1) of the assimilated Electricity Regulation (EU) 2019/943 (new section 10P (7)).

330 New section 10P (8) defines "LDES operator" and "long duration electricity storage installation".

331 New section 10P (9) gives the Secretary of State the power to amend the definition of "long duration electricity storage installation" to allow for flexibility to respond to changing electricity markets and LDES technologies. The power is subject to a negative procedure.

332 This clause extends and applies to England, Wales and Scotland.

333 The new powers will come into effect two months after Royal Assent.

Consumer benefits

Clause 26: Benefits for homes near electricity transmission projects

334 This clause empowers the Secretary of State to create a financial benefit scheme for eligible persons living near new network transmission infrastructure by inserting new sections 38A, 38B, 38C, and 38D into the Electricity Act 1989.

335 New section 38A sets out powers for the Secretary of State to establish a scheme in which eligible persons are entitled to a benefit. This benefit will largely be delivered by electricity suppliers based on the qualifying premises' proximity to new or certain upgraded network

transmission infrastructure, alongside an opt-in process for a minority of households that do not have a direct relationship to an electricity supplier. Qualifying infrastructure in scope of the scheme must involve the construction, erection, expansion or improvement of an electrical plant, or an electric line that is either wholly or partly above the ground and intended to form part of a transmission system. Qualifying infrastructure may also be works that took place before regulations are made or in force, as set out in new section 38A(3).

336 The Secretary of State may make provision in secondary legislation relating to the overall design of the scheme. This includes scheme qualification, and scheme administration. The regulations may restrict a person's ability to access the benefit as a payment. The regulations may also include provision to facilitate the withdrawal or recovery of benefits when error occurs, a person ceases to be eligible, or fraud is detected. The regulations may also make provision for pass-through and enforcement. These powers are set out in new section 38A(4).

337 New section 38A(4) also confers on the Secretary of State the power to further provide for enforcement mechanisms for the scheme via civil proceedings or the imposition of monetary penalties if either the regulations have not been complied with, or that benefit under the scheme has been wrongfully obtained. These provisions are further explained under new section 38C.

338 New section 38A(5) further enables the Secretary of State by regulations, or the Gas and Electricity Markets Authority (GEMA) to amend supplier licence conditions or documents maintained in accordance with the conditions of a licence or an agreement that gives effect to a document so maintained to take into account the establishment of the scheme. This is required because GEMA regulates the suppliers and therefore may need to amend supplier licence conditions, as necessary, to take into account the obligations and responsibilities of suppliers under the scheme.

339 A statutory instrument containing regulations that make provision within new section 38A(4)(h) relating to pass-through and associated provisions, new section 38C(1)(b) relating to the imposition of monetary penalties, or new section 38D(3) relating to disclosure of information if the provision creates or amends an offence or punishment for an offence, may not be made unless a draft has been laid before and approved by each House of Parliament, as set out in new section 38A(6). A draft of such a statutory instrument is not intended to be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament (as set out in new section 38A(7)).

340 As set out in new section 38A(8), regulations made under this section bind the Crown unless otherwise stated. Additionally, the Secretary of State may provide funding to those who are administering the scheme out of money provided by Parliament for that purpose, as set out in new section 38A(9).

341 This clause also provides powers for the Secretary of State to make pass-through provision as set out in new section 38B. This provision will allow regulations to provide for circumstances where a third party (intermediary) sits between the supplier and the end-user. In these circumstances, the end-user will not receive the benefit directly, and action is required from the intermediary to make sure the end-user receives the benefit.

342 Regulations may also provide that intermediaries who will not receive the benefit automatically are required to apply for the benefit that they will then be required to pass-through to end-users as set out in new sections 38B(2)(b) and 38B(3). Regulations may provide that the intermediary will also be required to supply information about the benefit to end-users and regulations may also enable the withdrawal and recovery of payments to an intermediary where they have failed to comply with pass-through requirements, as set out in new section 38B(3)(b) and (d).

343 Electricity consumption for the purposes of the pass-through provision is defined as including cases in which electricity is used for heating, cooling, hot water, or energy (new section 38B(4)).

344 New section 38C makes further provision about the powers for regulations to provide for the enforcement of the scheme (as introduced in new section 38A). The aim of the enforcement provision is to ensure the scheme objectives are realised, that funds are not diverted from the scheme to ineligible persons and to minimise the risk of fraud in the scheme.

345 The definition of enforcement provisions set out in new section 38C(1) will allow for regulations to provide for civil proceedings, the imposition of monetary penalties where appropriate for the reasons set out in new section 38C(1)(b)(i) and (ii) and the provision for complaints procedures, dispute resolution, adjudication, appeals or redress in connection with the scheme.

346 If regulations under new section 38A impose monetary penalties, new section 38C(2) further provides that there must be the right of appeal to a court or tribunal on the grounds of both error of fact and error of law.

347 Part 2 of the Consumers, Estate Agents and Redress Act 2007 sets out the standards and requirements for handling complaints. Regulations may provide that these provisions apply where there is a complaint by an end-user. “End-user" is defined as a person who is entitled under pass-through provision (defined in section 38B(2)) to benefit from a financial benefit under the scheme which has been provided by the supplier.

348 New section 38D makes provision to allow regulations to set out the information or evidence that must be provided to any person specified in the regulations, including electricity suppliers to enable monitoring of the scheme for the purposes of compliance. This includes provision making it an offence to use or disclose information in an unauthorised manner.

349 New section 38D(5) provides that nothing in regulations under new section 38A requires information to be disclosed or used which would harm commercial interests of any person, unless such disclosure is otherwise provided for in the regulations or is deemed necessary in view of the purpose of the regulations.

350 New section 38D(6) provides that regulations under section 38A do not authorise the disclosure or use of information that contravenes the Data Protection Act 2018 (see section 3 of that Act) or that is prohibited under the relevant parts of the Investigatory Powers Act 2016.

351 Amendments are made to section 106 of the Electricity Act 1989, to provide that subsection (2) of that Act does not apply to a statutory instrument containing regulations in relation to which new section 38A(6) applies.

352 This clause inserts in paragraph 6 of Schedule 6A to the Electricity Act 1989 that provisions in regulations made under new section 38A can be designated as relevant provision in relation to the holder of a supply licence. This enables provisions to be enforced under the existing regulatory regime in the Electricity Act 1989.

353 The territorial extent and application of this clause is England, Wales and Scotland.

354 The new powers will come into force upon Royal Assent.

Electricity transmission period

Clause 27: Electricity transmission systems: extension of commissioning period

355 This clause amends section 6G(1)(b) of Electricity Act 1989 (Section 6F: meaning of “commissioning period”) to extend the time limit, known as the Generator Commissioning

Clause (GCC) period, for offshore wind farms to transfer transmission assets that they build to a third-party offshore transmission owner (OFTO), from 18 months to 27 months, following the wind farm completion notice. The transmission assets for an offshore wind farm consist of the cables and substations used to convey the electricity an offshore wind farm generates to the onshore electricity transmission network. The amendment follows a call for evidence published in 2023 and responds to industry concerns about the GCC period being insufficiently long for the transfer of the transmission assets.[45]

356 The amendment contained in this clause extends and applies to England, Wales and Scotland.

357 The new GCC period will come into effect two months after Royal Assent.

Electricity generation on forestry land

Clause 28: Use of forestry estate for renewable electricity

358 This clause grants the "appropriate forestry authorities" (Forestry Commissioners in England and the Natural Resources Body for Wales) powers relating to the generation and sale of electricity from renewable sources, via developments undertaken on "forestry land" (this term is used to refer to the Public Forest Estate in England and the Welsh Government Woodland Estate in Wales). The clause provides for this by an amendment to the Forestry Act 1967 ("Forestry Act") that inserts a new section 3A.

359 New section 3A(1)(a) and (b) enable the appropriate forestry authorities to bring forward, directly, or through, or with developers, proposals for the generation, storage, transmission and supply of electricity from renewable sources within and across forestry land. The appropriate forestry authorities may sell the resulting electricity.

360 New section 3A(1)(c) provides a power for the appropriate forestry authority to undertake activity for the purpose of meeting relevant conditions of development. These conditions could be required under the Town and Country Planning Act 1990 regime or in relation to Nationally Significant Infrastructure Projects (NSIPs). New section 3A(2) defines a relevant condition of development as one required in connection with a renewable electricity development on forestry land, where the condition is intended to benefit the natural environment. Together, new section 3A(1)(c) and (2) enable the appropriate forestry authority to undertake activity for, amongst other things, the creation and maintenance of biodiversity units on forestry land. Such units can then be sold to developers undertaking renewable energy development on forestry land to enable them to meet their Biodiversity Net Gain obligations (in line with the Biodiversity Net Gain hierarchy) where it is not possible for them to do so on the development site itself.

361 As set out in new section 3A(3), the appropriate forestry authorities will be deemed to be acting in a way that is consistent with their general duty (set out in section 1(2) of the Forestry Act) where they exercise their powers under new section 3A(1) for the purposes set out in subsection (3). The first of these purposes is facilitating and promoting the use of renewable electricity. The second of these purposes is obtaining funds in order to meet certain types of expenses (as set out in section 41(2) of the Forestry Act), such as salaries and pensions of staff, expenses in the exercise of statutory functions and administrative expenses and capital payments for land acquisition. The renewable electricity powers granted to the appropriate forestry authorities will provide an additional income stream for the appropriate forestry authorities. The revenue could be generated by (i) payments from renewable energy developers for use of forestry land for renewable electricity projects, (ii) offsetting the cost of

[45] Offshore Transmission Owner (OFTO) regime - GOV.UK (2023).

electricity with renewable electricity generated on-site, or (iii) earning income from exporting surplus renewable electricity generated on site.

362 New section 3A(4) will require the appropriate forestry authorities to exercise their new renewable energy functions in a way that achieves a reasonable balance with the considerations already set out in section 1(3A) of the Forestry Act: the development and management of forests and timber supplies, the conservation and enhancement of natural beauty, and the conservation of flora, fauna and geological or physiographical features of special interest.

363 New section 3A(5),(6) and (7) set out that the appropriate national authority (the Secretary of State and Welsh Ministers in Wales) will be able to make regulations by negative procedure requiring the relevant appropriate forestry authority to obtain ministerial consent before using their powers relating to renewable electricity and making associated provision.

364 New section 3A(9) clarifies the meaning of the term "storage" because, as a technical matter, electricity is not itself "stored".

365 The territorial extent and application of the clause is England and Wales.

366 The clause will come into effect two months after Royal Assent, with the exception of the power to make regulations, which will come into effect upon Royal Assent.

Chapter 3: Transport infrastructure
Amendments to the Highways Act 1980

Clause 29: Fees for certain services

367 This clause inserts new section 281B into the Highways Act 1980 (HA80). The section provides a new power for the Secretary of State in England and Welsh Ministers in Wales to make provision in regulations for public authorities (limited to certain statutory bodies and local planning authorities) to charge applicants for their services in connection to certain HA80 schemes and orders. Provision as to who will have the ability to charge will be prescribed in regulations.

368 New section 281B(1) provides the relevant national authority with the power to make regulations for and in connection with fees charged by particular public authorities (to be specified in regulations) when providing services associated with HA80 orders and schemes.

369 New section 281B(2) defines a relevant service as including any advice, information or other assistance (e.g., responding to a consultation) in connection to orders under Parts 2, 6 or 12 of HA80. This also includes any other prescribed matters in regulations relating to an order or proposed order under section 2, 6 or 12 of the HA80.

370 New section 281B(3) specifies that the regulations made under subsection (1) may in particular make provision about and include: when a fee may or may not be charged; the amount which may be charged; what may and may not be taken into account when calculating a charge; who is liable to pay and when they must pay; the recovery of any fees charged; details of waiver, reduction or repayment of fees; the effect of failing to pay such fees; the supply of information for any purpose of the regulations; and conferring a function, including a function involving the exercise of a discretion, on any person.

371 New section 281B(4) sets out that prescribed public authorities must have regard to any guidance published by the Secretary of State or Welsh Ministers which relates to any requirements set out in regulations.

372 New section 281B(5) sets out that regulations made under this section include the power to make different provision for different cases and to make incidental, consequential, supplementary, transitional or transitory provision or savings.

373 New section 281B(6) defines the terms "national authority", "prescribed" and "public authority" for the purpose of this section.

374 The clause extends and applies to England and Wales.

375 The clause will come into force two months after Royal Assent.

Clause 30: Power of strategic highways company in relation to trunk roads

376 Currently section 10 orders are made by a highway authority in the form of a draft statutory instrument and then formally made by the Secretary of State in England in the form of a statutory instrument. This differs from the process undertaken for section 16 and 106(3) schemes, in which orders are made under seal by the highway authority (either the Strategic or Local Highway Authority) and then confirmed by the Secretary of State in England.

377 This clause amends section 10 to enable an order under that section to be proposed, prepared, published and made by a highway authority. These orders, although made, cannot come into force until confirmed by the Secretary of State.

378 The clause also ensures that a notice must be published on an official website confirming that an order has been made, with a summary of any material differences between the order as confirmed or made (as the case may be). The draft order must also be published under the procedures set out in Schedule 1 of the Highways Act 1980.

379 The clause extends and applies to England and Wales.

380 This clause will come into force two months after Royal Assent.

Clause 31: Deadlines for decisions on certain orders and schemes

381 The objection period for specific Highways Act 1980 orders and schemes is currently set at a period of not less than six weeks. This differs from the relevant periods for consultation, receipt of objections or receipt of representations in other consenting regimes. Under the Planning Act 2008 regime, for example, a period of 28 days starting with the day after relevant material is received is provided to prescribed bodies, local authorities and those with an interest in land to provide consultation responses to an applicant.

382 There is also currently no statutory deadline that governs the duration of the decision stage for certain orders and schemes made under the HA80 consenting process.

383 Subsection (2) of the clause amends the period for submitting objections to orders made under sections 10, 14, 18, 106 and 108 of the HA80 from "six weeks" to "a minimum period" specified in subsection (3).

384 Subsections (3) specifies that this minimum period is 30 days from the publication of the notice in England and six weeks in Wales.

385 Subsection (4) of the clause prescribes a statutory deadline of 10 weeks from the relevant day by which the Secretary of State must make a decision on proposed orders. The clause sets out the range of scenarios that trigger specific relevant days from which the 10-week statutory deadline will apply.

386 Subsection (4) of the clause also allows for the deadline for the decision stage to be extended by notification to parties.

387 Subsection (5) of the clause amends the period for submitting objections to schemes made under sections 16 and 106 of the Highways Act 1980 from "six weeks" to "a minimum period". In England the minimum period is "at least 30 days" from the publication of the notice and six weeks in Wales from the publication of the notice.

388 Subsection (6) of the clause prescribes a statutory deadline of 10 weeks from the relevant day by which the Secretary of State must make a decision on proposed schemes. The clause sets out the range of scenarios that trigger specific relevant days from which the 10-week statutory deadline will apply.

389 Subsection (6) of the clause also allows for the deadline for the decision stage to be extended by notification to parties.

390 The clause extends to England and Wales. The clause applies to England and Wales.

391 This clause will come into force two months after Royal Assent.

Clause 32: Procedure for certain orders and schemes

392 Currently the power to make or confirm schemes under sections 16 and 106(3) of the Highways Act 1980 (HA80) is exercisable by statutory instrument. Similarly, section 10 orders are made by the highway authority in the form of a draft statutory instrument which is brought into force by the Secretary of State in England. Although the statutory instrument is not subject to any parliamentary procedure, extra time is necessary to produce these instruments.

393 Subsection (2) of the clause amends section 325 of the HA80 by removing the requirement for orders under section 10 and schemes under section 16 or 106(3) to be made by statutory instrument.

394 Subsection (3) of the clause amends section 326 of the HA80 to allow section 10 orders and section 16 and 106(3) schemes to be amended and revoked by a subsequent order or scheme. It sets out that changes to section 326(2) do not apply in Wales.

395 Subsection (4) of the clause ensures that a notice must be published on an official website confirming that an order has been made, with a summary of any material differences between the order as confirmed or made (as the case may be). The draft order must also be published under the procedures set out in Schedule 1 of the HA80.

396 The clause extends and applies to England and Wales.

397 This clause will come into force two months after Royal Assent.

Clause 33: Compulsory acquisition powers to include taking of temporary possession

398 Currently there is no clear provision available to allow Highways Act 1980 (HA80) project promotors to temporarily use and possess land (such as for construction purposes) by compulsion. In lieu of such a provision, if a project promotor cannot come to a commercial agreement with the landowner(s) for a licence to access the land they require, the project promoter will typically apply for powers of compulsory acquisition to enable it to use the land.

399 The intention of this clause is to provide clarity that project promotors under the HA80 regime can temporarily use and possess land (such as for construction purposes) by compulsion. This clause amends section 250(8) of the HA80 to include "the right to take temporary possession or occupation of land".

400 This clause also has the effect of making the same land compensation provisions for compulsory purchase available in relation to temporary possession (adapted as necessary).

401 The power set out in this clause would take precedent over the not yet enacted provision within the Neighbourhood Planning Act 2017.

402 The clause extends and applies to England and Wales.

403 This clause will come into force two months after Royal Assent.

Amendments to the Transport and Works Act 1992

Clause 34: Replacement of model clauses with guidance

404 This clause substitutes a new section 8 of the Transport and Works Act 1992 (TWA92), with references to model clauses being replaced by references to guidance on draft orders. The model clauses are presently set out in the Transport and Works (Model Clauses for Railways and Tramways) Order 2006.

405 New section 8(1) enables the Secretary of State to publish guidance regarding the preparation of draft TWA92 orders. This guidance may set out model provisions suitable for inclusion in a draft order. New section 8(2) provides the same power to Welsh Ministers.

406 New section 8(3) provides that guidance issued under subsection (1) or (2) may set out model provisions considered suitable for inclusion in the draft TWA92 orders.

407 New section 8(4) provides that the Secretary of State or Welsh Ministers must also have regard to any departure from the guidance, and any reasons provided by the applicant for doing so.

408 The clause extends to England, Wales and Scotland, and applies to England and Wales

409 The clause will come into force through regulations.

Clause 35: Removal of special procedure for projects of national significance

410 This clause removes Section 9 of the Transport and Works Act 1992 (TWA92), which applies to applications that relate wholly or in part to proposals which in the opinion of the Secretary of State are of national significance. Since the TWA92, the Planning Act 2008 established a new consenting regime for Nationally Significant Infrastructure Projects (NSIPs), with clearly defined thresholds for what is considered of national significance, including a power to direct that a project not meeting those thresholds is of national significance, either by itself or when considered with other projects. The Planning Act 2008 effectively rendered section 9 of the TWA redundant and the intention of this clause is to clarify the existing legislative framework.

411 Subsection (1) removes section 9 and subsection (2) makes amendments consequential on the removal of section 9.

412 Subsection (3) make transitional provision and provides that these amendments will not apply to any application to which a notice issued by the Secretary of State under section 9(2) of the TWA92 and identifying the application and the proposals which are considered to be of national significance, has been published before this clause comes into force.

413 The clause extends to England, Wales and Scotland, and applies to England and Wales.

414 This clause will come into force two months after Royal Assent.

Clause 36: Duty to hold inquiry or hearing

415 This clause amends section 11 of the Transport and Works Act 1992 (TWA92), which determines the circumstances in which an objection to an application under the TWA92 from a local authority in whose area the proposed development would take place or, where

compulsory acquisition powers are proposed, affected owners, lessees and occupiers, can require a public inquiry or hearing to be held.

416 Subsection (2) inserts substitute text into subsection (3) of the TWA92, requiring the Secretary of State to hold a public inquiry or hearing if they consider that the objection is serious enough to merit such treatment.

417 Subsection (3) inserts a new subsection (3A) to apply subsection (3) to the Welsh Ministers where they are the determining authority.

418 Subsection (4) makes transitional provision and provides that the amendments made by this clause do not apply to any application where a draft of the proposed TWA92 order has been sent to the Secretary of State under rule 5(1) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 prior to this clause coming into force.

419 The clause extends to England, Wales and Scotland, and applies to England and Wales.

420 This clause will come into force two months after Royal Assent.

Clause 37: Costs of inquiries

421 This clause makes amendments to section 11 of the Transport and Works Act 1992 (TWA92) and sets out a new power to ensure that decisions on costs arising from a Public Inquiry ("PI") are to be made by the Inspector conducting the PI, unless the Secretary of State or Welsh Ministers direct that a costs decision is to be determined by them. It also provides a rebuttable presumption that the power will be exercised so as to require the applicant to pay the costs in question.

422 Subsection (2) inserts a new paragraph (za) into section 11(5) of the TWA92, providing that unless otherwise directed by the Secretary of State or Welsh Ministers, the power to make a costs order in respect of an inquiry under section 250(4) of the Local Government Act 1972 may be exercised by the person holding the public inquiry.

423 Subsection (3) inserts a new subsection (5A) providing that the person determining who is to pay the costs of an inquiry is to require the applicant for the TWA92 order to pay them unless there is good reason not to do so.

424 Subsection (4) amends subsection (6) so that the new subsection (5A) also applies to the costs of a hearing.

425 Subsection (5) makes transitional provisions and provides that the amendments made by subsections (3) and (4) do not apply to any application where a draft of the proposed TWA92 order has been sent to the Secretary of State under rule 5(1) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 prior to this clause coming into force.

426 The clause extends to England, Wales and Scotland, and applies to England and Wales.

427 This clause will come into force two months after Royal Assent.

Clause 38: Deadline for decisions

428 This clause amends section 13 of the Transport and Works Act 1992 (TWA92) to provide a power for the Secretary of State to introduce statutory deadlines for the determination of TWA92 order applications to ensure applications are dealt with within an identified timeline. The TWA92 consenting process currently does not have statutory timeframes that govern the duration of its decision stage, unlike other infrastructure consent processes, such as the 3-month period applying to Development Consent Orders under the Planning Act 2008 regime.

429 Subsection (2) inserts new subsections (7) and (8) into section 13 of the TWA92. New subsection (7) provides the Secretary of State with the power to make rules which will introduce statutory deadlines by which applications for TWA92 orders must be determined, or earlier steps required by section 13(4), 13B or 13C (relating to orders authorising works or other projects to which the Environmental Impact Assessment regime applies) be taken. New subsection (8) provides that these rules may provide for the applicable deadlines to be extended or reduced by the Secretary of State or Welsh Ministers on a case-by-case basis and enable the postponement of a deadline where a fee payable in connection with the application has not been paid. New subsection (8)(d) provides that rules made pursuant to subsection (7) applying in relation to Wales may only be made with the agreement of Welsh Ministers.

430 Subsection (3) makes amendments consequential on subsection (2).

431 The clause extends to England, Wales and Scotland, and applies to England and Wales.

432 Subsections (1) and (2) will come into force two months after Royal Assent. Subsection (3) will come into force through regulations.

Clause 39: Publication of decisions and time for bringing challenge

433 This clause amends section 14 of the Transport and Works Act 1992 (TWA92) to enable the Secretary of State or Welsh Ministers to issue a notice online to publicise the making or refusal of a TWA92 order. It also removes the requirement to publish such notices in the London Gazette.

434 The clause also amends section 22 of the TWA92 to provide that any legal challenge must be filed before the end of 6 weeks, starting the day after the day upon which that notice is published.

435 Subsection (2) amends section 14(1) of the TWA92 to provide for decision notices to be published on a Government website and makes consequential amendments to that section.

436 Subsection (3) amends sections 22(1) so that the period within which a TWA92 determination may be challenged is defined with reference to its publication on a Government website.

437 Subsection (4) makes further amendments as a consequence of the change to section 22(1).

438 Subsection (5) makes transitional provision and provides that the amendments made by subsections (2) to (4) do not apply to any determination made before this clause comes into force or any order made further to such a determination.

439 The clause extends to England, Wales and Scotland, and applies to England and Wales.

440 This clause will come into force two months after Royal Assent.

Clause 40: Fees for certain services

441 This clause inserts a new section 23A into the Transport and Works Act 1992 (TWA92), which provides a power for the Secretary of State and Welsh Ministers to make provision in regulations for public authorities (limited to certain statutory bodies and local planning authorities) to charge applicants for their services in connection to TWA92 orders. Provision as to who will have the ability to charge will be prescribed in regulations.

442 New section 23A(1) provides the power to make regulations for, and in connection with, fees charged by particular public authorities (to be listed in regulations) when providing services associated with TWA92 orders.

443 New subsection (2) defines a "relevant service" as including any advice, information or other assistance (e.g., responding to a consultation) in connection to applications under section 6 of

the TWA92 or any other matters prescribed in regulations relating to an order or proposed order under section 1 or 3 of the TWA92.

444 New subsection (3) sets out matters that regulations made under 23A(1) may, in particular, make provision about.

445 New subsection (4) sets out that prescribed public authorities must have regard to any guidance published by the Secretary of State or Welsh Ministers which relates to any requirements set out under regulations made under subsection (1).

446 New subsection (5) sets out that regulations made under subsection (1) may make different provision for different cases and make incidental, consequential, supplementary, transitional or transitory provision or savings as appear to be necessary or expedient.

447 New subsections (6) to (8) provide that regulations are to be made by statutory instrument and the negative procedure is to apply to regulations made by the Secretary of State or Welsh Ministers.

448 New subsection (9) defines terms used within section 23A.

449 The clause extends to England, Wales and Scotland, and applies to England and Wales.

450 This clause will come into force two months after Royal Assent.

Clause 41: Disapplication of heritage regimes

451 This clause enables Transport and Works Act 1992 (TWA92) orders to disapply authorisation requirements under relevant heritage regimes in England and Wales (such as Listed Buildings and Scheduled Monument consents). This approach would provide an alternative to an applicant having to apply separately to each relevant consenting authority.

452 This clause will also enable TWA92 orders applying to England to disapply the requirement to notify the relevant local authority under section 35 of the Ancient Monuments and Archaeological Areas Act 1979, prior to undertaking operations on land in an area of archaeological importance.

453 Subsection (1) inserts a new section 17 into the TWA92, subsection (1) of which identifies the authorisations that may be disapplied by a TWA92 order.

454 Subsection (2) of the new section 17 preserves the requirement in section 12(3A) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and section 94(4) of the Historic Environment (Wales) Act 2023 that any application for listed building consent required as a consequence of a TWA92 application is to be referred to the Secretary of State or Welsh Ministers (as appropriate).

455 Subsection (2) introduces Schedule 2, which makes amendments to the relevant heritage regimes in England as a consequence of clause 37.

456 Subsection (3) makes transitional provision and provides that the amendments made by subsections (3) and (4) do not apply to any application where a draft of the proposed TWA92 order has been sent to the Secretary of State under rule 5(1) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 prior to this clause coming into force.

457 The clause extends to England, Wales and Scotland, and applies to England and Wales.

458 This clause will come into force two months after Royal Assent.

Clause 42: Deemed consent under marine licence

459 This clause inserts a new section 19A into the Transport and Works Act 1992 (TWA92), which will enable TWA92 orders involving activity within the UK marine area to provide for a deemed marine licence, rather than an applicant having to apply separately to the Marine Management Organisation (MMO). Breaches of marine licences will continue to be dealt with by the MMO using its powers under Chapter 3 of Part 4 of the Marine and Coastal Access Act 2009.

460 Subsection (1) inserts a new section 19A(1) into the TWA92 and provides the Secretary of State with the power to include within a TWA92 order a deemed marine licence under Part 4 of the Marine and Coastal Act 2009, authorising the activities (for which they are the appropriate licensing authority) specified in the order.

461 New section 19A(2) specifies the areas in which activities specified in a deemed marine licence under subsection (1) can apply.

462 New subsection (3) replicates the subsection (1) power in respect of TWA92 orders made by the Welsh Ministers in respect of activities for which they are the appropriate licensing authority.

463 New subsection (4) provides that an order under the TWA92 may deem the marine licence to have been granted subject to any conditions specified in the order and deem such conditions to have been attached to the marine licence by the Secretary of State or the Welsh Ministers under Part 4 of the Marine and Coastal Access Act 2009.

464 New subsection (4A) disapplies sections 68 (which requires the appropriate licensing authority to give notice of applications) and 69(3) and (5) (which relate to consultation by, and consideration of representations made to, the appropriate licensing authority) of the Marine and Coastal Access Act 2009 where an application for a TWA92 order includes provision for a deemed marine licence.

465 New subsection (5) defines "the appropriate licencing authority", "exclusive economic zone", "the MCCA" and "Renewable Energy Zone", and new subsection (6) sets out when waters are to be treated as adjacent, or as not adjacent, to England.

466 Subsection (2) makes transitional provision and provides that the amendments made by subsection (1) do not apply to an application or objection where the first resolution required by section 239(2)(a) of the Local Government Act 1972 is passed before the changes made by this clause come into force.

467 The clause extends to England, Wales and Scotland, and applies to England and Wales.

468 This clause will come into force two months after Royal Assent.

Clause 43: Authorisation of applications by local authorities

469 This clause removes the requirement for a second local authority resolution after a Transport and Works Act 1992 (TWA92) application has been submitted. Under section 20 of the TWA92, where a local authority wishes to make an application for a TWA92 order, it must follow the procedure set out in section 239 of the Local Government Act 1972. Section 239(2)(a) of the Local Government Act 1972 sets out the need for the majority of local authority members to approve the submission of a TWA92 application and section 239(2)(b) requires a second resolution on the same matter after the application is submitted.

470 Subsection (1) inserts a new subsection (5) into section 20 of the TWA92, providing that a resolution under section 239(2)(a) of the Local Government Act 1972 does not need to be

confirmed by a second resolution under section 239(2)(a) of that Act. It also makes a consequential amendment to section 20(2).

471 Subsection (5) makes transitional provision and provides that the amendments made by subsections (3) and (4) do not apply to any application where a draft of the proposed TWA92 order has been sent to the Secretary of State under rule 5(1) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 prior to this clause coming into force.

472 The territorial extent of the clause is England and Wales, and Scotland and applies to England only.

473 This clause will come into force two months after Royal Assent.

Clause 44: Extension to Scotland of certain amendments

474 This clause extends the territorial extent of amendments made to the Transport and Works Act 1992 (TWA92) by two statutory instruments so that they also extend to Scotland.

475 Schedule 3 to the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 and regulation 4(3) and (4) of the Merchant Shipping and Other Transport (Environmental Protection) (Amendment) (EU Exit) Regulations 2019 extend to England and Wales and have resulted in dual texts for various provisions in the TWA92, one extending to England and Wales and the other to Scotland. Clause 40 removes these dual texts.

476 This clause extends and applies to Scotland.

477 This clause will come into force upon Royal Assent.

Clause 45: Power to make consequential amendments

478 This clause provides a power to make amendments to primary and secondary legislation which are necessary to maintain the effect of that legislation in consequence of clauses 30 to 40 of the Bill.

479 Subsections (2) to (3) provides that regulations under this clause may amend an Act or an Act or Measure of Senedd Cymru and that they may include incidental, supplemental, transitional and saving provision.

480 Subsections (4) and (5) provide that the draft affirmative procedure is to apply when regulations contain amendments to an Act or an Act or Measure of Senedd Cymru; otherwise the negative procedure applies.

481 The clause extends to England, Wales and Scotland, and applies to England and Wales.

482 The power to make consequential amendments comes into force two months after Royal Assent.

Harbours

Clause 46: Fees for applications for harbour orders

483 This clause amends the Harbours Act 1964 to empower the Secretary of State to make regulations enabling fees for processing harbour empowerment and revision orders to be set, in whole or in part, on the basis of actual hourly costs incurred. These harbour orders provide consent for works at ports below the scale of NSIPs and for changes to ports' constitutional powers and duties. This will enable such fees to be brought onto a similar

footing to those already levied for marine licences, which typically accompany harbour orders permitting physical development across the land/estuary or land/sea boundary.

484 Subsection (4) inserts new section 9A to the Harbours Act 1964, which will enable the regulations to provide for indexation of fees. This will help to avoid over-frequent revision, and for fees to be levied in any combination of fixed and hourly rates, payments in advance or deposits, and adjustments for actual hours expended. This could also continue to be done differentially in relation to different categories or scales of application. This subsection will also enable the Marine Management Organisation (MMO), under delegation, to pause work on an application if a fee is not paid on time.

485 The clause extends to England, Wales and Scotland. In England, and for reserved trust ports in Wales (currently, Milford Haven) processing of harbour orders is undertaken by the MMO under delegation by SI 2010/674. The amendments to the legislation will also empower Scottish and Welsh Ministers in their respective jurisdictions, if they wish to modify their own fees arrangements in this way (subsection (5)).

486 The general provisions will come into force after the Act is passed, but existing powers to levy fees will continue until a date specified by regulations in relation to each territory.

Electric vehicle charge points

Clause 47: Installation of electric vehicle charge points

487 This clause enables electric vehicle charge point operators (EV CPOs), in England, to install public charge points without the need for a section 50 street works licence, where they have obtained a street works permit. All permits are applied for and approved using Street Manager, the digital service currently in use by all highway authorities and utility companies in England. EV CPOs will gain access to permits through amendments to the Traffic Management Permit Scheme (England) Regulations 2007. Through this clause, the Government intends to speed-up the roll-out of electric vehicle charge points by removing the need for EV CPOs to obtain s50 licences, which can be costly and time-consuming.

488 The installation of electric vehicle infrastructure on the public road network involves street works (including breaking up or opening the street and placing apparatus). It is an offence, under section 51 of the New Roads and Street Works Act 1991 (NRSWA), to carry out street works without having either a statutory right (as with utilities) or a section 50 street works licence issued by the highway authority. Subsection (6) of this clause disapplies that offence where the works are street works relating to public charge points, where a street works permit is in place.

489 Subsections (2) and (3) expand the definition of “street works” in Part 3 of NRSWA to include the type of works undertaken by EV CPOs when installing public charge points such as placing, inspecting and maintaining the relevant apparatus.

490 Subsection (4) amends the definition of “undertaker” in Part 3 of NRSWA to include a person who, in accordance with a street works permit, is permitted to carry out the works to install a public charge point. This is necessary to ensure that duties set out in Part 3 (for example, to have regard for people with a disability to minimise any inconvenience caused by the works and the duty to reinstate the road after works) will apply to installers of public charge points in the same way that they currently apply to statutory undertakers and s50 licensees. Subsection (5) confirms that references in Part 3 to “undertaker”, in relation to charge point apparatus, can be to the holder of a street works permit.

491 Subsections (7) and (8) provide definitions of “public charge point”, and "street works permit”; the definition of “statutory right” is amended in order to confirm the exclusion of

rights (however they may be expressed) arising from a permit to do street works for installing public charge points.

492 At subsection (9), this clause also sets out that EV CPOs should not be required to obtain an additional permission from councils under section 115E of the Highways Act 1980 to execute works, where the works are capable of being authorised by either a section 50 street works licence or a street works permit. This puts into law the existing policy of the Department for Transport. Councils, in England, will therefore be prohibited from granting EV CPOs permission where their works are capable of being authorised by a street works permit or (in the case of a street that is not covered by a permit scheme) a section 50 street works licence.

493 The clause extends to England and Wales, but applies to England only.

494 This clause will come into force on a day to be appointed by regulations.

Part 2: Planning

Chapter 1: Planning Decisions

Clause 48: Fees for planning applications etc

495 Planning fees are currently set nationally in England, by central Government. However, nationally set fees do not take into account local variations in costs of running planning application services, leaving many local planning authorities (LPAs) experiencing funding shortfalls. This clause amends the Town and Country Planning Act 1990 (amending section 303 and inserting new section 303ZZA) to empower LPAs to set their own planning fees. This is intended to enable LPAs to set their own planning fees or charges at a level up to, but not exceeding, cost recovery for planning applications for which a fee is payable, including when applications are also submitted to the Mayor of London or a specified person (in its capacity as an LPA).

496 Cost recovery will cover the full expenses incurred by LPAs carrying out their relevant planning function related to the processing and determining of planning applications, including other technical specialists within the LPA that contribute to planning decisions. Planning fees may not cover wider planning services, such as plan-making or enforcement. By meeting the costs to deliver the planning application service, it is expected that LPAs will improve performance in terms of both timeliness and quality of decision-making.

497 The process by which LPAs may set planning fees or charges will be set out in regulations subject to the affirmative procedure. As set out in subsection (2) (amending section 303 by inserting new subsections (5A) to (5C), these regulations will make provision about the requirements that LPAs must meet when setting planning fees or charges. These requirements include the criteria to be applied when setting the fees or charges, procedures for consultation, publishing relevant information, notifying the relevant Secretary of State, and implementing a review mechanism.

498 Subsection (3) (amending section 303 by inserting new subsections (8B) to (8D)) requires that when setting a planning fee or charge, the fee must be set with a view to ensuring that it does not exceed cost recovery. Subsection (3) also requires that the income from planning application fees is applied towards the relevant planning function, as defined. This will ensure that the income from planning applications results in direct improvements to the delivery of services for the determination of planning applications, as well as providing transparency for applicants so that they know how the income from planning fees is being spent by LPAs.

499 The relevant Secretary of State will be given the power to intervene and direct an LPA to amend their planning fees or charges when it is considered appropriate to do so (subsection (6), inserting new section 303ZZA). This power may be exercised if it is considered that the fees or charges are inappropriate. A planning fee may be inappropriate if, for example, it did comply with nationally-set fee categories and exemptions, or if the LPA has not adequately justified the fee based on the services provided. A planning fee may also be inappropriate if it is set too high above cost levels or too low to cover costs, in a way that disproportionately impacts certain applicants or types of application. This power for the Secretary of State to intervene is necessary to ensure that the fees charged by LPAs do not exceed cost recovery. It will ensure that fees are neither set too high, so as to deter development, nor too low, to not adequately cover the delivery of the planning application service. Any intervention by the Secretary of State would be done in a timely way so that local planning authorities have confidence when setting budgets.

500 The Government has indicated its intention to proceed with a local variation model. This would involve the Secretary of State setting a national default fee for categories of planning applications, as is done currently, with LPAs and persons exercising relevant planning functions being able to vary these fees where they consider the nationally-set fee does not meet their actual costs. In order to inform the national default fee, the Government will undertake a national benchmarking exercise. Further information on the costs that should be considered by LPAs when calculating fees and the planning application services for which income from planning fees can be spent will be set out in guidance.

501 The Town and Country Planning Act 1990 applies to England and Wales. The territorial extent of these powers is England only.

502 Insofar as this clause confers or amends regulation-making powers, it commences on Royal Assent. For all other purposes, it will commence on a day to be appointed by regulations.

Clause 49: Surcharge on planning fees

503 This clause inserts new section 303ZZB into the Town and Country Planning Act 1990. It provides for the Secretary of State to make regulations imposing a surcharge on planning application fees. The surcharge must, if imposed, be set with reference to the costs incurred by bodies which provide advice, information or assistance in connection with the planning application process, including by way of consultation responses.

504 As part of the planning application process, in circumstances specified in regulations, the planning application must be referred to a statutory consultee. Funding collected through the surcharge can be used to support the funding of statutory consultees, and other bodies that support the planning application process.

505 The level at which any surcharge is set, and the types of planning application to which it would apply, will be set out in regulations.

506 This Bill is also introducing new powers allowing for local planning authorities to vary planning fees (clause 48). Where this occurs, the surcharge will be set in relation to the national fee that would be in place had the local planning authority not introduced a locally set fee.

507 In some instances, the Mayor of London, a specified person, or the Secretary of State may consider a planning application instead of the local planning authority. In these instances, where a planning fee applies, a surcharge may also be applied.

508 The Town and Country Planning Act 1990 applies to England and Wales. The territorial extent of these powers is England only.

509 This clause will come into force 2 months after Royal Assent.

Clause 50: Training for local planning authorities in England

510 This clause inserts new section 319ZZA and new section 319ZZB into the Town and Country Planning Act 1990. It provides for the Secretary of State to make regulations (by negative procedure) concerning the provision of training of local planning authority (LPA) members, including members of planning committees and sub-committees, and of persons exercising mayoral planning functions, in England.

511 The regulations will set out what planning functions the mandatory training requirement will apply to (new section 319ZZA(1)). For LPAs, the types of planning function covered could include, amongst other things, determining applications for planning permission, issuing enforcement notices and determining applications for advertisement consent (new section 319ZZA(8)).

512 Through these regulations, the Secretary of State may specify such things as the relevant training course, the training provider, and what records should be kept, for example of who has completed the training and when (new section 319ZZA(4)).

513 Regulations must provide for the completion of the training to be evidenced by a certificate of completion. A certificate will be valid for the period set out in the regulations (new section 319ZZA(2)). LPAs must also publish on their website which of their committee members hold valid certificates confirming the completion of the training (new section 319ZZA(5)). Without this certification, LPA members are prohibited from any involvement in planning decision making in planning committees or sub-committees or otherwise on behalf of the LPA (new section 319ZZA(3)). This is intended to standardise the provision of training, and improve the quality of decision-making.

514 Subsection 319ZZA(7)A provides that the full extent of the clause applies to mineral planning authorities, a subtype of planning authority, and to the members of the same. Members of a mineral planning authority in England who have not completed training required by the regulations will therefore be prohibited from exercising relevant mineral planning functions on behalf of the mineral planning authority.

515 Similar provision to that made for LPAs is made, under new section 319ZZB, for mayoral authorities in relation to the planning functions set out in new section 319ZZB, subsections (7) and (8). The Mayor of London, and any Mayoral combined authority or Mayoral combined country authority upon whom functions corresponding to those of the Mayor of London have been conferred, have specific planning decision-taking functions, including the ability to direct that they will be the LPA for the purpose of determining a planning application.

516 In acting as the relevant LPA, such Mayors and any persons who are authorised to act on their behalf (which may include any Deputy Mayors) have corresponding responsibilities to members of planning committees and therefore they will be subject to the same training requirements.

517 Subsections 319ZZA(6) and 319ZZB(6) provide that decisions taken by or in conjunction with any person without the relevant certification will not be deemed invalid.

518 This clause extends to England and Wales. It will apply only to decisions by local planning authorities and Mayors in England.

519 The powers to make regulations will be commenced 2 months after Royal Assent.

Clause 51: Delegation of planning decisions in England

520 This clause inserts sections 319ZZC, 319ZZD, 319ZZE and 319ZZF into the Town and Country Planning Act 1990. It provides for the Secretary of State to make regulations (by negative procedure) setting out which planning functions should be delegated to planning officers for a decision and which should go instead to a planning committee or sub-committee (new section 319ZZC). This national scheme of delegation will apply to planning functions which are not the responsibility of the council's executive. The intention behind having a national scheme of delegation is to ensure that there is greater consistency and certainty across England about who in a local planning authority (LPA) will be responsible for making planning decisions. It is also intended to speed up decision making by ensuring that planning committees focus their resources on complex or contentious development where local democratic oversight is required.

521 Subsection (4) and (5) of Section 319ZZE gives the Secretary of State the power to issue statutory guidance about a national scheme of delegation and the size of a planning committee to go alongside the regulations. The intention of the guidance is to encourage best practice

522 This clause also allows the Secretary of State to make regulations (by negative procedure) setting out the size and composition of planning committees (new section 319ZZD). Best practice suggests that having smaller planning committees can lead to more effective debates and decision making. The intention behind new section 319ZZD is to ensure that planning committees work as effectively as possible.

523 Both section 319ZZC and 319ZZD also impose a requirement on the Secretary of State to consult prior to making regulations.

524 Sections 319ZZC and 319ZZD apply to all LPAs except development corporations, Homes and Communities Agency, National Park Authorities and the Broads Authority (section 319ZZF). They also apply to mineral planning authorities where they exist (excluding those which are National Park Authorities). The planning functions which will be covered by a national scheme of delegation are set out in section 319ZZF (interpretation).

525 The clause extends to England and Wales. It will apply only to decisions by LPAs in England.

526 The powers to make regulations (subsection (1)) will be commenced two months after Royal Assent. The consequential amendment to section 319 of the Town and Country Planning Act in subsection (2) will come into force at any time specified in the regulations.

Chapter 2: Spatial development strategies

Clause 52: Spatial development strategies

527 This clause inserts new Part 1A (sections 12A-12X) into the Planning and Compulsory Purchase Act 2004. This clause places a requirement on strategic planning authorities to prepare a document called a spatial development strategy. A spatial development strategy will form part of the development plan which local planning authorities (LPAs) must determine planning applications in accordance with, unless material considerations indicate otherwise.

528 Local plans produced by LPAs will be required to be in general conformity with a spatial development strategy. Planning across an area of multiple local authorities is commonly referred to as "strategic planning."

New section 12A: Spatial development strategy to be produced by strategic planning authorities

529 New section 12A makes provision for strategic planning authorities to produce a spatial development strategy.

530 Combined authorities, combined county authorities, upper-tier county councils and unitary Authorities, also referred to as "principal authorities", will all be strategic planning authorities. Two or more principal authorities may form a strategic planning board to prepare a spatial development strategy jointly. In these instances, the strategic planning board is the strategic planning authority, and the principal authorities that are members of the strategic planning board will jointly produce a spatial development strategy which cover the "strategy area." Provision on strategic planning boards is made in new sections 12B-12C.

531 It will be possible for a local authority to be both a strategic planning authority and an LPA.

532 Where an upper-tier county council or unitary authority is part of a combined authority or combined county authority, they will not be able to produce a spatial development strategy (new section 12A (2)(d) and (e)(ii)). This is because they will already be subject to a spatial development strategy produced by that combined authority or combined county authority. It also prevents such county or unitary authorities from producing a spatial development strategy that would be in conflict with the one produced by the combined authority or combined county authority.

533 New section 12A(4) defines "strategy area" as the area of the strategic planning authority preparing the spatial development strategy. In the case of a strategic planning board, the strategy area is the combined area of the constituent authorities of the board. In all cases, the strategy area includes all local authorities and LPAs within the area, regardless of whether they are also a strategic planning authority.

534 New section 12A(5) provides that a principal authority cannot discharge any of the functions relating to the production of a spatial development strategy to any other local authority or discharge those functions jointly with another local authority. The only way for authorities to do so would be through a strategic planning board.

535 The spatial development strategy for London will continue to be produced in accordance with the Greater London Authority Act 1999 (new section 12A(6)). The spatial development strategy for London, commonly known as the London Plan, is produced by the Mayor of London in accordance with Part 8 of that Act.

New section 12B: Strategic planning boards

536 New section 12B makes provision for the establishment of a strategic planning board to become the strategic planning authority for the combined area of two or more principal authorities. Strategic planning boards will be similar to joint committees provided for in Section 15J-15JB of the Planning and Compulsory Purchase Act 2004 (as inserted by Schedule 7 to the Levelling-up and Regeneration Act 2023), which will replace sections 29-31 (joint committees) of the Planning and Compulsory Purchase Act 2004.

537 Joint committees are an established part of the planning system and allow one or more local planning authorities to agree with one or more county councils to form a committee to become the local planning authority for a defined area. Provision here allows for a similar structure specifically for the purposes of producing a spatial development strategy.

538 The Secretary of State may require two or more principal authorities to form a strategic planning board which will need to be established by regulations. The Secretary of State may only make these regulations where they consider that it is desirable for a spatial development

strategy to relate to an area consisting of the areas of the principal authorities and has consulted those authorities, any local planning authorities within or adjoining the areas of those authorities and any person responsible for preparing a spatial development strategy for an area adjoining the areas of those authorities.

539 If any of the constituent authorities of a strategic planning board have already begun preparation of a separate spatial development strategy before becoming part of a strategic planning board, the Secretary of State may direct them to cease preparation (subsection (5)). This is because the strategic planning board will be required to jointly prepare a spatial development strategy.

New section 12C: Regulations about strategic planning boards

540 New section 12C makes further provision about regulations establishing a strategic planning board. Regulations that establish a strategic planning board must specify the constituent authorities of the board and the area in relation to which the board exercises its functions (new section 12C(1)). Regulations may make provision about the composition of the board (new section 12C (1)(a)) and its procedures (new section 12C(2)(b)).

541 Regulations may also set out other matters which the Secretary of State considers are necessary or expedient for the strategic planning board to carry out its functions (New section (2)(c)), which might include: provisions relating to joint committees in Part 6 of the Local Government Act 1972, applying other relevant legislation that may be appropriate, provisions requiring the making of payments towards the costs of a strategic planning board by constituent members or modifications as to how this Part is applied in relation to the strategic planning board (new section 12C(3)).

542 New section 12C (5) provides that if regulations establishing a strategic planning board are annulled by a resolution of either House of Parliament, the board is dissolved with effect from the date of the resolution.

543 New Section 12C(6) provides that the Secretary of State may make regulations amending or revoking regulations relating to a strategic planning board whether or not this has been requested by the constituent authorities of the board. In doing so the Secretary of State must consult the board, its constituent authorities, any local planning authority within or adjoining the areas of those authorities and any person responsible for preparing a spatial development strategy for an area adjoining the areas of those authorities.

544 Constituent authorities may ask, for example, for a board to be dissolved if they subsequently become part of a Combined Authority or Combined County Authority, in which case they would become ineligible to produce a spatial development strategy, or if it was considered that it would be more suitable to produce a spatial development strategy with different principal authorities.

New section 12D: Contents of spatial development strategy

545 New section 12D makes provision about the contents of a spatial development strategy.

546 New section 12D(1) provides that it must include a statement of the policies of the strategic planning authority in relation to the development and use of land in its area. These policies must be of strategic importance to that area. A reasoned justification for these policies must also be included (new section 12D(2)), as well as the period that the strategy will cover (new section 12D(3)).

547 A matter does not need to affect the whole of the strategy area to be considered of strategic importance (new section 12D(6)) and the spatial development strategy may make different provision for different cases or for different parts of the strategy area (new section 12D(9)).

548 New section 12D(4) provides that a strategy may specify or describe infrastructure that the authority considers to be necessary or expedient for the purposes of supporting or facilitating development; mitigating, or adapting to, climate change; or promoting or improving the economic, social or environmental well-being of the strategy area.

549 New section 12D(5) provides that a spatial development strategy may specify or describe an amount or distribution of housing which the strategic planning authority considers to be of strategic importance, including an amount or distribution of affordable housing or any other kind of housing. The definition of affordable housing is set out in new section 12D(14).

550 New section 12D(10) provides that a spatial development strategy must be designed to secure that the use and development of land in the strategy area contribute to the mitigation of, and adaptation to, climate change. The spatial development strategy must also take account of any local nature recovery strategy that relates to any part of the strategy area (new section 12D(11)).

551 New section 12D(7) provides that the Secretary of State may prescribe in regulations further matters the spatial development strategy may, or must, deal with. Furthermore, new section 12D(8) sets out that provision can be made in regulations as to such diagrams, illustrations or other descriptive or explanatory matter relating to its contents that a spatial development strategy must contain. The Secretary of State may also prescribe the form of a spatial development strategy and any other documents that must accompany it (new section 12D(13)).

552 New section 12D(12) sets out what a spatial development strategy must not do, including identifying any specific sites for development. This does not prevent the spatial development strategy from identifying more generic areas which are suitable for or have capacity for development or infrastructure. A spatial development strategy cannot be inconsistent with or repeat any national development management policy.

New section 12E: Timetable for preparing spatial development strategy

553 Subsections (1) and (2) of new section 12E provide that all strategic planning authorities must prepare and maintain a spatial development strategy timetable. This timetable must specify the geographical area that the spatial development strategy will cover, and a timetable for its preparation.

554 New section 12E(3) gives the Secretary of State the power to prescribe in regulations the form and content of the timetable and any further matters the timetable must deal with.

New section 12F: Spatial development strategy timetable: further provision

555 New section 12F requires a strategic planning authority to submit its draft spatial development strategy timetable to the Secretary of State before it can bring it into effect. A period in which the timetable must be submitted within may be set out in regulations (new section 12E(1)).

556 Submitting the draft timetable to the Secretary of State provides the Secretary of State an opportunity to consider whether to direct the authority to make amendments to the draft timetable (new section 12E(2)). The Secretary of State must give their reasons for giving directions (new section 12E(6)). This could be, for example, if they think the timetable that the authority has produced would take too long, or if the timetable would be detrimental to the production of local plans in the area by conflicting with their own production.

557 New section 12E(4) provides that if the Secretary of State does direct an authority to make amendments to the draft timetable, the authority must submit its revised timetable for

approval within a period specified in the direction and may only bring it into effect if the Secretary of State approves it.

558 If the Secretary of State has not directed an amendment to the draft timetable within four weeks of it being sent to them, the authority may bring it into effect by publishing it, together with a statement that the timetable has effect.

559 If the Secretary of State has not directed an amendment to the draft timetable within four weeks of it being sent to them, the authority may bring it into effect by publishing it (new section 12H(3)), together with a statement that the timetable has effect (new section 12H(7)).

560 If an authority does not submit its draft timetable or revised timetable to the Secretary of State, the Secretary of State may prepare one on the authority's behalf and direct that the authority brings it into effect (new section 12H(5)).

561 New section 12H(9) provides that the Secretary of State can make provision in regulations as to when a strategic planning authority must revise a spatial development strategy timetable. Regulations may confer a power to direct that a timetable is to be revised or that revisions to the timetable must be approved by the Secretary of State (subsection 10)).

New section 12G: Preparation of draft spatial development strategy

562 New section 12G requires a strategic planning authority to prepare a draft of its spatial development strategy and subsection (2) sets out the matters that a strategic planning authority must have regard to when preparing its draft spatial development strategy. New section 12G(2)(d) also provides for the Secretary of State to prescribe in regulations other matters that an authority must have regard to. This is to ensure that authorities can be required to have regard to other matters that may be identified in the future.

New section 12H: Consultation and representations

563 New section 12H makes provision about how a strategic planning authority should undertake the statutory consultation on its draft strategy.

564 New section 12H(1) requires a strategic planning authority to publish the draft on its website, notify specified persons that the draft has been published, and make copies available at the authority's principal office and at any other place that the authority considers appropriate.

565 New section 12H(2) set out the persons and bodies that a strategic planning authority is required to notify the draft has been published. These are: the Secretary of State, any county council or district council for an area that is within or part of which is within the strategy area, any county council or district council for an area that adjoins the strategy area and is affected by the draft strategy, any local planning authority for an area that is within or adjoins the strategy area and is affected by the draft strategy, and any person responsible for preparing a spatial development strategy for an area that adjoins the strategy area and is affected by the strategy.

566 The Secretary of State may make provision in regulations for other persons to be notified about the publication of the draft strategy (new section 12H(2)(g)) and the strategic planning authority may notify such other persons that they consider appropriate (new section 12H(2)(h)).

567 New section 12H(3) sets out a range of community-based bodies and interest groups that a strategic planning authority must consider notifying about the publication of the draft strategy. This, however, remains at the discretion of the strategic planning authority.

568 New section 12H(4) requires a strategic planning authority to invite representations to be made when it publishes a draft spatial development strategy or makes a copy available for inspection. Any person that has been notified that a draft spatial development strategy has been published must also be invited to make representations (subsection (5)).

569 New section 12H(6) provides that representations must be made in the form and manner prescribed by regulations and that they must also be made within the period prescribed in regulations.

New section 12I: Public examination

570 New section 12I makes provision for the public examination of a draft spatial development strategy. An examination enables public participation and for the draft spatial development strategy to be independently tested before it is made operative.

571 An examination of the draft spatial development strategy must be held by a person appointed by the Secretary of State, unless the Secretary of State directs otherwise. It is for the person conducting the examination to determine the matters to be considered at the examination. The examination does not have to cover every aspect of the proposed strategy (new section 12I(1)-(3)).

572 The strategic planning authority that prepared the draft spatial development strategy may take part in the examination, as well as any person invited to do so by the examiner(s). No organisation or individual has a right to appear at the examination (new sections 12I (4)-(5)).

573 Once the examination is concluded, the person or panel who conducted the examination must send a report to the strategic planning authority that prepared the draft spatial development strategy. The strategic planning authority must publish the report (new sections 12I (6) and (9)).

574 The report may recommend that modifications are made to the strategy before it is adopted, or it may recommend that the draft strategy is withdrawn (new sections 12I (7)-(8)).

New section 12J: Withdrawal before adoption

575 New section 12J makes provision about the withdrawal of a draft spatial development strategy. A strategic planning authority may withdraw its draft at any time before arrangements are made for its examination (new section 12J(1)). After this point, a draft strategy may only be withdrawn if the Secretary of State directs the strategic planning authority to do so, or if the examiner recommends doing so and the Secretary of State has not directed otherwise (new section 12J(3)).

576 When withdrawing a draft strategy, the strategic planning authority must delete the strategy from its website, remove copies that were made available for inspection and notify all persons that were notified as to the publication of the draft strategy and any person who had made a representation in accordance with new section 12H (new section 12J(4)).

New section 12K: Submission to Secretary of State before adoption

577 New section 12K requires a strategic planning authority to submit their draft spatial development strategy to the Secretary of State before they can adopt it.

578 Before submitting the draft strategy to the Secretary of State, the strategic planning authority must consider any representations about the draft strategy received in accordance with regulations under new section12H(4) and decide whether to make any modifications (new section 12K(2)(a)). The strategic planning authority must also consider the examiner's report about the draft strategy and decide whether to make any modifications to the strategy that the examiner has recommended (new section 12K(2)(b)) and must also consider whether to make

any modifications to take account of any material national development management policies or any other material considerations (subsection 2(c)). The strategic planning authority must inform the Secretary of State of any modifications they make to the draft strategy, and the reasons for making them. They must also inform the Secretary of State of any modifications recommended by the examiner that they have chosen not to make, and the reasons for not making them (new section 12K(4)).

579 Following the submission of a draft strategy to the Secretary of State, the strategic planning authority must wait for a period of six weeks before they can adopt it, or a longer period if specified by the Secretary of State (new section 12K(6)). During this period, the Secretary of State may direct modifications to the strategy, but only to avoid any inconsistency with national policies or any detriment to the interests of an area outside of the strategy area (new section 12K(5)).

New section 12L: Adoption of spatial development strategy

580 New section 12L makes provision for a strategic planning authority to adopt a spatial development strategy. It is only after a strategy is adopted that it becomes operative and forms part of the development plan for that area.

581 A spatial development strategy must be adopted in the form submitted to the Secretary of State or in a modified form to take into account any directions made by the Secretary of State. Where a direction has been made under new section 12K(5), the Secretary of State must confirm that they are content with the modified strategy. The strategy must not be adopted unless the strategic planning authority has complied with any requirement of regulations under Part 1A of the Planning and Compulsory Purchase Act 2004 for steps to be taken, or a period to elapse, before a strategy may be adopted.

582 A strategic planning authority may adopt its spatial development strategy by holding a vote on a resolution to adopt it (new section 12L(3)).

583 Where a spatial development strategy is prepared by a combined authority or combined county authority headed by an elected mayor, the Mayor has a casting vote in the event of a tied vote on whether to pass a resolution to adopt the strategy. This is in addition to any other vote the mayor may have (new sections 12L(4)-(5)).

584 After adoption, a strategic planning authority must publish the strategy alongside a statement that it has been adopted, at which point the strategy becomes operative (new sections 12L(6)-(7)).

New section 12M: Review and monitoring

585 New section 12M sets out the requirement for a strategic planning authority to review and monitor a spatial development strategy once it is operative.

586 Strategic planning authorities are under a duty to keep matters that are relevant to the strategy under review (new section 12M(2)). This includes consulting local planning authorities and the person responsible for preparing a spatial development strategy for an area that is outside the strategy area, about any relevant matters (new section 12M(3)).

587 As different spatial development strategies may differ in the time periods they cover and vary in size and scope, there is no specific timeframe for undertaking a review (new section 12M(4)). The Secretary of State may direct a review of all or specific parts of a spatial development strategy at any time (new section 12M(5)).

588 Strategic planning authorities must also monitor the implementation of their strategy and collect information on matters relevant to its preparation, review, alteration, replacement and

implementation (new section 12M(6)). It is not mandatory to publish an individual monitoring report into the spatial development strategy. However, the Secretary of State may make regulations requiring a strategic planning authority to make information relating to the strategy available to the public or the Secretary of State in a prescribed form and manner (new section 12M(7)).

New section 12N: Alterations

589 New section 12N makes provision for the alteration of an operative spatial development strategy. A strategic planning authority may prepare alterations to its strategy at any time (new sections 12N(2)).

590 New section 12N(3) gives the Secretary of State the power to direct a strategic planning authority to alter its spatial development strategy. The Secretary of State may also make regulations containing provisions as to when, or in which circumstances, a spatial development strategy must be altered (new section 12N(4)).

591 New sections 12G to 12L still apply to the preparation and adoption of those alterations and any alteration must still only deal with the content of a spatial development strategy provided for in new section 12D(5)-(6).

New section 12O: Replacement

592 New section 12O makes provision for the replacement of an operative spatial development strategy. A strategic planning authority may replace its strategy at any time (new section 12O(2)). An operative spatial development strategy is revoked upon the adoption of a new strategy (new section 12O(5)).

593 New section 12O(3) gives the Secretary of State the power to direct a strategic planning authority to replace its spatial development strategy. The Secretary of State may also make regulations making provision as to when, or in which circumstances, a spatial development strategy must be replaced (new section 21O(4)).

New section 12P: Powers where a strategic planning authority is failing etc.

594 New section 12P makes provision as to the Secretary of State's powers to intervene in the production of a spatial development strategy. These powers are similar to the powers provided in Section 15H – 15HE of the Planning and Compulsory Purchase Act 2004 (as inserted by Schedule 7 to the Levelling-up and Regeneration Act 2023) for the Secretary of State to intervene in the production of a local plan if considered necessary.

595 The Secretary of State may use this power of intervention if they consider that any of the following criteria is, or may occur:

a. a strategic planning authority is failing to do anything it is necessary or expedient for them to do in connection with the preparation, adoption, alteration, replacement or review of a spatial development strategy;

b. a spatial development strategy is, is going to be or may be inconsistent with current national policies or detrimental to an area outside the strategy area; or

c. a proposed alteration of a spatial development strategy is or may be inconsistent with current national policies or detrimental to an area outside the strategy area.

596 The intervention power enables the Secretary of State to do any of the following interventions, and must give reasons for doing so:

a. take over the preparation of a strategy;

b. alter an operative strategy;

c. give directions to a strategic planning authority in relation to the preparation, adoption, withdrawal, alteration, replacement, review or revocation of the strategy. This includes modifying or withdrawing a draft strategy; and altering or revoking an operative strategy.

597 If the Secretary of State takes over preparation of a spatial development strategy or alters it, they must:

a. publish a timetable for preparing or altering the strategy and detail any departures from any existing timetable;

b. make arrangement for the examination of the draft or altered strategy and act as the strategic planning authority during examination or direct the strategic planning authority to make arrangements for its examination; and

c. publish the examiner's report or direct the strategic planning authority to publish the examiner's report.

598 Following the publication of the examiner's report, the Secretary of State may do any of the following whilst giving reasons for doing so:

a. approve the strategy or alteration, and either publish it themselves or direct the strategic planning authority to publish it;

b. approve a modified strategy, and either publish it themselves or direct the strategic planning authority to publish it;

c. direct the strategic planning authority to consider adopting the strategy or a modified strategy or alteration;

d. reject the strategy or alteration.

599 Whilst exercising these functions, the Secretary of State may take into account any matter that they consider relevant, even if the strategic planning authority did not themselves consider that matter relevant. They must also have regard to any spatial development strategy timetable or local plan time timetable prepared by a local planning authority within the strategy area.

New section 12Q: Power to approve strategy where adoption resolution not passed

600 New section 12Q provides, in the event of a vote against passing a resolution to adopt a spatial development strategy for the Secretary of State to approve the strategy if they consider it appropriate to do so. A mayor of a combined authority or combined county authority may also request the Secretary of State to approve a spatial development strategy in the event of a vote against passing a resolution to adopt it.

601 The Secretary of State may, whilst giving reasons for doing so, approve the strategy (with or without modifications) or decline to approve the strategy. If they approve the strategy (with or without modifications), the Secretary of State must publish the strategy or direct the strategic planning authority to publish it (new section 12Q(5)).

602 Once published the strategy becomes operative (new section 12Q(6)).

603 Whilst exercising these functions, the Secretary of State may take into account any matter that they consider relevant, even if the strategic planning authority did not themselves consider that matter relevant (new section 12Q(7)).

New section 12R: Liability for Secretary of State's costs of intervention

604 New section 12R makes provision for the ability for the Secretary of State to be reimbursed for costs relating to intervention. The Secretary of State may require a strategic planning authority whose strategy was the subject of intervention under new section 12P or 12Q to reimburse them for any expenditure relating to such intervention (new section 12R(1)).

605 Where the strategic planning authority is a strategic planning board, the constituent authorities are liable for any costs that the Secretary of State has required to be reimbursed. It is for the Secretary of State to apportion the costs amongst the constituent authorities (new section 12R(2)).

New section 12S: Temporary direction pending possible use of intervention powers

606 New section 12S provides that where the Secretary of State is considering whether to take action under new section 12P, they may direct a strategic planning authority not to take any steps in relation to their strategy (subsection (1)). This is to prevent, for example, a strategic planning authority withdrawing or adopting a strategy whilst the Secretary of State is considering exercising their intervention powers.

607 A direction may prevent the strategic planning authority from taking any step, or a specified step, in relation to their strategy until a time or event specified (if applicable) or until the direction is revoked (new section 12S(1)).

608 A spatial development strategy is not operative whilst any direction is in force (new section 12S(2)).

609 New section 12S(3) provides that a direction ceases to have effect if the Secretary of State gives a direction under new section 12P(2)(c) or 12P(9)(c) or approves the strategy under section 12P(9)(a) or (b).

New section 12T: Supplementary etc provision in connection with regulations about strategic planning boards

610 New section 12T provides that the Secretary of State may by regulations make supplementary, incidental, transitional, transitory or saving provision for the purposes of strategic planning board regulations (new section 12T(1)).

611 Such regulations may include provision ensuring that where a principal authority is to become a constituent member of a strategic planning board but is already party to a spatial development strategy, that spatial development strategy remains operative in relation to that authority until the spatial development strategy adopted by the board becomes operative (new section 12T(2)).

612 Such regulations may also make provision that where a strategic planning board is dissolved, a spatial development strategy remains operative for the principal authorities that were constituent authorities of the board (new section 12T(3)).

New section 12U: Regulations

613 New section 12U provides that the Secretary of State may make regulations containing provision about the exercise of functions under Part 1A of the Planning and Compulsory Purchase Act 2004. These regulations may include different provision for different areas.

614 Subsection (2) states that this may include provision about:

- Procedural matters;

- Renumeration and allowances payable to examiners;
- the supply of information or documents to the Secretary of State for the purposes of any decisions made under this part of the Bill;
- determination of the time by which anything must be done for the purposes of this part of the Bill;
- the manner of publication of any documents required to be published; and
- the making of reasonable charges for the provision of copies of documents.

New section 12V: Directions

615 New section 12V clarifies that any direction given to a strategic planning authority under Part 1A of the Planning and Compulsory Purchase Act 2004 may require the authority to do specified things by specified dates or require the authority to keep the Secretary of State informed of their progress toward meeting that direction.

616 Any direction must be given in writing and must be published.

617 A direction may be varied or revoked by notice in writing to the strategic planning authority in which it was given.

New section 12W: Meaning of "spatial development strategy" etc

618 New section 12W defines the meaning of spatial development strategy for the purposes of Part 1A of the Planning and Compulsory Purchase Act 2004. For the purposes of new sections 12B(4)(c), 12C(6)(b)(iv), 12H(2)(f) and 12M(3)(b), this includes strategies prepared under Part 1A of the Planning and Compulsory Purchase Act as well the spatial development strategy for London and any strategy adopted by a combined authority or combined county authority in accordance with regulations under existing legislation.

New section 12X: Interpretation

619 New section 12X provides definitions of key terms used throughout Part 1A of the Planning and Compulsory Purchase Act 2004.

620 Subsection (2) of this clause amends section 95 of the Levelling-up and Regeneration Act 2023 to ensure greater consistency between the content of a spatial development strategy produced under the Greater London Authority Act 1999 and a spatial development strategy produced under Part 1A of the Planning and Compulsory Purchase Act 2004.

621 Subsection (3) of this clause introduces Schedule 3 which contains amendments consequential on Part 1A of the Planning and Compulsory Purchase Act 2004.

622 Subsection (4) of this clause provides that the Secretary of State may make regulations containing consequential provision. These regulations may amend an Act passed before the end of the session of Parliament in which this Bill is passed (and if so, must be approved by each House of Parliament) and may include incidental, supplemental, transitional and saving provision. Any regulations not amending primary legislation may be annulled by either House of Parliament (subsections 5-7).

623 This clause extends to England and Wales, but applies to England only.

624 Subsections (1)-(3) will be commenced by regulations, with regulation-making powers in subsection (1) coming into force on Royal Assent. Subsections (4)-(8) come into force two months after he day on which Royal Assent is given.

Part 3: Development and nature recovery

Overview

Clause 53: Overview of EDPs

625 This clause provides an overview of a new type of plan established under this Bill - an "environmental delivery plan" (EDP). EDPs will be drafted by Natural England (or where set by regulations, another delivery body) and subsequently made by the Secretary of State following their consideration and approval of the EDP. EDPs will, amongst other things, set out the conservation measures that will be taken to address the impact of specified types of development on relevant environmental features - a specific protected feature of a protected site, or a specific protected species (see clause 55 for more information on environmental features). The EDP will also set out the amount of the nature restoration levy to be paid by developers to Natural England based on what is required to pay for these measures. Alongside the levy rate that is payable, the EDP will set out the relevant environmental obligations that will be discharged, disapplied or modified as a result of the making of the payment.

626 Subsection (2) provides signposting to other key sections in this Part relating to the contents, procedure and reporting requirements of an EDP which are covered in detail later in these notes.

627 The territorial extent of this clause is England and Wales. It applies to England only.

628 This clause will be commenced through regulations.

Environmental delivery plans: content

Clause 54: Scope of an EDP: area, kind and volume of development and time period

629 This clause sets out a series of requirements around what an EDP must contain. The EDP will apply to a specific geographic area (or separate areas) in England or its territorial waters, which may include the whole of England. This area must be set out in the EDP, including in map form, with an explanation as to why it has been chosen. The EDP may also include areas within this development area where development is excluded from the EDP. Where excluded, any development coming forward in that area would need to continue to operate under the existing legislative framework and could not benefit from access to the EDP. Where exclusions are included, the EDP will set out the reasons – for example, that exclusion is required on the basis of ecological evidence that establishes a need for continued site-by-site assessment.

630 The EDP will also specify particular types and amounts of development that it can cover. Once the threshold for the amount of development allowed under the EDP is reached, unless the EDP is amended to accommodate additional development, new development will no longer be able to rely upon the EDP. Natural England can define an amount of development in a variety of ways as set out in subsection (6) to reflect that different approaches may be necessary depending on the environmental issue being addressed. Development not of a type set out in the EDP will not be covered, as its potential impacts will not be of a type that has been anticipated in devising the conservation measures.

631 Subsection (7) sets out that an EDP must specify a start date (the date at which it comes into force) and an end date (at which point the EDP expires). The end date must be no later than ten years following the start date, so that conservation measures are in place and benefits can start to be realised within a reasonable timeframe. As part of the setting of the levy, where

relevant, conservation measures will be subject to ongoing management and maintenance beyond the EDP end date.

632 The territorial extent of this clause is England and Wales. It applies to England only.

633 This clause will be commenced through regulations.

Clause 55: Environmental features, environmental impacts and conservation measures

634 This clause introduces requirements for the EDP to identify and set out information on three of the key concepts dealt with by an EDP. These are the environmental features which are likely to be negatively affected, the relevant environmental impact of development, and the conservation measures which will be put in place to address negative impacts and contribute to an overall improvement in the environmental feature.

635 The term "environmental feature" is defined in subsection (2) as either a specific protected feature of protected site, or a protected species (see clause 92). These are protections stemming from either the Habitats Regulations, the Wildlife and Countryside Act 1981, or the Protection of Badgers Act 1992, with more information set out in clause 92.

636 Subsection (3) requires that an EDP must set out conservation measures that will address the relevant environmental impact of the development and contribute to an overall improvement in the environmental feature. For example, where the environmental feature is a type of plant which is a notified feature of a protected water course, and the environmental impact is nutrient pollution from a housing development, the conservation measures set out in the EDP will address the nutrient pollution from the housing development but will go further to improve the conservation status of that type of plant in that watercourse. In designing conservation measures, Natural England will give consideration to the lifespan of the development and so the period over which conservation measures need to be secured and managed.

637 Subsection (4) allows for a scenario where Natural England may, if it considers it to be appropriate, focus conservation measures on an environmental feature that is not being directly affected by the development, as long as it is the same type of feature as the one being affected. To go back to the example in the paragraph above, this would allow the EDP to seek to improve the conservation status of the same type of plant but in a different watercourse, where Natural England consider that this would lead to a better environmental outcome overall.

638 Subsection (5) allows Natural England to include back-up conservation measures in the EDP. While included in the EDP, these measures would only be taken where required because, for example, monitoring and reporting has shown that additional interventions are needed in order to deliver the overall improvement required.

639 Subsection (6) requires that Natural England set out the expected cost of conservation measures included in the EDP, and how these conservation measures are to be maintained. This is either over the EDP period if the conservation measures will be delivered within that time, or over a longer period if the conservation measures (including longer term management and maintenance periods) will be in place beyond the EDP end date.

640 Subsection (7) specifies that conservation measures can take the form of a request by Natural England that development is granted subject to certain conditions. This could be, for example, as part of an EDP dealing with the impact of water scarcity, that a planning condition requires development under an EDP to achieve a certain standard of water efficiency or, in relation to an EDP addressing impacts on bats, a requirement in a development consent order relating to

the position and timing of outdoor lighting. It is anticipated that any conservation measure that takes the form of a condition of development will be drafted in such a way that meets the tests relevant to planning conditions, such as at paragraph 57 of the National Planning Policy Framework. The decision maker will continue to have discretion on the imposition of planning conditions, but where an EDP is relied on and Natural England requests that a condition is imposed pursuant to that EDP, the decision maker will need to consider that request in accordance with the duty to cooperate at clause 88(2)(b) which refers specifically to the imposition or variation of a condition of development. This creates a presumption that the condition set out in the EDP will be imposed, but it is not an absolute duty: if a planning decision-maker does not consider that the condition set out in the EDP is appropriate for a specific grant of planning consent, even where the applicant for that consent intends to rely on an EDP, then they will not be obliged to impose it. Since the duty to cooperate requires public authorities to give Nature England reasonable assistance in implementing an EDP it is anticipated that the decision maker will engage with Natural England to ensure that an appropriate condition is imposed. In reaching that conclusion a planning decision-maker will be aware that the applicant will have voluntarily chosen to rely on the EDP to discharge their environmental obligations (other than in circumstances where it is clear that a mandatory approach to an EDP is needed) and can be taken to know that the EDP required such a condition to be imposed. If a condition required by an EDP is not applied to the grant of development consent, and an alternative appropriate condition is not imposed, then it is anticipated that the development will not be able to rely on the EDP to discharge the relevant environmental obligation.

641 Changes made to the Town and Country Planning Act 1990 by paragraphs 39 and 40 of Schedule 6 provide that where conservation measure are required by a planning condition they will not be capable of being deemed to be discharged (in accordance with section 74A of the 1990 Act) and where those conditions are pre-commencement conditions the applicant will not be required to agree to that condition (in accordance with section 100ZA). This is because the applicant will, in most cases, have agreed to pay the levy voluntarily and therefore be bound by such a condition; where an EDP is mandatory in accordance with clause 66(4) is not anticipated that securing conservation measure through pre-commencement conditions would be appropriate.

642 Finally, subsection (8) sets out that the environmental impact of development as identified in the EDP should be based on the maximum amount of development to which the EDP may apply.

643 The territorial extent of this clause is England and Wales. It applies to England only.

644 This clause will be commenced through regulations.

What might need to be included in an EDP

In this illustrative example, the development area covers a river catchment, the environmental feature is a type of plant which is a notified feature of a protected watercourse, and the environmental impact is nutrient pollution from 1,000 houses. These will be identified as such in the EDP.

The EDP must identify sufficient conservation measures to not only address the nutrient pollution from the expected development, but ensure that the environmental feature is in a better condition than it would have been in the scenario where neither the development nor the conservation measures set out in the EDP went ahead. The conservation measures proposed in this example are the building of a wetland and a requirement for local authorities to apply a condition on all planning permissions that houses include septic tanks. The EDP also includes a proposal for an extension to the wetland, which will only be delivered if monitoring shows that the main measures are not having the level of impact expected. The expected costs of the delivery of these measures over the lifetime of the EDP, in this illustrative case, the maximum ten years, and the ongoing cost of maintaining the measures beyond the lifetime of the EDP, must also be detailed here.

The EDP must also highlight which environmental obligations can be discharged under it. In this example that would be the need to carry out an appropriate assessment for nutrient pollution impacts on the specified water course resulting from the development covered by the EDP.

Clause 56: Nature restoration levy: charging schedules

645 The nature restoration levy will be paid by developers in order to fund the conservation measures set out in the EDP. The EDP will include one or more charging schedules, which will set out how much developers must pay. This may vary depending on the nature and size of the development with the charging schedules being bespoke to each EDP. There will be a charging schedule for each environmental impact covered by the EDP (so, for example, there could be one charging schedule covering water pollution in respect of a protected site and one covering other impacts from the development on nesting birds in that same site, where both are covered by the same EDP). Regulations will set out more detail as to how these rates will be set.

646 The territorial extent of this clause is England and Wales. It applies to England only.

647 This clause will be commenced through regulations.

Clause 57: Other requirements for an EDP

648 This clause supplements clauses 55 and clause 56 in setting out the contents of an EDP.

649 As well as providing that the EDP must contain a description of the conservation status of the environmental feature being covered by the EDP (i.e. the protected species or the protected feature of a protected site), this clause requires an EDP to set out the approach to monitoring the effects of the EDP. In deciding this approach to monitoring Natural England is under a duty to have regard to guidance issued by the Secretary of State.

650 The EDP must include an explanation of why Natural England consider the conservation measures to be appropriate, alongside any alternative conservation measures they considered but did not include.

651 In addition, this clause provides that the EDP must set out the strategies and plans that Natural England considered when developing the EDP and, in respect of protected species, must set out the terms of any licence to be granted to a developer under the EDP.

652 Subsection (6) requires the EDP to also set out an overview of any other measures that Natural England or another public body are already taking, or are likely to take, to improve the relevant environmental feature. These are distinct from the conservation measures included in the EDP; this is to ensure that EDPs consider and reflect the impact of other actions being taken to improve the conservation status of the environmental feature.

653 Subsection (9) provides a power for the Secretary of State to stipulate further information that must be included in an EDP. This may be used for various purposes depending on the EDP, for example, to require an EDP relating to a protected species to set out how relevant licencing tests are met.

654 The territorial extent of this clause is England and Wales. It applies to England only.

655 This clause will be commenced through regulations.

Environmental delivery plans: procedure

Clause 58: Preparation of EDP by Natural England

656 This clause sets out the process for how Natural England should approach the preparation of an EDP. It includes a power for the Secretary of State to make further regulations regarding requirements for Natural England when preparing an EDP.

657 This clause sets out the initial parts of the process, requiring Natural England to notify the Secretary of State that it intends to prepare an EDP and publishing that notification. This clause also stipulates the matters to which Natural England must have regard when preparing an EDP – specifying the current environmental improvement plan, relevant development plans and "Environment Act strategies", such as local nature recovery strategies and protected sites strategies. Subsection (2A) expands this to include marine plans, marine policy statements and the UK marine strategy where an EDP encompasses water adjacent to England.

658 The territorial extent of this clause is England and Wales. It applies to England only.

659 This clause will be commenced through regulations.

Clause 59: Consultation on draft EDP

660 This clause requires Natural England to consult the public and any public authority they consider relevant on the draft EDP. It mandates that Natural England seek the views of specified public bodies, including the Environment Agency and relevant local planning authorities. This should also include where relevant any mayoral combined authorities or mayoral combined county authorities as defined in subsection (6).

661 This clause includes a power for the Secretary of State to add to the list of bodies which Natural England must consult via regulations, as well as make regulations requiring public authorities to respond to consultations.

662 The time period for consultation is set at 28 days from when the draft EDP is published (or longer in certain circumstances if specified in regulations) and provision is made that

responses received outside that time period need not be considered by Natural England, with Natural England having discretion as to whether further consultation is required. This is to provide clarity to Natural England when reflecting the consultation responses in the EDP that will then be sent to the Secretary of State for consideration.

663 The territorial extent of this clause is England and Wales.

664 This clause will be commenced through regulations.

Clause 60: Making of EDP by Secretary of State

665 This clause sets out the process for the Secretary of State to make an EDP. The process begins when Natural England send a draft to the Secretary of State, along with copies of all consultation responses and Natural England's response to the consultation.

666 Subsections (3) to (5) set out the test that the Secretary of State must be satisfied is met before making an EDP. This test is called the "overall improvement test". The test is met if the Secretary of State considers the positive effects of the conservation measures set out in the EDP are likely to be greater than the negative effects of the development to which the EDP relates by the end date of the EDP.

667 To determine the positive effect of the EDP, the Secretary of State will consider what the effect is likely to be of the conservation measures contained within it when the EDP is fully implemented. Consideration will not be given to back-up measures proposed in accordance with clause 55(5) since these will only be used if the primary conservation measures fail to perform as anticipated. In determining the anticipated negative effect of the EDP the Secretary of State will consider the maximum amount of development which the EDP can enable. The overall improvement test is applied by reference to a single snapshot in time at which the Secretary of State will determine whether an overall improvement will be achieved, it is not an ongoing obligation.

668 When applying the overall improvement test, the positive effects and the negative effects of the EDP that the Secretary of State considers, are to be considered in relation to their impact on the conservation status of the environmental features covered by the EDP. Evidence of these effects will be set out in the draft EDP. The Secretary of State will not have to conduct independent enquiries but can request further information from Natural England if needed.

669 In applying the overall improvement test the Secretary of State will consider only the effects of development and the effects of the conservation measures, not matters outside the scope of the EDP. For instance, in the intervening time a farming regime could be changed on a large commercial farm, or an existing use of land could be intensified, or a sewage treatment works could malfunction: these things would not be considered in the overall improvement test where they were not within the remit of the EDP. Similarly positive environmental measures already planned or likely to happen outside of the EDP (which clause 57(6) would require to have been set out) should not be factored in, since these would not be within the remit of the EDP either. The exclusion of matters outside the EDP should be distinguished from circumstances where outside factors have a direct effect on the effectiveness of conservation measures, or on the anticipated impact of a harm. The exclusion of matters outside the EDP should also be distinguished from circumstances where a foreseeable consequence of making the EDP (either the development enabled by it or the conservation measures proposed in it) would be to improve or reduce the effectiveness or impact of an extraneous measure. In which case, the net positive or negative effect of the EDP would be relevant to calculating the

negative effect of development. This will ensure the Secretary of State considers the impacts of the development subject to the EDP in isolation from other external factors, except where the EDP has an effect on that external factor.

670 If the overall improvement test is met then the Secretary of State may make the EDP, but would not be obliged to make an EDP simply where the test is met. It is anticipated that the Secretary of State would consider other relevant factors when deciding whether to make an EDP. The exercise of this discretion would be subject to the usual principles of public law.

671 Once an EDP is approved by the Secretary of State, Natural England will be able to proceed with delivering the conservation measures identified in the EDP and taking payments from developers who wish to use the EDP to discharge relevant environmental obligations.

672 If the Secretary of State decides not to make an EDP they must publish a notice setting out the reasons for their decision.

673 The territorial extent of this clause is England and Wales. It applies to England only.

674 This clause will be commenced through regulations.

Clause 61: Publication of EDP

675 Once made by the Secretary of State, the EDP must be published no later than 28 days after this decision. The duty to publish the EDP sits with the Secretary of State, but the Secretary of State may direct Natural England to publish the EDP on their behalf.

676 An EDP cannot come into effect before it has been published.

677 The territorial extent of this clause is England and Wales. It applies to England only.

678 This clause will be commenced through regulations.

Environmental delivery plans: reporting, amendment, revocation and challenge

Clause 62: Reporting on an EDP

679 Natural England must publish reports at least twice over the EDP period - once covering the period from commencement of the EDP to its mid-point, and then a second report covering the mid-point of the EDP until its end date. Where an EDP is revoked before either the middle or end of an EDP, Natural England must publish a report covering the period to the revocation date from the previous checkpoint. These reports must be published no later than two months after the period the report covers. Natural England may publish reports at any other time.

680 These reports are intended to demonstrate how the EDP is progressing. A report must cover specific topics, including how much development has been agreed to which intends to rely on the EDP and how this compares to the total amount of development that could do so, and what conservation measures have been implemented and the effect that they are having.

681 The report must also specify the amount of money received through the nature restoration levy under the EDP and whether this is in line with expectations. It must also set out whether the charging schedule or anything else in the EDP has been amended.

682 In producing these reports Natural England must follow any guidance that the Secretary of State may have produced.

683 The territorial extent of this clause is England and Wales. It applies to England only.

684 This clause will be commenced through regulations.

Clause 63: Amendment of an EDP

685 These clauses lay out the process which the Secretary of State must go through to amend an EDP. The Secretary of State can either amend an EDP of their own initiative, or at the request of Natural England.

686 Subsection (2) sets out that where a developer has already committed to pay the nature restoration levy for a development, an EDP can no longer be amended so that it does not apply to that development.

687 If the Secretary of State wishes to amend an EDP (whether of their own initiative or at the request of Natural England) other than to amend only the charging schedule, they may first direct Natural England to consult on the EDP as proposed to be amended.

688 Any such consultation must be carried out in line with the provisions at clause 58 and Natural England must provide the Secretary of State with all responses, including Natural England's own response to the outcome of the consultation.

689 The Secretary of State is required to apply the same overall improvement test when considering any amendment. If the Secretary of State decides not to make an amendment at the request of Natural England, they must publish a notice of this decision with its reasons.

690 After an EDP is amended the Secretary of State is required to either publish the amended EDP or direct Natural England to do so. This must occur within 28 days of the Secretary of State making the amendment, and the amendment cannot come into effect until publication takes place.

691 None of the above applies to a minor amendment, such as fixing a typographical error.

692 The territorial extent of this clause is England and Wales. It applies to England only.

693 This clause will be commenced through regulations.

Clause 64: Revocation of an EDP

694 An EDP can be revoked in one of two situations. Firstly, at the request of Natural England and secondly by the Secretary of State's own decision. The power to revoke can either be used to revoke specific sections of the EDP at different points in time or to revoke the entirety or parts of the EDP at different times for different developments.

695 The Secretary of State is required to revoke an EDP if they are no longer satisfied the EDP passes the overall improvement test, unless Natural England has already proposed amendments that would, if made, result in that test being passed.

696 If Natural England has requested that an EPD be revoked but the Secretary of State decides not to revoke an EDP, the Secretary of State must publish a notice of this decision and the reasons for making it.

697 When a EDP is revoked, the Secretary of State must publish a notice of revocation including the date of revocation, whether different sections are being revoked at separate times, the way in which the revocation will take effect, and the reason that it is being revoked.

698 Where an EDP is revoked, the Secretary of State has a responsibility to carry out the actions they consider appropriate to outweigh the negative effect of development in respect of which the nature restoration levy has already been committed to pay. The focus will be on the negative effect on the conservation status of each identified environmental feature in the EDP that is caused by the environmental impact of that development. What is considered

appropriate in this context will include ecological factors, but it will not be limited to that, and the Secretary of State will also consider economic and social factors.

699 The actions that the Secretary of State may take (or direct others to take) are not limited to those conservation measures set out in the EDP.

700 The territorial extent of this clause is England and Wales. It applies to England only.

701 This clause will be commenced through regulations.

Clause 65: Challenging an EDP

702 The making of an EDP (or anything done, or not done, during the preparation of an EDP) can be challenged by judicial review, provided the claim is filed within six weeks of the EDP being published. Amendment or revocation of an EDP can similarly only be challenged within six weeks of the amended version or notice of revocation is published.

703 The same six-week challenge period also applies to decisions of the Secretary of State not to make an EDP, approve an amendment or revoke an EDP.

704 Where a claim is brought questioning a refusal to amend or revoke an EDP, the six-week period to bring a claim begins on the day the decision notice is published if the request was made by Natural England. If the request was not made by Natural England the six-week period begins on either the date that the decision was published or the date that the person bringing proceedings had notice of that decision, whichever was earlier.

705 The territorial extent of this clause is England and Wales. It applies to England only.

706 This clause will be commenced through regulations.

Nature restoration levy

Clause 66: Commitment to pay the nature restoration levy

707 If a developer wishes to pay the nature restoration levy to discharge a relevant environmental obligation they can make a request to Natural England (subsection (1)). If Natural England accepts, subsection (2) makes clear that the developer is under an obligation to pay the charge as per the relevant charging schedule(s) for the development; and any phasing of payments that have been agreed with Natural England. Section 71(4) provides the ability to make regulations that the grant of planning permission may be subject to a condition for the purposes of securing the levy.

708 As a result of the developer committing to pay the nature restoration levy the environmental obligations to which that EDP relates are modified. Subsection (3)(a) sets out that, in relation to an EDP that relates to a protected feature of a protected site, payment of the levy results in the environmental impact of development on that feature being disregarded for the purposes of obligations under the Habitats Regulations, the Wildlife and Countryside Act 1981 or the Marine and Coastal Access Act 2009. Any impact of that development on other protected features, whether features of that protected site or another protected site, which are not covered by an EDP in relation to which payment of the relevant levy has been made, will not be disregarded and will continue to be considered as they are at present. An example would be a development which has an impact on both nutrient levels in the water within a protected site, and recreational disturbance to birds which breed in the same protected site. The development makes a levy payment in accordance with the EDP which addresses nutrient levels in water; in that case any screening or appropriate assessment in accordance with regulation 63 of the Habitats Regulations would address only the possible impact of the

recreational disturbance, and would disregard the impact on nutrients (because the impact on nutrient levels would be addressed by the conservation measures delivered by the EDP which the development is funding through its payment of the levy). Details of the relevant modifications are set out in Schedule 4 at paragraphs 1 and 2.

709 Subsection (3)(b) makes clear that in relation to an EDP that relates to a protected species, payment of the levy results in a developer being treated as having been granted a licence under regulation 55 of the Habitats Regulations, section 16 of the Wildlife and Countryside Act 1981 or section 10 of the Protection of Badgers Act 1992. In accordance with clause 57(4) that licence would be deemed to be granted subject to any relevant terms set out in the EDP. Any impact of that development on other protected species which are not covered by an EDP in relation to which payment of the relevant levy has been made, will not be disregarded and interference etc. with that species may constitute an offence unless a licence is obtained as they are at present. Details of the relevant modifications are set out in Schedule 4 at paragraphs 3 to 5.

710 In some circumstances, an EDP will set out that certain kinds of development must pay the nature restoration levy in order to meet relevant environmental obligations. Subsection (4) sets out that in these cases developers cannot fulfil their relevant environmental obligations in any other way. These EDPs would be mandatory and this should only be used where necessary. Subsection (5) therefore provides Natural England must set out in the EDP why they consider it necessary to make payment of the nature restoration levy mandatory.

711 The territorial extent of this clause is England and Wales. It applies to England only.

712 This clause will be commenced through regulations.

Clause 67: Regulations about the nature restoration levy

713 This clause provides a power for the Secretary of State to make regulations about the nature restoration levy. In making those regulations, there is a requirement that the Secretary of State must aim to ensure that costs on developers are reasonable and do not make development economically unviable. This is of particular relevance to avoid the risk that the rate of the levy disincentivises uptake from developers.

714 The territorial extent of this clause is England and Wales. It applies to England only.

715 This clause will be commenced through regulations.

Clause 68: Liability to pay the levy

716 This clause sets out that the nature restoration levy regulations can set out who is liable to pay the nature restoration levy, and when that liability to pay arises.

717 As planning permission, and therefore liability to pay the levy, runs with the land to which the permission applies rather than the specific developer, there will be scenarios when a person other than the person who made the original application must assume liability. Subsection (2) allows regulations to include provision around how and when liability to pay the levy is assumed by a person, as well as removal or cancellation of that liability.

718 Subsection (3) allows regulations to provide for situations where nobody has assumed liability to pay the levy, where someone is required to pay the levy but is no longer able to, or where the requirement to pay the levy is split between multiple developers. This subsection also allows regulations to provide for appeals in respect of the apportionment of liability to pay the levy.

719 Subsection (4) is a power for the Secretary of State to make regulations for Natural England to rescind its acceptance of an application to pay the nature restoration levy.

720 The territorial extent of this clause is England and Wales. It applies to England only.

721 This clause will be commenced through regulations.

Clause 69: Amount of the levy

722 This clause requires Natural England, in considering the rates and other details to be set out in a charging schedule, to have regard, to the extent required in regulations, to how much they expect the proposed conservation measures will cost, as well as any other sources of funding that may contribute to the delivery of conservation measures. There is also a requirement that Natural England consider matters specified in regulations relating to the economic viability of development. Further detail on how this should be done may be set out in regulations.

723 The clause outlines that regulations that can be made in respect of levy rates and related criteria (subsection (2)) and regulations requiring charging schedules to be calculated using specified methods (subsection (4)).

724 Subsection (3) specifies that these can include for example requirements for Natural England to have regard to the cost of producing an EDP and administering the fund. These regulations can also require integration with other processes undertaken for other statutory purposes, such as local plans or protected sites strategies.

725 In respect of the calculation of rates, subsection (5) sets out further information on how charging schedules can allocate rates, for example, based on a development's purpose, floorspace, or location. This can include provision for different rates based on different criteria, including zero rates.

726 The territorial extent of this clause is England and Wales. It applies to England only.

727 This clause will be commenced through regulations.

Clause 70: Appeals

728 Subsection (1) is a requirement for regulations to include a right of appeal against the charge that a developer has been apportioned under the charging schedule. This is not to include a right of appeal of the charging schedule itself (which will have been made by the Secretary of State with the EDP, and can be challenged pursuant to clause 64(1), or (3), if the charging schedule was amended) but only on a question of fact in relation to the calculation of the amount of the levy payable by a developer.

729 Subsections (2) and (3) allow for the making of regulations setting out the detail of such appeals, including who may make and determine them, and who is to be the defendant.

730 The territorial extent of this clause is England and Wales. It applies to England only.

731 This clause will be commenced through regulations.

Clause 71: Use of nature restoration levy

732 This clause sets out how the funding by Natural England through the nature restoration levy must be used. In broad terms this is to be spent on relevant conservation measures as well as the administrative costs that arise. More detail on what is to fall within these categories may be specified in regulations as set out in subsection (2), including the conservation measures that may be funded, maintenance activities, and what can be treated as funding.

733 Subsection (3) is a power to make regulations requiring Natural England to publish a list setting out the various types of conservation measures they may seek payment for, and the procedure around doing so. These regulations may also restrict Natural England from spending money received via the nature restoration levy on certain activities.

734 Subsection (4) sets out further examples of how funding may be used that can be covered by regulations, including: allowing funding to be used for past and future expenditure, including expenditure beyond the EDP end date; the granting of loans; and the use of money where the measure it was originally allocated to is no longer required.

735 Subsection (5) sets out that regulations may specify monitoring and reporting practices that Natural England must take, including that it accounts for money received via the levy separately from its other funding sources. Subsection (5(d)) sets out that regulations may permit or require Natural England to pass money to other public authorities and in doing so, the same accounting, monitoring and reporting requirements (flowing from regulations made under this subsection (5)) will apply to that public authority.

736 The territorial extent of this clause is England and Wales. It applies to England only.

737 This clause will be commenced through regulations.

Clause 72: Collection of nature restoration levy

738 This clause sets a requirement for nature restoration levy regulations to include provision relating to the levy's collection. It also stipulates further provisions such as that payments can be made in instalments, can be in a form other than money, or can be collected by a public body other than Natural England (for example by the local planning authority). This clause also allows for regulations to consider refunds in the case of an overpayment of the levy.

739 In making regulations relating the nature restoration levy, subsection (4) sets out that the Secretary of State may make regulations regarding the imposition of planning conditions to require payment of the levy. While the regulations would allow for different approaches to the use of conditions to secure the levy this would likely be negatively drafted. For example, allowing for a condition that development cannot commence until the levy has been paid.

> An indicative condition could be:
>
> *"Development may not be begun unless either:*
>
> *i. The levy has been paid in full; or*
> *ii. The developer has paid the first instalment and agreed to pay the full amount of the levy in instalments"*

740 In addition, this clause allows for regulations to be made to with what happens with payments of the levy when there is a change to the development which affects the basis on which the levy is charged.

741 Finally, subsection (8) provides for regulations to replicate or apply any existing enactment relating to the collection of a tax, or permit Natural England or collecting authority to determine any matter.

742 The territorial extent of this clause is England and Wales. It applies to England only.

743 This clause will be commenced through regulations.

Clause 73: Enforcement

744 This clause sets out that regulations must include provision relating to enforcement of the nature restoration levy, with consequences for late or failed payment.

745 Further subsections set out additional provisions that enforcement regulations may cover, including provisions around penalties and charges, granting enforcement powers (for

example of entry, information collection and prosecution) and provisions regarding replications of existing tax enforcement measures and appeals.

746 Subsection (5) sets out that regulations can provide for penalties relating to liability to pay the levy, including local land charges, where an obligation to pay a penalty remains with the piece of land or property even when ownership changes.

747 As well as providing for the consequences of late payment, this clause restricts the amount that can be applied as a single penalty under these regulations (subsection 8), with subsection 9 stipulating that more than one penalty can be applied at the same time.

748 Subsections (10)-(12) include further restrictions on the enforcement measures that can be applied by regulations, in relation to powers of entry and the creation of criminal offences.

749 Subsection (13) provides that enforcement expenses can be classed as administrative expenses and so included in the charging schedule and influence the levy rate that is set by an EDP.

750 The territorial extent of this clause is England and Wales. It applies to England only.

751 This clause will be commenced through regulations.

Clause 74: Compensation

752 This clause relates to circumstances where, Natural England may, through the exercise of their role as the delivery body, be required to provide compensation where loss or damage is suffered as a result of enforcement action taken under regulations made under clause 73.

753 Subsections (3) and (4) provide for compensation arrangements to be set out in regulations in respect of loss or damage arising from enforcement action, and that such compensation may not be required in circumstances relating to a failure to pay the nature restoration levy

754 Subsection (5) sets out that regulations may provide for payments received through the levy to be used for paying compensation.

755 Subsections (6) and (7) set out that the Upper Tribunal may be asked to determine disputes relating to compensation, with application of the Land Compensation Act 1961.

756 The territorial extent of this clause is England and Wales. It applies to England only.

757 This clause will be commenced through regulations.

Clause 75: Guidance about the nature restoration levy

758 This clause requires Natural England and any public authority to whom the Secretary of State may give guidance relating to the nature restoration levy, to have regard to that guidance.

759 The territorial extent of this clause is England and Wales. It applies to England only.

760 This clause will be commenced through regulations.

Powers and duties: Natural England etc

Clause 76: Administering and implementing EDPs

761 This clause sets out the broad functions provided to Natural England to enable them to administer and implement EDPs.

762 Subsection (1) sets out that these functions include: administering EDPs, taking conservation measures, and doing anything else that Natural England considers necessary to implement EDPs.

763 Subsections (2) and (3) set out that in exercising these functions, Natural England may develop land, and provide payment to another person to take conservation measures on their behalf.

764 The territorial extent of this clause is England and Wales. It applies to England only.

765 This clause will be commenced through regulations.

Clause 77: Power to enter and survey or investigate land

766 This clause enables Natural England to authorise another person to enter, survey or investigate land on behalf of Natural England – subject to certain conditions - in connection with that body's functions under Part 3.

767 Subsection (1) gives a person acting on behalf of Natural England the power to enter and survey or investigate land.

768 Subsection (2) states that entry must be at a reasonable hour and the power does not cover a private dwelling.

769 Subsection (3) sets out that the first time land is entered, at least 24 hours' notice in writing must be given to the occupier, unless the land is held by a statutory undertaker (someone who is carrying out certain statutory functions), in which case the notice in writing must be at least 21 days.

770 Subsection (4) provides that notice under subsection (3) is not required for second and subsequent entries onto the same land to carry out the same type of survey or investigation.

771 Subsection (5) states that this power of entry cannot be used in connection with a proposal by Natural England to acquire an interest in or a right over land (such as through a purchase). The subsection signposts to section 172 of the Housing and Planning Act 2016, which sets out separate rights of authorised persons to enter land in these circumstances.

772 Subsection (6) defines "statutory undertaker".

773 The territorial extent of this clause is England and Wales. It applies to England only.

774 This clause will be commenced through regulations.

Clause 78: Warrant to enter and survey or investigate land

775 Subsection (1) provides for a justice of the peace (a magistrate) to issue a warrant for a person acting on behalf of Natural England to enter land, other than a private dwelling, where that person has given notice as required, but has been denied admission. A warrant will only be issued where the justice is satisfied that conditions set out in subsection (1)(b) are met: there must be reasonable grounds for entering, surveying and investigating the land; admission is unlikely to be granted without a warrant; and it is necessary to confer a power to use force (if necessary) to achieve the purpose for which entry is sought.

776 Subsection (2) allows for a warrant to confer a power to use reasonable force if necessary, to enter and survey or investigate the land.

777 Subsection (3) states that a warrant may only be exercised if notice in writing of the intended entry has been given to the occupier. The notice periods are as in 77(3) (at least 21 days for statutory undertakers, or at least 24 hours in any other case).

778 Subsection (4) requires that the notice in writing must include a copy of the warrant, or if no warrant has yet been issued, state that Natural England intends to apply for a warrant.

779 Subsection (5) requires that a person executing a warrant must produce a copy of the warrant to the occupier of the land (if present).

780 Subsections (6) and (7) requires the warrant to set out the number of occasions on which it confers the power to enter and survey or investigate the land, and that this number must be one which the justice of the peace considers appropriate to achieve the purpose of the warrant.

781 Subsection (8) states that where a warrant authorises entry to the same land on more than one occasion, notice under subsection (3) is not required for the second and subsequent entries.

782 Subsections (9) requires that a warrant must be executed within three months from the date of issue, and at a reasonable hour.

783 Subsection (10) states that a warrant for power of entry cannot be used in connection with a proposal by Natural England to purchase that land.

784 Subsection (11) defines "authorised person" and "statutory undertaker".

785 The territorial extent of this clause is England and Wales. It applies to England only.

786 This clause will be commenced through regulations.

Clause 79: Powers of entry: further provision

787 This clause sets out further, miscellaneous provision around the powers of entry.

788 Subsection (1) clarifies that "power of entry" in this section and sections 79 and 80 means the power conferred by section 76 or by warrant under section 77.

789 Subsections (2) and (3) require that an authorisation of a person to exercise power of entry must be in writing, and a person must if asked produce evidence of their authority and state the purpose of entry.

790 Subsection (4) provides that a person exercising a power of entry may be accompanied by another person and bring anything they require for the purpose for which the power of entry is being exercised.

791 Subsection (5) provides that a person exercising a power of entry may be accompanied by a constable if they have reasonable cause to expect obstruction.

792 Subsection (6) requires that where unoccupied land is entered the person must leave it as secured against unauthorised entry as they found it.

793 Subsections (7) and (8) set out the kinds of surveying or investigating that may be undertaken, and that those kinds of surveying or investigating must be stated in the written notice to the occupier. If the land is unoccupied then notice must be given to every landowner that can reasonably be identified.

794 Subsections (9) and (10) require authorisation from the Secretary of State before a person exercises a power of entry if the land is held by a statutory undertaker and the undertaker objects to the notice of entry. Any such objection must be provided in writing to Natural England within the notice period (21 days).

795 Subsection (11) defines "statutory undertaker".

796 The territorial extent of this clause is England and Wales. It applies to England only.

797 This clause will be commenced through regulations.

Clause 80: Powers of entry: compensation

798 Subsections (1) and (2) provide that someone who has suffered damage due to a power of entry may recover compensation from Natural England. This right to compensation must be set out in the notice of entry that is required to be provided under sections 77, 78 or 79.

799 Subsection (3) sets out that any compensation disputes are to be determined by the Upper Tribunal.

800 Subsection (4) sets out that Section 4 of the Land Compensation Act 1961 (costs) should be applied when considering any compensation disputes.

801 The territorial extent of this clause is England and Wales. It applies to England only.

802 This clause will be commenced through regulations.

Clause 81: Powers of entry: offences

803 This clause creates two new offences relating to powers of entry: intentionally obstructing a person exercising a power of entry (subsection (1)), and disclosing confidential information obtained in exercise of a power of entry (subsection (3)).

804 Subsections (2) and (4) set out that anyone committing these offences is liable to be fined, imprisoned for up to 2 years, or both.

805 Subsection (5) defines "confidential information".

806 The territorial extent of this clause is England and Wales. It applies to England only.

807 This clause will be commenced through regulations.

Clause 82: Revoked EDP: powers of Secretary of State etc to enter and survey or investigate land

808 This clause provides powers of entry in connection with revoked EDPs. Subsection (1) allows a person authorised by a relevant authority (Secretary of State or a public authority directed by the Secretary of State) to enter and survey or investigate land for purposes connected with the taking of any measure to improve the conservation status of an environmental feature identified in a revoked EDP.

809 Subsections (2) and (3) set out that a justice of the peace may issue a warrant to confer a power to enter and survey or investigate land on any person authorised by the relevant authority, if necessary using reasonable force. A warrant may only be issued where there are reasonable grounds for entering and surveying or investigating the land, and the conditions in section 78 (1) are met.

810 Subsections (4) and (5) enable the powers and duties of Natural England under this section to be applied to the relevant authority in situations where an EDP has been revoked. For the purposes of this section, references to 'Natural England' in sections 77, 78, 79, 80 and 81 are to be read as references to the 'relevant authority'.

811 Subsection (6) defines "revoked EDP purposes".

812 Subsection (7) defines "relevant authority".

813 The territorial extent of this clause is England and Wales. It applies to England only.

814 This clause will be commenced through regulations.

Clause 83: Compulsory purchase powers: Natural England

815 Subsections (1) and (3) provide the power to acquire land compulsorily, including new rights over land, to Natural England subject to authorisation by the Secretary of State.

816 Subsection (2) sets out that the power can only be exercised if the land is required for purposes connected with a conservation measure set out in an EDP.

817 Subsections (4) and (5) provide that the compulsory purchase power may be used to acquire land or new rights over land, to be given as replacement for land compulsorily purchased, where such land is owned by statutory undertakers for the purpose of their statutory undertaking.

818 Subsections (6) and (7) provide that the compulsory purchase power may be used to acquire land or new rights over land, to be used in exchange for land compulsorily purchased, where such land is a common, open space, or allotment.

819 Subsection (8) sets out that further provisions in relation to compulsory acquisition by Natural England are set out in Schedule 5.

820 Subsection (9) defines "allotment", "common", "open space", and "statutory undertakers".

821 The territorial extent of this clause is England and Wales. It applies to England only.

822 This clause will be commenced through regulations.

Clause 84: Compulsory purchase powers: Secretary of State

823 This clause provides for the Secretary of State to acquire land compulsorily, if this is required to deliver conservation measures following a revoked EDP.

824 Subsection (2) defines "revoked EDP purposes" as the taking of a conservation measure included in a revoked EDP, or any other measure to improve the conservation status of an environmental feature identified in a revoked EDP. Such measures can be taken by the Secretary of State or another public authority.

825 Subsection (3) sets out the provisions which apply to the compulsory acquisition of land by the Secretary of State.

826 The territorial extent of this clause is England and Wales. It applies to England only.

827 This clause will be commenced through regulations.

Clause 85: Annual reports

828 This clause sets out a requirement for Natural England to produce an annual report on the exercise of its functions in relation to the preparation and implementation of EDPs.

829 Subsection (2) sets out that the report must contain a list and key information on all EDPs in force, those being prepared, details of any amendments or revocations, an assessment of the effectiveness of each EDP that is in force, and a summary of Natural England's accounts in respect of the financial year in question, including information on the amounts received and spent.

830 Subsection (3) requires that in preparing this report, Natural England must have regard to any guidance issued by the Secretary of State.

831 Subsections (4) and (5) require Natural England to send a copy of the report to the Secretary of State, and publish the report within a specified period. The Secretary of State must lay a copy of the report before Parliament.

832 Subsection (6) defines "financial year".

833 The territorial extent of this clause is England and Wales. It applies to England only.

834 This clause will be commenced through regulations.

Power to designate another person to prepare EDPs etc

Clause 86: Power to designate person to exercise functions under this Part

835 This clause, at subsections (1) and (2), sets out that the Secretary of State may use regulations to designate a public body other than Natural England to exercise any of Natural England's functions under this Part. This public body may replace or be in addition to Natural England, in relation to one area or development only.

836 Subsection (3) states that the functions of Natural England that can be designated to another body, as the Secretary of State considers necessary, are those under Part 1 of the Natural Environment and Rural Communities Act 2006 (which sets out Natural England's core functions).

837 This clause, at subsection (4), also includes a power for the Secretary of State to make regulations making consequential amendments to Acts of Parliament, including this Bill. This is to enable any further amendments that may be needed for operability.

838 The territorial extent of this clause is England and Wales. It applies to England only.

839 This clause will be commenced through regulations.

Clause 87: Transfer schemes in connection with regulations under section 86(1)

840 Where Natural England's functions are transferred through section 86, this clause allows any necessary rights, liabilities and assets, (for example, employees) of Natural England to be transferred.

841 Subsection (1) specifies that regulations may make a transfer scheme between Natural England and a designated person, or two or more designated persons.

842 Subsection (2) sets out the things that may be transferred under a transfer scheme.

843 Subsection (3) sets out the rights, liabilities and provisions of a transfer scheme.

844 Subsection (4) provides that a transfer scheme may provide for modifications to be made to the scheme by agreement, and for such modifications to have effect from the date the scheme came into effect.

845 Subsection (5) sets out that in this section rights and liabilities include those relating to contract of employment, and transfer of property includes the grant of a lease.

846 Subsection (6) sets out further information on contracts of employment.

847 Subsection (7) defines "designated person" and "the TUPE regulations".

848 The territorial extent of this clause is England and Wales. It applies to England only.

849 This clause will be commenced through regulations.

Supplementary

Clause 88: Duty of co-operation

850 This clause places a duty on all public bodies in England to co-operate with Natural England in connection with the preparation and implementation of EDPs. This duty requires such public bodies in England to provide reasonable assistance to Natural England, and to have regard to any guidance given by the Secretary of State about how the duty is to be complied with. Subsection (2) includes some specific examples of what this may cover. This does not apply to a court or tribunal, either House of Parliament or a person exercising parliamentary functions.

851 Subsection (3) requires public authorities in England to co-operate with Natural England on the preparation and implementation of an EDP. In doing so the person must have regard to guidance given by the Secretary of State. This clause does not require any disclosure or use of information that would contravene data protection legislation.

852 The territorial extent of this clause is England and Wales. It applies to England only.

853 This clause will be commenced through regulations.

Clause 89: Amendments relating to this Part

854 This clause makes amendments to the Habitats Regulations to provide that, for certain purposes, Ramsar sites are treated in the same way as European sites for the purposes of Habitats Regulations Assessments. Previously the National Planning Policy Framework and Government guidance expected local planning authorities to treat Ramsar sites in the same way as European sites for the purposes of the Habitats Regulations Assessments, but this was not required within the regulations themselves.

855 This clause allows the Secretary of State to make amendments to the articles that are a result of the previous clauses through regulation.

856 The territorial extent of this clause is England and Wales. It applies to England only.

857 This clause will be commenced through regulations.

Clause 90: Regulations

858 This clause sets out parliamentary procedure for making regulations under this Part of the Bill, which must be made by statutory instrument.

859 Statutory instruments containing nature restoration levy regulations, regulations made under section 86 (power to designate), as above, and regulations under section 89(2) (consequential amendments) must be made under the affirmative procedure, so must be actively approved by each House of Parliament.

860 Any other statutory instrument containing regulations in this Part is subject to the negative procedure and will pass automatically unless objected to after being laid before either House of Parliament.

861 This clause sets out that regulations under this Part may make different provisions for different purposes. The also may make transitional, transitory or saving provisions. Finally, regulations on this Part may also make incidental, supplementary or consequential provision.

862 The territorial extent of this clause is England and Wales. It applies to England only.

863 This clause will be commenced through regulations.

Clause 91: Application to the Crown

864 This clause sets out how this part applies to the Crown and Crown Land.

865 Subsection (2) relates to regulations made under Part 3. It provides the contravention of any provision of such regulations may not make the Crown criminally liable. This subsection also states that regulations under Part 3 may not confer powers of entry over Crown Land unless those regulations require the person seeking entry first obtain permission of the appropriate authority.

866 Subsection (3) requires that before conservation measures can be implemented on Crown land, Natural England must obtain the permission of the appropriate authority

867 Subsection (4) provides that before the power of entry under section 76 can be used over Crown land, the person seeking entry must have the permission of a person appearing to them to be entitled to give such permission, or the appropriate authority.

868 Subsections (5) sets out that the power conferred on the Secretary of State by section 81 (power to enter land) only applies where the person authorised by the Secretary of State to exercise such a power has first obtained the permission of the appropriate authority or a person appearing to be entitled to give such permission. Subsection (6) provides that this permission is not required where both the person seeking to exercise the power is a person authorised by the Secretary of State (paragraph (a)), and the appropriate authority is the Secretary of State or a Government department (paragraph (b)).

869 Subsection (7) sets out that if the appropriate authority is the occupier of land subject to the power of entry conferred by sections 77 or 82, then the notice requirement (section 77) does not apply. This is because under section 91(4) or (5), they will already be required to give permission to the person seeking to exercise the power, before they may exercise it.

870 Subsection (8) sets out that further provisions about notices in section 79(7) to 79(10), and the offences provision in section 81 do not apply in relation to powers of entry onto Crown land.

871 Subsection (9) sets out that powers to acquire land compulsorily do not apply to Crown land.

872 Subsection (10) defines "Crown land" and "the appropriate authority".

873 The territorial extent of this clause is England and Wales. It applies to England only.

874 This clause will be commenced through regulations.

Clause 92: Interpretation

875 This clause sets out the definitions for key terms in this Part of the Bill.

876 The territorial extent of this clause is England and Wales. It applies to England only.

877 This clause will be commenced through regulations.

Part 4: Development corporations

Clause 93: Areas for development and remit

878 This clause amends the New Towns Act 1981, the Local Government, Planning and Land Act 1980 (LGPLA 1980), and the Localism Act 2011 (LA 2011), to provide greater clarity and flexibility for development corporations in terms of the variety, extent, and types of the geographical areas over which they can operate. This will ensure that each development corporation model is fit for purpose and can be used to respond to site-specific challenges without having to retrofit the scope of the project to match the development corporation

model used, with the overall aim of advancing the use of development corporations to deliver large-scale property development.

879 As per existing remits, development corporations have the ability either to secure regeneration or deliver a new town. This clause clarifies that New Town Development Corporations (NTDCs) and Locally-led New Town Development Corporations (LNTDCs) can deliver urban extensions (subsection (2)), as well as new towns. NTDCs, LNTDCs, Urban Development Corporations (UDCs), and Locally-led Urban Development Corporations (LUDCs) will also be enabled to develop both brownfield and greenfield sites (subsections (5)-(7)). This clause also expands the remit of Mayoral Development Corporations (MDCs) to include development, as well as regeneration, so that MDCs can deliver new settlements, including on greenfield sites, in addition to regeneration projects (subsection (8)).

880 UDCs, LUDCs, and MDCs have explicit provisions in existing legislation to allow separate, non-contiguous parcels of land to be designated for development (section 134(3) LGPLA 1980, section 197(2) LA 2011). This clause sets out an equivalent provision for NTDCs and LNTDCs (subsection (2)) and, additionally, provides that an NTDC or LNTDC may oversee the laying out of more than one new town site, creating maximum application and flexibility for NTDCs and LNTDCs (subsection (3)).

881 The territorial extent of this clause is England and Wales. It applies in England only.

882 This clause will be commenced through regulations.

Clause 94: Duties to have regard to sustainable development and climate change

883 This clause provides for the standardisation of objectives on sustainable development, climate change, and good design across all development corporation types, through amendments to the New Towns Act 1981 (NTA 1981), the Local Government, Planning and Land Act 1980, and the Localism Act 2011. At present, only New Town Development Corporations are required to aim to contribute to sustainable development (section 4(1A) NTA 1981) and the legislative framework does not require any development corporation model to contribute to climate change mitigation and adaption. The intention of this clause is to create certainty for local communities that development corporations must consider sustainable development, climate change, and good design at the heart of delivery.

884 The territorial extent of this clause is England and Wales. It applies in England only.

885 This clause will be commenced through regulations.

Clause 95: Powers in relation to infrastructure

886 Existing provisions for infrastructure powers differ across development corporation models. While all development corporation types have access to relatively broad overarching powers, provisions for Mayoral Development Corporations (MDCs) also specify a long list of infrastructure MDCs can provide (section 205 Localism Act 2011). The same list is not provided for other development corporation types (section 4(1) New Towns Act 1981, section 136(3) Local Government, Planning and Land Act 1980). This clause therefore standardises the list of infrastructure that can be provided by all development corporation types, equalising it with existing MDC provisions. This will ensure greater certainty for development corporations to deliver the range of infrastructure necessary for large-scale developments.

887 Heat network infrastructure is not currently explicitly listed alongside the other types of infrastructure development corporations can provide. This clause rectifies this, so that all development corporation types will have clarity concerning the provision of heat networks in the areas they develop. This explicitly recognises heat as a distinct utility alongside others

(including electricity and gas) and is consistent with the broad ambitions of development corporations in respect of sustainable development and climate change.

888 Subsection (4) removes the current restrictions on New Town Development Corporations and Locally-led New Town Development Corporations so they can provide railway, light railway or tramway activity (section 5(5) New Towns Act 1981), as is currently the case for Urban Development Corporations, Locally-led Urban Development Corporations and MDCs.

889 The territorial extent of this clause is England and Wales. It applies in England only.

890 This clause will be commenced through regulations.

Clause 96: Exercise of transport functions

891 Development corporations cannot currently take on local transport powers. Where local bodies are fragmented, development corporations can encounter delays, and insufficient collaboration can lead to missed opportunities for coordination of housing and transport. This clause places a duty of cooperation on relevant transport authorities, such that they must have regard to, and cooperate in the development and implementation of, the plans of development corporations (new section 9A(1) and 140A(1)).

892 Where this duty of co-operation is not fulfilled – resulting, for example, in a failure to produce key outputs in an agreed timeframe, or transport provisions being blocked and impacting growth potential – this clause grants the Secretary of State the power to direct relevant local transport authorities to cooperate (new section 9A(2) and 140A(2)). Where this direction is not complied with, the Secretary of State will have the power to transfer specific transport powers by regulations from local transport authorities to the development corporation in relation to its red line area (new section 9A(3) and 140A(3)). These provisions do not apply to Mayoral Development Corporations.

893 In some circumstances, effective use of transport powers may require the transfer of property, rights, and liabilities from the transport authority to the development corporation, e.g. where the development corporation needs to undertake upgrades to existing highways within its red line area. This clause therefore also provides a discretionary power for the Secretary of State to make transfer schemes when transferring transport powers (new section 9B and 140B).

894 The intention of these measures is to increase cooperation where possible. Direction is therefore an escalatory measure, with the transfer of transport powers serving as a backstop for non-cooperation. This will allow for opportunities for cooperation to be realised in the first instance, while ensuring that development corporations can ultimately promote their transport scheme and make it more likely that transport infrastructure will be provided in a timely manner to support its development.

895 The transfer of transport functions is subject to a geographical restriction: the development corporation can only use any transferred functions in relation to its designated development or regeneration area (new section 9A(3) and 140A(3)). The focus is therefore on transport within the development corporation's area, although it includes transport which extends further to connect to places and infrastructure in the surrounding area.

896 The territorial extent of this clause is England and Wales. It applies in England only.

897 This clause will be commenced through regulations.

Part 5: Compulsory purchase

Clause 97: Electronic service etc

898 This clause amends the legislation underpinning the compulsory purchase process and compensation rules to allow the service of statutory notices to be undertaken by electronic methods of communication. This includes the Acquisition of Land Act 1981, the Land Compensation Act 1961, and the Land Compensation Act 1973, with each being amended to the same effect by subsections (1)-(3). The clause intends to modernise, speed-up and reduce the administrative costs of the compulsory purchase process.

899 Where service of a notice on a party is required by legislation, instead of undertaking service by either hand delivering the notice, leaving it at their address, or by post, the notice may be served by sending it to an email address or uploading it to a website at which the party has agreed in writing to receive notices. The giving of a written agreement ensures all parties to a compulsory purchase order (CPO) are aware of the service method to be used. Where a party does not agree to receive service of notices by electronic methods, they will receive notices by post, hand delivery or leaving it at their address.

900 Where a notice is required to be served on a public authority (for example, the acquiring authority or the confirming authority), the public authority is not required to agree in writing to receive notices by electronic method provided they have given an email address or details of the website for the purposes of communicating with them about that CPO. In such circumstances, it can be assumed the public authority has agreed to receive notices by electronic method in respect of the CPO.

901 Where a notice is served by electronic methods, it will be assumed the notice was received by the recipient on the next business working day (subsections (1)-(3)). This is consistent with common legislative practice for determining receipt of electronic service (see, for example, s.17(7) of the Immigration Act 2016 and s.148(3) of the Health and Social Care Act 2012).

902 This clause extends and applies to England and Wales.

903 This clause will come into two months after Royal Assent.

Example (1): Service of notice by an acquiring authority

An acquiring authority makes a compulsory purchase order (CPO) and is required to serve notice of the CPO on a landowner in accordance with section 12 of the Acquisition of Land Act 1981 ("the 1981 Act"). If the landowner has agreed in writing to receive service of notices relating to the CPO by email, then the notice, and any subsequent notices, may be served on the person by sending it to their email address.

Example (2): Service of notice on an acquiring authority

Where an acquiring authority proposes to acquire only part of building through a CPO, under paragraph 4 of Schedule 2A to the Compulsory Purchase Act 1965 the owner of the building can serve a counter-notice on the acquiring authority requesting that it purchases the entire building. When serving the counter-notice on the acquiring authority, instead of having to do it by post, the owner can serve the notice by sending it to the email address which the acquiring authority is using for matters relating to the CPO.

Clause 98: Required content of newspaper notices

904 This clause simplifies the information relating to the description of land required to be included in newspaper notices on the making and confirmation of compulsory purchase orders (CPOs). This will deliver administrative cost savings for acquiring authorities. The clause enables newspaper notices relating to the publicisation of CPOs to contain succinct and clear information regarding the description of land included in CPOs and not overly complex text.

905 Where notice of a CPO is required to be published in a newspaper, instead of describing the land included in the order, the notice may briefly identify the land, including by giving its postal address if available (subsections (2)-(3) and (5)-(6)).

906 This clause extends and applies to England and Wales.

907 This clause will come into force on a date to be appointed in regulations. Separate provisions of this clause may come into force at separate times. Separate regulations may be made for England and for Wales.

Example

An acquiring authority makes a compulsory purchase order (CPO) and is required to publish notice of the CPO in accordance with section 11 of, or paragraph 2 of Schedule 1 to, the Acquisition of Land Act 1981 ("the 1981 Act"). If the CPO is confirmed, the acquiring authority is required to publish notice of the confirmation of the CPO in accordance with section 15 of, or paragraph 6 of Schedule 1 to, the 1981 Act.

When publishing these notices, acquiring authorities are now required to "briefly" identify the land, which may be achieved by giving its postal address or otherwise. For example, the acquiring authority could identify the relevant land as "part of the pastureland including bed of stream, culverted watercourses and associated headwalls of Strawberry Fields Farm". This will replace the requirement for a complete description of the land included in the CPO to be given. For example, "4826 square metres part of the pastureland including bed of stream, culverted watercourses and associated headwalls of Strawberry Fields Farm on the south-west of A4999 Ellie Roundabout, on the north-west of Strawberry Fields Farm residential buildings".

Clause 99: Confirmation by acquiring authority: orders with modifications

908 The clause allows an acquiring authority to confirm its own compulsory purchase order (CPO) with modifications providing they do not affect a person's interest in land. It also allows the acquiring authority to make modifications that do affect a person's interest in land, provided the affected person gives their consent for the modification being made (subsection (1)-(3)).

909 Where modifications need to be made to a CPO, for example, to add or remove land from the CPO, or to correct a drafting error such as the wrong colour used on the map to identify land, the confirming authority will set out in a notice what modifications are required (subsection (4)). Where the acquiring authority decides to confirm its CPO by making the required modifications, it must confirm this with the confirming authority (subsection (5)).

910 The changes are intended to speed-up the decision-making process for CPOs which have not been objected to and allow benefits in the public interest to be delivered more efficiently.

911 This clause extends and applies to England and Wales.

912 This clause will come into force two months after Royal Assent.

> **Example**
>
> An acquiring authority makes a compulsory purchase order (CPO) which is not objected to. The confirming authority, when transferring the decision whether to confirm the CPO to the acquiring authority, notifies the acquiring authority that the following modifications to the order are required:
>
> - modify the colour used to identify plots of land on the map to reflect the wording used in the CPO text e.g. pink
> - remove an interest from a CPO schedule and map
> - amend the title of the map to match the title of the CPO
> - insert a definition of the relevant Acts i.e. "The Town and Country Planning Act 1990" and "The Acquisition of Land Act 1981" in the CPO text.

Clause 100: General vesting declarations: expedited procedure

913 This clause amends the Compulsory Purchase (Vesting Declarations) Act 1981 and introduces processes for the earlier taking of possession of land/property by acquiring authorities under the general vesting declaration procedure. It also makes consequential amendments to that Act. Following the confirmation of a compulsory purchase order (CPO), instead of having to wait a minimum of three months to take possession of land/property, acquiring authorities may take possession under the general vesting declaration procedure after a minimum of six weeks (subsections (2) and (3)) provided certain conditions are met. The clause introduces flexibility into the procedure for taking possession of land/property that is subject to a CPO where the circumstances justify this in order to help deliver the benefits of schemes in the public interest more quickly.

914 The circumstances in which acquiring authorities can take possession of land/property early are (subsection (4)):

- where the land or property is unoccupied and is unfit for its ordinary use because of disrepair, neglect, contamination of risks to safety; and
- where the acquiring authority (after making the usual inquiries into the ownership of the land/property subject to the CPO) has been unable to identify anyone with an interest.

915 The clause makes exceptions to the meaning of "occupation" so that illegal occupation is not counted as occupation nor is the presence of items on the land that are not of any significant value, in the acquiring authority's opinion. It sets out the meaning of the ordinary use of land and when land used for residential purposes is to be regarded as unfit for human habitation.

The process for the earlier taking of possession of land/property cannot be used where part only of a house, building or factory is being compulsorily acquired.

916 New sections 4A and 4B of the Compulsory Purchase (Vesting Declarations) Act 1981 (inserted by the clause) set out the applicable procedures to be followed.

917 Where an acquiring authority believes the conditions for the processes for the earlier taking of possession of land/property exist, the acquiring authority must give notice to all persons with an interest in the relevant CPO and inform them they may make representations (subsection (5)). A person may make representations that the conditions allowing the earlier taking of possession of land/property do not apply (subsection (4)). Acquiring authorities must respond to any representations made. If the acquiring authority decides the relevant conditions do not apply, they may not take early possession of the land/property. Acquiring authorities must notify all relevant persons where there is a change in date of when possession of the relevant land/property is to be taken.

918 This clause extends and applies to England and Wales.

919 This clause will come into force on a day to be appointed by regulations.

Example (1): Early taking possession of an unoccupied dwelling

An acquiring authority makes a compulsory purchase order (CPO) under section 17 of the Housing Act 1985 to acquire a derelict house which has no occupiers. Following confirmation of the CPO, the acquiring authority may execute a general vesting declaration under the Compulsory Purchase (Vesting Declarations) Act 1981 to enter and take possession of the property subject to the CPO.

Once the general vesting declaration is executed, instead of giving a minimum of three months' notice before taking possession, the acquiring authority may take possession of the property after 6 weeks' notice.

Example (2): Early taking possession of land with no registered owner

An acquiring authority makes a compulsory purchase order (CPO) under section 226 of the Town and Country Planning Act 1990 to acquire land to facilitate a mixed-use town centre regeneration scheme. Following confirmation of the CPO, the acquiring authority may execute a general vesting declaration under the Compulsory Purchase (Vesting Declarations) Act 1981 to enter and take possession of the land subject to the CPO.

If after serving, publishing and affixing statutory notices under the Acquisition of Land Act 1981 and making specific inquiries into the ownership of the land included in the CPO the acquiring authority cannot identify a landowner, instead of giving a minimum of three months' notice before taking possession of land after executing a general vesting declaration, the acquiring authority may take possession of the relevant land after 6 weeks' notice.

Clause 101: General vesting declarations: advancement of vesting by agreement

920 The clause amends the Compulsory Purchase (Vesting Declarations) Act 1981 ("the 1981 Act") and introduces a process for the earlier taking of possession of land/property under the general vesting declaration procedure by agreement. Where a compulsory purchase order

(CPO) is confirmed, the acquiring authority and an owner of land/property subject to the CPO can agree in writing for possession to transfer to the authority on a date no earlier than the last day that proceedings under section 23 of the Acquisition of Land Act 1981 (grounds for application to High Court) may be brought against the decision to confirm the CPO (or equivalent provisions for bringing challenge proceedings under other compulsory acquisition regimes where that Act does not apply). This will generally be six weeks after the date on which notice of the confirmation of the CPO was first published (subsection (2) of new section 8B of the Compulsory Purchase (Vesting Declarations) Act 1981). This is instead of waiting a minimum of 3 months from the date the general vesting declaration is executed. The clause ensures the procedure for taking possession of land/property subject of a CPO is more flexible when owners wish for their land/property to be taken more quickly which will deliver benefits in the public interest more efficiently.

921 New section 8B of the 1981 Act (inserted by the clause) sets out the applicable procedure to be followed.

922 The clause makes consequential changes to the following sections of the 1981 Act:

- sections 7 (constructive notices to treat) and 8 (vesting, and right to enter and take possession) to refer to the process for the earlier taking of possession of land/property by agreement (subsections (3) and (4));
- section 10 (acquiring authority's liability on vesting of the land) to clarify that compensation liability in respect of the land/property which is the subject of the process for the earlier taking of possession of land/property by agreement applies from when possession of the land/property is taken by the acquiring authority (subsection (5)). Where different interests in the same land vest on different dates, liability for compensation only arises in respect of an interest once that interest vests in the acquiring authority; and
- Schedule A1 (counter-notice requiring purchase of additional land) to provide that where the owner of a property has entered into an agreement with the acquiring authority for it to take earlier possession of only part of the property, the owner cannot serve a counter-notice requiring the authority to take possession of the whole of the property (subsection (6)).

923 The clause makes consequential changes to subsection 5A(4A) of the Land Compensation Act 1961 (relevant valuation date) to clarify the relevant valuation date for the purposes of calculating compensation where land/property is subject to an agreement for possession to be transferred to an acquiring authority earlier than the original date for when possession was to be taken (subsection (7)).

924 This clause extends and applies to England and Wales.

925 This clause will come into force on a day to be appointed by regulations.

Example: Early vesting of property where there is agreement

An acquiring authority makes a compulsory purchase order (CPO) under section 17 of the Housing Act 1985 to acquire a house which has an owner-occupier. Following confirmation of the CPO, the acquiring authority may execute a general vesting declaration under the Compulsory Purchase (Vesting Declarations) Act 1981 to enter and take possession of the property subject of the CPO.

In circumstances where the owner-occupier requires a quick sale of their property, for example as they are relocating to a care home and need to realise the value in their property expediently, they can enter into a written agreement with the acquiring authority for the property to transfer to the authority under the general vesting declaration procedure anytime following a period of six weeks after the CPO was confirmed. This is instead of having to wait a minimum of three months following the execution of a general vesting declaration.

Clause 102: Adjustment of basic and occupier's loss payments

926 This clause changes the provisions under Part 1 of the Land Compensation Act 1973 ("the 1973 Act"), providing for loss payments to be made to owners and occupiers of land in England which is subject to compulsory purchase (subsection (1)). Loss payments are an additional amount of compensation paid to owners of land/properties (who are not in occupation) and any occupiers of land/properties such as tenants to reflect and recognise the inconvenience and disruption caused by compulsory purchase. The loss payments are in 2 parts – the basic loss payment and the occupier's loss payment. The basic loss payment is available to people with a freehold interest in land or at least a one-year long tenancy interest in land. The occupier's loss payment is only available to those in occupation of all or part of the land.

927 The basic loss payment amount (as set out in section 33A of the 1973 Act) which may be claimed by eligible persons is modified to 2.5% (from 7.5%) of the market value of their interest in the land which falls in England, subject to a maximum of £25,000 (from £75,000) (subsection (2)).

928 The occupier's loss payment amount for agricultural land that falls in England (as set out in section 33B of the 1973 Act) which may be claimed by eligible persons is modified to:

- 7.5% (from 2.5%) of the market value of their interest in the land, subject to a maximum of £75,000 (from £25,000); or
- £75 (from £25) per square metre of the gross external floor space of the building; or
- the greater of £900 (from £300) total or £300 (from £100) per hectare or part of a hectare (for holdings not exceeding 100 hectares) or for holdings exceeding 100 hectares, £300 (from £100) per hectare for the first 100 hectares and £150 (from £50) per hectare for the next 300 hectares or part of a hectare (subsection (3)).

929 The occupier's loss payment amount for non-agricultural land that falls in England (as set out in section 33C of the 1973 Act) which may be claimed by eligible persons is modified to:

- 7.5% (from 2.5%) of the market value of their interest in the land, subject to a maximum of £75,000 (from £25,000); or
- £75 (from £25) per square metre of the gross internal floor space of the building (previously gross external floor space); or
- the greater of £7,500 (from £2,500) total or £7.50 (from £2.50) per square metre (or part of a square metre) of land, or where only part of land in which a person has an interest is acquired, £900 (from £300) (subsection (4)).

930 The clause ensures compensation paid to those whose land or property is affected by compulsory purchase better reflects the level of inconvenience and upheaval caused to them. For example, it is usually occupying business or agricultural tenants who incur the greater costs of closing their businesses or relocating as a result of compulsory purchase.

931 The clause also makes provision so that the law in relation to land in Wales remains unchanged. Welsh Ministers have the power under section 33K of the 1973 Act to amend the amounts or percentages for basic and occupier's loss payments relating to land in Wales as they think fit.

932 This clause extends and applies to England and Wales.

933 This clause will come into force two months after Royal Assent.

Example

Where compulsory purchase order is confirmed in England and the interests in land to be compulsorily acquired includes a 100m2 B1 unit held on a 5-year market lease from the freehold owner, the loss payments compensation to be made to the owner and occupiers of the unit under Part 1 of the Land Compensation Act 1973 will be as follows:

	Owner	Occupier
Basic loss @ 2.5%	£2,675	£nil
Occupier loss (buildings)	£nil	£7,500
Total loss payments	£2,675	£7,500

Under the previous arrangements, the loss payments compensation to be made to the owner and occupiers of the unit would have been as follows:

	Owner	Occupier
Basic loss @ 7.5%	£7,500	£nil
Occupier loss (buildings)	£nil	£2,500
Total loss payments	£7,500	£2,500

Clause 103: Home loss payments: exclusions

934 The clause amends the Land Compensation 1973 and introduces new section 32A into that Act which excludes the right to a home loss payment in certain situations (subsections (1)-(4)).

Where a person is displaced from their home or caravan which is being used as a dwelling, as a result of compulsory purchase, they may be entitled to a home loss payment. A home loss payment is an additional amount of compensation paid to a person to recognise the inconvenience and disruption caused by compulsory purchase.

935 The situations where home loss payments may be excluded include where property owners have failed to comply with a statutory notice or order served on them to make improvements to their neglected land or properties on a relevant date. For example, notices served under section 215 of the Town and Country Planning 1990 (power to require proper maintenance of land) or an order made under section 20 of the Housing Act 2004 (prohibition order relating to a category 1 hazardous property). The relevant date will be when the decision on whether to authorise the compulsory purchase of the person's property is made.

936 The clause ensures that those whose neglect of a property has prompted a compulsory purchase order do not benefit from that neglect through a home loss payment. It also lowers the costs to the public sector for the delivery of benefits in the public interest through the compulsory purchase of neglected properties where statutory improvement notices/orders have been ignored.

937 This clause extends and applies to England and Wales.

938 This clause will come into force two months after Royal Assent.

> ### Example: Exclusion of home loss payments
> An acquiring authority makes a compulsory purchase order (CPO) under section 17 of the Housing Act 1985 to acquire a derelict, empty house which is confirmed by an inspector.
>
> The owner of the property subject to the CPO has been served a notice by the local authority under section 215 of the Town and Country Planning Act 1990 ("a section 215 notice") requiring the owner to undertake maintenance works to improve the condition of their property. If the owner fails to comply with the requirements of the section 215 notice on the date the CPO is confirmed, they will be excluded from making a claim for a home loss payment

Clause 104: Temporary possession of land in connection with compulsory purchase

939 This clause amends the power to take temporary possession of land under the Neighbourhood Planning Act 2017 ("the 2017 Act") (subsection (1)). The clause sets out that the power for acquiring authorities to take temporary possession of land by agreement or compulsorily under the 2017 Act does not apply where there is:

- an express provision in another Act providing a power to take temporary possession of land;
- provision in a development consent order made under the Planning Act 2008 ("the 2008 Act") or an infrastructure consent order under the Infrastructure (Wales) Act 2024 ("the 2024 Act") providing a power to take temporary possession of land; or
- provision in an order made under the Transport and Works Act 1992 ("the 1992 Act") providing a power to take temporary possession of land.

940 The clause allows the 2017 Act temporary possession power to operate independently for CPOs authorised under the Acquisition of Land Act 1981 and the New Towns Act 1981 without interfering with how temporary possession of land is obtained under the 1992 Act, the 2008 Act, the 2024 Act or any other Act with explicit provisions for temporary possession.

941 This clause extends and applies to England and Wales.

942 This clause will come into force at the same time as section 18 of the Neighbourhood Planning Act 2017 is brought into force by regulations.

> **Example:**
> Where a local authority makes a compulsory purchase order under section 226 of the Town and Country Planning Act 1990 for the purposes of acquiring land to facilitate a regeneration scheme, the order will be confirmed under the Acquisition of Land Act 1981. Section 18 of the Neighbourhood Planning Act 2017 provides the local authority with a power to take temporary possession of land for the purposes of constructing temporary works (including access) associated with the regeneration scheme.
>
> The temporary possession power under section 18 of the Neighbourhood Planning Act 2017 need not be used by authorities acquiring temporary possession of land by agreement or compulsorily under:
>
> - Acts with explicit provisions on temporary possession, e.g. Acts for a major railway project;
> - the Planning Act 2008 and Infrastructure (Wales) Act 2024; or
> - the Transport and Works Act 1992.

Clause 105: Amendments relating to section 14A of the Land Compensation Act 1961

943 This clause amends the legislation which allows authorities to include in their compulsory purchase orders (CPOs) directions that the assessment of compensation relating to open market value of land compulsory purchased is to be assessed in accordance with section 14A of the Land Compensation Act 1961 ("a section 14A direction") so that value attributed to the prospect of the granting of planning permission ("hope value") can be disregarded (subsection (1)).

944 The clause allows authorities to confirm their own CPOs which include section 14A directions providing certain conditions have been met, for example, the CPO is not objected to (subsection (2)). This will speed-up the decision-making process for CPOs associated with section 14A directions and remove ambiguity and uncertainty in the process of the confirmation of CPO decisions.

945 The clause enables section 14A directions to be included in CPOs made on behalf of parish/town or community councils (subsection (3)) providing the CPOs are facilitating affordable housing (subsection (4)). This will allow town/parish or community councils, when using CPO powers for the purpose of delivering affordable/social housing in their areas, to acquire land at existing use value, where the direction is justified in the public interest. This is intended to increase the viability of such schemes and enable the delivery of benefits in the public interest such as economic, social, and environmental improvements in communities.

946 When assessing compensation for CPOs, the market value of the land subject to the compulsory purchase is an important component of claims. The clause ensures where CPOs are confirmed with section 14A directions, the directions not only apply to the assessment of the market value of the land taken but also to the assessment of market value relating to home loss, basic loss and occupier's loss (agricultural and other land) payments (subsections (5)-(9)). Loss payments are an additional amount of compensation paid to owners of land/properties (who are not in occupation) and any occupiers of land/properties such as tenants to reflect and recognise the inconvenience and disruption caused by compulsory purchase. Loss payments are assessed by taking into account the market value of the person's interest which is subject to compulsory purchase.

947 The clause provides clarification in the assessment of loss payments under sections 30 and 33A-C of the Land Compensation 1973 Act and provides for the consistent application of principles for the assessment of market value of land where it is been held to be justified in the public interest to confirm a CPO with a section 14A direction.

948 This clause extends and applies to England and Wales.

949 Subsections (1) (so far as relating to subsection (2)), (2), and (5) to (9) will come into force two months after Royal Assent. Subsections (1) (so far as relating to subsections (3) and (4)), (3) and (4) will come into force on a day to be appointed by regulations.

Example:

Where a local authority has taken steps to acquire land by agreement to progress a scheme which includes affordable housing, but where such an agreement cannot be reached, the authority may use its powers of compulsory purchase to acquire the land providing they are applicable and there is a compelling case in the public interest to do so. For example, where doing so would facilitate the carrying out of development, re-development or improvement it may choose the power to make a compulsory purchase order (CPO) under section 226 of the Town and Country Planning Act 1990 ("the 1990 Act").

To ensure the local authority has:

- upfront certainty on the viability of its scheme (which includes affordable housing) to be facilitated by a CPO under section 226 of the 1990 Act, and
- confidence as to its ability to deliver the promised amount of affordable housing,

the authority may include a direction in the CPO that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961 ("a section 14A direction").

Where the Secretary of State for CPOs in England, or the Welsh Ministers for CPOs in Wales, confirm a CPO with a section 14A direction, the assessment of compensation under the Land Compensation Act 1961 and Land Compensation Act 1973 relating to the market value of an interest in land will not include 'hope value' i.e. value attributed to:

- appropriate alternative development for which the grant of planning permission may be assumed (ignoring the local authority's scheme) if a Certificate of Appropriate Alternative Development is issued under section 17 or 18 of the Land Compensation Act 1961, or
- the prospect of a planning permission being granted on the land (ignoring the local authority's scheme) for a use which has a greater value than the existing use of the land (section 14(2)(b) of the Land Compensation Act 1961).

This means the market value paid for land taken and the market value element of loss payments will be based on existing use value.

Clause 106: New powers to appoint an inspector

950 This clause amends the procedure for the authorisation of compulsory purchase orders (CPOs) made under the New Towns Act 1981 (subsection (1)). It provides for a confirming authority to appoint an Inspector to act instead of the confirming authority itself in relation to the confirmation of a CPO under the New Towns Act 1981. Where an Inspector is appointed, notice will be given to the acquiring authority and everyone who has made relevant objections to the CPO that have not been withdrawn. A confirming authority can revoke its appointment of an Inspector at any time until a decision on a CPO is made. The intention is to make the authorisation process more efficient, resulting in quicker decisions.

951 The clause also amends the procedure for the making of directions for additional compensation under Schedule 2A to the Land Compensation Act 1961 (subsections (2) and (3)). A confirming authority can appoint an Inspector to act in its place in relation to determining an application for a direction for additional compensation under paragraph 1(2) of Schedule 2A to the Land Compensation Act 1961. Where an Inspector is appointed, notice will be given to the acquiring authority and the person who made the application. A confirming authority can revoke its appointment of an Inspector at any time. This will speed-up the decision-making process for applications for directions for additional compensation, ensuring quicker decisions are made.

952 This clause extends and applies to England and Wales.

953 This clause will come into force two months after Royal Assent.

Example:

Under section 10 of the New Towns Act 1981, a new town development corporation has the power to compulsory acquire:

- any land within the area of the new town, whether or not it is proposed to develop that land,
- any land adjacent to that area which they require for purposes connected with the development of the new town, or
- any land, whether adjacent to that area or not, which they require for the provision of services for the purposes of the new town.

The procedure for the confirmation of a compulsory purchase order (CPO) by the Secretary of State (in their role as confirming authority) under the New

Towns Act 1981 is set out in Schedule 4 to that Act.

Where a new town development corporation has made a CPO under the New Towns Act 1981, instead of the Secretary of State making the decision on whether to confirm the CPO, they may appoint an Inspector to take the decision on their behalf.

Part 6: Miscellaneous and general provision

Clause 107: Reporting on extra-territorial environmental outcomes

954 This clause amends section 152(1) of the Levelling-up and Regeneration Act 2023. That section allows an appropriate authority (the Secretary of State, Scottish Ministers, Welsh Ministers or Northern Ireland Departments) to make regulations to set "specified environmental outcomes", relating to environmental protection, against which relevant consents and relevant plans will be assessed. This new system of Environmental Outcomes Reports is intended to replace the EU-derived processes of Environmental Impact Assessment and Strategic Environmental Assessment. The amendment extends the territorial application of the term "environmental protection" so that it is not limited only to the United Kingdom and relevant offshore areas.

955 The amendment will enable environmental outcomes regulations to make provision for those carrying out projects in the United Kingdom or relevant offshore areas to consider whether they will have likely significant effects as to environmental protection generally. It will enable environmental assessments to be capable of analysing the entire spatial scale of impacts.

956 This clause extends and applies to England and Wales, Scotland, and Northern Ireland.

957 This clause will come into force two months after Royal Assent.

Clause 108: The Crown

958 This clause provides that amendments made by this Bill bind the Crown to the extent that the provisions amendment bind the Crown.

Clause 109: Extent

959 This clause provides for the territorial extent of measures in this Bill. See territorial extent and application in Annex A of these explanatory notes for extra detail.

Clause 110: Commencement and transitional provision

960 This clause provides for the commencement of provisions in this Bill. Please see commencement section of these explanatory notes for additional detail.

Clause 111: Short title

961 This clause provides for the short title of this Bill as the Planning and Infrastructure Act.

Schedules

Schedule 1: Minor and consequential amendments to the Electricity Act 1989

962 Schedule 1 makes consequential amendments to the Electricity Act 1989 and reflects previous transfers of functions to Scottish Ministers relating to electricity consenting in Scotland by virtue of The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order

1999, and The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2006.).

963 This Schedule extends to England, Wales and Scotland, but applies to Scotland only.

964 The Schedule will come into force two months after Royal Assent, with the exception of paragraph 7, which will come into force on a day specified by regulations.

Schedule 2: Section 41: Consequential Amendments

965 Schedule 2 makes amendments to heritage regimes in England in consequence of the amendments made by clause 37.

966 Paragraph 1 amends sections 2, 28(2) and 37(1A) of the Ancient Monuments and Archaeological Areas Act 1979 to provide that offences under those sections do not apply to works included in a TWA92 order and exempted by the new section 17 of the TWA92 from the need to obtain scheduled monument consent.

967 Paragraph 2 amends sections 7(2) and 59(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to provide that offences under those sections do not apply to works included in a TWA92 order and exempted by the new section 17 of the TWA92 from the need to obtain listed building consent and to provide notice of operations in areas of archaeological importance.

968 Paragraph 3 amends Schedule 2 to the Planning Act 2008 by omitting paragraphs 17 and 18 as a consequence of the amendments in paragraph 1 of this Schedule.

969 The power to make consequential amendments comes into force at Royal Assent.

Schedule 3: Section 52: minor and consequential amendments

970 Schedule 3 contains amendments consequential on Part 1A of the Planning and Compulsory Purchase Act 2004.

971 The Town and Country Planning Act 1990 is amended to make strategic planning authorities responsible for the costs of the examination of a draft spatial development strategy. Where an examination is held into a spatial development strategy produced by a strategic planning board, the Secretary of State may apportion the costs between the constituent authorities on basis as they consider reasonable.

972 The Planning and Compulsory Purchase Act 2004 is amended to:

- update the definition of spatial development strategy to include strategies produced under new Part 1A of the Planning and Compulsory Act 2004 when it comes into force;
- ensure that spatial development strategies produced under this Act are relevant plans for the purposes of the requirement to assist with certain plan-making; and
- ensure that spatial development strategies produced under this Act can be subject to a legal challenge.

973 The Conservation of Habitats and Species Regulations 2017 are amended to:

- ensure that the new kind of spatial development strategy (see clause 52) will count as a "land use plan" for the purpose of these Regulations. The effect is that an assessment under those Regulations will be required in certain cases before the spatial development strategy is adopted.

974 The Levelling Up and Regeneration Act 2023 is amended to:

- include strategic planning boards as bodies that are subject to requirements related to planning data standards. Other principal authorities are already subject to these requirements; and
- omit provision for joint spatial development strategies. These provisions allowed groups of local planning authorities to voluntarily produce a spatial development strategy and are replaced by provisions in this section for a mandatory system of spatial development strategies.

975 This Schedule extends to England and Wales, but applies to England only.

976 This Schedule will be commenced through regulations.

Schedule 4: Environmental Delivery Plans: effect on environmental obligations

977 This schedule sets out how certain environmental obligations are altered when a developer makes a payment of the nature restoration levy.

978 Paragraph 1 provides that where a developer has committed to pay the levy in respect of an EDP relating to a protected feature of a European site or Ramsar site then the environmental impact of that development on the protected feature is disregarded for the purposes of assessment under Part 6 of the Conservation of Habitats and Species Regulations 2017.

979 Paragraph 2 operates on a similar basis in respect of SSSIs and provides for circumstances where the making of a payment under an EDP means that the relevant environmental impact of development is disregarded in respect of consenting regimes and notification requirements for protection of the SSSI in the Wildlife and Countryside Act 1981.

980 Paragraph (2A) operates on a similar basis in respect of Marine Conservation Zones and provides for circumstances where the making of a payment under an EDP means that the relevant environmental impact of development is disregarded for the purposes of section 126 of the Marine and Coastal Access Act 2009.

981 Paragraphs 3 and 4 relate to protected species and provide that where a developer has made a payment in respect of a protected species covered by an EDP then the developer is treated as holding a licence in respect of it. Species are protected under both the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981. Licences are to be treated as having been granted to the developer by the relevant licencing body for the purposes of them being managed under the existing legislation, in respect of enforcement and modification for example.

982 These provisions also provide for circumstances where badgers are the protected species covered by an EDP. Badgers are protected under separate legislation, the Protection of Badgers Act 1992, and paragraph 5 mirrors the approach taken to other protected species, with a licence being deemed where a development makes a relevant payment to an EDP in respect of the environmental impact of development on badgers.

983 This Schedule extends to England and Wales, but applies to England only.

984 This Schedule will be commenced through regulations.

Schedule 5: Compulsory acquisition of land under Part 3: supplementary provisions

985 This schedule makes certain amendments to the Acquisition of Land Act 1981 to accommodate the compulsory acquisition of land by Natural England under section 83, when required for the taking of a conservation measure.

986 Sub-paragraph 3(2) sets out that when Natural England completes a compulsory acquisition, certain private rights are extinguished.

987 The territorial extent of this Schedule is England and Wales, but it applies to England only.

988 This Schedule will be commenced through regulations.

Schedule 6: Amendments relating to Part 3

989 Part 1 of this schedule extends the protection in Part 6 of the Conservation of Habitats and Species Regulations 2017 to Ramsar sites in England (and also in relation to similar provisions in Part 2 for Natural England). Previously Government policy (via planning policy in the National Planning Policy Framework (and its precursors since at least 1994) and national guidance) required Competent Authorities, including planning decision-makers, to treat Ramsar sites in the same way as European sites for the purposes of Habitats Regulations Assessments, but this was not required within the regulations themselves. These amendments introduce a statutory requirement for Ramsar sites to be treated in the same manner as European sites when carrying out Habitats Regulation Assessments. This amendment is necessary in order for an EDP levy to be charged in respect of the effects of development on a Ramsar site because there needs to be a legal basis for charging a levy in respect of Ramsar sites. Mirroring the existing policy requirements, amendments to the Habitats Regulations apply to the assessment provisions, and to the review provisions (the requirement to review existing permissions on designation of a new site). Where as part of a Habitats Regulations Assessment derogations provisions are applied, under Part 6 of the Habitats Regulations, and there is a need to secure necessary compensation, the provisions require that compensatory measures must protect the overall coherence of the national Ramsar site series.

990 Part 2 of this schedule makes minor consequential amendments to the Wildlife and Countryside Act 1981, the Town and Country Planning Act 1990, and the Protection of Badgers Act 1992.

991 In respect of the Protection of Badgers Act 1992, the amendments extend which prohibited activities may be covered by a licence. This is in order to enable a deemed licence – which needs to operate within the parameters of a licence granted under the legislation in the normal way – is capable of covering the conduct necessary to allow development and implement an EDP. The amendments also provide for greater alignment between licences granted under the Protection of Badgers Act 1992 and those granted in respect of other species under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017, in terms of who a licence can be granted to, the validity of the licence and its nature. Again, this is to ensure that deemed licences operate within the parameters of ordinary licences and are consistent with those which will be granted in respect of other protected species.

992 Paragraph 42 amends the Environmental Assessment of Plans and Programmes Regulations 2004 ("the SEA Regulations") to clarify that EDPs will not be required to undergo a strategic environmental assessment (SEA). While EDPs will not be required to conduct an SEA, the Bill embeds the relevant elements of the SEA process into the EDP process. In particular, EDPs will be required to set out alternative measures that were considered alongside Natural England's reasoning for not pursuing these measures. In addition, the role of public consultation and the scrutiny of local plans will ensure the Secretary of State, when considering whether to approve an EDO, has the information they need to make an informed decision. This decision making will be further supported by the requirements to report on the EDPs and put in place monitoring requirements which will ensure that EDPs not only consider the environmental effects as part of the process of their creation but actively manage these across the relevant 12H period.

993 Paragraphs 43 to 48 amend the Habitats Regulations so that neither EDPs nor conservation measures delivered under it will require assessment under Part 6 of the Habitats Regulations. By their very nature, EDPs would result in the outcomes that that assessment would lead to being met or exceeded over the period that the EDP applies for. An EDP would achieve this outcome in a different way to the Habitats Directive, therefore paragraph 44 amends regulation 9 of the Habitats Regulations so that to that these duties do not apply to any functions under Part 3 of this Bill (delivering EDPs or conservation measure) or for a competent authority in exercising their functions (such as undertaking assessment under regulation 63 for any effects of development not covered by an EDP).

994 Paragraphs 45 and 46 make amendments to provisions on wildlife licensing under the Habitats Regulations, to ensure workability under an EDP. Paragraph 45 allows deemed licences for developers and licences for Natural England conservation measures to surpass the usual maximum time period of five years, to align with the potential 10 year lifespan of an EDP and beyond. Paragraph 46 makes provision for the Secretary of State to act as the licensing authority for the purpose of granting Natural England any licences relevant to undertaking conservation measures.

995 The territorial extent of this Schedule is England and Wales, but it applies to England only.

996 This Schedule will be commenced through regulations.

Commencement

997 Clause 110 (Commencement and transitional provision) provides that clauses 13 to 17, 18 (subsection (1), (2), (5) and (6)), 21, 22, 24, 26, 44 and 108 to 111 will come into force on the day on which Royal Assent is given. Other provisions to make regulations will also come into force on this day so far as they confer a power to make regulations i.e. clauses 18(4), 19, 28, 48, 52(1).

998 The following provisions come into force two months after the day on which Royal Assent is given:

- Part 1 – clauses 9, 18(3) (and subsection (4) for remaining purposes), 19 (for remaining purposes), 20, 23 (and Schedule 1, except paragraph 7), 25, 27, 28 (for remaining purposes), 29, 30, 32, 33, 35 to 37, 38(1) and (2), 39 to 43 (and Schedule 2), 45 and 46 (except subsection (2));
- In Part 2 – clauses 49, 50, 51(1), 52(4) to (8);
- In Part 5 – clauses 97, 99, 102, 103, 105 (subsections (1), (2) and (5) to (9)) and 106; and
- In Part 6 – clause 107.

999 Clause 104 comes into force at the same time as section 18 of the Neighbourhood Planning Act 2017.

1000 The remaining provisions of this Act will come into force on such day as the Secretary of State may appoint by regulations. Different days may be appointed for different purposes.

Financial implications of the Bill

1001 The Ministry of Housing, Communities and Local Government has undertaken a full impact assessment of the economic impacts of the measures in the Bill. This has been published on the Parliament website.

Parliamentary approval for financial costs or for charges imposed

1002 The House of Commons passed a money resolution for this Bill on 24 March 2025 to authorise expenditure by central and Local Government arising from the Bill, in particular clause 50 (costs of providing training for members of local planning authorities), clause 52 (costs of preparing spatial development strategies) and Part 3 (costs associated with the nature restoration scheme).

1003 The House of Commons passed a ways and means resolution for this Bill on 24 March 2025 to cover the powers in clauses 29 and 40 (powers to charge fees in connection with services provided in relation to certain orders and schemes relating to roads and railways). The ways and means resolution was also needed for the nature restoration levy under Part 3 of the Bill.

Compatibility with the European Convention on Human Rights

1004 Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the provisions of the Bill with the Convention rights (as defined in section 1 of the Act).

1005 In the opinion of the Minister for Housing and Local Government, Baroness Taylor of Stevenage, the provisions of the Bill as brought from the Commons are compatible with the Convention rights and she has made a statement to that effect.

Compatibility with section 20 of the Environment Act

1006 The Minister for Housing and Local Government, Baroness Taylor of Stevenage, is of the view that the Bill brought from the House of Commons does contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021 and she has signed the statement that the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law.

Duty under section 13C of the European Union (Withdrawal) Act 2018

1007 As required under the Windsor Framework (Constitutional Status of Northern Ireland) Regulations 2024 which amend the European Union (Withdrawal) Act 2018 the

Minister in charge of a Bill will need to make a written statement about the consistency of that Bill with the UK internal market.

1008 The Minister for Housing and Local Government, Baroness Taylor of Stevenage, is of the view that the Bill as published does not contain provisions which affect trade between Northern Ireland and the rest of the UK. Accordingly, no statement under that section has been made.

Related documents

1009 The following documents are relevant to the Bill and can be read at the stated locations:

- Planning Reform Working Paper: Planning Committees
- Planning Reform Working Paper: Development and Nature Recovery
- Planning Reform Working Paper: Streamlining Infrastructure Planning
- English Devolution White Paper
- Government response to the proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation
- Clean Power 2030 Action Plan - GOV.UK

Annex A – Territorial extent and application in the United Kingdom

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 process engaged?**	**Extends and applies to Scotland?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Northern Ireland?**	**Legislative Consent Motion process engaged?**
Part 1 (Infrastructure) Chapter 1 (Nationally Significant Infrastructure projects)	Clause 1-10	Yes	Yes (limited application)	No	Yes (limited application)	No	No	No
	Clause 11	Yes	Yes (limited application)	Yes	Yes (limited application)	No	No	No
	Clause 12	Yes	Yes	No	No	No	No	No
Part 1 (Infrastructure) Chapter 2 (Electricity Infrastructure)	Clauses 13-17	Yes	Yes	No	Yes	No	No	No
	Clauses 18-24 and Schedule 1	No	No	No	Yes	Yes	No	No
	Clauses 25-27	Yes	Yes	No	Yes	No	No	No
	Clause 28	Yes	Yes	Yes	No	No	No	No
Part 1 (Infrastructure) Chapter 3 (Transport Infrastructure)	Clauses 29 and 33	Yes	Yes	Yes	No	No	No	No
	Clauses 30-32	Yes	Yes (limited application)	Yes	No	No	No	No
	Clauses 34-43 and 45 and Schedule 2	Yes	Yes	Yes	No	No	No	No
	Clause 43	No	No	No	No	No	No	No
	Clause 46	Yes	Yes	Yes	Yes	Yes	No	No
	Clause 47	Yes	No	No	No	No	No	No
Part 2 (Planning) Chapter 1 (Planning decisions)	Clauses 48-51	Yes	No	No	No	No	No	No
Part 2 (Planning) Chapter 2 (Spatial	Clause 52 and	Yes	No	No	No	No	No	No

Development strategies)	Schedule 3							
Part 3 (Nature Recovery)	Clauses 53-92 and Schedule 4 to 6	Yes	No	No	No	No	No	No
Part 4 (Development corporations)	Clauses 93-96	Yes	No	No	No	No	No	No
Part 5 (Compulsory purchase)	Clauses 97-106	Yes	Yes	Yes	No	No	No	No
Part 6 (Miscellaneous and General Provisions)	Clauses 107-111	Yes	Yes	No	Yes	No	Yes	No

Subject matter and legislative competence of devolved legislatures

1010 The following provisions in the Bill involve the UK Parliament legislating for a matter that is within the legislative competence of a devolved legislature, and engage the Legislative Consent Motion process under the Sewel Convention:

a. Clause 11, which makes amendments to Scheule 6 to the Planning Act 2008, will engage the legislative consent motion process in Wales. By virtue of transitional provision in the Wales Act 2017 these amendments will apply to a small number of legacy projects consented under the Planning Act 2008 before the transfer of functions in 2017.

b. Measures to reform the consenting process for electricity infrastructure in Scotland (clauses 18-24) will engage the legislative consent motion process in Scotland.

c. The electricity generation on forestry land measure (clause 28) will engage the legislative consent motion process in Scotland and Wales.

d. Clauses 29 and 33, which makes amendments to the Highways Act 1980, will engage the legislative consent motion process in Wales.

e. Clauses 34 to 43 and 45, which make various amendments to the Transport and Works Act 1992, will engage the legislative consent motion process in Wales.

f. Clause 46 provides enhanced powers for the Secretary of State (in England and for Milford Haven) and for Welsh and Scottish Ministers, to make regulations to provide for the recovery costs associated with the handling of applications for port development will engage the legislative consent motion process for Wales and Scotland.

g. Clause 97 to 106, which makes various reforms to compulsory purchase order legislation, will engage the legislative consent motion process for Wales.

1011 If there are any amendments relating to matters within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, the consent of the relevant devolved legislature(s) will be sought for the amendments

PLANNING AND INFRASTRUCTURE BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Planning and Infrastructure Bill as brought from the House of Commons on 12 June 2025 (HL Bill 110).

Ordered by House of Lords to be printed, 12 June 2025.

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