Draft Deregulation Bill

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Draft Deregulation Bill

Presented to Parliament
by the Minister for Government Policy and
the Minister without Portfolio
by Command of Her Majesty

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Foreword

We are pleased to publish a draft Deregulation Bill for pre-legislative scrutiny by a Joint Committee of both Houses.

Publication of the draft Bill is the latest step in the Government's ongoing drive to remove unnecessary bureaucracy that costs British businesses millions, slows down public services like schools and hospitals, and hinders millions of individuals in their daily lives.

The Government's Red Tape Challenge has already brought in reforms that have saved business over £212m a year, not all of which needed legislation passed by Parliament to achieve. A significant number of further measures will be implemented by the end of 2013, including an overhaul of employment tribunals to save business around £40m per year. Overall, ministers have already decided that 1,910 substantive regulations will be scrapped or reduced. The Chancellor announced in the Budget that a second phase of the Red Tape Challenge will start in summer 2013.

The key measures in the Bill remove unnecessary burdens on three main groups:

Freeing business from red tape including by:

- scrapping health & safety rules for self-employed workers in low risk occupations, formally exempting 800,000 people from health & safety regulation and saving business an estimated £300,000 a year;

- putting a deregulatory 'growth duty' on non-economic regulators, bringing the huge resource of 50 regulators with a budget of £4bn to bear on the crucial task of promoting growth and stopping pointless red tape; and

- making the system of apprenticeships more flexible and responsive to the needs of employers and the economy, as recommended by the Richard Review. The Deregulation Bill will remove a lot of prescriptive detail in the current legislation and clarify the employment status of apprentices.

Making life easier for individuals and civil society including through:

- reducing the period for which someone has to live in their social housing to qualify for Right to Buy and Right to Acquire from five to three years, expanding their availability to a further 200,000 households;

- scrapping heavy-handed fines for people who make mistakes putting out their bins;

- deregulating the showing of "not-for-profit" film in village halls and community centres, making it easier for small charities and community groups to hold "film nights"; and

- devolving decisions on public rights of way to a local level, which will cut the time for recording a right of way by several years and save almost £20m a year through needless bureaucracy.

Reducing bureaucratic requirements on public bodies including:

- removing prescriptive requirements on local authorities to consult and produce strategies; and
- freeing schools from pointless paperwork and prescriptive central Government requirements.

We look forward to assisting the Committee with its scrutiny of the draft Deregulation Bill and to receiving its subsequent report in due course.

KENNETH CLARKE

OLIVER LETWIN

Deregulation Bill

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B I L L

TO

Make provision for the reduction of burdens resulting from legislation for businesses or other organisations or for individuals; make provision for the repeal of legislation which no longer has practical use; make provision about the exercise of regulatory functions; and for connected purposes.

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

Measures affecting business: general

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

(1) Section 3 of the Health and Safety at Work etc. Act 1974 (general duty of employers and self-employed to persons other than their employees) is amended in accordance with subsections (2) and (3).

(2) In subsection (2) (which imposes a general duty with respect to health and safety on self-employed persons)—

(a) after "self-employed person" insert "who conducts a relevant undertaking";

(b) for "his undertaking" substitute "the undertaking".

(3) After subsection (2) insert—

"(2A) For the purposes of subsection (2), an undertaking is a relevant undertaking if—

(a) it is of a prescribed description, or

(b) persons who may be affected by the way in which it is conducted, other than the person conducting it (or his employees), could thereby be exposed to risks to their health and safety."

(4) In section 11 of that Act (functions of the Executive), in subsection (4)(b), after "does not" insert ", except in relation to regulations under section 3(2A)(a),".

(5) Where this section comes into force at a time when there is in force an Order in Council made under section 84(3) of the Health and Safety at Work etc. Act 1974 that applies section 3 or 11 of that Act to matters outside Great Britain, that Order is to be taken as applying that section as amended by this section.

2 Removal of employment tribunals' power to make wider recommendations

(1) In section 124 of the Equality Act 2010 (remedies available to an employment tribunal in discrimination cases etc), in subsection (3) (which describes the recommendations that an employment tribunal may make)—

(a) in the opening words, after "adverse effect" insert "on the complainant";

(b) omit paragraphs (a) and (b).

(2) In consequence of the amendments made by subsection (1)—

(a) in section 124(7) of that Act omit "in so far as it relates to the complainant";

(b) omit section 125 of that Act (remedies: national security).

3 English apprenticeships: simplification

Schedule 1 amends Part 1 of the Apprenticeship, Skills, Children and Learning Act 2009 so as to simplify the provision made by that Part about English apprenticeships.

Measures affecting business: particular areas

4 Driving instructors

(1) Schedule 2 makes provision to simplify the regulation of driving instructors by removing the separate system for the registration of disabled instructors.

(2) Part 1 of the Schedule contains amendments of Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006.

(3) Part 2 of the Schedule contains transitory amendments of Part 5 of the Road Traffic Act 1988 which have effect before the commencement of Schedule 6 to the Road Safety Act 2006.

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

5 Motor insurers

(1) In Part 6 of the Road Traffic Act 1988 (compulsory insurance or security against third-party risks), section 147 (issue and surrender of certificates of insurance and of security) is amended as follows.

(2) In subsection (1), for "A policy of insurance shall be of no effect for the purposes of this Part of this Act unless and until there is delivered by the insurer" substitute "An insurer issuing a policy of insurance for the purposes of this Part of this Act must deliver".

(3) In subsection (2), for "A security shall be of no effect for the purposes of this Part of this Act unless and until there is delivered by the person giving the

security" substitute "A person giving a security for the purposes of this Part of this Act must deliver".

(4) Omit subsections (4) to (5) (obligation to surrender certificate following cancellation of policy of insurance or security).

(5) Schedule 3 makes amendments in consequence of subsection (1).

6 Shippers etc of gas

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

"3A Exception for unloading to an installation in certain circumstances

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

(a) the installation is maintained by another person ("B") who has a licence in respect of the maintenance of the installation and the use of a controlled place for the unloading of gas to it, and

(b) B consents to the use by A of the controlled place for the unloading of gas to the installation."

(2) In consequence of the amendment made by subsection (1), in section 2(2) of the 2008 Act, for "section 3" substitute "sections 3 and 3A".

7 Suppliers of fuel and fireplaces

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

(2) In section 20 (offence of emitting smoke in smoke control area where emission caused by use of fuel other than authorised fuel), after subsection (5) insert—

"(5A) In the application of this Part to England, "authorised fuel" means a fuel included in a list of authorised fuels kept by the Secretary of State for the purposes of this Part.

(5B) The Secretary of State must—

(a) publish the list of authorised fuels, and

(b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.

(5C) The list must be published in such manner as the Secretary of State considers appropriate."

(3) In that section, in subsection (6) (definition of "authorised fuel"), for "In" substitute "Except as provided by subsection (5A), in".

(4) In section 21 (power by order to exempt certain fireplaces) the existing text becomes subsection (2) and before that subsection insert—

"(1) For the purposes of the application of this Part to England, the Secretary of State may exempt any class of fireplace from the provisions of section 20 (prohibition of smoke emissions in smoke control area) if he is satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.

(1A) An exemption under subsection (1) may be made subject to such conditions as the Secretary of State considers appropriate.

(1B) The Secretary of State must—

(a) publish a list of those classes of fireplace that are exempt under subsection (1) including details of any conditions to which an exemption is subject;

(b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to the classes of fireplace that are so exempt or to the conditions to which an exemption is subject.

(1C) The list must be published in such manner as the Secretary of State considers appropriate."

(5) In that section, in subsection (2) (created by subsection (4) above), for "The" substitute "Except where subsection (1) applies, the".

(6) In the heading to that section, omit "by order".

(7) In section 29 (interpretation of Part 3), in the definition of "authorised fuel", for "20(6)" substitute "20".

8 Sellers of knitting yarn

(1) The Weights and Measures (Knitting Yarns) Order 1988 (S.I. 1988/895) (quantities in which yarn is to be sold) is revoked.

(2) In consequence of subsection (1), in the Weights and Measures (Specified Quantities) (Pre-packed Products) Regulations 2009 (S.I. 2009/663), omit regulation 3.

Companies and insolvency

9 Authorisation of insolvency practitioners

(1) Part 13 of the Insolvency Act 1986 (insolvency practitioners and their qualification) is amended as set out in subsections (2) to (4).

(2) In section 390 (persons not qualified to act as insolvency practitioners), for subsection (2) substitute—

"(2) A person is not qualified to act as an insolvency practitioner at any time unless at that time the person is appropriately authorised under section 390A."

(3) After section 390 insert—

"390A Authorisation

(1) In this Part—

"partial authorisation" means authorisation to act as an insolvency practitioner—

(a) only in relation to companies, or

(b) only in relation to individuals;

"full authorisation" means authorisation to act as an insolvency practitioner in relation to companies, individuals and insolvent partnerships;

"partially authorised" and "fully authorised" are to be construed accordingly.

(2) A person is fully authorised under this section to act as an insolvency practitioner—

(a) by virtue of being a member of a professional body recognised under section 391(1) and being permitted to act as an insolvency practitioner for all purposes by or under the rules of that body, or

(b) by holding an authorisation granted by the Department of Enterprise, Trade and Investment in Northern Ireland under Article 352 of the Insolvency (Northern Ireland) Order 1989.

(3) A person is partially authorised under this section to act as an insolvency practitioner—

(a) by virtue of being a member of a professional body recognised under section 391(1) and being permitted to act as an insolvency practitioner in relation only to companies or only to individuals by or under the rules of that body, or

(b) by virtue of being a member of a professional body recognised under section 391(2) and being permitted to act as an insolvency practitioner by or under the rules of that body.

390B Partial authorisation: acting in relation to partnerships

(1) A person who is partially authorised may not accept an appointment to act as an insolvency practitioner in relation to a company or an individual if at the time of the appointment the person is aware that the company or individual—

(a) is or was a member of a partnership, and

(b) has outstanding liabilities in relation to the partnership.

(2) Subject to subsection (7), a person who is partially authorised may not continue to act as an insolvency practitioner in relation to a company or an individual if the person becomes aware that the company or individual—

(a) is or was a member of a partnership, and

(b) has outstanding liabilities in relation to the partnership,

unless the person is granted permission to continue to act by the court.

(3) The court may grant the person permission to continue to act if it is satisfied that the person is competent to do so.

(4) A person who is partially authorised and becomes aware as mentioned in subsection (2) may alternatively apply to the court for an order (a "replacement order") appointing in his or her place a person who is fully authorised to act as an insolvency practitioner in relation to the company or (as the case may be) the individual.

(5) A person may apply to the court for permission to continue to act or for a replacement order under—

(a) where acting in relation to a company, section 168(5B) or this section;

(b) where acting in relation to an individual, section 303(2C) or this section.

(6) A person who acts as an insolvency practitioner in contravention of subsection (1) or (2) is guilty of an offence under section 389 (acting without qualification).

(7) A person does not contravene subsection (2) by continuing to act as an insolvency practitioner during the permitted period if, within the period of 7 business days beginning with the day after the day on which the person becomes aware as mentioned in subsection (2), the person—

(a) applies to the court for permission to continue to act, or

(b) applies to the court for a replacement order.

(8) For the purposes of subsection (7)—

"business day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of Great Britain;

"permitted period" means the period beginning with the day on which the person became aware as mentioned in subsection (2) and ending on the earlier of—

(a) the expiry of the period of 6 weeks beginning with the day on which the person applies to the court as mentioned in subsection (7)(a) or (b), and

(b) the day on which the court disposes of the application (by granting or refusing it);

"replacement order" has the meaning given by subsection (4)."

(4) For section 391 (recognised professional bodies) substitute—

"391 Recognised professional bodies

(1) The Secretary of State may by order declare a body which appears to the Secretary of State to meet the requirements of subsection (4) to be a recognised professional body which is capable of providing its insolvency specialist members with full authorisation or partial authorisation.

(2) The Secretary of State may by order declare a body which appears to the Secretary of State to meet the requirements of subsection (4) to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only.

(3) An order under subsection (2) must state whether the partial authorisation relates to companies or to individuals.

(4) The requirements are that the body—

(a) regulates the practice of a profession, and

(b) maintains and enforces rules for securing that its insolvency specialist members—

(i) are fit and proper persons to act as insolvency practitioners, and

(ii) meet acceptable requirements as to education and practical training and experience.

(5) The Secretary of State must make an order revoking an order under subsection (1) or (2) in relation to a professional body if it appears to the

Secretary of State that the body no longer meets the requirements of subsection (4).

(6) The Secretary of State must make an order revoking an order under subsection (1) and replacing it with an order under subsection (2) in relation to a professional body if it appears to the Secretary of State that the body is capable of providing its insolvency specialist members with partial authorisation only.

(7) An order of the Secretary of State under this section has effect from such date as is specified in the order.

(8) An order revoking an order made under subsection (1) or (2) may make provision whereby members of the body in question continue to be treated as fully or partially authorised to act as insolvency practitioners (as the case may be) for a specified period after the revocation takes effect.

(9) In this section—

(a) references to members of a recognised professional body are to persons who, whether members of that body or not, are subject to its rules in the practice of the profession in question (and the references in section 390A to members of a recognised professional body are to be read accordingly);

(b) references to insolvency specialist members of a professional body are to members who are permitted by or under the rules of the body to act as insolvency practitioners."

(5) In section 415A of the Insolvency Act 1986 (fees orders (general)), after subsection (1) (fees for grant or maintenance of recognition of professional body) insert—

"(1A) Fees under subsection (1) may vary according to whether the body is recognised under section 391(1) (body providing full and partial authorisation) or under section 391(2) (body providing partial authorisation)."

(6) An order under section 391(1) of the Insolvency Act 1986 (recognised professional bodies) made before the coming into force of this section is, following the coming into force of this section, to be treated as if it were made under section 391(1) as substituted by subsection (4) of this section.

10 Auditors ceasing to hold office

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

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

"(1) An auditor ("A") who is ceasing to hold office and to whom this section applies must send to the company a statement of the reasons for A's ceasing to hold office.

(2) This section applies to an auditor of a listed company who is ceasing for any reason to hold office.

(2A) This section also applies to an auditor of a non-listed company who is ceasing to hold office otherwise than—

(a) in the case of a private company, at the end of a period for appointing auditors;

(b) in the case of a public company, at the end of an accounts meeting.

(2B) But this section does not apply to an auditor ("A") of a non-listed company who is ceasing to hold office otherwise than as mentioned in subsection (2A) if—

(a) A's reasons for ceasing to hold office are all exempt reasons (as to which see section 519A(3)), and

(b) there are no matters connected with A's ceasing to hold office that A considers need to be brought to the attention of members or creditors of the company.

(3) A statement under subsection (1) must include—

(a) the auditor's name and address;

(b) the number allocated to the auditor on being entered in the register of auditors kept under section 1239;

(c) the company's name and registered number.

(3A) Where there are matters connected with an auditor's ceasing to hold office that the auditor considers need to be brought to the attention of members or creditors of the company, the statement under subsection (1) must include details of those matters.

(3B) Where—

(a) an auditor ("A") to whom this section applies is ceasing to hold office as auditor of a non-listed company, and

(b) A considers that none of the reasons for A's ceasing to hold office, and no matters (if any) connected with A's ceasing to hold office, need to be brought to the attention of members or creditors of the company,

A's statement under subsection (1) must include a statement to that effect."

(3) After section 519 insert—

"519A Meaning of "listed company", "non-listed company" and "exempt reasons"

(1) In this Chapter—

"listed company" means a company—

(a) any of whose transferable securities are included in the official list (within the meaning of Part 6 of the Financial Services and Markets Act 2000), or

(b) any of whose equity share capital is officially listed in an EEA state;

"non-listed company" means a company that is not a listed company.

(2) For the purposes of the definition of "listed company", "transferable securities" means anything which is a transferable security for the

purposes of Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments.

(3) In the application of this Chapter to an auditor ("A") of a company ceasing to hold office, the following are "exempt reasons"—

(a) A is no longer to carry out statutory audit work within the meaning of Part 42 (see section 1210(1));

(b) the company is, or is to become, exempt from audit under section 477, 479A or 480, or from the requirements of this Part under section 482, and intends to include in its balance sheet a statement of the type described in section 475(2);

(c) the company is a subsidiary undertaking of a parent undertaking that is incorporated in the United Kingdom and—

(i) the parent undertaking prepares group accounts, and

(ii) A is being replaced as auditor of the company by the auditor who is conducting, or is to conduct, an audit of the group accounts;

(d) the company is being wound up under Part 4 of the Insolvency Act 1986 or Part 5 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), whether voluntarily or by the court, or a petition under Part 4 of that Act or Part 5 of that Order for the winding up of the company has been presented and not finally dealt with or withdrawn.

(4) But the reason described in subsection (3)(c) is only an exempt reason if the auditor who is conducting, or is to conduct, an audit of the group accounts is also conducting, or is also to conduct, the audit (if any) of the accounts of each of the subsidiary undertakings (of the parent undertaking) that is incorporated in the United Kingdom and included in the consolidation.

(5) The Secretary of State may by order amend the definition of "listed company" in subsection (1).

(6) An order under subsection (5) is subject to negative resolution procedure."

(4) In section 523 (duty of company to notify appropriate audit authority), for subsections (1) to (3) substitute—

"(1) This section applies if an auditor is ceasing to hold office otherwise than—

(a) in the case of a private company, at the end of a period for appointing auditors;

(b) in the case of a public company, at the end of an accounts meeting.

(1A) But this section does not apply if—

(a) so far as the company is aware, the only reasons for the auditor's ceasing to hold office are exempt reasons (as to which see section 519A(3)), and

(b) there are no matters connected with the auditor's ceasing to hold office that the company considers need to be brought to the attention of the appropriate audit authority.

(2) Where this section applies, the company must give notice to the appropriate audit authority that the auditor is ceasing to hold office.

(2A) Subsection (2B) applies where—

(a) the company receives a statement from the auditor under section 519(1),

(b) the statement is sent at the time required by section 519(4), and

(c) the company agrees with the contents of the statement.

(2B) Where this subsection applies, the notice is to take the form of a copy of the statement endorsed by the company to the effect that it agrees with the contents of the statement.

(2C) Where subsection (2B) does not apply, the notice is to take the form of a statement by the company of—

(a) the reasons for the auditor's ceasing to hold office, and

(b) any matters connected with the auditor's ceasing to hold office that the company considers need to be brought to the attention of the appropriate audit authority.

(3) A notice under subsection (2B) must be given within the period of 14 days beginning with the day the company receives the statement.

(3A) A notice under subsection (2C)—

(a) must include the information listed in section 519(3), and

(b) must be given within the period of 28 days beginning with the day on which the auditor ceases to hold office."

(5) Schedule 4 (auditors ceasing to hold office) makes provision about the following matters—

(a) the notification requirements that apply on an auditor ceasing to hold office;

(b) the requirements that apply if there is a failure to re-appoint an auditor;

(c) the replacement of references to documents being deposited at a company's registered office.

11 Insolvency and company law: miscellaneous

Schedule 5 makes provision about the following matters—

(a) deeds of arrangement;

(b) administration and winding up of companies;

(c) disqualification of unfit directors of insolvent companies;

(d) bankruptcy;

(e) insolvency practitioners;

(f) liabilities of administrators etc and preferential debts;

(g) appointment of proxies under company law.

Use of land

12 Recorded rights of way: additional protection

In the Countryside and Rights of Way Act 2000, after section 55 (bridleway

rights over ways shown as bridleways) insert—

"55A Other protected rights: England

(1) A surveying authority in England may not, at any time after the cut-off date, make a modification to a definitive map and statement under section 53(2)(b) of the Wildlife and Countryside Act 1981 if—

(a) the modification might affect the exercise of a protected right of way, and

(b) the only basis for the authority considering that the modification is requisite is the discovery by the authority of evidence that the right of way did not exist before 1 January 1949.

(2) In subsection (1), "protected right of way" means any right of way over land shown in the definitive map and statement on the cut-off date as a footpath, bridleway, restricted byway or byway open to all traffic.

(3) In this section—

(a) "cut-off date" has the meaning given in section 56;

(b) "definitive map and statement" has the same meaning as in Part 3 of the Wildlife and Countryside Act 1981;

(c) "surveying authority" has the same meaning as in Part 3 of that Act."

13 Unrecorded rights of way: protection from extinguishment

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

"56A Unrecorded rights of way: protection from extinguishment

(1) The provision that may be made by regulations under section 56(2) by the Secretary of State includes—

(a) provision enabling a surveying authority to designate, at any time during the period of one year beginning with the cut-off date, public rights of way in their area that were extinguished immediately after that date, subject to any conditions or exceptions specified in the regulations;

(b) provision for a designated right of way to cease to be regarded as extinguished as from the time of the designation;

(c) provision requiring a surveying authority to determine, within a period specified in the regulations, whether to make an order under section 53(2) of the 1981 Act making modifications to a definitive map and statement to show a designated right of way;

(d) provision as to the procedure applicable in relation to such a determination, including provision for an application to be made to a magistrates' court where a surveying authority fails to make the determination within a period specified in the regulations;

(e) provision for a designated right of way to be extinguished if a surveying authority determines not to make an order under section 53(2) of the 1981 Act or if such an order is made but is

not confirmed or is quashed, subject to any exceptions specified in the regulations;

(f) provision requiring a surveying authority to keep such information as may be specified in the regulations about designated rights of way in a separate part of the register maintained by them under section 53B of the 1981 Act.

(2) The provision that may be made by virtue of subsection (1)(d) includes provision applying Schedule 15 to the 1981 Act, subject to such modifications as may be specified in the regulations.

(3) Regulations under section 56(2) made by the Secretary of State may also provide—

(a) that an enactment specified in the regulations which would apply in relation to a designated right of way is not to so apply, or is to so apply with modifications specified in the regulations, in relation to times during the designation period (see subsection (4) below);

(b) where an order under section 53(2) of the 1981 Act making modifications to a definitive map and statement to show a designated right of way takes effect, that the modifications are to be treated, for the purposes of section 55A, as having taken effect immediately before the cut-off date.

(4) In subsection (3)(a), "the designation period" means the period which—

(a) begins when the right of way is designated, and

(b) ends when—

(i) an order under section 53(2) of the 1981 Act making modifications to a definitive map and statement to show the right of way takes effect, or

(ii) if no such order is made, the right of way is extinguished in accordance with the regulations.

(5) In this section—

(a) "cut-off date" has the meaning given in section 56;

(b) "definitive map and statement" has the same meaning as in Part 3 of the 1981 Act;

(c) "enactment" means a provision of an Act or of subordinate legislation (within the meaning of the Interpretation Act 1978);

(d) "surveying authority" has the same meaning as in Part 3 of the 1981 Act;

(e) "the 1981 Act" means the Wildlife and Countryside Act 1981."

14 Conversion of public rights of way to private rights of way

In the Countryside and Rights of Way Act 2000, after section 56A (as inserted by section 13) insert—

"56B Conversion of certain public rights of way to private rights of way

(1) This section applies where—

(a) a public right of way over land in England would be extinguished under section 53 immediately after the cut-off date, and

(b) on the cut-off date, the exercise of the right of way—

(i) is reasonably necessary to enable a person with an interest in land to obtain access to it, or

(ii) would have been reasonably necessary to enable that person to obtain access to a part of that land if the person had an interest in that part only.

(2) The public right of way becomes, immediately after the cut-off date, a private right of way of the same description for the benefit of the land or (as the case may be) the part of the land.

(3) For the purposes of subsection (1)(b), it is irrelevant whether the person is, on the cut-off date, in fact—

(a) exercising the existing public right of way, or

(b) able to exercise it.

(4) In this section, "cut-off date" has the meaning given in section 56."

15 Applications by owners etc for public path orders

(1) The Highways Act 1980 is amended as follows.

(2) In section 118ZA(1) (which makes provision for owners, lessees or occupiers of certain land to be able to apply for a public path extinguishment order), after "horses" insert ", or of any land in England of a prescribed description,".

(3) In section 119ZA(1) (which makes provision for owners, lessees or occupiers of certain land to be able to apply for a public path diversion order), after "horses" insert ", or of any land in England of a prescribed description,".

(4) In section 121E(1) (which specifies the duties of the Secretary of State on certain appeals relating to the extinguishment or diversion of public paths), after "section 121D(1)(a) above," insert "in relation to an application made under section 118C or 119C above or an application made under section 118ZA or 119ZA above to a council in Wales,".

(5) After section 121E(1) insert—

"(1A) Where an appeal to the Secretary of State is brought under section 121D(1)(a) above, in relation to an application made under section 118ZA or 119ZA above to a council in England, the Secretary of State shall either—

(a) determine not to make an order on the application, or

(b) take the steps mentioned in subsection (1)(a) to (c).

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

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

16 Extension of powers to authorise erection of stiles at request of owner etc

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

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

(3) After subsection (1) insert—

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

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

(a) in the case of a restricted byway which is for the time being maintained by a non-metropolitan district council by virtue of section 42 above, that council and also the highway authority; and

(b) in the case of any other restricted byway or in the case of a byway open to all traffic, the highway authority."

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

(5) After subsection (5) insert—

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

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

(a) in subsection (1), after "restricted byway" (in the first place it occurs) insert "or across a byway open to all traffic in England";

(b) in that subsection, for "or restricted byway" (in the second place it occurs) substitute "restricted byway or byway open to all traffic";

(c) in subsection (2)(b), after "restricted byway" insert "or in the case of a byway open to all traffic";

(d) after subsection (5) insert—

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

(e) in the heading to the section, for "restricted byways" substitute "byways".

(7) In section 53 of the Wildlife and Countryside Act 1981 (duty to keep definitive map and statement under review)—

(a) in subsection (3), after paragraph (b) insert—

"(ba) the erection of stiles, gates or other works on a highway shown on the map is authorised by a competent authority in England under section 147 of the Highways Act 1980;";

(b) in subsection (6), after "paragraph (a)" insert "or (ba)".

17 Applications for certain orders under Highways Act 1980: cost recovery

(1) The Highways Act 1980 is amended as follows.

(2) In section 118ZA(3) (which deals with the making of regulations imposing charges in connection with applications by owners etc. for a public path extinguishment order), in paragraph (a), after "this section" insert "to a council in Wales".

(3) In section 119ZA(5) (which deals with the making of regulations imposing charges in connection with applications by owners etc. for a public path diversion order), in paragraph (a), after "this section" insert "to a council in Wales".

(4) In section 121A(1) (which confers power to make regulations about applications for public path extinguishment and diversion orders), in paragraph (f), for "prescribed charge" insert "charge prescribed under the section".

(5) In section 121E(8) (which makes provision about what may be included in regulations about appeals under section 121D(1)), in paragraph (j), for "prescribed charge" substitute "charge prescribed under section 118ZA(3) or 119ZA(5)".

(6) In Part 1 of Schedule 6 (procedure for making and confirming certain orders relating to footpaths, bridleways and restricted byways), in paragraph 2B (which makes supplemental provision about hearings held under paragraph 2 of the Schedule), after sub-paragraph (3) insert—

"(4) For the purposes of sub-paragraph (1) as it applies in relation to section 250(4) of the Local Government Act 1972, the consideration by a person appointed as mentioned in sub-paragraph (2)(b), (2A)(b) or (3)(b) of paragraph 2 of any representations or objections about an order relating to land in England is to be treated as a hearing which the Secretary of State has caused to be held under that paragraph."

18 Ascertainment of public rights of way: procedure

Schedule 6 makes changes to the procedure for ascertaining public rights of way in England.

19 Erection of public statues (London): removal of consent requirement

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

Housing

20 Reduction of qualifying period for right to buy

(1) The Housing Act 1985 is amended as follows.

(2) In section 119 (which sets out the qualifying period for the right to buy), before

subsection (1) insert—

"(A1) In the application of this Part to England, the right to buy does not arise unless the period which, in accordance with Schedule 4, is to be taken into account for the purposes of this section is at least three years."

(3) In subsection (1), at the beginning insert "In the application of this Part to Wales,".

(4) In subsection (2), after "subsection" insert "(A1) or".

21 Removal of power to require preparation of housing strategies

(1) Section 87 of the Local Government Act 2003 (which confers power on the Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, to require local housing authorities to have housing strategies and to prepare housing statements) ceases to have effect in relation to England.

(2) Accordingly, that section is amended as follows.

(3) In subsection (1)—
(a) for "The appropriate person" substitute "The Welsh Ministers";
(b) in paragraph (a)—
(i) after "a local housing authority" insert "in Wales";
(ii) for "the appropriate person" substitute "the Welsh Ministers".

(4) In subsection (2)—
(a) for "The appropriate person" substitute "The Welsh Ministers";
(b) after "a local housing authority" insert "in Wales";
(c) for "the appropriate person" (in each place where it occurs) substitute "the Welsh Ministers".

(5) In subsection (3)—
(a) for "The appropriate person" substitute "The Welsh Ministers";
(b) in paragraph (c), for "the appropriate person" substitute "the Welsh Ministers".

(6) In consequence of the amendments made by this section to section 87 of the 2003 Act—
(a) in section 88(2) of that Act, in paragraph (a), after "an authority" insert "in Wales";
(b) in section 333D(3) of the Greater London Authority Act 1999, in the definition of "local housing strategy"—
(i) omit paragraph (a);
(ii) in paragraph (b), omit "other".

Transport

22 Removal of restrictions on provision of passenger rail services

(1) In Part 2 of the Transport Act 1968 (integrated transport areas and passenger transport areas), in section 10(1) (general powers of Executive)—
(a) after paragraph (i) insert—
"(ia) to carry passengers by railway—

(a) where that area is in England, between places in that area, between such places and any place in Great Britain which is outside that area, or between places in Great Britain which are outside that area, or

(b) where that area is in Wales or Scotland, between places in that area or between such places and any place outside that area but within the permitted distance, that is to say, the distance of twenty-five miles from the nearest point on the boundary of that area;";

(b) in paragraph (ii), for "other form of land transport" substitute "form of land transport other than road or railway".

(2) Schedule 7 contains—

(a) amendments in consequence of subsection (1), and

(b) further amendments in connection with the provision of passenger rail services.

23 Reduction of burdens relating to the use of roads and railways

Schedule 8 makes provision about the following matters—

(a) permit schemes;

(b) road humps;

(c) pedestrian crossings;

(d) off-road motoring events;

(e) testing of vehicles;

(f) rail vehicle accessibility regulations: exemption orders.

24 Reduction of burdens relating to enforcement of transport legislation

Schedule 9 makes provision about the following matters—

(a) drink and drug driving offences;

(b) bus lane contraventions.

25 Removal of duty to order re-hearing of marine accident investigations

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

(a) omit paragraph (a) (duty to order re-hearing where new and important evidence discovered), and the "or" following it;

(b) in paragraph (b), omit "other".

Communications

26 Repeal of power to make provision for blocking injunctions

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

The environment etc

27 Reduction of duties relating to energy and climate change

(1) In the Climate Change and Sustainable Energy Act 2006, omit the following—

(a) section 3 (which imposes a duty on local authorities in England to have regard to energy measure reports published by the Secretary of State);

(b) sections 4 and 5 (which confer functions on the Secretary of State with respect to the setting of national targets for microgeneration etc);

(c) sections 7(1) to (6) and 8 (which confer functions on the Secretary of State for the purpose of increasing the sale of electricity generated by microgeneration);

(d) section 10 (which confers functions on the Secretary of State with respect to the review of development orders to facilitate the installation in dwelling-houses of equipment etc for microgeneration);

(e) section 12 (which is spent);

(f) section 14 (which confers functions on the Secretary of State with respect to the laying of reports before Parliament about steps taken to secure greater compliance with building regulations made for energy conservation related purposes etc);

(g) section 19 (which imposes a duty on the Secretary of State with respect to the promotion of community energy projects);

(h) section 21 (which imposes a duty on the Secretary of State with respect to promoting the use of heat produced from renewable sources).

(2) In consequence of subsection (1)—

(a) in the Taxation of Chargeable Gains Act 1992, in section 263AZA(2), for the definition of "microgeneration system" substitute—

" "microgeneration system" means any plant (including any equipment, apparatus or appliance) or system of plant for generating electricity or producing heat —

(a) which, in generating electricity or (as the case may be) producing heat, relies wholly or mainly on a source of energy or a technology mentioned in subsection (7) of section 82 of the Energy Act 2004, and

(b) whose capacity to generate electricity or (as the case may be) to produce heat does not exceed the capacity mentioned in subsection (8) of that section";

(b) in the Income Tax (Trading and Other Income) Act 2005, in section 782A(2), for the definition of "microgeneration system" substitute—

" "microgeneration system" has the same meaning as in section 263AZA of the Taxation of Chargeable Gains Act 1992;".

(3) In consequence of subsection (1)—

(a) in the Sustainable Energy Act 2003, omit section 1(1A)(ba) and (bb);

(b) in the Climate Change and Sustainable Energy Act 2006, omit section 22;

(c) in the Climate Change Act 2008, omit section 81(3);

(d) in the Energy Act 2008, omit section 87(2).

(4) The repeal made by subsection (1)(c) does not affect the operation of section 33(1)(c) of the Utilities Act 2000 in relation to times after the repeal comes into force; and, accordingly, modifications of standard conditions made under section 7 of the Climate Change and Sustainable Energy Act 2006 before the day on which the repeal comes into force continue to have effect on or after that day for the purposes of section 33(1) of that Act of 2000.

28 Model clauses in petroleum licences: procedural simplification

(1) Section 4 of the Petroleum Act 1998 (which makes further provision about licences under Part 1 of that Act to search and bore for and get petroleum) is amended as follows.

(2) In subsection (1), omit paragraph (e) (which requires the Secretary of State to prescribe by regulations model clauses which, unless modified or excluded in a particular case, must be incorporated into licences granted under Part 1 of that Act).

(3) In subsection (2), after "made" insert "under subsection (1)".

(4) After subsection (2) insert—

"(2A) The Secretary of State must prescribe model clauses which, unless he thinks fit to modify or exclude them in any particular case, shall be incorporated in a licence granted under this Part.

(2B) The duty under subsection (2A) may be discharged by—

(a) prescribing model clauses by regulations; or

(b) prescribing model clauses in a document published by the Secretary of State;

and, in either case, different model clauses may be prescribed for different kinds of licence.

(2C) Where the duty under subsection (2A) is at any time discharged by prescribing model clauses by regulations, the Secretary of State may subsequently discharge the duty by prescribing model clauses in a document (and the same applies vice versa)."

(5) In subsection (3), for "such regulations" substitute "regulations under this section".

29 Household waste: de-criminalisation

(1) Part 2 of the Environmental Protection Act 1990 (waste on land) is amended in accordance with subsections (2) to (5).

(2) In section 46 (receptacles for household waste), in subsection (6) (offence of failing to comply with requirements relating to receptacles), after "requirements imposed" insert "by a waste collection authority in Scotland or Wales".

(3) After section 46 insert—

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

(1) This section applies where an authorised officer of a waste collection authority in England is satisfied that—

(a) a person has failed without reasonable excuse to comply with a requirement imposed by the authority under section 46(1), (3)(c) or (d) or (4) (a "section 46 requirement"), and

(b) the person's failure to comply—

(i) has caused, or is or was likely to cause, a nuisance, or

(ii) has been, or is or was likely to be, detrimental to any amenities of the locality.

(2) Where this section applies, the authorised officer may give a written warning to the person.

(3) A written warning must—

(a) identify the section 46 requirement with which the person has failed to comply,

(b) explain the nature of the failure to comply,

(c) explain how the failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b),

(d) if the failure to comply is continuing, specify the period within which the requirement must be complied with,

(e) where paragraph (d) applies, explain the consequences of the requirement not being complied with within the period specified, and

(f) where paragraph (d) does not apply, explain the consequences of the person subsequently failing to comply with the same or a similar section 46 requirement.

(4) Where a written warning has been given that specifies a period as mentioned in subsection (3)(d), an authorised officer of a waste collection authority in England may require the person to whom the warning was given (whether by that or another authorised officer of the authority) to pay a fixed penalty to the authority if satisfied that the person has not complied with the section 46 requirement within the period specified.

(5) In any other case, an authorised officer of a waste collection authority in England may require a person to whom a written warning has been given (whether by that or another authorised officer of the authority) to pay a fixed penalty to the authority if satisfied that—

(a) the person has, after being given the warning—

(i) again failed without reasonable excuse to comply with the section 46 requirement identified in the warning, or

(ii) failed without reasonable excuse to comply with a section 46 requirement that is similar to the one identified in the warning, and

(b) the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b).

(6) A "fixed penalty" means a monetary penalty of an amount determined in accordance with section 46B.

(7) Before requiring a person to pay a fixed penalty, an authorised officer must serve on the person notice of intention to do so (a "notice of intent") in accordance with section 46C.

(8) In order to require a person to pay a fixed penalty, an authorised officer must serve on the person a further notice (the "final notice") in accordance with section 46C.

(9) A fixed penalty under this section is recoverable summarily as a civil debt.

(10) In this section "authorised officer", in relation to a waste collection authority, means—

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving written warnings and notices under this section;

(b) any person who, under arrangements made with the authority, has the function of giving such warnings and notices and is authorised in writing by the authority to perform that function;

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such warnings and notices.

46B Amount of penalty that may be imposed under section 46A

(1) The amount of the monetary penalty that a person may be required to pay to a waste collection authority under section 46A is—

(a) the amount specified by the waste collection authority in relation to the authority's area, or

(b) if no amount is so specified, £60.

(2) A waste collection authority may make provision for treating a fixed penalty under section 46A as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(3) The Secretary of State may by regulations make provision in connection with the powers conferred on waste collection authorities in England under subsections (1)(a) and (2).

(4) Regulations under subsection (3) may (in particular)—

(a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, a waste collection authority can make provision under subsection (2).

(5) The Secretary of State may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).

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

(1) A notice of intent served under section 46A by an authorised officer of a waste collection authority must contain information about—

(a) the grounds for proposing to require payment of a fixed penalty,

(b) the amount of the penalty that the person would be required to pay, and

(c) the right to make representations under subsection (2).

(2) A person on whom a notice of intent is served may make representations to the authorised officer as to why payment of a fixed penalty should not be required.

(3) Representations under subsection (2) must be made within the period of 28 days beginning with the day service of the notice of intent is effected.

(4) A final notice under section 46A may not be served on a person by an authorised officer of a waste collection authority before the expiry of the period of 28 days beginning with the day service of the notice of intent on the person was effected.

(5) Before serving a final notice on a person, an authorised officer must consider any representations made by the person under subsection (2).

(6) The final notice must contain information about—
- (a) the grounds for requiring payment of a fixed penalty,
- (b) the amount of the penalty,
- (c) how payment may be made,
- (d) the period within which payment is required to be made (which must not be less than the period of 28 days beginning with the day service of the final notice is effected),
- (e) any provision giving a discount for early payment made by virtue of section 46B(2),
- (f) the right to appeal under section 46D, and
- (g) the consequences of not paying the penalty.

46D Appeals against penalties imposed under section 46A

(1) A person on whom a final notice is served under section 46A may appeal to the First-tier tribunal against the decision to require payment of a fixed penalty.

(2) The requirement to pay the fixed penalty is suspended pending the determination of an appeal under this section.

(3) On an appeal under this section the First-tier tribunal may withdraw or confirm the requirement to pay the fixed penalty."

(4) In consequence of the amendment made by subsection (2), in section 47ZB(2)(b) (amount of fixed penalty for offence)—
- (a) omit sub-paragraph (i), and the "and" following it;
- (b) in sub-paragraph (ii), omit "in any other case,".

(5) In section 73A (use of fixed penalty receipts), in subsection (2) (power for waste collection authority to use fixed penalty receipts for purposes of its functions under Part 2 and other functions specified in regulations), after "34A" insert ", 46A".

(6) Schedule 10 (household waste: London) makes amendments to the London Local Authorities Act 2007 that correspond to those made by subsection (3).

30 Other measures relating to animals, food and the environment

Schedule 11 makes provision about the following matters—
- (a) destructive imported animals;

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

Education and training

31 Abolition of office of Chief Executive of Skills Funding

(1) The office of the Chief Executive of Skills Funding (established by Part 4 of the Apprenticeships, Skills, Children and Learning Act 2009) is abolished.

(2) The property, rights and liabilities of the Chief Executive of Skills Funding are transferred to the Secretary of State.

(3) Schedule 12 makes amendments to Part 4 of the Apprenticeships, Skills, Children and Learning Act 2009 in consequence of the abolition of the office of the Chief Executive of Skills Funding.

32 Further and higher education sectors: reduction of burdens

Schedule 13 makes provision for the reduction of burdens in the further and higher education sectors.

33 Schools: reduction of burdens

(1) Section 19 of the Education Act 1997 (which confers power on the Secretary of State to make regulations requiring governing bodies of maintained schools to set school performance targets) ceases to have effect in relation to schools in England.

(2) Accordingly, in subsection (1) of that section—
(a) for "The Secretary of State" substitute "The Welsh Ministers",
(b) for "the Secretary of State considers" substitute "the Welsh Ministers consider", and
(c) after "maintained schools" insert "in Wales".

(3) Omit section 102 of the Education Act 2005 (which confers power on the Secretary of State to make regulations requiring local authorities in England to set annual targets in respect of educational performance at schools maintained by them etc).

(4) Schedule 14 makes further provision for the reduction of burdens relating to schools in England.

Entertainment

34 Exhibition of films in community premises

In the Licensing Act 2003, in Schedule 1 (provision of regulated entertainment),

in Part 2 (exemptions), after paragraph 6 insert—

"Film exhibitions: community premises

6A (1) The provision of entertainment consisting of the exhibition of a film at community premises is not to be regarded as the provision of regulated entertainment for the purposes of this Act if the following conditions are satisfied.

(2) The first condition is that the entertainment takes place between 8am and 11pm on the same day.

(3) The second condition is that (where the entertainment is provided as described in paragraph 1(2)(a) or (b)) the entertainment is not provided with a view to profit.

(4) The third condition is that the audience consists of no more than 500 persons.

(5) The fourth condition is that the film classification body or the relevant licensing authority has made a recommendation concerning the admission of children to an exhibition of the film and—

(a) where a recommendation has been made only by the film classification body, the admission of children is subject to such restrictions (if any) as are necessary to comply with the recommendation of that body;

(b) where a recommendation has been made only by the relevant licensing authority, the admission of children is subject to such restrictions (if any) as are necessary to comply with the recommendation of that authority;

(c) where recommendations have been made both by the film classification body and the relevant licensing authority, the admission of children is subject to such restrictions (if any) as are necessary to comply with the recommendation of the relevant licensing authority.

(6) For the purposes of sub-paragraph (5)—

(a) "children" and "film classification body" have the same meaning as in section 20;

(b) the "relevant licensing authority", in relation to the exhibition of a film at particular community premises, is the licensing authority in whose area the premises are located."

Administration of justice

35 Repeal of Senior President of Tribunals' duty to report on standards

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

36 Criminal procedure: written witness statements

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

(2) In subsection (2)(d) (objections to the tendering of written statements), for "within seven days from the service of the copy of the statement" substitute "within the relevant period".

(3) After subsection (2) insert—

"(2A) For the purposes of subsection (2)(d), "the relevant period" is—

(a) such number of days, which may not be less than seven, from the service of the copy of the statement as may be prescribed by Criminal Procedure Rules, or

(b) if no such number is prescribed, seven days from the service of the copy of the statement."

(4) Omit the following—

(a) subsections (3) and (3A) (which make provision about the content of written statements etc);

(b) subsection (6) (which provides for written statements to be read aloud);

(c) subsection (8) (which deals with the service of documents).

(5) In consequence of the amendments made by subsection (4)—

(a) in the Criminal Justice and Public Order Act 1994, in Schedule 9, omit paragraph 6(1);

(b) in the Criminal Procedure and Investigations Act 1996, omit section 69(1).

37 Criminal procedure: written guilty pleas

(1) Section 12 of the Magistrates' Courts Act 1980 (non-appearance of accused: plea of guilty) is amended as follows.

(2) In subsection (7), after "shall" insert ", subject to rules of court made under subsection (7ZA),".

(3) After subsection (7) insert—

"(7ZA) Rules of court may—

(a) specify which of paragraphs (a) to (d) of subsection (7) (if any) are to apply;

(b) provide that any such paragraph is to apply only in circumstances specified in the rules.

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

38 Criminal procedure: powers to make Criminal Procedure Rules

(1) In the Administration of Justice (Miscellaneous Provisions) Act 1933, in section 2 (procedure for indictment of offenders)—

(a) in subsection (6), for "Rules" substitute "Criminal Procedure Rules";

(b) omit subsection (6A).

(2) In that section, in subsection (2), in paragraph (i) of the proviso, for "section 57D(1)" substitute "section 51D(1)".

(3) In the Police and Criminal Evidence Act 1984, in Schedule 1 (making of orders and issue of warrants in respect of excluded or special procedure material)—

(a) omit paragraphs 7 to 10 (which deal with the procedure for applications for production orders) and the italic cross-heading before those paragraphs;

(b) after paragraph 15 insert—

"Procedural rules

15A Criminal Procedure Rules may make provision about proceedings under this Schedule."

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

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

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

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

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

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

39 "MAPPA" arrangements to cease to apply to certain offenders

(1) Section 327 of the Criminal Justice Act 2003 (which makes provision about the offenders in respect of whom "MAPPA" arrangements must be made) is amended as follows.

(2) In subsection (1), for "subsections (2) to (5)" substitute "subsections (2) to (4)".

(3) In subsection (3), in paragraph (a), after "Schedule 15" insert "or in subsection (4A) below".

(4) In subsection (4), in paragraph (a), after "Schedule 15" insert "or in subsection (4A) below".

(5) After subsection (4) insert—

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

(a) an offence under section 1 of the Child Abduction Act 1984 (abduction of child by parent);

(b) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (trafficking people for exploitation), where the offence is committed against a child;

(c) an offence under section 4(3) of the Misuse of Drugs Act 1971 where the offence is committed by—

(i) supplying or offering to supply a Class A drug to a child,

(ii) being concerned in the supplying of such a drug to a child, or

(iii) being concerned in the making to a child of an offer to supply such a drug;

(d) an offence of aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this subsection;

(e) an offence of conspiring to commit an offence so specified;

(f) an offence of attempting to commit an offence so specified.

(4B) In subsection (4A), "child" means a person under 18."

(6) Omit subsection (5).

Other measures to reduce burdens on public authorities

40 Repeal of powers to provide accommodation to persons temporarily admitted to the UK etc

(1) Section 4 of the Immigration and Asylum Act 1999 (which confers power on the Secretary of State to provide, or arrange for the provision of, facilities for the accommodation of certain persons dealt with under the Immigration Acts) is amended as follows.

(2) In subsection (1)—

(a) omit paragraph (a) (persons temporarily admitted to the UK under paragraph 21 of Schedule 2 to the Immigration Act 1971);

(b) omit paragraph (b) (persons released from detention under paragraph 21 of Schedule 2 to that Act), and the "or" following it.

(3) In subsection (2), in paragraph (b), after "rejected" insert "or withdrawn or treated as withdrawn".

(4) In subsection (4), at the end insert (as closing words following paragraphs (a) to (c))—

"except that, for the purposes of this section, the definition of asylum seeker in section 94 has effect as if it did not exclude persons who are under 18."

41 Removal of restriction on persons who may manage child trust funds

(1) The Child Trust Funds Act 2004 is amended as follows.

(2) In section 3 (requirements to be satisfied in relation to child trust funds), in subsection (10) (which provides for the making of regulations authorising the Official Solicitor or, in Scotland, the Accountant of Court to manage child trust funds)—

(a) after "to be" insert "—

(a) ";

(b) at the end of the subsection insert ", or

(b) a person appointed by the Treasury or by the Secretary of State."

(3) In section 16 (information about children in care of authority), in subsection (1)—

(a) at the end of paragraph (a) (before ", or"), insert "or by a person appointed under regulations under section 3(10)(b)";

(b) in paragraph (b), before "any information" insert "or to such a person";

(c) in the words following paragraph (b), before "may require" insert "or (as the case may be) the person".

42 London street trading appeals: removal of role of Secretary of State in appeals

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

(2) After section 30 insert—

"30A Other Part III appeals

(1) Any person aggrieved—

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

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

(c) by a standard condition prescribed by regulations under subsection (3) of section 27 (Conditions of street trading licences) of this Act; or

(d) by the amount of a fee or charge under section 32 (Fees and charges) of this Act;

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

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

(a) in the case of an appeal under paragraph (a) or (b) of that subsection, at any time before the expiration of the period of three months beginning with the date on which notice of the passing of the resolution is published for the second time in accordance with subsection (10) of section 24 (Designation of licence streets) of this Act;

(b) in the case of an appeal under paragraph (c) of that subsection, at any time before the expiration of the period of three months beginning with the date upon which the licence holders or a body or bodies representative of them were notified of the making of the regulations;

(c) in the case of an appeal under paragraph (d) of that subsection—

(i) if it relates to the amount of a fee payable under subsection (1) of section 32 (Fees and charges) of this Act, at any time before the expiration of the period of three months beginning with the date on which the fee

payable is notified to the licence holders or a body or bodies representative of them;

(ii) if it relates to the amount of a charge under subsection (2) of section 32 (Fees and charges) of this Act, at any time before the expiration of the period of three months beginning with the date on which notice of the determination of the charge has been given to the licence holders or a body or bodies representative of them.

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

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

(3) In section 30—

(a) omit subsections (11) and (12);

(b) in the heading, after "Part III appeals" insert ": refusal to grant a licence etc.".

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

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

(6) After subsection (2) insert—

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

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

(7) For the side-note substitute "Appeals to a magistrates' court".

43 Gangmasters (Licensing) Act 2004: enforcement

(1) The Gangmasters (Licensing) Act 2004 is amended as follows.

(2) In section 15 (enforcement and compliance officers), after subsection (3) insert—

"(3A) The Secretary of State may provide that enforcement officers are not to exercise such functions relating to the institution or conduct of proceedings for an offence under this Act as may be specified; and, where the Secretary of State so provides, the Secretary of State may make alternative arrangements for the exercise of such functions."

(3) In Schedule 2 to that Act (application of Act to Northern Ireland), in paragraph 15 (enforcement and compliance officers), after sub-paragraph (3) insert—

"(4) The relevant Northern Ireland department may provide that enforcement officers may not exercise such functions relating to the institution or conduct of proceedings for an offence under this Act as

may be specified; and, where the Department so provides, it may make alternative arrangements for the exercise of such functions."

44 Repeal of duty to prepare sustainable community strategy

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

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

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

45 Repeal of duties relating to local area agreements

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

(a) omit sections 105 to 113 (which impose duties on local authorities in England to make local area agreements specifying local improvement targets if so directed by the Secretary of State);
(b) in section 117—
(i) omit the definitions of "designated target", "local area agreement", "local improvement target" and "revision proposal";
(ii) in the definition of "responsible local authority" omit the words from "and "the responsible local authority", in relation to a local area agreement" to the end of the definition;
(c) omit section 118(1) and (2) (which make transitional provision in relation to local area agreements).

(2) In consequence of the amendments made by subsection (1), in the heading of the Chapter, omit "Local Area Agreements and".

46 Repeal of provisions relating to multi-area agreements

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

(2) In consequence of the repeal made by subsection (1)—

(a) in the Police Reform and Social Responsibility Act 2011, in Schedule 16, omit paragraph 377;
(b) in the Education Act 2011, in Schedule 16, omit paragraph 45;

(c) in the Health and Social Care Act 2012, in Schedule 5, omit paragraph 172.

47 Repeal of duties relating to consultation or involvement

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

(2) In consequence of the repeal made by subsection (1)—
(a) in the Local Government and Public Involvement in Health Act 2007, omit section 138;
(b) in the Police Reform and Social Responsibility Act 2011, in Schedule 16, omit paragraph 243.

(3) Schedule 15 makes provision for disapplying certain other requirements about consultation etc imposed on public bodies.

Legislative reform

48 Ambulatory references to international shipping instruments

After section 306 of the Merchant Shipping Act 1995 insert—

"306A Power to make ambulatory references to international instruments

(1) This section applies where—
(a) a person has power under this Act to make subordinate legislation, and
(b) the person proposes to exercise that power to make subordinate legislation which refers to an international instrument.

(2) The power may be exercised so as to have the effect that the reference to the instrument is construed—
(a) as a reference to the instrument as modified from time to time;
(b) if the instrument is replaced by another instrument, as a reference to that other instrument.

(3) For the purposes of subsection (2)(a), an instrument is modified if—
(a) omissions, additions or other alterations to the text of the instrument take effect, or
(b) supplementary provision made under the instrument takes effect.

(4) In this section, provision included in subordinate legislation by virtue of subsection (2) is referred to as ambulatory provision.

(5) Subordinate legislation which makes ambulatory provision may also authorise the Secretary of State to direct, in relation to a particular modification or replacement of an instrument specified in the direction, that the ambulatory provision—
(a) does not apply, or
(b) does not apply for a particular period.

(6) Subordinate legislation which authorises the Secretary of State to give a direction of a kind mentioned in subsection (5) may also authorise the Secretary of State, where such a direction is given, to give further directions—

(a) disapplying any provision of the subordinate legislation to which the ambulatory provision relates;

(b) where any such provision is disapplied, making alternative provision.

(7) Subordinate legislation which authorises the Secretary of State to give a direction of a kind mentioned in subsection (5) or (6) —

(a) may authorise the Secretary of State to give the direction generally or in relation to a particular case or description of case specified in the direction;

(b) may authorise the Secretary of State to include transitional provision in the direction;

(c) may make provision as to the variation or revocation of the direction.

(8) Subordinate legislation which authorises the Secretary of State to give a direction of a kind mentioned in subsection (5) or (6) must make provision appropriate for ensuring that any such direction is published and brought to the attention of persons who are likely to be affected by it.

(9) Subordinate legislation which makes ambulatory provision may make provision as to—

(a) when a modification of an international instrument is to be treated as taking effect for the purposes of subsection (2)(a) (read with subsection (3));

(b) when an international instrument is to be treated as having been replaced by another instrument for the purposes of subsection (2)(b).

(10) In this section—

(a) "international instrument" means an international convention or treaty or an instrument made under such a convention or treaty;

(b) "subordinate legislation" has the same meaning as in the Interpretation Act 1978."

49 Power to spell out dates described in legislation

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

(a) amend a reference in legislation to the commencement of a provision so that it refers to the actual date on which the provision comes into force;

(b) amend a reference in legislation to the date on which any other event occurs so that it refers to the actual date on which that event occurs.

(2) An order under subsection (1) may amend the legislation to include an explanation of the date and may make other consequential amendments to legislation.

(3) In this section—

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;

"legislation" means an Act or subordinate legislation or a provision contained in an Act or subordinate legislation (and, for that purpose, subordinate legislation has the same meaning as in the Interpretation Act 1978).

Legislation no longer of practical use

50 Legislation no longer of practical use

Schedule 16 makes provision for legislation which is no longer of practical use to cease to apply.

51 Orders disapplying legislation no longer of practical use

(1) A Minister of the Crown may by order provide for legislation to cease to apply if the Minister considers that it is no longer of practical use.

(2) The power conferred by subsection (1) may be exercised by—

(a) repealing or revoking the legislation, generally or in relation to a particular part of the United Kingdom to which it extends;

(b) amending it so that it ceases to apply in relation to a particular part of the United Kingdom.

(3) In this section—

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;

"legislation" means an Act or subordinate legislation or a provision contained in an Act or subordinate legislation (and, for that purpose, subordinate legislation has the same meaning as in the Interpretation Act 1978).

52 Devolution

(1) Before making an order under section 51 which contains provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, the Minister must obtain the consent of the Scottish Ministers.

(2) Before making an order under section 51 which contains provision which would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of that Assembly, the Minister must obtain the consent of the Welsh Ministers.

(3) Before making an order under section 51 which contains provision which would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, the Minister must obtain the consent of a Northern Ireland department.

(4) Subsection (3) does not apply if—

(a) a Bill for an Act of the Northern Ireland Assembly containing the provision would require the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998, and

(b) the provision does not affect, other than incidentally, a transferred matter (within the meaning of that Act).

53 Procedure: introductory

(1) An order under section 51 must be made by statutory instrument.

(2) A Minister may not make an order under section 51 unless—
  (a) the Minister has consulted in accordance with section 54,
  (b) following that consultation, the Minister has laid a draft order and explanatory document before Parliament in accordance with section 55, and
  (c) the making of the order is in accordance with section 56.

54 Procedure: consultation

(1) If a Minister proposes to make an order under section 51, the Minister must—
  (a) in such cases as the Minister considers appropriate, consult the Law Commission, the Scottish Law Commission or the Northern Ireland Law Commission, and
  (b) consult such other persons as the Minister considers appropriate.

(2) If, as a result of any consultation required by subsection (1), it appears to the Minister that it is appropriate to change the whole or any part of the Minister's proposals, the Minister must undertake such further consultation with respect to the changes as the Minister considers appropriate.

55 Procedure: draft order and explanatory statement

(1) If, after the conclusion of the consultation required by section 54, the Minister considers it appropriate to proceed with the making of an order under section 51, the Minister must lay before Parliament—
  (a) a draft of the order, and
  (b) an explanatory document.

(2) The explanatory document must—
  (a) explain why the Minister considers that the legislation is no longer of practical use, and
  (b) give details of —
    (i) any consultation undertaken under section 54,
    (ii) any representations received as a result of the consultation, and
    (iii) any changes made as a result of those representations.

56 Making of orders

(1) The Minister may make an order in the terms of a draft order laid before Parliament under section 55 subject to the following provisions of this section.

(2) The Minister may not make an order in the terms of the draft order if either House of Parliament so resolves within the 40-day period.

(3) A committee of either House charged with reporting on the draft order may, at any time before the expiry of the 40-day period, recommend under this

subsection that the Minister may not make an order in the terms of the draft order.

(4) Where a recommendation is made by a committee of either House under subsection (3) in relation to a draft order, the Minister may not make an order in the terms of the draft order unless the recommendation is, in the same Session, rejected by resolution of that House.

(5) For the purposes of this section an order is made in the terms of a draft order if it contains no material changes to the provisions of the draft order.

(6) In this section, the "40-day period" means the period of 40 days beginning with the day on which the draft order was laid before Parliament under section 55.

(7) For the purpose of calculating the 40-day period in a case where a recommendation is made under subsection (3) by a committee of either House but the recommendation is rejected by that House under subsection (4), no account is to be taken of any day between the day on which the recommendation was made and the day on which the recommendation was rejected.

(8) In calculating the 40-day period, no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.

57 Supplemental

(1) An order under section 51 may include such incidental, supplementary, consequential, transitional, transitory or saving provision as the Minister considers appropriate.

(2) Any such provision may be made by repealing, revoking or otherwise amending any provision made by or under—

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

Exercise of regulatory functions

58 Exercise of regulatory functions: economic growth

(1) A person exercising a regulatory function to which this section applies must, in the exercise of the function, have regard to the desirability of promoting economic growth.

(2) In performing the duty under subsection (1), the person must, in particular, consider the importance for the promotion of economic growth of exercising the regulatory function in a way which ensures that—

(a) regulatory action is taken only when it is needed, and
(b) any action taken is proportionate.

59 Functions to which section 58 applies

(1) A Minister of the Crown may by order specify the regulatory functions to which section 58 applies.

(2) Before making an order under subsection (1), the Minister must consult—

(a) any person exercising functions to be specified in the order, and

(b) such other persons as the Minister considers appropriate.

(3) An order under this section may not specify—

(a) a regulatory function so far as exercisable in Scotland, if or to the extent that the function relates to matters which are not reserved matters;

(b) a regulatory function so far as exercisable in Northern Ireland, if or to the extent that the function relates to matters which are transferred matters;

(c) a regulatory function so far as exercisable in Wales, if or to the extent that the function relates to matters which are devolved Welsh matters.

(4) An order under this section must be made by statutory instrument.

(5) A statutory instrument containing an order under this section may not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

(6) In this section—

"devolved Welsh matter" means a matter within the legislative competence of the National Assembly for Wales;

"reserved matter" and "Scotland" have the same meanings as in the Scotland Act 1998;

"transferred matter" and "Northern Ireland" have the same meanings as in the Northern Ireland Act 1998;

"Wales" has the same meaning as in the Government of Wales Act 2006.

60 Guidance on duty under section 58

(1) A Minister of the Crown may from time to time issue guidance as to the performance of the duty under section 58(1).

(2) The guidance may include guidance as to—

(a) the meaning of economic growth;

(b) the ways in which regulatory functions may be exercised so as to promote economic growth.

(3) The guidance may also include guidance as to how persons who have a duty under section 58(1) may demonstrate, in a way which is transparent and accountable, compliance with the duty.

(4) A person who has a duty under section 58(1) must have regard to any guidance issued under subsection (1).

(5) Before issuing guidance under subsection (1), the Minister must prepare a draft of the guidance.

(6) The Minister must then consult the following about the draft—

(a) persons who appear to be representative of persons who have a duty under section 58;

(b) such other persons as the Minister considers appropriate.

(7) If the Minister decides to proceed with issuing the guidance (either in its original form or with modifications), the Minister must lay the draft before Parliament.

(8) Where the draft is approved by resolution of each House of Parliament, the Minister may issue the guidance.

(9) Guidance issued under subsection (1) is to come into force on such date as the Minister may by order made by statutory instrument appoint.

61 Sections 58 to 60: interpretation

(1) In sections 58 to 60, "regulatory function" means—

(a) a function under or by virtue of an Act or subordinate legislation of imposing requirements, restrictions or conditions, or setting standards or giving guidance, in relation to an activity, or

(b) a function which relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which, under or by virtue of an Act or subordinate legislation, relate to an activity.

(2) In subsection (1)(a) and (b) the references to a function include a function exercisable by or on behalf of the Crown.

(3) In subsection (1)(a) and (b) the references to an activity include—

(a) providing goods and services, and

(b) employing or offering employment to a person.

(4) In sections 59 and 60, "Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975.

(5) In this section, "subordinate legislation" has the same meaning as in the Interpretation Act 1978.

General

62 Consequential amendments, repeals and revocations

(1) The Secretary of State may by order made by statutory instrument make such provision as the Secretary of State considers appropriate in consequence of this Act.

(2) An order under subsection (1)—

(a) may include transitional, transitory or saving provision;

(b) may amend, repeal, revoke or otherwise modify any provision of primary or subordinate legislation (including legislation passed or made in the same Session as this Act).

(3) A statutory instrument containing (whether alone or with other provision) an order under this section which amends, repeals or revokes any provision of primary legislation is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(4) A statutory instrument containing an order under this section which does not amend, repeal or revoke any provision of primary legislation is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this section—

"primary legislation" means—

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

"subordinate legislation" means—

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

63 Extent

(1) Except as provided by subsections (2) and (3), a repeal, revocation or other amendment or modification made by this Act has the same extent as the provision repealed, revoked or otherwise amended or modified.

(2) Paragraph 24 of Schedule 16 extends only to England and Wales and Northern Ireland.

(3) Paragraphs 25 and 27 of Schedule 16 extend only to England and Wales.

(4) Section 31(1) and (2) extends only to England and Wales.

(5) Sections 49 and 51 to 62, this section and sections 64 and 65 extend to England and Wales, Scotland and Northern Ireland.

64 Commencement

(1) Sections 62 and 63, this section and section 65 come into force on the day on which this Act is passed.

(2) The following provisions come into force at the end of the period of 2 months beginning with the day on which this Act is passed—

(a) sections 7 and 8;
(b) section 19;
(c) section 21;
(d) sections 25 to 28;
(e) section 31 and Schedule 12;
(f) section 32 and Schedule 13;
(g) section 35;
(h) sections 40 and 41;
(i) sections 44 to 46;
(j) section 47(1) and (2);
(k) section 47(3) and Schedule 15;
(l) section 49;

(m) section 50 and Schedule 16;
(n) in Schedule 5, paragraph 5 and Parts 7 and 8;
(o) in Schedule 8, Parts 3 and 4;
(p) in Schedule 9, Part 2;
(q) in Schedule 11, Parts 1, 2 and 4.

(3) Where a provision of a Schedule comes into force in accordance with subsection (2)(n) to (q), the section to which that Schedule relates comes into force (so far as relating to that provision) at the same time.

(4) The remaining provisions of this Act come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

(5) An order under subsection (4) may appoint different days for different purposes.

(6) The Secretary of State may by order made by statutory instrument make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.

65 Short title

This Act may be cited as the Deregulation Act 2014.

SCHEDULES

SCHEDULE 1

Section 3

APPROVED ENGLISH APPRENTICESHIPS

PART 1

MAIN AMENDMENTS

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

"CHAPTER A1

APPRENICESHIPS: ENGLAND

A1 Meaning of "approved English apprenticeship" etc

(1) This section applies for the purposes of this Chapter.

(2) An approved English apprenticeship is an arrangement which—

(a) takes place under an approved English apprenticeship agreement, or

(b) is an alternative English apprenticeship,

and, in either case, satisfies any conditions specified in regulations made by the Secretary of State.

(3) An approved English apprenticeship agreement is an agreement which—

(a) provides for a person ("the apprentice") to work for another person for reward in a sector for which the Secretary of State has published an approved apprenticeship standard under section A2,

(b) provides for the apprentice to receive training in order to assist the apprentice to achieve the approved apprenticeship standard in the work done under the agreement, and

(c) satisfies any other conditions specified in regulations made by the Secretary of State.

(4) An alternative English apprenticeship is an arrangement, under which a person works, which is of a kind described in regulations made by the Secretary of State.

(5) Regulations under subsection (4) may, for example, describe arrangements which relate to cases where a person—

(a) works otherwise than for another person;

(b) works otherwise than for reward.

(6) A person completes an approved English apprenticeship if the person achieves the approved apprenticeship standard while doing an approved English apprenticeship.

(7) The "approved apprenticeship standard", in relation to an approved English apprenticeship, means the standard which applies in relation to the work to be done under the apprenticeship (see section A2).

A2 Approved apprenticeship standards

(1) The Secretary of State must prepare and publish standards for such sectors of work as the Secretary of State thinks appropriate for the purposes of this Chapter.

(2) Each standard must—
(a) describe the sector of work to which it relates, and
(b) if there is more than one standard for that sector, describe the kind of work within that sector to which it relates.

(3) Each standard must set out the outcomes that persons seeking to complete an approved English apprenticeship are expected to achieve.

(4) The Secretary of State—
(a) may revise or revoke a standard (with or without replacing it), and
(b) if the Secretary of State revises or replaces a standard, the Secretary of State must publish the standard as revised or replaced.

(5) Employers, or representatives of employers, may make proposals to the Secretary of State as to the content of a standard (including proposals for its revision, revocation or replacement).

A3 Power to issue apprenticeship certificate

(1) The Secretary of State may issue a certificate ("an apprenticeship certificate") to a person who applies for it in the prescribed manner if it appears to the Secretary of State that the person has completed an approved English apprenticeship.

(2) The Secretary of State may by regulations make provision about the supply by the Secretary of State of copies of apprenticeship certificates issued under subsection (1) to persons to whom they were issued.

(3) The Secretary of State may charge a fee for issuing an apprenticeship certificate or supplying a copy only if, and to the extent that, the charging of the fee is authorised by regulations.

A4 Delegation

(1) Any function of the Secretary of State under this Chapter may be carried out by a person designated by the Secretary of State.

(2) Subsection (1) does not apply to any power of the Secretary of State to make regulations but does include work done in preparing regulations.

(3) A person designated under this section must—
  (a) comply with directions given by the Secretary of State, and
  (b) have regard to guidance given by the Secretary of State.

(4) A designation under this section may be revoked.

A5 English apprenticeship agreements: status

(1) To the extent that it would otherwise be treated as being a contract of apprenticeship, an approved English apprenticeship agreement is to be treated as not being a contract of apprenticeship.

(2) To the extent that it would not otherwise be treated as being a contract of service, an approved English apprenticeship agreement is to be treated as being a contract of service.

(3) This section applies for the purposes of any enactment or rule of law.

A6 English apprenticeship agreements: supplementary provision

(1) If an agreement—
  (a) contains provision which satisfies the conditions mentioned in section A1(3)(a) to (c), but
  (b) also contains other provision which is inconsistent with those conditions,

the other provision is to be treated as having no effect.

(2) Before an agreement which satisfies the conditions mentioned in section A1(3)(a) to (c) is varied in such a way that it no longer satisfies one or more of those conditions, the person for whom the apprentice is working must give the apprentice a written notice.

(3) The written notice must explain that, if the variation takes effect, the agreement will cease to be an approved English apprenticeship agreement.

(4) If an agreement is varied in breach of the requirement under subsection (2), the variation has no effect.

A7 Crown servants and parliamentary staff

(1) Section A1(3) applies in relation to—
  (a) an agreement under which a person undertakes Crown employment,
  (b) an agreement under which a person undertakes service as a member of the naval, military or air forces of the Crown, and
  (c) an agreement under which a person undertakes employment as—
    (i) a relevant member of the House of Lords staff, or
    (ii) a relevant member of the House of Commons staff,

as it applies in relation to any other agreement under which a person is to work for another (and this Chapter applies accordingly).

(2) Subsection (1) is subject to subsection (3) and to any modifications which may be prescribed under subsection (5).

(3) Section A5(2) does not apply in relation to an approved English apprenticeship agreement that is an agreement within paragraph (a), (b) or (c) of subsection (1).

(4) Without prejudice to section 262(3), the power conferred by section A3(1) may be exercised, in particular, to make provision in relation to an agreement within any of paragraphs (a), (b) and (c) of subsection (1) that differs from provision made in relation to other agreements under which a person is to work for another.

(5) The Secretary of State may by regulations provide for any provision of this Chapter to apply with modifications in relation to—

(a) an agreement within paragraph (a), (b) or (c) of subsection (1), or

(b) a person working, or proposing to work, under such an agreement.

(6) In subsection (1)—

"Crown employment" means employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by a statutory provision (but does not include service as a member of the naval, military or air forces of the Crown);

"relevant member of the House of Commons staff" has the meaning given by section 195(5) of the Employment Rights Act 1996;

"relevant member of the House of Lords staff" has the meaning given by section 194(6) of that Act."

PART 2

CONSEQUENTIAL AMENDMENTS

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

3 Omit section 1.

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

5 In section 11—

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

(b) omit subsection (3);

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

6 In section 12—

(a) omit subsection (3);

(b) in the italic cross-heading before that section, omit "England and".

7 Omit sections 13 to 17, and the italic cross-heading before them.

8 Omit sections 23 to 27, and the italic cross-heading before them.

9 In the italic cross-heading before sections 32 to 39, omit "England and".

10 In section 32, omit subsection (6)(a), and the "or" following it.

11 In section 38—

(a) in subsection (1), for "The Secretary of State" substitute "The Welsh Ministers";

(b) in subsection (2), for "the Secretary of State" substitute "the Welsh Ministers".

12 In section 39, in subsection (1)—

(a) in the definition of "apprenticeship certificate", omit "3, 4,";

(b) omit the definitions of "English certifying authority", "English issuing authority", "recognised English framework" and "the specification of apprenticeship standards for England".

13 In section 83, in subsection (5), for paragraphs (a) to (c) substitute—

"(a) an approved English apprenticeship, or

(b) any contract of employment (other than an approved English apprenticeship agreement)."

14 In section 83A, in subsection (3), for the words from "opportunity to" to the end of the subsection substitute "opportunity to enter into an approved English apprenticeship."

15 (1) Section 83B is amended as follows.

(2) In subsection (1), for the words from "at a particular level" to the end of the subsection substitute "for the purpose of assisting a person to achieve a particular approved apprenticeship standard if the person—

(a) has already completed an approved English apprenticeship by achieving that standard,

(b) has already completed an approved English apprenticeship by achieving another standard and, in doing so, appears to the Secretary of State to have demonstrated a comparable level of achievement (whether or not in the same sector of work), or

(c) has worked under another arrangement and, in doing so, appears to the Secretary of State to have demonstrated a comparable level of achievement (whether or not in the same sector of work)."

(3) After that subsection insert—

"(1A) Section A(1)(6) and (7) (which make provision about when a person completes an approved English apprenticeship and about the meaning of "approved apprenticeship standard") apply for the purposes of subsection (1)."

(4) Omit subsections (2) to (5).

16 In section 90, in subsection (2), for paragraphs (a) and (b) substitute—

"(a) an approved English apprenticeship, or

(b) any contract of employment (other than an approved English apprenticeship agreement) in connection with which training is provided."

17 Omit section 105.

18 In section 121, in subsection (1), for the definition of "apprenticeship agreement" substitute—

""approved English apprenticeship" has the meaning given by section A1(2);".

SCHEDULE 2

Section 4

DRIVING INSTRUCTORS

PART 1

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

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

2 In section 124 (exemption from prohibitions imposed by section 123)—

(a) in subsection (3), for "in particular, consist of" substitute "in particular—

(a) include the circumstance that a person holds a current emergency control certificate (and authorise the person to apply to undergo an emergency control assessment for the purpose of obtaining such a certificate);

(b) consist of";

(b) after subsection (5) insert—

"(6) In this Part "emergency control assessment" and "emergency control certificate" mean an assessment and a certificate under section 133A of this Act."

3 (1) Section 125 (register) is amended as follows.

(2) After subsection (3) insert—

"(3A) If an applicant is aware that he is suffering from a relevant or prospective disability, his application must be accompanied by written notification of the nature and extent of his disability.

(3B) Any person who fails without reasonable excuse to comply with the requirement imposed by subsection (3A) is guilty of an offence.

(3C) The Registrar may, in the circumstances mentioned in subsection (3D), require the applicant to submit himself for an emergency control assessment (whether or not the applicant already holds an emergency control certificate) in connection with the application.

(3D) Those circumstances are that the Registrar has reasonable grounds for believing that the applicant would be unable to take control of a motor vehicle of the class in which instruction is to be given if an emergency arose while he was giving driving instruction in such a motor vehicle."

(3) After subsection (5) insert—

"(5A) In this Part "disability", in respect of motor vehicles of any description, means a want of physical ability affecting the driving of motor vehicles of that description; and

(a) "relevant disability", in relation to a person, means any prescribed disability or any other disability likely to cause the driving of a vehicle of the description in question by him to be a source of danger to the public;

(b) "prospective disability", in relation to a person, means any other disability which, at the material time, is not of such a kind that it is a relevant disability but, by virtue of the intermittent or progressive nature of the disability or otherwise, may become a relevant disability in the course of time;".

(4) Omit subsection (6).

4 (1) Section 125ZA (conditions of registration) is amended as follows.

(2) In subsection (2)—

(a) omit the "and" at the end of paragraph (b);

(b) after paragraph (c) insert ", and

(d) in the case of persons who have been required under section 125(3C) to submit themselves for emergency control assessments, conditions requiring the persons to hold current emergency control certificates."

(3) In subsection (4)—

(a) after paragraph (b) insert—

"(ba) conditions requiring the persons, if at any time required to do so by the Registrar in the circumstances mentioned in section 125(3D), to submit themselves for emergency control assessments (whether or not they already hold emergency control certificates) on such days (within such periods as may be prescribed) and at such places as may be specified by the Registrar,

(bb) conditions requiring the persons to hold an emergency control certificate following any such assessment,";

(b) in paragraph (c), for "and (c)" substitute ", (c) and (d)";

(c) omit the "and" at the end of paragraph (c);

(d) after paragraph (c) insert—

"(ca) conditions requiring that, if instruction in the driving of a motor vehicle is to be given in circumstances where there is a reasonable expectation of an emergency arising which necessitates the instructor taking control of the vehicle, the persons will only give such instruction if they would be able to take control of the vehicle if such an emergency arose while giving the instruction, and".

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

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

7 In section 127 (extension of duration of registration), in subsection (4)—

(a) omit paragraph (a) and the "and" following it;

(b) in paragraph (b), omit "in any other case,".

8 In section 128 (termination of registration by Registrar), in subsection (2)—

(a) omit paragraph (a) and the "and" following it;

(b) in paragraph (b), omit "in any other case,".

9 After section 128 insert—

"128B Direction to disregard emergency control assessment requirement

(1) This section applies where a person has been required under section 125(3C), or as mentioned in section 125ZA(4)(ba), to submit himself for an emergency control assessment.

(2) At any time before the assessment takes place the Registrar may withdraw the requirement (in which case this Part applies as if the requirement had never been imposed).

(3) At any time after the assessment takes place the Registrar may direct that the requirement is to be disregarded for the purposes of this Part (and accordingly any condition that the person holds an emergency certificate is to cease to apply).

(4) Notice of—

(a) the withdrawal of a requirement under subsection (2), or

(b) a direction under subsection (3),

must be given to the person on whom the requirement was imposed."

10 In section 133 (review of examinations etc)—

(a) in subsection (2)(a), omit "or 125A(6)(a)";

(b) in subsection (2)(b), omit "or 125A(7A)(a)".

11 (1) Section 133A (assessment of ability to control a motor car in an emergency) is amended as follows.

(2) Before subsection (1) insert—

"(A1) A person may, for the purpose of obtaining an emergency control certificate, apply to undergo a further emergency control assessment if—

(a) he has been required to submit himself for an emergency control assessment under section 125(3C) or as mentioned in section 125ZA(4)(ba), and

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

(3) In subsection (1), for "This section applies" substitute "The following provisions of this section apply".

(4) In subsection (2)—

(a) in paragraph (a), for "class covered by his disabled person's driving licence" substitute "prescribed class";

(b) in paragraph (b), for "class covered by his disabled person's driving licence" substitute "prescribed class";

(c) in the closing words, for "an appropriate" substitute "a".

(5) In subsection (6)—

(a) in paragraph (a), for "class covered by his disabled person's limited driving licence" substitute "prescribed class";

(b) in paragraph (b), for "class covered by his disabled person's limited driving licence" substitute "prescribed class".

(6) In subsection (7)(a), omit "covered by his disabled person's limited driving licence".

(7) After subsection (9) insert—

"(9) In this Part, "modifications", in relation to a motor vehicle, includes equipment."

(8) In the heading, omit "disabled person's".

12 In section 133B (further assessments), omit subsection (3).

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

(a) in the opening words, omit "disabled";

(b) in paragraph (a), for the words from "section" to the end of the paragraph substitute "section 125(3A) or 133A(4), or".

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

(2) Before subsection (2) insert—

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

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

(4) After subsection (3) insert—

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

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

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

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

(a) omit the following expressions and the corresponding relevant provisions—

"Appropriate motor vehicle";

"Disabled person's limited driving licence";

"Registered disabled instructor";

(b) in the entry for the expressions "disability, prospective disability and relevant disability", in the corresponding relevant provision, for "125A(8)" substitute "125(5A)";

(c) in the entry for the expressions "emergency control assessment and emergency control certificate", in the corresponding relevant provision, for "125A(8)" substitute "124(6)";

(d) in the entry for the expression "modifications, in relation to a motor vehicle", in the corresponding relevant provision, for "125A(8)" substitute "133A(9)".

PART 2

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

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

17 (1) Section 125 (the register of approved instructors) is amended as follows.

(2) After subsection (2) insert—

"(2A) If an applicant is aware that he is suffering from a relevant or prospective disability, his application must be accompanied by written notification of the nature and extent of his disability.

(2B) Any person who fails without reasonable excuse to comply with the requirement imposed by subsection (2A) is guilty of an offence.

(2C) The Registrar may, in the circumstances mentioned in subsection (2D), require the applicant to submit himself for an emergency control assessment (whether or not the applicant already holds an emergency control certificate) in connection with the application.

(2D) Those circumstances are that the Registrar has reasonable grounds for believing that the applicant would be unable to take control of a motor car of a prescribed class if an emergency arose while he was giving driving instruction in such a motor car."

(3) In subsection (3)—

(a) omit the "and" at the end of paragraph (d);

(b) after paragraph (d) insert—

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

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

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

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

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

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

able to take control of the motor car if such an emergency arose while he was giving the instruction."

(5) After subsection (5) insert—

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

(6) After subsection (7) insert—

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

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

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

(7) After subsection (8) insert—

"(8A) Subsection (8B) applies if—

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

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

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

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

(a) the period of 6 months beginning with the date of the emergency control assessment mentioned in subsection (8A)(a), or

(b) such other period as may be prescribed,

unless the Registrar is satisfied that there is good reason for permitting such an application before the end of that period."

(8) Omit subsection (9).

(9) In subsection (10), for the words after "Act" substitute "—

"Community licence" and "counterpart", in relation to a Community licence, have the same meanings as in Part 3 of this Act;

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

(a) "relevant disability", in relation to a person, means any prescribed disability or any other disability likely to cause the driving of a motor car by him to be a source of danger to the public;

(b) "prospective disability", in relation to a person, means any other disability which, at the material time, is not of such a kind that it is a relevant disability but, by virtue of the intermittent or progressive

nature of the disability or otherwise, may become a relevant disability in the course of time;

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

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

19 In section 126 (duration of registration), omit subsection (4).

20 (1) Section 127 (extension of duration of registration) is amended as follows.

(2) In subsection (3)—

(a) in the opening words, omit "Except in the case of a registered disabled instructor,";

(b) in paragraph (a), for "such test as is mentioned in section 125(5)" substitute "such test or assessment as is mentioned in section 125(5)(a)(i) or (ii)";

(c) omit the "and" at the end of paragraph (d);

(d) after paragraph (d) insert—

"(da) that, in the case of a person who—

(i) when he applied to be registered, was required under section 125(2C) to submit himself for an emergency control assessment, or

(ii) at any time during the period mentioned in paragraph (a) was required as mentioned in section 125(5)(a)(ii) to submit himself for such an assessment,

he holds a current emergency control certificate, and".

(3) Omit subsection (3A).

(4) In subsection (4)—

(a) in paragraph (a), omit "in the case of its retention by virtue of subsection (3) above,";

(b) in paragraph (a), for "condition" substitute "conditions";

(c) omit the "and" at the end of paragraph (a);

(d) omit paragraph (b).

21 (1) Section 128 (removal of names from register) is amended as follows.

(2) In subsection (2)—

(a) in the opening words, omit "Except in the case of a registered disabled instructor,";

(b) in paragraph (c), for "test such as is mentioned in section 125(5)" substitute "test or assessment such as is mentioned in section 125(5)(a)(i) or (ii)";

(c) after paragraph (d) insert—

"(da) that an assessor refused to grant him an emergency control certificate on completing an emergency control assessment of him following a requirement imposed as mentioned in section 125(5)(a)(ii),

(db) that he gave instruction in the driving of a motor car in breach of the condition in section 125(5)(b) (ability to take control of motor car in an emergency),".

(3) Omit subsection (2A).

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

(5) Omit subsection (9).

22 After section 128 insert—

"128B Direction to disregard emergency control assessment requirement

(1) This section applies where a person has been required under section 125(2C), or as mentioned in section 125(5)(a)(ii), to submit himself for an emergency control assessment.

(2) At any time before the assessment takes place the Registrar may withdraw the requirement (in which case this Part applies as if the requirement had never been imposed).

(3) At any time after the assessment takes place the Registrar may direct that the requirement is to be disregarded for the purposes of this Part (and accordingly any condition that the person holds an emergency certificate is to cease to apply).

(4) Notice of—

(a) the withdrawal of a requirement under subsection (2), or

(b) a direction under subsection (3),

must be given to the person on whom the requirement was imposed."

23 (1) Section 129 (licences for giving instruction so as to obtain practical experience) is amended as follows.

(2) In subsection (1), for the words from "either" to the end substitute "such part of the examination referred to in section 125(3)(a) as consists of a practical test of ability and fitness to instruct".

(3) After subsection (1) insert—

"(1A) An application for a licence to give paid instruction in the driving of a motor car must be made to the Registrar, in the manner determined by the Secretary of State, accompanied by particulars so determined.

(1B) The Registrar may, in the circumstances mentioned in subsection (1C), require the applicant to submit himself for an emergency control assessment in connection with the application.

(1C) Those circumstances are that the Registrar has reasonable grounds for believing that the person in question would be unable to take control of a motor car of a prescribed class if an emergency arose while he was giving driving instruction in such a motor car."

(4) For subsection (2) substitute—

"(2) Where a person duly applies for a licence, the Registrar must, on payment of such fee, if any, as may be prescribed, grant to the

applicant a licence to give paid instruction in the driving of a motor car if the Registrar is satisfied—

(a) that the applicant has passed the other parts of the examination referred to in subsection (1),

(b) that the conditions set out in section 125(3)(b), (c), (d) and (e) are fulfilled in the applicant's case, and

(c) in the case of an applicant who has been required under subsection (1B) to submit himself for an emergency control assessment, he holds a current emergency control certificate."

(5) In subsection (5), omit ", subject to subsection (5A) below,".

(6) After subsection (5) insert—

"(5ZA) Those conditions may (in particular) include—

(a) a condition requiring the person to whom the licence was granted, if required to do so by the Registrar at any time when the circumstances mentioned in subsection (1C) apply, to submit himself for an emergency control assessment (whether or not the person already holds an emergency control certificate) on such day (within such period as may be prescribed) and at such place as may be specified by the Registrar;

(b) a condition requiring that, if instruction in the driving of a motor car is to be given in circumstances where there is a reasonable expectation of an emergency arising which necessitates the instructor taking control of the car, the person will only give such instruction if he would be able to take control of the car if such an emergency arose while giving the instruction."

(7) Omit subsections (5A) and (5B).

24 (1) Section 130 (revocation of licence) is amended as follows.

(2) In subsection (2)—

(a) in the opening words omit "Except in the case of a licence granted by virtue of subsection (2)(b) of section 129 of this Act,";

(b) omit the "or" at the end of paragraph (b);

(c) after paragraph (b) insert—

"(ba) that an assessor refused to grant him an emergency control certificate on completing an emergency control assessment of him following a requirement imposed as mentioned in section 129(5ZA)(a), or".

(3) Omit subsection (2A).

25 (1) Section 133A (assessment of ability to control a motor car in an emergency) is amended as follows.

(2) Before subsection (1) insert—

"(A1) A person may, for the purpose of obtaining an emergency control certificate, apply to undergo a further emergency control assessment if—

(a) he has been required to submit himself for an emergency control assessment under section 125(2C) or as mentioned in section 125(5)(a)(ii), and

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

(3) In subsection (1), for "This section applies" substitute "The following provisions of this section apply".

(4) In subsection (2)—

(a) in paragraph (a), for "class covered by his disabled person's driving licence" substitute "prescribed class";

(b) in paragraph (b), for "class covered by his disabled person's driving licence" substitute "prescribed class";

(c) in the closing words, for "an appropriate" substitute "a".

(5) In subsection (6)—

(a) in paragraph (a), for "class covered by his disabled person's limited driving licence" substitute "prescribed class";

(b) in paragraph (b), for "class covered by his disabled person's limited driving licence" substitute "prescribed class".

(6) In subsection (7)(a), omit "covered by his disabled person's limited driving licence".

(7) After subsection (9) insert—

"(9) In this Part, "modifications", in relation to a motor car, includes equipment."

(8) In the heading, omit "disabled person's".

26 In section 133B (further assessments), omit subsection (3).

27 (1) Section 133C (duty to disclose further disability) is amended as follows.

(2) In subsection (1)—

(a) for paragraph (a) substitute—

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

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

(3) In subsection (2)(a), for "125A or 133A(3) or (4)" substitute "125(2A), 129(1B) or 133A(4)".

28 (1) Section 133D (offences relating to giving by disabled person of paid driving instruction) is amended as follows.

(2) For subsection (1) substitute—

"(1) This section applies to—

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

(b) persons who hold licences under section 129 of this Act,

who have been required to undergo emergency control assessments in accordance with a requirement imposed under section 125(2C) or 129(1B) or as mentioned in section 125(5)(a)(ii) or 129(5ZA)(a)."

(3) After subsection (3) insert—

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

(4) In the heading, omit "by disabled person".

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

(a) omit the following expressions and the corresponding relevant provisions—

"Appropriate motor car";

"Disabled person's limited driving licence";

"Registered disabled instructor";

(b) in the entry for the expressions "disability, prospective disability and relevant disability", in the corresponding relevant provision, for "125A(8)" substitute "125(10)";

(c) in the entry for the expressions "emergency control assessment and emergency control certificate", in the corresponding relevant provision, for "125A(8)" substitute "125(10)".

PART 3

CONSEQUENTIAL AND RELATED AMENDMENTS

Road Traffic (Driving Instruction by Disabled Persons) Act 1993

30 (1) The Road Traffic (Driving Instruction by Disabled Persons) Act 1993 is amended as follows.

(2) Omit section 1 (registration of disabled persons as driving instructors).

(3) In section 2 (licences allowing disabled persons to give instruction so as to obtain practical experience), omit subsection (4).

(4) In the Schedule (related and consequential amendments)—

(a) omit paragraph 5(4);

(b) omit paragraph 6(4) and (5);

(c) omit paragraph 7(4).

Road Traffic Offenders Act 1988

31 (1) Before the commencement of Schedule 6 to the Road Safety Act 2006, Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts) has effect as if it were amended as follows.

(2) In the entry for section 125A(4) of the Road Traffic Act 1988—

(a) for "125A(4)" substitute "125(2B)";

(b) in the second column, omit "onset of, or deterioration in,".

32 In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts), as amended by Schedule 6 to the Road Safety Act 2006, in the entry for section 125A(4) of the Road Traffic Act 1988—

(a) for "125A(4)" substitute "125(3B)";

(b) in the second column, omit "onset of, or deterioration in,".

Road Safety Act 2006

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

SCHEDULE 3

Section 5

MOTOR INSURANCE INDUSTRY: CERTIFICATES OF INSURANCE

1 The Road Traffic Act 1988 is amended as follows.

2 In section 147 (issue and surrender of certificates of insurance and of security")—

(a) in subsection (1A), for the words from "this Part of this Act" to "subsection (1) above" substitute "subsection (1) as having been delivered";

(b) in the heading, omit "and surrender".

3 In section 148 (avoidance of certain exceptions to policies or securities), in subsection (1), for the words from "Where a certificate" to "policy or security" substitute "Where a policy or security is issued or given for the purposes of this Part of this Act".

4 (1) Section 151 (duty of insurers or persons giving security to satisfy judgment against persons insured or secured against third-party risks) is amended as follows.

(2) In subsection (1), for the words from "a certificate of insurance" to "security has been given," substitute "a policy or security is issued or given for the purposes of this Part of this Act,".

(3) In subsection (2)(a), omit "to which the certificate relates".

5 In section 152 (exceptions to section 151), in paragraph (c) of subsection (1), omit the words from ", and also" to the end of the paragraph.

6 In section 153 (bankruptcy, etc, of insured or secured persons not to affect claims by third parties), for the words from "a certificate of insurance" to "security has been given," substitute "a person has effected a policy of insurance or been given a security for the purposes of this Part of this Act,".

7 In section 161 (interpretation), omit subsection (2).

SCHEDULE 4

Section 10

AUDITORS CEASING TO HOLD OFFICE

PART 1

NOTIFICATION REQUIREMENTS

1 Chapter 4 of Part 16 of the Companies Act 2006 (audit: removal, resignation, etc of auditors) is amended in accordance with paragraphs 2 to 11.

2 Omit section 512 (notice to registrar of resolution removing auditor from office).

3 In section 516 (resignation of auditor), in subsection (2), for "The" substitute "Where the company is a listed company, the".

4 Omit section 517 (notice to registrar of resignation of auditor).

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

(2) In subsection (1), for the words from "of the" to the end of the subsection substitute "under section 519(1) except where—

(a) the company is a non-listed company, and

(b) the statement includes a statement as required by section 519(3B)."

(3) In subsection (2), for "circumstances connected with" substitute "reasons for, and matters connected with,".

(4) In subsection (3), in the words after paragraph (b), for "circumstances connected with" substitute "reasons for, and matters connected with,".

6 In section 519 (statement by auditor to be deposited with company), in subsection (4), for "The statement required by this section" substitute "A statement under subsection (1)".

7 (1) Section 520 (company's duties in relation to statement under section 519) is amended as follows.

(2) In subsection (1), for the words from "the statement" to the end of the subsection substitute "a company receives a statement under section 519(1) except where—

(a) the company is a non-listed company, and

(b) the statement includes a statement as required by section 519(3B)."

(3) In subsection (2), for "The" substitute "Where this section applies, the".

8 (1) Section 521 (copy of statement to be sent to registrar) is amended as follows.

(2) Before subsection (1) insert—

"(A1) This section applies where an auditor of a company sends a statement to the company under section 519(1) except where—

(a) the company is a non-listed company, and

(b) the statement includes a statement as required by section 519(3B)."

(3) In subsection (1)—
  (a) for "Unless" substitute "Where this section applies, unless";
  (b) for "519" substitute "519(1)".

9 (1) Section 522 (duty of auditor to notify appropriate audit authority) is amended as follows.

(2) For subsections (1) to (4) substitute—

"(1) Where an auditor of a company sends a statement under section 519(1), he must at the same time send a copy of the statement to the appropriate audit authority."

(3) In the heading, for "notify" substitute "send statement to"'.

10 (1) Section 524 (information to be given to accounting authorities) is amended as follows.

(2) For subsection (1) substitute—

"(1) Where the appropriate audit authority receives under section 522 or 523 a statement of the reasons for, and any matters connected with, an auditor's ceasing to hold office, the authority may forward to the accounting authorities—
  (a) a copy of the statement, and
  (b) any other information the authority has received from the auditor or the company concerned in connection with the auditor's ceasing to hold office."

(3) Omit subsection (3).

(4) In the heading, for "Information to be given" substitute "Provision of information".

11 (1) Section 525 (meaning of "appropriate audit authority" and "major audit") is amended as follows.

(2) In subsection (1)—
  (a) in paragraph (a)—
    (i) for the words before sub-paragraph (i) substitute "in relation to an auditor of a listed company (other than an Auditor General)";
    (ii) in sub-paragraph (ii), after "receiving the" insert "statement or";
  (b) in paragraph (b), for the words from the beginning to "a major audit" substitute "in relation to an auditor of a non-listed company (other than an Auditor General)";
  (c) in paragraph (c), for "in the case of an audit conducted by" substitute "in relation to".

(3) Omit subsections (2) and (3).

(4) In the heading, omit "and "major audit"".

12 (1) Schedule 8 to the Companies Act 2006 (index of defined expressions) is amended as follows.

(2) Omit the entry for "major audit".

(3) At the appropriate places insert—

"exempt reasons, in relation to an auditor of a company ceasing to hold office (in Chapter 4 of Part 16)	section 519A"
"listed company (in Chapter 4 of Part 16)	section 519A"
"non-listed company (in Chapter 4 of Part 16)	section 519A"

PART 2

MISCELLANEOUS

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

Failure to re-appoint auditor: special procedure requirements

14 In section 514 (failure to re-appoint auditor: special procedure required for written resolution), in subsection (2), for the words before paragraph (a) substitute "But where the outgoing auditor's term of office has expired (as opposed to being due to expire), this section applies only if".

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

(2) In subsection (2), for the words before paragraph (a) substitute "But where the outgoing auditor's term of office has ended (as opposed to being due to end), this section applies to a resolution only if".

(3) After that subsection insert—

"(2A) Special notice is required of a resolution to which this section applies."

(4) In subsection (3)—
(a) omit "such";
(b) after "resolution" insert "to which this section applies".

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

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

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

(3) In subsection (3), for "deposited" substitute "received".

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

(2) In subsection (2)—
(a) for "deposit" substitute "send";
(b) for "a signed" substitute "an authenticated".

(3) In subsection (5), for "of the deposit of" substitute "on which the company receives".

18 (1) Section 519 (statement by auditor to be deposited with company) is amended as follows.

(2) In subsection (4), for "deposited" substitute "sent".

(3) In the heading, for "deposited with" substitute "sent to".

19 In section 520(2) (company's duties in relation to statement), for "deposit" substitute "receipt".

20 In section 521(1) (copy of statement to be sent to registrar), for "deposited" substitute "sent".

SCHEDULE 5

Section 11

INSOLVENCY AND COMPANY LAW

PART 1

DEEDS OF ARRANGEMENT

Repeal of Deeds of Arrangement Act 1914

1 (1) The Deeds of Arrangement Act 1914 is repealed.

(2) In the Administration of Justice Act 1925, omit section 22 (which concerns registration of deeds of arrangement and is to be construed as one with the Act of 1914).

2 (1) The following amendments are made in consequence of paragraph 1.

(2) In the Public Trustee Act 1906, in section 2(4), omit ", nor any trust under a deed of arrangement for the benefit of creditors".

(3) In the Trustee Act 1925, omit section 41(2).

(4) In the Law of Property Act 1925, in section 43(1), omit ", deed of arrangement".

(5) In the Law of Property (Amendment) Act 1926, in section 3(1)—
(a) omit "and property subject to a deed of arrangement";
(b) omit "and the trustee under the deed respectively".

(6) In the Administration of Justice Act 1965, in Schedule 1, omit the entry for the Deeds of Arrangement Act 1914.

(7) In the Land Charges Act 1972—
(a) omit section 1(1)(d) and (6A)(e);

(b) omit section 7;
(c) in section 17(1), omit the definition of "deed of arrangement".

(8) In the Magistrates' Courts Act 1980, in Schedule 1, omit paragraph 16.

(9) In the Administration of Justice Act 1985—
(a) in section 16(1)(g), omit "or a deed of arrangement for the benefit of his creditors";
(b) in section 17(2)(c), omit "or a deed of arrangement for the benefit of his creditors".

(10) In the Insolvency Act 1985, in Schedule 8, omit paragraph 2.

(11) In the Insolvency Act 1986—
(a) omit section 260(3);
(b) in section 263(5), omit the words from "This is without prejudice" to the end of the subsection;
(c) omit section 263D(6);
(d) in section 372(1)—
(i) omit paragraph (c) and the "or" before it;
(ii) for ", the supervisor of the voluntary arrangement or the trustee under the deed of arrangement" substitute "or the supervisor of the voluntary arrangement";
(e) in section 379, omit ", and about proceedings in the course of that year under the Deeds of Arrangement Act 1914";
(f) in section 388(2)(b), omit "a deed of arrangement made for the benefit of his creditors or";
(g) in Schedule 9, in paragraph 24(a), omit "and of jurisdiction under the Deeds of Arrangement Act 1914";
(h) in Schedule 14, omit the entries for the Deeds of Arrangement Act 1914.

(12) In the Taxation of Chargeable Gains Act 1992, in section 66(5), in the definition of "deed of arrangement", for the words from "the Deeds of Arrangement Act 1914" to the end of the definition insert "an enactment forming part of the law of Scotland or Northern Ireland which corresponds to the Deeds of Arrangement Act 1914 applies".

(13) In the Value Added Tax Act 1994, in section 81(4B)(e), omit "the Deeds of Arrangement Act 1914 or".

(14) In the Finance Act 2000—
(a) in Part 6 of Schedule 6, omit paragraph 75(2)(e)(i) and the "or" following it;
(b) in Part 10 of Schedule 6, omit paragraph 120(7)(f)(i) and the "or" following it.

(15) In the Finance Act 2001—
(a) omit section 37(7)(f)(i) and the "or" following it;
(b) in Schedule 8, omit paragraph 11(2)(e)(i) and the "or" following it.

(16) In the Land Registration Act 2002, in section 87—
(a) in subsection (1)(b), at the end insert "and";
(b) omit subsection (1)(d) and the "and" before it;
(c) omit subsection (2)(b) and the "or" before it;

(d) omit subsection (5).

(17) In the Licensing Act 2003, in section 27(3)(c), omit "a deed of arrangement made for the benefit of his creditors or".

(18) In the Pensions Act 2004, omit section 121(2)(c).

(19) In the Constitutional Reform Act 2005—

(a) in Schedule 4, omit paragraph 19;

(b) in Part 2 of Schedule 11, in paragraph 4(3), omit the entry for the Deeds of Arrangement Act 1914.

(20) In the Tribunals, Courts and Enforcement Act 2007, in Schedule 13, omit paragraph 21.

(21) In the Finance Act 2008, in section 131(8), in the definition of "deed of arrangement", omit "the Deeds of Arrangement Act 1914 (c. 47) or".

(22) In the Third Parties (Rights against Insurers) Act 2010, omit section 4(1)(a).

3 The repeals and other amendments made by paragraphs 1 and 2 are to have no effect in relation to a deed of arrangement registered under section 5 of the Deeds of Arrangement Act 1914 before the date on which paragraph 1 of this Schedule comes into force if, immediately before that date, the estate of the debtor who executed the deed of arrangement has not been finally wound up.

PART 2

ADMINISTRATION OF COMPANIES

4 Schedule B1 to the Insolvency Act 1986 (administration of companies) is amended in accordance with paragraphs 5 to 7.

Appointment of administrators

5 After paragraph 25 (circumstances in which an administrator of a company may not be appointed under paragraph 22) and before the italic cross-heading following paragraph 25 insert—

"25A(1) Paragraph 25(a) does not prevent the appointment of an administrator of a company if the petition for the winding up of the company was presented after the person proposing to make the appointment filed the notice of intention to appoint with the court under paragraph 27.

(2) But sub-paragraph (1) does not apply if the petition was presented under a provision mentioned in paragraph 42(4)."

6 In paragraph 26 (notice by company, or directors of company, of intention to appoint administrator), in sub-paragraph (2) (requirement to give additional notice), for "proposes to make an appointment under paragraph 22" substitute "gives notice of intention to appoint under sub-paragraph (1)".

Release of administrator where no distribution to unsecured creditors other than by virtue of section 176A(2)(a)

7 (1) Paragraph 98 (vacation of office of administrator: discharge from liability) is amended as follows.

(2) In sub-paragraph (2)(b) (when discharge takes effect in case of administrator appointed under paragraph 14 or 22), after "22" insert "who has not made a statement under paragraph 52(1)(b)".

(3) In sub-paragraph (2), after paragraph (b) (but before the "or" following it) insert—

"(ba) in the case of an administrator appointed under paragraph 14 or 22 who has made a statement under paragraph 52(1)(b), at a time decided by the relevant creditors,".

(4) In sub-paragraph (3)—

(a) for the words before paragraph (a) substitute "For the purposes of sub-paragraph (2)(ba), the "relevant creditors" of a company are—";

(b) in paragraph (b), for "give or withhold approval" substitute "decide on the time of discharge".

PART 3

WINDING UP OF COMPANIES

8 Part 4 of the Insolvency Act 1986 (winding up of companies registered under the Companies Acts) is amended in accordance with paragraphs 9 and 10.

Removal of power of court to order payment into Bank of England of money due to company

9 Omit section 151 (payment into bank of money due to company).

Release of liquidator where winding-up order rescinded

10 In section 174 (release of liquidator of company being wound up by the court), after subsection (4) insert—

"(4A) Where a winding-up order is rescinded, the person (whether the official receiver or another person) who is the liquidator of the company at the time the order is rescinded has his release with effect from such time as the court may determine."

PART 4

DISQUALIFICATION OF UNFIT DIRECTORS OF INSOLVENT COMPANIES

Application for making of disqualification order: power to require information

11 (1) In section 7 of the Company Directors Disqualification Act 1986 (disqualification order or undertaking; and reporting provisions), subsection (4) (power of Secretary of State or official receiver to require information) is amended as follows.

(2) In the words before paragraph (a), for the words from "the liquidator" to "or administrative receiver of a company" (in the second place they occur) substitute "any person".

(3) In paragraph (a), for the words from "any person's conduct" to the end of the paragraph substitute "that person's or another person's conduct as a director of a company which has at any time become insolvent (whether while the person was a director or subsequently), and".

(4) In paragraph (b), for the words from "relevant to" to the end of the paragraph substitute "as are considered by the Secretary of State or (as the case may be) the official receiver to be relevant to that person's or another person's conduct as such a director".

PART 5

BANKRUPTCY

12 Part 9 of the Insolvency Act 1986 (bankruptcy) is amended in accordance with paragraphs 13 to 16.

Appointment of insolvency practitioner as interim receiver

13 (1) Section 286 (power to appoint interim receiver) is amended as follows.

(2) In subsection (1) (power of court to appoint interim receiver if necessary for protection of debtor's property), after "official receiver" insert "or an insolvency practitioner".

(3) In subsection (2) (power of court to appoint interim receiver if necessary for protection of debtor's property in cases where the court has appointed an insolvency practitioner under section 273), for ", instead of the official receiver," substitute ", another insolvency practitioner or the official receiver".

14 (1) Section 370 (power to appoint special manager) is amended as follows.

(2) In subsection (1)(c) (power of court to appoint person to be special manager of property or business of debtor in whose case an interim receiver has been appointed under section 286), for "the official receiver has been appointed interim receiver" substitute "an interim receiver has been appointed".

(3) In subsection (2) (who may apply for the appointment of a special manager), for "official receiver" (in both places where it occurs) substitute "interim receiver".

Statement of affairs where bankruptcy order made otherwise than on a debtor's petition

15 (1) Section 288 (statement of affairs where bankruptcy order made otherwise than on a debtor's petition) is amended as follows.

(2) For subsection (1) (duty of bankrupt to submit statement of affairs) substitute—

"(1) Where a bankruptcy order has been made otherwise than on a debtor's petition, the official receiver may at any time before the discharge of the bankrupt require the bankrupt to submit to the official receiver a statement of affairs."

(3) After subsection (2) insert—

"(2A) Where a bankrupt is required under subsection (1) to submit a statement of affairs to the official receiver, the bankrupt shall do so (subject to subsection (3)) before the end of the period of 21 days beginning with the day after that on which the prescribed notice of the requirement is given to the bankrupt by the official receiver."

(4) In subsection (3)(a) (power of official receiver to release bankrupt from duty under subsection (1)), for "the bankrupt from his duty" substitute "a bankrupt from an obligation imposed on the bankrupt".

(5) For subsection (3)(b) (power of official receiver to extend period for submitting statement of affairs) substitute—

"(b) either when giving the notice mentioned in subsection (2A) or subsequently, extend the period mentioned in that subsection,".

(6) In subsection (4)(a) (offence of failing to comply with obligation to submit statement of affairs), for "the obligation imposed by" substitute "an obligation imposed under".

After-acquired property of bankrupt

16 (1) Section 307 (power of trustee in bankruptcy to claim, for the bankrupt's estate, property which has been acquired by, or has devolved upon, the bankrupt after commencement of the bankruptcy) is amended as follows.

(2) In subsection (3) (property to vest in trustee on service of notice on bankrupt), for "Subject to the next subsection" substitute "Subject to subsections (4) and (4A)".

(3) In subsection (4) (trustee not entitled to remedy against certain persons and certain bankers)—

(a) omit paragraph (b) (which makes provision about bankers) and the "or" at the end of paragraph (a);

(b) in the words after paragraph (b)—

(i) omit "or transaction";

(ii) omit "or banker" (in both places where they occur).

(4) After subsection (4) insert—

"(4A) Where a banker enters into a transaction before the service on the banker of a notice under this section the trustee is not in respect of that transaction entitled by virtue of this section to any remedy against the banker.

This subsection applies whether or not the banker has notice of the bankruptcy."

PART 6

AUTHORISATION OF INSOLVENCY PRACTITIONERS

17 Part 13 of the Insolvency Act 1986 (insolvency practitioners and their qualification) is amended in accordance with paragraphs 18 to 20.

Repeal of provision for authorisation of nominees and supervisors in relation to voluntary arrangements

18 Omit section 389(1A) (acting without qualification not an offence if authorised under section 389A).

19 Omit section 389A (authorisation of nominees and supervisors).

Repeal of provision for authorisation of insolvency practitioners to be granted by competent authority

20 Omit sections 392 to 398 and Schedule 7 (procedure for authorisation by competent authority, including provision for reference to Insolvency Practitioners Tribunal).

21 (1) The following amendments are made in consequence of paragraph 20.

(2) In the Parliamentary Commissioner Act 1967, in Schedule 4, omit the entry for the Insolvency Practitioners Tribunal.

(3) In the Northern Ireland Assembly Disqualification Act 1975, in Part 3 of Schedule 1, omit the entry for any member of the Insolvency Practitioners Tribunal in receipt of remuneration.

(4) In the Companies Act 1985, in Schedule 15D, omit paragraph 37.

(5) In the Insolvency Act 1986—
(a) omit section 415A(2);
(b) in Schedule 10, omit the entry for paragraph 4(3) of Schedule 7.

(6) In the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), omit Article 349(2)(c) and the "or" before it.

(7) In the Courts and Legal Services Act 1990, in Schedule 10, omit paragraph 67.

(8) In the Tribunals and Inquiries Act 1992—
(a) in Part 1 of Schedule 1, omit the entry for insolvency practitioners;
(b) in Schedule 3, omit paragraph 19.

(9) In the Railways Act 1993, omit section 145(2)(b)(ix) (but not the "or" following it).

(10) In the Greater London Authority Act 1999, omit section 235(2)(c)(ix) (but not the "or" following it).

(11) In the Utilities Act 2000, omit section 105(5)(j).

(12) In the Transport Act 2000, in Schedule 9, omit paragraph 3(2)(l).

(13) In the Enterprise Act 2002, omit section 270(3).

(14) In the Constitutional Reform Act 2005, in Part 3 of Schedule 14, omit the entry for a member of the Insolvency Practitioners Tribunal panel.

(15) In the Companies Act 2006—
(a) in Schedule 2, in Part 2, in Section (A) (United Kingdom), omit paragraph 18;
(b) in Schedule 11A, omit paragraph 64.

(16) In the Tribunals, Courts and Enforcement Act 2007—

(a) in Part 4 of Schedule 6, omit the entry for the Insolvency Practitioners Tribunal;

(b) in Schedule 10, omit paragraph 19.

(17) In the Civil Aviation Act 2012, in Schedule 6, in paragraph 4(2), omit the entry for the Insolvency Practitioners Tribunal.

22 (1) For the purposes of this paragraph—

the "commencement date" is the date on which paragraph 20 of this Schedule comes into force;

the "transitional period" is the period of 1 year beginning with the commencement date.

(2) Where, immediately before the commencement date, a person holds an authorisation granted under section 393 of the Insolvency Act 1986, section 393(3A) to (6) of that Act together with, for the purposes of this sub-paragraph, paragraphs (a) and (b) of section 393(2) of that Act (which are repealed by paragraph 20) continue to have effect in relation to the person and the authorisation during the transitional period.

(3) During the transitional period, a person to whom sub-paragraph (2) applies is to be treated for the purposes of Part 13 of the Insolvency Act 1986 as fully authorised under section 390A of that Act (as inserted by section 9(3) of this Act) to act as an insolvency practitioner unless and until the person's authorisation is (by virtue of sub-paragraph (2)) withdrawn.

(4) Where, immediately before the commencement date, a person has applied under section 392 of the Insolvency Act 1986 for authorisation to act as an insolvency practitioner and the application has not been granted, refused or withdrawn, sections 392(4) to (7) and 393(1) and (2) of that Act (which are repealed by paragraph 20) continue to have effect in relation to the person and the application during the transitional period.

(5) Where, during the transitional period, an authorisation is (by virtue of sub-paragraph (4)) granted under section 393 of the Insolvency Act 1986, sub-paragraphs (2) and (3) above apply as if—

(a) the authorisation had been granted immediately before the commencement date;

(b) in sub-paragraph (2), the reference to section 393(3A) to (6) were a reference to section 393(4) to (6).

(6) For the purposes of sub-paragraphs (2) and (4), sections 394 to 398 of, and Schedule 7 to, the Insolvency Act 1986 (which are repealed by paragraph 20) continue to have effect during the transitional period.

PART 7

LIABILITIES OF ADMINISTRATORS AND ADMINISTRATIVE RECEIVERS OF COMPANIES AND PREFERENTIAL DEBTS OF COMPANIES AND INDIVIDUALS

Treatment of liabilities relating to contracts of employment

23 The Insolvency Act 1986 is amended in accordance with paragraphs 24 to 27.

24 In section 19 (vacation of office by administrator), as continued in force by virtue of section 249(1) of the Enterprise Act 2002 (special administration

regimes), omit subsection (10) (what "wages or salary" includes for the purposes of subsection (9)(a)).

25 In section 44 (receivership: agency and liability for contracts), omit subsection (2D) (what "wages or salary" includes for the purposes of subsection (2C)(a)).

26 In Schedule B1 (administration of companies), in paragraph 99 (vacation of office by administrator: charges and liabilities), omit sub-paragraph (6)(d) (what "wages or salary" includes for the purposes of sub-paragraph (5)(c)) but not the "and" following it.

27 In Schedule 6 (categories of preferential debt), in paragraph 15 (what "wages or salary" includes for the purposes of determining what is a category 5 preferential debt), omit paragraph (b) and the "and" before it.

PART 8

REQUIREMENTS OF COMPANY LAW: PROXIES

Proxies at a poll taken 48 hours or less after it was demanded

28 In section 327(2) of the Companies Act 2006 (which regulates the period of notice required for the appointment of a proxy), in paragraph (c), for "the time at which it was demanded" substitute "the time immediately before the poll is taken".

29 In section 330(6) of that Act (which regulates the period of notice required for the termination of a proxy's authority), in paragraph (c), for "the time at which it was demanded" substitute "the time immediately before the poll is taken".

SCHEDULE 6

Section 18

ASCERTAINMENT OF RIGHTS OF WAY

PART 1

WILDLIFE AND COUNTRYSIDE ACT 1981

1 The Wildlife and Countryside Act 1981 is amended as follows.

2 In section 53 (duty to keep definitive map and statement under continuous review) —

(a) in subsection (3)(c)(i), omit "or is reasonably alleged to subsist";

(b) after subsection (3)(c)(i) insert—

"(ia) in the case of an authority in Wales, that a right of way which is not shown in the map and statement is reasonably alleged to subsist over land in the area to which the map relates, being such a right of way as is mentioned in sub-paragraph (i);".

3 After that section insert—

"53ZAModifications arising from administrative errors

(1) The Secretary of State may by regulations provide for Schedules 14 and 15 to apply with prescribed modifications in relation to the making of orders under section 53(2) in cases where it appears to a surveying authority in England (whether or not on an application under section 53(5)) that—

(a) it is requisite to make a modification of a definitive map and statement in consequence of an event mentioned in section 53(3)(c);

(b) the need for the modification has arisen because of an administrative error; and

(c) both the error and the modification needed to correct it are obvious.

(2) The Secretary of State may by regulations provide for Schedule 15 to apply with prescribed modifications in cases where an order under section 53(2) is made in accordance with regulations under subsection (1).

(3) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) At any time when regulations under subsection (1) are in force, a surveying authority shall, in deciding whether paragraphs (a) to (c) of that subsection apply in a particular case (and, accordingly, whether the provision made by the regulations applies in relation to the making of an order under section 53(2) in that case), have regard to any guidance given by the Secretary of State.

(5) In this section, "prescribed" means prescribed by regulations."

4 In section 53B (register of applications under section 53), after subsection (4) insert—

"(4A) Regulations may provide that subsection (1) does not apply, with respect to applications under section 53(5) made to an authority in England, or to any prescribed description of such applications, unless the authority serve notice under paragraph 1A(4)(b) of Schedule 14 in relation to such an application.

(4B) The making of regulations under subsection (4A) does not prevent an authority including in the register any information that they would be required to include in it had the regulations not been made."

5 After section 54A insert—

"54B Modifications of definitive map and statement by consent: England

(1) This section applies where—

(a) an application under section 53(5) is made to an authority in England for an order under section 53(2) making such modifications as appear to the authority to be requisite in

consequence of the occurrence of one or more events falling within section 53(3)(b) or (c)(i) or (ii);

(b) the documentary evidence relied on by the applicant in support of the application is evidence that relates only to the existence of a right of way before 1949; and

(c) the authority have served notice under paragraph 1A(4)(b) of Schedule 14 that they are considering the application.

(2) The authority shall ascertain whether every owner of the land to which the application relates consents to the making of an order under section 53(2) or would so consent if the authority made one or more of the following orders ("special orders")—

(a) a diversion order;

(b) an order altering the width of the path or way;

(c) an order imposing a new limitation or condition affecting the right of way.

(3) A diversion order is an order which, for the purpose of diverting the line of the path or way or part of it—

(a) creates any such new path or way (of the same kind) as appears to the authority appropriate; and

(b) extinguishes any public right of way over so much of the path or way as appears to the authority to be appropriate.

(4) If every owner consents to the making of an order under section 53(2) (without the making of a special order), the authority—

(a) may make the order under section 53(2); and

(b) if they do so, shall include in the order a statement that it is made with the consent of every owner.

(5) If an owner would consent to the making of an order under section 53(2) only if one or more special orders are made, and the other owners (if any) do not object to the making of such an order or orders, the authority may make the special order or orders in question and, if they do so, shall—

(a) make an order under section 53(2);

(b) include in that order a statement that it is made with the consent of every owner; and

(c) combine any special orders and the order under section 53(2) in a single document.

(6) Before making a diversion order, the authority must—

(a) be satisfied that the path or way will not be substantially less convenient to the public in consequence of the diversion; and

(b) have regard to any guidance given by the Secretary of State.

(7) An order under section 53(2) which includes a statement that it is made with the consent of every owner is referred to in this Act as a modification consent order.

(8) A modification consent order may not be made after the end of the period of 6 months beginning with the day on which the authority served notice under paragraph 1A(4)(b) of Schedule 14 in the case in question.

(9) The Secretary of State may by order provide that, in cases or circumstances specified in the order, subsection (8) applies as if for the period of 6 months mentioned in that subsection there were substituted a longer period specified in the order.

(10) An order under subsection (9) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

54C Modifications of definitive map and statement by consent: supplemental

(1) An authority may not make a diversion order under section 54B(5) so as to alter a point of termination of a path or way—

(a) if that point is not on a highway; or

(b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.

(2) An authority may not make such an order so as to alter the line of a path or way such that it falls on land owned by a person who is not the owner of the land to which the application in question relates, unless that other person consents to the alteration.

(3) An authority which makes a modification consent order are responsible, as from the date when the order takes effect, for maintaining any path or way, or any part of a path or way, which is shown in a definitive map and statement in consequence of the making of the order or any special order combined with it under section 54B(5) (including so much of a path or way as has been created by the making of a special order altering the width of an existing path or way).

(4) Where it appears to the authority—

(a) that if a modification consent order were to take effect, they would be responsible under subsection (3) for the maintenance of a path or way, or part of a path or way, and

(b) that work is required to be done to bring the path or way, or the part, into a fit condition for use by the public,

the authority may not confirm the order under Schedule 15 until they are satisfied that the work has been carried out.

(5) Where section 54B applies, Schedule 14 applies with the modifications specified in Schedule 15A to this Act.

(6) Where a modification consent order is made, Schedule 15 applies with the modifications specified in Schedule 15A to this Act."

6 (1) Schedule 14 (applications for orders under section 53) is amended as follows.

(2) In paragraph 1 (form of applications)—

(a) the existing text becomes sub-paragraph (1);

(b) after that sub-paragraph insert—

"(2) Regulations under sub-paragraph (1) must provide for an application to an authority in England to include an explanation as to why the applicant believes that a

definitive map and statement should be modified in consequence of the occurrence of one or more events falling within section 53(3)(b) or (c).

(3) If an authority in England inform a potential applicant to the authority that they have access to a particular piece of documentary evidence, sub-paragraph (1)(b) does not apply in relation to the documentary evidence."

(3) After that paragraph insert—

"Preliminary assessment and notice of applications: England

1A (1) An authority in England shall, before the end of the period of 3 months beginning with the day on which they receive an application, decide whether the application, and any documentary evidence which the applicant relies on in support of it, show that there is a reasonable basis for the applicant's belief that a definitive map and statement should be modified in consequence of the occurrence of one or more events falling within section 53(3)(b) or (c).

(2) In deciding whether there is such a basis, the authority shall have regard to any guidance given by the Secretary of State.

(3) If they decide that there is no such basis, they shall, before the end of that period, inform the applicant of their decision and the reasons for it.

(4) If they decide that there is such a basis, they shall, before the end of that period—

(a) inform the applicant; and

(b) serve a notice on every owner and occupier of any land to which the application relates stating that an application has been made and the authority are considering it.

(5) If, after reasonable inquiry has been made, the authority are satisfied that it is not practicable to ascertain the name or address of an owner or occupier of any land to which the application relates, the authority may direct that the notice required to be served on the person by sub-paragraph (4) may be served by addressing it to the person by the description "owner" or "occupier" of the land (describing it) and by affixing it to some conspicuous object or objects on the land."

(4) After paragraph 1A (as inserted by the preceding sub-paragraph) insert—

"Failure by authority to conduct preliminary assessment: England

1B (1) If an authority in England have not assessed an application under paragraph 1A within the period of 3 months beginning with the day on which they received the application, the applicant may give notice to the authority in the prescribed form of an intention to apply to a magistrates' court for an order under this paragraph.

(2) The applicant may apply to a magistrates' court for an order under this paragraph at any time—

(a) after the end of the period of 1 month beginning with the day on which notice was given; and

(b) before the end of the period of 6 months beginning with that day.

(3) On hearing an application under this paragraph, a magistrates' court may order the authority to take specified steps for the purposes of discharging the authority's duty under paragraph 1A and to do so within such reasonable period as may be specified.

(4) An order under sub-paragraph (3) may provide for paragraph 1D(1) to apply in relation to the application made to the authority as if for the period of 12 months beginning with the day on which the authority received the application there were substituted a longer period.

(5) The authority or the applicant may appeal to the Crown Court against a decision of a magistrates' court under this paragraph.

(6) An order under this paragraph shall not take effect—

(a) until the end of the period of 21 days beginning with the day after the day on which the order was made, or

(b) if an appeal is brought in respect of the order within that period (whether by way of appeal to the Crown Court or by way of case stated for the opinion of the High Court), until the final determination or withdrawal of the appeal.

Determination by authority: England

1C (1) As soon as reasonably practicable after serving a notice under paragraph 1A(4)(b), the authority shall—

(a) investigate the matters stated in the application; and

(b) after consulting with every local authority whose area includes the land to which the application relates, decide whether to make or not to make the order to which the application relates.

(2) As soon as practicable after determining the application, the authority shall give notice of their decision by serving a copy of it on the applicant and any person on whom notice of the application was required to be served under paragraph 1A(4)(b).

Failure by authority to determine application: England

1D (1) If an authority in England have not determined an application within the period of 12 months beginning with the day on which they received the application, the applicant or any owner or occupier of any land to which the application relates may give notice to the authority in the prescribed form of an intention to apply to a magistrates' court for an order under sub-paragraph (5).

(2) Sub-paragraph (1) does not apply if the authority have informed the applicant under paragraph 1A(3) of their decision not to consider the application further.

(3) A person who has given notice under sub-paragraph (1) may apply to a magistrates' court for an order under sub-paragraph (5) at any time—

(a) after the end of the period of 1 month beginning with the day on which notice was given; and

(b) before the end of the period of 12 months beginning with that day.

(4) On the hearing of an application under sub-paragraph (3) the other persons by whom a notice under sub-paragraph (1) could have been given have a right to be heard.

(5) On hearing an application under sub-paragraph (3), a magistrates' court may order the authority to take specified steps for the purposes of discharging its duty under paragraph 1C and to do so within such reasonable period as may be specified.

(6) The authority may make one application to a magistrates' court for an order extending by up to 12 months the period specified in the order under sub-paragraph (5).

(7) On the hearing of an application under sub-paragraph (6) in relation to an order under sub-paragraph (5), the person who applied for that order and the other persons by whom a notice under sub-paragraph (1) could have been given have a right to be heard.

(8) A decision of a magistrates' court under this paragraph may be appealed to the Crown Court by—

(a) the authority;

(b) the applicant for an order under sub-paragraph (5);

(c) any other person by whom a notice under sub-paragraph (1) could have been given.

(9) An order under this paragraph shall not take effect—

(a) until the end of the period of 21 days beginning with the day after the day on which the order was made; or

(b) if an appeal is brought in respect of the order within that period (whether by way of appeal to the Crown Court or by way of case stated for the opinion of the High Court), until the final determination or withdrawal of the appeal.

Failure by English authority to determine application: further provision about notices

1E (1) An applicant for an order under paragraph 1D(5) shall give notice to the court of the names and addresses of any other person by whom a notice under sub-paragraph (1) of that paragraph could have been given.

(2) If it is not reasonably practicable for an applicant to ascertain such a name and address, the applicant shall be taken to have complied with sub-paragraph (1) if the applicant gives notice to the court that that is the case.

(3) Notice of the hearing, of the right to be heard and of the right to appeal against a decision on an application under paragraph 1D(3)

shall be given by the court to each person whose name and address is notified to the court under sub-paragraph (1).

(4) Notice of the hearing, of the right to be heard and of the right to appeal against a decision on an application under paragraph 1D(6) shall be given by the court to—

(a) the person who applied for the order under paragraph 1D(5) to which the application relates; and

(b) each person whose name and address was notified to the court under sub-paragraph (1) by the person mentioned in paragraph (a).

(5) Where the court is given notice under sub-paragraph (2), notice of the hearing, of the right to be heard and of the right to appeal against a decision on an application under paragraph 1D(3) or (6) shall also be given by the court by affixing it to some conspicuous object or objects on the land to which the application relates."

(5) In the italic cross-heading before paragraph 2 (notice of applications), at the end insert ": Wales".

(6) In paragraph 2(1), after "sub-paragraph (2)," insert ", where an application is made to an authority in Wales,".

(7) In the italic cross-heading before paragraph 3 (determination by authority), at the end insert ": Wales".

(8) After paragraph 3 insert—

"Procedure where authority decide not to make order: England

3A (1) Where an authority in England decide under paragraph 1C not to make an order, the applicant may, at any time within 28 days after service of notice of the decision, give notice to the authority in the prescribed form of the applicant's wish to appeal against the decision to the Secretary of State and of the grounds on which the applicant wishes to do so.

(2) If the applicant gives such notice and does not withdraw it—

(a) the authority shall submit the matter to the Secretary of State; and

(b) the Secretary of State shall deal with the matter as an appeal against the decision of the authority.

(3) The authority may, but need not, act as mentioned in sub-paragraph (2) if the authority are of the opinion that nothing in the grounds of appeal relates to an issue which, if the matter were submitted to the Secretary of State, would be relevant to the Secretary of State's decision on the appeal.

(4) In deciding whether to exercise their power under sub-paragraph (3) not to submit the matter, the authority shall have regard to any guidance given by the Secretary of State.

(5) Where the authority decide not to submit the matter, the authority shall inform the applicant of their decision and the reasons for it.

(6) Where the matter is submitted to the Secretary of State, the authority shall give notice in the prescribed form—

(a) setting out the decision;

(b) stating that the matter has been submitted to the Secretary of State;

(c) naming a place in the area in which the land to which the decision relates is situated where a copy of the decision may be inspected free of charge, and copies of it may be obtained at a reasonable charge, at all reasonable hours; and

(d) specifying the time (not being less than 42 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the decision, which must include particulars of the grounds relied on, may be made to the Secretary of State.

(7) Sub-paragraphs (2), (2A) and (4) to (8) of paragraph 3 of Schedule 15 apply for the purposes of sub-paragraph (6) above as they apply for the purposes of sub-paragraph (1) of paragraph 3 of that Schedule but with the following modifications—

(a) any reference in those provisions (however expressed) to an order of the authority is to be read as a reference to a decision of the authority;

(b) the reference in sub-paragraph (2)(b)(iii) to sub-paragraph (3) is to be read as a reference to sub-paragraph (8) of this paragraph;

(c) the reference in sub-paragraph (8) to preparing the order is to be read as a reference to making the decision.

(8) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give him notice of all such decisions not to make an order as are made by the authority under paragraph 1C during a specified period, are of a specified description and relate to land in a specified area.

(9) In sub-paragraph (8), "specified" means specified in the requirement.

(10) Nothing in sub-paragraph (6)(d) shall be construed as limiting the grounds which may be relied on or the documentary or other evidence which may be adduced at any local inquiry or hearing held under paragraph 3B.

3B (1) Where a matter is submitted to the Secretary of State under paragraph 3A(2), the Secretary of State shall either—

(a) cause a local inquiry to be held; or

(b) afford the applicant, and any person by whom a representation or objection has been duly made and not withdrawn, an opportunity of being heard by a person appointed by the Secretary of State for the purpose.

(2) The Secretary of State may, but need not, act as mentioned in sub-paragraph (1)(a) or (b) if, in the opinion of the Secretary of State, nothing in the grounds of appeal, and no representation or objection which has been duly made and not withdrawn, relates to

an issue which would be relevant to the Secretary of State's decision on the appeal.

(3) On considering the grounds of appeal, any representations or objections duly made (and not withdrawn) and the report of any person appointed to hold an inquiry or hear representations or objections, the Secretary of State may—

(a) uphold the authority's decision;

(b) direct the authority to make an order in accordance with the direction;

(c) make an order.

(4) Sub-paragraph (5) applies if—

(a) the Secretary of State proposes to direct an authority to make an order or proposes to make an order, and

(b) an order made in accordance with the proposed direction or (as the case may be) the order that the Secretary is proposing to make would differ in a material respect from the order sought by the applicant in his application.

(5) The Secretary of State shall—

(a) give such notice as appears to him requisite of the proposal, specifying the time (which shall not be less than 28 days from the date of first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal, which must include particulars of the grounds relied on, may be made;

(b) if any representation or objection duly made is not withdrawn, cause a local inquiry to be held or afford any person by whom any such representation or objection has been made an opportunity of being heard by a person appointed by the Secretary of State for that purpose; and

(c) consider the report of any person appointed to hold an inquiry or to hear representations or objections.

(6) The Secretary of State may, but need not, act as mentioned in sub-paragraph (5)(b) if, in his opinion, no representation or objection which has been duly made and not withdrawn relates to an issue which would be relevant to the Secretary of State's decision on the appeal.

(7) For the purposes of sub-paragraph (4)(b), an order made in accordance with the proposed direction, or (as the case may be) the order that the Secretary of State is proposing to make, would differ in a material respect from the order sought by the applicant in his application if—

(a) it would affect land not affected by the order sought by the applicant;

(b) it would not show any right of way shown in the order sought by the applicant;

(c) it would show any right of way not so shown; or

(d) it would show as a highway of a particular description a way which is shown in the order sought by the applicant as a highway of another description.

(8) Nothing in sub-paragraph (5)(a) shall be construed as limiting the grounds which may be relied upon or the documentary or other evidence which may be adduced at any local inquiry or hearing held under sub-paragraph (5)(b).

(9) Paragraphs 10 and 10A of Schedule 15 apply in relation to a decision of the Secretary of State under this paragraph as they apply in relation to a decision of the Secretary of State under paragraph 7 of that Schedule.

(10) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give the person notice of all such orders as are—

(a) made by the authority in accordance with a direction under sub-paragraph (3)(b) or by the Secretary of State under sub-paragraph (3)(c) during a specified period;

(b) are of a specified description; and

(c) relate to land in a specified area.

(11) In sub-paragraph (10), "specified" means specified in the requirement.

3C (1) Where an order is made in accordance with a direction given under paragraph 3B(3)(b), Schedule 15 applies—

(a) as if paragraphs 1, 3 to 5 and 7 to 10A were omitted; and

(b) with the following additional modifications.

(2) Paragraph 2 applies as if for the words from "either by" to the end of the paragraph there were substituted "by the Secretary of State under paragraph 6".

(3) Paragraph 6 applies as if for it there were substituted—

"6 Where an order is made in accordance with a direction given by the Secretary of State under paragraph 3B(3)(b) of Schedule 14, the Secretary of State must confirm the order."

(4) Paragraph 12(1) applies as if after "requirements of" there were inserted "Schedule 14 or".

3D (1) Where the Secretary of State makes an order under paragraph 3B(3)(c), Schedule 15 applies—

(a) as if paragraphs 1, 3 to 5 and 7 to 10A were omitted; and

(b) with the following additional modifications.

(2) Paragraph 2 applies as if for the words from "either by" to the end of the paragraph there were substituted "by the Secretary of State under paragraph 6".

(3) Paragraph 6 applies as if for it there were substituted—

"6 Where an order has been made by the Secretary of State under paragraph 3B(3)(c) of Schedule 14, the Secretary of State must confirm the order."

(4) Paragraph 12(1) applies as if after "requirements of" there were inserted "Schedule 14 or"."

(9) For the italic cross-heading before paragraph 4 substitute "Procedure where authority decide not to make order: Wales".

(10) In paragraph 4(1), for "the authority" (in the first place it occurs) substitute "an authority in Wales".

(11) After paragraph 4 insert—

"Transfer of applications: England

4A (1) Where an application is made to an authority in England, the applicant may at any time before the application is determined give notice in the prescribed form to the authority that another person named in the notice is to carry on the application.

(2) Where such a notice is given, the other person is (in relation to any time after it is given) to be treated as the applicant for the purposes of this Act."

7 (1) Schedule 15 (procedure applicable to the making of orders under section 53 of that Act making modifications to definitive maps and statements showing public rights of way) is amended as follows.

(2) In paragraph 3 (publicity for orders)—

(a) in sub-paragraph (2), in paragraph (a), for the words from "in at least one local newspaper" to the end of the paragraph substitute "(within the meaning of sub-paragraph (2A))";

(b) after sub-paragraph (2) insert—

"(2A) In sub-paragraph (2)(a), "publication" means—

(a) in the case of an authority in England, publication on a website maintained by the authority and on such other websites or through the use of such other digital communications media as the authority may consider appropriate;

(b) in the case of an authority in Wales, publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated."

(3) In paragraph 7 (opposed orders), after sub-paragraph (1) insert—

"(1A) Where the order is submitted by an authority in England and the representations or objections relate to some but not all of the modifications made by the order, the Secretary of State may, by notice given to the authority, elect that the order shall have effect as two separate orders—

(a) the one comprising the modifications to which the representations or objections relate ("the opposed order"); and

(b) the other comprising the remaining modifications.

(1B) Where notice is given under sub-paragraph (1A), paragraph 6 and the following provisions of this Schedule apply as if only the

opposed order had been submitted to the Secretary of State for confirmation.

(1C) Any reference in sub-paragraph (1A) to an order includes a reference to any part of an order which, by virtue of one or more previous elections under that sub-paragraph, has effect as a separate order."

(4) After paragraph 7 insert—

"Power to proceed as if order unopposed

7A (1) If representations or objections have been duly made to an authority in England (and not withdrawn) but the authority considers that none of them are relevant, the authority may proceed under this Schedule as if no representations or objections had been duly made (and the provisions of this Schedule apply accordingly).

(2) If representations or objections have been duly made to such an authority (and not withdrawn) but the authority consider that at least one of the representations or objections is not relevant, the authority may elect that the order shall have effect as two separate orders—

(a) the one comprising the modifications to which the relevant representations or objections relate; and

(b) the other comprising the remaining modifications;

and the provisions of this Schedule apply accordingly.

(3) For the purposes of this paragraph a representation or objection is relevant if, were the order to be submitted to the Secretary of State under paragraph 7(1), it would be relevant in determining whether or not to confirm the order (either with or without modifications).

(4) In deciding whether to exercise their power under sub-paragraph (1) or (2), an authority shall have regard to any guidance given by the Secretary of State.

(5) Where the authority decide to exercise such a power, the authority shall inform the applicant, and any person who made a representation or objection (and has not withdrawn it), of their decision and the reasons for it."

(5) In paragraph 12 (proceedings for questioning validity of orders), after sub-paragraph (2) insert—

"(2A) Sub-paragraph (2B) applies if the application relates to an order of an authority in England that has been submitted to, and confirmed by, the Secretary of State.

(2B) The High Court may quash the decision of the Secretary of State confirming the order or any part of it (either generally or in so far as it affects the interests of the applicant), instead of quashing the order or any provision of it."

8 After Schedule 15 insert the following Schedule—

"SCHEDULE 15A

ORDERS BY CONSENT: MODIFICATIONS OF SCHEDULES 14 AND 15

Modifications of Schedule 14

1 (1) Paragraph 1C applies only if—

(a) the authority ascertain that an owner does not consent to the making of an order under section 53(2) (whether with or without the making of a special order mentioned in section 54B(2)(a) to (c));

(b) the authority decide for any other reason not to make a modification consent order;

(c) the period of 6 months beginning with the date on which notice was served under paragraph 1A(4)(b) expires without the authority having made such an order; or

(d) the authority make such an order but decide not to confirm it.

(2) In any case where paragraph 1C applies in consequence of the occurrence of an event mentioned in sub-paragraph (1)(a) to (d) above, paragraph 1C(1) applies as if it referred to the occurrence of that event instead of the service of a notice under paragraph 1A(4)(b).

Modifications of Schedule 15

2 For the purposes of the application of the Schedule, any special orders made under section 54B(5) are to be treated as part of the order under section 53(2).

3 Paragraph 2 applies as if it provided that an order shall not take effect until confirmed by the authority under paragraph 6 (as modified by paragraph 5 below).

4 Paragraph 3 applies as if—

(a) in sub-paragraph (4), for the words from the beginning to "but if he so directs" there were substituted "The authority may, in any particular case, decide that it is unnecessary to comply with sub-paragraph (2)(b)(i); but if it so decides";

(b) sub-paragraph (9) were omitted.

5 The Schedule applies as if for paragraphs 6 and 7, and the italic cross-heading preceding each of those paragraphs, there were substituted—

"Confirmation of orders

6 The authority may (whether or not any representations or objections are made) confirm the order—

(a) without modifications; or

(b) with modifications, if every owner so consents."

6 The Schedule applies as if paragraph 7A were omitted.

7 Paragraph 12(1) applies as if for "53 and 54" there were substituted "53, 54, 54B and 54C"."

PART 2

HIGHWAYS ACT 1980

9 (1) Schedule 6 to the Highways Act 1980 (procedure applicable to the making etc. of certain orders under the Act relating to footpaths, bridleways and restricted byways) is amended as follows.

(2) In paragraph 1 (publicity for orders)—

(a) in sub-paragraph (3), in paragraph (a), for the words from "in at least one local newspaper" to the end of the paragraph substitute "(within the meaning of sub-paragraph (3ZA))";

(b) after sub-paragraph (3) insert—

"(3ZA) In sub-paragraph (3)(a), "publication" means—

(a) in relation to England, publication on a website maintained by the authority and on such other websites or through the use of such other digital communications media as the authority may consider appropriate;

(b) in relation to Wales, publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated."

(3) In paragraph 2 (opposed and unopposed orders), after sub-paragraph (2) insert—

"(2ZA) If representations or objections have been duly made to an authority in England other than the Secretary of State (and not withdrawn), but the authority consider that none of the representations or objections are relevant, the authority may proceed under this Schedule as if no representations or objections had been duly made (and the provisions of this Schedule apply accordingly).

(2ZB) If representations or objections have been duly made to such an authority (and not withdrawn), but the authority consider that at least one of the representations or objections is not relevant, the authority may elect that the order shall have effect as two separate orders—

(a) the one comprising the modifications to which the relevant representations or objections relate; and

(b) the other comprising the remaining modifications;

and the provisions of this Schedule apply accordingly.

(2ZC) For the purposes of this paragraph, a representation or objection is relevant if, were the order to be submitted to the Secretary of State, it would be relevant in determining whether or not to confirm the order (either with or without modifications).

(2ZD) In deciding whether to exercise their power under subsection (2ZA) or (2ZB), an authority shall have regard to any guidance given by the Secretary of State.

(2ZE) Where the authority decide to exercise such a power, the authority shall inform the applicant, and any person who made a representation or objection (and has not withdrawn it), of their decision and the reasons for it."

(4) In that paragraph, after sub-paragraph (3) insert—

"(4) The Secretary of State may, but not need not, act as mentioned in sub-paragraph (2)(a) or (b) or (3)(b) in relation to an order relating to England if, in his opinion, no objection or representation which has been duly made and not withdrawn relates to an issue which would be relevant in determining whether or not to confirm the order (either with or without modifications) or to make it."

(5) After paragraph 2 insert—

"2ZZA(1)Where at any time representations or objections duly made to an authority in England (and not withdrawn) relate to only parts of an order, the authority may elect that for the purposes of paragraph 2 and the following provisions of this Schedule, the order shall have effect as two separate orders—

(a) the one comprising the parts to which the representations or objections relate; and

(b) the other comprising the remaining parts.

(2) Where the authority is not the Secretary of State, an election for the purposes of sub-paragraph (1) shall be given by notice to the Secretary of State.

(3) Where an order made by an authority in England (other than the Secretary of State) is submitted to the Secretary of State, and any representations or objections duly made (and not withdrawn) relate to only parts of the order, the Secretary of State may, by notice given to the authority, elect that it shall have effect as two separate orders—

(a) the one comprising the parts to which the representations or objections relate ("the opposed order"); and

(b) the other comprising the remaining parts.

(4) Where notice is given under sub-paragraph (3), paragraph 2 and the following provisions of this Schedule apply as if only the opposed order had been submitted to the Secretary of State for confirmation.

(5) Any reference in sub-paragraph (1) or (3) to an order includes a reference to any part of an order which, by virtue of one or more previous elections under that sub-paragraph, has effect as a separate order."

(6) In paragraph 4A (publication of orders)—

(a) the existing text becomes sub-paragraph (1);

(b) in that sub-paragraph, for the words from "in at least one local newspaper" to the end of the paragraph substitute "(within the meaning of sub-paragraph (2))";

(c) after that sub-paragraph insert—

"(2) In sub-paragraph (1), "publication" means—

(a) in relation to England, publication on a website maintained by the authority and on such other websites or through the use of such other digital communications media as the authority may consider appropriate;

(b) in relation to Wales, publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated."

(7) In paragraph 5 (proceedings for questioning validity of orders) omit the "and" after paragraph (b) and insert—

"(ba) the Schedule has effect as if after paragraph 3 there were inserted—

"3A (1) Sub-paragraph (2) applies if the application relates to an order of an authority in England that has been submitted to, and confirmed by, the Secretary of State.

(2) The High Court may quash the decision of the Secretary of State confirming the order or any part of it (either generally or in so far as it affects the interests of the applicant), instead of quashing the order or any provision of it."; and".

SCHEDULE 7

Section 22

PROVISION OF PASSENGER RAIL SERVICES

Consequential amendments

1 The Transport Act 1968 is amended in accordance with paragraphs 2 to 5.

2 (1) Section 10(1) is amended as follows.

(2) In paragraph (iii), before "(ii)", in both places, insert "(ia)(b) or".

(3) In paragraph (iv), before "(ii)" insert "(ia),".

(4) After paragraph (viiia), insert—

"(viiiaa) where that area is in England, to let locomotives and other rolling stock on hire to a person not falling within paragraph (viiia) for or in connection with the provision of railway passenger services;".

(5) In paragraph (viiib), at the beginning insert "where that area is in Wales or Scotland,".

3 Section 10(1)(vi) and (viza) has effect, until the day on which the repeal of those provisions in relation to Scotland by section 14(1)(a) of the Railways Act 2005 comes into force, as if for "(ii)" there were substituted "(ia)(b)".

4 (1) Section 20 (special duty of certain Executives with respect to railway passenger services) is amended as follows.

(2) In paragraph (a) of subsection (2), omit the words from "for the purposes" to the end of the paragraph.

(3) After subsection (2) insert—

"(2A) For the purposes of subsection (2)(a) "permitted distance", in relation to an integrated transport area or a passenger transport area, means the distance of 25 miles from the nearest point on the boundary of that area."

5 In section 23A (interpretation of certain provisions of this Part relating to railways), after subsection (1) insert—

"(1A) For the purposes of section 10, "railway" has the meaning given in section 67(1) of the Transport and Works Act 1992."

6 Section 119 of the Transport Act 1985 (bus substitution services and bus service conditions) has effect, until the repeal of the section by Part 4 of Schedule 31 to the Transport Act 2000 comes into force, as if—

(a) in subsection (3) the words from "for the purposes" to the end of the subsection were omitted;

(b) after subsection (5) there were inserted—

"(5A) For the purposes of subsection (3) "permitted distance", in relation to a passenger transport area, means the distance of 25 miles from the nearest point on the boundary of that area."

7 In section 13 of the Railways Act 2005 (railway functions of Passenger Transport Executives), in subsection (9), for the words from "has the same meaning" to the end substitute ", in relation to an integrated transport area, means the distance of 25 miles from the nearest point on the boundary of that area."

Franchise exemptions granted by Secretary of State: protection of railway assets etc

8 After section 24 of the Railways Act 1993 insert—

"24A Secretary of State franchise exemptions: operator agreements

(1) Conditions specified in an order under section 24 made by the Secretary of State may, in particular, include conditions which are to apply to any person providing services under an operator agreement.

(2) An order under section 24 made by the Secretary of State may include provision which, subject to any modifications that the Secretary of State considers appropriate, has an effect in connection with operator agreements which corresponds or is similar to the effect of the following provisions in connection with franchise agreements—

(a) section 27(3) of this Act (restrictions on transfer or creation of security over assets);

(b) section 27(5) of this Act (transactions entered into in breach of restrictions to be void);
(c) section 27(6) and (7) of this Act (no execution or other legal process etc in respect of assets);
(d) section 31 of this Act (disapplication of legislation: security of tenure of business premises);
(e) sections 55 to 58 of this Act (enforcement);
(f) section 12 of, and Schedule 2 to, the Railways Act 2005 (transfer schemes), subject to subsection (4) below.

(3) Provision included in an order by virtue of subsection (2) may be made by applying the provision in question, subject to any modifications that the Secretary of State considers appropriate.

(4) The provision which may be included in an order by virtue of subsection (2)(f) is subject to the following restrictions—
(a) it is to be provision which applies only where an operator agreement is or has been in force to which a Passenger Transport Executive or local transport authority is or was party;
(b) the person entitled under the provision to make a transfer scheme is to be a Passenger Transport Executive or local transport authority which is or was party to the agreement;
(c) the persons to whom assets may be transferred under a scheme made under the provision are to be—
(i) the Passenger Transport Executive or local transport authority which makes the scheme;
(ii) any other Passenger Transport Executive or local transport authority which is or was party to the operator agreement;
(iii) any company which is wholly owned by a person falling with sub-paragraph (i) or (ii);
(iv) any person who is, or is to be, the operator under an operator agreement.

(5) In this section—
"local transport authority" has the same meaning as in Part 2 of the Transport Act 2000 (see section 108(4) of that Act);
"operator agreement" means any agreement which a person who has the benefit of a franchise exemption may enter into for another person ("the operator") to provide the services (or any part of the services) in respect of which the exemption is granted;
"Passenger Transport Executive" means a body which is such an Executive for the purposes of Part 2 of the Transport Act 1968."

Minor correcting amendments

9 (1) In section 30 of the Railways Act 1993 (duty of relevant franchising authority), subsection (3) is amended as follows.

(2) In paragraph (b)—
(a) for "notice" substitute "proposal";

(b) for "the proposal date specified for the purposes of subsection (5)(a)(ii) of that section" substitute "the date for the discontinuance of services specified in the proposal".

(3) In paragraph (c), for "subsection (2)" substitute "subsection (3)".

SCHEDULE 8

Section 23

REGULATION OF THE USE OF ROADS AND RAILWAYS

PART 1

PERMIT SCHEMES: REMOVAL OF REQUIREMENT FOR SECRETARY OF STATE APPROVAL

1 Part 3 of the Traffic Management Act 2004 (permit schemes) is amended as follows.

2 (1) Section 33 (preparation of permit schemes) is amended as follows.

(2) For subsection (1) substitute—

"(1) A local highway authority in England, or two or more such authorities acting together, may prepare a permit scheme.

(1A) A local highway authority in Wales, or two or more such authorities acting together, may prepare and submit to the Welsh Ministers a permit scheme."

(3) For subsection (2) substitute—

"(2) The Secretary of State may direct a local highway authority in England, or two or more such authorities acting together, to prepare and give effect to a permit scheme which takes such form as the Secretary of State may direct.

(2A) The Welsh Ministers may direct a local highway authority in Wales, or two or more such authorities acting together, to prepare and submit to them a permit scheme which takes such form as the Welsh Ministers may direct."

3 After section 33 insert—

"33A Implementation of local highway authority permit schemes: England

(1) This section applies to a permit scheme prepared by a local highway authority in England, or two or more such authorities acting together, in accordance with section 33(1) or (2).

(2) The scheme shall not have effect in the area of a participating authority unless the authority gives effect to it by order.

(3) For the purposes of subsection (2) a local highway authority is a "participating authority" in relation to a permit scheme if it is the highway authority for any of the streets in which the scheme is to control the carrying out of works.

(4) An order under subsection (2)—

(a) must set out the scheme and specify the date on which the scheme is to come into effect, and

(b) may (in accordance with permit regulations) include provisions which disapply or modify enactments to the extent specified in the order."

4 (1) Section 34 (implementation of local highway authority permit schemes) is amended as follows.

(2) In subsection (1)—

(a) after "prepared" insert "by a local highway authority in Wales";

(b) for "appropriate national authority ("the authority")" substitute "Welsh Ministers";

(c) for "33(1) or (2)" substitute "33(1A) or (2A)".

(3) In subsection (2), for "authority" substitute "Welsh Ministers".

(4) In subsection (3), for "it approves" substitute "the Welsh Ministers approve".

(5) In subsection (4), for "the authority by order gives" substitute "the Welsh Ministers by order give".

(6) In the heading, at the end insert ": Wales".

5 For section 36 (variation and revocation of permit schemes) substitute—

"36 Variation and revocation of permit schemes

(1) A local highway authority in England may by order vary or revoke a permit scheme to the extent that it has effect in the area of the authority by virtue of an order made by the authority under section 33A(2).

(2) The Secretary of State may direct a local highway authority in England to vary or revoke a permit scheme by an order under subsection (1).

(3) An order made by a local highway authority under subsection (1) may vary or revoke an order made by the authority under section 33A(2), or an order previously made by the authority under subsection (1).

(4) The Welsh Ministers may by order vary or revoke any permit scheme which for the time being has effect by virtue of an order made by them under section 34(4) or 35(2).

(5) An order under subsection (4) may vary or revoke an order made by the Welsh Ministers under section 34(4) or 35(2), or an order previously made under subsection (4).

(6) The Secretary of State may by order vary or revoke any permit scheme which for the time being has effect by virtue of an order made by the Secretary of State under section 35(2).

(7) An order under subsection (6) may vary or revoke an order made by the Secretary of State under section 35(2), or an order previously made under subsection (6).

(8) An order under subsection (4) or (6) may relate to one or more permit schemes.

(9) An order under this section may (in accordance with permit regulations) include provisions which disapply or modify enactments to the extent specified in the order."

6 (1) Section 37 (permit regulations) is amended as follows.

(2) In subsection (1)
(a) for "appropriate national authority" substitute "Secretary of State";
(b) omit "submission, approval,";
(c) at the end insert "prepared by local highway authorities in England under section 33(1) or (2) or by the Secretary of State under section 33(3) or (4)".

(3) After subsection (1) insert—

"(1A) The Welsh Ministers may by regulations ("permit regulations") make provision with respect to the content, preparation, submission, approval, operation, variation or revocation of permit schemes prepared by local highway authorities in Wales under section 33(1A) or (2A) or by the Welsh Ministers under section 33(3)."

(4) After subsection (3) insert—

"(3A) Permit regulations made by the Secretary of State may impose requirements for the purpose of securing that permit schemes are kept under review."

7 (1) Section 39 (interpretation of Part 3) is amended as follows.

(2) In subsection (1), in paragraph (b) of the definition of "the appropriate national authority", for "National Assembly for Wales" substitute "Welsh Ministers".

(3) In subsection (3), after "power" insert "of the Secretary of State or the Welsh Ministers".

(4) After subsection (5) insert—

"(6) A statutory instrument containing regulations under this Part made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales."

8 (1) This paragraph applies to a permit scheme prepared by a local highway authority in England which, by virtue of an order made by the Secretary of State under section 34(4) of the Traffic Management Act 2004, has effect immediately before the date on which paragraphs 1 to 7 come into force.

(2) On and after that date, the scheme is to be treated as if it had effect by virtue of an order made by the local highway authority under section 33A(2) of that Act.

PART 2

ROAD HUMPS

9 The Highways Act 1980 is amended as follows.

10 Omit section 90B (additional powers of Secretary of State).

11 (1) Section 90C (road humps: consultation and local inquiries) is amended as follows.

(2) In subsection (1)—

(a) for the words from "Where the Secretary of State" to "he or they" substitute "Where a highway authority proposes to construct a road hump under section 90A, the authority";

(b) omit paragraph (a) and the "and" following it;

(c) in paragraph (b), omit "other".

(3) In subsection (2)—

(a) omit "Secretary of State or local";

(b) for the words following "shall also" substitute "comply with such requirements as may be specified in regulations made by the Secretary of State in relation to—

(a) the publication of—

(i) details of proposals to construct road humps, and

(ii) procedures for making objections to such proposals, and

(b) procedures for dealing with such objections.

(2A) Regulations under subsection (2)(b) may, in particular, contain provision about—

(a) local inquiries in relation to proposals to construct road humps, and

(b) the application of subsections (2) to (5) of section 250 of the Local Government Act 1972 in relation to such inquiries, subject to such modifications as may be specified in the regulations."

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

12 In section 90E (status of road humps), in subsection (2)(b), omit "or 90B".

PART 3

PEDESTRIAN CROSSINGS: REMOVAL OF REQUIREMENT TO INFORM SECRETARY OF STATE

13 In section 23(2) of the Road Traffic Regulation Act 1984 —

(a) omit paragraph (c) (which requires that the Secretary of State or, in relation to Wales, the Welsh Ministers be informed in writing before certain pedestrian crossings are established or removed etc.);

(b) omit the "and" before that paragraph.

PART 4

OFF-ROAD MOTORING EVENTS

14 In section 13A(1) of the Road Traffic Act 1988 (list of motoring offences which do not apply for authorised off-road motoring events), after "2" insert ", 2B".

PART 5

TESTING OF VEHICLES

15 In section 52 of the Road Traffic Act 1988 (supplementary provisions about tests etc of goods vehicles), in subsection (2) (which confers power on the Secretary of State to provide and maintain stations and apparatus for the carrying out of examinations of certain goods vehicles), for the words from "provide and maintain" to the end of the subsection substitute "—

(a) provide and maintain stations where examinations of goods vehicles under regulations under section 49 or under section 50 of this Act may be carried out,

(b) designate premises as stations where such examinations may be carried out, and

(c) provide and maintain apparatus for the carrying out of such examinations."

16 (1) Section 46 of that Act (provision which may be included in regulations under section 45 of that Act about tests of the condition of vehicles other than certain goods vehicles) is amended as follows.

(2) In subsection (1), after paragraph (j) insert—

"(ja) the charges to be paid to the Secretary of State by persons occupying premises designated under section 8(3)(b) of the Passenger Vehicles Act 1981 as stations where inspections of public service vehicles may be carried out where the charges are in connection with—

(i) the provision by the Secretary of State of vehicle examiners to examine public service vehicles on the premises,

(ii) the issue of test certificates or notifications of the refusal of test certificates in respect of examinations of public service vehicles carried out on the premises,

(iii) the issue of duplicates or copies of test certificates issued in respect of such examinations, and

(iv) the correction of errors in test certificates so issued,".

(3) In that subsection, omit the "and" at the end of paragraph (k) and insert—

"(ka) the keeping by persons mentioned in paragraph (ja) of registers of test certificates in the prescribed form and containing the prescribed particulars, and the inspection of such registers by such persons and in such circumstances as may be prescribed,".

(4) In that subsection, after paragraph (l) insert ", and

(m) the keeping of records by persons mentioned in paragraph (ja) and the providing by them of returns and information to the Secretary of State."

(5) In subsection (4), after "subsection (1)(j)" insert "or (ja)".

17 (1) Section 51 of that Act (particular aspects of regulations under section 49 of that Act dealing with the testing of certain goods vehicles etc) is amended as follows.

(2) In subsection (1), after paragraph (k) insert—

"(ka) make provision as to the charges to be paid to the Secretary of State by persons occupying premises designated under section 52(2)(b) as stations where examinations of goods vehicles may be carried out where the charges are in connection with—

(i) the provision by the Secretary of State of vehicle examiners to examine goods vehicles on the premises,

(ii) the issue of test certificates or notifications of the refusal of test certificates in respect of examinations of goods vehicles carried out on the premises,

(iii) the issue of duplicates or copies of test certificates issued in respect of such examinations, and

(iv) the correction of errors in test certificates so issued,".

(3) In that subsection, after paragraph (ka) (as inserted by sub-paragraph (2) above) insert—

"(kb) the keeping by persons mentioned in paragraph (ka) of registers of test certificates in the prescribed form and containing the prescribed particulars, and the inspection of such registers by such persons and in such circumstances as may be prescribed,

(kc) the keeping of records by persons mentioned in paragraph (ka) and the providing by them of returns and information to the Secretary of State,".

(4) After subsection (1) insert—

"(1A) The provision which may be made by virtue of subsection (1)(ka) above includes provision requiring—

(a) the making to the Secretary of State at prescribed times of payments, of such amounts as may be determined by him in accordance with regulations, on account of charges that may become payable, and

(b) where forms for test certificates and notifications of the refusal of test certificates are supplied by the Secretary of State, the payment to him of charges for the supply of such forms,

and for the repayment, in prescribed circumstances, of such payments received by the Secretary of State."

PART 6

RAIL VEHICLE ACCESSIBILITY REGULATIONS: EXEMPTION ORDERS

18 The Equality Act 2010 is amended as follows.

19 (1) Section 183 (exemptions from rail vehicle accessibility regulations) is amended as follows.

(2) Omit subsection (3) (power to make regulations as to exemption orders: applications etc).

(3) After subsection (6) insert—

"(7) Section 207(2) does not require an exemption order to be made by statutory instrument; but such an order is as capable of being amended or revoked as an order made by statutory instrument."

20 In consequence of paragraph 19(3)—

(a) omit section 184 (procedure for making exemption orders);

(b) in section 185 (annual report on exemption orders)—

(i) omit subsection (1)(b);

(ii) in subsection (2)(b), for "sections 183(4) and 184(2)" substitute "section 183(4)".

21 (1) This paragraph applies to an exemption order made by statutory instrument under section 183(1) of the Equality Act 2010, or treated as so made, before the date on which paragraph 19(3) comes into force.

(2) The order is to be treated as having been made otherwise than by statutory instrument; but is to be as capable of being amended or revoked as an order made by statutory instrument.

SCHEDULE 9

Section 24

ENFORCEMENT OF TRANSPORT LEGISLATION

PART 1

DRINK AND DRUG DRIVING OFFENCES

Removal of "statutory option" to have breath specimen replaced: road and rail transport

1 (1) In section 8 of the Road Traffic Act 1988 (choice of specimens of breath), omit subsections (2), (2A), (3) and (4).

(2) The amendments in sub-paragraphs (3) to (5) are made in consequence of sub-paragraph (1).

(3) In the Road Traffic Act 1988—

(a) for the heading of section 8 substitute "Breath specimen showing higher alcohol level to be disregarded";

(b) in section 8(1), omit "Subject to subsection (2) below,";

(c) in section 195(3), omit "8(3),";

(d) in section 195(4), omit "8(3),";

(e) in section 195(4A), omit "8(3) or".

(4) In the Serious Organised Crime and Police Act 2005, omit section 154(7).

(5) In the Scotland Act 2012, omit section 20(2) to (4).

2 (1) In Chapter 1 of Part 2 of the Transport and Works Act 1992 (safety of railways etc: offences involving drink or drugs), in section 32 (choice of specimens of breath), omit subsections (2) to (4).

(2) In consequence of the amendment in sub-paragraph (1), for the heading of that section substitute "Breath specimen showing higher alcohol level to be disregarded".

No need for preliminary breath test before evidential breath test: road transport

3 (1) The Road Traffic Act 1988 is amended as follows.

(2) In section 7 (provision of specimens for analysis), for subsection (2) substitute—

"(2) A constable may make a requirement under this section to provide specimens of breath only if—

(a) the requirement is made at a police station or a hospital,

(b) the requirement is imposed in circumstances where section 6(5) of this Act applies, or

(c) the constable is in uniform."

(3) Omit subsections (2A) and (2B).

(4) After subsection (2C) insert—

"(2CA) For the purposes of subsection (2C) "a relevant breath test" is a procedure involving the provision by the person concerned of a specimen of breath to be used for the purpose of obtaining an indication whether the proportion of alcohol in his breath or blood is likely to exceed the prescribed limit."

(5) After subsection (5) insert—

"(5A) A constable may arrest a person without warrant if—

(a) the person fails to provide a specimen of breath when required to do so in pursuance of this section, and

(b) the constable reasonably suspects that the person has alcohol in his body."

Removing restriction that evidential breath test must be taken at police station: rail transport

4 (1) In Chapter 1 of Part 2 of the Transport and Works Act 1992 (safety of railways etc: offences involving drink or drugs), section 31 (provision of specimens for analysis) is amended as follows.

(2) For subsection (2) substitute—

"(2) A constable may make a requirement under this section to provide specimens of breath only if—

(a) the requirement is made at a police station or a hospital, or

(b) the constable is in uniform."

(3) After subsection (7) insert—

"(7A) A constable may arrest a person without warrant if—

(a) the person fails to provide a specimen of breath when required to do so in pursuance of this section, and

(b) the constable reasonably suspects that the person has alcohol in his body."

Health care professionals advising whether condition is due to drugs: road and rail transport

5 In section 7 of the Road Traffic Act 1988 (provision of specimens for analysis), in subsection (3)(c) (medical advice that person's condition might be due to drugs), after "advised by a medical practitioner" insert "or a registered health care professional".

6 In section 31 of the Transport and Works Act 1992 (provision of specimens for analysis)—

(a) in subsection (4)(c) (medical advice that person's condition might be due to drugs), after "advised by a medical practitioner" insert "or a registered health care professional";

(b) omit subsections (9A), (9B) and (9C).

Further extension of role of health care professionals: road and rail transport

7 The Road Traffic Act 1988 is amended in accordance with paragraphs 8 and 9.

8 (1) Section 7A (specimens of blood taken from persons incapable of consenting) is amended as follows.

(2) In subsections (1) and (2)(a), for "a medical practitioner" substitute "a medical or health care practitioner".

(3) In subsection (2)(b), for "a medical practitioner other than a police medical practitioner" substitute "a practitioner other than a police medical or health care practitioner".

(4) In subsection (2)(b)(i), for "to made to a police medical practitioner" substitute "to be made to a police medical or health care practitioner".

(5) In subsection (2)(b)(ii), omit "medical".

(6) In subsection (3), for "a medical practitioner" substitute "a medical or health care practitioner".

(7) For subsection (7) substitute—

"(7) In this section—

"medical or health care practitioner" means a medical practitioner or a registered health care professional;

"police medical or health care practitioner" means a medical practitioner, or a registered health care professional, who is engaged under any agreement to provide medical or health care services for purposes connected with the activities of a police force."

9 In section 11 (interpretation), in subsection (4) (providing a specimen of blood), omit "by a medical practitioner or, if it is taken in a police station,".

10 In consequence of paragraphs 8 and 9, in section 15 of the Road Traffic Offenders Act 1988 (use of specimens in proceedings for certain offences under the Road Traffic Act), in subsection (4) (circumstances in which specimen of blood is to be disregarded)—

(a) in paragraph (a), for the words from "and either" to the end of the paragraph substitute "by a medical practitioner or a registered health care professional";

(b) in paragraph (b), after "medical practitioner" insert "or a registered health care professional".

11 The Transport and Works Act 1992 is amended in accordance with paragraphs 12 and 13.

12 (1) Section 31A (specimens of blood taken from persons incapable of consenting) is amended as follows.

(2) In subsections (1) and (2)(a), for "a medical practitioner" substitute "a medical or health care practitioner".

(3) In subsection (2)(b), for "a medical practitioner other than a police medical practitioner" substitute "a practitioner other than a police medical or health care practitioner".

(4) In subsection (2)(b)(i), for "to made to a police medical practitioner" substitute "to be made to a police medical or health care practitioner".

(5) In subsection (2)(b)(ii), omit "medical".

(6) In subsection (3), for "a medical practitioner" substitute "a medical or health care practitioner".

(7) For subsection (7) substitute—

"(7) In this section—

"medical or health care practitioner" means a medical practitioner or a registered health care professional;

"police medical or health care practitioner" means a medical practitioner, or a registered health care professional, who is engaged under any agreement to provide medical or health care services for purposes connected with the activities of a police force."

13 In section 38 (interpretation of Chapter 1), in subsection (5)(b) (providing a specimen of blood), omit "by a medical practitioner or, if it is taken in a police station,".

Application of Road Traffic Act provisions in shipping regime

14 (1) In Part 4 of the Railways and Transport Safety Act 2003 (shipping: alcohol and drugs), section 83 (specimens, etc) is amended as follows.

(2) After subsection (1) (but before the table) insert—

"(1A) The references in the table to provisions of the Road Traffic Act 1988 or the Road Traffic Offenders Act 1988 are, subject to any contrary intention expressed in this Part or in any other enactment, references to those provisions as amended from time to time."

(3) The table is amended as follows.

(4) In the entry for sections 6A to 6E of the Road Traffic Act 1988, in the third column, at the end insert—

"In section 6C, the following shall be disregarded—

(a) in subsection (1)(b), the words following "in his body";

(b) subsection (3).

In section 6D, subsection (1)(b) shall be disregarded."

(5) In the entry for section 7 of the Road Traffic Act 1988, in the third column—

(a) after the first sentence insert—

"Subsection (1A) shall be disregarded.

In subsection (2)(b), the reference to the circumstances in which section 6(5) of the 1988 Act applies shall be treated as a reference to the circumstances in which the following provision of this table applies: paragraph (c) of the modifications specified for section 6 of the 1988 Act.";

(b) in the last sentence, for "or 4" substitute ", 4 or 5A".

(6) In the entry for section 8 of the Road Traffic Act 1988, in the second column, for "Choice of specimen of breath" substitute "Breath specimen showing higher alcohol level to be disregarded".

(7) In the entry for section 10 of the Road Traffic Act 1988, in the third column—

(a) in paragraph (b), for "or 5" substitute ", 5 or 5A";

(b) before the last sentence insert—

"In subsection (2), paragraph (c) shall be disregarded."

(8) In the entry for section 15 of the Road Traffic Offenders Act 1988, in the third column—

(a) in the first sentence, for "section 3A, 4 or 5" substitute "any of sections 3A to 5A";

(b) after the first sentence insert—

"Subsection (2)(b) shall be disregarded.";

(c) after the last sentence insert—

"Subsection (3A) shall be disregarded."

15 In Schedule 22 to the Crime and Courts Act 2013 (drugs and driving: minor and consequential amendments), omit paragraphs 8 and 14.

Application of Road Traffic Act provisions in aviation regime

16 (1) In Part 5 of the Railways and Transport Safety Act 2003 (aviation: alcohol and drugs), section 96 (specimens, etc) is amended as follows.

(2) After subsection (1) (but before the table) insert—

"(1A) The references in the table to provisions of the Road Traffic Act 1988 or the Road Traffic Offenders Act 1988 are, subject to any contrary intention expressed in this Part or in any other enactment, references to those provisions as amended from time to time."

(3) The table is amended as follows.

(4) In the entry for sections 6A to 6E of the Road Traffic Act 1988, in the third column, at the end insert—

"In section 6C, the following shall be disregarded—

(a) in subsection (1)(b), the words following "in his body";

(b) subsection (3).

In section 6D, subsection (1)(b) shall be disregarded."

(5) In the entry for section 7 of the Road Traffic Act 1988, in the third column—

(a) after the first sentence insert—

"Subsection (1A) shall be disregarded.

In subsection (2)(b), the reference to the circumstances in which section 6(5) of the 1988 Act applies shall be treated as a reference to the circumstances in which the following provisions of this table apply: paragraphs (c) and (d) of the modifications specified for section 6 of the 1988 Act.";

(b) in the last sentence, for "or 4" substitute ", 4 or 5A".

(6) In the entry for section 8 of the Road Traffic Act 1988—

(a) in the second column, for "Choice of specimen of breath" substitute "Breath specimen showing higher alcohol level to be disregarded";

(b) omit the words in the third column.

(7) In the entry for section 10 of the Road Traffic Act 1988, in the third column—

(a) in paragraph (b), for "or 5" substitute ", 5 or 5A";

(b) before the last sentence insert—

"In subsection (2), paragraph (c) shall be disregarded."

(8) In the entry for section 15 of the Road Traffic Offenders Act 1988, in the third column—

(a) in the first sentence, for "section 3A, 4 or 5" substitute "any of sections 3A to 5A";

(b) after the first sentence insert—

"Subsection (2)(b) shall be disregarded.";

(c) after the last sentence insert—

"Subsection (3A) shall be disregarded."

PART 2

BUS LANE CONTRAVENTIONS

17 (1) Until the relevant day, section 144 of the Transport Act 2000 (civil penalties for bus lane contraventions) has effect as if in subsection (3)(b), for the words from "made an order" to the end of the paragraph there were substituted "notified the authority in writing that it is an approved local authority for the purposes of this section (and has not withdrawn that notice)."

(2) In sub-paragraph (1) the "relevant day" means the day on which the repeal of section 144 of the Transport Act 2000 comes into force in relation to England.

18 (1) Sub-paragraph (2) applies to any authority which, immediately before paragraph 17 comes into force, is specified in an order under section 144(3)(b) of the Transport Act 2000 as an approved local authority for the purposes of section 144 of that Act.

(2) The authority is to be treated, on and after the date on which paragraph 17 comes into force, as having been notified in writing by the Secretary of State that it is an approved local authority for the purposes of section 144 of the Transport Act 2000.

19 In paragraph 9 of Schedule 8 to the Traffic Management Act 2004

(designation of civil enforcement areas for bus lane contraventions), after sub-paragraph (3) insert—

"(3A) A notice given (and not withdrawn) before the commencement of this Part of this Act approving a local authority in England for the purposes of section 144 of the Transport Act 2000 (civil penalties for bus lane contraventions) has effect on and after the commencement of this Part of this Act (in relation to England) as an order under this paragraph designating as a civil enforcement area for bus lane contraventions so much of that authority's area as is a civil enforcement area for parking contraventions."

SCHEDULE 10

Section 29

HOUSEHOLD WASTE: LONDON

1 The London Local Authorities Act 2007 is amended as follows.

2 In section 20 (regulations relating to receptacles for household waste), in subsection (9), for "46(2) to (6)" substitute "46(2) to (5)".

3 After section 20 insert—

"20A Regulations relating to receptacles for household waste: enforcement

"(1) This section applies where a borough council is satisfied that—

(a) a person has failed without reasonable excuse to comply with a requirement imposed by regulations made under section 20(1), and

(b) the person's failure to comply—

(i) has caused, or is or was likely to cause, a nuisance, or

(ii) has been, or is or was likely to be, detrimental to any amenities of the locality.

(2) Where this section applies, the borough council may serve a written warning on the person.

(3) A written warning under subsection (2) must—

(a) identify the requirement with which the person has failed to comply,

(b) explain the nature of the failure to comply,

(c) explain how the failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b),

(d) if the failure to comply is continuing, specify the period within which the requirement must be complied with,

(e) where paragraph (d) applies, explain the consequences of the requirement not being complied with within the period specified, and

(f) where paragraph (d) does not apply, explain the consequences of the person subsequently failing to comply with the same or a similar requirement.

(4) Where a written warning has been given that specifies a period as mentioned in subsection (3)(d), the borough council may require the

person on whom the warning was served to pay a penalty charge if satisfied that the person has not complied with the requirement within the period specified.

(5) In any other case, the borough council may require the person on whom the written warning was served to pay a penalty charge if satisfied that—

(a) the person has, after being given the warning—

(i) again failed without reasonable excuse to comply with the requirement identified in the warning, or

(ii) failed without reasonable excuse to comply with a requirement that is similar to the one identified in the warning, and

(b) the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b).

(6) In this section and sections 20C and 20D a "penalty charge" means a monetary penalty of an amount determined in accordance with section 20B.

(7) Before requiring a person to pay a penalty charge, a borough council must serve on the person notice of intention to do so (a "notice of intent") in accordance with section 20C.

(8) In order to require a person to pay a penalty charge, a borough council must serve on the person a further notice (the "final notice") in accordance with section 20C.

20B Amount of penalty charge that may be imposed under section 20A

(1) It is to be the duty of the borough councils to set the levels of penalty charges payable to them under section 20A.

(2) Different levels may be set for different areas in Greater London and for different cases or classes of case.

(3) The borough councils may make provision for treating a penalty charge which is payable under section 20A as having been paid if a lesser amount is received by the relevant council before the end of a period specified by the borough councils.

(4) The Secretary of State may by regulations make provision in connection with the functions conferred on the borough councils under subsections (1) and (3).

(5) Regulations under subsection (4) may (in particular)—

(a) require the levels of penalty charges to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, the borough councils can make provision under subsection (3).

(6) The borough councils must publish, in such manner as the Secretary of State may determine, the levels of penalty charges which have been set by the councils in accordance with this section.

(7) The functions conferred on the borough councils by subsections (1), (3) and (6) are to be discharged by a joint committee within the meaning of Part 4 (see section 60(1)).

20C Penalty charges under section 20A: procedure regarding notices of intent and final notices

(1) A notice of intent served under section 20A by a borough council must contain information about—

(a) the grounds for proposing to require payment of a penalty charge,

(b) the amount of the penalty charge that the person would be required to pay, and

(c) the right to make representations under subsection (2).

(2) A person on whom a notice of intent is served may make representations to the borough council as to why payment of a penalty charge should not be required.

(3) Representations under subsection (2) must be made within the period of 28 days beginning with the day service of the notice of intent is effected.

(4) A final notice under section 20A may not be served on a person by a borough council before the expiry of the period of 28 days beginning with the day service of the notice of intent on the person was effected.

(5) Before serving a final notice on a person, a borough council must consider any representations made by the person under subsection (2).

(6) The final notice must contain information about—

(a) the grounds for requiring payment of a penalty charge,

(b) the amount of the penalty charge,

(c) how payment may be made,

(d) the period within which payment is required to be made (which must not be less than the period of 28 days beginning with the day service of the final notice is effected),

(e) any provision giving a discount for early payment made by virtue of section 20B(3),

(f) the right to appeal by virtue of section 20D, and

(g) the consequences of not paying the penalty charge.

20D Appeals and application of provisions of Part 4 of this Act

(1) Regulations made by the Lord Chancellor under section 62(2) may make provision relating to appeals to an adjudicator against a decision under section 20A to require a person to pay a penalty charge.

(2) Until such time as regulations made by virtue of subsection (1) are in force, regulations under section 80 of the Traffic Management Act 2004 are to apply in relation to appeals of the type described in subsection (1) with such modifications as are prescribed in regulations made by the Secretary of State.

(3) For the purposes of subsection (2), the functions of adjudicators under the regulations as so applied are to be discharged by the persons appointed under regulations made under section 81 of the Traffic Management Act 2004 as adjudicators for the purposes of Part 6 of that Act.

(4) Penalty charges payable under section 20A are penalty charges for the purposes of section 64 and, for the purposes of subsection (2)(b) of section 64, they are to be treated as if they were payable under a provision of Part 4.

(5) Schedule 4 applies in relation to the administration and enforcement of section 20A as it applies in relation to the administration and enforcement of section 61."

4 (1) Section 23 (regulations relating to receptacles for waste: enforcement) is amended as follows.

(2) In subsection (2), omit "subsection (1) of section 20 (regulations relating to receptacles for household waste) or".

(3) In subsection (4)—
(a) omit paragraph (e);
(b) in paragraph (f), omit "subsection (4) of the said section 20 or" and omit "as the case may be".

(4) In the heading, after "receptacles for" insert "commercial or industrial".

SCHEDULE 11

Section 30

OTHER MEASURES RELATING TO ANIMALS, FOOD AND THE ENVIRONMENT

PART 1

DESTRUCTIVE IMPORTED ANIMALS

Destructive Imported Animals Act 1932 (c. 12)

1 (1) Section 10 of the Destructive Imported Animals Act 1932 (power to extend provisions of Act to other destructive non-indigenous animals) is amended as follows.

(2) In subsection (1), after "and to destroy any which may be at large" insert "or keep under review whether any which may be at large should be destroyed".

(3) After subsection (1) insert—

"(1A) The power in subsection (1) includes power to revoke or amend an order made under that subsection."

Grey Squirrels (Prohibition of Importation and Keeping) Order 1937 (S.I. 1937/478)

2 (1) Article 1 of the Grey Squirrels (Prohibition of Importation and Keeping) Order 1937 is amended as follows.

(2) The existing text becomes paragraph (1).

(3) After that paragraph insert—

"(2) In the application of the Destructive Imported Animals Act 1932 in relation to animals of that species, there shall be omitted—

(a) section 5(2), and

(b) in section 6(1), paragraph (f) and the reference to a penalty in the case of an offence under paragraph (f)."

PART 2

FARRIERS

Constitution of Farriers Registration Council

3 (1) Part 1 of Schedule 1 to the Farriers (Registration) Act 1975 (constitution of the Farriers Registration Council) is amended as follows.

(2) In paragraph 1(f) (persons that may appoint one member of the Council)—

(a) for "The Jockey Club" substitute "The British Horseracing Authority Limited";

(b) for "The Council for Small Industries in Rural Areas" substitute "The Secretary of State".

(3) After paragraph 6 insert—

"6A The Secretary of State must consult the Scottish Ministers before appointing a person as member of the Council under paragraph 1(f)."

PART 3

JOINT WASTE AUTHORITIES

Removal of power to establish joint waste authorities in England

4 In the Local Government and Public Involvement in Health Act 2007, in Part 11 (joint waste authorities), omit sections 205 to 208 (provisions relating to the establishment of joint waste authorities in England).

5 The provisions repealed by paragraph 4 continue to have effect for the purposes of the exercise by the Welsh Ministers of the power conferred on them by section 210 of the Local Government and Public Involvement in Health Act 2007 (power by order to make provision in relation to Wales applying any provisions of sections 205 to 208 with modifications).

6 (1) The following amendments are made in consequence of paragraph 4.

(2) In the Landlord and Tenant Act 1954, in section 69(1), in the definition of "local authority", omit the words from "an authority" to "(joint waste authorities),".

(3) In the Trustee Investments Act 1961, in section 11(4)(a), omit the words from ", an authority" to "(joint waste authorities)".

(4) In the Leasehold Reform Act 1967, in section 28(5)(a), omit the words from "any authority" to "(joint waste authorities),".

(5) In the Employers' Liability (Compulsory Insurance) Act 1969, in section 3(2)(b), omit the words from "an authority" to "(joint waste authorities),".

(6) In the Local Authorities (Goods and Services) Act 1970, in section 1(4), in the definition of "local authority", omit the words from ", any authority" to "(joint waste authorities)".

(7) In the Local Government Act 1972—
- (a) in section 70(1) and (3), for ", combined authority or joint waste authority" substitute "or combined authority";
- (b) in section 80(2)(b), omit ", joint waste authority";
- (c) in section 85(4), for ", a combined authority and a joint waste authority" substitute "and a combined authority";
- (d) in section 86(2), for ", a combined authority and a joint waste authority" substitute "and a combined authority";
- (e) in section 92, omit subsections (7A) and (7B);
- (f) in section 100J—
  - (i) in subsection (1), omit paragraph (ba);
  - (ii) in subsections (2) and (3), omit "(ba),";
  - (iii) in subsection (4)(a), omit ", a joint waste authority";
- (g) in section 101(13), omit "a joint waste authority,";
- (h) in section 146A(1), omit "a joint waste authority,";
- (i) in section 175(3B), omit ", a joint waste authority";
- (j) in section 176(3), omit ", a joint waste authority";
- (k) in section 223(2), omit "a joint waste authority,";
- (l) in section 224(2), for ", combined authority or joint waste authority" substitute "or combined authority";
- (m) in section 225(3), for ", a combined authority and a joint waste authority" substitute "and a combined authority";
- (n) in section 228, omit subsection (7B);
- (o) in section 229(8), omit ", a joint waste authority";
- (p) in section 230(2), for ", a combined authority and a joint waste authority" substitute "and a combined authority";
- (q) in section 231(4), omit ", a joint waste authority";
- (r) in section 232(1A), omit ", a joint waste authority";
- (s) in section 233(11), omit ", a joint waste authority";
- (t) in section 234(4), omit ", a joint waste authority";
- (u) in section 239(4A), for ", a combined authority and a joint waste authority" substitute "and a combined authority";
- (v) in section 270(1), omit the definition of "joint waste authority".

(8) In the Employment Agencies Act 1973, in section 13(7), omit paragraph (fza).

(9) In the Local Government Act 1974—
- (a) in section 25(1), omit paragraph (cd);
- (b) in section 26C(6), omit paragraph (d).

(10) In the Health and Safety at Work etc. Act 1974, in section 28(6), omit the words from ", an authority" to "(joint waste authorities)".

(11) In the Local Government (Miscellaneous Provisions) Act 1976, in section 44(1), in the definition of "local authority"—

(a) in paragraph (a), omit the words from ", an authority" to "(joint waste authorities)";
(b) in paragraph (c), omit the words from "an authority" to "(joint waste authorities),".

(12) In the Rent (Agriculture) Act 1976, in section 5(3), omit paragraph (bba).

(13) In the Rent Act 1977, in section 14(1), omit paragraph (cba).

(14) In the Local Government, Planning and Land Act 1980—
(a) in section 2(1), omit paragraph (kaa);
(b) in section 98(8A), omit paragraph (ea) (but not the "and" following it);
(c) in section 99(4), omit paragraph (dba);
(d) in section 100(1)(a), for the words from ", a combined authority" to "(joint waste authorities)" substitute "or a combined authority established under section 103 of that Act";
(e) in Schedule 16, omit paragraph 5BA.

(15) In the Acquisition of Land Act 1981, in section 17(4), in paragraph (a) of the definition of "local authority", for the words from ", a combined authority" to the end of the paragraph substitute "or a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009".

(16) In the Local Government (Miscellaneous Provisions) Act 1982—
(a) in section 33(9)(a), for the words from ", a combined authority" to "(joint waste authorities)" substitute "or a combined authority established under section 103 of that Act";
(b) in section 33(9)(b), for ", combined authority or joint waste authority" substitute "or combined authority";
(c) in section 41(13), in the definition of "local authority", omit paragraph (ea) (but not the "and" following it).

(17) In the Stock Transfer Act 1982, in Schedule 1, in paragraph 7(2)(a), omit the words from ", an authority" to "(joint waste authorities)".

(18) In the County Courts Act 1984, in section 60(3), in the definition of "local authority", omit the words from "an authority" to "(joint waste authorities),".

(19) In the Housing Act 1985, in section 4—
(a) in subsection (1)(e), omit ", a joint waste authority" (in both places it occurs);
(b) in subsection (2), omit the definition of "joint waste authority".

(20) In the Landlord and Tenant Act 1985, in section 38, in the definition of "local authority", omit the words from ", an authority" to "(joint waste authorities)".

(21) In the Local Government Act 1988, in Schedule 2, omit the entry relating to an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007.

(22) In the Housing Act 1988, in Schedule 1, in paragraph 12(1), omit paragraph (fa).

(23) In the Road Traffic Act 1988, in section 144(2)(a)(i), omit the words from "an authority" to "(joint waste authorities),".

(24) In the Local Government and Housing Act 1989—
(a) in section 21(1), omit paragraph (ga);
(b) in section 152(2), omit paragraph (ia).

(25) In the Environmental Protection Act 1990, in section 52(1A), omit the words from "or any authority" to the end of the subsection.

(26) In the Local Government (Overseas Assistance) Act 1993, in section 1(10), omit paragraph (da).

(27) In the Deregulation and Contracting Out Act 1994, in section 79A, omit paragraph (p).

(28) In the Housing Grants, Construction and Regeneration Act 1996, in section 3(2), omit paragraph (ja).

(29) In the Audit Commission Act 1998, in Schedule 2, in paragraph 1, omit paragraph (ma).

(30) In the Local Government Act 1999, in section 1(1), omit paragraph (ga).

(31) In the Freedom of Information Act 2000, in Schedule 1, omit paragraph 15A.

(32) In the Local Government Act 2003—
(a) in section 23(1), omit paragraph (ka);
(b) in section 33(1), omit paragraph (ja).

(33) In the Waste and Emissions Trading Act 2003, in section 24—
(a) in subsection (5), for the words before ""waste disposal authority"" substitute "In this Chapter";
(b) omit subsections (6) and (7).

(34) In the Local Government and Public Involvement in Health Act 2007—
(a) in section 104(2), omit paragraph (g);
(b) omit sections 209 and 211 and Schedule 13;
(c) in section 240(6), omit ", 207".

(35) In the Local Democracy, Economic Development and Construction Act 2009—
(a) in section 35(2), omit paragraph (m);
(b) in section 123(2), omit paragraph (f).

PART 4

AIR QUALITY

Removal of duty to conduct further air quality assessments

7 In the Environment Act 1995, in section 84 (duties of local authorities in relation to designated areas)—
(a) omit subsection (1) (duty of local authority to cause further assessment to be made in relation to air quality in designated air quality management area);

(b) in subsection (2), for the words from the beginning to "to" at the beginning of paragraph (b) substitute "Where an order under section 83 above comes into operation, the local authority which made the order shall".

8 (1) The following amendments are made in consequence of paragraph 7.

(2) In the Environment Act 1995—

(a) in section 86(2)(b), omit "or 84";

(b) in section 91(1), in the definition of "action plan", for "84(2)(b)" substitute "84(2)";

(c) in Schedule 11, in paragraphs 1(1)(b) and 4(2)(b), omit "or 84".

PART 5

NOISE ABATEMENT ZONES

Removal of power of local authorities to designate area as noise abatement zone

9 Part 3 of the Control of Pollution Act 1974 (noise) is amended in accordance with paragraphs 10 to 14.

10 Omit section 57 (local authority duty to conduct periodical inspections to decide how to exercise powers concerning noise abatement zones).

11 Omit sections 63 to 67 (noise abatement zones).

12 Omit section 69 (execution of works by local authority).

13 In section 73 (interpretation and other supplementary provisions)—

(a) in subsection (1), omit the definitions of "noise abatement order", "noise abatement zone", "noise level register", "noise reduction notice" and "person responsible";

(b) in subsection (2), for "sections 62 to 67" (in both places where it occurs) substitute "section 62".

14 Omit Schedule 1 (provisions applying to coming into operation of noise abatement orders).

15 (1) The following amendments are made in consequence of paragraphs 11 and 14.

(2) In the Control of Pollution Act 1974, in section 104(1), omit the words from "(except sections" to "65(6))".

(3) In the Local Government, Planning and Land Act 1980, in Schedule 2, omit paragraphs 14 and 18.

(4) In the Environmental Protection Act 1990, in Schedule 15, omit paragraph 15(4).

SCHEDULE 12

Section 31

ABOLITION OF OFFICE OF THE CHIEF EXECUTIVE OF SKILLS FUNDING

1 Part 4 of the Apprenticeship, Skills, Children and Learning Act 2009 (the Chief Executive of Skills Funding) is amended as follows.

2 Omit section 81 (the Chief Executive of Skills Funding) and the italic cross-heading before it.

3 Omit section 82 (apprenticeship functions) and the italic cross-heading before it.

4 In section 83 (apprenticeship training for certain young persons), in each of subsections (1) to (3), for "Chief Executive" substitute "Secretary of State".

5 (1) Section 83A (the apprenticeship offer) is amended as follows.

(2) In each of subsections (1) and (9), for "Chief Executive" substitute "Secretary of State".

(3) Omit subsection (10).

6 In section 83B (limit on scope of the apprenticeship offer), in each of subsections (1) and (5), for "Chief Executive" substitute "Secretary of State".

7 Omit section 84 (arrangements and co-operation with local authorities).

8 In section 85 (provision of apprenticeship training etc for persons within section 83 or 83A), in subsection (1), for "Chief Executive" substitute "Secretary of State".

9 (1) Section 86 (education and training for persons aged 19 or over and others subject to adult detention) is amended as follows.

(2) In subsection (1), for "Chief Executive" substitute "Secretary of State".

(3) Omit subsection (3).

(4) In subsection (4) —

(a) for "Chief Executive" (in each place where it occurs) substitute "Secretary of State";

(b) omit paragraph (i).

10 (1) Section 87 (learning aims for persons aged 19 or over: provision of facilities) is amended as follows.

(2) In each of subsections (1) and (3), for "Chief Executive" substitute "Secretary of State".

(3) In subsection (5) —

(a) for "Chief Executive" substitute "Secretary of State";

(b) omit paragraph (f).

11 In section 88 (learning aims for persons aged 19 or over: payment of tuition fees), in each of subsections (1), (2), (2A), (3), (4) and (6)(a), for "Chief Executive" substitute "Secretary of State".

12 In section 90 (encouragement of education and training for certain persons), in subsection (1) —

(a) for "Chief Executive" substitute "Secretary of State";
(b) for "Chief Executive's remit" (in each place where it occurs) substitute "Secretary of State's remit under this Part".

13 Omit sections 100 to 103 (provision of financial resources by Chief Executive and performance assessments) and the italic cross-heading before them.

14 In section 105 (promoting progression from level 2 to level 3 apprenticeships), in each of subsections (1) and (6), for "Chief Executive" substitute "Secretary of State".

15 Omit section 106 (advice and assistance in relation to apprenticeships).

16 (1) Section 107 (provision of services) is amended as follows.

(2) In each of subsections (1) and (3) for "Chief Executive" (in each place where it occurs) substitute "Secretary of State".

(3) In subsection (4), omit paragraph (a).

(4) Omit subsection (5).

(5) In subsection (6), for "Chief Executive" substitute "Secretary of State".

17 Omit sections 108 and 109 (advice and assistance with respect to employment and training).

18 Omit section 110 (research, information and advice) and the italic cross-heading before it.

19 Omit section 111 (power to confer supplementary functions on Chief Executive).

20 In section 115 (persons with learning difficulties), in subsection (1)—
(a) for "Chief Executive" substitute "Secretary of State";
(b) for "the functions of the office" substitute "functions under this Part".

21 In section 116 (persons subject to adult detention)—
(a) for "Chief Executive" substitute "Secretary of State";
(b) for "the functions of the office" substitute "functions under this Part".

22 Omit sections 117 to 120 (information, guidance and directions).

23 Before section 121 (in Chapter 4) insert—

"120A Territorial application of Part

The functions of the Secretary of State under this Part, other than the functions conferred by section 107, are exercisable in relation to England only."

24 (1) Section 121 (interpretation) is amended as follows.

(2) In subsection (1), omit the definition of "functions of the office".

(3) In each of subsections (2) and (3), for "the Chief Executive's remit" substitute "the Secretary of State's remit under this Part".

25 Omit Schedule 4 (which makes provision for the establishment etc. of the office of the Chief Executive).

26 In Schedule 5 (learning aims for persons aged 19 or over)—

(a) in paragraph 3(2), for "Chief Executive" (in each place where it occurs) substitute "Secretary of State";
(b) in paragraph 8, omit paragraph (a).

27 In consequence of the amendments made by this Schedule to Part 4—
(a) for the title of the Part substitute "Apprenticeships and adult education and training: role of Secretary of State";
(b) for the title of Chapter 1 substitute "Apprenticeships and adult education and training";
(c) for the title of Chapter 2 substitute "Provision of services to other bodies";
(d) in the title of Chapter 3, omit "Chief Executive's functions:".

SCHEDULE 13

Section 32

FURTHER AND HIGHER EDUCATION: REDUCTION OF BURDENS

Regulation of qualification requirements for teaching staff and principals

1 (1) The following provisions of the Education Act 2002 cease to have effect in relation to England—
(a) section 136(a) (which allows regulations to be made prohibiting the provision of education at a further education institution by a person who does not have a specified qualification);
(b) section 136(b) (which allows regulations to be made prohibiting the provision of education at a further education institution by a person unless the person is serving or has served a probationary period);
(c) section 137 (which allows regulations to be made providing that a person may serve as the principal of a further education institution only if the person has a specified qualification);
(d) section 138 (which makes further provision for the purposes of sections 136 and 137).

(2) Accordingly, those provisions are amended as follows—
(a) in section 136(a), after "further education institution" insert "in Wales";
(b) in section 136(b), after "further education institution" insert "in Wales";
(c) in section 137(1), after "further education institution" insert "in Wales";
(d) in section 138, omit subsection (2).

Control of governance of designated institutions conducted by companies

2 (1) Section 31 of the Further and Higher Education Act 1992 (which confers powers on the Secretary of State and the Welsh Ministers to give directions for the purpose of securing that the articles of association etc of institutions designated under section 28 of that Act and conducted by companies are amended as specified in the directions) ceases to have effect in relation to England.

(2) Accordingly, in section 31(1), after "designated institution", insert "in Wales".

Conversion of sixth form college corporations into further education corporations

3 In the Further and Higher Education Act 1992, in section 33D (conversion of sixth form college corporations into further education corporations)—

(a) omit subsection (2)(b) (which confers power on the Secretary of State to covert a sixth form college corporation into a further education corporation if satisfied that it is no longer appropriate for the body to be a sixth form college corporation), and the "or" before it;

(b) omit subsection (4) (which makes provision about consultation before the exercise of the power for that purpose).

Control of interest rates on loans

4 In the Further Education Act 1985, omit section 3 (which confers powers on the Secretary of State and the Welsh Ministers to determine the minimum rate of interest on loans made under that Act by local authorities to certain bodies providing education etc).

Transfer of property etc

5 (1) The Further and Higher Education Act 1992 is amended as follows.

(2) Omit sections 23 to 26 (which make provision about the transfer of property etc to further education corporations established to conduct certain other institutions in the education sector).

(3) Omit sections 32 and 33 (which make provision about the transfer of property etc to institutions designated under section 28 of the 1992 Act).

(4) Omit section 34 (which confers power on the Secretary of State and Welsh Ministers by order to provide for property of a local authority to be made available for use by institutions within the further education sector).

(5) In consequence of the repeals made by sub-paragraphs (2) to (4)—

(a) in section 19(4)(c), for "23" substitute "27";

(b) omit section 35;

(c) omit section 36;

(d) omit section 38;

(e) omit section 58;

(f) in section 84—

(i) in subsection (1)(a), omit "Part 1 of this Act or";

(ii) in subsection (2), omit "Part 1 of this Act or, as the case may be,";

(g) in section 88(1)—

(i) omit "23, 25,";

(ii) omit "32,";

(h) in section 88A(1)—

(i) omit "25,";

(ii) omit "32,";

(i) omit Schedule 5.

Powers of Secretary of State in relation to local authority maintained institutions

6 (1) The Education (No. 2) Act 1986 is amended as follows.

(2) In section 61—

(a) omit subsection (2) (which confers powers on the Secretary of State and Welsh Ministers to make provision by regulations restricting participation by students of higher or further education institutions maintained by local authorities in the proceedings of governing bodies of those institutions);

(b) omit subsection (3).

(3) Omit section 62 (which confers powers on the Secretary of State and the Welsh Ministers to make provision by regulations requiring governing bodies of higher or further education institutions maintained by local authorities to make documents and information relating to the governing bodies available).

7 (1) The Education Reform Act 1988 is amended as follows.

(2) Omit section 158 (which requires the governing bodies of institutions providing full-time education which are maintained by local authorities in the exercise of their higher or further education functions to make reports and returns etc to the Secretary of State or Welsh Ministers on request).

(3) Omit section 159 (which confers powers on the Secretary of State and Welsh Ministers to make provision by regulations requiring local authorities to publish information relating to institutions providing full-time education which are maintained by the authorities in the exercise of their higher or further education functions).

(4) Omit section 219 (which confers default powers etc on the Secretary of State and Welsh Ministers in relation to governing bodies of institutions maintained by local authorities and providing higher or further education).

8 In section 56A of the Further and Higher Education Act 1992 (intervention powers of the Secretary of State in relation to England), in subsection (1), after "sixth form college" insert "or in the case of an institution in England which is maintained by a local authority and provides further education".

SCHEDULE 14

Section 33

SCHOOLS: REDUCTION OF BURDENS

Responsibility for discipline

1 (1) Section 88 of the Education and Inspections Act 2006 (responsibility of governing body for discipline) is amended as follows.

(2) Before subsection (1) insert—

"(A1) The governing body of a relevant school in England must ensure that the head teacher determines measures under section 89(1)."

(3) In subsection (1), after "relevant school" insert "in Wales".

(4) In subsection (2), after "governing body" insert "of a relevant school in Wales".

(5) In subsection (4)—
(a) omit paragraph (a), and
(b) in paragraph (b), omit "in relation to Wales,".

(6) In consequence of the amendments made to section 88, in section 89 of the 2006 Act (determination by head teacher of behaviour policy)—
(a) omit subsection (2);
(b) in subsection (3), omit ", so far as it is not determined by the governing body".

Home-school agreements

2 (1) Sections 110 and 111 of the School Standards and Framework Act 1998 (which require the governing bodies of certain schools to adopt home-school agreements) cease to have effect in relation to schools in England.

(2) Accordingly, in section 110—
(a) in the opening words, after "of a school" insert "in Wales";
(b) omit paragraph (b) and the "or" before it.

Determining school terms

3 (1) Section 32 of the Education Act 2002 (responsibility for fixing dates of terms and holidays and times of sessions) is amended as follows.

(2) Before subsection (1) insert—

"(A1) In the case of a community, voluntary controlled or community special school in England or a maintained nursery school in England, the governing body shall determine—
(a) the dates when the school terms and holidays are to begin and end, and
(b) the times of the school sessions."

(3) In subsection (1)—
(a) after "special school" insert "in Wales";
(b) after "nursery school" insert "in Wales".

(4) In subsection (3), in paragraph (a), after "subsection" insert "(A1) or".

Staffing matters

4 (1) Section 35(8) of the Education Act 2002 (which requires local authorities etc to have regard to guidance in relation to certain staffing matters at community, voluntary controlled and community special schools and maintained nursery schools) ceases to have effect in relation to schools in England.

(2) Accordingly, in section 35(8)—
(a) after "local authority" insert "in Wales";
(b) after "maintained school" insert "in Wales";
(c) omit paragraph (a) and the "or" following it.

5 (1) Section 36(8) of the Education Act 2002 (which requires local authorities etc to have regard to guidance in relation to certain staffing matters at foundation, voluntary aided and foundation special schools) ceases to have effect in relation to schools in England.

(2) Accordingly, in section 36(8)—
(a) after "local authority" insert "in Wales";
(b) after "maintained school" insert "in Wales";
(c) omit paragraph (a) and the "or" following it.

Publication of reports

6 (1) The Education Act 2005 is amended in accordance with sub-paragraphs (2) to (4).

(2) Omit the following provisions—
(a) section 11C(4) (provision of copies of reports relating to the investigation of certain complaints about schools);
(b) section 14A(4) (publication, and provision of copies, of interim statements about maintained schools).

(3) In section 14, for subsection (4) (publication, and provision of copies, of reports of certain general school inspections) substitute—

"(4) The appropriate authority must take such steps as are reasonably practicable, within such period following the receipt by it of the report as may be prescribed, to secure that every registered parent of a registered pupil at the school is informed of the overall assessment contained in the report of the quality of education provided in the school."

(4) In section 49, for subsection (4) (publication, and provision of copies, of reports relating to denominational education and collective worship at certain schools) substitute—

"(4) The governing body must take such steps as are reasonably practicable, within such period following the receipt by it of the report as may be prescribed, to secure that every registered parent of a registered pupil at the school is informed of the overall assessment contained in the report of—
(a) the quality of the denominational education provided by the school, and
(b) the content of the school's collective worship."

(5) In Schedule 4 to the School Information (England) Regulations 2008 (S.I. 2008/3093), after paragraph 3 insert—

"3A Where the school is a voluntary or foundation school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character, information as to where and by what means parents may access the most recent report about the school sent to the governing body under section 49 of the Education Act 2005."

SCHEDULE 15

Section 47

REMOVAL OF CONSULTATION REQUIREMENTS

National Parks and Access to the Countryside Act 1949: making of byelaws

1 In section 91 of the National Parks and Access to the Countryside Act 1949 (default powers of Secretary of State as to certain byelaws), in the proviso to subsection (1) (beginning with the words "Provided that")—

(a) after "natural beauty" insert "in Wales";

(b) omit the words "Natural England (as regards land or waterways in England) or".

Pests Act 1954: designation of rabbit clearance areas

2 In section 1 of the Pests Act 1954 (designation of rabbit clearance areas), after subsection (11) insert—

"(11A) The requirement in subsection (11)(a) does not apply to an order which applies only in relation to England."

Agriculture and Horticulture Act 1964: grading etc of horticultural produce

3 In section 23 of the Agriculture and Horticulture Act 1964 (regulations and orders under Part 3 of that Act), after subsection (1) insert—

"(1A) Subsection (1) does not apply to regulations which apply, or to an order which applies, only in relation to England."

Control of Pollution Act 1974: reduction of noise from plant or machinery

4 In section 68 of the Control of Pollution Act 1974 (regulations for reducing noise from plant or machinery), after subsection (2) insert—

"(2A) Subsection (2) does not apply to regulations which apply only in relation to England."

Agriculture (Miscellaneous Provisions) Act 1976: metrication of measurements

5 In section 7 of the Agriculture (Miscellaneous Provisions Act) 1976 (metrication of measurements), after subsection (4) insert—

"(4A) Subsection (4) does not apply to regulations which make amendments that apply only in relation to England."

Forestry Act 1979: metrication of measurements

6 In section 2 of the Forestry Act 1979 (metrication of measurements), after subsection (4) insert—

"(4A) Subsection (4) does not apply to regulations which make amendments that apply only in relation to England."

Derelict Land Act 1982: grants reclaiming or improving derelict land etc

7 In section 1 of the Derelict Land Act 1982 (powers of Secretary of State to make grants for reclaiming or improving derelict land etc), omit subsection (6A).

Horticultural Produce Act 1986: movement of horticultural produce

8 In section 3 of the Horticultural Produce Act 1986 (orders to amend that Act in connection with the movement of horticultural produce), after subsection (2) insert—

"(2A) Subsection (2) does not apply to an order which makes amendments that apply only in relation to England."

Housing Act 1988: designation of Housing Action Trust Areas

9 In section 61 of the Housing Act 1988 (consultation and publicity prior to the designation of a housing action trust area), in subsection (1) (which requires consultation with every local housing authority any part of whose district is to be included in the proposed designated area), after "designation order" insert "in relation to Wales".

Land Drainage Act 1991: codes of practice

10 In section 61E of the Land Drainage Act 1991, after subsection (4) insert—

"(5) Subsection (4) does not apply to an order which applies only in relation to England."

Water Industry Act 1991: provision of sewers

11 In section 101A (further duty of sewerage undertaker to provide sewers), in subsection (5), omit the words from the beginning to "and" in the closing words.

Environment Act 1995: National Park grant

12 In section 72 of the Environment Act 1995 (National Park grant), in subsection (2)—

(a) after "National Park authority" insert "in Wales";

(b) omit the words from ", according to whether" to "Natural England or".

Environment Act 1995: hedgerows

13 In section 97 of the Environment Act 1995 (hedgerows), after subsection (6) insert—

"(6A) Subsection (6)(d) does not apply to regulations which apply only in relation to England."

Environment Act 1995: environmental subordinate legislation

14 Omit section 99 of the Environment Act 1995 (consultation before making or modifying certain subordinate legislation for England).

Local Government Act 1999: keeping of accounts by best value authorities

15 In section 23 of the Local Government Act 1999 (regulations about the keeping of accounts by best value authorities), omit subsection (4).

Countryside and Rights of Way Act 2000: grants to conservation boards

16 In section 91 of the Countryside and Rights of Way Act 2000 (grants to conservation boards), omit subsection (2).

Local Government Act 2003: commencement of BID arrangements following appeal

17 In section 53 of the Local Government Act 2003 (commencement of BID arrangements), omit subsection (7).

Fire and Rescue Services Act 2004: schemes for combining fire and rescue authorities

18 (1) The Fire and Rescue Services Act 2004 is amended as follows.

(2) In section 2 (power to create combined fire and rescue authorities), after subsection (6) insert—

"(6A) The duty to consult under subsection (6) does not apply if—

(a) the scheme constituted a fire and rescue authority for an area in England, and

(b) the variation or revocation has been proposed by the fire and rescue authority."

(3) In section 4 (which makes provision for the continuation, variation and revocation of schemes for combining fire authorities under the Fire Services Act 1947), after subsection (5) insert—

"(5A) The duty to consult under subsection (5) does not apply if—

(a) the scheme constituted a fire and rescue authority for an area in England, and

(b) the variation or revocation has been proposed by the fire and rescue authority."

SCHEDULE 16

Section 50

LEGISLATION NO LONGER OF PRACTICAL USE

PART 1

COMPANIES

Companies Act 2006 (c. 46)

1 Omit section 1175 of, and Schedule 9 to, the Companies Act 2006 (which make amendments of Part 7 of the Companies Act 1985 and Part 8 of the Companies (Northern Ireland) Order 1986).

PART 2

INDUSTRY

Newspaper Libel and Registration Act 1881 (c. 60)

2 (1) The Newspaper Libel and Registration Act 1881 is amended as follows.

(2) In section 1 (interpretation), in the definition of "registrar", omit paragraph (a) (meaning of "registrar" in England and Wales) and the "and" following it.

(3) In section 8 (register of newspaper proprietors to be established), after "newspapers as defined by this Act" insert "that are printed or published in Northern Ireland".

(4) In section 9 (annual returns to be made)—

(a) the existing text becomes subsection (1) and that subsection is amended in accordance with paragraphs (b) and (c);

(b) for the words from the beginning to "every newspaper" substitute "In the case of a newspaper that is printed or published in Northern Ireland, it shall be the duty of those of the printers and publishers for the time being of the newspaper who are based in Northern Ireland";

(c) in paragraph (a), for "a newspaper" substitute "the newspaper";

(d) after subsection (1) (as created by paragraph (a)) insert—

"(2) For the purposes of this section and section 10, a person is "based in" Northern Ireland—

(a) in the case of an individual, if the individual's habitual place of residence is there;

(b) in the case of a body corporate, if the body is incorporated there or the body's principal place of business is there;

(c) in any other case, if the person's principal place of business is there or the person's activities are principally carried out there."

(5) In section 10 (penalty for wilful misrepresentation in or omission to make annual returns), after "each printer and publisher of such newspaper" insert "who is based in Northern Ireland".

(6) In section 11 (power to make return conferred on party to transfer of interest etc. in newspaper)—

(a) for "Any" substitute "In the case of a newspaper that is printed or published in Northern Ireland, any";

(b) for "any newspaper" substitute "the newspaper".

Industry Act 1972 (c. 63)

3 In the Industry Act 1972, in Schedule 3 (shipbuilding: transitional provisions), omit paragraph 1(b)(ii) (saving provision for the Shipbuilding Industry Board (Dissolution Provisions) Order 1971 (S.I. 1971/1939)).

Aircraft and Shipbuilding Industries Act 1977 (c. 3)

4 The Aircraft and Shipbuilding Industries Act 1977 is repealed.

5 (1) The following amendments are made in consequence of paragraph 4.

(2) In the Civil Aviation Act 1982, in Schedule 15, omit paragraph 18.

(3) In the Companies Act 1989, in Schedule 18, omit paragraph 16.

British Steel Act 1988 (c. 35)

6 The British Steel Act 1988 is amended in accordance with paragraphs 7 and 8.

7 (1) Omit section 6 (target investment limit for Government shareholding in successor company to British Steel Corporation).

(2) In consequence of sub-paragraph (1)—
(a) in section 4(1), omit "Subject to section 6(5),";
(b) in section 13(2), omit "6 or".

8 In Schedule 3 (transitional provisions and savings), omit paragraph 10 (saving provision for regulations made under section 24 of the Iron and Steel Act 1953 (compensation to officers and servants) or having effect as if made under paragraph 2 of Schedule 4 to the Iron and Steel Act 1975 (compensation to employees)).

European Communities (Definition of Treaties) (International Railway Tariffs Agreements) Order 1980 (S.I. 1980/1094)

9 The European Communities (Definition of Treaties) (International Railway Tariffs Agreements) Order 1980 is revoked.

PART 3

ENERGY

Energy Act 1976 (c. 76)

10 Omit section 9 of the Energy Act 1976 (which requires the consent of the Secretary of State for offshore natural gas to be subjected in Great Britain to certain processes of liquefaction which result in the production of liquid methane or ethane).

11 In consequence of the repeal made by paragraph 10—
(a) in the Oil and Gas (Enterprise) Act 1982, in Schedule 3, omit paragraph 37;
(b) in the Gas Act 1995, in Schedule 4, omit paragraph 11(1);
(c) in the Petroleum Act 1998, in Schedule 4, omit paragraph 12.

Electricity and Gas (Energy Efficiency Obligations) Orders

12 The following Orders (which impose energy efficiency obligations on certain gas and electricity suppliers for periods which have now expired) are revoked—
(a) the Electricity and Gas (Energy Efficiency Obligations) Order 2001 (S.I. 2001/4011);
(b) the Electricity and Gas (Energy Efficiency Obligations) Order 2004 (S.I. 2004/3392).

13 In consequence of paragraph 12, the Electricity and Gas (Energy Efficiency Obligations) (Amendment) Order 2003 (S.I. 2003/1180) is revoked.

PART 4

TRANSPORT

Road Traffic Act 1988 (c. 52)

14 (1) Omit section 64A of the Road Traffic Act 1988 (which makes it an offence to use certain unregistered vehicles on a road without an EC certificate of conformity).

(2) In consequence of the repeal made by sub-paragraph (1)—

(a) in section 183(2) of the Road Traffic Act 1988 (which makes provision about the application of certain provisions of that Act to vehicles in the public service of the Crown), for "sections 64A, 65 and 65A" substitute "sections 65 and 65A";

(b) in Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences under the Traffic Acts), omit the entry relating to section 64A of the Road Traffic Act 1988.

PART 5

ENVIRONMENT

Farm and Garden Chemicals Act 1967 (c. 50)

15 The Farm and Garden Chemicals Act 1967 is repealed.

16 (1) The following amendments are made in consequence of paragraph 15.

(2) In the Food Safety Act 1990, in Schedule 3, omit paragraph 5.

(3) In the Regulatory Enforcement and Sanctions Act 2008, in Schedule 3, omit the entry for the Farm and Garden Chemicals Act 1967.

Statutory Water Companies Act 1991 (c. 58)

17 The Statutory Water Companies Act 1991 is repealed.

18 (1) The following amendments are made in consequence of paragraph 17.

(2) In the Water Act 1983—

(a) omit section 3(5)(b);

(b) in section 10, omit the definition of "statutory water company" (but not the "and" following it).

(3) In the Water Act 1989, in section 174(8), omit "the Statutory Water Companies Act 1991,".

(4) In the Water Industry Act 1991—

(a) in section 5(5), omit "the Statutory Water Companies Act 1991,";

(b) in section 6(5)—

(i) after "water undertaker" insert "or a sewerage undertaker";

(ii) omit the words from "or a statutory water company" to the end of the subsection;

(c) in section 202(6), omit "the Statutory Water Companies Act 1991,";

(d) in section 206(10), omit "the Statutory Water Companies Act 1991,";

(e) in Schedule 3—

(i) omit paragraph 1(b) and the "and" before it;

(ii) omit paragraph 2(b) (but not the "and" following it);

(iii) omit paragraph 5(3);

(iv) in paragraph 7(4), omit paragraph (a) and the "and" following it;

(v) in paragraph 7(4)(b), omit "in any other case,";

(vi) in paragraph 8, omit paragraph (a) and the "and" following it;

(vii) in paragraph 8(b), omit "in any other case,";

(viii) in paragraph 9, in the substituted subsection (1)(c) of section 23 of the 1986 Act, omit the words from the beginning of the paragraph to "that is not a limited company,";

(ix) in paragraph 9, in the substituted subsection (2) of section 23 of the 1986 Act, omit the words from ", except where the company" to "is not a limited company,";

(f) in Schedule 13, in paragraph 4, omit the words from "(including," to the end of the paragraph.

(5) In the Water Resources Act 1991, in section 204(7), omit "the Statutory Water Companies Act 1991,".

(6) In the Enterprise Act 2002, in Schedule 15, omit the entry for the Statutory Water Companies Act 1991.

(7) In the Companies Act 2006, in section 994(3), omit paragraph (b) and the "or" before it.

Sea Fish (Conservation) Act 1992 (c. 60)

19 Omit section 10 of the Sea Fish (Conservation) Act 1992 (which requires a report on the operation of the Act to be laid before Parliament within the period of 6 months beginning with 1 January 1997).

PART 6

ANIMALS AND FOOD

Agricultural Produce (Grading and Marking) Acts 1928 and 1931

20 The Agricultural Produce (Grading and Marking) Act 1928 and the Agricultural Produce (Grading and Marking) Amendment Act 1931 are repealed.

21 (1) The following amendments are made in consequence of paragraph 20.

(2) In the Agriculture (Miscellaneous Provisions) Act 1963, omit section 23.

(3) In the Agriculture and Horticulture Act 1964, omit section 22(1).

(4) In the Criminal Justice Act 1967, in Part 1 of Schedule 3, omit the entries for the Agricultural Produce (Grading and Marking) Act 1928 and the Agricultural Produce (Grading and Marking) Amendment Act 1931.

(5) In the Trade Descriptions Act 1968—
  (a) omit section 2(4)(b);
  (b) in Schedule 1, omit paragraph 3.

(6) In the Local Government etc. (Scotland) Act 1994, in Schedule 13, omit paragraph 14.

(7) In the Regulatory Enforcement and Sanctions Act 2008, in Schedule 3, omit the entry for the Agricultural Produce (Grading and Marking) Act 1928.

Animal Health Act 1981 (c. 22)

22 Part 2A of the Animal Health Act 1981 (provision about transmissible spongiform encephalopathies in sheep) is repealed.

23 In consequence of paragraph 22, omit section 6 of, and the Schedule to, the Animal Health Act 2002.

Milk (Cessation of Production) Act 1985 (c. 4)

24 The Milk (Cessation of Production) Act 1985 is repealed.

Coal and Other Mines (Horses) Order (S.I. 1956/1777)

25 The Coal and Other Mines (Horses) Order 1956 is revoked.

PART 7

EDUCATION

Greenwich Hospital School (Regulations) (Amendment) Order 1948

26 The Greenwich Hospital School (Regulations) (Amendment) Order 1948 (S.I. 1948/2792) is revoked.

PART 8

CRIMINAL LAW

Town Police Clauses Act 1847 (10 &11 Vict. (c. 89))

27 In section 28 of the Town Police Clauses Act 1847 (which creates a number of offences) omit the paragraphs beginning—
  (a) "Every person who exposes for show, hire or sale";
  (b) "Every person who slaughters or dresses any cattle";
  (c) "Every person having the care of any waggon, cart or carriage";
  (d) "Every person who causes any public carriage, sledge, truck, or barrow";
  (e) "Every person who causes any tree or timber or iron beam";
  (f) "Every person who leads or rides any horse or other animal";
  (g) "Every person who places or leaves any furniture";

(h) "Every person who places, hangs up, or otherwise exposes to sale";
(i) "Every person who rolls or carries any cask";
(j) "Every person who places any line, cord or pole";
(k) "Every person who publicly offers for sale or distribution,";
(l) "Every person who wilfully and wantonly disturbs any inhabitant";
(m) "Every person who flies any kite,";
(n) "Every person who cleanses, hoops, fires, washes, or scalds";
(o) "Every person who throws or lays down any stones";
(p) "Every person who beats or shakes any carpet";
(q) "Every person who fixes or places any flower-pot or box";
(r) "Every person who throws from the roof";
(s) "Every occupier of any house or other building";
(t) "Every person who leaves open any vault or cellar";
(u) "Every person who throws or lays any dirt, litter, or ashes";
(v) "Every person who keeps any pigstye".

DEREGULATION BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Deregulation Bill published in draft on 1 July. They have been prepared by the Cabinet Office 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.

2. The Notes need to be read in conjunction with the draft Bill. They are not, and are not meant to be, a comprehensive description of the draft Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. The draft Deregulation Bill provides for the removal or reduction of burdens on businesses, civil society, individuals, public sector bodies and the taxpayer. These include measures relating to general and specific areas of business, companies and insolvency, the use of land, housing, transport, communications, the environment, education and training, entertainment, public authorities and the administration of justice. The Bill also provides for a duty on those exercising specified regulatory functions to have regard to the desirability of promoting economic growth. In addition the Bill will repeal legislation that is no longer of any practical use and provide ministers with a power to make similar repeals in future via secondary legislation.

4. The Bill forms part of the government's commitment to reduce the overall burden of regulation and to cut 'red tape' during this Parliament. The implementation of that programme includes measures given effect by administrative changes and also via secondary legislation. The Deregulation Bill is one of a number of government bills that is taking forward reforms where their implementation requires primary legislation.

5. Many of the measures in the Bill arise as a result of the government's 'Red Tape Challenge' programme which sought the views of businesses and the public on the removal and reform of areas of regulation.

TERRITORIAL EXTENT AND APPLICATION

6. Clause 63 sets out the territorial extent of the Bill. The Bill makes a large number of repeals, revocations and other amendments of legislation. Clause 63(1) provides that, except where specified, any repeal, revocation or other amendment made by the Bill has the same extent as the original legislation. The commentary on the Bill's clauses and Schedules explains their extent (that is the jurisdictions which the provisions form part of the law of) and also their application (if different from their extent).

7. Clause 63(2) and (3) specify those areas where the changes being made extend differently from the original legislation. These are the following paragraphs of Schedule 16, which repeals legislation which is no longer of practical use: paragraph 24 (repeal of Milk (Cessation of Production) Act 1985), paragraph 25 (repeal of Coal and Other Mines (Horses) Order 1956) and paragraph 27 (repeal of various provisions of the Town Police Clauses Act 1847). Paragraph 24 forms part of the law of England and Wales and Northern Ireland and paragraphs 25 and 27 form part of the law of England and Wales.

8. Clause 63(4) provides that clause 31(1) and (2), which abolish the office of the Chief Executive of Skills Funding, forms part of the law of England and Wales. With very limited exceptions, the Chief Executive's current functions are exercisable in relation only to England.

9. Clause 63(5) provides that the following measures form part of the law of England and Wales, Scotland and Northern Ireland:-

- the new power, conferred by clause 49, to enable a Minister to amend commencement dates in legislation, so that reference is made to the date on which a provision actually came into force, or an event actually occurred;

- the provisions set out in clauses 51 to 61 (power to make orders disapplying legislation no longer of practical use and provisions concerning the promotion of economic growth);

- the provisions concerning consequential changes, commencement and short title set out in clauses 62, 64 and 65.

10. Some provisions in the Bill deal with matters which have been devolved. It is therefore envisaged that some legislative consent motions may be needed at the appropriate time. Discussions with the devolved administrations about provisions in the Bill which relate to devolved matters are ongoing. The purpose of these discussions is to determine whether the governments in Wales, Scotland and Northern Ireland wish these provisions to be included in the Bill on introduction to Parliament.

COMMENTARY ON CLAUSES

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

11. *Subsection (1)* provides that this clause makes amendments to section 3 of the Health and Safety at Work etc. Act 1974 (general duty of employers and self-employed to persons other than their employees).

12. *Subsection (2)* amends section 3(2) of the Health and Safety at Work etc. Act 1974 (which imposes a general duty with respect to health and safety on all self-employed persons). The purpose of this amendment is to limit the scope of the general duty under section 3(2) so that only self-employed persons who conduct a "relevant undertaking" (defined in *subsection (3)*) have an obligation to conduct their undertaking in such a way as to ensure that, so far as is reasonably practicable, they themselves and other persons who may be affected thereby are not exposed to risks to their health and safety. This is a deregulatory provision because it will exempt from health and safety law those self-employed persons who have no employees, and whose workplace activities pose no potential risk of harm to others.

13. Subsection (3) inserts a new subsection (2A) into section 3 of the Health and Safety at Work etc. Act 1974. This defines "relevant undertaking" as:

- in subsection (2A)(a), an undertaking of a prescribed description. Such undertakings will be prescribed by way of regulations made by the Secretary of State under this provision to ensure the section 3(2) duty continues to apply to all self-employed persons who conduct their undertaking in a high risk sector or activity; or

- in subsection (2A)(b), an undertaking (other than one falling within paragraph (a)) of such a kind that persons who may be affected by it (other than the person conducting it or his employees) could be exposed to risks to their health and safety.

14. Section 11(4)(b) of the Health and Safety at Work etc. Act 1974 prevents the Health and Safety Executive from submitting proposals to the Secretary of State for the making of regulations for railway safety purposes. *Subsection (4)* of this clause removes the regulation-making power in new subsection (2A)(a) from the scope of section 11(4)(b). This will enable the Health and Safety Executive to recommend proposals to the Secretary of State for the making of regulations that prescribe undertakings for railway safety purposes.

15. Section 84(3) of the Health and Safety at Work etc. Act 1974 includes a power for Her Majesty by Order in Council to apply provisions of the Act outside Great Britain. In the event that such an Order in Council is in force when the clause comes into force, *subsection (5)* of this clause provides for the amendments made to sections 3 and 11 of the Health and Safety at Work etc. Act 1974 to apply outside Great

Britain for such purposes as may be specified in the Order.

16. This clause forms part of the law of England and Wales and Scotland and will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 2: Removal of employment tribunals' power to make wider recommendations

17. This clause amends section 124 of the Equality Act 2010 which sets out the remedies available to an employment tribunal where it finds that there has been a contravention of the key provisions of the Act relating to non-discrimination at work. The tribunal may make a declaration of the rights of the person making the complaint and the other party to the dispute (normally, the employer) and it may order compensation to be paid. In addition, it may make a recommendation that the other party take steps specified by the tribunal to obviate or reduce the adverse effect of any matter to which the proceedings relate. Currently, the recommendation could relate to an adverse effect on the complainant or on another person. A recommendation relating to another person is generally referred to as a "wider recommendation". Such a recommendation might, for example, relate to all members of a particular group in the employer's workforce.

18. The clause amends section 124 so as to remove the power to make a wider recommendation (set out in section 124(3)(b)). In consequence of this change, the clause also removes section 125 of the Equality Act 2010 which sets out exemptions to the power to make wider recommendations in national security cases.

19. The amendments form part of the law of England and Wales and Scotland. They will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 3: English Apprenticeships: simplification

20. This clause introduces Schedule 1 which inserts a new Chapter A1 in Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009. Part 1 is part of the law of England and Wales. Chapter 1 of that Part currently provides a regime for both "English apprenticeships" and "Welsh apprenticeships". The new Chapter A1 relates only to "English apprenticeships" and introduces a new regime for them. Chapter 1 will continue to provide the regime for "Welsh apprenticeships".

Clause 4: Driving instructors

21. This clause introduces Schedule 2 which amends Part 5 of the Road Traffic Act 1988 to remove the separate system for the registration of disabled driving instructors.

Clause 5: Motor insurers

22. Under section 147(1) and (2) motor insurance certificates or securities must be delivered in order for a policy or security to be legally effective for the purposes of

the Act. *Subsections (2) and (3)* of clause 5 amend section 147 so that delivery of the certificate or security is no longer required for the policy or security to be legally effective.

23. For private policies many organisations, in particular the police, no longer rely on the insurance certificate and use information held on the Motor Insurance Database ("MID") as evidence that a vehicle has an insurance policy in force. Therefore the change would largely reflect what happens in practice as the police and insurers hardly ever recognise delivery of the insurance certificate as significant. The MID, maintained by the Motor Insurance Bureau, is the UK repository of details of all motor insurance policies and insurers are required by law to enter details of all motor insurance policies onto the MID.

24. It will however still be a requirement for insurers or givers of securities to issue certificates, as the insurance industry wants to retain the certificates, in particular because they are valuable for certain types of policies, such as for fleets where individual vehicles are not entered on the MID.

25. Section 147(4) of the Road Traffic Act 1988 requires holders of insurance policies or securities to return their certificate of insurance or security if a policy is cancelled in mid-term. *Subsection (4)* of clause 5 removes this requirement as, when a policy is cancelled, the cancellation will be recorded on the MID. Consequentially, it will no longer be an offence not to return an insurance certificate when a policy is cancelled mid-term and so section 147(5) will be removed by subsection (4) of clause 5.

26. These amendments form part of the law of England and Wales and Scotland. These provisions will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 6: Shippers etc of gas

27. Part 1, Chapter 2, of the Energy Act 2008 (the "2008 Act") establishes a licensing regime for the storage and unloading of combustible gas. The regime applies to activities within the offshore area comprising both the UK territorial sea and the area extending beyond the territorial sea that has been designated as a Gas Importation and Storage Zone ("GISZ") under section 1(5) of that Act.

28. The clause makes an amendment to this Part of the 2008 Act. Third parties who wish to make use of an offshore gas unloading facility operated by another person who has a licence for that facility will no longer be required to have a licence themselves to unload at the facility. Such facilities are used for the importation of gas to the UK mainland. This provision will remove an unnecessary regulatory burden on international maritime transporters of gas wishing to utilise such importation facilities.

29. The clause forms part of the law of England and Wales, Scotland and Northern Ireland and will come into force on a day to be appointed by the Secretary of State in

a commencement order.

Clause 7: Suppliers of fuel and fireplaces

30. This clause amends the procedure for declaring a fuel to be an authorised fuel for the purposes of Part 3 of the Clean Air Act 1993. Under section 20 of the Clean Air Act 1993 the occupier of a building in a smoke control area commits an offence if smoke is emitted from the building's chimney. If, however, the emission was caused by the use of an authorised fuel the occupier will have a defence. In addition it is an offence under section 23 of the Clean Air Act 1993 to acquire or sell a non-authorised fuel for use in a smoke control area. The Secretary of State currently has the power under section 20(6) of the Clean Air Act 1993 to authorise fuels by regulations. Clause 7 would enable the Secretary of State to authorise fuels by publishing a list of authorised fuels and to update this list from time to time. This list will be published on the Defra website on gov.uk. Fuels which are currently authorised by regulations will be placed on this list.

31. This clause also amends the procedure in section 21 of the Clean Air Act 1993 for exempting classes of fireplace from the operation of section 20. The Secretary of State currently has the power to exempt any class of fireplace by order upon such conditions as may be specified in the order if he is satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke. This amendment would enable the Secretary of State to exempt such fireplaces by publishing a list of exempted fireplaces and any relevant conditions and to update this list from time to time. This list will be published on the Defra website on gov.uk. Fireplaces which are currently exempted by order will be placed on this list.

32. The amendments made by this clause will enable the Secretary of State to authorise fuels and exempt fireplaces as and when they are manufactured and tested rather than waiting for common commencement dates as is currently the case. This will reduce the delay that businesses currently face in bringing new fuels and fireplaces to the market. It will also remove the burden on central government of having to prepare regulations and orders each time it is proposed to approve new fuels and fireplaces.

33. This clause, like Part 3 of the Clean Air Act 1993, forms part of the law of England and Wales and Scotland but it applies only in relation to England. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 8: Sellers of knitting yarn

34. This clause revokes the Weights and Measures (Knitting Yarns) Order 1988, which requires pre-packed knitting yarn to be sold by net weight and non-prepacked knitting yarn to be sold in specified quantities. The Order is not needed anymore as there is no longer a specific EU requirement to sell knitting yarn in specified quantities (due to Directive 2007/45/EC, which abolished specified quantities for

relevant pre-packaged goods). Furthermore, a separate requirement for quantity labelling applies to knitting yarn under the Weights and Measures (Packaged Goods) Regulations 2006 (S.I. 2006/659). The revocation of the Order will lead to greater business freedom and consumer choice.

35. The clause, like the 1988 Order it revokes, forms part of the law of England and Wales and Scotland. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 9: Authorisation of insolvency practitioners

36. This clause amends Part 13 of the Insolvency Act 1986 to introduce a new regime for the partial authorisation of insolvency practitioners. Currently, individuals who are authorised to act as an insolvency practitioner are authorised in relation to all categories of appointment. Under the new regime, a person may be authorised to act only in relation to companies or only in relation to individuals. The new regime will increase accessibility to the insolvency practitioner profession and improve competition. It will also reduce the cost of training and ongoing regulation for applicants who wish to specialise.

37. The main amendments are made by *subsections (2) and (3)*. A new section 390A will be inserted to provide that an insolvency practitioner who is partially authorised will be authorised to act only in relation to companies, or only in relation to individuals. It will also provide for a person to be fully authorised to act as an insolvency practitioner and practise in all categories of appointment. Individuals who are already authorised to act as an insolvency practitioner will be fully authorised.

38. A new section 390B will be inserted to prevent insolvency practitioners who are partially authorised from accepting appointments to act in relation to a company or individual that is, or was, a member of a partnership that has outstanding liabilities. Such appointments require an individual to be fully authorised because this type of insolvency requires knowledge of both company and individual insolvency law. If a partially authorised insolvency practitioner becomes aware that they have been appointed to act in relation to such a company or individual, they will commit an offence if they continue to act in that insolvency without the court's permission. There is provision for the insolvency practitioner to be able to continue to act for a limited period without committing an offence whilst the court's permission is obtained. There is also provision for the insolvency practitioner to be able to continue to act for a limited period (without committing an offence) whilst applying for a court order appointing a fully authorised person to act in his or her place.

39. *Subsection (4)* amends the Insolvency Act 1986 to enable the Secretary of State to recognise a professional body for the purposes of granting either full or partial authorisations to its insolvency specialist members, or for the purposes of granting only partial authorisations, provided that the body regulates the practice of a profession and maintains and enforces certain rules. The Secretary of State must revoke a professional body's recognition where it appears that the body no longer

meets the relevant requirements. The Secretary of State may also revoke recognition of a professional body in relation to full authorisations and replace it with recognition in relation to partial authorisations only. The Secretary of State will be able to make transitional provisions to treat the body's insolvency specialist members as fully or partially authorised, as the case may be, for a specified period after recognition is revoked, or revoked and replaced. Bodies already recognised under existing provisions will be recognised as if capable of providing their insolvency specialist members with full and partial authorisation (see *subsection (6)*).

40. Under section 415A of the Insolvency Act 1986 the Secretary of State has the power to charge professional bodies a fee in connection with granting or maintaining recognition of the body. *Subsection (5)* amends section 415A to enable the Secretary of State to vary the fee depending on whether a body is recognised to provide full and partial authorisations or partial authorisations only.

41. Part 13 of the Insolvency Act 1986 forms part of the law of England and Wales and Scotland and the clause will too. The clause will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 10: Auditors ceasing to hold office

42. Clause 10 implements changes to Chapter 4 of Part 16 of the Companies Act 2006 (the "2006 Act") and, like the Part of the 2006 Act it amends, forms part of the law of England and Wales, Scotland and Northern Ireland. The changes emerged following a consultation by the Department for Business, Innovation and Skills in November 2009. They will reduce the regulatory burden of the notification requirements which, pursuant to Chapter 4, currently apply when an auditor resigns or is removed from office, or in some cases when the auditor is not reappointed. Chapter 4 currently includes unnecessary duplication such that, in many cases, both the company and auditor must notify Companies House and the audit authorities about the auditor's departure and the reasons for leaving. There are also unnecessary notification requirements between regulatory authorities.

43. An auditor is a person or firm appointed to examine the accounts and reports of a company, and its accounting records, and to report on whether in the opinion of the auditor the accounts give a true and fair view of a company's financial situation. Provision in the 2006 Act for the auditor's appointment and term of office is set out in sections 485 and 487 respectively (in the case of a private company) and in sections 489 and 491 respectively (in the case of a public company).

44. *Subsection (2)* of clause 10 replaces subsections (1) to (3) of section 519 of the 2006 Act with new subsections (1) to (3B).

45. New section 519(1) and (2) have the effect that an auditor of a listed company who is ceasing to hold office must always send to the company a statement of his or her (or its) reasons for leaving. "Listed company" and "non-listed company" are

defined in new section 519A (see subsection (3) of the clause).

46. New section 519(1), (2A) and (2B) have the effect that an auditor of a non-listed company who is ceasing to hold office must send to the company a statement of his or her (or its) reasons for leaving unless:

- the auditor's term of office has come to an end when he, she or it leaves; or

- the auditor's reasons for leaving (before the end of the term of office) are all "exempt reasons" as defined in the list at new section 519A(3), and there is no information that the auditor thinks should be brought to the attention of the company's shareholders or creditors.

47. New section 519(3) specifies the company and auditor details that must be included in the statement sent pursuant to new section 519(1).

48. New section 519(3A) provides that, if an auditor thinks that there is any related information (not being the auditor's actual reasons for leaving office) that should be brought to the attention of the shareholders or creditors of the company, the auditor must include that information in the statement. This might be the case even if the auditor is acting for a non-listed company and his or her reasons for leaving are exempt.

49. New section 519(3B) provides that if an auditor of a non-listed company considers that there is no such information that should be brought to the attention of the shareholders or creditors and that none of the reasons need be brought to their attention, then the auditor's statement under new section 519(1) must include a statement to that effect.

50. *Subsection (3)* of clause 10 inserts a new section 519A into the 2006 Act. Subsections (1) and (2) of new section 519A define the terms "listed company" and "non-listed company". A listed company is defined as a company whose "transferable securities" (these include shares and bonds) are listed on a regulated market such as the London Stock Exchange, or whose shares are listed on a comparable EEA market. Subsection (3) lists the "exempt reasons". These "exempt reasons" are:

- that the auditor is ceasing to practise as an auditor (this could be because an individual auditor is retiring or changing career or because an audit firm is ceasing to be in business);

- that the company the auditor is ceasing to act for qualifies for one of the exemptions from audit under Chapter 1 of Part 16 (applicable to certain small companies, dormant companies and subsidiaries) and intends to rely on one of these exemptions;

- that (broadly speaking) the auditor is ceasing to act for a "subsidiary" company

(i.e. a company completely or partly owned or controlled by another, "parent", company or other entity) because the accounts of the subsidiary are to be audited as part of the audit of the group accounts by the parent's auditor; and

- that the company the auditor is ceasing to act for is being liquidated through an insolvency procedure.

Subsection (5) of new section 519A gives the Secretary of State a power to amend, by order, the definition of "listed company" and subsection (6) specifies the relevant parliamentary procedure (negative resolution procedure) for any such order.

51. *Subsection (4)* replaces subsections (1) to (3) of section 523 of the 2006 Act with new subsections (1) to (3A). These provisions concern the giving by a company of notice to the relevant "audit authority" that an auditor is ceasing to act for the company. The relevant audit authority is defined at section 525 of the 2006 Act – in practice that authority will be the Financial Reporting Council or the accountancy body with which the auditor has his or her (or the audit firm has its) registration.

52. The new subsections provide for exceptions to this notification requirement. These exceptions apply whether or not the company is a listed company. Taken together, new subsections (1), (1A) and (2) have the effect that a company must notify the appropriate audit authority whenever an auditor ceases to act for the company before his or her (or its) term of office ends unless:

- so far as the company is aware, the auditor's reasons for leaving (before the end of the term of office) are all "exempt reasons"; and

- the company does not think there is any information relating to the auditor's departure that should be brought to the attention of the audit authority.

53. New section 523(2A) and (2B) provide that the company's notice to the relevant audit authority must be an "endorsed" copy of the auditor's statement under new section 519(1) if the company receives that statement from the auditor within certain time limits and the company agrees with its contents. (The endorsement is an endorsement to the effect that the company so agrees.)

54. New section 523(2C) provides that, in other cases, the company must provide its own statement of reasons for the auditor's departure. The company must include in that statement any information which it thinks should be brought to the attention of the audit authority. New subsections (3) and (3A) of section 523 stipulate when the company's notice must be given.

55. *Subsection (5)* of clause 10 gives effect to Schedule 4 which makes further amendments to the provisions on departing auditors.

56. Clause 10 will come into force on a day to be appointed by the Secretary of

State in a commencement order.

Clause 11: Insolvency and company law: miscellaneous
57. This clause introduces Schedule 5 which deals with matters relating to companies and insolvency.

Clauses 12 to 18 (and Schedule 6): background and territorial extent, application and commencement
58. By way of background to these measures, Part 3 of the Wildlife and Countryside Act 1981 ("the 1981 Act") requires local authorities in England and Wales to maintain and keep under review maps and statements showing public rights of way in their area. The local authorities concerned are referred to in that Act as "surveying authorities" and the maps and statements are referred to as "definitive maps and statements". Part 3 also sets out the procedures which apply where an authority wishes to make a change to the definitive map and statement for its area or where someone applies for such a change to be made.

59. A definitive map and statement is conclusive evidence of certain matters. For example, if a map shows a footpath, this is generally conclusive evidence that the public had a right of way on foot over the land on a particular date.

60. Some rights of way are not recorded on a definitive map and statement. The Countryside and Rights of Way Act 2000 (section 53) provides for unrecorded rights of way created before 1949 to be extinguished immediately after 1 January 2026 (known as the "cut-off date"), subject to certain exceptions.

61. The Highways Act 1980 also deals with public rights of way. For example, it allows applications to be made, in certain circumstances, to extinguish or divert a public right of way.

62. Clauses 12 to 18 (and Schedule 6) form part of the law of England and Wales. However, the amendments made by them make changes which affect public rights of way in England only. They will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 12: Recorded rights of way: additional protection
63. The background to this, as explained in the introduction to clauses 12 to 18, is that section 53 of the Countryside and Rights of Way Act 2000 ("the 2000 Act") provides for the extinguishment, immediately after 1 January 2026 (the "cut-off date"), of unrecorded rights of way created before 1949, subject to certain exceptions.

64. Rights of way created before 1949 but recorded on a definitive map and statement on the cut-off date will not be extinguished. Under the current law, it would, however, be possible for someone to apply to a surveying authority to have the definitive map and statement modified so as not to show the right of way. For example, an application might be made on the basis that there was no public right of

way on foot over land shown on the map as a footpath. If the application succeeded and the map was modified so as not to show the footpath, this could affect the ability of members of the public to use the path (because they would no longer be able to rely on the map as evidence of the existence of a right of way on foot). In practice, applications to modify a map and statement so as not to show a right of way are usually made on the basis that there was no right of way over the land in question. The investigation of applications based on evidence about the position before 1949 can be very difficult for authorities.

65. The clause changes the position by inserting a new section 55A in the 2000 Act. It provides that an authority may not, after the cut-off date, make a modification to a definitive map and statement if the modification might affect the exercise of a protected right of way and the only basis for the authority considering that the modification is appropriate is evidence that the right did not exist before 1 January 1949.

66. Subsection (2) of the new section 55A defines protected right of way. For example, a right of way on foot and a right of way on horseback or leading a horse over land shown on the definitive map and statement as a bridleway are protected rights of way.

67. This measure will protect the status of certain public rights of way by preventing modifications of the definitive map and statement after the cut-off date, even where evidence emerges that the right of way had been wrongly recorded. It will therefore reduce the burden on local authorities that arises from having to consider in detail applications for modifications which require an investigation of historical evidence.

Clause 13: Unrecorded rights of way: protection from extinguishment

68. The background to this clause, as with clause 12, is that section 53 of the Countryside and Rights of Way Act 2000 ("the 2000 Act") provides for the extinguishment, immediately after 1 January 2026 (the "cut-off date"), of unrecorded rights of way created before 1949, subject to certain exceptions.

69. It is thought that, in the period immediately before the cut-off date, there will be a large volume of applications to surveying authorities for modifications to be made to the definitive map and statement to show rights of way that are currently unrecorded. This is because individuals and groups in the voluntary sector are likely to carry out research so that they can make applications to have unrecorded rights of way shown on a definitive map and statement (with the result that they will not be automatically extinguished after that date). There is concern that surveying authorities will also carry out research into unrecorded rights of way during this period in order to comply with the requirement that they keep under review definitive maps and statements. This could lead to surveying authorities unnecessarily duplicating the work of individuals and the voluntary sector.

70. The clause therefore inserts a new section 56A in the 2000 Act. It enables the Secretary of State to make regulations enabling a surveying authority to designate, during a period of one year after the cut-off date, public rights of way extinguished immediately after that date under section 53 of that Act. The new section 56A also sets out what else may be included in the regulations. It is envisaged that the power to make regulations will be used to provide for designated rights to cease to be regarded as extinguished as from the time of designation. Where a right is designated, surveying authorities will be required to decide whether to modify the definitive map and statement to show the right of way. If a right of way is then shown on the map, it will remain unextinguished. If the authority decides not to show the right of way, it will normally be extinguished again.

71. The purpose of the new provision is to enable surveying authorities to wait until after the cut-off date to assess what research has been carried out by individuals and voluntary organisations. There will be a one-year period after that date within which they can act under the regulations to prevent rights of way being permanently extinguished. They will therefore be able to avoid duplicating any work done by individuals and voluntary organisations and focus, during the one-year period following the cut-off date, on areas where research has not been carried out by individuals and voluntary organisations.

Clause 14: Conversion of public rights of way to private rights of way

72. The background to this clause, as with clauses 12 and 13, is that section 53 of the Countryside and Rights of Way Act 2000 ("the 2000 Act") provides for the extinguishment, immediately after 1 January 2026 (the "cut-off date"), of unrecorded rights of way created before 1949, subject to certain exceptions.

73. There are situations where public rights of way are used by individuals to gain access to their own land. In such a case, the extinguishment of a right of way could cause real difficulties for the individuals concerned who may be prevented from obtaining access to their land.

74. The clause therefore inserts a new section 56B in the 2000 Act. It applies where a public right of way would be extinguished under section 53 of the 2000 Act immediately after the cut-off date. If the exercise of such a right of way is reasonably necessary to enable a person with an interest in land to obtain access to the land (or would have been reasonably necessary to enable that person to obtain access to a part of that land if the person had an interest in that part only), it becomes a private right of way (so that the person may continue to access the land). It does not matter whether the person is using the existing public right of way on the cut-off date, or is able to use it.

75. In the situation in which it applies, the new section 56B therefore protects the person with the interest in the land from the burden of the loss of access to it.

Clause 15: Applications by owners etc for public path orders

76. The background to this clause is that, under section 118ZA of the Highways Act 1980, owners, lessees and occupiers of land used for agriculture, forestry or the breeding of keeping of horses may apply to a local authority for an order ("a public path extinguishment order") which extinguishes a public right of way over a footpath or bridleway crossing the land. Section 119ZA of that Act confers a comparable right to apply for an order to divert such a right of way ("a public path diversion order").

77. Under the current law, applications for a public path extinguishment order or a public path diversion order cannot be made in relation to other land, even where there would be good reasons for making such an order. *Subsections (2) and (3)* of the clause therefore amend, respectively, sections 118ZA(1) and 119ZA(1) of that Act to allow the Secretary of State to prescribe in regulations other kinds of land in England in respect of which such applications may be made.

78. A further difficulty with the current law relates to the procedure that the Secretary of State must follow in determining appeals against a refusal by an authority to make an order on an application under section 118ZA or 119ZA. It is considered that the procedure is insufficiently flexible and disproportionately burdensome in relation to certain cases. For example, regardless of the merits of the appeal, the Secretary of State is required to prepare a draft of an order giving effect to the application (section 121E(1)). *Subsections (4) and (5)* therefore amend section 121E (which sets out the current procedure). The new subsection (1A)(a) gives the Secretary of State the power to determine not to make such an order without following the procedure currently set out in section 121E(1). The new subsection (1B) requires the Secretary of State to inform the applicant of a determination under the new subsection (1A)(a) and the reasons for it.

Clause 16: Extension of powers to authorise erection of stiles at request of owner etc

79. The background to this clause is that section 147 of the Highways Act 1980 authorises the erection of stiles, gates or other works on footpaths or bridleways crossing agricultural land for the purpose of preventing animals coming on to the land or escaping from it (referred to in the legislation as "the ingress or egress of animals"). However, there is no comparable provision for restricted byways or byways open to all traffic ("byways"). The main effect of this is that it is not possible for authorities to authorise the erection of gates on byways under section 147. One practical consequence of this is that owners may oppose applications to modify definitive maps and statements to show a restricted byway or a byway open to all traffic, even though they would be willing to agree to the modification if, for example, a gate were erected. Dealing with contested applications is burdensome for all those involved, including the Secretary of State who will generally have to deal with them.

80. The clause therefore amends section 147 (by inserting a new subsection (1A)) to enable a competent authority in England to authorise the erection of gates for preventing the ingress or egress of animals on a byway. The authority must be satisfied that it is expedient that gates should be erected on the byway before

authorising them. "Competent authority" is defined in the new subsection (1A)(a) and (b). This will generally be the highway authority.

81. This measure will make it easier for owners to obtain permission to erect gates on byways. It is thought that it will also have the effect of reducing the number of occasions on which applications for an order modifying a definitive map and statement to show a byway are opposed by landowners.

Clause 17: Applications for certain orders under Highways Act 1980: cost recovery

82. The background to this clause is that sections 118ZA and 119ZA of the Highways Act 1980 ("the 1980 Act") allow owners, lessees or occupiers of certain land to apply to local authorities for public path extinguishment orders or public path diversion orders. Certain amendments to those sections are made by clause 15 (so as to extend the kinds of land to which such applications may relate). The amendments made by this clause deal with the recovery of costs in respect of such applications.

83. Currently, the sections contain powers which allow the Secretary of State, in relation to England, or the Welsh Ministers, in relation to Wales, to prescribe charges payable on the making of such applications (and further charges where an order is made on the application). Under such regulations, the authority dealing with application would be able to recover its costs but only up to the prescribed amount which would be set centrally and may not be at a level which would allow the authority to recover all of its costs.

84. The clause therefore amends sections 118ZA and 119ZA of the 1980 Act so as to limit the application of the charging provisions to Wales. The purpose of this is to allow the Secretary of State (in relation to England) to use the power under section 150 of the Local Government and Housing Act 1989 to authorise charges to be imposed in respect of applications under sections 118ZA and 119ZA. Under this power, it would be possible for the Secretary of State to authorise a charge the amount of which would be at the authority's discretion, provided it does not exceed the actual cost incurred. This provides the means for removing the burden on authorities which can arise under the current law if the centrally prescribed limit does not enable it to recover all of its costs.

85. The clause also amends paragraph 2B of Part 1 of Schedule 6 to the 1980 Act. Currently, it is unclear whether the Secretary of State, who has a role in dealing with contested applications for public path orders, can recover the costs of determining such an application by appointing a person to consider and deal with written representations instead of holding an inquiry or an oral hearing. The amendment clarifies that the Secretary of State may recover the costs (under the same principles governing the recovery of the costs of holding an inquiry or conducting an oral hearing).

Clause 18: Ascertainment of public rights of way: procedure

86. This clause introduces Schedule 6, which makes changes to the procedure for ascertaining public rights of way in England.

Clause 19: Erection of public statues (London): removal of consent requirement

87. This clause repeals section 5 of the Public Statues (Metropolis) Act 1854 (the "1854 Act").

88. Section 5 of the 1854 Act requires the consent of the commissioners of works to be obtained before a public statue can be erected in a public place in the Metropolitan Police District of London. The functions of the commissioners of works are now vested in the Secretary of State for Culture, Media and Sport. By virtue of the London Government Act 1963, as amended by the Greater London Authority Act 1999, the Metropolitan Police District of London is now the area of Greater London, excluding the City of London, and the Inner and Middle Temples. The purpose of section 5 of the 1854 Act was to stop the proliferation of statues in public places in London.

89. The 1854 Act was introduced before the introduction of modern day planning laws, which now provide controls over the erection of statues in public places in London. Section 57 of the Town and Country Planning Act 1990 now requires planning permission for the carrying out of any development of land (which includes, by virtue of sections 55 and 336 of that Act, any structure or erection). In practice, the Secretary of State only considers an application for consent under section 5 of the 1854 Act after planning permission has been granted by the local planning authority.

90. The effect of the clause would be to repeal section 5 of the 1854 Act, which would remove the requirement for the consent of the Secretary of State in these circumstances.

91. Section 5 is only of practical application to London. The clause will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 20: Reduction of qualifying period for right to buy

92. This clause amends Part 5 of the Housing Act 1985 which enables tenants of a local authority to exercise the right to buy their home provided they meet the eligibility criteria set out in the 1985 Act. To qualify for the right to buy tenants must currently have spent at least 5 years as public sector tenants. The clause amends section 119 of the 1985 Act to reduce the qualifying period from 5 years to 3 years.

93. Tenants of housing associations (other than those who have a preserved right to buy) have the right to buy their home from their landlord, providing the housing was acquired using public funding. This is known as the right to acquire. Under section 180(1) of the Housing and Regeneration Act 2008, a tenant of a dwelling in England has the right to acquire where the tenant meets the criteria set out, including that the tenant must satisfy any qualifying conditions in Part 5 of the Housing Act

1985 (the right to buy provisions). Therefore, the amendment to the qualifying period for the right to buy will also apply to tenants with the right to acquire.

94. The clause does not change the discounts available to tenants under the right to buy. Tenants will continue to receive a starting discount of 35% for houses and 50% for flats. The increase in the starting discount for each complete year of the qualification period will continue to apply only when the qualifying period exceeds 5 years.

95. The clause, like Part 5 of the Housing Act 1985, forms part of the law of England and Wales but the change made by the clause applies to England only.

96. The clause will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 21: Removal of power to require preparation of housing strategies

97. Section 87(1) of the Local Government Act 2003 (the "LGA 2003") affords a discretionary power to the appropriate person (defined in section 124 as the Secretary of State, in relation to authorities in England, and the National Assembly for Wales, in relation to authorities in Wales) to require a local housing authority to have a strategy in relation to certain specified matters relating to housing.

98. Section 88 of the LGA 2003 provides that the appropriate person may require a local housing authority to designate any material relating to property in its Housing Revenue Account, which it includes in a statement prepared for the purposes of section 87, as being, or forming part of, the authority's Housing Revenue Account business plan.

99. The clause amends sections 87 and 88 of the LGA 2003 so as to limit their application to Wales only. Sections 87 and 88 are to no longer apply to England as the power of the Secretary of State in section 87(1) has never been exercised, and there is no intention for it to be exercised in the future.

100. The clause forms part of the law of England and Wales but the changes will have an effect only in England. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 22: Removal of restrictions on provision of passenger rail services

101. This clause adjusts section 10(1) of the Transport Act 1968 to enable the existing legal powers of a Passenger Transport Executive ("PTE") in England to carry passengers by rail to be used beyond and outside its current geographic limit (that current limit being 25 miles beyond the boundary of its jurisdiction). It does so by inserting a new paragraph (ia) into section 10(1). Sub-paragraph (a) expressly empowers a PTE in England to carry passengers by railway within its area and also outside its area anywhere in Great Britain. Sub-paragraph (b) maintains the current 25 mile limit for any PTE in Wales or Scotland (although there is currently no PTE in

Wales or in Scotland). Consequential on this the clause adjusts section 10(1)(ii) of the Transport Act 1968 to remove rail from its scope and to reiterate that this paragraph does not confer power to carry passengers by road.

102. This clause forms part of the law of England and Wales, Scotland and Northern Ireland. However it will only affect PTEs which are in England, albeit it will enable those PTEs to carry passengers by railway anywhere in Great Britain. It will come into force on a day to be appointed by the Secretary of State in a commencement order.

103. These changes follow the government's response of November 2012 to the consultation on rail decentralisation ("*Rail Decentralisation – Devolving decision making on passenger rail services in England*" - March 2012).

104. This clause also introduces Schedule 7, which makes related amendments.

Clause 23: Reduction of burdens relating to the use of roads and railways

105. This clause introduces Schedule 8, which makes changes to the regulation of the use of roads and railways.

Clause 24: Reduction of burdens relating to enforcement of transport legislation

106. This clause introduces Schedule 9, which makes changes to the enforcement of certain aspects of transport legislation.

Clause 25: Removal of duty to order re-hearing of marine accident investigations

107. This clause repeals that part of section 269(1) of the Merchant Shipping Act 1995 which requires the Secretary of State to order the rehearing of a formal investigation into a marine accident if new and important evidence which could not be produced at the investigation has been discovered. The Secretary of State would retain the discretionary power in that subsection to reopen any formal investigation and would continue to be subject to the subsection's requirement to reopen such an investigation where there are grounds for suspecting a miscarriage of justice.

108. Consequently, in the event of new and important evidence relating to a marine accident being discovered, the Secretary of State would be able to evaluate the likely benefits of reopening an inquiry in the light of the particular circumstances. For example, where a considerable period of time has elapsed since the accident, there may be little of practical value that could be learned from the evidence that would enhance current maritime safety.

109. This clause, like section 269 of the Merchant Shipping Act 1995, forms part of the law of England and Wales, Scotland and Northern Ireland. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 26: Repeal of power to make provision for blocking injunctions

110. This provision repeals sections 17 and 18 of the Digital Economy Act 2010. Those sections contain powers to make regulations that would grant courts the power to order internet service providers to block access to websites. The court would need to be satisfied that such websites are used, or are likely to be used, to infringe copyright. In August 2011 the government announced in its paper '*Next steps for the implementation of the Digital Economy Act*' that it would not make such regulations. This was on the basis of a study carried out by Ofcom which concluded that the specific blocking injunctions in the Act were unlikely to be effective in practice.

111. This provision forms part of the law of England and Wales, Scotland and Northern Ireland and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 27: Reduction of duties relating to energy and climate change

112. This clause repeals certain sections of the Climate Change and Sustainable Energy Act 2006 (the "2006 Act") which require the Secretary of State to publish reports and targets and to take certain other steps relating to energy matters. It also makes consequential amendments to the Climate Change Act 2008, the Energy Act 2008, the Income Tax (Trading and Other Income) Act 2005, the Sustainable Energy Act 2003 and the Taxation of Chargeable Gains Act 1992. The remainder of this note on the clause describes the repeals in more detail.

113. Section 3 of the 2006 Act requires local authorities to have regard to any energy measures reports published by the Secretary of State under that section when exercising their functions. The government considers that this section is no longer required as the only report thus far was published in 2007 and is now out of date. The government does not intend to produce another report under section 3 as it considers that section 19(1A) of the Planning and Compulsory Purchase Act 2004 and informal arrangements between government and local authorities enable the relevant objectives to be pursued in other ways. This repeal has the same extent as the original provision and so forms part of the law of England and Wales only.

114. Section 81(3) of the Climate Change Act 2008 amends section 3 of the 2006 Act so that it applies in England only. This provision has not been commenced but the government considers that, in light of the repeal of section 3, it is no longer required. Section 3A of the 2006 Act, inserted by section 81(2) of the Climate Change Act 2008, which makes provision equivalent to section 3 in relation to Wales is unaffected by this repeal. This repeal has the same extent as the original provision and so forms part of the law of England and Wales only.

115. Section 4 of the 2006 Act requires the Secretary of State to publish targets in respect of the number of microgeneration systems to be installed in England and Wales and in Scotland. A microgeneration system generates electricity or heat using an energy source or technology listed in section 26(2) of the 2006 Act and has a capacity of less than 50 kilowatts (in relation to electricity) or 45 kilowatts thermal (in relation to heat). The government considers that this section is no longer required as

microgeneration is now promoted through financial incentives such as the feed-in-tariff scheme and the renewable heat incentive scheme under the Energy Act 2008 and through non-legislative frameworks such as the Microgeneration Certification Scheme. This repeal has the same extent as the original provision and so forms part of the law of England and Wales and Scotland only.

116. As section 263AZA of the Taxation of Chargeable Gains Act 1992 incorporates by reference the definition of "microgeneration system" in section 4(9) of the 2006 Act (which is being repealed), section 263AZA is amended to set out that definition in full. Section 782A of the Income Tax (Trading and Other Income) Act 2005 similarly referred to the definition in section 4(9) of the 2006 Act so is amended to instead refer to the definition inserted into section 263AZA. These amendments have the same extent as the original provision and so form part of the law of England and Wales, Scotland and Northern Ireland.

117. Section 5 of the 2006 Act modifies section 1 of the Sustainable Energy Act 2003, to require the Secretary of State to include information about any microgeneration target in sustainable energy reports published under that Act. As a consequence of the repeal of section 4 of the 2006 Act, this modification is no longer required. As a consequence section 87(2) of the Energy Act 2008, which amended section 5 of the 2006 Act, is also no longer required. These repeals have the same extent as section 5 and so form part of the law of England and Wales and Scotland only.

118. Sections 7 and 8 of the 2006 Act conferred a power on the Secretary of State to modify the conditions of electricity distribution and supply licences granted under the Electricity Act 1989, and a consequential duty on the Gas and Electricity Markets Authority to replicate any modifications for the purposes of their incorporation in licences granted after that time. The Secretary of State's power expired on 21 August 2009 and so the government considers that the sections are no longer required. This repeal has the same extent as the original provision and so forms part of the law of England and Wales and Scotland only. Clause 27(4) provides that this repeal does not affect the operation of section 33(1)(c) of the Utilities Act 2000, which ensures that licence conditions modified under section 7 of the 2006 Act do not cease to be standard conditions for the purposes of the Utilities Act 2000 and the Electricity Act 1989.

119. Section 10 of the 2006 Act requires the Secretary of State to review development orders made by the Secretary of State under section 59(2)(a) of the Town and Country Planning Act 1990 in order to consider the potential for further microgeneration provision. This has since been overtaken by the duty on the Secretary of State under sections 3 and 4 of the Green Energy (Definition and Promotion) Act 2009, which requires the Secretary of State to amend the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418) to provide for microgeneration in dwellings in England and to consider such amendment in relation to non-domestic land in England. This repeal has the same extent as the original

provision and so forms part of the law of England and Wales only.

120. Section 12 of the 2006 Act inserted subsection (1)(e) of section 1 of the Sustainable Energy Act 2003, in relation to energy efficiency of residential accommodation. Section 12 is no longer required as section 1(1)(e) was repealed by section 118(3)(a) of the Energy Act 2011. This repeal has the same extent as the original provision and so forms part of the law of England and Wales only.

121. Section 14 of the 2006 Act required the Secretary of State to lay a report before Parliament by February 2007 regarding steps to secure compliance with building regulations requirements regarding conservation or use of fuel and power or reduction of greenhouse gas emissions. The required report was published and the government considers that this section is no longer required due to the obligation on the Secretary of State under section 6 of the Sustainable and Secure Buildings Act 2004 to report to Parliament on building stock. This repeal has the same extent as the original provision and so forms part of the law of England and Wales only.

122. Sections 19 and 21 of the 2006 Act require the Secretary of State to take steps to promote community energy projects and to promote the use of heat produced from renewable sources. The government considers that these sections are no longer required in light of the duties on the Secretary of State under the Climate Change Act 2008 and the powers to create financial incentives under the Energy Act 2008. This repeal has the same extent as the original provision and so forms part of the law of England and Wales only.

123. Section 22 inserts section 1(1A)(ba) and (bb) of the Sustainable Energy Act 2003, which requires the Secretary of State to include information about the steps taken under sections 19 and 21 of the 2006 Act in any sustainable energy report. As a consequence of the repeal of sections 19 and 21 of the 2006 Act, these provisions are no longer required. This repeal has the same extent as the original provision and so forms part of the law of England and Wales, Scotland and Northern Ireland.

124. This clause will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 28: Model clauses in petroleum licences: procedural simplification

125. Part 1 of the Petroleum Act 1998 vests rights to oil and gas within the strata of Great Britain, the territorial sea adjacent to the UK and on the UK's Continental Shelf in the Crown. Section 3 of that Part gives the Secretary of State power to grant licences to explore for and exploit these resources. Section 4 requires the Secretary of State to make regulations prescribing model clauses (terms and conditions) for such licences.

126. This clause enables the Secretary of State to have the flexibility to prescribe model clauses other than by regulations. This power enables sets of model clauses to be introduced more quickly. The power to prescribe model clauses by regulations is

retained. The clause forms part of the law of England and Wales, Scotland and Northern Ireland. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 29: Household waste: de-criminalisation

127. Under section 46 of the Environmental Protection Act 1990 (the "EPA") a waste collection authority may by notice require occupiers of premises to present their household waste for collection in a specified way. Failure, without reasonable excuse, to comply with such a requirement is an offence under section 46(6) of the EPA. Under section 47ZA of that Act, a fixed penalty may be offered as an alternative to prosecution. This clause amends the EPA.

128. *Subsection (2)* amends section 46(6) of the EPA to remove the offence in relation to England. It will remain in relation to Wales and Scotland. *Subsection (3)* inserts new sections 46A to 46D into the EPA to provide for waste collection authorities in England to issue a fixed monetary penalty for any such failure to comply. By replacing a criminal offence with a civil penalty, this clause reduces a burden on householders in England.

129. For a fixed monetary penalty to be imposed under new section 46A, a written warning must first be given. A written warning may be given where an authorised officer of a waste collection authority in England is satisfied that a person has failed without reasonable excuse to comply with a requirement about the presentation for collection of household waste and that the failure to comply has caused (or is or was likely to cause) a nuisance or has been (or is or was likely to be) detrimental to any amenities of the locality (section 46A(1) and (2)). Section 46A(3) prescribes the content of the warning. Where such a warning has been given, section 46A(4) and (5) allow the authorised officer to require the person to pay a fixed penalty. But a fixed penalty can be imposed only where:

> a) in the case of a failure to comply that was continuing at the time the written warning was given, the person has, having been given the warning, failed to comply with the requirement within the period specified in the warning, or
> b) the person has, having been given the warning, again failed without reasonable excuse to comply with the requirement or failed without reasonable excuse to comply with a similar requirement, and (in either case) the failure to comply has caused (or is or was likely to cause) a nuisance or has been (or is or was likely to be) detrimental to any amenities of the locality.

Section 46A(7) requires the service of a notice of intent before any fixed penalty can be imposed, and section 46C(1) prescribes the content of that notice. Section 46A(8) provides that the imposition of a fixed penalty must be done by notice (and the contents of such a notice are prescribed in section 46C(6)).

130. Section 46B makes provision for the amount of any such fixed penalty, which will be the amount specified by the waste collection authority in relation to its area or,

if no amount is so specified, £60 (section 46B(1)). The authority may also make provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a specified period (section 46B(2)). The Secretary of State is given powers under section 46B(3) and (4) to make regulations in connection with the powers conferred on waste collection authorities under this section, including the power to require any amount specified by an authority to fall within a range set out in the regulations. Section 46B(5) gives the Secretary of State power by order to amend the figure of £60.

131. Section 46C makes provision regarding notices of intent and final notices. Section 46C(1) prescribes the content of a notice of intent. Section 46C(2) provides that the person on whom a notice of intent is served may make representations as to why payment of a fixed penalty should not be required; this must be done within 28 days (section 46C(3)). A final notice may not be served before the expiry of the period of 28 days beginning with the day service of the notice of intent was effected (section 46C(4)). Section 46C(6) prescribes the contents of a final notice.

132. Section 46D makes provision for appeals to be made to the First-tier Tribunal against the imposition of a fixed penalty. The requirement to pay the fixed penalty is suspended pending the determination of an appeal (section 46D(2)), and the First-tier tribunal is given powers to withdraw or confirm the requirement to pay the fixed penalty under section 46D(3).

133. *Subsections (4) and (5)* make consequential amendments.

134. *Subsection (6)* introduces Schedule 10 which makes amendments to the London Local Authorities Act 2007 that are based on new sections 46A to 46C of the EPA.

135. This clause, like the EPA, forms part of the law of England and Wales and Scotland but its effect is limited to England. It will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 30: Other measures relating to animals, food and the environment

136. This clause introduces Schedule 11, which makes further provision relating to animals, food and the environment.

Clause 31: Abolition of office of Chief Executive for Skills Funding

137. This clause gives effect to Schedule 12, which amends Part 4 of the Apprenticeship, Skills, Children and Learning Act 2009 ("ASCLA"). Part 4 of ASCLA provides for there to be a Chief Executive of Skills Funding (the "Chief Executive") and prescribes certain powers and duties in relation to the provision of education and training for learners who are aged 19 or over, including powers to fund further education colleges and training providers for the delivery of specified full or part time courses in further education or vocational training, and apprenticeship

training for people aged 16 and over.

138. These changes repeal the statutory post of Chief Executive and its prescribed powers, duties and functions, and transfer certain powers and duties in respect of apprenticeship training, and further education and training for adults, to the Secretary of State. The changes will enable the Skills Funding Agency – the executive agency set up in April 2010 to support the Chief Executive exercise its functions – to operate through the powers and duties of the Secretary of State, rather than the Chief Executive. This is consistent with the government's wider commitment to improve the transparency and accountability for all public services, and will reduce administrative burden on the government by providing a clearer and more streamlined governance and accountability framework for the Agency.

Clause 32: Further and higher education sectors: reduction of burdens

139. This clause gives effect to Schedule 13, which makes amendments to the powers of the Secretary of State in relation to further education corporations, sixth form college corporations, designated institutions and local authority maintained institutions. The Schedule also makes amendments relating to the transfer of property, rights and liabilities from local authorities to further education corporations and designated institutions.

Clause 33: Schools: reduction of burdens

140. *Subsections (1) and (2)* of this clause provide for the Secretary of State's powers to require, through regulations, that governing bodies of maintained schools set annual targets in relation to school performance to cease to apply in relation to England.

141. Section 19 of the Education Act 1997 forms part of the law of England and Wales and currently applies to both England and Wales. It enables the Secretary of State (or in relation to Wales, the Welsh Ministers), by regulations, to make such provision as the Secretary of State considers appropriate (or as the Welsh Ministers consider appropriate) requiring the governing bodies of maintained schools to secure that annual targets are set in respect of the performance of pupils: in public examinations or in assessments for the purposes of the National Curriculum. Regulations made under section 19 applying to England were revoked in March 2011. The clause now provides for the power to make regulations to cease to apply in relation to England.

142. Section 19 will continue to apply to Wales (so that the Welsh Ministers will continue to be able to exercise the power conferred under section 19 to set, through regulations, annual school performance targets for maintained schools in Wales).

143. *Subsection (3)* repeals the Secretary of State's power, through regulations, to require local authorities in England to set annual targets in respect of the educational performance of pupils at schools maintained by them.

144. Section 102 of the Education Act 2005 forms part of the law of England and Wales but applies only to England. It enables the Secretary of State, by regulations, to require local authorities in England to set annual targets in respect of the educational performance of: (i) pupils at schools maintained by them; and (ii) any persons of compulsory school age (whether or not pupils at such schools) who are or have been looked after by them. The repeal will affect local authorities in England, since the Secretary of State will no longer have the power to require them to set annual targets. Regulations made under section 102 were revoked in December 2010.

145. The clause will come into force on a day to be appointed by the Secretary of State in a commencement order.

146. The clause also introduces Schedule 14, which makes further provision for the reduction of burdens relating to schools in England.

Clause 34: Exhibition of films in community premises

147. The exhibition of a film is an activity for which an authorisation (i.e. a premises licence, club premises certificate or temporary event notice) may be required under the Licensing Act 2003. Where an authorisation is required in relation to an exhibition of a film, section 136(1) of the Licensing Act 2003 provides that a person who carries on, attempts to carry on or knowingly permits that exhibition without such an authorisation commits a criminal offence.

148. This clause creates a new exemption in relation to the exhibition of a film by inserting a new paragraph 6A into Part 2 of Schedule 1 to the Licensing Act 2003. This provides that no authorisation in relation to the exhibition of a film is required under the Licensing Act 2003 where that exhibition takes place at community premises and the conditions referred to in the following paragraph are satisfied. The term "community premises" is defined in section 193 of the 2003 Act and means premises that are (or form part of) a church hall, chapel hall or other similar building or a village hall, parish hall, community hall or other similar building.

149. The exemption requires that the following conditions are satisfied:

- the entertainment takes place between 8am and 11pm on the same day;
- where the entertainment is provided to any extent for members of the public (or a section of the public) or for members of a qualifying club (or such members and their guests), it is not provided for profit;
- the audience consists of no more than 500 persons; and
- a recommendation concerning the admission of children to the exhibition of the film has been made by the film classification body or relevant licensing authority, and the admission of children to that exhibition of the film is subject to such restrictions (if any) as are necessary to comply with that

recommendation (or, if a recommendation has been made by the body and the authority, the recommendation made by the authority).

150. The clause, as with the Licensing Act 2003, forms part of the law of England and Wales only. It will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 35: Repeal of Senior President of Tribunals' duty to report on standards

151. This clause removes the duty on the Senior President of Tribunals to report each year to the Secretary of State on the standards of decision-making by the Secretary of State based on cases which are appealed to the First-tier Tribunal. The duty is contained in subsections (2) and (3) of section 15A of the Social Security Act 1998.

152. Alternative and more direct methods for providing feedback from the judiciary to the Secretary of State have in practice been developed which have made the annual report of the Senior President of Tribunals unnecessary as well as burdensome on his time. The clause forms part of the law of England and Wales and Scotland (to reflect the extent of section 15A) and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 36: Criminal procedure: written witness statements

153. This clause amends section 9 of the Criminal Justice Act 1967 to provide that Criminal Procedure Rules can alter the period under which other parties can object to a written statement being tendered in evidence. That period may not be less than the current period in statute which is seven days. To allow for a longer period within which to object will remove any perceived need to enter a 'holding' objection and so will reduce the number of witnesses brought to court to give oral evidence when the other parties do not really need them to do so.

154. The clause also removes certain procedural matters from section 9 relating to matters to be included in the statement, the serving of exhibits, the reading aloud at the hearing of the statement and the manner of service. Removing these elements of statute will allow the procedures to be governed instead by the Criminal Procedure Rules. In practice these changes will allow these procedures to be overseen by the Criminal Procedure Rule Committee, which was created by the Courts Act 2003 explicitly to make rules governing the practice and procedure to be followed in the criminal courts. The Committee will be able to ensure that the rules provide appropriate safeguards for defendants but do not require courts to follow procedures that are unnecessarily complex or lengthy.

155. Criminal Procedure Rules made under section 69 of the Courts Act 2003 govern procedure in criminal courts in England and Wales and this clause affects the law of England and Wales only. The clause will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 37: Criminal procedure: written guilty pleas

156. This clause amends section 12(7) of the Magistrates' Courts Act 1980 to provide that the Criminal Procedure Rules may dispense with the requirement for certain matters to be read aloud in court before that court may accept the guilty plea. Those matters are: the statement of facts or witness statements; any information contained in a notice served on the defendant; the guilty plea from the defendant; and any written submissions from the defendant by way of mitigation.

157. Sections 12 and 12A of the Magistrates' Courts Act 1980 allow a defendant to plead guilty in writing without attending court. The procedure can be used only for comparatively minor offences, and only where certain procedural requirements have been met. The procedure is widely used in minor road traffic cases and for TV licence evasion, for example. In these cases, even though the parties and witnesses are absent, the current statute requires the court to conduct an ordinary trial, in public, in a court room. The prosecution case and defence mitigation, if any, has to be read aloud, and the court has to announce the reasons for its sentence. Providing that Criminal Procedure Rules may dispense with certain requirements for matters to be read aloud will enable the Criminal Procedure Rule Committee to ensure that the rules provide appropriate safeguards for defendants but do not require courts to follow procedures that are unnecessarily complex or lengthy.

158. Criminal Procedure Rules made under section 69 of the Courts Act 2003 govern procedure in criminal courts in England and Wales and this clause affects the law of England and Wales only. The clause will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 38: Criminal procedure: powers to make Criminal Procedure Rules

159. This clause makes amendments that will allow Criminal Procedure Rules to provide simple procedures for various types of application to the court, including provision for applications to be made by email or by other electronic means.

160. Schedule 1 to the Police and Criminal Evidence Act 1984 allows a Circuit judge to make a production order, or in some circumstances to issue a warrant, authorising an investigator to obtain access to some types of potential evidence that investigators are not entitled to seize under a search warrant issued by a justice of the peace. Some of the current procedure is set out in that Act. This clause removes those provisions, so that Criminal Procedure Rules can supply all the necessary procedure.

161. Schedule 5 to the Terrorism Act 2000, and section 352 of the Proceeds of Crime Act 2002, allow a Circuit judge to issue a warrant for the same purpose as under the Police and Criminal Evidence Act 1984 but in connection with a terrorism investigation or in connection with an investigation into the disposal of the proceeds of crime. Section 59 of the Criminal Justice and Police Act 2001 allows a Crown Court judge to make an order for the return to its owner of property seized during an investigation. Section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 allows a prosecutor to apply to a High Court judge for permission to start

proceedings in the Crown Court where, for some unusual reason, the case has not been sent for trial by a magistrates' court. In each of these four instances the clause makes amendments that will allow Criminal Procedure Rules to supply the necessary procedure.

162. The amendments made to the Administration of Justice (Miscellaneous Provisions) Act 1933 and the Police and Criminal Evidence Act 1984 form part of the law of England and Wales. The amendments to the Terrorism Act 2000 and the Proceeds of Crime Act 2002 form part of the law of England and Wales and Northern Ireland and the amendments to the Criminal Justice and Police Act 2001 form part of the law of England and Wales, Scotland and Northern Ireland. However, Criminal Procedure Rules made under section 69 of the Courts Act 2003 govern procedure in criminal courts in England and Wales. The amendments made by the clause therefore affect England and Wales only. The clause will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 39: "MAPPA" arrangements to cease to apply to certain offenders

163. Multi-Agency Public Protection Arrangements ("MAPPA") are a statutory set of arrangements operated by criminal justice and social care agencies that seek to reduce the serious re-offending behaviour of sexual, violent and other offenders and protect the public from serious harm. They were introduced by the Criminal Justice Act 2003. They are designed to allow criminal justice agencies to share information regarding serious offenders in order to protect the public.

164. The provisions of the Criminal Justice Act 2003 impose a duty on the agencies concerned to make arrangements to co-operate with each other in managing the risks posed by certain offenders. This offender group is largely comprised of those sexual and violent offenders described by section 327 of the Criminal Justice Act 2003.

165. Clause 39 is only concerned with the duty as it relates to those offenders who receive, or meet the conditions to receive, a disqualification order (currently covered by section 327(5)). The court's power to impose disqualification orders was repealed by the Safeguarding Vulnerable Groups Act 2006 but the MAPPA arrangements currently apply to those who received them in the past. The government does not consider that it is necessary for the arrangements to continue to apply automatically to persons solely because they received a disqualification order. Clause 39 therefore amends section 327 (including repealing section 327(5)) to ensure that the arrangements do not apply solely for this reason. In addition, it makes further amendments to ensure that this change does not result in a failure to manage serious offenders. New subsection 327(4A) therefore lists six further offences that, in addition to those offences listed in Schedule 15 to the Criminal Justice Act 2003, will trigger the duty to make arrangements by virtue of section 327(3) and (4). The six new offences are the only offences for which a disqualification order could have been imposed which did not previously fall within another limb of section 327. Under section 327(3) and (4) these new offences trigger the duty only where the sentence

imposed was of a certain level of seriousness or in other limited circumstances.

166. The amendments made by clause 39 form part of the law of England and Wales.

167. The amendments made by clause 39 will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 40: Repeal of powers to provide accommodation to persons temporarily admitted to the UK etc

168. This clause removes powers in section 4(1)(a) and (b) of the Immigration and Asylum Act 1999 (the "1999 Act") to provide accommodation to persons subject to immigration control who have been temporarily admitted to the United Kingdom and to persons released from immigration detention on temporary admission. The government considers that the powers were intended as a means of requiring asylum seekers to reside in accommodation centres whilst their asylum claims were being considered. The initiative was not implemented.

169. As a result of the repeal of section 4(1)(a) and (b), section 4 has been further amended to ensure that two categories of former asylum seekers may be accommodated under section 4(2) of the 1999 Act. *Subsection (3)* enables accommodation to be provided to persons whose claim for asylum is withdrawn (or treated as withdrawn). *Subsection (4)* enables accommodation to be provided to persons whose asylum claims were rejected before they reached 18 years of age and who are not eligible for support from local authorities.

170. This clause forms part of the law of England and Wales, Scotland and Northern Ireland and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 41: Removal of restriction on persons who may manage child trust funds

171. This clause provides for regulations to be made which will enable a wider range of organisations to be authorised to manage Child Trust Funds ("CTFs") held by certain looked after children.

172. A CTF is a tax advantaged savings account held by an eligible child into which money up to a specified amount can be invested each year. Until the account holder reaches 16 years old, CTFs are managed on their behalf by a 'registered contact', for example a person with parental responsibility for the account holder. Special arrangements are set out in legislation for the management of CTFs held by certain looked after children.

173. Section 3(10) of the Child Trust Funds Act 2004 provides that HM Treasury may, by regulations, authorise the Official Solicitors of England and Wales and Northern Ireland, or the Accountant of Court in Scotland, to manage the CTFs of certain children. Under the current CTF Regulation (S.I. 2004/1450), these bodies are

authorised to manage the CTFs of certain children who are looked after by local authorities, until someone with parental responsibility assumes that role or the child reaches the age of 16 and can personally manage their own account.

174. Section 16 of the Child Trust Fund Act 2004 enables regulations to be made requiring local authorities to provide certain information relating to a child to HMRC, where that child is in, or enters, the care of the local authority. This power has been used to make CTF Regulation 33A. HMRC then passes that information to the Official Solicitor or Accountant of Court (as appropriate) so that they can take on the management of the child's CTF.

175. The government considers that it should be possible for a wider range of bodies to be authorised to manage the CTFs of looked after children, including, where appropriate, third sector organisations. It is proposed that any such authorisation would be subject to appropriate safeguards and other detail set out in regulations and formal agreements with the relevant body. This is currently the case for Junior ISA children's savings accounts held by certain looked after children, which are managed on the account holder's behalf by a third sector organisation under a contract agreed with the Department for Education.

176. To give effect to this policy, s*ubsection (2)* of the clause amends section 3 of the CTF Act to provide that, in circumstances specified in regulations, HM Treasury or the Secretary of State may authorise a person other than the Official Solicitors of England and Wales or Northern Ireland, or the Accountant of Court (Scotland), to manage CTFs.

177. *Subsection (3)* of this clause amends section 16 of the CTF Act so that regulations may place a requirement on local authorities to provide information relating to certain looked after children to the person so authorised by HM Treasury or the Secretary of State for certain purposes, for example to facilitate their management of a CTF.

178. The clause forms part of the law of England and Wales, Scotland and Northern Ireland.

179. The clause will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 42: London street trading appeals: removal of role of Secretary of State in appeals

180. Clause 42 has the effect of transferring the function of determining certain London street trading appeals under the Local London Authorities Act 1990 and the City of Westminster Act 1999 from the Secretary of State to the Magistrates' Courts. Under these Acts, the majority of street trading appeals (such as appeals against the refusal of a licence) are already heard by a Magistrates' Court. However, certain appeals are currently heard by the Secretary of State. These are appeals about matters

of a more general nature (such as a decision to designate a street as one in which street trading may take place only with a licence). The government considers that this is an inefficient and inconsistent approach. The transfer of functions is therefore being made to ensure consistency of approach in relation to the forum for determining street trading appeals. In future, all street trading appeals under these Acts would be made to the Magistrates' Courts as they have considerably more expertise in making such determinations.

181. The clause forms part of the law of England and Wales. The changes apply only to the boroughs of participating London councils listed in Schedule 1 to the London Local Authorities Act 1990 that have passed a resolution commencing Part 3 of the London Local Authorities Act 1990 and to the City of Westminster.

182. The clause will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 43: Gangmasters (Licensing) Act 2004: enforcement

183. Section 15 of the Gangmasters (Licensing) Act 2004 confers power on the Secretary of State to appoint enforcement officers to enforce those provisions of the Act which prohibit an unlicensed person from acting as a gangmaster and create related offences. Alternatively or in addition, the Secretary of State may enter into arrangements with the Gangmasters Licensing Authority, or certain other specified bodies, for officers of the Authority to act as enforcement officers.

184. It is considered that the terms of section 15 may have the effect that, where the Secretary of State appoints enforcement officers or makes arrangements for their appointment, decisions about whether to prosecute must be made by enforcement officers. This has caused inconvenience, particularly for the Gangmasters Licensing Authority, whose officers do not normally discharge a prosecutorial role, in contrast to officers of the national prosecuting authorities (such as the Crown Prosecution Service in England and Wales). The amendment is therefore intended to clarify that the institution of prosecutions for offences under the Act may be carried out otherwise than by enforcement officers.

185. Schedule 2 to the 2004 Act makes special provision about the application of the Act to Northern Ireland, so a comparable amendment is made to that Schedule.

186. The amendments made by this clause (like section 15) forms part of the law of England and Wales, Scotland and Northern Ireland. They will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 44: Repeal of duty to prepare sustainable community strategy

187. This clause repeals section 4 of the Local Government Act 2000. The effect of these provisions is to remove the duty for local authorities to prepare a Sustainable Community Strategy and the linked duty to, when preparing or modifying their Sustainable Community Strategy, consult with and seek the participation of their

partner authorities and such other persons as they consider appropriate. The Sustainable Community Strategy is intended to set the overall strategic direction and long-term vision for promoting or improving the economic, social and environmental well-being of a local area.

188. The repeal is being made as part of the localism agenda and gives local authorities the freedom to decide whether or not a Sustainable Community Strategy is needed for their area. On 13 April 2011 the statutory guidance to local authorities on preparing a Sustainable Community Strategy was withdrawn, and the intention to repeal both duties once a suitable legislative vehicle had been identified was announced.

189. Section 4 forms part of the law of England and Wales but the duty to prepare a Sustainable Community Strategy only applies to local authorities in England. This clause has the same extent and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 45: Repeal of duties relating to local area agreements

190. This clause repeals legislation relating to Local Area Agreements ("LAAs").

191. LAAs were three-year agreements between local authorities, their partners and the previous government to work collectively to improve local areas. The decision to "decentralise" existing LAAs and not to require LAAs in future years was announced on 13 October 2010. As there are no longer any LAAs in local areas, in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, sections 105 to 113 and parts of sections 117 and 118 are no longer required.

192. The remaining sections in the Chapter are retained as they contain definitions used elsewhere in legislation (sections 103 – 104), amend current legislation (section 115) or relate to current policy – joint strategic needs assessments and joint health and wellbeing strategies (sections 116, 116A and 116B).

193. The 2007 Act forms part of the law of England and Wales, but the LAA-related provisions in Chapter 1 of Part 5 apply only to English authorities specified as "responsible local authorities" in section 103. This clause has the same extent and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 46: Repeal of provisions relating to multi-area agreements

194. This clause repeals Part 7 (sections 121 to 137) of the Local Democracy, Economic Development and Construction Act 2009. This legislation, which provides a formal basis for Multi Area Agreements ("MAAs"), has never been used and there are no plans to do so. The national and local collaboration within MAAs has subsequently been folded in to the government's approach to Local Enterprise Partnerships.

195. MAAs were signed in 2008, 2009 and 2010 and were voluntary, three-year agreements between local authorities, their partners and the government to work collectively to improve local economic prosperity. The legislation was introduced to allow for a formal basis to these and any future agreements. However, none of the 15 MAA areas chose to put their agreements on to a formal basis. No local authorities requested the Secretary of State to give a direction for the preparation and submission of a draft MAA for the proposed area; nor did any local authorities submit a MAA requesting approval from the Secretary of State. Consequently, the Secretary of State has not approved any MAAs following the commencement of the legislation.

196. Part 7 of the Local Democracy, Economic Development and Construction Act 2009 forms part of the law of England and Wales only (with the exception of specified provisions which also extend to Scotland and Northern Ireland), but the MAA related provisions of Part 7 are relevant only to specified kinds of English local authorities. The clause has the same extent and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 47: Repeal of duties relating to consultation or involvement

197. Clause 47(1) and (2) repeals section 3A of the Local Government Act 1999 so as to remove the duty for best value authorities to involve local representatives in the exercise of any of their functions, where they consider it is appropriate to do so. The intention to repeal this duty was announced in April 2011, on the basis that local authorities should be trusted to engage with local people without a duty being imposed on them to do so.

198. Section 3A forms part of the law of England and Wales but the duty to involve applies only to best value authorities in England. The clause has the same extent and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 48: Ambulatory references to international shipping instruments

199. This clause amends the Merchant Shipping Act 1995 (the "1995 Act") so that the powers to make secondary legislation wherever they appear in the 1995 Act can be exercised so as to provide for a reference in the legislation to an international agreement to be interpreted as a reference to the agreement as modified from time to time (and not simply to the version of the agreement that exists at the time the secondary legislation is made).

200. The current practice of implementing international maritime conventions, and regular changes to them, by means of a mixture of primary legislation and secondary legislation has resulted in a complex regulatory structure that is confusing to industry and the regulator alike. It is also time consuming and resource intensive, leading to delays in implementation – which in turn can result in ships being challenged during inspections in foreign ports leading to delays and inconvenience to UK ships.

201. The new section 306A to be inserted in the 1995 Act provides a mechanism

that will allow changes to international agreements in the maritime sector, to which the UK is a party, to take effect in UK law without the need to make further legislative or regulatory provision.

202. The practical effect of this clause would be that where the power has been applied through secondary legislation the government would not need to make further secondary legislation or publish any other regulatory document in order to give effect to changes to international obligations and standards; changes to the text of an international agreement would be automatically incorporated into UK law in the circumstances specified in the secondary legislation.

203. Secondary legislation may provide that the Secretary of State can make a direction preventing or delaying a change taking effect; such a direction from the Secretary of State has to be published. The power is necessary in order to prevent unforeseen or unwanted consequences arising from the ambulatory reference, although it is not expected this will arise very often.

204. The clause forms part of the law of England and Wales, Scotland and Northern Ireland.

205. The provisions of the clause will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clause 49: Power to spell out dates described in legislation

206. This clause allows a Minister of the Crown to amend legislation to spell out dates described in it.

207. The provisions of an Act are often expressed by reference to the date on which they come into force, or some other date, that is not known when the Act is passed. Clause 49 would allow an Act to be amended to refer to the actual date once it is known. Someone reading the Act would then know the date without having to go and look it up.

208. A short example may help to illustrate the power.

BEFORE

Section 66(2) of the Adoption and Children Act 2002 currently reads:

"(2) But references in this Chapter to adoption do not include an adoption effected before the day on which this Chapter comes into force (referred to in this Chapter as "the appointed day")."

To know whether the Chapter applies to an adoption, the reader would need to find out when it came into force. The reader would need to look up the commencement order and would then discover that the Chapter came into

force on 30 December 2005.

AFTER

The power in the Bill could be used to amend section 66(2) to read:

"(2) But references in this Chapter to adoption do not include an adoption effected before 30 December 2005 (the day on which this Chapter came into force)."

It would also be necessary to use the power to convert other references to "the appointed day" into references to "30 December 2005"; and to remove "the appointed day" from the glossary of defined terms in the 2002 Act. This would be done using the power under *subsection (2)* of the clause.

209. The clause forms part of the law of England and Wales, Scotland and Northern Ireland and will come into the force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Clause 50: Legislation no longer of practical use

210. This clause introduces Schedule 16 which disapplies specified legislation which is no longer of practical use.

Clauses 51 to 57: Power to disapply legislation no longer of practical use

211. Clause 51 provides a power for a Minister of the Crown to disapply, by an order made by statutory instrument, legislation which the Minister considers is no longer of practical use.

212. The government intends the power to be used for legislation which can be shown to be no longer of practical use for objective reasons. The main reasons are likely to be one or more of the following:

- The legislation was passed for a limited purpose which has now been achieved.
- The legislation has been superseded by other legislation.
- The legislation regulates an activity which, as a result of social or economic development, no longer takes place.

213. Schedule 16 to the Bill makes a number of repeals or revocations of legislation which is no longer of practical use. It therefore provides a number of examples of the kind of thing that might in future be done through the use of the order-making power.

214. The power applies only to Acts of Parliament and subordinate legislation made under such Acts. The power will normally be exercised by repealing an Act (or part of an Act) or by revoking subordinate legislation. There may, however, be some

cases in which this is not appropriate so clause 51 also allows legislation to be amended so as to confine its application to a particular part of the United Kingdom. There might, for example, be rare cases where legislation extends to England and Wales but continues to have a practical use only in relation to Wales.

215. Clause 52 deals with the position where an Act or subordinate legislation makes provision which falls within the legislative competence of one of the devolved legislatures. It provides that, in such a case, a Minister may make an order under clause 51 but only if the relevant devolved administration consents. For example, if the Minister wishes to repeal an Act of Parliament which includes provision falling within the legislative competence of the Scottish Parliament, the consent of the Scottish Ministers would be required.

216. Clauses 54 to 56 provide safeguards for the use of the order.

217. Clause 54 deals with consultation. A Minister must consult the Law Commission (for England and Wales), the Scottish Law Commission and the Northern Ireland Law Commission in such cases as the Minister considers appropriate. The Minister must also consult such other persons as he or she considers appropriate. Clause 54 also provides for further consultation where proposals are changed following consultation at the first stage.

218. It is envisaged that different consultation processes will be suitable for different proposals, depending on their nature and effect. For example, where legislation is being repealed because the period of its application has expired, a more restricted consultation may be appropriate.

219. The Law Commissions are mentioned specifically mainly because of their existing role in relation to the review and repeal of legislation which is no longer of practical use. The new power provides an alternative mechanism for the repeal of such legislation.

220. Clauses 55 and 56 deal with parliamentary procedure. Clause 55 requires a draft of the order and explanatory material to be laid before Parliament. Clause 56 provides for a special form of parliamentary procedure to apply to ensure that the draft order has appropriate scrutiny. The Minister may not make an order in the terms of the draft if either House so resolves within a 40-day period. It is envisaged that, during that period, the order will be scrutinised by a committee of each House. Clause 56(3) provides that, if a committee recommends that the order not be made, the Minister may not make the order unless the committee's recommendation is rejected by the House.

221. Clause 57 provides for an order made under clause 51 to include changes which are appropriate as a consequence of the primary change made by the order (for example, changes to remove references in other legislation to the provision which is

being repealed or revoked).

222. Clauses 51 to 57 form part of the law of England and Wales, Scotland and Northern Ireland. They will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clauses 58 to 61: Exercise of regulatory functions: economic growth

223. Clause 58 imposes a duty on persons exercising certain regulatory functions to have regard (in the exercise of those functions) to the desirability of promoting economic growth. In carrying out this duty, the person must, in particular, consider the importance of ensuring that any regulatory action they take is necessary and proportionate.

224. The background to these provisions is the post-implementation review of the Regulators' Compliance Code which found that regulators had a tendency to regard the promotion of economic growth as subsidiary to their statutory duties, the Focus on Enforcement reviews which found that businesses experience inconsistent or disproportionate enforcement decisions and Lord Heseltine's independent report entitled '*No stone unturned: in pursuit of growth'* which recommended that the government should impose an obligation on regulators to take proper account of the economic consequences of their actions.

225. The regulatory functions to which this new duty applies will be those specified by a Minster of the Crown under a power set out in clause 59. The power is flexible enough to permit an order to specify some regulatory functions of a particular body but not others, if it is considered appropriate for the duty to apply in relation to some but not all of its regulatory functions.

226. The power to specify functions is subject to clause 59(2) and (3) which set out consultation requirements and restrictions on the exercise of the power in relation to the devolved administrations.

227. A statutory instrument containing an order under clause 59 may not be made unless a draft had been laid before, and approved by resolution of, each House of Parliament.

228. Clause 60 provides a power for a Minister of the Crown to issue guidance on: the meaning of economic growth; how regulatory functions can be exercised so as to promote economic growth; and how persons subject to the duty can demonstrate compliance with the duty. The draft guidance is subject to consultation requirements set out at clause 60(6).

229. The guidance must be laid in draft before, and approved by resolution of, each House of Parliament as set out in clause 60(7).

230. The government recognises the importance of preserving the independence

and integrity of prosecutorial decisions and the duty under clause 58 is not intended to affect this.

231. Clause 61 defines terms used in clauses 58 to 60.

232. Clauses 58 to 61 form part of the law of England and Wales, Scotland and Northern Ireland. They will come into force on a day to be appointed by the Secretary of State in a commencement order.

Clauses 62 to 65: General

233. These clauses set out a power for the Secretary of State to make necessary consequential amendments, repeals and revocations as a consequence of the provisions in the Bill; the territorial extent of the Bill; information on the ways in which the various measures in the Bill will be commenced; and the short title of the Bill.

Schedule 1: Approved English apprenticeships

234. This Schedule inserts a new Chapter A1 in Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 (the "2009 Act"). Part 1 forms part of the law of England and Wales. Chapter 1 of that Part currently provides a regime for both "English apprenticeships" and "Welsh apprenticeships". The new Chapter A1 relates only to "English apprenticeships" and introduces a new regime for them. Chapter 1 will continue to provide the regime for "Welsh apprenticeships".

235. Chapter 1 currently contains a number of detailed provisions about apprenticeships. The main structure of the Chapter is built around the concepts of completing an apprenticeship and conditions for the issue of a completion certificate by certifying authorities, apprenticeship frameworks (which specify requirements for apprenticeships), a specification of apprenticeship standards with which apprenticeship frameworks must comply and the requirement that apprentices are employed under an apprenticeship agreement.

236. The independent Review of Apprenticeships by Doug Richard (https://www.gov.uk/government/publications/the-richard-review-of-apprenticeships) in 2012 recommended that the government improve the quality of apprenticeships and make them more focused on the needs of employers. In order to implement these improvements and enable greater diversity and innovation there is a need to simplify the statutory arrangements for English apprenticeships. The new Chapter A1 therefore simplifies the arrangements. It replaces the complex provisions which currently govern English apprenticeships with new concepts of an approved English apprenticeship and approved apprenticeship standards which will be based on recognised industry standards and outcomes.

237. An approved English apprenticeship is generally an arrangement which takes place under an English apprenticeship agreement between employer and apprentice. The apprenticeship is a combination of paid employment and training towards

achievement of a recognised standard. The Secretary of State can make regulations requiring the apprenticeship and the agreement to satisfy specified conditions. The approved apprenticeship standards are prepared and published by the Secretary of State. The Secretary of State has power to issue certificates to those who complete an approved English apprenticeship and to delegate the Secretary of State's powers under the new provisions (other than the power to make regulations). These provisions reduce bureaucratic burdens; for example by removing the existing detailed provision for the issue of apprenticeship frameworks by issuing authorities. The government intends to use the new provisions to ensure that employers have more direct control over apprenticeship training, allowing them to focus on what they actually value.

238. The consequential amendments in Part 2 of Schedule 1 amend Chapter 1 of Part 1 of the 2009 Act so that the Chapter will apply only to "Welsh apprenticeships". They also make other consequential amendments to that Act.

239. The provisions form part of the law of England and Wales but apply only to "English apprenticeships".

240. The provisions will come into force on a day to be appointed by the Secretary of State in a commencement order.

Schedule 2: Driving instructors

241. This Schedule amends Part 5 of the Road Traffic Act 1988 both before the commencement of amendments to that Part by Schedule 6 to the Road Safety Act 2006 and thereafter.

Part 1: Amendments of Part 5 Road Traffic Act 1988 (as amended by Road Safety Act 2006)

242. Part 1 of the Schedule amends Part 5 of the Road Traffic Act 1988 in the form it will be in once the amendments made by the Road Safety Act 2006 come into force. The Road Safety Act 2006 amendments to Part 5 of the Road Traffic Act 1988 mean that: the restrictions on the giving of paid driving instruction extend to all motor vehicles and not only cars; registration is in respect of a prescribed description of driving instruction; and provision for the licensing of trainee instructors to deliver paid instruction prior to becoming registered is omitted.

243. The Part 1 amendments omit the provisions of Part 5 of the Road Traffic Act 1988 which relate to disabled driving instructors and amend the Part so that there will be one system of registration which will apply to all instructors.

244. Sections 125 and 125ZA of the Road Traffic Act 1988 are amended to provide for the Registrar of Approved Driving Instructors ("the Registrar") to have power to require a person, whether disabled or not, to undergo an assessment as to their ability to control a motor vehicle of a prescribed class in an emergency ("an assessment"). The Registrar will be able to exercise the power when a person applies to become an approved driving instructor ("ADI"), or at any time when a person is registered. The

power is only exercisable if the Registrar has reasonable grounds for believing that the person in question would be unable to take control of the motor vehicle if an emergency arose whilst they were giving driving instruction.

245. Section 125 of the Road Traffic Act 1988 is also amended so that all persons applying to become an ADI must disclose any disabilities which currently, or may in the future, affect their driving and so that it is an offence not to do so.

246. Section 125ZA of the Road Traffic Act 1988 is also amended to provide that an ADI who is required to undergo an assessment must hold a certificate to the effect that such an assessment has been successfully undertaken in a prescribed class of vehicle ("a certificate").

247. Section 125ZA of the Road Traffic Act 1988 is further amended to impose a condition on an ADI that, if driving instruction is to be given where there is a reasonable expectation of an emergency arising which necessitates the ADI taking control of the prescribed vehicle, instruction will only be given if the ADI has the ability to take control in an emergency.

248. Section 133D of the Road Traffic Act 1988 is amended so that for those registered in respect of a description of driving instruction, and who are required to undergo an assessment, it is an offence to give paid instruction –

- unless they hold a current certificate; or

- in a vehicle other than one of a class specified in their certificate unless the driver holds a full licence for that class of vehicle and has not been notified by the Secretary of State that due to a disability their driving is likely to be a danger to the public.

249. Section 128B is inserted into the Road Traffic Act 1988 to allow the Registrar to withdraw a requirement to submit to an assessment or to direct that such a requirement is to be disregarded and provide for an application to be made for a further assessment where an earlier one was undertaken unsuccessfully.

Part 2: Transitory amendments of Part 5 Road Traffic Act 1988 (before amendment by Road Safety Act 2006)

250. Part 2 amends the Road Traffic Act 1988 prior to the commencement of section 42 of, and Schedule 6 to, the Road Safety Act 2006. Before the commencement of those provisions, Part 5 of the Road Traffic Act 1988 relates to the provision of paid driving instruction in motor cars only and provides for the registration of persons as an ADI and the licensing of trainee driving instructors.

251. The Part 2 amendments are transitory and have the effect of amending the Road Traffic Act 1988 only until the commencement of section 42 of, and Schedule 6

to, the Road Safety Act 2006.

252. The Part 2 amendments are similar in effect to those made by Part 1 and take account of the differences between Part 5 of the Road Traffic Act 1988 before and after the amendments made by the Road Safety Act 2006.

Part 3: Consequential and related amendments

253. Consequential amendments are made to the Road Traffic (Driving Instruction by Disabled Persons) Act 1993, the Road Traffic Offenders Act 1988 and the Road Safety Act 2006.

254. The extent of clause 4 and Schedule 2 is the same as the Road Traffic Act 1988 and so the provisions form part of the law of England and Wales and Scotland. They will come into force on a day to be appointed by the Secretary of State in a commencement order.

Schedule 3: Motor insurance industry: certificates of insurance

255. Schedule 3 contains amendments which are consequential on the amendments made by clause 5.

Schedule 4: Auditors ceasing to hold office

Part 1: Notification requirements

256. Part 1 of Schedule 4 makes amendments to Chapter 4 of Part 16 of the Companies Act 2006 (the "2006 Act") and, together with Part 2 of the Schedule, forms part of the law of England and Wales, Scotland and Northern Ireland (in line with the extent of the 2006 Act).

257. *Paragraphs 2 and 4* omit sections 512 and 517 respectively of the 2006 Act and, in doing so, remove the requirements for a company to notify the registrar of companies if its auditor is removed from office by the company or resigns from office.

258. *Paragraph 3* amends subsection (2) of section 516 of the 2006 Act. Currently section 516 provides that a notice of resignation sent by an auditor of a company is ineffective if that notice is not accompanied by the statement required by the current section 519. The effect of the amendment is that an auditor's notice of resignation will only be ineffective if the auditor is resigning from a listed company and that notice is not accompanied by a statement pursuant to the amended section 519.

259. *Paragraph 5* makes amendments to section 518 consistent with the changes to section 519 made by clause 10. The effect is that, for a non-listed company, a resigning auditor's rights (to call a shareholders' meeting to explain his or her (or its) reasons for resigning) do not apply where the auditor's statement under new section 519(1) includes a declaration pursuant to new section 519(3B).

260. *Paragraphs 7 and 8* amend sections 520 and 521 (respectively) of the 2006

Act. The effect is that a non-listed company does not need to circulate a copy of the auditor's statement under new section 519(1) to its shareholders and creditors, and the auditor does not need to send a copy to the registrar of companies, where the auditor's statement includes a declaration pursuant to new section 519(3B).

261. Currently section 522 provides that an auditor must in many cases notify the audit authority of his or her (or its) reasons for leaving office. *Paragraph 9* amends this section 522 requirement such that only an auditor who must send a statement to the company in accordance with new section 519(1) must send a copy of that statement to the appropriate audit authority.

262. *Paragraph 10* removes the mandatory duty in section 524 for an audit authority to inform the accounting authorities (the Financial Reporting Council's conduct committee and the Secretary of State) about an auditor's departure. However, the amending provision makes it clear that the audit authority has a discretion to pass on to the accounting authorities a copy of the auditor's statement or any other relevant information connected to the auditor's departure.

Part 2: Miscellaneous

263. *Paragraph 14* amends subsection (2) of section 514 of the 2006 Act. This section applies where a private company intends, by written resolution, to appoint a new auditor in place of an outgoing auditor whose term of office has already expired or is due to expire at the end of the "period for appointing auditors" (see section 485 of the 2006 Act). Section 514 sets out a special procedure that must be followed, which includes sending a copy of the written resolution to both the outgoing auditor and the new auditor and allowing the outgoing auditor to make representations. The amendment makes it clear that section 514 only applies, in cases where either of the conditions set out in paragraph (a) or (b) of subsection (2) are met, where the auditor's term of office has already ended (as opposed to being due to end).

264. *Paragraph 15* amends section 515 in a similar manner. Section 515 applies to a resolution at a shareholder meeting whose effect would be to appoint a new auditor in place of an auditor whose term of office has already ended or is to end at the time mentioned in paragraph (a) or (b) of subsection (1) of that section. Section 515 stipulates that special notice of such a resolution is required and provides for such things as the sending by the company of a copy of the intended resolution to both the outgoing and the new auditor and allowing the outgoing auditor to make representations. The principal amendment makes it clear that section 515 only applies, in cases where any of the conditions set out in paragraph (a) or (b) of subsection (2) are met, where the auditor's term of office has already ended (as opposed to being due to end).

265. The amendments of sections 514 and 515 address a drafting difficulty with the current subsection (2) of those sections which does not appear to take account of the possibility of the auditor's term of office coming to an end after the resolution is

proposed.

266. Broadly speaking, *paragraphs 16 to 20* replace references to documents being "deposited" (e.g. at the company's registered office) with references to documents being "sent". The effect is to facilitate electronic communication by engaging section 1143 of, and Schedules 4 and 5 to, the 2006 Act.

267. Schedule 4 will come into force on a day to be appointed by the Secretary of State in a commencement order.

Schedule 5: Insolvency and company law

Part 1: Deeds of arrangement

268. *Paragraphs 1 and 2* repeal the Deeds of Arrangement Act 1914 ("DOAA 1914") and make consequential amendments to other legislation. A deed of arrangement is an alternative to bankruptcy. It is a contract between a debtor and his creditors that provides for the assignment of the debtor's assets for the benefit of his creditors or a composition, where some or all creditors agree to accept a lesser sum in full satisfaction of their claims. The DOAA 1914 sets out the statutory scheme whereby an individual can execute a deed or other instrument.

269. In June 1982 *The Report of the Review Committee* ("the Cork Committee") recommended that the DOAA 1914 be repealed and be replaced by introduction of a formal voluntary arrangement. This recommendation was based on the grounds that deeds of arrangement were legally complex, unreliable in practice and therefore little used. Individual voluntary arrangements were introduced by the Insolvency Act 1986, although the DOAA 1914 was not repealed at that time.

270. Since 1986, individual voluntary arrangements have increased in popularity and in 2011/2012 there were 49,932 such arrangements. They have effectively replaced deeds of arrangement. There is only one deed of arrangement still in existence, which was registered in 2004. This deed of arrangement will have the benefit of the saving provision at *paragraph 3*. Individual voluntary arrangements better meet debtor's requirements as they are binding on all creditors, even where a creditor was unaware of the proposal at the time it was approved.

271. The DOAA 1914 forms part of the law of England and Wales only and its repeal will have the same extent. Paragraphs 1 to 3 will come into force on a day to be appointed by the Secretary of State in a commencement order.

Part 2: Administration of companies

Appointment of administrators

272. Administration is an insolvency proceeding where the affairs, business and property of the company are managed by an administrator. The primary aim of an administration is to ensure the company's survival as a going concern, and failing that to achieve a better result for the company's creditors than would be likely if the

company was wound up. An administrator may be appointed by the company, directors or a qualifying floating charge holder by giving notice and filing prescribed documents at court. Alternatively, an administrator may be appointed by the court on application by the company, directors or creditors.

273. *Paragraph 5* inserts a new paragraph 25A into Schedule B1 to the Insolvency Act 1986 to enable a company or the directors of a company to appoint an administrator despite the presentation of a winding-up petition, if the petition was presented during an interim moratorium. Like that Schedule to that Act, paragraph 5 forms part of the law of England and Wales and Scotland. The act of filing with the court notice of intent to appoint an administrator under paragraph 27 of Schedule B1 to the Insolvency Act 1986 commences an interim moratorium in respect of the company (paragraph 44(4) of that Schedule). The interim moratorium prevents other insolvency proceedings or legal processes against the company being instituted or continued. The new paragraph 25A clarifies that the prohibition (under paragraph 25(a) of Schedule B1) on appointing an administrator when a winding-up petition has been presented and not yet disposed of applies only to a petition presented before an interim moratorium comes into effect.

274. *Paragraph 6* removes a requirement in paragraph 26(2) of Schedule B1 to the 1986 Act to give notice of intention to appoint an administrator to persons who are not themselves entitled to appoint an administrative receiver or administrator in certain circumstances. Paragraph 6 forms part of the law of England and Wales and Scotland.

275. At present a company or its directors intending to appoint an administrator must give notice of the intention to appoint to anyone entitled to appoint an administrative receiver of the company, to any holder of a qualifying floating charge entitled to appoint an administrator, and to other prescribed persons. The prescribed persons are set out in rule 2.20 of the Insolvency Rules 1986, and include the company (if the company is not intending to make the appointment) and a supervisor of a company voluntary arrangement under Part 1 of the Insolvency Act 1986. Unlike those entitled to appoint a receiver or administrator, the prescribed persons cannot block the appointment of an administrator.

276. The requirement to give notice to these prescribed persons can lead to unnecessary delays in the administrator's appointment where there is no one else to whom notice of intention to appoint must be given and so the requirement is being removed by paragraph 6. The prescribed persons will in any event receive notice of the appointment when it is made.

277. Paragraph 5 will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act and paragraph 6 will come into force on a day to be appointed by the Secretary of State in a commencement order.

Release of administrator where no distribution to unsecured creditors other than by

virtue of section 176A(2)(a)

278. *Paragraph 7* amends paragraph 98 of Schedule B1 to the Insolvency Act 1986 and like that Schedule forms part of the law of England and Wales and Scotland. The amendment makes it clear that where an administrator of a company has been appointed by a floating charge holder or by the company or its directors and there are insufficient assets to enable a distribution to be made to the unsecured creditors (other than under section 176A(2)(a) of the Insolvency Act 1986 - the "prescribed part"), there is no requirement for all of the creditors to resolve to give the administrator his/her release. Release is the release of an office-holder from liability in respect of his or her acts and omissions as an office-holder. (The "prescribed part" is a proportion of a company's assets over which secured creditors have security which can nonetheless be applied in certain circumstances to unsecured creditors.)

279. Currently paragraph 98(2)(b) of Schedule B1 to the Insolvency Act 1986 provides that such an administrator obtains his release by a resolution of a creditors' committee or by a resolution of the creditors. Paragraph 98(3) of Schedule B1 to that Act goes on to provide that where such an administrator makes a statement under paragraph 52(1)(b) of Schedule B1 (company has insufficient property to make a distribution to unsecured creditors), a resolution requires the approval of every secured creditor and (where distributions to preferential creditors have been or may be made) the approval of at least 50% of the preferential creditors by value. This implies that a normal resolution of all the creditors is required plus a resolution of all of the secured creditors.

280. The amendments made by paragraph 7 distinguish paragraph 52(1)(b) cases from non-paragraph 52(1)(b) cases. Thus, where the unsecured creditors have no interest in the administration (other than by virtue of the "prescribed part"), it will be clear that the unsecured creditors are not involved in the administrator's release - the release only needs to be given by (all of) the secured creditors (together with at least 50% of the preferential creditors if relevant) and is effective from the time they decide. It will not be necessary for the secured creditors to hold a meeting.

281. Paragraph 7 will come into force on a day to be appointed by the Secretary of State in a commencement order. Paragraph 7 is deregulatory because it will avoid the calling of unnecessary creditors' meetings at which the creditors formally resolve to give administrators their release.

Part 3: Winding up of companies

Removal of power of court to order payment into Bank of England of money due to company

282. *Paragraph 9* repeals section 151 of the Insolvency Act 1986, a provision which provides the court with a power to order any contributory (that is a person liable to contribute to the assets of a company in the event of its being wound up), purchaser or other person from whom money is due to a company that is the subject

of a winding-up order to pay the amount due into the Bank of England to the account of the liquidator instead of to the liquidator. The role of a liquidator of a company which is being wound up by the court is to secure, realise and distribute assets and distribute any surplus.

283. The origins of the provision date back to the Companies Act 1862 and it appears that its purpose was to have been a method for protecting creditors' interests from an unregulated insolvency profession. Since 1986, there has been a strong regulatory framework in place to monitor and control the activities of liquidators and so this provision no longer serves any useful purpose. The last recorded use of the power was in 1991.

284. Section 151 applies to companies that are being wound up by the court in England and Wales and in Scotland. The repeal of the section forms part of the law of England and Wales and Scotland. Paragraph 9 will come into force on a day to be appointed by the Secretary of State in a commencement order.

Release of liquidator where winding-up order rescinded

285. *Paragraph 10* forms part of the law of England and Wales and Scotland. It will come into force on a day to be appointed by the Secretary of State in a commencement order. It is deregulatory because it will ensure that, where the court rescinds a winding-up order, the liquidator's release is addressed at the same time, as opposed to being the subject of a subsequent, separate court application. A winding-up order may be rescinded where, for instance, it is shown that the company's circumstances are markedly more favourable than they were when the winding-up order was made or where the court did not have the full facts when it made the order.

286. Liquidators are liable for their acts in the winding-up unless and until released from that liability. It is important to liquidators to obtain their release as this provides significant protection against being sued for their acts and omissions in the winding-up. There is nonetheless currently no specific statutory provision concerning the release of a liquidator when a court order is rescinded. The release of liquidators in all other circumstances is already addressed – see section 174 of the Insolvency Act 1986. Paragraph 10 remedies this omission. It inserts a new subsection into section 174 which provides that the liquidator when a winding-up order is rescinded has his or her release with effect from the time the court may determine.

Part 4: Disqualification of unfit directors of insolvent companies

287. *Paragraph 11* amends section 7(4) of the Company Directors Disqualification Act 1986 and like that section of that Act forms part of the law of England and Wales and Scotland. The amendments will enable the Secretary of State or the official receiver to request information relevant to a person's conduct as a director of a company that has been insolvent directly from any person, including from officers of the company themselves. The amendments will also ensure that books, papers and other records are to be produced when the Secretary of State or official receiver

consider the respective documents to be relevant.

288. Currently, where the Secretary of State or official receiver is considering whether to make an application for a disqualification order against a director, the Secretary of State or the official receiver may require only office-holders of a company (a liquidator, administrator or administrative receiver) to provide information or books, papers etc. about any person's conduct as a director.

289. This approach creates an administrative burden on the office-holder and can give rise to delays in information and document provision. Furthermore, office-holders also sometimes refuse or delay requests for information as they do not deem it "relevant" to the person's conduct as director (see s.7(4)(b) CDDA 1986). This can have the effect of delaying the Secretary of State's or the official receiver's decision as to whether to make a disqualification application.

290. The amendments made by paragraph 11 permit the Secretary of State or the official receiver to obtain information about any person's conduct as a director of a company direct from any person, including officers of the company, and ensures that the Secretary of State and the official receiver may request any document which they consider to be relevant to their decision as to whether to make an application for disqualification.

291. Paragraph 11 will come into force on a day to be appointed by the Secretary of State in a commencement order.

Part 5: Bankruptcy

Appointment of insolvency practitioner as interim receiver

292. *Paragraphs 13 and 14* form part of the law of England and Wales only. They will come into force on a day to be appointed by the Secretary of State in a commencement order. The effect is deregulatory because they will allow a wider choice of persons – including (importantly) the person who will subsequently be appointed the trustee in bankruptcy – to act as an interim receiver. An interim receiver is someone appointed to preserve a debtor's assets in the period between a bankruptcy petition being presented and a bankruptcy order being made.

293. Both the official receiver (a civil servant) and insolvency practitioners (who operate in the private sector) can act as trustee of a bankrupt's estate. Creditors often wish to appoint an insolvency practitioner to act as both interim receiver (where one is appointed) and the subsequent trustee. Except in limited circumstances, however, the court at the moment can only appoint the official receiver as interim receiver. These circumstances are where, following a debtor petitioning for his or her own bankruptcy pursuant to section 272 of the Insolvency Act 1986, the court has appointed an insolvency practitioner to prepare a report under section 273 of that Act stating whether the debtor is willing to make a proposal for a voluntary arrangement. In such a case, the court may appoint as interim receiver the insolvency practitioner who

prepared the report.

294. Paragraph 13 amends section 286 of the Insolvency Act 1986 to permit the court to appoint the official receiver or any insolvency practitioner as interim receiver in all circumstances. Paragraph 14 makes consequential amendments to section 370 of that Act – given the changes being made by paragraph 13 these section 370 amendments provide that any type of interim receiver (whether or not the official receiver) may make an application to the court for the appointment of a "special manager" (someone, usually with specific sector expertise, to assist the interim receiver).

Statement of affairs where bankruptcy order made otherwise than on a debtor's petition

295. *Paragraph 15* amends section 288 of the Insolvency Act 1986 and like that section of that Act forms part of the law of England and Wales only. The amendments replace the requirement on every person made bankrupt on a creditor's petition to deliver a statement of affairs to the official receiver with a discretionary power for the official receiver to require a statement of affairs from the person made bankrupt.

296. At present there is a requirement for a statement of affairs to be submitted in every bankruptcy. A debtor who petitions for their own bankruptcy is required to submit a statement of affairs with their petition. Where a creditor petitions, the creditor will not know all of the debtor's affairs, so the debtor is required to submit a statement of affairs within 21 days of the bankruptcy order, unless either the official receiver or the court releases him from doing so or extends the 21 day period. Failure without reasonable excuse to comply with this requirement constitutes contempt of court (section 288(4) of the 1986 Act).

297. In practice, the bankrupt individual will not usually provide a statement of affairs due to lack of awareness of the requirement. Currently a person made bankrupt on a creditor's petition is only likely to submit a statement of affairs when the official receiver requests it, for example if he is carrying out further investigations. The official receiver often obtains the required information by other means but may not formally release the bankrupt from the requirement.

298. The amendments of section 288 seek to reduce the burden on bankrupt individuals by providing that a statement of affairs is not required in a case where a creditor presented the petition unless requested by the official receiver. This mirrors the position where a company has been wound up by the court (see section 131 of the 1986 Act).

299. The statement of affairs may be requested by the official receiver at any time until the bankrupt's discharge from bankruptcy. It must be submitted in a prescribed form and, unless the official receiver or the court extends the period, within 21 days of

the official receiver requiring it.

300. Paragraph 15 will come into force on a day to be appointed by the Secretary of State in a commencement order.

After-acquired property of bankrupt

301. *Paragraph 16* amends section 307 of the Insolvency Act 1986 to facilitate banks offering accounts to undischarged bankrupts. There is some uncertainty at present about the way in which section 307 operates in relation to bank accounts and the amendments seek to reduce a burden by removing that uncertainty. Paragraph 16, like section 307, forms part of the law of England and Wales only. It will come into force on a day to be appointed by the Secretary of State in a commencement order.

302. Section 307 allows a trustee in bankruptcy to claim by notice after-acquired property, that is anything which becomes the property of the bankrupt before they are discharged (usually 12 months after the bankruptcy order was made). Where that property is or becomes money that passes through a bank account, and the trustee is unable to recover it from the bankrupt or ultimate recipient, the trustee may claim against the bank for its loss to the bankrupt's estate. Currently the trustee can consider such a claim as the bank would have been aware of the bankruptcy order.

303. Section 307(4) of the Insolvency Act 1986 prevents the trustee from taking action against certain persons who have dealt with after-acquired property in good faith and without notice of the bankruptcy – namely persons acquiring property for value and bankers entering into transactions. The amendment takes bankers outside the scope of section 307(4) and instead provides protection for them by means of a new subsection (4A) inserted into section 307. The new subsection (4A) prevents a trustee making a claim against a bank in circumstances where the bank has not been served with notice by the trustee specifically regarding the after-acquired property he or she wishes to claim, regardless of whether the bank has notice of the bankruptcy.

Part 6: Authorisation of insolvency practitioners

Repeal of provision for authorisation of nominees and supervisors in relation to voluntary arrangements

304. *Paragraphs 18 and 19* repeal sections 389(1A) and 389A of the Insolvency Act 1986. These provisions allow individuals to be authorised to act solely as nominees or supervisors in voluntary arrangements. Once the partial authorisation regime for insolvency practitioners in clause 9 is introduced, it is considered there will be no demand for authorisation to act in voluntary arrangements alone, hence the provisions will become obsolete.

Repeal of provision for authorisation of insolvency practitioners to be granted by competent authority

305. *Paragraph 20* repeals sections 392 to 398 of, and Schedule 7 to, the Insolvency Act 1986 which provide for a competent authority to grant, refuse and withdraw authorisation to act as an insolvency practitioner. As no other competent authority has been designated, the Secretary of State is currently the only competent authority. The effect of the repeal will be that the Secretary of State will no longer be able to authorise individuals to act as an insolvency practitioner. Individuals will only be able to obtain authorisation from one of a number of professional bodies recognised by the Secretary of State for that purpose. The vast majority of insolvency practitioners are already authorised by one of these bodies. The changes will reduce inconsistency of regulation by ensuring that all insolvency practitioners are authorised by one of the recognised professional bodies. The repeal of the provisions also removes a perceived conflict of interest with the Secretary of State's role as an oversight regulator of the professional bodies.

306. *Paragraph 21* makes a number of amendments to primary legislation that are consequential to the repeals made by paragraph 20. These amendments include removal of references to the Insolvency Practitioners Tribunal, which exists only to consider objections to a competent authority's decision to refuse or withdraw a person's authorisation to act as an insolvency practitioner. Consequently, the Insolvency Practitioners Tribunal will become redundant once the repeals made by paragraph 20 take full effect.

307. *Paragraph 22* is a transitional and savings provision for two categories of individuals: those who are authorised by the Secretary of State to act as an insolvency practitioner at the date the repeals made by paragraph 20 take effect; and those who have applied to the Secretary of State for authorisation by that date but whose application has not been dealt with. Those who are already authorised will continue to be authorised for a period of one year after the repeals take effect. Those who apply to the Secretary of State for authorisation before the repeals made by paragraph 20 take effect will have their applications determined in accordance with the existing provisions.

308. The main amendments made by Part 6 of the Schedule form part of the law of England and Wales and Scotland, in line with the enactments that they amend. Part 6 will come into force on a day to be appointed by the Secretary of State in a commencement order.

Part 7: Liabilities of administrators and administrative receivers of companies and preferential debts of companies and individuals

Treatment of liabilities relating to contracts of employment

309. *Paragraphs 23 to 27* repeal one element of the priority given to employees' wages in certain insolvency proceedings, as the type of employee contract it relates to no longer exists.

310. In administration and administrative receiverships a company can continue to

trade under the direction of the administrator (usually pending a sale of the business or assets). All debts incurred by the company after entry into such insolvency proceedings are classified as an expense of the insolvency proceeding and are payable ahead of the fees of the insolvency practitioner. For an employee to become entitled to have their wages paid as an expense, the insolvency practitioner needs to adopt their contract. As well as including salary for actual days worked, the definition of wages extends to cover payment for holiday entitlement, absence and payment in lieu of holiday. Certain employment contracts ('year-in-hand' schemes) earned an employee holiday entitlement for the year ahead. Social security legislation provides that this holiday is counted as being accrued in the year it was earned.

311. In order not to discriminate against employees on these schemes, section 19(10) (pre-Schedule B1 administration which continues in force for some purposes) and section 44(2D) of (administrative receiverships), and paragraph 99(6)(d) of Schedule B1 (administration) and paragraph 15 of Schedule 6 (categories of preferential debts) to, the Insolvency Act 1986 provide that "wages or salary" includes, in respect of a period, a sum which would be treated as earnings for that period for the purposes of an enactment about social security. This enables a claim for this earned holiday entitlement to be made after entry into an insolvency proceeding. However, such provision is now redundant as 'year in hand' schemes are no longer legally possible since the Working Time Regulations 1998. Removing unnecessary provision from the statute book reduces a burden.

312. Paragraphs 23, 24, 26 and 27 form part of the law of England and Wales and Scotland, and paragraph 25 forms part of the law of England and Wales only (in line with the provisions that they amend). These paragraphs will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 8: Requirements of company law

Proxies at a poll taken 48 hours or less after it was demanded

313. Paragraphs 28 and 29 correct a minor drafting error in the Companies Act 2006 in relation to the notice provisions for appointing a proxy or terminating a proxy's authority. The amended provisions provide that, in the case of a poll vote that is to be taken within 48 hours of being demanded, the requisite notice can be given at any time up until the poll vote is carried out. Any provision of a company's articles of association that specifies otherwise will be void.

314. These paragraphs form part of the law of England and Wales, Scotland and Northern Ireland. They will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Schedule 6: Ascertainment of rights of way

Part 1: Wildlife and Countryside Act 1981

315. Part 1 of Schedule 6 makes various amendments to Part 3 of the Wildlife and Countryside Act 1981 (the "1981 Act"). Under this Part, it is the duty of local

authorities (referred to in the Part as "surveying authorities") to maintain and keep under review maps and statements (referred to in the legislation as "definitive maps and statements") showing public rights of way. It also sets out the procedure which the authorities must follow before modifying definitive maps and statements, whether on their own initiative or on an application by an interested person.

316. *Paragraph 2* removes the words "or is reasonably alleged to subsist" from section 53(3)(c)(i) of the 1981 Act. Currently, the effect of section 53(2), read with section 53(3)(c)(i), is that a surveying authority is required to make such modifications to a definitive map and statement as appear to it to be requisite in consequence of the discovery by the authority of evidence which shows that a right of way which is not shown in the map and statement subsists, or is reasonably alleged to subsist, over land in the area to which the map relates. The effect of the removal of the words "or is reasonably alleged to subsist" is that a surveying authority in England is required to modify the definitive map by order under section 53(2) only where it is satisfied to the ordinary civil standard of proof that a right of way subsists. This measure therefore raises the threshold at which an authority must make an order. The burden on an authority of having to make orders in respect of applications which contain reasonable allegations but do not satisfy the ordinary civil standard of proof is removed.

Modifications arising from administrative errors

317. *Paragraph 3* inserts a new section 53ZA into the 1981 Act. The new section 53ZA confers power on the Secretary of State to provide for Schedules 14 and 15 to the Act to apply with prescribed modifications in relation to the making of orders under section 53(2) of the 1981 Act where a surveying authority is satisfied that the conditions set out in subsection (1)(a) to (c) are met. The conditions are that:

a) it is requisite to make a modification to a definitive map and statement in consequence of an event mentioned in section 53(3)(c);
b) the need for the modification has arisen because of an administrative error; and
c) both the error and the modification needed to correct it are obvious.

318. Under the new subsection (4) an authority must, in deciding whether paragraphs (a) to (c) apply, have regard to any guidance given by the Secretary of State.

319. These new powers will enable the Secretary of State to put in place a simpler and shorter order-making procedure, based on Schedules 14 and 15 to the 1981 Act, where the need for a modification to a map and statement arises because of an administrative error. This will remove the burden on an authority which must presently follow lengthy procedures designed for potentially contentious situations.

Amendment of the requirement to register applications in relation to the new

preliminary assessment

320. *Paragraph 4* inserts new subsections (4A) and (4B) into section 53B of the 1981 Act. Under this new provision the Secretary of State may by regulations provide that the duty to keep a register of applications in subsection (1) does not apply, or does not apply to any prescribed description of such applications, unless the authority serves notice under paragraph 1A(4)(b) of Schedule 14 to the Act (preliminary assessment and notice of applications: England).

321. This measure will enable the Secretary of State to provide that applications are not required to be registered unless they have passed the new preliminary assessment procedure and notice has been served on every owner and occupier of any land to which the application relates. The burden on an authority of having to register an application which does not satisfy the preliminary assessment test is therefore removed. An explanation of the new preliminary assessment procedure is given below in the commentary on paragraph 6 of this Schedule.

Modification of the definitive map and statement by consent

322. *Paragraph 5* inserts two new sections into the 1981 Act: sections 54B and 54C. The new section 54B sets out a new procedure by which an authority may by order modify the definitive map in consequence of an application under section 53(5) of the Act. The new procedure is available only where:

a) the documentary evidence in support of the application is evidence that relates only to the existence of a right of way before 1949; and
b) the authority have served notice under paragraph 1A(4)((b) of the Act (preliminary assessment and notice of applications: England).

323. Under the new procedure, the authority is required to ascertain whether every owner of the land to which the application relates consents to the making of the order modifying the definitive map. The landowner (or landowners) may only be willing to consent to the order modifying the definitive map if, at the same time, certain changes are authorised to the alleged public right of way. Under the new subsection (2) an authority may therefore make one or more of the following further orders, known as "special orders", in order to secure the landowner's (or the landowners') consent:

a) a diversion order;
b) an order altering the width of the path or way;
c) an order imposing a new limitation or condition affecting the right of way.

324. The new subsection (4) provides that if the landowner (or every landowner if there is more than one) consents to the making of an order under section 53(2) (without the making of special order) the authority may make the order. The order must include a statement that it is made with the consent of the landowner (or every

landowner if there is more than one).

325. The new subsection (5) provides that if the landowner (or one or more of the landowners) would consent only if one or more special orders are made, the authority may make the special order (or orders) and the order under section 53(2). Under the new subsection (6) the authority must, before making any special order diverting a right of way, be satisfied that the path or way will not be substantially less convenient to the public in consequence of the diversion, and, have regard to any guidance given by the Secretary of State. The order must include a statement that it is made with the consent of the landowner (or every landowner if there is more than one). The authority must, under subsection (5)(c), combine any special orders and the order under section 53(2) into a single document.

326. The new subsection (8) provides that such an order cannot be made if more than 6 months has elapsed since the authority first notified the landowner of their decision that there was a reasonable basis for the applicant's belief that the definitive map and statement should be modified. The Secretary of State may extend the 6 month period by order.

327. This measure will reduce the burden on a landowner (or landowners) of the impact of a newly discovered public right of way that conflicts with the current land usage. It will have the secondary effect of reducing the number of applications that are opposed by landowners and result in submission of a case to the Secretary of State to determine. It will also reduce the administrative burden on surveying authorities and others involved in the process by providing, in certain cases, a single procedure under which a change to a public right of way can be authorised as well as the recording of the right of way on the definitive map.

328. The new section 54C makes new provision to supplement the new procedure. The new provision provides that:

> a) a modification consent order cannot alter the termination point of a right of way if that point is not on a highway;
> b) a modification consent order cannot divert the right of way onto land owned by another landowner without the other landowner's consent;
> c) any authority that makes a modification consent order is responsible, as from the date when the order takes effect, for maintaining any path or way shown on the definitive map as a consequence of the order;
> d) where work is required to be done to bring the path or way, or the part, into a fit condition for use by the public, the authority may not confirm the order under Schedule 15 until they are satisfied that the work has been carried out.

329. The new section 54C also provides that the procedure for making a modification consent order is as set out in Schedules 14 and 15 to the Act, with certain modifications set out in a new Schedule 15A. See the commentary on paragraph 8 of

this Schedule for an explanation of Schedule 15A.

Amendments to Schedule 14 to the Wildlife and Countryside Act 1981

330. *Paragraph 6* makes the following amendments to Schedule 14 to the 1981 Act.

Preliminary assessment and notice of applications

331. Paragraph 6(2) amends paragraph 1 of Schedule 14 to the 1981 Act. The amendment enables regulations to be made to require each application for an order modifying the definitive map to include an explanation as to why the applicant believes that the definitive map and statement should be modified. It further enables a surveying authority to inform a potential applicant for an order modifying the definitive map that they have access to a particular piece of documentary evidence and do not require a copy of it to be submitted to them. This reduces the burden on applicants, who are mostly from the voluntary sector, of having to make copies of documents for submission with an application.

332. Paragraph 6(3) inserts a new paragraph 1A into Schedule 14 to the 1981 Act. The new paragraph 1A makes provision for preliminary assessment and notice of applications. Sub-paragraph (1) provides that a surveying authority must, within 3 months of receiving an application, decide whether there is a reasonable basis for the applicant's belief that the definitive map should be modified in consequence of the occurrence of one or more events falling within section 53(3)(b) or (c) of the Act. In deciding whether there is such a basis, the authority must have regard to any guidance given by the Secretary of State. Under the new sub-paragraph (3) the authority must, if they decide there is no reasonable basis for the application, inform the applicant of their decision and their reasons for it.

333. The new sub-paragraph (4) provides that, if they decide there is a reasonable basis for the applicant's belief, the authority must inform the applicant and serve notice on every affected landowner and occupier, stating that an application has been made, which the authority are investigating further. The requirement for the applicant to serve notice on the landowner is repealed. There is provision, in the new sub-paragraph (5), for the authority to post notices on the land if they cannot reasonably ascertain who the owner or occupier is.

334. The introduction of the new preliminary assessment procedure will reduce the administrative burden on and cost to local authorities and landowners of investigating and determining applications (under paragraph 3 of Schedule 14 to the 1981 Act) that are spurious or poorly founded.

Failure by an authority to conduct a preliminary assessment

335. Paragraph 6(4) inserts four new paragraphs into Schedule 14 to the 1981 Act:

paragraphs 1B to 1E.

336. Paragraph 1B provides a right of application to the magistrates' court, for anyone who has applied for an order modifying the definitive map, where a surveying authority has not carried out the preliminary assessment of an application within 3 months of receiving the application. The applicant must, under the new sub-paragraph (1), give notice to the surveying authority of their intention to apply to the magistrates' court. The application to the court may then, under sub-paragraph (2), be made after 1 month has passed after the giving of notice to the authority, but not after more than 6 months has passed.

337. Under the new sub-paragraph (3) the magistrates' court may order the authority to take specified steps in relation to the application for an order modifying the definitive map within a reasonable period. There is provision, in the new sub-paragraph (5), for the authority or applicant to appeal to the Crown Court. The new sub-paragraph (6) provides that any order will not take effect until 21 days after it has been made or, if there is an appeal, until it is determined or withdrawn.

Determination of an application by the authority

338. The new paragraph 1C provides for the determination by an authority of an application under section 53(2) for an order modifying the definitive map. A surveying authority must, as soon as reasonably practicable after serving notice under paragraph 1A(4)(b) of Schedule 14, investigate the matters stated in the application, consult relevant local authorities and decide whether to make an order. The authority must then, under sub-paragraph (2), give notice of their decision to the applicant and any landowners that they notified as a result of the preliminary assessment and set out the reasons for their decision.

Failure by an authority to determine an application

339. The new paragraph 1D provides a right of application to the magistrates' court, for anyone who has applied for an order modifying the definitive map and any landowner or occupier of land to which the application relates, where a surveying authority has not decided an application within 12 months of receiving the application. This does not apply to an application for an order modifying the definitive map where the authority informed the applicant under paragraph 1A(3) (preliminary assessment and notice of applications) of their decision not to consider the application further. The applicant must first, under sub-paragraph (1), give notice to the surveying authority of their intention to apply to the magistrates' court. Under the new sub-paragraph (3), an application to the court may then be made after 1 month has passed after the giving of notice to the authority, but not after more than 12 months has passed.

340. Under the new sub-paragraph (5) the magistrates' court may direct the authority to take specified steps in relation to the application for an order modifying

the definitive map within a reasonable period. The authority may make one application to the court for an order extending that period by up to 12 months. Under the new sub-paragraph (8) the applicant or authority, or any relevant owner or occupier, may appeal to the Crown Court. The new sub-paragraph (9) provides that any order will not take effect until 21 days after it has been made or the matter is decided in the Crown Court on appeal.

341. The new paragraph 1E makes further provision about notices relating to an application to the magistrates' court under paragraph 1D to ensure, where possible, that any other parties that might be affected by the application are alerted to it.

342. This new right of appeal to the magistrates' court will (following a transitional period) replace the existing right of appeal to the Secretary of State, which is widely regarded as ineffective. Appeals to the Secretary of State may result in a lengthy period of uncertainty for those with an interest in the outcome. The change will reduce the period of uncertainty. It is also designed to remove the burden on the Secretary of State, who may be required to become involved following an application under section 53(5) of the 1981 Act at several different junctures.

Procedure where an authority decides not to make an order

343. Paragraph 6(8) inserts four new paragraphs into Schedule 14 to the 1981 Act: paragraphs 3A to 3D.

344. The new paragraph 3A modifies the procedure where a surveying authority decides not to make an order under paragraph 1C following an application for an order modifying the definitive map. It provides that, within 28 days after the authority serve notice of the decision, the applicant may give notice of appeal and the grounds for that appeal to the authority. Regulations will prescribe the form of such notice. The authority is required to submit the matter to the Secretary of State for a decision and the Secretary of State is required to deal with it as an appeal against the authority's decision. This new procedure replaces the existing right of appeal to the Secretary of State. It provides for the Secretary of State to deal with both the appeal and any objections (that might arise from making an order on the strength of the application) at the same time. This is one of several measures to streamline the process of dealing with an application by preventing a single case being submitted to the Secretary of State two or more times before being resolved. The following provisions are consequential unless the notes state otherwise.

345. Provision is made in paragraph 3A(3) for the surveying authority to decide not to submit the appeal to the Secretary of State if they believe that nothing in the grounds of appeal would be relevant to the Secretary of State's decision on appeal. In doing so the authority would have to have regard to any guidance issued by the Secretary of State and must inform the applicant of the reasons for its decision. This reduces the administrative burden by removing an absolute requirement to submit all

disputed cases to the Secretary of State, regardless of merit.

346. Where the appeal is submitted to the Secretary of State, the authority must give notice that the matter has been submitted to the Secretary of State. Regulations will prescribe the form of notice, which will set out:

a) the decision and that the matter has been submitted to the Secretary of State;
b) where a copy of the decision may be inspected free of charge, and copies obtained at a reasonable charge, at all reasonable hours; and
c) the time within which, and the manner in which, representations or objections with respect to the decision, may be made to the Secretary of State.

347. Paragraph 3A(7) sets out the requirements for publicising the appeal; these essentially replicate the requirements for publicising an order modifying the definitive map as set out in Schedule 15 with modifications to reflect the particular circumstances of the appeal.

348. The new paragraph 3B provides that the Secretary of State may decide the appeal through an inquiry or by providing interested persons an opportunity of being heard. Sub-paragraph (2) provides that the Secretary of State may decide not to hold an inquiry or provide that opportunity if he believes that nothing in the grounds of appeal and nothing in any representation or objection duly made would be relevant to the decision on appeal. Sub-paragraph (3) provides that on considering the grounds of appeal and any representations or objections, the Secretary of State may:

a) agree with the authority that an order should not be made;
b) direct the authority to make an order as directed; or
c) make an order.

349. Sub-paragraphs (4) to (11) of paragraph 3B replicate the existing provisions in paragraphs 3(3), 8(1) to 8(4), 10 and 10A of Schedule 15. This makes the arrangements for holding hearings and inquiries and for the appointment of inspectors the same as those in Schedule 15 for determining opposed orders.

350. New paragraphs 3C and 3D make modifications to Schedule 15. Paragraph 3C makes modifications to the arrangements for making an order where under paragraph 3B the Secretary of State decides to direct the authority to make an order, including giving notice of final decision on the order and providing a procedure for questioning the validity of the order by application to the High Court. Paragraph 3D makes comparable modifications for circumstances where the Secretary of State decides to make an order.

Transfer of application for order modifying the definitive map

351. A new measure in paragraph 4A (inserted by paragraph 6(11)) enables a

person who has made an application for an order modifying the definitive map to transfer ownership of that application, at any time before the application is decided, to another named person, who would then be treated as the applicant. This measure reduces burden on the voluntary sector by providing that where an applicant is unable to pursue an application the work they have already done will not have to be undertaken again from scratch.

Amendments to Schedule 15 to the Wildlife and Countryside Act 1981

352. *Paragraph 7* makes the following amendments to Schedule 15.

353. Paragraph 3 of Schedule 15 is amended so that the surveying authority are no longer required to give notice of an order modifying the definitive map by publication in at least one local newspaper circulating in the area. Instead they are required to give notice by publication on the authority's website and on such other websites or through the use of such other digital communications media as the authority may consider appropriate. This measure will significantly reduce the cost to the local authority of making an order.

354. A new measure in paragraph 7(1A) gives the Secretary of State the power to sever an order modifying the definitive map submitted to him where some but not all of the modifications in it have attracted representations or objections. The Secretary of State will determine that part of the order that attracted representations or objections; leaving the other part of the order for the authority to confirm as unopposed. This measure will reduce that number of instances where the Secretary of State has to review the authorities' decisions, which will reduce the administrative burden on both local authorities and the Secretary of State.

355. A new paragraph 7A makes provision for the surveying authority to decide not to submit the order to the Secretary of State if they believe that nothing in the representation or objection would be relevant to the Secretary of State's decision whether or not to confirm the order. The authority may also sever an order where part of the order has attracted representations or objections that the authority considers are not relevant and not submit that part of the order, only submitting that part of the order that has attracted representations or objections that are relevant. In doing so the authority would have to have regard to any guidance issued by the Secretary of State and must inform the applicant and any person who made the representation or objection (and has not withdrawn it) of the reasons for its decision. This measure will reduce that number of instances where the Secretary of State has to review the authorities' decisions, which will reduce the administrative burden on both local authorities and the Secretary of State.

356. Paragraph 12 of Schedule 15 is amended so that where the validity of an order is questioned by application to the High Court, the Court may quash the decision of the Secretary of State rather than the order. This measure will reduce the number of cases where the order-making process has to start over again from scratch, which will

reduce the administrative burden on both local authorities and the Secretary of State.

Introduction of a new Schedule 15A to the Wildlife and Countryside Act 1981

357. *Paragraph 8* inserts a new Schedule 15A into the 1981 Act. This relates to subsection (6) of the new section 54C of the 1981 Act (section 54C is inserted by paragraph 5 of Schedule 6). The new subsection (6) of section 54C provides that the procedure for making a modification consent order is as set out in Schedules 14 and 15 to the Act, with certain modifications set out in the new Schedule 15A.

358. The modifications to Schedule 14 to the Act include the following.

359. Paragraph 1(1)(a) of the new Schedule 15A provides that the new paragraph 1C (determination of an application by an authority) applies to a modification consent order only if:

a) the landowner (or one of the landowners if there is more than one) does not consent to the making of the order;
b) the authority decides for any other reason not to make an order;
c) the 6 month period for making the order expires; or
d) the authority makes an order but decides not to confirm it.

360. Paragraph 1(2) of the new Schedule 15A provides that in any of these circumstances the authority's duty under paragraph 1C (determination of an application by an authority) applies just as if the authority had served notice on every owner and occupier of any land that it is considering an application following a preliminary assessment under new paragraph 1A(4)(b) of Schedule 14 to the Act.

361. The modifications to Schedule 15 to the 1981 Act include the following.

362. Paragraph 2 of the new Schedule 15A to the Act provides that for the purposes of the application of Schedule 15 any special orders made are to be treated as part of the order under section 53(2).

363. Paragraph 5 provides that the authority may (whether or not any representations or objections are made) confirm the order. An order may be confirmed with modifications only if every owner so consents.

Part 2: Highways Act 1980

364. *Paragraph 9* makes the following amendments to Schedule 6 to the 1980 Act. That Schedule sets out the procedure that must be followed before certain "public path orders" are made under that Act, for example, an order extinguishing a public right of way.

365. Paragraphs 1 and 4A of Schedule 6 are amended so that the surveying authority are no longer required to give notice of the making of a public path

order by publication in at least one local newspaper circulating in the area. Instead they are required to give notice by publication on the authority's website and on such other websites or through the use of such other digital communications media as the authority may consider appropriate. This measure will significantly reduce the cost to the local authority of making an order and the cost to the landowner where the cost is passed on to the landowner because the order is for the landowner's benefit.

366. The new measures in paragraph 2 enable:

> a) the surveying authority to decide not to submit an order that has attracted one or more representations or objections to the Secretary of State for confirmation if they believe that nothing in the representation or objection would be relevant in determining whether or not to confirm the order (the authority would have to have regard to any guidance issued by the Secretary of State and must inform the person who made the representation or objection of the reasons for its decision); and
> b) the Secretary of State to decide not to hold an inquiry or hearing if he believes that nothing in the grounds of the representation or objection would be relevant in determining whether or not to confirm the order.

367. In the first case, the order may be confirmed by the surveying authorities as if it were an unopposed order. These measures will reduce that number of instances where the Secretary of State has to review the authorities' decisions, which will reduce the administrative burden on both local authorities and the Secretary of State.

368. A new measure in paragraph 2ZZA gives the authority the power to sever a public path order where some but not all of the modifications in it have attracted representations or objections and submit only that part of the order that attracted representations or objections to the Secretary of State. A further measure gives the Secretary of State the power to sever a public path order submitted to him where some but not all of the modifications in it have attracted representations or objections. The Secretary of State will then determine that part of the order that attracted representations or objections; leaving the other part of the order for the authority to confirm as unopposed.

369. The authority may also sever an order where part of the order has attracted representations or objections that the authority considers are not relevant and not submit that part of the order, submitting only that part of the order that has attracted representations or objections that are relevant. In doing so the authority would have to have regard to any guidance issued by the Secretary of State and must inform the applicant and any person who made the representation or objection (and has not withdrawn it) of the reasons for its decision. These measures will reduce that number of instances where the Secretary of State has to review the authorities' decisions, which will reduce the administrative burden on both local authorities and the Secretary of State.

370. Paragraph 5 is amended so that where the validity of an order is questioned by application to the High Court then the Court may quash the decision of the Secretary of State rather than the order. This measure will reduce the number of cases where the order-making process has to start over again from scratch, which will reduce the administrative burden on both local authorities and the Secretary of State.

Schedule 7: Provision of passenger rail services
Consequential amendments
371. *Paragraphs 1 to 7* set out provisions which are consequential on the changes made to section 10 of the Transport Act 1968 in clause 22. In particular:-

- paragraph 2(4), in effect, removes the 25 mile distance limit from inhibiting a PTE in England from letting locomotives and other rolling stock on hire to a non franchisee, for use outside the area of the PTE; and

- paragraph 5 provides that the expression "railway", for the purposes of the changes to the Transport Act 1968, has the same meaning as in section 67(1) of the Transport and Works Act 1992. (The Railways Act 1993 also adopts this definition).

372. Paragraphs 1 to 5 form part of the law of England and Wales, Scotland and Northern Ireland. Paragraph 6 forms part of the law of England and Wales and Scotland only. Paragraph 7 forms part of the law of England and Wales only. However, all these paragraphs only affect PTEs which are in England. They will come into force on a day to be appointed by the Secretary of State in a commencement order.

Franchise exemptions granted by Secretary of State: protection of railway assets etc
373. *Paragraph 8* inserts a new section 24A into the Railways Act 1993. Section 24A extends the scope of what provision may be made by the Secretary of State in a section 24 Railways Act 1993 de-designation order (i.e. an order de-designating passenger rail services from the franchising regime of that Act and authorising those services to be provided by persons other than the Secretary of State). Section 24A would enable the Secretary of State to apply similar railway asset protection, contract enforcement and asset transfer provisions in connection with an "operator agreement" (i.e. a contract for de-designated passenger rail services) as currently apply in connection with franchise agreements of the Secretary of State. (Although clause 22 of the Bill removes the 25 mile distance limit on the power of a PTE in England to provide passenger rail services, for such a PTE to take over services from the Secretary of State a de-designation order would still be required.) More specifically section 24A would enable a section 24 de-designation order of the Secretary of State to provide as follows.

- Section 24A(1) provides that a section 24 order may set conditions to be complied with by a railway operator engaged to provide passenger rail

services.

- Section 24A(2)(a) to (d) would enable the Secretary of State, through a section 24 order, to apply various statutory protections to railway assets used for de-designated rail services as currently apply to railway assets used for franchised rail services. The asset protection measures could be similar to those in section 27(3), and (5) to (7), and section 31 of the Railways Act 1993.

    - Section 27(3) and (5) of the Railways Act 1993 prevent a franchise operator dealing with (e.g. agreeing to dispose of, charge, or grant rights over) assets needed for railway operations without the franchising authority's consent, in default of which the transaction would be void.

    - Section 27(6) and (7) of the Railways Act 1993 prevent franchise assets being seized and sold by due legal process to satisfy monies owed by a franchise operator.

    - Section 31 of the Railways Act 1993 would deny security of tenure to an operator in relation to tenancies of railway premises.

    - These provisions, in section 27 and 31 of the Railways Act 1993, are designed to ensure that assets needed for railway operations are kept intact, such that upon operator default or failure the railway operations could be taken over as a going concern by a successor, thus enabling continuity of passenger rail services.

- Section 24A(2)(e) would enable the Secretary of State, through a section 24 order, to make similar provision for enforcement of an operator agreement as applies to franchise agreements with the Secretary of State (in sections 55 to 58 of the Railways Act 1993).

    - Under sections 55 to 57F of the Railways Act 1993, if a franchise operator was in breach of a franchise agreement, the Secretary of State could (a) make an order requiring the operator to take steps to comply with it, in default of which a civil penalty would be payable or (b) impose a civil penalty. Penalties are restricted to a maximum of 10% of turnover. An operator can make representations and objections, and challenge the enforcement action in the High Court for exceeding powers or for being in breach of procedural requirements. The duty of the franchisee to comply with an order is a duty owed to any person who may be affected by its contravention, and actionable as such for breach. The Secretary of State may enforce the order by civil proceedings for an injunction, or any other appropriate remedy.

- Section 58 of the Railways Act 1993 applies where it appears a franchisee is in breach of a franchise agreement or an enforcement order under section 55. It enables the Secretary of State to require documents to be produced, or information furnished, for purposes in connection with the enforcement of a franchise agreement. It does not enable documents to be produced, or information to be furnished, which could not be required in civil proceedings. Failure to comply, without reasonable excuse, is an offence subject to a fine on summary conviction not exceeding level 5 on the standard scale. It is also an offence for a person, who has been so required to produce a document, to intentionally alter, suppress or destroy any such document. This offence is subject, on summary conviction, to a fine not exceeding the statutory maximum, or on conviction on indictment to an unlimited fine.

- Section 24A(2)(f), read with section 24A(4), would empower the Secretary of State, through a section 24 order, to enable a transfer scheme to be made to transfer railway assets, rights and liabilities from an outgoing operator, where an operator agreement ends, which is similar to a transfer scheme made under section 12 of, and Schedule 2 to, the Railways Act 2005 at the end of a franchise agreement with the Secretary of State. The power would only apply in relation to operator agreements made with a PTE or local transport authority. The power would enable the Secretary of State, through the section 24 order, to authorise a PTE or local transport authority, which was party to an operator agreement, to make the transfer scheme. The scheme could transfer assets, rights and liabilities held by the outgoing operator to any PTE or local transport authority (or wholly owned subsidiary) which is or was party to the operator agreement (this would enable the relevant authority to continue the services upon operator failure) or to a successor operator contracted by the relevant authority. It would require payment of such consideration for the transfer as would be specified in, or determined in accordance with, the operator agreement.

374. Paragraph 8 forms part of the law of England and Wales and Scotland only. But it only affects section 24 Railways Act 1993 de-designation orders made by the Secretary of State (i.e. orders which relate to passenger rail services other than ones which start and end in Scotland). It will come into force on a day to be appointed by the Secretary of State in a commencement order.

Minor correcting amendments

375. *Paragraph 9* relates to section 30 of the Railways Act 1993. Section 30 imposes a duty on the Secretary of State to provide, or secure the provision of, passenger rail services where a franchise agreement comes to an end, and identifies where that duty does not apply, or ceases to apply. How section 30 applies in any particular case is relevant to any proposal to decentralise regional rail services, and take them out of the franchising system. The purpose of paragraph 9 is to correct

anomalies in its wording.

376. Paragraph 9 forms part of the law of England and Wales and Scotland only. It will come into force on a day to be appointed by the Secretary of State in a commencement order.

Schedule 8: Regulation of the use of roads and railways

Part 1: Permit schemes: removal of requirement for Secretary of State approval

377. In the Traffic Management Act 2004, Chapter 18 of Part 3 introduced the ability for local highway authorities to develop permit schemes. Local highway authorities do not have to introduce permit schemes, but schemes provide greater control over works in their area, and enable the authorities to promote better working practices, for example, working outside peak hours where appropriate. A permit scheme also enables improved co-ordination of works, so minimising inconvenience and disruption to all road users.

378. Currently, the Act requires, in relation to a permit scheme designed and developed by a local highway authority in either England or Wales, that before the permit scheme can be brought into operation it must be submitted to the relevant national authority for approval.

379. Following the examination of several permit schemes operating in the areas of both urban and rural local transport authorities in England, which had been subject to approval by the Secretary of State, the government has decided that there is no longer a need for the Secretary of State to approve future permit schemes. Instead permit schemes, developed by English local highway authorities for their communities, are to be approved by that council's own order.

380. The approval process for permit schemes developed by local authorities in Wales is to remain unchanged. Therefore the amendments in Part 1 of Schedule 8 relate only to England and leave the existing position unchanged as regards Wales.

381. The government consulted on the proposal to remove the requirement for local highway authority permit schemes in England to be approved by the Secretary of State for twelve weeks between January and April 2012. The results of that consultation were placed on the Department for Transport's website. On 23rd January 2013 the government announced, in the House of Commons by written ministerial statement, that the requirement for the Secretary of State to approve permit schemes prepared by English local highway authorities would cease by 2015.

382. Section 37 of the Traffic Management Act 2003 (permit regulations) is amended to reflect the changes made to Part 3 of the Act to remove the Secretary of State's approval for future permit schemes. However, the Secretary of State will retain powers to make regulations with respect to permit schemes, including the power to make regulations covering the fee structure for permits. Consequential changes will

be made to regulations made under section 37.

383. Part 1 forms part of the law of England and Wales. However, the amendments will only affect permit schemes in England. The provisions will come into force on a day to be appointed by the Secretary of State in a commencement order.

Part 2: Road humps

384. *Paragraph 10* relates to the removal of the Secretary of State's additional powers under section 90B of the Highways Act 1980 (the "HA 1980") to construct road humps. In view of the fact that in practice the construction of road humps is undertaken by local authorities, this power is no longer required. Section 90B is therefore repealed by paragraph 10, and paragraph 11 includes consequential amendments to section 90C of the HA 1980.

385. Section 90C of the HA 1980 currently makes provision in relation to consultation requirements where it is proposed to construct road humps. In doing so, it sets out requirements about such matters as publication of notices and procedures for dealing with objections. Paragraph 11 of Schedule 8 amends section 90C to enable the consultation requirements to be dealt with in regulations rather than by section 90C. This is intended to provide flexibility to simplify the requirements, in particular by making them less prescriptive.

386. The repeal and amendments made in this Part of the Schedule form part of the law of England and Wales and will come into force on a day to be appointed by the Secretary of State in a commencement order.

Part 3: Pedestrian crossings: removal of requirement to inform Secretary of State

387. *Paragraph 13* removes a requirement in section 23 of the Road Traffic Regulation Act 1984 that the Secretary of State or, in relation to Wales, the Welsh Ministers are informed in writing before certain pedestrian crossings are established or removed.

388. This repeal will mean local traffic authorities ("LTAs") will no longer need to notify the Secretary of State if they wish to install or remove a zebra, pelican or puffin crossing. In practice few of them do; repealing it will remove an outdated and unnecessary requirement. LTAs do not have to notify when installing other facilities such as traffic signal junctions or toucan crossings. It does not fit with the current climate where responsibility for provision of traffic management measures rests with local authorities.

389. This repeal forms part of the law of England and Wales and Scotland (as does the provision repealed). It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 4: Off-road motoring events

390. Section 13A of the Road Traffic Act 1988 (the "RTA") provides that a person

shall not be guilty of an offence under section 1, 1A, 2 or 3 of the RTA if he shows that he was driving in accordance with an authorisation for a motoring event given under regulations made by the Secretary of State. *Paragraph 14* amends section 13A of the RTA by also disapplying section 2B of the RTA (causing death by careless driving) in the case of participants in authorised off-road motor events.

391. The amendment to section 13A of the RTA by Part 4 forms part of the law of England and Wales and Scotland and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 5: Testing of vehicles

392. Part 5 amends sections 46, 51 and 52 of the Road Traffic Act 1988 (the "RTA") to alter the current provision for the charging of fees by the Secretary of State in connection with the annual roadworthiness testing of lorries, buses and coaches. Where such testing is carried out other than at the Secretary of State's premises (operated by the Vehicle and Operator Services Agency) the amendment provides for the Secretary of State to charge the occupier of premises at which testing is carried out for testing services provided or to charge in respect of the issue of test certificates.

393. *Paragraph 15* amends section 52 of the RTA to extend the Secretary of State's power to designate premises as testing stations for the purposes of roadworthiness testing to the testing of lorries.

394. *Paragraphs 16 and 17* amend sections 46 and 51 respectively of the RTA to allow the Secretary of State to make regulations to charge those occupying testing stations for lorries or for buses and coaches in respect of the provision of testing services or in connection with the issue or correction of test certificates. In relation to occupiers of lorry testing stations, the regulations may provide for payment of charges on account or for the supply of test certificates. Regulations may also provide for the keeping by testing station occupiers of test certificate registers and other records.

395. Part 5 of the Schedule forms part of the law of England and Wales and Scotland (like the RTA). It will come into force on a day to be appointed by the Secretary of State in a commencement order. It reduces a burden in allowing simplification of the regulatory environment for the testing of lorries, buses and coaches by enabling an alternative to the current administratively complex charging structure.

Part 6: Rail vehicle accessibility regulations: exemption orders

396. Rail vehicle accessibility regulations ("RVAR") ensure that new and refurbished rail vehicles have features that make them more accessible to disabled people. The current regulations are the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010. The Secretary of State may by order grant, under a power in section 183 of the Equality Act 2010, exemptions from parts of RVAR on a case by case basis, if the Secretary of State considers this is warranted and following

consultation with groups representing disabled people.

397. Since 2008, RVAR has only applied to a minority of rail vehicles – those used on tramways, metros and underground, for example. Rail vehicles used on mainline services ("heavy rail" or "trains") have, since that time, been subject to an equivalent European accessibility regime instead.

398. Section 207(2) of the Equality Act 2010 requires that exemptions from RVAR be made by statutory instrument. This is unlike the similar accessibility regime in place for buses and coaches, where the Equality Act 2010 allows exemptions to be made administratively. Exemptions for stations and trains from their equivalent European accessibility requirements are also granted administratively. Part 6 of the Schedule amends section 183 of the Equality Act 2010 so that exemptions from RVAR can be made and amended by administrative order rather than by statutory instrument. It also removes provisions of that Act dealing with the parliamentary procedure for exemption orders, as these will no longer be necessary.

399. Section 183 of the Equality Act 2010 also contains a power for the Secretary of State to make regulations as to exemption orders, for example as to the information to be supplied with an application for an exemption order. Part 6 of the Schedule removes that power to make regulations.

400. Part 6 of the Schedule forms part of the law of England and Wales and Scotland. It will come into force on a day to be appointed by the Secretary of State in a commencement order.

Schedule 9: Enforcement of transport legislation

Part 1: Drink and drug driving offences

Removal of "statutory option" to have breath specimen replaced: road and rail transport

401. Section 8(1) of the Road Traffic Act 1988 (the "RTA") provides that out of the two specimens of breath provided, it is the one with the lower proportion of alcohol in the breath that is used (the other being disregarded). Section 8(2) of the RTA provides that if the lower specimen of breath has a reading of no more than 50mcg/100 ml of breath, then that person has the right to elect to have that specimen replaced with a blood or urine specimen. If that person then provides such a specimen, neither specimen of breath is used. It is this right to have the breath reading replaced with either a blood or urine test that is commonly known as "the statutory option".

402. *Paragraph 1* omits subsection (2), (2A), (3) and (4) of the RTA and makes consequential amendments. This removes the option for individuals to opt for a replacement blood or urine specimen and means that the evidential breath test is now the primary means of testing unless there are particular reasons (e.g. medical) why

breath specimens cannot be obtained.

403. The statutory option is also provided for in the corresponding regime for railways in the Transport and Works Act 1992 (the "TWA"). *Paragraph 2* removes the statutory option by omitting section 32(2) to (4) of the TWA.

No need for preliminary breath test before evidential breath test: road transport

404. The current legal provisions for breath testing drivers involves a preliminary test, usually at the roadside (carried out under section 6A of the RTA), and two evidential breath tests at a police station or elsewhere (for example in a hospital under section 7(2) of the RTA). The type approved equipment used to conduct preliminary tests includes an indication and or display of the result of the test, which can then be judged against the prescribed limit for breath by a police officer deciding whether to arrest a drink-driver.

405. At the police station the suspect is required to provide two evidential breath specimens. There is minimal time delay between the two evidential tests, with the tests being conducted in quick succession. The two specimens of breath are tested separately and a decision on whether or not to charge the driver with an offence under section 5 of the RTA is taken on the basis of the lower result from the two tests at the police station.

406. *Paragraph 3* would allow a police officer to proceed directly to evidential breath testing at the roadside in those instances where a portable evidential breath test device is available. This does not remove the ability to require a preliminary breath test.

Removing restriction that evidential breath test must be taken at police station: rail transport

407. Under the current regime for railways evidential tests can only be taken at a police station. *Paragraph 4* amends section 31(2) of the TWA so that a constable may require an evidential breath test at a police station or hospital or, if the constable is in uniform, anywhere else.

Healthcare professionals advising whether condition is due to drugs: road and rail transport

408. Section 6 of the RTA provides the police with a power to administer one or more of three types of preliminary test, one of which is a preliminary impairment test intended to assist an officer to ascertain whether a suspected drug driver is impaired. In circumstances where the officer considers that they have sufficient evidence (with or without a preliminary impairment test) the constable may arrest the suspect under section 24 of the Police and Criminal Evidence Act 1984 in order to continue with the

investigation by obtaining a specimen of blood or urine for analysis.

409. Section 7(3)(c) of the RTA provides that a specimen may be taken if the suspected offence is one under section 3A or section 4 of the RTA and the constable requiring the specimen has been advised by a medical practitioner that the condition of the person required to provide the specimen might be due to a drug. *Paragraph 5* amends the RTA to provide that in addition to a medical practitioner, a registered healthcare professional may make the assessment of the suspect's condition in these circumstances.

410. Section 31 of the TWA enables a constable to require a person to provide a blood or urine test when investigating a suspected offence relating to drugs under the railways regime. Section 31(4)(c) provides that a specimen may be taken if the suspected offence is one under section 27(1) of the TWA and the constable making the requirement has been advised by a medical practitioner that the condition of the person required to provide the specimen may be due to some drug. *Paragraph 6* amends the TWA to provide that in addition to a medical practitioner, a registered healthcare professional may make the assessment of the suspect's condition in these circumstances.

Further extension of role of healthcare professionals: road and rail transport

411. *Paragraph 8* amends section 7A of the RTA to provide that, in addition to medical practitioners, a registered healthcare professional may, in the course of an investigation, take a blood specimen from a person who may be incapable of consenting to that specimen being taken. *Paragraph 12* makes a corresponding change to the TWA for the railways regime.

412. *Paragraph 9* amends section 11 of the RTA to remove a restriction on a registered healthcare professional from taking a specimen of blood only in a police station. *Paragraph 13* makes a corresponding change to the TWA for the railways regime.

Extent and commencement: road and rail transport

413. The amendments to the road and railways regimes by Part 1 of the Schedule form part of the law of England and Wales and Scotland and will come into force on a day to be appointed by the Secretary of State in a commencement order.

Application of Road Traffic Act provisions in shipping regime

414. *Paragraphs 14 and 15* provide for the changes made by the Schedule to the enforcement provisions in the RTA to flow through to the shipping regime.

415. Sections 78 to 80 in Part 4 of the Railways and Transport Safety Act 2003 (the "RTSA") create a number of drink driving offences applicable to professional staff on

and off duty and to non-professionals. The RTSA applies the enforcement provisions of the RTA and the Road Traffic Offenders Act 1988 (the "RTOA") to the maritime regime by reference. The RTSA also modifies these provisions where appropriate. The amendment in paragraph 14(2) makes it clear that the references in the RTSA to provisions of the RTA and RTOA are ambulatory and so changes to the RTA and RTOA enforcement provisions (for example through the Deregulation Bill) also apply to those provisions as applied by the RTSA, unless the contrary intention appears. Paragraph 14 also adds some modifications to the way that the RTA provisions apply in the shipping regime in order to deal with the amendments to the RTA made by the Crime and Courts Act 2013 which are not to flow through to the shipping regime.

416. Paragraphs 14 and 15 form part of the law of England and Wales, Scotland and Northern Ireland. They will apply, as part of the shipping regime, to United Kingdom ships everywhere, foreign ships in United Kingdom waters and unregistered ships in United Kingdom waters. They will come into force on a day to be appointed by the Secretary of State in a commencement order.

Application of Road Traffic Act provisions in aviation regime

417. Part 5 of the RTSA deals with drink and drug driving offences in the aviation regime. The Part applies the enforcement provisions of the RTA and RTOA to the aviation regime by reference. *Paragraph 16* of the Schedule makes changes to Part 5 of the RTSA corresponding to those made by paragraph 14 of the Schedule for the maritime regime. This will enable the changes made by Schedule 9 to the enforcement provisions in the RTA to flow through to the aviation regime.

418. Paragraph 16 forms part of the law of England and Wales, Scotland and Northern Ireland. It will apply, as part of the aviation regime, in relation to aviation functions and activity performed or carried out in the United Kingdom (with some limitations in relation to Scotland), and in relation to certain functions carried out on a United Kingdom aircraft. Paragraph 16 will come into force on a day to be appointed by the Secretary of State in a commencement order.

Part 2: Bus lane contraventions

419. Part 2 of Schedule 9 amends the procedure by which the Secretary of State (as the "relevant national authority") may specify a local authority as an "approved local authority" for the purposes of enforcing bus lane contraventions.

420. *Paragraph 17* removes the requirement under section 144(3)(b) of the Transport Act 2000 (the "TA 2000") for the Secretary of State to specify an "approved local authority" by means of an order and, instead, allows the Secretary of State to do so by means of a notice in writing. Section 144 has been repealed, but that repeal is not yet in force in England. The amendment made by paragraph 17 only has effect until the date when that repeal comes into force.

421. *Paragraph 18* is a transitional provision enabling an authority that has already

been specified as an "approved local authority" by an order made under section 144 of the TA 2000 to continue to be treated as such, as if it had been notified in writing once these changes take effect. This is intended to ensure that the amendment of section 144 does not have the unwanted effect of rendering invalid any orders already made by the Secretary of State.

422. *Paragraph 19* inserts a new sub-paragraph (3A) into paragraph 9 of Schedule 8 to the Traffic Management Act 2004 (the "TMA 2004"), which is not yet in force in England. That Schedule introduces a new regime for enforcement of bus lane contraventions which will replace that in the TA 2000. Sub-paragraph (3A) provides that a notice under section 144 of the TA 2000 that has been given (and not withdrawn) before the commencement of paragraph 9 of Schedule 8 will be treated as an order under that paragraph. This will enable a local authority that could enforce bus lane contraventions under the old system to continue to do so under the new system without the need for an order to be made under the TMA 2004.

423. The amendments made in this Part of the Schedule form part of the law of England and Wales but will only affect England. They will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Schedule 10: Household waste: London

424. This Schedule makes amendments to the London Local Authorities Act 2007 that are based on new sections 46A to 46C of the Environmental Protection Act 1990 (the "EPA"), as inserted by subsection (3) of clause 10. This is so as to ensure consistency of approach.

425. The London Local Authorities Act 2007 introduced a number of measures intended to improve and develop local government services in London. It was considered at that time that the powers of London borough councils should be extended and amended: civil penalty charge procedures were introduced for a number of areas, including those related to household waste collection. The 2007 Act provides for its own system of penalty notices relating to the presentation for collection of household waste, and there are differences from the system set out in the EPA, e.g. requirements as to the placing of household waste for collection may be made by London borough councils in regulations rather than by individual notices (although nothing in that Act prevents the ability of a borough council to serve notices under section 46 of the EPA). There is no criminal offence for a failure to comply with a requirement made in regulations; instead, a penalty charge is payable. The system of appeals is also different. Whilst making some consequential changes to the appeal procedure, the amendments made by this section do not alter the existing right of appeal or the tribunal determining the appeal.

426. The Schedule will come into force on a day to be appointed by the Secretary of State in a commencement order.

Schedule 11: Other measures relating to animals, food and the environment

Part 1: Destructive imported animals

427. The Destructive Imported Animals Act 1932 provides for the prohibition or control of the importation into, and/or keeping within, Great Britain of destructive non-indigenous mammalian animals, and facilitates the eradication of any such mammals established in the wild. The Act assumes that, where there are such animals at large, the policy will be to destroy them before the wild population becomes so established that eradication ceases to be viable.

428. Amongst other controls, it requires occupiers of land to report the presence of such animals at large on their land, so as to facilitate their eradication.

429. The 1932 Act applies expressly to musk rats (which were eradicated in the 1930s), but section 10 permits its provisions to be extended to other similarly destructive non-indigenous mammal species via an order. Such orders now include the Grey Squirrels (Prohibition of Importation and Keeping) Order 1937.

430. The amendment to the Grey Squirrels (Prohibition of Importation and Keeping) Order 1937 removes the obligation under section 5(2) of the Act upon occupiers to notify the authorities of any grey squirrels (save those kept lawfully under licence) on their land, and the associated offence provision (in section 6(1)(f) of the Act) for failing to do so.

431. Eradication of grey squirrels is currently considered neither feasible nor widely supported, so the general obligation to report grey squirrels at large to the authorities serves no useful purpose and is neither observed by occupiers (who thereby commit an offence) nor enforced by government. It undermines the criminal law to maintain unenforced offences.

432. The amendment to section 10 of the 1932 Act revises the test that must be satisfied before an order may be made or amended. Rather than the Secretary of State or the Welsh Ministers (as the case may be) needing to be satisfied that it is desirable to destroy all such animals at large it will be enough if they are satisfied that it is desirable to keep under review whether any which may be at large should be destroyed.

433. These amendments, like the 1932 Act, form part of the law of England and Wales only.

434. These amendments will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 2: Farriers

435. The Farriers Registration Council is the regulatory body for the farriery profession in Great Britain. Its responsibilities are set out in the Farriers (Registration) Act 1975. The constitution of the Council is also prescribed in the Act, in Part 1 of Schedule 1. Five of the 16 persons on the Council are "lay members" and

are appointed by named organisations.

436. Part 2 of Schedule 11 amends Part 1 of Schedule 1 to the Farriers (Registration) Act 1975 by replacing two of the named appointing organisations.

437. The regulatory responsibilities of the Jockey Club were transferred to the British Horseracing Authority Limited; thus the former will be replaced by the latter.

438. The Council for Small Industries in Rural Areas (CoSIRA) no longer exists. There was no legal succession provided for when this body was abolished. There is a clear link, however, to the Department for Environment, Food and Rural Affairs. Therefore, the Secretary of State will replace CoSIRA as an appointing body to the Council. As the professional regulation of farriers is a devolved matter for Scotland, provision has been made for the Secretary of State to consult Scottish Ministers in respect of such an appointment.

439. Without these amendments, the number of members of the Council would be reduced and there is a concern that it would not then be able to function properly.

440. Like the 1975 Act itself, Part 2 of the Schedule forms part of the law of England and Wales and Scotland and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 3: Joint waste authorities

441. Part 3 of Schedule 11 repeals, in relation to England, Part 11 of the Local Government and Public Involvement in Health Act 2007, which allows for the establishment of joint waste authorities. The provisions repealed continue to have effect for the purposes of the exercise by the Welsh Ministers of the power conferred on them by section 210 of that Act (which enables them by order to make provision in relation to Wales applying any provisions of sections 205 to 208 with modifications).

442. Joint waste authorities ("JWAs") were intended to integrate services across more than one local authority area to achieve efficiencies for member authorities and ensure quality of service for residents. However, the powers have never been used and there are no JWAs established under this legislation. The repeal of these provisions is a deregulatory measure which removes an unused layer of statutory regulation. Local authorities remain able to make their own arrangements amongst themselves without the need for this legislation, establishing more informal partnerships based on local needs.

443. The repeals in paragraph 4 of Schedule 11 form part of the law of England and Wales; however, their practical effect is limited to England. Part 3 of Schedule 11 will come into force on a day to be appointed by the Secretary of State in a commencement order.

Part 4: Air quality

444. Part 4 of the Environment Act 1995 outlines a regime for the domestic control of air pollution by local authorities. Part 4 of the Act extends to England and Wales and Scotland. Local authorities are required under section 82 of the Act to review the air quality and likely future air quality in their area. As part of this review, the local authority must assess whether the air quality standards and objectives are being achieved or are likely to be achieved. The local authority must identify any parts of its area within which those standards are not being achieved.

445. If air quality standards are not being achieved in any parts of its area, then the local authority must designate the relevant part as an Air Quality Management Area (section 83 of the Act). Section 84(1) of the Act requires that the local authority must undertake a further assessment of air quality ("Further Assessments") in relation to the designated area to supplement information it already has.

446. Local authorities see Further Assessments as an unnecessary burden that is an impediment to speedy implementation of local action plans, which are required under section 84(2)(b) of the Act. This view has been confirmed in recent consultation where the majority of local authority respondents in England were content for the repeal of Further Assessments to go ahead.

447. Part 4 of Schedule 11 repeals the requirement for local authorities to carry out a Further Assessment. This repeal will apply to England and Wales and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act. Scotland is making the repeals, to apply to Scotland, by means of their Regulatory Reform (Scotland) Bill, which was introduced in the Scottish Parliament at the end of March 2013.

Part 5: Noise abatement zones

448. Part 5 of Schedule 11 repeals provisions within the Control of Pollution Act 1974 on the establishment of noise abatement zones and makes consequential amendments to other legislation.

449. A local authority currently has the power to make a noise abatement order establishing a noise abatement zone in all or part of its area. This enables the local authority to set maximum noise levels for premises covered by the noise abatement order. The local authority is required to measure the level of noise emanating from these premises and record this in a publicly accessible register. Noise from these premises may not exceed the level of noise recorded in the register without the local authority's consent. The local authority may also serve noise reduction notices in certain circumstances. The local authority may also determine set maximum noise levels for new buildings or premises which will become subject to the noise abatement order in the future because of works being undertaken.

450. These powers are not being widely used by local authorities in England and Wales. Investigations carried out by Defra indicate that only 49 local authorities have noise abatement zones in their areas, and that there are only 81 noise abatement zones

of which only 2 are actively managed. Some local authorities have indicated that they are reluctant to use these powers because they find them difficult to use. Local authorities have other more effective powers for managing noise including the planning, licensing and statutory nuisance regimes. The existence of noise abatement zones which are not being actively managed may give rise to uncertainty for premises in those areas particularly in relation to property transactions. The repeals made by Part 5 will automatically revoke the remaining noise abatement orders.

451. The Control of Pollution Act 1974 forms part of the law of England and Wales and Scotland and so will Part 5 of Schedule 11. But steps are already being taken in Scotland to repeal the provisions about noise abatement zones in relation to Scotland by means of the Regulatory Reform (Scotland) Bill.

452. Part 5 of Schedule 11 will come into force on a day to be appointed by the Secretary of State in a commencement order.

Schedule 12: Abolition of the Office of the Chief Executive of Skills Funding

453. Schedule 12 amends Part 4 of the Apprenticeship, Skills, Children and Learning Act 2009 ("ASCLA") in consequence of the repeal of the post of the Chief Executive of Skills Funding (the "Chief Executive") by clause 31(1). See also the commentary on clause 31.

454. *Paragraph 2* omits section 81 of the ASCLA which will remove the requirement for there to be a Chief Executive. *Paragraphs 4 to 6, 8 and 14* transfer powers and duties from the Chief Executive to the Secretary of State in relation to the provision of apprenticeship training, while *paragraphs 9 to 12 and 26* transfer functions from the Chief Executive to the Secretary of State in relation to the provision of education and training and *paragraphs 16, 20 and 21* transfer supplementary functions. *Paragraph 23* provides that these functions are exercisable in relation to England only, except in relation to the functions conferred by section 107 (provision of services) which applies to the United Kingdom. *Paragraphs 3, 7, 13, 15, 17 to 19 and 22* repeal all other powers and duties of the Chief Executive in relation to apprenticeship functions and the provision of education and training.

455. The Schedule has the same extent as the provisions it amends and so, in the main, forms part of the law of England and Wales only. The exceptions are paragraphs 16 and 17 (amendments to section 107 and repeal of sections 108 and 109) which also form part of the law of Scotland and Northern Ireland. Clause 31 and the Schedule will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Schedule 13: Further and higher education: reduction of burdens

456. In this note on the Schedule, references to further education institutions are to institutions which provide further education and are maintained by a local authority, or to institutions within the further education sector. References to institutions within the further education sector are to further education corporations, designated

institutions and sixth form colleges (see section 91(3) of the Further and Higher Education Act 1992 (the "FHEA 1992")). A further education corporation is a body corporate established under section 15 or 16 of the FHEA 1992, or which has become a further education corporation by virtue of section 33D or 47 of that Act. A sixth form college corporation is a body corporate that is designated as a sixth form college corporation under section 33A or 33B of the FHEA 1992, or established under section 33C of that Act. References to sixth form colleges are to institutions conducted by sixth form college corporations. A designated institution is a further education institution that has been designated by the Secretary of State under section 28 of the FHEA 1992.

Regulation of teaching requirements for teaching staff and principals

457. *Paragraph 1* provides for sections 136(a), 136(b), 137 and 138 of the Education Act 2002 to cease to apply in relation to England. These sections confer powers on the Secretary of State, by regulations, to impose qualification requirements in respect of staff and principals at further education institutions in England. It is intended that all regulations made under these sections will be revoked in line with Lord Lingfield's recommendations (*Professionalism in Further Education,* March 2012) which questioned the effectiveness of qualification requirements in improving the standard of teaching. The newly-established Education and Training Foundation will support the development of teaching best practice in the further education sector. These powers will continue to be exercisable by the Welsh Ministers in relation to further education institutions in Wales.

Control of governance of designated institutions conducted by companies

458. *Paragraph 2* similarly provides for section 31 of the FHEA 1992, which confers power on the Secretary of State to give directions for the purpose of securing that the articles of association of designated institutions conducted by companies are amended as specified in the directions, to cease to apply in relation to England. This amendment will ensure that the powers available to the Secretary of State in relation to the articles of association of designated institutions are reduced in line with other further education institutions in England. These powers will continue to be available to the Welsh Ministers in relation to designated institutions conducted by companies in Wales.

Conversion of sixth form college corporations into further education corporations

459. *Paragraph 3* omits section 33D(2)(b) and (4) of the FHEA 1992 which currently applies only in relation to England. Section 33D(2)(b) confers power on the Secretary of State to convert a sixth form college corporation into a further education corporation if satisfied that it is no longer appropriate for the body to be a sixth form college corporation. The government considers that the retention of the Secretary of State's power to unilaterally convert sixth form college corporations into further education corporations is inconsistent with the aim of giving greater autonomy to such institutions. Sixth form college corporations will still be able to apply to the Secretary of State to be converted into a further education corporation under section 33D(2)(a)

of the FHEA 1992.

Control of interest rates on loans

460. *Paragraph 4* omits section 3 of the Further Education Act 1985 which applies in relation to England and Wales. This section confers powers on the Secretary of State and the Welsh Ministers to determine the minimum interest rate on loans made under that Act by local authorities to certain educational bodies. This power has never been used and its retention is no longer considered necessary.

Transfer of property etc

461. *Paragraph 5(2) to (4)* omits sections 23 to 26, 32, 33 and 34 of the FHEA 1992 which apply in relation to England and Wales. Sections 23 to 26 make provision about the transfer of property, rights and liabilities to further education corporations established to conduct certain other institutions in the education sector. Sections 32 and 33 make provision about the transfer of property, rights and liabilities to designated institutions. Section 34 confers power on the Secretary of State and the Welsh Ministers by order to provide for property of a local authority to be made available for use by institutions within the further education sector. The sections which are being repealed concern the initial incorporation of further education corporations and are now considered to be obsolete. *Paragraph 5(5)* makes consequential amendments and repeals.

Powers of Secretary of State in relation to local authority maintained institutions

462. *Paragraph 6(2)* omits section 61(2) and (3) of the Education (No. 2) Act 1986 which applies in relation to England and Wales. This section confers powers on the Secretary of State and the Welsh Ministers to make provision by regulations restricting the participation by students of higher and further education institutions maintained by local authorities in the proceedings of the governing bodies of those institutions. *Paragraph 6(3)* omits section 62 of the Education (No. 2) Act 1986 which confers powers on the Secretary of State and the Welsh Ministers to make provision by regulations requiring governing bodies of higher or further education institutions maintained by local authorities to make documents and information relating to the governing documents available. These powers are being removed so as to bring them into line with the powers held by the Secretary of State and the Welsh Ministers in relation to other further education institutions.

463. *Paragraph 7(2)* omits section 158 of the Education Reform Act 1988 which applies in relation to England and Wales. This section requires the governing bodies of institutions providing full-time education which are maintained by local authorities in exercise of their higher or further education functions to make reports and returns etc to the Secretary of State or the Welsh Ministers on request. *Paragraph 7(3)* omits section 159 of the Education Reform Act 1988 which confers powers on the Secretary of State and the Welsh Ministers to make provision by regulations requiring local authorities to publish information relating to institutions providing full-time education which are maintained by the authorities in exercise of their higher or further education functions. These powers are being removed so as to bring them into line with the

powers held by the Secretary of State and the Welsh Ministers in relation to other further education institutions.

464. *Paragraph 7(4)* omits section 219 of the Education Reform Act 1988 which applies in relation to England and Wales. This section confers default powers on the Secretary of State and the Welsh Ministers in relation to governing bodies of institutions maintained by local authorities and providing higher or further education.

465. In consequence of the change made by paragraph 7(4), *paragraph 8* amends section 56A of the FHEA 1992 to extend the Secretary of State's power to intervene in relation to institutions in the further education sector to cover institutions in England which are maintained by local authorities and provide further education. This will ensure that the Secretary of State has the same powers of intervention in relation to all further education institutions in England.

466. The provisions of this Schedule will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act. All the provisions form part of the law of England and Wales and their application to England and Wales has been set out in the commentary on each provision.

Schedule 14: Schools: reduction of burdens

Responsibility for discipline

467. *Paragraph 1* amends sections 88 and 89 of the Education and Inspections Act 2006 (the "EIA 2006"). Sections 88 and 89 of the EIA 2006 set out the requirements for governing bodies and head teachers in relation to discipline.

468. The effect of these amendments is to limit the application of the requirement on governing bodies of a relevant schools[1] to make and review a statement of general principles that the head teacher is to have regard to when formulating the behaviour policy to Wales. Governing bodies of relevant schools in Wales will remain required to ensure that a behaviour policy is pursued at the school.

469. *Paragraph 1* provides that governing bodies of relevant schools in England will be under a duty to ensure that the head teacher determines the behaviour policy under section 89(1) but will have no influence over its content. Section 89 is amended consequentially so that head teachers of relevant schools in England will not be required to act in accordance with the governing bodies' written statement of general principles.

470. Sections 88 and 89 of the EIA 2006 form part of the law of, and apply to, England and Wales. The amendments made by paragraph 1 preserve the current position for Wales and alter the position for relevant schools in England. They will come into force on a day to be appointed by the Secretary of State in a commencement order.

[1] Section 88(5) defines "relevant school" as a community, foundation or voluntary school, a community or foundation special school, a maintained nursery school, a pupil referral unit or a non-maintained special school.

Home-school agreements

471. Section 110 of the School Standards and Framework Act 1998 requires the governing body of maintained schools, city technology colleges, city colleges for the technology of the arts and Academy schools in England and Wales to adopt a home school agreement ("HSA") and a parental declaration. A HSA is a statement which sets out the school's aims and values, its expectations of pupils and the responsibilities of the school and parents with regard to their child's education. A parental agreement is the document used by parents to record that they acknowledge their responsibilities.

472. Section 110 forms part of the law of, and applies to, England and Wales. *Paragraph 2* limits the application of section 110 of the School Standards and Framework Act 1998 to Wales. It removes the requirement on governing bodies of maintained schools, city technology colleges, city colleges for the technology of the arts or Academy schools in England to adopt a HSA. It will come into force on a day to be appointed by the Secretary of State in a commencement order.

Determining school terms

473. *Paragraph 3* moves all responsibility for determining term dates in community, voluntary controlled and community special schools and maintained nursery schools from the local authority to the governing body. The governing body of all such maintained schools will be responsible for determining their school's term and holiday dates each year. This change applies to England only.

474. Section 32 of the Education Act 2002 sets out who has responsibility for determining the dates when school terms and holidays shall begin and end. Currently the local authority is responsible for determining the term dates of a community, voluntary controlled or community special school or a maintained nursery school. The governing body is responsible for determining the term dates of a foundation, voluntary aided or foundation special school.

475. Section 32 of the Education Act 2002 forms part of the law of, and applies to, England and Wales. The amendments preserve the current position for Wales so that the local authority in Wales will remain responsible for determining term dates in relation to community, voluntary controlled and community special school and maintained nursery schools. This provision will come into force on a day to be appointed by the Secretary of State in a commencement order.

Staffing matters

476. Sections 35 and 36 of the Education Act 2002 form part of the law of England and Wales and make provision about staffing in maintained schools in England and Wales. *Paragraphs 4 and 5* limit the duty in sections 35(8) and 36(8) of the Education Act 2002 that requires the governing bodies and head teachers of maintained schools (community, voluntary controlled and community special schools, maintained nursery schools and foundation, voluntary aided and foundation special schools) and local authorities to have regard to guidance issued by the Secretary of

State relating to the appointment, discipline, suspension and dismissal of school staff (teachers and other school employees) to Wales. Consequently the current statutory guidance, which supplements the provisions and duties set out in the School Staffing (England) Regulations 2009 (S.I. 2009/2680) and describes in detail the processes and procedures that must be followed, will be removed**.** This provision will come into force on a day to be appointed by the Secretary of State in a commencement order.

Publication of reports

477. *Paragraph 6* removes a number of duties of governing bodies relating to the dissemination of Ofsted reports and reports of religious inspections. The provisions amended by this paragraph form part of the law of England and Wales but apply to England only. The amendments will come into force on a day to be appointed by the Secretary of State in a commencement order.

478. Paragraph 6(2)(a) repeals the duty of the governing body to provide a copy of a report about the investigation of a complaint about a school to registered parents of registered pupils at the school to which the complaint relates. Paragraph 6(2)(b) repeals the duty of the governing body to make a copy of any interim statement available for inspection by members of the public, to provide one copy of the statement free of charge to any person who asks for one, and to secure that every registered parent of a registered pupil at the school receives a copy of the statement.

479. Paragraph 6(3) replaces the duty of the governing body to make a copy of all inspection reports it receives available for public inspection, to provide a copy to anyone who asks for one, and to make arrangements for parents of pupils at the school to receive a copy of the report with a new duty to secure that every registered parent of a registered pupil at the school is informed of the overall assessment contained in the report of the quality of education provided in the school.

480. Paragraph 6(4) replaces the duty of the governing body to ensure that any report on outcomes from a religious inspection is made available for inspection by members of the public, that a copy is sent to every parent of pupils who receive denominational education at the school (or who take part in acts of collective worship to which the inspection relates) and that a copy is provided to anyone else who asks. Instead, it requires governing bodies to secure that every registered parent of a registered pupil at the school is informed of the overall assessment contained in the report of the quality of the denominational education provided by the school and the content of the school's collective worship.

481. Paragraph 6(5). From September 2012 schools have been required, under the School Information (England) Regulations 2008 (the "2008 Regulations"), as amended, to publish on their website information as to where and by what means parents may access the most recent Ofsted report about the school. These regulations also ensure that schools provide a paper copy of any information to parents on request and free of charge. Paragraph 6(5) amends the 2008 Regulations to require a voluntary or foundation school which has been designated as having a religious

character, to provide information as to where and by what means parents may access the most recent report about the denominational education and content of the school's collective worship as sent to the governing body.

Schedule 15: Removal of consultation requirements

482. This Schedule removes a number of statutory requirements to consult that are currently imposed on the Secretary of State or other public authorities. The government considers that these are unnecessary. The Secretary of State or the other public authority will continue to be able to consult where this is considered appropriate.

483. The requirements that are being removed are summarised briefly below.

National Parks and Access to the Countryside Act 1949: making of byelaws

484. *Paragraph 1* removes the requirement in section 91(1) of the National Parks and Access to the Countryside Act 1949 for the Secretary of State to consult Natural England before using default powers to make byelaws affecting any land or waterway in a National Park or an Area of Outstanding Natural Beauty in England.

485. Section 91 forms part of the law of England and Wales. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Pests Act 1954: designation of rabbit clearance areas

486. *Paragraph 2* disapplies the consultation requirement contained in section 1(11)(a) of the Pests Act 1954 in relation to England. Section 1 of the Act permits the Secretary of State to make rabbit clearance orders ("RCOs"), which designate areas in which occupiers are then obliged to take steps to keep their land free of wild rabbits or, where this is not practicable, to prevent damage caused by them. Section 1(11)(a) currently provides that, before making an RCO, the Secretary of State must (unless compliance would be unreasonable in the circumstances) consult such persons as appear to him to be representative of interests of farmers, agricultural land owners, and agricultural workers, and of any forestry interests in the area.

487. Section 1 of the 1954 Act forms part of the law of England and Wales and Scotland. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Agriculture and Horticulture Act 1964: grading etc of horticultural produce

488. *Paragraph 3* removes the requirement in section 23(1) of the Agriculture and Horticulture Act 1964, which requires the authority proposing to make any regulations or orders under Part 2 of the Act (which deals mainly with the grading of horticultural produce), to consult with organisations appearing to be representative of interests affected by the regulations or orders.

489. Section 23 forms part of the law of England and Wales and Scotland. The

amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Control of Pollution Act 1974: reduction of noise from plant or machinery

490. *Paragraph 4* removes the requirement in section 68(4) of the Control of Pollution Act 1974 for the Secretary of State to consult persons who represent producers and users of plants and machinery before making regulations in connection with reducing the noise caused by the plant or machinery and for limiting the level of noise which may be caused by any plant or machinery when used for certain works. The requirement is removed only where the regulations apply to England only.

491. Section 68 forms part of the law of England and Wales and Scotland. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Agriculture (Miscellaneous Provisions) Act 1976: metrication of measurements

492. *Paragraph 5* removes the requirement in section 7(4) of the Agriculture (Miscellaneous Provisions) Act 1976 to consult interested parties before making regulations under section 7 on the adaptation of enactments to metric units. The requirement is removed only where the regulations apply to England only. (It is, in any event, unlikely that regulations will be made in future under this section. The last time such regulations were made was in 1979.)

493. Section 7 forms part of the law of England and Wales and Scotland. The amendment affects England only. The amendment will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Forestry Act 1979: metrication of measurements

494. *Paragraph 6*. Section 2(2) of the Forestry Act 1979 made provision for the Forestry Commissioners to make regulations to change various imperial measurements in relevant forestry legislation to metric units. The power in section 2(2) extends to public general, local or private Acts. Section 2(4) obliged the Commissioners to consult persons or organisations whose interests might be affected by such changes. Paragraph 6 removes this requirement but only where the regulations apply to England only.

495. Section 2 forms part of the law of England and Wales and Scotland. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Derelict Land Act 1982: grants reclaiming or improving derelict land etc

496. *Paragraph 7* removes the requirement upon the Secretary of State in section 1(6A) of the Derelict Land Act 1982 to consult Natural England before making any grant to reclaim or improve derelict, neglected or unsightly land which is in a National Park or in an Area of Outstanding Natural Beauty.

497. Section 1 forms part of the law of England and Wales. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Horticultural Produce Act 1986: movement of horticultural produce

498. *Paragraph 8* removes the requirement in section 3(2) of the Horticultural Produce Act 1986 on Ministers to consult such organisations as appear to them to represent interests likely to be affected by the order, before making an order to change the circumstances in which consent must be given to the movement of produce. The requirement is removed only where the order applies to England only.

499. Section 3 forms part of the law of England and Wales and Scotland. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Housing Act 1988: designation of Housing Action Trust Areas

500. *Paragraph 9* removes, for England, the requirement under section 61(1) of the Housing Act 1988 which requires the Secretary of State to consult local housing authorities before designating any part of their area as a housing action trust area.

501. By way of background, Housing Action Trusts are formed under Part 3 of the Housing Act 1988. A HAT is a corporation that takes over the housing and planning functions of the local authority in the designated area. Their purpose is to improve the area's services and facilities and the condition of local authority and other housing stock in the area. Once this work is complete the HAT is wound up.

502. Section 61 forms part of the law of England and Wales. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Land Drainage Act 1991: codes of practice

503. *Paragraph 10.* Section 61E of the Land Drainage Act 1991 provides powers for Ministers to approve any code of practice which provides guidance to internal drainage boards and/or local authorities in England and Wales on a range of conservation, biodiversity, sites of special scientific interest and public access issues. Section 61E(4) requires that Ministers must consult before they make an order under 61E. Paragraph 10 removes this requirement where the order applies to England only.

504. Section 61E forms part of the law of England and Wales. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Water Industry Act 1991: provision of sewers

505. *Paragraph 11* removes the requirement under section 101A(5) of the Water Industry Act 1991 to consult: the Environment Agency; the Authority (OfWAT, the economic regulator for the water industry); or any other appropriate bodies or persons,

when the Secretary of State is (or Welsh Ministers are) issuing guidance on the provision of a public sewer under section 101A of that Act.

506. Section 101A forms part of the law of England and Wales. The amendment will apply to England and Wales. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Environment Act 1995: National Park grant

507. *Paragraph 12* removes the requirement in section 72(2) of the Environment Act 1995 for consultation with Natural England over the level and purpose of any proposed grant to a National Park authority in England.

508. Section 72 forms part of the law of England and Wales. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Environment Act 1995: hedgerows

509. *Paragraph 13* removes the requirement, in section 97(6)(d) of the Environment Act 1995, for Ministers, before making regulations under section 97 of the Act "for the protection of important hedgerows", to consult bodies whose statutory functions include giving advice to Ministers on matters relating to environmental conservation. The requirement is removed only where the regulations apply to England only.

510. The amendment would remove only the requirement to consult those with statutory duties to advise Ministers on environmental matters. It would not remove the requirement for Ministers, before making regulations "for the protection of important hedgerows", to consult other bodies/organisations as set out in the remaining provisions of section 97(6).

511. Section 97 forms part of the law of England and Wales and Scotland. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Environment Act 1995: environmental subordinate legislation

512. *Paragraph 14* removes the requirement in section 99 of the Environment Act 1995 on Ministers to consult before making or modifying for England certain subordinate legislation dealing with environmental matters.

513. Section 99 forms part of the law of England and Wales and Scotland. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Local Government Act 1999: keeping of accounts by best value authorities

514. *Paragraph 15* omits section 23(4) of the Local Government Act 1999. The effect of this provision is to remove the requirement for the Secretary of State to

consult when making regulations about the keeping of accounts by best value authorities. Section 1 of the Local Government Act 1999 lists best value authorities, all of which are types of authorities existing only in England. So, although section 23 forms part of the law of England and Wales, the repeal will only affect authorities in England. It will come into force on a day to be appointed by the Secretary of State in a commencement order.

Countryside and Rights of Way Act 2000: grants to conservation boards

515. *Paragraph 16* removes the requirement in section 91(2) of the Countryside and Rights of Way Act 2000 for consultation with Natural England over the level and purpose of any grant to an Area of Outstanding Natural Beauty conservation board.

516. Section 91 forms part of the law of England and Wales. The amendment affects England only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Local Government Act 2003: commencement of BID arrangements following appeal

517. *Paragraph 17* omits the duty to consult in section 53(7) of the Local Government Act 2003 which requires the Secretary of State in England, or the Welsh Ministers in Wales, to seek the views of billing authorities and ratepayers about the day on which Business Improvement District arrangements should come into force following an appeal against a veto.

518. By way of background, a Business Improvement District ("BID") is a partnership arrangement between a local authority and the local business community to develop projects and services for the benefit of a defined area. The non-domestic ratepayers in the area pay a levy in return for the benefits outlined in the BID arrangements, for example projects to regenerate the area, or to increase security. The provisions relating to BID arrangements are contained in Part 4 of the Local Government Act 2003 (the "2003 Act") and the Business Improvement Districts (England) Regulations 2004 (S.I. 2004/2443) (the "2004 Regulations").

519. BID arrangements may not come into force unless proposals for the arrangements are approved by ballot of the non-domestic ratepayers who are to be liable to pay the levy. Where the result of the ballot is to approve the proposals, the billing authority may veto the proposals in prescribed circumstances (see regulation 12 of the 2004 Regulations). Section 52 of the 2003 Act allows any person entitled to vote in the ballot to appeal against the veto to the Secretary of State or the Welsh Ministers, as the case may be. In the event that an appeal against the veto is successful the Secretary of State or the Welsh Ministers determine the day on which the BID arrangements are to come into force (section 53(5)). Before making such a determination the Secretary of State or the Welsh Ministers must consult the relevant billing authority and such persons as appear to be representative of the non-domestic ratepayers who are to be liable for the proposed levy (section 53(7)). It is this

requirement which is being repealed.

520. Section 53 forms part of the law of England and Wales. The repeal will apply to BID arrangements in both England and Wales. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Fire and Rescue Services Act 2004: schemes for combining fire and rescue authorities

521. *Paragraph 18* removes the duty of the Secretary of State to consult where proposing to vary or revoke a scheme to combine fire and rescue authorities made under the Fire and Rescue Services Act 2004 (the "2004 Act"), or a scheme to combine fire authorities made under the Fire Services Act 1947 (the "1947 Act"), where such variation or revocation has been proposed by the fire (and rescue) authority concerned.

522. Currently, section 2(6) of the 2004 Act requires the Secretary of State to consult when varying or revoking (whether on his own initiative or to give effect to proposals submitted by the authority) a combination scheme made under section 2 of that Act. This amendment disapplies that consultation requirement (in England) in circumstances where the authority concerned has proposed such changes. The amendment does not affect the duty on the Secretary of State to consult where he wishes, on his own initiative, to make a new combination scheme, or to vary or revoke an existing such scheme made under this section.

523. Under section 4(5) of the 2004 Act, the Secretary of State must consult affected authorities and other persons as appropriate when he intends (whether on his own initiative or to give effect to changes proposed by the authority) to vary or revoke a combination scheme approved or made under the 1947 Act. This amendment disapplies that consultation requirement (in England) in circumstances where the authority concerned has proposed such changes. It does not affect the duty on the Secretary of State to consult where he wishes to make such changes on his own initiative.

524. The amendments form part of the law of England and Wales but affect England only. They will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Schedule 16: Legislation no longer of practical use

525. Schedule 16 disapplies specified legislation which is no longer of practical use.

Part 1: Companies

526. *Paragraph 1* removes unnecessary provisions relating to the audit of charitable companies. The provisions were originally included in the Companies Act 2006 to address an anticipated transitional issue in relation to moving the rules requiring audits of some small charitable companies from the Companies Acts to

charities legislation. The envisaged situation only arose in Scotland and England and Wales for a short transitional period, and did not arise in Northern Ireland. This means that the provisions are no longer needed and can be repealed.

527. The repeal generally forms part of the law of England and Wales, Scotland and Northern Ireland and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 2: Industry

Newspaper Libel and Registration Act 1881 (c. 60)

528. *Paragraph 2* of this Schedule amends the Newspaper Libel and Registration Act 1881 in relation to England and Wales. The 1881 Act forms part of the law of England and Wales and Northern Ireland. The amendments being made will not affect how the Act applies in Northern Ireland.

529. The 1881 Act introduced a system of registration for newspaper titles that were not registered as companies. The effect of registration is to provide information on the name and address of proprietors of newspaper titles for the purpose of enabling libel suits to be brought against them.

530. Newspapers published by companies registered under the Companies Act 2006 or registered in another EEA state do not need to register under the Act. The overwhelming majority of UK newspapers are run as registered companies, formed and registered under the Companies Act 2006 or incorporated in another EEA state.

531. The amendments will do away with the registration system in England and Wales. With the majority of newspapers being registered as companies, and therefore not required to register their details under these provisions, and the increased use of the internet for dissemination information, registration no longer serves a purpose in England and Wales. The Department for Business, Innovation and Skills consulted on whether to repeal the registration provisions of the 1881 Act in January 2012 (*"Providing a flexible framework which allows companies to compete and grow: discussion paper"*). There was support for doing so.

532. The amendments of the 1881 Act will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Industry Act 1972 (c. 63) and Aircraft and Shipbuilding Industries Act 1977 (c. 3)

533. *Paragraphs 3 to 5* in Part 2 of this Schedule repeal redundant legislation related to the former nationalised aircraft and shipbuilding industries.

534. Paragraph 3 repeals a saving provision in Schedule 3 to the Industry Act 1972 that currently saves an order containing redundant provisions related to the dissolution of the Shipbuilding Industry Board. The repeal, like Schedule 3 to the 1972 Act,

forms part of the law of England and Wales and Scotland.

535. Paragraph 4 repeals the Aircraft and Shipbuilding Industries Act 1977 and the repeal, like the Act, forms part of the law of England and Wales, Scotland and Northern Ireland. Since the abolition of British Shipbuilders in 2013, the remaining provisions of the Aircraft and Shipbuilding Industries Act 1977 contain only redundant provisions related to the historic vesting of assets in British Aerospace. Paragraph 5 makes minor amendments consequential on the repeal in paragraph 4.

536. Paragraphs 3 to 5 will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act

British Steel Act 1988 (c. 35)

537. *Paragraphs 7 and 8* in Part 2 of this Schedule repeal redundant legislation related to the iron and steel industry.

538. Paragraph 7(1) repeals section 6 of the British Steel Act 1988 and the repeal, like the section, forms part of the law of England and Wales and Scotland. Section 6 is a provision requiring the Secretary of State to set a target investment limit in relation to shares held by the government in the company previously called British Steel plc. The provision ceased to have practical effect when the company became a wholly owned private company. Paragraph 7(2) makes minor amendments consequential on the repeal in paragraph 7(1).

539. Paragraph 8 repeals paragraph 10 of Schedule 3 to the British Steel Act 1988 and the repeal, like the Schedule, forms part of the law of England and Wales, Scotland and Northern Ireland. Paragraph 10 of Schedule 3 to the 1988 Act is a saving provision that currently saves four sets of regulations related to redundant schemes for the payment of compensation to workers adversely affected by the denationalisation and renationalisation of the iron and steel industry.

540. The repeals of provisions in the British Steel Act 1988 made by paragraphs 7 and 8 will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

European Communities (Definition of Treaties) (International Railway Tariffs Agreements) Order 1980 (S.I. 1980/1094)

541. The European Communities (Definition of Treaties) (International Railway Tariffs Agreements) Order 1980 designates as EU Treaties, for the purposes of the European Communities Act 1972, seven agreements relating to the European Coal and Steel Community, which are no longer in force.

542. *Paragraph 9* revokes the 1980 Order. The effect of the revocation is that the agreements listed in the Schedule to the Order are no longer defined as EU Treaties

for the purposes of section 1 of the European Communities Act 1972. As none of the agreements listed remain in force, paragraph 9 has the effect of revoking redundant legislation.

543. Paragraph 9 will form part of the law of England and Wales, Scotland and Northern Ireland and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 3: Energy

Energy Act 1976 (c. 76)

544. Section 9 of the Energy Act 1976 requires the Secretary of State's consent for offshore natural gas to be subjected in Great Britain to any process of liquefaction which results in the production of liquid methane or ethane.

545. Section 9 of the Energy Act 1976 was introduced to control the possible export of natural gas from the gas fields being newly exploited offshore in the North Sea, given such exports could affect domestic energy supplies. Export was expected to be achieved by liquefaction of the natural gas in Great Britain. However, there has been no market demand for such exports. In consequence, no requests for consent for a permission under section 9 are recorded and the provision is no longer of practical use.

546. The repeal forms part of the law of England and Wales and Scotland and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Electricity and Gas (Energy Efficiency Obligations) Orders

547. *Paragraphs 12 and 13* of this Schedule revoke three orders which no longer have any operative effect. These three orders imposed an energy efficiency obligation on certain gas and electricity suppliers. The obligations imposed were known as the Energy Efficiency Commitment. The 2001 Order imposed a three year obligation commencing 1st April 2002. The 2003 Order made an amendment to the 2001 Order. The 2004 Order imposed a different three year obligation commencing 1st April 2005. The obligations in the 2001 Order and the 2004 Order have now expired and therefore all three of these orders are being revoked.

548. The revocations form part of the law of England and Wales and Scotland (as do the Orders that are to be revoked), and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 4: Transport

Road Traffic Act 1988 (c. 52)

549. *Paragraph 14(1)* repeals section 64A of the Road Traffic Act 1988. This

repeal removes the offence of using an unregistered tractor or motor cycle on a public road without a valid EC Certificate of Conformity. The tractors and motor cycles covered by this offence are those that are subject to European legislation governing their construction. An EC Certificate of Conformity is a declaration by a manufacturer that the vehicle complies with the requirements of the approval (known as "type approval") granted under that European legislation.

550. This repeal removes an offence which is covered by other legislation. Specifically, section 29 of the Vehicle Excise and Registration Act 1994 makes it an offence to use an unlicensed vehicle of any type on public roads, including vehicles that have not been registered for the first time. In addition, other legislation (the Tractor etc (EC Type-Approval) Regulations 2005 and the Motor Cycles Etc (EC Type Approval) Regulations 1999) makes it a requirement that the vehicles covered by section 64A have a valid EC Certificate of Conformity in order to be registered for the first time.

551. As a consequence of the repeal of section 64A, *paragraph 14(2)* removes references to the offence from section 183(2) of the Road Traffic Act 1988 and from Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988.

552. The repeal and consequential amendments made in this Part of the Schedule form part of the law of England and Wales and Scotland and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 5: Environment

Farm and Garden Chemicals Act 1967 (c. 50)

553. *Paragraph 15* in Part 5 of this Schedule repeals the Farm and Garden Chemicals Act 1967, an Act which forms part of the law of England and Wales and Scotland. The repeal has the same extent. *Paragraph 16* makes amendments consequential on that repeal.

554. The 1967 Act and its associated regulations (the Farm and Garden Chemical Regulations 1971) imposed requirements on the labelling and marking of some pesticides (those listed in the Regulations) sold for use in Great Britain. In particular, they required the name of the pesticide active substance and any hazard symbol to appear on the product label. The 1967 Act's requirements were replaced initially by specific national legislation and more recently by EU legislation, currently Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market and its associated legislation. The 1967 Act is therefore now obsolete.

555. Paragraphs 15 and 16 will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Statutory Water Companies Act 1991 (c.58)

556. *Paragraph 17* in Part 5 of this Schedule repeals the Statutory Water Companies Act 1991, an Act which forms part of the law of England and Wales only. *Paragraph 18* removes references to the Act and the term "statutory water company" from other Acts. The repeals and amendments relating to statutory water companies will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

557. Statutory water companies were private businesses with share capital that were incorporated under individual Acts of Parliament. Most dated from the middle of the 19th Century and included, for example, York Waterworks which provided water supply services to the city of York. Unlike the water authorities that were privatised in 1989, statutory water companies were never in the public sector and were not required to register as limited companies under the Companies Act 1985 because they were incorporated under local Acts. The Statutory Water Companies Act regulated how the statutory water companies could operate. For example, it restricted the rate of dividend payable to shareholders and the amount the company could borrow.

558. There are no longer any statutory water companies left as, since privatisation, they have either merged with other water companies or been taken over by other limited companies. This means the provisions of the Statutory Water Companies Act are now redundant and can be repealed.

Sea Fish (Conservation) Act 1992 (c. 60)

559. Section 10 of the Sea Fish (Conservation) Act 1992 required the Minister to report to Parliament with a review of the Act. The duty was to report within six months of 1st January 1997 after consulting those representing the interests of the fishing industry. On 20th March 1997, Lord Lucas answered a parliamentary question to explain that there was nothing of substance to report. He explained that the principal purpose of the Act had been to make provision for the introduction of restrictions on time spent at sea but the policy was suspended because of a legal challenge and a decision was subsequently made not to pursue it.

560. *Paragraph 19* repeals section 10 as the period within which the duty to report was to be discharged expired several years ago.

561. The repeal of section 10 forms part of the law of England and Wales, Scotland and Northern Ireland. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 6: Animals and food

Agricultural Produce (Grading and Marking) Acts 1928 and 1931

562. The Agricultural Produce (Grading and Marking) Act 1928, as amended by

the Agricultural Produce (Grading and Marking) Amendment Act 1931, enables regulations to be made prescribing grade designations and marks to indicate the quality of agricultural and fishery produce and contains provisions to do with the storage and marking of eggs.

563. The Acts have hardly been used during the last 70 years. They have been overtaken by more recent domestic legislation as well as European Union marketing legislation. The Acts are regarded as redundant and as serving no useful purpose. *Paragraph 20* in Part 6 of this Schedule repeals the 1928 and 1931 Acts. *Paragraph 21* makes consequential amendments of other Acts as a result of the repeal of the 1928 and 1931 Acts.

564. The 1928 and 1931 Acts form part of the law of England and Wales and Scotland and the repeal has the same extent. Paragraphs 20 and 21 will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Animal Health Act 1981 (c. 22)

565. *Paragraph 22* in Part 6 of this Schedule repeals the whole of Part 2A (sections 36A to 36M) of the Animal Health Act 1981, an Act which forms part of the law of England and Wales. The repeal has the same extent. The enabling powers that were inserted by the Animal Health Act 2002 as Part 2A (Scrapie) of the Animal Health Act 1981 have never been exercised and are no longer required; the relevant provisions of the Animal Health Act 2002 are repealed by *paragraph 23*. There had been a concern about the risk that scrapie disease might mask other disease in sheep and therefore it was planned to introduce a compulsory programme for breeding resistance to scrapie in sheep. However following further scientific evidence the EU decided against introducing such compulsory breeding programmes.

566. Paragraphs 22 and 23 will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Milk (Cessation of Production) Act 1985 (c. 4)

567. *Paragraph 24* in Part 6 of this Schedule repeals the Milk (Cessation of Production) Act 1985. The Act forms part of the law of England and Wales, Scotland and (for certain purposes) Northern Ireland.

568. Council Regulation (EEC) No 857/84 established, with effect from 2 April 1984, a system under which each producer of milk or milk products was allocated an individual "reference quantity". If a producer's production exceeded their reference quantity, there was provision for them to pay a levy. The reference quantity is commonly referred to as "milk quota".

569. Council Regulation (EEC) No 857/84 also allowed Member States to grant

compensation to producers who undertook to discontinue milk production. Such cessation of production would involve surrender of the producer's milk quota.

570. The 1985 Act enables schemes to be made allowing the payment of compensation on the cessation of milk production and the surrender of milk quota. Such schemes were made under that Act in relation to England, Wales and Scotland.

571. These schemes were revoked with effect from 6 April 2007. They have not been replaced, and there is no intention to replace them. The underlying milk quota system itself (whose provisions are now contained in Council Regulation (EC) No 1234/2007) is intended to cease with effect from 31 March 2015.

572. The 1985 Act forms part of the law of Northern Ireland only for a highly specialised purpose: to allow the identification of which Parliamentary procedure (affirmative or negative resolution) would apply to any separate legislation on this topic extending only to Northern Ireland. Such separate legislation, almost a mirror-image of the 1985 Act, was, in fact, made: the Milk (Cessation of Production) (Northern Ireland) Order 1985 (S.I.1985/958 (N.I. 9)). A scheme, extending only to Northern Ireland, was made under this Order allowing the payment of compensation. This scheme, like its counterparts for England, Wales and Scotland, was revoked with effect from 6 April 2007. The 1985 Order itself remains in existence.

573. The repeal of the 1985 Act forms part of the law of England and Wales and Northern Ireland only, and will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act. The Scottish Government has confirmed that it intends to enact legislation to repeal the 1985 Act in relation to Scotland, and will do so at a later date.

Coal and Other Mines (Horses) Order (S.I. 1956/1777)

574. *Paragraph 25* revokes the Coal and Other Mines (Horses) Order 1956 which sets out health and welfare rules for horses employed in mines. The powers under which the Order was made (section 190 of the Mines and Quarries Act 1954) have been repealed and it now has effect by virtue of the Mines and Quarries Acts 1954 to 1971 (Repeals and Modifications) Regulations 1974 (S.I. 1974/2013), which were made under section 15 of the Health and Safety at Work etc. Act 1974.

575. The Order is considered no longer to be of practical use, since horses have not been used in mines in England and Wales for a considerable period of time. Any horses employed in mines would in any event be appropriately protected under modern animal welfare legislation of general application, namely the Animal Welfare Act 2006.

576. The 1956 Order forms part of the law of England and Wales and Scotland. However, the revocation forms part of the law of England and Wales only. It will come into force at the end of the period of 2 months beginning with the day on which

the Bill becomes an Act.

Part 7: Education

577. The Royal Hospital School, an independent school located in Ipswich, is owned and operated by Greenwich Hospital to meet one of its charitable objectives. Greenwich Hospital is an ancient Crown charity providing charitable support including annuities, sheltered housing and education, to serving and retired personnel of the Royal Navy and Royal Marines and their dependents. Under the Greenwich Hospital Acts of 1865 to 1990, and through other legislation, the Secretary of State for Defence holds the charitable organisation's assets in trust for the Crown.

578. *Paragraph 26* revokes the Greenwich Hospital School (Regulations) (Amendment) Order 1948, which Order restricted admission to the Greenwich Hospital School (now the Royal Hospital School) to the sons of officers and men of the Royal Navy and of other seafarers. It is thought that an oversight led to a failure to revoke the Order when the Greenwich Hospital Act 1990, which made it lawful to admit pupils to the Royal Hospital School regardless of any seafaring connection or of gender, came into force. The enabling power under which the 1948 Order was made (section 20 of the Greenwich Hospital Act 1865) has been expressly retained by section 1 of the Greenwich Hospital Act 1990.

579. The 1948 Order forms part of the law of England and Wales but applies only to England. The revocation will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

Part 8: Criminal law

Town Police Clauses Act 1847

580. *Paragraph 27* repeals 22 of the 25 remaining criminal offences in section 28 of the Town Police Clauses Act 1847. The offences relate to obstructions, annoyances or dangers in the street. The offences in question are either anachronistic or relate to behaviour which is covered by more recent legislation.

581. The paragraph forms part of the law of England and Wales only. It will come into force at the end of the period of 2 months beginning with the day on which the Bill becomes an Act.

FINANCIAL EFFECTS

582. It is not anticipated that new costs will fall upon either the National Loans Fund or the Consolidated Fund as a result of the provisions in this Bill.

PUBLIC SECTOR MANPOWER

583. It is not anticipated that the Bill will have a significant impact on wider public sector manpower.

IMPACT ASSESSMENT

584. The Deregulation Bill is legislating for multiple policy objectives and therefore brings forward a number of different measures. Summary information on the impact of these measures is provided in a separate section of this command paper. Impact assessments for each of the measures for which they are required will be available before introduction of the Deregulation Bill to Parliament.

EUROPEAN CONVENTION OF HUMAN RIGHTS

585. There are a number of provisions in the Bill which may give rise to European Convention of Human Rights ("ECHR") issues. In the assessment of the Cabinet Office and the relevant departments, the draft Bill complies with the UK's obligations arising under the ECHR.

586. The ECHR issues are summarised below. Each relevant provision of the Bill is discussed individually, since there are no common ECHR themes.

Clause 1: Health and safety at work: general duties of self-employed persons

587. This clause provides an exemption to the general duty in section 3(2) of the Health and Safety at Work etc. Act 1974 (the "HSWA"). This provision requires all self-employed persons to conduct their undertaking in such a way to ensure that they themselves and other persons (not being their employees) are not exposed to risks to their health and safety. Consideration has been given to whether this proposal engages ECHR Article 2(1) (right to life) in so far as removing some self-employed from the scope of this statutory protection could be seen as not adequately protecting those persons' right to life. The government is of the view that clause 1 remains compliant with Article 2(1) because there are other legislative duties in place to protect and promote health and safety, both in the HSWA and in secondary legislation. The exemption will only apply to self-employed persons who do not conduct their undertakings in prescribed high-risk sectors or activities, and if they do not pose a potential risk of harm to others. This is consistent with the approach adopted in other Member States, all of whom continue to comply with the ECHR.

Clause 11 and Schedule 5, Part 4: insolvency law – disqualification of unfit directors of insolvent companies

588. The amendments made by Part 4 of Schedule 5 permit the Secretary of State and the official receiver to request information that they deem relevant to a person's conduct as a director of a company directly from third parties, including directors. Information received under this power may result in an application for a

disqualification order and be used in subsequent proceedings against directors. The requirement for any person, including a director, to provide information that may result in an order for that director's disqualification as a director arguably engages Article 6 (right to a fair trial) as it may infringe the implicit right against self-incrimination. The government considers that these amendments are compatible with Article 6 because the right against self-incrimination only exists in criminal proceedings. Disqualification proceedings cannot be so categorised. Further, similar legislative provisions already exist authorising public bodies to compel persons to provide information, the use of which is prohibited in criminal proceedings. These provisions have not been successfully challenged.

Clause 11 and Schedule 5, Part 6: authorisation of insolvency practitioners – repeal of provision for authorisation to be granted by competent authority

589. The effect of paragraph 22 of Schedule 5 is that insolvency practitioners authorised by the Secretary of State will not be able to continue to act as insolvency practitioners after a transitional period of one year after the repeals in paragraph 20 of that Schedule take effect, unless they have secured alternative authorisation from one of the professional bodies recognised for that purpose by the Secretary of State. Article 1 of Protocol 1 of the ECHR (protection of property) is engaged because the loss of a person's authorisation as an insolvency practitioner will lead to the loss of a possession, which is the economic value of marketable goodwill in that person's business.

590. However, in the government's view, the interference with Article 1 of Protocol 1 is in the public interest. It will improve the overall regulation of insolvency practitioners and public confidence in the arrangements for their authorisation in that it will remove the perceived conflict of interest between the Secretary of State's role as the oversight regulator of the insolvency practitioner profession and his role as a direct authoriser of insolvency practitioners. The government also considers that the interference is proportionate and strikes a fair balance. In particular, insolvency practitioners who are authorised by the Secretary of State will not have their authorisation removed immediately once the repeals take effect. Their authorisation will continue for one year after the commencement of the repeals and they may use that period to seek alternative authorisation from one of the recognised professional bodies. Five out of seven recognised professional bodies have indicated that they would be happy to authorise those authorised by the Secretary of State. The authorisation requirements of the recognised professional bodies are broadly the same as each other and the same as those of the Secretary of State.

591. For these reasons the government considers that the proposed amendments are compatible with the ECHR.

Clause 13: unrecorded rights of way: protection from extinguishment

592. This provision confers a power on the Secretary of State to 'designate' certain public rights of way which have been extinguished by section 53 of the Countryside and Rights of Way Act 2000 to be reinstated. Since designation will have the effect of

reinstating a public right of way over private land, Article 1 of Protocol 1 of the ECHR (protection of property) arguably applies. The government considers the provisions to be compatible for the following reasons. A designated public right of way will very likely be one that has existed over the land for a long period and only been extinguished for a relatively short period: there would be very unlikely to be any "individual and excessive burden" on the private landowner. There is a strong public interest in providing an adequate network of public rights of way. The powers are capable of being exercised compatibly with the ECHR and procedural safeguards may be put in place in any regulations made by the Secretary of State.

Clause 18, Schedule 6 Part 1 and clause 14: ascertainment of public rights of way: procedure

593. Article 6 (right to a fair trial) and Article 1 of the First Protocol (protection of property) are arguably engaged by the new 'preliminary assessment' procedure. The effect of section 53 of the Countryside and Rights of Way Act 2000 (the "CRWA") is that unrecorded public rights of way will be extinguished immediately after 1st January 2026. An application to add a public right of way based only on documentary evidence of the pre-1949 existence of the right ("pre-1949 right") may be rejected following "preliminary assessment". This will have a bearing on the future existence of such a right as section 53 of the CRWA provides that unrecorded public rights of way will be extinguished immediately after 1st January 2026. The solution to this problem can be found in clause 14 of the Bill. This clause amends the CRWA to provide that where, immediately before the commencement of section 53 of that Act, the exercise of an unrecorded pre-1949 right is reasonably necessary to enable a person with an interest in land to obtain access to the land, the public right of way should become a private right of way for the benefit of the land. The government's view is that the new procedure is compatible with the ECHR.

Clause 22 and Schedule 7: removal of restrictions on provision of passenger rail services

594. The government has considered whether these provisions are compatible with Convention rights and concluded they engage Article 1 of the First Protocol (protection of property), Article 6 (right to a fair trial) and Article 8 (right to respect for private and family life). However, the government's view is that these provisions are compatible with these Convention rights for the reasons outlined below.

Compulsory Purchase

595. Article 1 of the First Protocol would be engaged as section 10(3) and (4) of the Transport Act 1968 makes provision to enable the compulsory purchase of land which a Passenger Transport Executive ("PTE") requires for the purposes of its business. A PTE is a statutory corporation established under the Transport Act 1968 with functions and duties in relation to the provision of public transport within a large metropolitan area other than London, and accountable to the local transport authority. Clause 22, by removing the 25 mile limit, would increase the potential scope of a

PTE's business, and so it follows the potential scope of the compulsory purchase powers would increase. But any such purchase would be subject to statutory compulsory purchase procedures, rights of legal challenge and rights to compensation. They should ensure any compulsory purchase would only be authorised in the public interest and be subject to due process of law and thus compatible with the provisions in Article 1.

Protection of railway assets

596. Article 1 of the First Protocol would be engaged as Schedule 7 would enable the Secretary of State, in a section 24 de-designation order, to make similar provision for the protection of railway assets used for de-designated rail services as is set out in sections 27(3) and (5) to (7) and 31 of the Railways Act 1993 for franchised passenger rail services. Such provisions may engage Article 1 because they would restrict the right of a passenger rail operator to dispose of his property as and when he saw fit. They would also deprive an operator of security of tenure of railway premises as against the owner. However, an operator would be engaged by entry into a freely negotiated commercial contract with a procuring organisation (operator agreement), in the knowledge of such restrictions. The restrictions would be in the public interest, and subject to conditions provided for by law. Accordingly the government is satisfied these provisions are compatible with Article 1.

Enforcement of operator agreements

597. Article 1 of the First Protocol would be engaged as Schedule 7 would enable the Secretary of State, in a section 24 de-designation order, to make similar provision for the enforcement of a passenger rail operator agreement as applies to franchise agreements with the Secretary of State (in sections 55 to 58 of the Railways Act 1993).

598. Such provisions would engage Article 1 because, where an operator was in breach of an operator agreement, they would allow the procuring organisation to (a) make an order requiring the operator to take steps to comply with it, in default of which a civil penalty would be payable, or (b) impose a civil penalty. In so far as such steps would involve requiring an operator's property to be deployed in a certain way, or in so far as an operator would have to pay monies to the procuring organisation, there would be an interference with the operator's peaceful enjoyment of its property, or a deprivation of its property.

599. However, by entry into the freely negotiated operator agreement the operator would accept that the agreement may be enforced in such ways. The restrictions would be in the public interest to ensure compliance with the contractual duties to provide the public transport services, and would be subject to conditions provided for

by law. Accordingly, the government is satisfied these proposals would be compatible with Article 1.

Transfer schemes

600. Schedule 7 would engage Article 1 because it would enable the Secretary of State to empower, by a section 24 order, a PTE or local transport authority to make a scheme which would have the effect of transferring property, rights and liabilities held by a passenger rail operator and vesting them in a PTE, local transport authority or subsidiary of them, or another successor operator when the passenger rail operator agreement ended. Such a transfer scheme would ensure that assets, rights and liabilities needed for railway operations would be transferred across to a successor operator enabling the successor to take over the rail operation as a going concern, ensuring continuity of passenger rail services. It would require payment of such consideration for the transfer as would be specified in, or determined in accordance with, the operator agreement.

601. An operator would be appointed by entry into a freely negotiated operator agreement with the PTE or local transport authority in the knowledge that the transfer scheme power existed to secure service continuity at the end of the agreement. The transfer scheme would be in the public interest, and subject to conditions provided for by law. PTEs and local transport authorities are public authorities subject to the Human Rights Act 1998, and to the supervision of the High Court through judicial review. Accordingly the government is satisfied these proposals would be compatible with Article 1.

Determination of civil rights or criminal charges

602. Article 6 (right to a fair trial) would be engaged in relation to any legal challenge by a land owner to any compulsory purchase of land under section 10(3) of the Transport Act 1968. However, the proposals would be compliant with Article 6 because the availability of statutory challenge under the Acquisition of Land Act 1981 (or in Scotland the Acquisition of Land Act (Authorisation Procedure) (Scotland) Act 1947) would enable the civil rights and obligations of the land owner to be determined by a fair and public hearing, within a reasonable time, by an independent and impartial tribunal established by law, directly subject to the Human Rights Act 1998, with judgement being pronounced publically.

603. Article 6 would be engaged in relation to any legal challenge by an operator to an enforcement order, or the imposition of a penalty, where a section 24 Railways Act 1993 Order has applied equivalent enforcement provisions to those in sections 55 to 57F of the Railways Act 1993. These provisions would allow for an operator to make representations and objections, and to challenge the enforcement action in the High

Court for exceeding vires or for being in breach of procedural requirements. Such provisions would be compliant with Article 6 because they would enable the civil rights and obligations of the operator to be determined by a fair and public hearing in the High Court, which is directly subject to the Human Rights Act.

604. Article 6 would be engaged should a section 24 Railways Act 1993 Order apply equivalent provision to that of section 58 of the Railways Act 1993 (power to require production of documents or information where it appears a passenger service operator is in breach of his operator agreement). Failure to comply without reasonable excuse, or to alter or destroy a document, is an offence subject to a fine. However, the government is satisfied these provisions would be compliant with Article 6 because the determination of any such criminal charge against a person would be made by a Magistrates' Court if a summary offence, or the Crown Court if an indictable offence, and both are directly subject to the Human Rights Act.

605. Article 6 would be engaged on three counts should a section 24 Railways Act 1993 Order empower a PTE or local transport authority to make a transfer scheme equivalent to that authorised under section 12 of, and Schedule 2 to, the Railways Act 2005 as follows:-

- Paragraph 4 of Schedule 2 to the Railways Act 2005 would enable a scheme to require a transferor or transferee to enter into an agreement with another person to give effect to the scheme, in default of which the other person would have the right to seek relief in civil proceedings for an injunction, or other appropriate remedy.

- Paragraph 11 of Schedule 2 to the Railways Act 2005 empowers a scheme maker to require, by notice, a transferor and transferee under a proposed scheme to provide information necessary to enable the scheme to be made. If a notice is not complied with the High Court in England and Wales, or the Court of Session in Scotland, may make such order as it thinks fit for requiring the failure to be made good. This may include requiring all the costs and expenses of the application to be paid.

- Under paragraph 11 of Schedule 2 to the Railways Act 2005, it is an offence for a person, who has been so required to produce a document, to intentionally alter, suppress or destroy it. This offence is subject, on summary conviction, to a fine not exceeding the statutory maximum, or on conviction on indictment to an unlimited fine.

606. However, the government is satisfied that, should a transfer scheme apply equivalent provisions to those described above under section 12 of, and Schedule 2 to, the Railways Act 2005, those provisions would be compliant with Article 6 because the determination of the civil rights of the person enforced against would be made by a civil court of law, and the determination of any such criminal charge against him would be made by the Magistrates' Court if a summary offence, or by the Crown

Court if an indictable offence. In all cases the courts in question are directly subject to the Human Rights Act.

Respect for private and family life

607. Article 8 of the ECHR (right to respect for private and family life) would be engaged if a home was compulsory purchased under 10(3) of the Transport Act 1968. However, any proposed interference with this right would be subject to compliance with the law of compulsory purchase and compensation and would have to be necessary in a democratic society in the interests of the economic well-being of the country. Under the statutory compulsory purchase procedures the relevant PTE would have to justify the case for purchasing the property and a PTE, as a public body, is subject to the Human Rights Act 1998. Accordingly the government is satisfied the provisions are compatible with Article 6.

Clause 24 and Schedule 9: reduction of burdens relating to enforcement of transport legislation

608. This clause amends the law to enable more effective action to be taken against drink and drug drivers, thus improving road safety. These changes are to repeal the statutory option to replace a positive breath specimen with a blood or urine sample, and to extend the role of registered healthcare professional (mainly nurses).

Repeal of a statutory option to replace a positive breath specimen with a blood or urine sample in certain cases

609. In the government's view, it may be argued that Article 6 (right to a fair trial) and presumption of innocence) is engaged because certain drivers are more likely to be unfairly convicted of drink driving. However, the government considers that there is no interference with Article 6 because the testing equipment is now much more accurate than it was when this option was introduced. Any interference would be justified by the aim of preventing injury by unfit drivers.

Extension of role of healthcare professionals

610. This measure provides that registered healthcare professionals will henceforth be able to give an opinion on whether a driver's condition may be due to a drug. In the government's view, it may be argued that this could engage Article 8 (right to respect for private and family life) because concerns were raised during public consultation that such professionals do not have sufficient expertise to form a judgement. If a driver's condition is incorrectly assessed to be drug related, this could lead to an unnecessary arrest and evidential blood test – an invasive procedure that interferes with a person's physical integrity (hence engaging Article 8). However, the government considers that, if there is any interference, it is justified by the legitimate aim of improving enforcement against drug drivers, and no more than necessary to

meet the relevant social need.

Clause 25: removal of duty to order re-hearing of marine accident investigations
611. This measure removes the Secretary of State's duty to re-open a formal investigation into a marine shipping accident in circumstances where new and important evidence has been discovered. In the government's view this proposal engages Article 6 (right to a fair trial) because a formal investigation could result in ship's officers being prevented from practising their trade or profession. However, in the government's view the existence of other avenues of challenge ensures that the amendment does not reduce the current protection for officers.

Clause 29 and Schedule 10: household waste
612. Clause 29 repeals the criminal offence in the Environmental Protection Act 1990 for failure to comply with a requirement contained in a notice served under the Act relating to the presentation of household waste for collection. It also repeals the provisions of that Act allowing a fixed penalty to be offered as an alternative to prosecution in such cases, replacing them with new provisions allowing the imposition of a fixed penalty for non-compliance with such notices which, if not paid, will be enforceable as a civil debt. The clause limits the cases in which the new fixed penalty can be imposed to where the non-compliance causes a nuisance or is detrimental to any amenity of the locality (or is likely to have that effect), and then only after a written warning has first been given and there has been continued or repeated non-compliance thereafter. Clause 29 provides that an appeal against the imposition of a fixed penalty may be made to the First-tier Tribunal.

613. This clause engages Article 6(1) (right to a fair trial), as the imposition of a fixed penalty under the EPA 1990 will constitute the determination of a civil right or obligation. In a case where an administrative penalty is imposed the state must provide the opportunity to challenge such a decision before a court with full jurisdiction (*Albert and Le Compte v Belgium*). In this case, the provision of an appeal to the First-tier Tribunal, an independent statutory tribunal with power to hear representations and, where appropriate, evidence, will satisfy this requirement. Accordingly, the government considers that these provisions of clause 29 are compatible with Article 6(1).

614. Schedule 10 amends the London Local Authorities Act 2007, which contains a similar scheme of penalty notices for failing to comply with regulations relating to household waste (although no criminal sanction is attached). The amendments to the existing penalty notice regime will limit the availability of that sanction to bring it more into line with the new approach under the EPA 1990 (e.g. to add the new 'threshold' and warning requirements). Existing appeals provisions under the 2007 Act are not being amended. As these amendments simply restrict the availability of a pre-existing penalty notice system, the government is of the view that these provisions of the Schedule do not engage Article 6 in this context.

Clause 34: Exhibition of films in community premises

615. The clause may engage Article 8 (right to respect for family and private life) because some persons may be adversely affected by deregulated film exhibitions, for example by increased noise in the vicinity of community premises. However, the right to respect for private life is not absolute and interference with the right to respect for private life will be lawful if it is in accordance with law and necessary and proportionate to the legitimate aim of lifting unnecessary burdens on business

616. In this case community film exhibitions have been identified as low risk activities and their limited deregulation will remove burdens from community groups and small and medium sized business, so as to bolster creativity, community participation and volunteering opportunities. This will facilitate the growth of the arts and creative economy, which forms a significant part of the United Kingdom economy.

617. Other existing licensing requirements will continue to apply to deregulated exhibitions (where there is the sale and supply of alcohol) and existing legal protections provide further safeguards against an adverse impact of the deregulation measures (e.g. as regards noise, the Environmental Protection Act 1990 and the Noise Act 1996). The clause limits the potential adverse impact of the deregulation by requiring the relevant film to be exhibited between 8:00 am and 11:00 pm on the same day and for the audience to not exceed 500.

618. In the view of the government, the provision therefore strikes a fair balance between the public interest in the growth of the creative economy, community participation and volunteering opportunities and public safety and order and does not breach Article 8 rights.

Clauses 36, 37 and 38: criminal procedure – written witness statements, written guilty pleas, powers to make Criminal Procedure Rules

619. The ECHR implications of each of these provisions is summarised below.

Admissibility of written witness statements (clause 36)

620. This clause would enable the Criminal Procedure Rule Committee to make rules about the admissibility of written statements as evidence in criminal proceedings. Article 6 (right to a fair trial) is engaged, but this clause does not alter the fact that such written evidence is only permissible if the defendant does not object, which is clearly Article 6 compatible. Article 6 is also engaged by the omission of the requirement on the face of the legislation for the parts of the written statement admitted either to be read aloud at the hearing or for an oral account to be given. However, these are not always necessary to ensure Article 6 compatibility, and in any case the Criminal Procedure Rules may now deal with these issues and they are required to be compatible with Convention rights.

Written Guilty Pleas (clause 37)

621. Section 12 of the Magistrates' Courts Act 1980 allows a defendant to plead guilty by written notice, without attending the magistrates' court by which he or she is due to be tried. The clause would provide that Criminal Procedure Rules may dispense with certain requirements in section 12 for matters to be read aloud in court before that court may accept the guilty plea. Article 6 is engaged as it sets out when a defendant can be tried in his or her absence, but Strasbourg case law is clear that a defendant may waive his or her right to be present (*Poitrimol v France).* This clause is therefore clearly compatible.

Production orders and warrants (clause 38)

622. This clause allows the Criminal Procedure Rules to make provision for specified situations, primarily relating to production orders and warrants. As this relates to search and seizure of individual property, Article 8 (right to respect for family and private life) and Article 1 of Protocol 1 (protection of property) may be engaged, as may Article 10 (freedom of expression) depending on the material. To the extent that there is any interference with these rights, the government is confident that it can be justified as being in the public interest, in particular for the prevention of disorder and crime.

Clause 40: repeal of power to provide accommodation to persons temporarily admitted to the UK etc

623. This clause removes the Secretary of State's powers in section 4(1)(a) and (b) of the Immigration and Asylum Act 1999 to provide facilities for the accommodation of persons temporarily admitted to the UK under paragraph 2 of Schedule 2 to the Immigration Act 1971, or released from detention under that paragraph. Arguably, this clause has the potential to engage Article 3 (inhuman and degrading treatment) although, in the government's view, it is very unlikely that the repeal of this power will interfere with Article 3 because of the protections provided by other legislation.

Clause 41: removal of restriction on persons who may manage child trust funds

624. This clause amends the Child Trust Funds Act 2004 to enable (through regulatory powers) a person other than the Official Solicitor (England and Wales and Northern Ireland) or the Accountant of Court (Scotland) to be appointed by the Treasury or the Secretary of State to manage child trust fund accounts of looked after children. It also enables (through regulatory powers) a requirement to be imposed on local authorities to pass certain information they hold about looked after children to that person.

625. The data-sharing aspect of this clause engages Article 8 (right to respect for family and private life.) This is because the passing of personal data about a child to a third person constitutes an interference with Article 8. However, the government's view is that, for the reasons set out below, any such interference is justified.

626. The government's view is that the measure pursues a legitimate aim in that it would allow for the appointment of a person or body (for example a charity) which

would manage accounts, and may also, subject to agreement with the appointing body, undertake additional activities in relation to these accounts, such as fund raising or financial education with child trust fund holders.

627. The bodies passing information to the appointed person will be subject to the Human Rights Act and will therefore have ECHR obligations in respect of the extent of the disclosure. The appointee would also be subject to the provisions of the Data Protection Act. The measure is proportionate because only the information required to perform the management functions of the appointee would be disclosed to it.

Clause 42: London street trading appeals: removal of role of Secretary of State in appeals

628. This clause has the effect of transferring the function of determining certain London street trading appeals (under section 30(11) of the Local London Authorities Act 1990 and section 19(1) of the City of Westminster Act 1999) away from the Secretary of State to the Magistrates' Court. In the government's view even if the decisions which can be appealed under s.30(11) of the Local London Authorities Act 1990 or s.19(1) of the City of Westminster Act 1999 do constitute "civil rights" for the purposes of Article 6(1) (right to a fair trial), on the basis that, although they are decisions of general application rather than decisions which relate specifically to an individual (such as the termination of an individual's licence), they nevertheless affect the right of individuals to engage in a commercial activity, the effect of the transfer is to ensure that such rights will be determined by a body (the Magistrates' Court) which complies with the requirements of Article 6(1). Hence, even if Article 6 is engaged, its requirements will be met.

Clause 50 and Schedule 16, paragraph 25 - legislation no longer of practical use – revocation of Coal and Other Mines (Horses) Order

629. It is realistically possible that the revocation of the Coal and Other Mines (Horses) Order (by paragraph 25 of Schedule 16 to the Bill) would lead to greater restriction on the possible use of horses in mines. The government considers that this engages Article 1 of Protocol 1 (protection of property) since horses constitute property and there may be additional restriction of the use of that property. However, the government considers that this is compliant with Article 1 of Protocol 1, since it is justifiable in the interests of animal welfare, and it is proportionate in bringing the law that applies to horses in mines into line with the law as it applies to other working horses.

COMMENCEMENT DATES

630. Clause 64 makes provision about the coming into force of the provisions of the Bill. The commentary on individual clauses and Schedules includes an explanation of the effect of clause 64.

Deregulation Bill – Statement of Impact

A summary of the savings made by the Deregulation Bill to business & civil society, the public sector and individuals is displayed in the table overleaf. The table summarises impact assessments prepared by departments for measures which produce quantifiable savings in at least one of these areas.

The Government expects further savings from the following measures, which are still undergoing thorough analysis. Impact assessments for each will be available before introduction of the Deregulation Bill to Parliament:

- Clause 2 – Removal of employment tribunals' power to make wider recommendations
- Clause 5 – Motor insurers
- Clause 11 (Schedule 5 Part 5) – After acquired property of bankrupt
- Clause 15 – Applications by owners etc for public path orders
- Clause 33 (Schedule 13) – Home-school agreements
- Clause 59 – Exercise of regulatory functions: economic growth

Headline Figures:

The Deregulation Bill will save at least –

£10 million for Business and Civil Society

£52 million for the public purse

£116,000 for individuals

Additionally, The Deregulation Bill will implement a reduction on the qualification period on the right to buy social housing which is currently estimated to save taxpayers and the public sector between £1.3bn and £1.8bn over sixty years.

	Total Impact			Business & Civil Society			Public Sector			Individuals		
Measure	**Costs (–)**	**Benefits (+)**	**Total Net Present Value**	**Costs (–)**	**Benefits (+)**	**Net Present Value**	**Costs (–)**	**Benefits (+)**	**Net Present Value**	**Costs (–)**	**Benefits (+)**	**Net Present Value**
Clause 1 - Health and safety at work: general duty of self-employed persons	1.7	4.4	2.7	1.7	4.4	2.7	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q
Clause 7 – Suppliers of fuel and fireplaces			0.534	*See Regulatory Triage Form for analysis*								
Clause 10 - Auditors ceasing to hold office	0.3	7.27	6.5	0.3	6.8	6.5	0	0.47	0.47	N/Q	N/Q	N/Q
Clause 11 (Schedule 5 Part 5) - Repeal of provision for authorisation of insolvency practitioners to be granted by competent authority	0.004	0.4	0.41	0.004	0.4	0.4	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q
Clause 18 - Ascertainment of public rights of way: procedure	0.06	23.4	23.3	N/Q	N/Q	N/Q	0	23.4	23.4	0.06	0	0.06
Clause 23 (Schedule 8 Part 1) - Permit Schemes: Removal of requirement for secretary of state approval	0.15	0.15	0	N/Q	N/Q	N/Q	0.15	0.15	0	N/Q	N/Q	N/Q
Clause 24 (Schedule 9 Part 1) - Removal of "statutory option" to have breath specimen replaced: road and rail transport	8	35.4	27	N/Q	N/Q	N/Q	8	35.4	27	N/Q	N/Q	N/Q
Clause 30 (Schedule 10 Part 5) - Removal of power to local authorities to designate area as noise abatement zone	0.002	0.315	0.313	0.002	0	0.002	0	0.315	0.315	N/Q	N/Q	N/Q
Clause 34 - Exhibition of films in community premises**	0	1.2	1.2	0	0.47	0.47	0	0.73	0.73	N/Q	N/Q	N/Q
Totals*	**10.216**	**72.535**	**61.957**	**2.006**	**12.07**	**10.072**	**8.15**	**60.465**	**51.915**	**0.06**	**0**	**0.06**

Figures may not sum due to rounding.

Figures given in millions of pounds. Calculated over the course of ten years

* Totals exclude reduction of qualifying period for right to buy, displayed overleaf

** Regulatory triage form pending RPC approval

N/Q – None Quantified

The following measure is calculated over sixty years, in line with Government guidance on assessing the impact of housing policy:

	Total Impact			Business & Civil Society			Public Sector			Individuals		
Measure	**Costs (–)**	**Benefits (+)**	**Total Net Present Value**	**Costs (–)**	**Benefits (+)**	**Net Present Value**	**Costs (–)**	**Benefits (+)**	**Net Present Value**	**Costs (–)**	**Benefits (+)**	**Net Present Value**
Clause 20 - Reduction of qualifying period for right to buy	0	1,517	1,517	See impact assessment for analysis								

Figures given in millions of pounds

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