TOWN LEGAL LLP

# Levelling-up and Regeneration Act 2023

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## Executive Summary


The Levelling-up and Regeneration Bill was introduced to the House of Commons on 11 May 2022 and received Royal Assent on 26 October 2023 to become the Levelling-up and Regeneration Act 2023.

Those parts most relevant to planning law are summarised in this note. These range from major innovations in the system such as new a system of development plans and the replacement of environmental assessment with a new regime of environmental outcome reports, to more incremental technical reforms of, for example, heritage legislation.

Linking to the levelling-up agenda, a recurring theme in many of the provisions is the desire to accelerate the development process. Collectively the new provisions will also significantly strengthen planning authorities' enforcement powers.

While the changes to the planning regime are potentially substantial, most provisions require further regulations to be brought into force. Furthermore, a number of the innovations are only outlined in the Act and detailed regulations will be required to bring the new regimes into effect.

## Part 3 – Planning

| Section(s) | Summary of Provisions | Steps required to bring provisions into force | Commentary |
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| Chapter 1: Planning Data | | | |
| 84 | **Processing of planning data**<br><br>Planning data is defined in summary as any information provided to, or processed by, a planning authority for any purpose relating to planning or development in England.<br><br>Regulations will require that planning data is processed in such a way that it complies with approved data standards – which will be technical specifications set out by the Secretary of State or a devolved authority. | Comes into force on such day as the Secretary of State may by regulations appoint (s255(3)(b)). | |
| 85 | **Provision of planning data**<br><br>A planning authority may require people to provide planning data in a particular form and manner in order to comply with the approved data standards.<br><br>If a person fails to comply with the notice without reasonable excuse, the authority may reject the planning data. If it is rejected, it is treated as not having been provided at all. If the data is subsequently re-provided in a | | Any notice which requires a person to provide data in a form which is not consistent with the approved data standards will be ineffective.<br><br>If the regulations cover data provided in individual planning application submissions and a planning authority rejected an application on the basis that it did not comply with the approved data standards, there would seem to be no way of challenging this. |

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| | satisfactory form, it may be treated by the authority as having been received on the date that the defective data was received.<br><br>Any notice which requires a person to provide data in a form which is not consistent with the approved data standards will be ineffective.<br><br>Regulations may make provision as to the publication of notices; their form and content; time limits and other procedural matters. | | A validation dispute under article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 would not arise since section 85 of the LURA provides that the defective data is to be treated as not having been provided at all. If, however, a corrected submission was later made the planning authority has the discretion to backdate validation (but would not be required to do so). |
| 86 | **Certain planning data to be made publicly available**<br><br>Regulations may require that a planning authority makes its planning data available to the public, though they will not be required to do so if it would breach an obligation of confidence or some other restriction on availability. | | There is no exclusion related to copyright other than in the limited circumstances described in section 88 below, although in many circumstances the planning authority may be protected by section 47 of the Copyright, Designs and Patents Act 1988. A common issue with publication is likely to arise from the General Data Protection Regulation, since "planning data" is so widely defined.<br><br>The Explanatory Notes to the LURB (as it was) used the handy example of Article 4 directions, which are not published in a standardised way and indeed sometimes not published at all. The regulations may require that they are published online to a set standard. |
| 87 | **Planning data software in England** | | |

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| | Regulations may prevent planning authorities using planning data software which is not is not approved. The data software may be approved within the regulations, or separately in writing by the Secretary of State. | | |
| 88 | **Planning data and copyright**<br><br>If planning data is made available for the purposes of developing, upgrading, modifying or maintaining planning data software, copyright is not infringed either by the person providing it or the person using it. | | |
| 89 | **Consultation of devolved administrations**<br><br>The Secretary of State must have the consent of the relevant devolved administration when making planning data regulations which would be within its legislative competence. | | |
| 90 | **Regulations made by devolved authorities**<br><br>Refers to Schedule 13, which lists restrictions on the devolved authorities where they are making regulations under this chapter. | | |
| 91 | **Interpretation**<br><br>Defines the terms used within the chapter. | | Of most interest is the definition of "relevant planning authority", which by paragraph (n) can mean any public authority as the regulations may define so long as the authority has a function related to planning or development in England, or NSIPs. |

| Chapter 2: Development Plans | | | |
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| 93 | **Role of development plan and national policy in England**<br><br>The Act gives development plans (including local plans, minerals and waste plans, neighbourhood plans and spatial development strategies) and NDMPs more weight in the decision making process through amendments to s.38(6) Planning and Compulsory Purchase Act 2004. Determinations must be made in accordance with the development plan and NDMPs unless material considerations strongly indicate otherwise. | Comes into force on such day as the Secretary of State may by regulations appoint (s255(3)(b)). | This provision is intended to give more "certainty" as to the decision making process. However, it reflects a change from the current more flexible system to a more rigid, rule-based approach. This may be a good thing but will depend on whether development plans and NDMPs are realistic in their approach. |
| 94 | **National development plan policies: meaning**<br><br>Introduces the concept of "national development management policy" (NDMP) which is any policy for the development or use of land in England or part of England which the Secretary of State designates as such. In preparing or modifying such a policy, the Secretary of State must consult the public (or any bodies or persons as appropriate) and must have regard to the need to mitigate and adapt to climate change.<br><br>NDMPs are given the same weight as development plans in decision making. | | It is expected that NDMPs will set out national policies on issues that apply in most local authorities e.g. heritage protection and policies relating to the green belt in order to both speed up the local plan process and to make local plans easier to navigate. |
| 95 | **Contents of the spatial development strategy** | | |

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| | Makes changes to the Greater London Authority Act to further specify the contents of the spatial development strategy to be published by the Mayor (i.e. the London Plan). Changes include the requirement for the strategy to be designed to secure that the use and development of land in Greater London contribute to the mitigation or and adaptation to, climate change. | | |
| 98 | **Contents of a neighbourhood development plan**<br><br>Clarifies that neighbourhood development plans may include:<br>-policies in relation to the amount, type and location of, and timetable for, development in the neighbourhood area in the period for which the plan has effect<br>-other policies in relation to the use / development of land in the neighbourhood area<br>-details of any infrastructure/affordable housing requirements to which development might give rise<br>-design requirements<br>Neighbourhood development plans should also be designed to address climate change, take account of any local nature recovery strategy and to enhance biodiversity.<br>Neighbourhood plans must not be inconsistent with any NDMP. | | |
| 100 | **Requirement to assist with certain plan making** | | This is intended to make local plan making more efficient. However, it may not work in practice given the lack |

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| | Gives plan-making authorities the power to require assistance from a prescribed public body with certain plan making.<br><br>The prescribed public body must do everything that the plan-making authority reasonably requires of the body to assist the authority in relation to the preparation or revision of the relevant plan. | | of resources across public bodies at present. |
| Chapter 3: Heritage | | | |
| 102 | **Special regard to heritage assets**<br><br>Section 102 inserts a new section into the Planning (Listed Buildings and Conservation Areas) Act 1990 ("**Listed Buildings Act**") which requires decision makers on planning permission to have special regard to the desirability of preserving or enhancing the following assets:<br><br>- scheduled monuments;<br>- registered parks and gardens;<br>- protected wrecks;<br>- world heritage sites.<br><br>This requirement relates to preserving or enhancing the asset, its setting, or any feature, quality or characteristic that contributes to its significance. | Comes into force on such day as the Secretary of State may by regulations appoint (s255(3)(b)). | All of the identified asset types are categorised as designated heritage assets in the NPPF.<br><br>The new sub-section broadly reflects the existing duties in sections 66(1) and 72(1) of the Listed Buildings Act in respect of listed buildings and conservation areas respectively, so it is a sensible addition to ensure consistency in decision making on different types of heritage assets. |

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| | The meaning of significance for each asset type is set out in a table. | | |
| 102 | **Preserving and enhancing listed buildings**<br><br>Section 102 makes additions to sections 16 and 66 of the Listed Buildings Act so that references to “preserving” listed buildings are read as “preserving or enhancing" for development in England. | | This is another sensible addition and brings the existing statutory duty into line with that relating to conservation areas in section 72 and the new provisions in section 58B described above. |
| 103 | **Listed building temporary stop notices**<br><br>Section 103 makes provision for temporary stop notices to be issued where it appears to a local planning authority that unlawful works are being carried out to a listed building and it is expedient to stop the works immediately. The notice must specify and prohibit the relevant works and give reasons for issuing the notice. The notice can be effective for up to 56 days.<br><br>Failing to comply with a temporary stop notice is an offence. There are a number of defences available including that the person did not know (and could not reasonably have been expected to know) of the existence of the temporary stop notice and the defences that apply in section 9 in relation to carrying out works to a listed building without consent. | | This reflects the listed building temporary stop notice provisions already in force in Wales. It creates an ability for local planning authorities to immediately stop unlawful works to listed buildings in advance of obtaining an injunction from the courts. |

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| | Any person with an interest in the building is entitled to compensation for loss or damage arising from the temporary stop notice if the works specified were not unlawful or if it the notice was withdrawn by the local planning authority (except where withdrawal followed the grant of listed building consent). | | |
| 104 | **Urgent works to listed buildings**<br><br>Section 104 amends the provision in the Listed Buildings Act relating to urgent works to listed buildings.<br><br>The amendments provide that works may not unreasonably interfere with any residential use of the building.<br><br>They also make changes in relation to recovering costs for urgent works: requiring notices for payment to be registered as local land charges, allowing the recovery of interest, and allowing a fresh notice to be served on a new owner before the first notice becomes operative. | | These amendments are partly to bring English law into line with the amendments made in Wales by the Historic Environment (Wales) Act 2016.<br><br>The amendments to the provisions relating to notices for payment aim to make it easier for local planning authorities to recover costs for urgent works carried out. |
| 105 | **Building preservation notices**<br><br>Section 105 removes the provision in the Listed Buildings Act for compensation to be awarded in England to people with an interest in a building when a building preservation notice is | | This may be intended to encourage the use of building preservation notices, which – perhaps due to the risk of compensation being payable – are not widely used at present. |

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| | served but the building is not subsequently listed. | | |
| Chapter 4: Grant and Implementation of Planning Permission | | | |
| 106 – 108 | **Street Vote development orders**<br><br>Section 106 of the LURA introduces provisions in relation to Street Vote Development Orders. A Street Vote Development Order grants planning permission for development in relation to a particular street area, where this is of a type of development to be prescribed by regulations. A qualifying group of people who are residents of the relevant street (and can vote in local elections there) can arrange this. The detail of the street vote development orders will be contained in forthcoming regulations, including the procedure for holding referendums. Street vote development orders cannot grant permission for certain types of 'excluded development' which will include listed buildings, scheduled monuments, development which is schedule 1 development under the Environmental Impact Assessment regime, Nationally Significant Infrastructure Projects, development including winning and working of minerals and other development which may be prescribed in regulations. Excluded areas include sites with special protections including National Parks, SSSIs, AONBs. | **The power to make regulations under s108 comes into force on 26 December 2023,** the other provisions come into force on such day as the Secretary of State may by regulations appoint (s255(3)(a) and (b)). | These provisions are intended to ease the burden on local planning authorities as street vote powers would allow residents on a street to bring forward proposals to extend or redevelop their properties. Where certain requirements are met, the development proposals would then be voted on by residents on the street, to decide if planning permission should be granted. |

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| | Conditions and obligations may be imposed where relevant.<br><br>The Secretary of State or local planning authority (with confirmation from Secretary of State) may revoke or modify a Street Vote Development Order, in accordance with regulations to be provided.<br>CIL may be chargeable on development authorised by a Street Vote Development Order.<br><br>Regulations may make provision in relation to the EIA regime and Street Vote Development Orders. | | |
| 109 | **Crown Development**<br><br>This section introduces new routes for development on Crown Land, and would amend the TCPA 1990. The new routes would apply where:<br><br>(a) the development is considered to be of national importance and a matter of urgency and<br><br>(b) where the development is considered to be of national importance but not a matter of urgency and<br><br>(c) where the development relates to listed buildings, hazardous substances or other applications of a prescribed form, and is | **The power to make regulations under s109 comes into force on 26 December 2023,** and the remaining provisions come into force on a date which the Secretary of State may by regulations appoint (s255(3)(a) and (b)). | These provisions are also intended to ease the burden on local authorities, as certain types of development of national importance on Crown Land can be applied for directly to the Secretary of State rather than the local planning authority. |

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| | connected to an application of national importance.<br><br>In these three circumstances the appropriate authority can apply directly to the Secretary of State for planning permission (rather than the local planning authority). | | |
| 110 | **Material Variations in Planning Permission**<br><br>This section inserts a new section 73B into the TCPA 1990, for applications for permission which are "not substantially different" from the existing permission (including permissions in principle).<br><br>An applicant can make a request that a variation be determined under this section and suggest conditions, identifying the existing permission which is to be varied (this cannot be an existing permission granted under s73 or s73A, or a permission not granted via a planning application).<br><br>The applicant can also identify other permissions or a sequence of permissions granted under s73 or under this new s73B, which relate to the same existing permission. A development order will include details of how this is to be done.<br><br>Planning permission can only be granted in accordance with this section if it is not | This section will come into force on a date which the Secretary of State may by regulations appoint (s255(3)(b)). | This section will create a new power to amend planning permissions in limited circumstances and we understand that this is to provide greater flexibility following recent caselaw (including Finney), so that multiple variations are not required.<br><br>The new provisions will allow an applicant to make changes to a permission where these would mean the new permission is "not substantially different" from the existing permission. It will be interesting to see how this is interpreted.<br><br>It will not be possible to use the new provisions to extend the time for implementing a permission (which is also not possible with s73 and s96A currently). |

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| | "substantially different" from that of the existing permission (disregarding any changes made under s96A).<br><br>It will not be possible to use these variations to amend the time by which a planning permission may be implemented, nor the time by which reserved matters applications must be submitted.<br><br>In determining an application under s73B, the local planning authority must limit its consideration of the varied permission being applied for to the ways in which the variation would differ from (a) the existing permission and (b) any other existing s73 variations identified in relation to the existing permission. This new section s73B cannot be used to disapply the mandatory biodiversity net gain condition (paragraph 13 of Schedule 7A), nor a condition relating to development progress reports in England (section 90B).<br><br>The power to decline to determine an application similar to an earlier application (S70A) would not apply to a s73B application where the earlier permission(s) have been determined using other provisions, but if the earlier permission has also been determined using s73B, the power to decline to determine it would apply if the effect of the application is | | |

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| | the same or substantially the same as the previous application. | | |
| 111 | **Development Commencement Notices**<br><br>Section 111 of the LURA amends the TCPA 1990 by inserting a new section 93G to set out the commencement notice procedure. Commencement notices will need to be served to the local planning authority by the person proposing to carry out the development, before a development is commenced, noting the date on which commencement is expected. This date can be revised in an updated commencement notice and must be revised if the development is not commenced on the date originally specified. A local authority can serve a notice requiring the relevant information to be provided, and failure to comply with this notice is an offence (a fine of up to £1,000 may be imposed). It will be a defence to have a "reasonable excuse".<br><br>When granting planning permission or a variation, the local authority must notify the applicant of the requirements as regards commencement notices. | This section will come into force on a date which the Secretary of State may by regulations appoint (s255(3)(b)). | The new provisions will introduce a requirement for commencement notices to be served before development is commenced, and these notices will need to be kept up to date. The local authority will be alerted when commencement is due and will also be aware when no commencement notice has been served (see also completion notices). |
| 112 | **Completion Notices**<br><br>Section 112 of the LURA amends the TCPA 1990 by inserting sections 93H to 93J to amend the completion notice procedure. | **The power to make regulations under s112 comes into force on 26 December 2023,** and the remaining provisions come into force on a date which the Secretary of State may by regulations appoint (s255(3)(a) and (b)). | The changes in the LURA are designed to speed up the completion notice procedure and make it more efficient, and to encourage developers to progress construction works. |

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| | A completion notice can be served where a development has begun but not been completed by the date for expiry, and if the local planning authority considers that the development will not be completed within a "reasonable period" (this can be under a planning permission, enterprise zone, simplified planning zone, neighbourhood development order, or street vote development order).<br><br>The completion notice will state that on a certain date the permission or order will cease to have effect (it will become invalid). The date for the completion notice to take effect must not be sooner than 12 months after the date of the notice and (for a planning permission or neighbourhood development order) not sooner than 12 months after the expiry date on the permission or order.<br><br>The completion notice can be served any time after the works are started (rather than waiting for the permission to expire) and the Secretary of State does not need to confirm it. There is a right of appeal to the Secretary of State for example if someone with an interest in the land considers that the development will be completed within a reasonable period or that the completion notice deadline is an unreasonable one. | | Under current legislation, Section 94 of the TCPA 1990 contains the procedure for completion notices. Currently, a completion notice cannot be served until the planning permission has reached its expiry date. The LURA will mean the notice can be served before this.<br>Currently the Secretary of State must confirm a completion notice but the LURA provisions mean that the Secretary of State will not need to confirm it. However, in practice, if there are objections to the completion notice, there is an appeal mechanism to the Secretary of State anyway (section 93I).<br><br>The updated provisions relating to completion notices will apply to planning permissions granted before the section comes into effect as well as after, so once the provisions are in force, developers with existing permissions where work has commenced but not completed could be at risk of receiving a completion notice. |

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| | The updated provisions relating to completion notices will apply to planning permissions granted before the section comes into effect as well as after. | | |
| 113 | **Power to decline to determine applications in cases of earlier non-implementation etc**<br><br>Section 113 inserts a new section 70D into the TCPA1990. A local authority can decline to determine a planning application where the applicant (or a person of a description to be described) has either not begun another development in its area or has started another development but it is not substantially complete or it is being carried out "unreasonably slowly". When considering whether the carrying out of the development is "unreasonably slow", the authority must bear in mind any timescales specified in a commencement notice and / or a completion notice if those have been served, and any other prescribed circumstances.<br><br>The non determination under this section is subject to the right to appeal under s78 TCPA 1990.<br><br>Under this section, the authority cannot decline to determine an application under sections 73, 73A or 73B. | **The power to make regulations under s113 comes into force on 26 December 2023,** and the remaining provisions come into force on a date which the Secretary of State may by regulations appoint (s255(3)(a) and (b)). | This provision means that local planning authorities can decline to determine planning applications where the same developer (or persons to be prescribed) has been "unreasonably slow" to develop elsewhere in its area. It will be interesting to see what kinds of information the local authority will take into account when deciding when something is "unreasonably slow". There is a right of appeal against non-determination under this section. These provisions are also intended to encourage developers to progress construction works. |

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| | A local authority can serve a notice requiring an applicant to provide information where their application is of a prescribed description. A response must be given to such a notice within 21 days, and if the information given is false or misleading they will be guilty of an offence (liable on summary conviction to a fine). | | |
| 114 | **Condition relating to development progress reports**<br><br>Section 114 inserts a new section 90B into the TCPA 1990. Development progress reports are to be provided to the local planning authority for residential development in England (and any prescribed development described as 'relevant'), every 12 months up to the date of completion of the development. A condition in the planning permission must specify this requirement (if the condition is missing, it must be deemed to have been included). Development progress reports must be listed on the local authority's public register. Sections 73 and 96A cannot be used to disapply conditions relating to development progress reports and section 97 cannot revoke such a condition.<br><br>Regulations will set out the detail as regards development progress reports.<br><br>This section does not apply to permission granted by development orders, retrospective | **The power to make regulations under s114 comes into force on 26 December 2023,** and the remaining provisions come into force on a date which the Secretary of State may by regulations appoint (s255(3)(a) and (b)). | This provision requires regular development progress reports to be provided to the local planning authority in relation to residential development in England. These will be listed on the planning register. Further detail is to be set out in regulations. Again, these provisions are intended to encourage developers to progress construction works. |

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| | planning permissions, temporary planning permissions, enterprise zone schemes and simplified planning zone schemes. | | |
| Chapter 5: Enforcement of Planning Controls | | | |
| 115 | **Time limits for enforcement**<br><br>The time limit for enforcing breaches of planning control consisting of the carrying out of operations without planning permission was 4 years, as was the time limit for enforcing a breach consisting of a material change of use to use as a single dwellinghouse without planning permission (section 171B of the TCPA 1990).<br><br>Section 115 of the Act amends the TCPA 1990 to extend these time limits to 10 years. These now match the 10-year limit on enforcing a breach of condition, which remains unchanged.<br><br>Note that these changes affect England only; in Wales the two four-year limits are retained. | Comes into force on such day as the Secretary of State may by regulations appoint (s255(3)(b)). | This gives authorities more time to take enforcement action, although some may be uneasy about the longer time limit relating to a change of use to a dwellinghouse, given the potential for disruption to individuals' long-term living arrangements.<br><br>Transitional arrangements have yet to be published which confirm how these provisions will be brought into force. In the short term, we anticipate an increase in applications for certificates of lawfulness in respect of existing development that has achieved immunity under the current time limits. |
| 116 | **Duration of temporary stop notices**<br><br>The period after which a temporary stop notice ceases to have effect in England is increased in length from 28 days to 56 days. The 28-day period continues to apply in Wales. | | This gives authorities more time to investigate a suspected breach of planning control and aligns with the time periods specified in respect of the new power to issue temporary stop notices in relation to listed buildings. However, 56 days is a maximum period, and it is still open to an authority to specify a shorter period on the temporary stop notice. |

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| 117 | **Enforcement warning notices**<br><br>A new type of enforcement action in England is introduced called an 'enforcement warning notice', which may be issued if it appears to an LPA there has been a breach of planning control, but they consider the unauthorised development has a reasonable prospect of obtaining planning permission. The notice will state that unless a retrospective application for planning permission is made within a specified period, further enforcement action may be taken. | | This introduces a new type of enforcement action which has existed in Wales since 2016. An enforcement warning notice constitutes 'taking enforcement action' for the purposes of the TCPA and therefore stops the clock on unauthorised development gaining immunity. |
| 118 | **Restriction on appeals against enforcement notices**<br><br>This extends the existing restriction on bringing a 'Ground (a) appeal' (an appeal on the basis that in respect of any breach of planning control specified in the enforcement notice, planning permission ought to be granted) where the enforcement notice was issued after an application is made for planning permission for what is alleged in the enforcement notice.<br><br>Currently, under section 174(2A) and 174(2B) of the TCPA, the restriction only applies if the enforcement notice is issued within the time period the authority has for making its decision on the related planning application. | | This strengthens the enforcement regime by further limiting the circumstances in which a developer could have two "bites of the cherry" (a retrospective planning application with or without an appeal and an appeal against a subsequent enforcement notice) to obtain permission for unauthorised development. |

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| | Under new sections 174(2A) to (2B), the restriction on Ground (a) appeals will apply provided the authority issues the enforcement notice within two years of the related application ceasing to be under consideration, a considerable extension of time. | | |
| 119 | **Undue delays in appeals**<br><br>This gives the Secretary of State a new power allowing them to dismiss an appeal in relation to an enforcement notice or an application for a lawful development certificate in England, should it appear to them that the appellant is causing undue delay in the appeals process. The Secretary of State may give the appellant notice that the appeal will be dismissed unless the appellant takes specified steps to expedite the appeal within a prescribed period, and the appeal may be dismissed if these steps are not taken. | | This provision seeks to reduce delays caused by appellants during the appeals process and should be borne in mind by developers or landowners seeking to "buy time" through the appeals process. |
| 120 | **Penalties for non-compliance**<br><br>The cap on the fine to which a person may be liable for failure to comply with a breach of condition notice or a section 215 (maintenance of land) notice is removed in England (the cap remains at current levels in Wales). The maximum daily fine is also increased in England to the greater of either one tenth of £5,000 or level 4 on the standard scale. | | This means that failure to comply with a breach of condition notice or section 215 notice could attract unlimited fines. |

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| 121 | **Relief from enforcement of planning conditions**<br><br>This allows the Secretary of State to make regulations providing that an LPA in England may not, or is subject to specified restrictions as to how it may, take enforcement measures in relation to any actual or apparent failure to comply with a relevant planning condition occurring within a specified relief period. Regulations may only be made where it is considered appropriate to do so for the purposes of national defence or preventing or responding to civil emergency or significant disruption to the economy of the UK or any part of it.<br><br>Planning conditions relating to biodiversity net gain (section 90A and Schedule 7A); conditions relating to development progress reports (section 90B); conditions limiting duration of planning permission (section 91) and conditions for outline planning permission (section 92) are excluded from this provision. | Comes into force at the end of the period of two months beginning with the day on which this Act is passed, i.e. on 26 December 2023 (s255(3)(a)). | These provisions are in response to events such as the COVID-19 pandemic and the acute national shortage of HGVs. It will be interesting to see the circumstances in which such regulations may be made in the future. |
| Chapter 6: Other Provisions | | | |
| 122 | **Consultation before applying for planning permission**<br><br>Sections 61W to 61Y of the TCPA 1990, relating to the pre-application consultation required before applying for planning permission, are | Comes into force on such day as the Secretary of State may by regulations appoint (s255(3)(b)). | Makes permanent the pre-application consultation required before applying for planning permission for certain applications. |

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| | now permanent, by removing the sunset clauses of these sections in the Localism Act | | |
| 124 | **Powers as to form and content of planning applications**<br><br>Addition of s 327ZA to the TCPA 1990, allowing the Secretary of State to require or allow planning applications to be made in a certain form. This includes associated documents to be provided by electronic means (although this can be waived) and documents to be prepared or endorsed by a person with a particular qualification or experience. | | Provides for the electronic submission of application documents but noting that this requirement can be waived. Specific detail is required through Regulations. |
| 125 | **Additional powers in relation to planning obligations**<br><br>Addition of s 106A(9A) to the TCPA 1990, this section provides additional powers to make regulations in relation to planning obligations which must be met in order for a planning obligation to be modified or discharged and circumstances in which a planning obligation may not be modified or discharged. | | This will enable regulations to be enacted to determine the circumstances in which planning obligations may be modified or discharged under section 106A(9A). Currently s 106A allows an obligation to be modified or discharged by agreement or by application after 5 years (or a date specified) from when the obligation was entered into. |
| 126 | **Fees for certain services in relation to Nationally Significant Infrastructure Projects**<br><br>Addition of s 54A to the Planning Act 2008 by providing that the Secretary of State may make regulations for and in connection with the charging of fees by prescribed public authorities for a relevant service in relation to NSIPs. | Comes into force at the end of the period of two months beginning with the day on which this Act is passed, i.e. on 26 December 2023 (s255(3)(a)). | Relevant services include advice, information, or other assistance, including a response to a consultation. |

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| 127 & 128 | **Power to shorten deadline for examination of development consent order applications & Additional powers in relation to non-material changes to development consent orders**<br><br>Power for the Secretary of State to shorten the deadline for examination of development consent order applications under s 98 of the Planning Act 2008 and additional powers for the Secretary of State to make regulations about the decision-making process (such as time-limits) in relation to non-material changes to development consent orders in paragraph 2 of Schedule 6. | | Changes to allow for further efficiency in the development consent order process, namely allowing the SoS to reduce the 6-month period currently under section 98(1) of the Planning Act 2008.<br><br>This also confirms a power to make regulations includes a discretion as to how the power is exercised, and can include, for instance, provision allowing the Secretary of State to extend a deadline for a decision relating to a non-material change application. |
| 129 | **Hazardous substances consent: connected applications to the Secretary of State**<br><br>Amends s 62A of the TCPA 1990 to permit an application for hazardous substances consent to be made directly to the Secretary of State. | Comes into force on such day as the Secretary of State may by regulations appoint (s255(3)(b)). | This allows applications to be submitted where it is considered by the applicant to be connected with a relevant application under s 62A. |
| 130 | **Regulations and orders under the Planning Acts**<br><br>Introduces various powers to make regulations and orders under the Planning Acts. | Comes into force at the end of the period of two months beginning with the day on which this Act is passed, i.e. on 26 December 2023 (s255(3)(a)). | The effect of these amendments is to provide express powers to make ancillary provisions – namely, consequential, supplementary, incidental, transitional, transitory or saving provisions. |
| 131 | **Power for appointees to vary determinations as to procedure** | | |

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| | Power for appointees to vary determinations as to procedure under paragraph 2 of Schedule 6 to the TCPA 1990. | | |
| 132 | **Pre-consolidation amendment of planning, development and compulsory purchase legislation**<br><br>Enables a pre-consolidation amendment of planning, development and compulsory purchase legislation. | | |
| 133 | **Participation in certain proceedings conducted by, or on behalf of, the Secretary of State**<br><br>Allows the Secretary of State to conduct certain proceedings, which are conducted by or on behalf of the Secretary of State, remotely. Remotely refers to telephone or television link or any other arrangement not involving the person attending the proceedings in person. | | This is intended to allow for Planning Inspectorate proceedings (inquiry, hearing, examination, meeting) to be conducted remotely. |
| 134 | **Power of certain bodies to charge fees for advice in relation to applications under the Planning Acts**<br><br>Addition of s 303ZB to the TCPA 1990 to allow a prescribed body to charge fees for the provision of advice, information or assistance under the planning Acts. | Comes into force on such day as the Secretary of State may by regulations appoint (s255(3)(b)). | Currently sections 303 and 303ZA allow the charging of fees for applications and appeals, this brings in a new power for prescribed bodies (which may be statutory consultees) to charge fees for the provision of advice if specified on their website. Further detail through regulations is required and before any regulations are brought in, the Secretary of State must consult "any body likely to be affected". |
| 135 | **Biodiversity net gain: pre-development biodiversity value and habitat enhancement** | | This is an attempt to tighten the BNG legislation already introduced and to |

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| | Changes to Schedule 7A to the TCPA 1990 in relation to biodiversity net gain.<br><br>Insertion of paragraph 6A which relates to activities on land on or after 25 August 2023 where permission has been granted and development has either not yet begun or has begun but has not yet been completed. If a result of the activities is a reduction in the biodiversity value, then pre-development value of the onsite habitat is taken to be its biodiversity value immediately before the carrying out of activities.<br><br>Paragraph 6B provides that where there is insufficient evidence immediately before carrying out the activities, the biodiversity value is that which is the highest value reasonably supported by any available evidence relating to the onsite habitat immediately before the activities.<br><br>At paragraph 10, in relation to offsite habitat enhancement, this provides if activities are undertaken on or after 25 August 2023 otherwise than in accordance with planning permission and as a result of the activities the biodiversity value of the offsite habitat is lower that it would otherwise have been, the pre-enhancement value of the offsite habitat is to | | avoid any potential circumvention of the BNG requirements. |

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| | be taken to be its biodiversity value immediately before the activities. | | |

## Part 4 – Infrastructure Levy

| Section(s) | Summary of Provisions | Steps required to bring provisions into force | Commentary |
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| 137 | **Infrastructure Levy: England**<br><br>Gives effect to Schedule 12 to make provision for IL in England. | Part 4 comes into force on such day as the Secretary of State may by regulations appoint (s255(4)). | |
| 138 | **Role of Homes and Communities Agency**<br><br>Creates power to designate the Homes and Communities Agency as an IL charging authority | | |
| 139 | **Restriction of Community Infrastructure Levy to Greated London and Wales**<br><br>Community Infrastructure Levy:<br>- Retained in London in the form of Mayoral CIL only<br>- Retained in Wales | | |
| 140 | **Enforcement of Community Infrastructure Levy**<br><br>Amendment to definition of enforcement in s218 Planning Act 2008 | | |
| Schedule 12 | **Infrastructure Levy**<br><br>Inserts new sections 204A to 204Z2 into Planning Act 2008 | | Schedule 12 sets the basic legislative framework for the introduction of the Infrastructure Levy.<br><br>The actual mechanics of the IL will be set out in regulations made under new section 204A(1) of the Planning Act 2008 |

## Part 6 – Environmental Outcome Reports

| Section(s) | Summary of Provisions | Steps required to bring provisions into force | Commentary |
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| 152 – 155,<br>160 – 162 | **Powers to specify environmental outcomes and require environmental outcome reports**<br><br>An appropriate authority (i.e. the Secretary of State, a devolved authority or the Secretary of State and one or more devolved authorities acting jointly) may make regulations (EOR regulations):<br><br>- Specifying outcomes relating to environmental protection (including protection of the natural environment and cultural heritage);<br>- Requiring environmental outcome reports (EORs) to be prepared in relation to proposed "relevant consents" and "relevant plans"<br><br>The regulations will fill in the details, including definitions of "relevant consents" and "relevant plans", when environmental outcome reports will be required, monitoring, enforcement and reporting.<br><br>Environmental outcome reports will assess: | Part 6 comes into force at the end of the period of two months beginning with the day on which this Act is passed, i.e. on 26 December 2023 (s255(5)).<br><br>However, the appropriate authority(ies) have to make the EOR regulations to bring the regime into effect and it is not clear exactly when this will happen. The government is currently preparing draft regulations for consultation. | These changes aim to replace the current EU-derived environmental assessment regime with a streamlined system that places greater focus on delivering the government's environmental ambitions.<br><br>At this stage it is hard to judge what the EOR regime will involve as the detail will only come in the regulations, and government consultation to-date has not included draft regulations. Some doubt that the end result will be that different to the old EIA regime in practice.<br><br>There also seems to be at least a risk of generating an unstable regime prone to regular substantial changes – given the lack of detail in this Act and the lack of established policy on EORs, successive ministers could in theory use the regulation making power to introduce substantially different EOR regimes (in contrast with the power to make EIA regulations which must be |

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| | - the impact of relevant plans and consents on the delivery of specified environmental outcomes;<br>- proposals for increasing the extent to which a specified environmental outcome is delivered;<br>- steps proposed to avoid, mitigate or compensate (in that hierarchical order) the effects of a specified environmental impact not being delivered to any extent<br>- proposals to monitor impacts and secure avoidance / mitigation / compensation steps<br><br>A relevant consent may not be given, or relevant plan may not be adopted, unless an environmental outcome report has been taken into account or given effect in determining the consent / adopting the plan. | | used within limits set by a much more substantial framework of policy and legislation). |
| 156 | **Safeguards**<br><br>EOR regulations must not lower the level of environmental protection already provided by environmental law.<br><br>Also requires EOR regulations to be consistent with international obligations and enable adequate public engagement in relation to proposed relevant consents / plans. | | |
| 157 – 158 | **Devolved administrations** | | |

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| | Provisions relating to the role of the devolved administrations in the making of EOR regulations. | | |
| 159 | **Exemptions for national defence and civil emergency**<br><br>The Secretary of State has the power to direct that an environmental outcome report is not required in relation to a relevant consent which is solely for the purposes of national defence or preventing or responding to civil emergency (and EOR regulations may empower the Secretary of State to direct the same in further circumstances). | | |
| 162 | **Public consultation**<br><br>Requirements on an appropriate authority to undertake public consultation when making EOR regulations, amending relevant existing environmental legislation or issuing / modifying / withdrawing guidance to which section 163 applies. | | |
| 163 | **Guidance**<br><br>Public authorities carrying out functions under the EOR regime must have regard to any relevant guidance of the Secretary of State (any guidance of devolved authorities where applicable). | | |
| 164 | **Interaction with EIA and Habitats Regulations** | | |

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| | EOR regulations may make provision about the interaction of the EOR regime and existing environmental assessment legislation or the Habitats Regulations (broadly defined in this section), e.g. treating anything done in relation to an EOR as satisfying a requirement under existing legislation / regulations.<br><br>EOR regulations may amend, repeal or revoke relevant existing environmental assessment legislation. | | |
| 165 | **Consequential amendments**<br><br>Removes the power of the Secretary of State to make regulations requiring environmental assessment in line with to the EU-derived EIA system. | | |
| 166 | **Further provisions**<br><br>On what may be included in EOR regulations. | | |
| 167 | **Interpretation clause** | | |

## Part 8 – Development Corporations

| Section(s) | Summary of Provisions | Steps required to bring provisions into force | Commentary |
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| 171 | **Locally-led urban development corporations**<br><br>Amendment of Section 134 Local Government, Planning and Land Act (urban development areas) and insertion of new S134A to provide for a new type of locally-led Urban Development Corporation.<br><br>Local authority or two or more local authorities acting together may request Secretary of State to designate an area of land as an urban development area and create a locally-led UDC for which the local authority rather than the Secretary of State is responsible.<br><br>Need for consultation including with local people, local businesses and GLA (in London).<br><br>Insertion of new S135A to enable regulations about how an oversight authority is to oversee the regeneration of a locally-led urban development area. | Part 8 comes into force on such day as the Secretary of State may by regulations appoint (S255(7)). | The Act enables any local authority (or group of authorities) to request that the Secretary of State designate an area as an urban development area and establish a development corporation – hence the term "a locally-led urban development corporation".<br><br>These new UDCs will be accountable to local authorities, rather than the Secretary of State, and have all of the planning and development powers available to centrally led development corporations including local plan making, neighbourhood planning and development management. This follows the Mayoral Development Corporation model, enabling all local areas to set up a locally accountable development corporation. |
| 172 | **Locally-led new towns**<br><br>Two new sections inserted into New Towns Act 1981 to reflect the same provisions for the designation of a locally-led new town and | | The Act also makes changes to the process for establishing locally-led New Town Development Corporations. Similar to UDCs, New Town Development Corporations will receive |

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| | creation of a locally-led New Town Development Corporation. | | local plan making, neighbourhood planning and development management powers.<br><br>The Act also removes the cap on the number of board members for a corporation and the aggregate national borrowing cap. |
| 173 | **Minor and consequential amendments**<br><br>Schedule 16 makes minor and consequential amendments in connection with Sections 171 and 172. | | |
| 174 – 175 | **Urban and new town development corporations**<br><br>The Act updates the planning powers available to UDCs and New Town Development Corporations to give them access to planning powers for the purposes of local plan-making, overseeing neighbourhood planning and development management. The amendments in effect bring these corporations into line with the Mayoral Development Corporation model. | | |
| 176 | **Mayoral Development Corporation**<br><br>Section 202 Localism Act 2012 is amended to allow a Mayoral Development Corporation to become a minerals and waste planning authority. | | |
| 177 | **Minor and consequential amendments**<br><br>Schedule 17 makes minor and consequential amendments in connection with Sections 174 and 175. | | |
| 178 | **Removal of restrictions** | | |

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| | Removal of the cap (currently 13) on number of UDC board members to allow for appropriate private sector expertise on the board. | | |
| 179 | **Removal of limits on borrowing**<br><br>Removal on the limits on borrowing by UDCs and New Town Development Corporations. The current aggregate cap on borrowing by UDCs is £5.25 billion. | | |

## Part 9 – Compulsory Purchase

| Section(s) | Summary of Provisions | Steps required to bring provisions into force | Commentary |
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| 180 | **Acquisition by local authorities for purposes of regeneration**<br><br>Amends s226 of the TCPA to insert a new subsection 1B stating that "improvement" includes "regeneration" | Part 9 comes into force on such day as the Secretary of State may by regulations appoint (s255(7)). | It has long been assumed that s226 allows land to be compulsorily purchased for regeneration purposes but this provision removes any doubt. |
| 181 | **Online publicity**<br><br>Amends the Acquisition of Land Act 1981 (ALA 1981) so that notices relating to the making of a CPO and to its confirmation together with various certificates | | These are limited additional requirements for publicity of CPOs. It is to be hoped that the forthcoming updated guidance will recommend that other documents (such as the statement of reasons) should also be made available online. |
| 182 | **Confirmation Proceedings**<br><br>Amends the ALA 1981 to allow the confirming authority (usually an inspector) to decide whether to hold an inquiry or follow the "representations procedure". The representation procedure is to be prescribed by regulation. It will not be available whether the CPO is subject to special parliamentary procedure or certificate has been issued by the Secretary of State relating to the exchange of land for the replacement common land, open space or allotments included in the CPO (under s16 of the ALA 1981). The costs regime set out | | At present a statutory objector (which term includes those who have an interest in the CPO land) can require a public inquiry to be held. The regulations will need to recognise the right to a hearing under the European Convention on Human Rights where the right to hold property free of state interference is affected. |

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| | in s13B of the 1981 Act relating to written representations will apply to the representations procedure | | |
| 183 & 184 | **Conditional Confirmation**<br><br>Amends to ALA 1981 to allow a confirming authority to confirm a CPO conditionally so that the CPO does not become operative until the specified conditions have been met. The regulations will set a time limit for making a application and the CPO will expire if that limit is not met.<br><br>Where conditions are imposed, the procedure for securing a decision from the confirming authority that the conditions have been met (and the CPO is therefore operative) are to be specified by regulations. However, they must allow for any remaining objectors to the CPO to be notified of the application and be allowed to make written representations in relation to it.<br><br>If a positive decision is made by the confirming authority then the usual notice requirements will apply with respect to what is called a "fulfilment notice".<br><br>Schedules 18 and 19 sets out numerous provisions arising from conditional confirmation mainly relating to the expiry of the time limit for making an application. | | The most radical of the procedural provisions. Conditions might be imposed to deal with (for example) issues arising from outstanding objections. We await the regulations for details. |

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| 185 | **Time limits for implementation**<br><br>Allows the confirming authority to specify a period longer that 3 years for implementing a CPO (with reference to the service of a notice to treat or execution of a general vesting declaration). | | This potentially brings CPOs in line with compulsory purchase provisions in infrastructure orders (such as development consent orders) where five years (and sometimes longer) is allowed. |
| 186 | **Agreement to vary vesting date**<br><br>Where a GVD has been executed, the Acquiring Authority may agree with the owner of any interest to delay the vesting date of that interest. | | |
| 187 | **Common standards for compulsory purchase data**<br><br>Allows the Secretary of State to make regulations requiring acquiring authorities to prepare, hold, or provide compulsory purchase data (information included in any CPO notice or order) in accordance with approved data standards | | |
| 188 | **'No scheme' principle: minor amendments**<br><br>These are minor amendments to sections 6D and 6E of the Land Compensation Act 1961 ("the LCA 1961") so that they apply with respect | | |

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| | to schemes for the improvement of land as well as for regeneration and redevelopment | | |
| 189 | **Prospects of planning permission for alternative development**<br><br>This section reforms the appropriate alternative development ("AAD") regime as set out in ss. 14, 17 & 18 of the LCA 1961.<br><br>The only way to establish AAD is by securing a certificate of appropriate alternative development ("CAAD"). It is therefore no longer open to the Tribunal to determine when assessing compensation that development is AAD.<br><br>The prospect of planning permission (subject to the cancellation assumptions set out in s.14(5) may still be taken into account by the Tribunal but a reasonable prospect is no longer a certainty.<br><br>A CAAD may be issued on the acquired land alone or together with other land for development where the following test is met: had an application for planning permission been made on the relevant planning date (which is usually the valuation date), the LPA would have been more likely than not to grant the permission applying the cancellation assumptions and assuming that the LPA would | | This section controversially reforms the AAD and CAAD systems which some had thought were too claimant-friendly. To summarise the most important changes:<br><br>- No AAD save through a CAAD<br>- No negative certificates – only refusals<br>- LPA only has to consider the development specified in the CAAD application<br>- Costs of CAAD application no longer recoverable as compensation |

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| | have acted lawfully but otherwise in the circumstances known to the market at the relevant valuation date.<br><br>Under the previous regime, the LPA was obliged (at least in theory) to specify every form of development which it considered AAD. It now only has to consider the development specified in the CAAD application or development less extensive but otherwise falling within the description of development given in the application.<br><br>There is no longer scope for a LPA to issue a "negative" certificate i.e. one specifying that no form of development is AAD.<br><br>A CAAD must give a general indication of any conditions to which planning permission would have bene subject and any pre-condition for granting the permission (such as a section 106 agreement).<br><br>The costs of making a CAAD application can no longer be claimed as compensation.<br><br>The right to appeal against the grant of a CAAD is retained and the opportunity to appeal against refusal is introduced (previously no CAAD was refused since there was the option of issuing a negative CAAD). | | |

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| | Where a CAAD application is not determined within the statutory period it is deemed to have been refused. | | |
| 190 | **Power to require prospects of planning permission to be ignored**<br><br>This section runs to some 16 pages of text. It allows the Secretary of State (SoS) to direct that the compensation payable to owners of land in relation to specified CPOs must be assessed on an existing use basis only.<br><br><u>Section 14A LCA 1961</u><br><br>The new section 14A applies where a direction is made that it does with respect to a specific CPO (see below). Where it does apply:<br><br>(a) The AAD regime is disapplied and no application can be made by a claimant for a CAAD.<br>(b) Is assessing compensation, It must be assumed that no planning permission would be granted for the relevant land (but any permission extant at the valuation date still applies)<br>(c) The only exception is with respect to splitting a dwelling into two or more dwellings.<br><br><u>Directions</u> | | These provisions are highly controversial since they remove the principle of equivalence which has been the basis of land compensation for centuries. The Government hopes that in doing so it can increase the provision of affordable housing significantly.<br><br>The Government has said that directions will only be made where there a CPO scheme is entirely public sector led but this is not apparent from the legislation.<br><br>The provisions relating to additional compensation are complex and novel and require significant further detail. |

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| | A new section 15A and a new schedule 2A are introduced to the ALA 1981 governing the making of directions by the SoS.<br><br>A CPO can only qualify it is made for NHS purposes, educational purposes or purposes including housing.<br><br>First the Acquiring Authority (AA) must include a direction in the CPO that compensation is to be assessed in accordance with s14A. If it does so, it must submit a "statement of commitments" alongside the CPO.<br><br>The statement of commitments sets out what the AA intends to do with the project land insofar as the AA relies on those intentions in contending that the direction is justified in the public interest. If the CPO is for purposes including housing, those intentions must include the provision of a "certain" (specified?) number of affordable housing units (including social housing).<br><br>The confirming authority ("CA" – usually a planning inspector for TCPA 1990 CPOs) may confirm the order with the direction id satisfied that the direction is justified in the public interest or can confirm the CPO without the direction. | | |

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| | A direction is subject to the negative resolution procedure in Parliament.<br><br><u>Additional compensation provisions</u><br><br>Another schedule 2A, this time to the LCA 1961 is created setting out additional compensation provisions.<br><br>Where land has been acquired pursuant to a CPO and a direction there is an opportunity for an "eligible person" (i.e. someone who would have been able to claim or their successors) to claim additional compensation.<br><br>An application can be made to the CA by an eligible person where land has been acquired pursuant to a CPO which included a direction and:<br>(a) The statement of commitments has not been complied with<br>(b) 10 years have passed since the CPO came into force or there is no longer any prospect of compliance with the state of commitments in that 10 year period<br>(c) The direction would not have been made had the statement of commitments reflected what had in fact been done with the project land since acquisition | | |

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| | An application must be made within 13 years of the CPO coming into force.<br><br>Additional compensation is the difference between the amount of compensation paid and what would have been paid had there been no direction. Compensation for disturbance, injurious affection and severance is ignored.<br><br>In addition regulations may provide for consequential losses to be paid but it is not yet clear what is envisaged. | | |