

Infrastructure Act 2015

2015 CHAPTER 7

An Act to make provision for strategic highways companies and the funding of transport services by land; to make provision for the control of invasive non-native species; to make provision about nationally significant infrastructure projects; to make provision about town and country planning; to make provision about the Homes and Communities Agency and Mayoral development corporations; to make provision about the Greater London Authority so far as it exercises functions for the purposes of housing and regeneration; to make provision about Her Majesty's Land Registry and local land charges; to make provision to enable building regulations to provide for off-site carbon abatement measures; to make provision for giving members of communities the right to buy stakes in local renewable electricity generation facilities; to make provision about maximising economic recovery of petroleum in the United Kingdom; to provide for a levy to be charged on holders of certain energy licences; to enable Her Majesty's Revenue and Customs to exercise functions in connection with the Extractive Industries Transparency Initiative; to make provision about onshore petroleum and geothermal energy; to make provision about renewable heat incentives; to make provision about the reimbursement of persons who have paid for electricity connections; to make provision to enable the Public Works Loan Commissioners to be abolished; and for connected purposes. [12th February 2015]

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:—

PART 1

STRATEGIC HIGHWAYS COMPANIES

Appointment as highway authorities

1 Appointment of strategic highways companies

(1) The Secretary of State may by order in accordance with this Part appoint one or more companies as a highway authority.

(2) A company may only be appointed under this section if it is—

(a) limited by shares, and

(b) wholly owned by the Secretary of State.

(3) The appointment of a company terminates (in addition to termination by revocation of the order making the appointment) if the company ceases to be wholly owned by the Secretary of State.

(4) A company appointed under this section is called a “strategic highways company”.

(5) In this section, “company” means a company registered under the Companies Act 2006.

(6) Schedule 1 (which contains consequential and supplemental amendments) has effect.

2 Areas and highways in an appointment

(1) The appointment of a strategic highways company must specify—

(a) an area, consisting of the whole or any part of England, in respect of which the company is appointed, and

(b) highways in that area for which the company is to be the highway authority.

(2) Highways may be specified under subsection (1)(b) by name or description.

(3) Highways specified under subsection (1)(b) must be highways for which the Secretary of State or another strategic highways company is the highway authority immediately before the appointment has effect.

(4) In the case of a strategic highways company appointed for an area adjacent to Wales, the highways specified under subsection (1)(b) may (subject to subsection (3)) include highways in Wales.

(5) Where—

(a) the appointment of a strategic highways company is varied, and

(b) by virtue of that variation the company ceases to be the highway authority for one or more highways, the Secretary of State becomes the highway authority for those highways (to the extent that he or she would not otherwise be so).

(6) Where the appointment of a strategic highways company terminates, the Secretary of State becomes the highway authority for any highway for which the strategic highways company is highway authority (whether by virtue of the appointment or otherwise) immediately before the

termination.

(7) Subsections (5) and (6) are subject to the appointment of another strategic highways company.

Functions

3 Road Investment Strategy

(1) The Secretary of State may at any time—

(a) set a Road Investment Strategy for a strategic highways company, or

(b) vary a Strategy which has already been set.

(2) A Road Investment Strategy is to relate to such period as the Secretary of State considers appropriate.

(3) A Road Investment Strategy must specify—

(a) the objectives to be achieved by the company during the period to which it relates, and

(b) the financial resources to be provided by the Secretary of State for the purpose of achieving those objectives.

(4) The objectives to be achieved may include—

(a) activities to be performed;

(b) results to be achieved;

(c) standards to be met.

(5) In setting or varying a Road Investment Strategy, the Secretary of State must have regard, in particular, to the effect of the Strategy on—

(a) the environment, and

(b) the safety of users of highways.

(6) The Secretary of State and the company must comply with the Road Investment Strategy.

(7) If a strategic highways company does not have a Road Investment Strategy currently in place, the Secretary of State must—

(a) lay before Parliament a report explaining why a Strategy has not been set, and

(b) set a Road Investment Strategy as soon as may be reasonably practicable.

(8) Schedule 2 (which contains provision about the procedure for setting or varying a Road Investment Strategy) has effect.

4 Route strategies

(1) The Secretary of State must from time to time direct a strategic highways company to prepare proposals for the management and development of particular highways in respect of which the company is appointed (“a route strategy”).

(2) A route strategy must relate to such period as the Secretary of State may direct. (3) The strategic highways company must—

(a) comply with a direction given to it under subsection (1), and

(b) publish the route strategy in such manner as the company considers appropriate.

(4) A direction under subsection (1) must be published by the Secretary of State in such manner as he or she considers appropriate.

Exercise of functions

5 General duties

(1) A strategic highways company must, in exercising its functions, co-operate in so far as reasonably practicable with other persons exercising functions which relate to—

(a) highways, or

(b) planning.

(2) A strategic highways company must also, in exercising its functions, have regard to the effect of the exercise of those functions on—

(a) the environment, and

(b) the safety of users of highways.

6 Directions and guidance

(1) The Secretary of State may from time to time give a strategic highways company directions or guidance as to the manner in which it is to exercise its functions.

(2) Directions under subsection (1) may provide, in particular, that a function is only to be exercised—

(a) after consultation with the Secretary of State, or

(b) with the consent of the Secretary of State.

(3) In exercising its functions, a strategic highways company must—

(a) comply with a direction, and

(b) have regard to guidance, given to it under subsection (1).

(4) Directions and guidance under subsection (1) must be published by the Secretary of State in such manner as he or she considers appropriate.

7 Delegation of functions

(1) A strategic highways company may authorise another person to exercise a function it has under any enactment, if the function is prescribed by regulations made by the Secretary of State.

(2) An authorisation may authorise the exercise of a function—

(a) wholly or to any other extent;

(b) generally or only in some cases or areas;

(c) unconditionally or subject to conditions.

(3) An authorisation—

(a) does not prevent the company or any other person from exercising the function to which the

authorisation relates,

(b) may be for a period not exceeding ten years, and

(c) may be revoked at any time.

(4) The strategic highways company may—

(a) enter into a contract with an authorised person in connection with the exercise by that person of a function;

(b) make payments to an authorised person in that connection.

(5) Where an authorisation is revoked at a time when a contract in connection with the exercise of a function is subsisting, the authorised person is entitled to treat the contract as repudiated by the company (and not as frustrated by reason of the revocation).

(6) Regulations under this section may not prescribe a function if it is—

(a) a power of entry, or

(b) a power or duty to make subordinate legislation.

(7) Where a function of the Secretary of State is transferred to a strategic highways company under this Part and is, immediately before the transfer, authorised to be exercised by another person by an order under section 69 of the Deregulation and Contracting Out Act 1994—

(a) the authorisation is to have effect as if it had been given by the

transferee company under this section, and

(b) if the function is not prescribed under subsection (1), it is to be regarded as having been so prescribed.

(8) Where a function of a strategic highways company is transferred to another such company under this Part and is, immediately before the transfer, authorised to be exercised by another person under this section, the authorisation is to have effect as if it had been given by the transferee company under this section.

8 Exercise of delegated functions

(1) A function to which an authorisation under section 7 relates may be exercised by—

(a) the authorised person, or

(b) an employee of that person.

(2) Anything done by, or in relation to, the authorised person or that person's employee in connection with the exercise of a function is to be treated as done by, or in relation to, the company.

(3) Subsection (2)—

(a) does not affect the rights and liabilities of the strategic highways company and the authorised person as between one another,

(b) does not make the strategic highways company liable under section 6 of the Human Rights Act 1998 in respect of any act (within the meaning of that section) of the authorised person or an employee of the authorised person if the act is of a private nature,

(c) does not prevent any civil proceedings which could otherwise be brought by or against the authorised person from being brought, and

(d) does not apply for the purposes of any criminal proceedings brought in respect of anything done by the authorised person or that person's employee.

(4) Schedule 15 to the Deregulation and Contracting Out Act 1994 (restrictions on disclosure of information) applies to an authorisation under section 7 as it applies to an authorisation of the Secretary of State under Part 2 of that Act (contracting out).

(5) In this section—

(a) “employee”, in relation to a body corporate, includes a director or other officer of the body;

(b) references to anything done include anything omitted to be done;

(c) references to the exercise of a function include the purported exercise of a function.

Oversight

9 Watchdog

(1) The Passengers' Council must carry out activities to protect and promote the interests of users of highways for which a strategic highways company is the highway authority.

(2) Those activities may include investigating, publishing reports or giving advice to the Secretary of State on—

(a) how a strategic highways company's exercise of its functions or achievement of its objectives under a Road Investment Strategy affects users of highways for which it is the highway authority, and

(b) any other matters—

(i) relating to highways for which a strategic highways company is the highway authority, and

(ii) which the Council considers to be of interest to users of such highways.

(3) The Secretary of State may by regulations provide that those activities may not relate to a matter—

(a) to the extent specified;

(b) subject to compliance with specified conditions.

(4) The Secretary of State must consult the Council before making regulations under subsection (3).

(5) The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Council under this section.

(6) The Council may by agreement with a local highway authority carry out activities to protect and promote the interests of users of highways for which the authority is the highway authority.

(7) Those activities may include investigating, publishing reports or giving advice to the local highway authority on any matters—

(a) relating to highways for which the authority is the highway authority, and

(b) which the authority and the Council consider to be of interest to users of such highways.

(8) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert— “The Passengers’ Council.”

10 Monitor

(1) The Office of Rail Regulation must carry out activities to monitor how a strategic highways company exercises its functions.

(2) Those activities may include investigating, publishing reports or giving advice to the Secretary of State on—

(a) whether, how and at what cost a strategic highways company has achieved its objectives under a Road Investment Strategy,

(b) objectives for a future Road Investment Strategy, and

(c) the effect of directions and guidance given by the Secretary of State to a strategic highways company under this Part.

(3) The Office may direct a strategic highways company to provide such information as the Office considers necessary for the purpose of carrying out activities under subsection (1).

(4) A direction under subsection (3) may specify the form and manner in which the information is to be provided.

(5) A direction under subsection (3) may not require—

(a) production of a document which the strategic highways company could not be compelled to produce in civil proceedings, or

(b) provision of information which the company could not be compelled to give in evidence in such proceedings.

(6) The strategic highways company must comply with a direction under subsection (3).

(7) The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Office under this section.

(8) The Secretary of State must lay a report published by the Office under this section before Parliament.

(9) In Part 2 (Office of Rail Regulation) of the Railways and Transport Safety Act 2003, after section 15 insert—

“15A Change of name

(1) The Secretary of State may by regulations make provision for the body established by section 15 to be known by a different name.

(2) Regulations under this section may amend this Act or any other enactment, whenever passed or made.

(3) Regulations under this section are to be made by statutory instrument.

(4) A statutory instrument which contains regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

11 Monitor: compliance and fines

(1) If the Office of Rail Regulation is satisfied that a strategic highways company has contravened or is contravening—

(a) section 3(6) (compliance with the Road Investment Strategy), or

(b) section 6(3) (compliance with directions and regard to guidance), the Office may take one or more of the steps mentioned in subsection (2).

(2) The Office may—

(a) give notice to the company as to the contravention and the steps the company must take in order to remedy it;

(b) require the company to pay a fine to the Secretary of State.

12 Monitor: general duties

(1) The Office of Rail Regulation must exercise its functions under sections 10 and 11 in the way that it considers most likely to promote—

(a) the performance, and

(b) the efficiency, of the strategic highways company.

(2) The Office must also, in exercising those functions, have regard to—

(a) the interests of users of highways,

(b) the safety of users of highways,

(c) the economic impact of the way in which the strategic highways company achieves its objectives,

(d) the environmental impact of the way in which the strategic highways company achieves its objectives,

(e) the long-term maintenance and management of highways, and

(f) the principles in subsection (3).

(3) The principles are that—

(a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and

(b) regulatory activities should be targeted only at cases in which action is needed.

13 Monitor: guidance

(1) The Secretary of State may from time to time give the Office of Rail Regulation guidance as to the manner in which it is to carry out its activities under section 10.

(2) The Secretary of State and the Treasury, acting jointly, must give the Office guidance as to the circumstances in which the payment of a fine under section 11 should be required.

(3) The Office must have regard to guidance given to it under this section.

(4) Guidance under this section must be published by the Secretary of State in such manner as he or she considers appropriate.

14 Periodic reports by the Secretary of State

(1) The Secretary of State must from time to time prepare and publish reports on the manner in which a strategic highways company exercises its functions.

(2) The Secretary of State must lay a report prepared under subsection (1) before Parliament.

Transfers of property etc

15 Transfer schemes

(1) The Secretary of State may make one or more schemes for the transfer of property, rights and

liabilities—

(a) from the Secretary of State to one or more of the following—

(i) a strategic highways company, or

(ii) a proposed strategic highways company;

(b) from a strategic highways company or a former strategic highways company to one or more of the following—

(i) the Secretary of State,

(ii) a strategic highways company, or

(iii) a proposed strategic highways company.

(2) In making a transfer scheme the Secretary of State must have regard to— (a) the functions, or the proposed functions, of the transferee under any enactment, and

(b) the terms of appointment, or proposed terms of appointment, of a strategic highways company, or a proposed strategic highways company, to which the scheme relates.

(3) Schedule 3 (which contains more provision about transfer schemes) has effect.

(4) In this section and Schedule 3—

“proposed strategic highways company” means a company which the Secretary of State proposes to appoint as a strategic highways company; “former strategic highways company” means a company in respect of which such an appointment has terminated.

16 Tax consequences of transfers

(1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to—

(a) any property, rights or liabilities which are transferred by virtue of a transfer to which this section applies, or

(b) anything done for the purposes of, or in relation to, or in consequence of, a transfer to which this section applies.

(2) This section applies to—

- (a) a transfer of property, rights and liabilities in accordance with a scheme under section 15, or
- (b) a transfer occurring under section 263 of the Highways Act 1980 (vesting of highway in highways authority) by virtue of the appointment of a strategic highway company under section 1 or the variation or termination of such an appointment.

(3) The provision that may be made under subsection (1)(a) includes, in particular, provision for—

- (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
- (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
- (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.

(4) The provision that may be made under subsection (1)(b) includes, in particular, provision for—

- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;
- (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or to be treated in a specified way;
- (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.

(5) In this section—

- (a) “relevant tax” means income tax, corporation tax, capital gains tax or stamp duty;
- (b) “tax provision” means a provision of an enactment about a relevant tax.

(6) References in this section to the transfer of property, rights or liabilities in accordance with a scheme under section 15 include references to—

- (a) the creation of interests, rights or liabilities under the scheme, and
- (b) the modification of interests, rights or liabilities under the scheme, (and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).

17 Financial assistance

(1) The Secretary of State may provide financial assistance—

- (a) to a strategic highways company, for the purpose of any of its functions, or
- (b) to any other person, for the promotion or improvement of transport services by land in England.

(2) Financial assistance may be provided in such form and on such terms as the Secretary of State considers appropriate.

(3) The form in which financial assistance may be provided includes in particular—

- (a) grants,
- (b) loans, or
- (c) guarantees.

(4) The terms on which financial assistance may be provided include in particular—

- (a) in the case of a grant or a loan, terms as to repayment;
- (b) in the case of a guarantee, terms as to reimbursement.

(5) Subsection (1) does not affect any other power of the Secretary of State to provide financial assistance.

(6) Subsection (1)(b) does not authorise the Secretary of State to provide financial assistance that he or she may provide under section 6 of the Railways Act 2005 (financial assistance relating to rail services).

(7) In section 17(1)(e) of the Ministry of Transport Act 1919 (power to make advances for the promotion and improvement of transport services by land or water), after “by land” insert “in Wales”.

Supplemental and general

18 Transfer of additional functions

(1) The Secretary of State may by regulations provide that a transferable function of the Secretary of State, other than an excluded function, is transferred to a strategic highways company.

(2) A transferable function is a function under any enactment which relates to—

(a) highways, or

(b) planning.

(3) An excluded function is a function which—

(a) is exercisable by statutory instrument;

(b) relates to giving consent (however expressed) to the proposed exercise of a function by any other—

(i) highway authority (within the meaning of the Highways Act 1980);

(ii) traffic authority (within the meaning of the Road Traffic Regulation Act 1984).

(4) Regulations under this section may provide for the function to be exercisable—

(a) concurrently with the Secretary of State;

(b) only with the consent of the Secretary of State;

(c) subject to such other conditions as the Secretary of State considers appropriate.

(5) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).

19 Consequential and transitional provision etc

(1) The Secretary of State may by regulations make—

(a) consequential, supplementary or incidental provision, or

(b) transitional or transitory provision or savings, in connection with an order under section 1 or any other provision made by or under this Part.

(2) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).

20 Interpretation of Part 1

In this Part—

“enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978; “highway” has the same meaning as in the Highways Act 1980; “local highway authority” has the same meaning as in that Act; “users of highways” includes cyclists and pedestrians.

PART 2

CYCLING AND WALKING INVESTMENT STRATEGIES

21 Cycling and Walking Investment Strategies

(1) The Secretary of State may at any time—

(a) set a Cycling and Walking Investment Strategy for England, or

(b) vary a Strategy which has already been set.

(2) A Cycling and Walking Investment Strategy is to relate to such period as the Secretary of State considers appropriate; but a Strategy for a period of more than five years must be reviewed at least once every five years.

(3) A Cycling and Walking Investment Strategy must specify—

(a) objectives to be achieved during the period to which it relates, and

(b) the financial resources to be made available by the Secretary of State for the purpose of achieving those objectives.

(4) The objectives to be achieved may include—

(a) activities to be performed;

(b) results to be achieved;

(c) standards to be met.

(5) Before setting or varying a Cycling and Walking Investment Strategy the Secretary of State must consult such persons as he or she considers appropriate.

(6) In considering whether to vary a Cycling and Walking Investment Strategy the Secretary of State must have regard to the desirability of maintaining certainty and stability in respect of Cycling and Walking Investment Strategies.

(7) A Cycling and Walking Investment Strategy must be published in such manner as the Secretary of State considers appropriate.

(8) Where a Cycling and Walking Investment Strategy has been published the Secretary of State must from time to time lay before Parliament a report on progress towards meeting its objectives.

(9) If a Cycling and Walking Investment Strategy is not currently in place, the Secretary of State must—

(a) lay before Parliament a report explaining why a Strategy has not been set, and

(b) set a Strategy as soon as may be reasonably practicable.

PART 3

POWERS OF BRITISH TRANSPORT POLICE FORCE

22 Powers of British Transport Police Force

(1) In section 100 of the Anti-terrorism, Crime and Security Act 2001 (jurisdiction of transport police)—

(a) in subsection (2)(b), after “personal injury” insert “or damage to property”, and

(b) omit subsection (3)(a).

(2) In section 172 of the Road Traffic Act 1988 (duty to give information as to identity of driver

etc in certain circumstances), in subsection (2)(a), after “chief officer of police” insert “or the Chief Constable of the British Transport Police Force”.

PART 4

ENVIRONMENTAL CONTROL OF ANIMAL AND PLANT SPECIES

23 Environmental control of animal and plant species

(1) The Wildlife and Countryside Act 1981 is amended as follows.

(2) In section 14 (introduction of new species etc), after subsection (4) insert—

“(4A) Schedule 9A contains provision about species control agreements and orders and related matters.”

(3) After Schedule 9 insert—

“SCHEDULE 9A Section 14(4A)

SPECIES CONTROL AGREEMENTS AND ORDERS (ENGLAND AND WALES)

PART 1

OVERVIEW AND INTERPRETATION

Overview

1 (1) This Schedule provides for—

- (a) species control agreements between environmental authorities and owners of premises, and
- (b) species control orders made by environmental authorities, and for related matters.

(2) A species control agreement or species control order may relate to—

- (a) an invasive non-native species of animal or plant, or
- (b) a species of animal that is no longer normally present in Great Britain.

This is subject to the other provisions of this Schedule.

(3) The following definitions apply for the purposes of this Schedule.

Definitions relating to species

2 (1) “Species” means any kind of animal or plant.

(2) A species is “invasive” if, uncontrolled, it would be likely to have a significant adverse impact on—

(a) biodiversity,

(b) other environmental interests, or

(c) social or economic interests.

(3) A species is “non-native” if—

(a) it is listed in Part 1 or 2 of Schedule 9, or