

Draft National Infrastructure Bill

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Schedule 1 — THE NATIONAL INFRASTRUCTURE COMMISSION

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A
B I L L
TO

Establish a National Infrastructure Commission and to make provision about its functions; to make provision about sector infrastructure plans; and for connected purposes.

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

PART 1

THE NATIONAL INFRASTRUCTURE COMMISSION

1 The National Infrastructure Commission

- (1) The National Infrastructure Commission is established as a body corporate.
- (2) The Commission's functions are those conferred on it by this Act.
- (3) Schedule 1 contains further provisions about the Commission.

2 Main duties of the Commission

- (1) The main duties of the Commission are to—
 - (a) prepare a national infrastructure assessment in accordance with Part 2;
 - (b) assess the conformity of sector infrastructure plans prepared by the Secretary of State under Part 3 with the national infrastructure assessment; and

- (c) monitor the implementation of sector infrastructure plans.
- (2) The Commission has complete discretion in the performance of its duties, subject to the provisions of this Act.
- (3) The Commission must perform its duties—
 - (a) objectively, transparently and impartially,
 - (b) independently of government, and
 - (c) efficiently and cost-effectively.

3 Guidance to the Commission

- (1) The Treasury may from time to time give guidance to the Commission as to the matters it is to take into account in the exercise of its functions.
- (2) Guidance under subsection (1) may include guidance on the affordability, value for money and deliverability of national infrastructure.
- (3) The power to give guidance to the Commission includes power to vary or revoke it.
- (4) In carrying out its functions the Commission must have regard to any guidance given to it under subsection (1).
- (5) Guidance under subsection (1) must be published by the Treasury in such manner as it considers appropriate.

4 Commission's right to public information

- (1) The Commission has a right of access at any reasonable time to any public information which it may reasonably require for the purpose of the performance of the Commission's duties under section 2.
- (2) The Commission is entitled to require from any person holding or accountable for any public information any assistance or explanation which the Commission reasonably thinks necessary for that purpose.
- (3) In this section "public information" means—
 - (a) information held by any Minister of the Crown or government department; and
 - (b) any information held by any other person or body that is prescribed.
- (4) This section is subject to any enactment or rule of law which operates to prohibit or restrict the disclosure of information or the giving of any assistance or explanation.

PART 2

NATIONAL INFRASTRUCTURE ASSESSMENT

5 Preparation of National Infrastructure Assessment

- (1) Once every 10 years the Commission must carry out an assessment of the United Kingdom's need for national infrastructure over the following 25-30 years, across all

national infrastructure sectors, identifying those areas it considers to be national priorities for targeted investment.

- (2) That need is the need for national infrastructure which the Commission considers is necessary to –
 - (a) support long term economic growth in the UK; and
 - (b) maintain the UK's international competitiveness amongst the G20 nations, both over the following 25-30 years and in the more immediate 5-10 years.
- (3) In assessing the United Kingdom's need for national infrastructure over the following 25-30 years the Commission must—
 - (a) take into account such matters as it considers appropriate and any matters that are prescribed;
 - (b) consult such persons and bodies as it considers appropriate and any that are prescribed; and
 - (c) engage with members of the public in such manner as the Commission considers appropriate.
- (4) Once subsection (3) has been complied with, the Commission must prepare a draft of its assessment and—
 - (a) consult such persons and bodies on it as it considers appropriate and any that are prescribed; and
 - (b) engage with members of the public in such manner as the Commission considers appropriate.
- (5) Once the Commission has complied with subsection (4), it shall complete its assessment and submit it to the Treasury as soon as practicable.
- (6) In preparing the assessment, the Commission must—
 - (a) consider the appropriate balance between investing in new infrastructure and making better use of existing infrastructure (including by improving its condition and resilience);
 - (b) have, as its objective, one of contributing to the achievement of sustainable development, and carry out an appraisal of the sustainability of the national infrastructure requirements intended to be set out in the assessment;
 - (c) have regard to the desirability of mitigating and adapting to climate change;
 - (d) consider the integration of any new infrastructure with existing infrastructure and the interdependency of different infrastructure types;
 - (e) have regard to the national infrastructure requirements of the regions and principal cities of England and whether there are any such areas where new investment is required to be targeted;
 - (f) consider the sources and availability of existing and new funding for national infrastructure;
 - (g) consider the efficiency, affordability and value for money of the national infrastructure requirements intended to be set out in the assessment;

- (h) consider whether existing delivery models and regulatory arrangements are fit for purpose and where these need to be strengthened; and
- (i) have regard to the spatial consequences of its assessment of need for national infrastructure.

6 Parliamentary approval of National Infrastructure Assessment

- (1) Within six months of the Treasury's receipt of the Commission's assessment, the Chancellor of the Exchequer must lay before Parliament—
 - (a) the assessment; and
 - (b) the Treasury's comments on it, including any proposals by the Chancellor for changes to the assessment.
- (2) Within the following two months the Chancellor must move a motion in the House of Commons for approval of the assessment and any proposals by the Chancellor for changes to it.
- (3) If the House of Commons resolves that the Commission should reconsider its assessment, the Commission must do so and resubmit the assessment to the Treasury within the period specified by the House.
- (4) In the event of subsection (3) applying, subsections (1) and (2) apply to the resubmitted assessment, except that subsection (1) applies within two months of receipt of the resubmitted assessment.
- (5) Once the House of Commons has approved the Commission's assessment, whether as originally laid before Parliament or as resubmitted in accordance with subsection (3), the Commission shall publish the assessment in such manner as it considers appropriate.
- (6) In approving the Commission's assessment laid before the House of Commons in accordance with this section, the House may approve the assessment with such changes as it may require.

7 Review of National Infrastructure Assessment

- (1) If at any time the Treasury considers that the national infrastructure assessment is no longer consistent with the priorities of Her Majesty's Government or that there has been a significant change in any circumstances on the basis of which the national infrastructure assessment was approved, the Treasury may require the Commission to carry out a review of the national infrastructure assessment.
- (2) Such a review may only be required once in a Parliament.
- (3) The Commission must carry out the review of the national infrastructure assessment in accordance with section 5, so far as applicable, and complete the review and submit a revised assessment to the Treasury within 12 months of receiving notice of the Treasury's requirement.
- (4) The provisions of section 6 will then apply to the revised assessment.

- (5) Pending completion of any such review of the national infrastructure assessment, the national infrastructure assessment continues to have full effect for the purposes of this Act.

PART 3

SECTOR INFRASTRUCTURE PLANS

8 Duty of Commission to provide advice or other assistance on request

The Commission may and, at the request of the Secretary of State, must provide advice, guidance, analysis, information or other assistance to the Secretary of State in connection with the Secretary of State's preparation of sector infrastructure plans under this Part.

9 Preparation of sector infrastructure plans

- (1) Once every 10 years the Secretary of State must prepare and designate a sector infrastructure plan for each national infrastructure sector in accordance with the provisions of this section, setting out the need for national infrastructure in that sector over the following 10 year period in accordance with subsection (3).
- (2) Each sector infrastructure plan must be prepared and designated:
 - (a) within two years of the publication of the national infrastructure assessment under section 6(5); and
 - (b) so that, in relation to the national infrastructure sector covered by the plan, it implements and is compatible with the national infrastructure assessment.
- (3) A sector infrastructure plan must, in relation to the national infrastructure set out in the plan—
 - (a) explain the available sources of funding for the national infrastructure;
 - (b) contain detailed timescales for the procurement and delivery of the national infrastructure;
 - (c) set out the preferred manner for procuring and delivering the national infrastructure;
 - (d) contain proposals in respect of the integration of any new infrastructure with existing infrastructure and the interdependency of different infrastructure types; and
 - (e) have, as its objective, one of contributing to the achievement of sustainable development, and for this purpose the Secretary of State must (in particular) have regard to the desirability of—
 - (i) mitigating, and adapting to, climate change; and
 - (ii) achieving good design.
- (4) A sector infrastructure plan may, in particular, in relation to the national infrastructure set out in the plan—

- (a) set out the amount, type or size of national infrastructure which is appropriate nationally or for a specified area;
 - (b) set out criteria to be applied in deciding whether a location is suitable (or potentially suitable) for the national infrastructure;
 - (c) set out the relative weight to be given to specified criteria;
 - (d) identify one or more locations as suitable (or potentially suitable) or unsuitable for a specified description of national infrastructure; and
 - (e) set out circumstances in which it is appropriate for a specified type of action to be taken to mitigate the impact of a specified description of national infrastructure.
- (5) If a sector infrastructure plan sets out policy in relation to a particular description of national infrastructure, the plan must set out criteria to be taken into account in the design of that description of national infrastructure.
 - (6) Before designating a plan as a sector infrastructure plan for the purposes of this Act the Secretary of State must carry out an appraisal of the sustainability of the policy set out in the plan.
 - (7) A plan may be designated as a sector infrastructure plan for the purposes of this Act only if the consultation and publicity requirements set out in section 11, and the parliamentary requirements set out in section 13, have been complied with in relation to it, and the plan has then been approved by resolution of the House of Commons.
 - (8) The Secretary of State must arrange for publication of a sector infrastructure plan once it has been designated.

10 Review of sector infrastructure plans

- (1) The Secretary of State must review a sector infrastructure plan if the national infrastructure assessment has been reviewed in accordance with section 7 and approved by the House of Commons in accordance with section 6 and, as a result, has changed in respects which the Secretary of State considers are material to the sector infrastructure plan.
- (2) A review may relate to all or part of a sector infrastructure plan.
- (3) After completing a review of all or part of a sector infrastructure plan the Secretary of State must—
 - (a) amend the plan, or
 - (b) leave the plan as it is.
- (4) Before amending a sector infrastructure plan the Secretary of State must carry out an appraisal of the sustainability of the policy set out in the proposed amended plan.
- (5) The Secretary of State may amend a sector infrastructure plan only if—
 - (a) the amended plan would implement and be compatible with the national infrastructure assessment in relation to the national infrastructure sector covered by the plan;

- (b) the amended plan complies with section 9(3);
 - (c) the consultation and publicity requirements set out in section 11, and the parliamentary requirements set out in section 13, have been complied with in relation to the proposed amended plan; and
 - (d) the amended plan has been approved by resolution of the House of Commons.
- (6) If the Secretary of State amends a sector infrastructure plan, the Secretary of State must arrange for the plan, as amended, to be published.

11 Consultation and publicity for sector infrastructure plans

- (1) This section sets out the consultation and publicity requirements referred to in sections 9(7) and 10(5).
- (2) The Secretary of State must carry out such consultation, and arrange for such publicity, as the Secretary of State thinks appropriate in relation to the proposal. This is subject to subsections (4) and (5).
- (3) In this section “the proposal” means—
- (a) the plan that the Secretary of State proposes to designate as a sector infrastructure plan for the purposes of this Act, or
 - (b) (as the case may be) the proposed amendment.
- (4) The Secretary of State must consult—
- (a) the Commission; and
 - (b) such persons, and such descriptions of persons, as are prescribed.
- (5) If the policy set out in the proposal identifies one or more locations as suitable (or potentially suitable) for a specified description of national infrastructure, the Secretary of State must ensure that appropriate steps are taken to publicise the proposal in accordance with section 12.
- (6) The Secretary of State must have regard to the responses to the consultation and publicity in deciding whether to proceed with the proposal.

12 Consultation on publicity requirements for sector infrastructure plans

- (1) In deciding what steps are appropriate for the purposes of section 11(5), the Secretary of State must consult—
- (a) each local authority that is within subsection (2), (3) or (4), and
 - (b) the Greater London Authority, if any of the locations concerned is in Greater London.
- (2) A local authority is within this subsection if any of the locations concerned is in the authority’s area.
- (3) A local authority (“A”) is within this subsection if—
- (a) any of the locations concerned is in the area of another local authority (“B”),
 - (b) B is a unitary council or a lower-tier district council, and

- (c) any part of the boundary of A’s area is also a part of the boundary of B’s area.
- (4) If any of the locations concerned is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this subsection if—
 - (a) D is not a lower-tier district council, and
 - (b) any part of the boundary of D’s area is also part of the boundary of C’s area.
- (5) In this section “local authority” means—
 - (a) a county council, or district council, in England;
 - (b) a London borough council;
 - (c) the Common Council of the City of London;
 - (d) the Council of the Isles of Scilly;
 - (e) a county council, or county borough council, in Wales;
 - (f) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
 - (g) a National Park authority; and
 - (h) the Broads Authority.
- (6) In this section—

“lower-tier district council” means a district council in England for an area for which there is a county council;

“unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority; and

“upper-tier county council” means a county council in England for each part of whose area there is a district council.

13 Parliamentary approval of sector infrastructure plans

- (1) This section sets out the parliamentary requirements referred to in sections 9(7) and 10(5).
- (2) The Secretary of State must lay before Parliament for the approval of the House of Commons—
 - (a) the proposal; and
 - (b) an assessment by the Commission of the proposal.
- (3) The Commission’s assessment of the proposal must give the Commission’s view of whether it considers that—
 - (a) the proposal implements and is compatible with the national infrastructure assessment in relation to the national infrastructure sector covered by the proposal, setting out any areas of inconsistency together with an analysis of the consequences of the inconsistency against the needs identified in the national infrastructure assessment; and
 - (b) the requirements of section 9(3) have been complied with.
- (4) In this section “the proposal” means—

- (a) the plan that the Secretary of State proposes to designate as a sector infrastructure plan for the purposes of this Act, or
 - (b) (as the case may be) the proposed amended plan.
- (5) Subsection (5) applies if, during the relevant period—
- (a) either House of Parliament makes a resolution with regard to the proposal, or
 - (b) a committee of either House of Parliament makes recommendations with regard to the proposal.
- (6) The Secretary of State must lay before Parliament a statement setting out the Secretary of State's response to the resolution or recommendations.
- (7) The relevant period is the period specified by the Secretary of State in relation to the proposal, which the Secretary of State must specify on or before the day on which the proposal is laid before Parliament under subsection (2).
- (8) In approving the proposal, the House of Commons may make changes to the proposal.

14 Suspension of sector infrastructure plans pending review

- (1) The Secretary of State may suspend the operation of all or any part of a sector infrastructure plan until any review of the plan or the relevant part under section 10 has been completed.
- (2) If the Secretary of State does so, the designation as a sector infrastructure plan of the plan or (as the case may be) the part of the plan that has been suspended is treated as having been withdrawn until the day on which the Secretary of State complies with section 10(3) in relation to the review.

15 Legal challenges relating to sector infrastructure plans

- (1) A court may entertain proceedings for questioning a sector infrastructure plan or anything done, or omitted to be done, by the Secretary of State in the course of preparing or reviewing such a plan only if—
 - (a) the proceedings are brought by a claim for judicial review, and
 - (b) the claim form is filed during the period of 6 weeks beginning with the day of the decision or act concerned.
- (2) But subsection (1) does not allow a court to entertain any proceedings whatsoever for questioning a sector infrastructure plan or anything done, or omitted to be done, by the Secretary of State in the course of preparing or reviewing such a plan, once the plan or the amended plan has been approved by a resolution of the House of Commons.
- (3) A court may entertain proceedings for questioning a decision of the Secretary of State as to whether or not to suspend the operation of all or part of a sector infrastructure plan under section 14 only if—
 - (a) the proceedings are brought by a claim for judicial review, and

- (b) the claim form is filed during the period of 6 weeks beginning with the day of the decision.

PART 4

FINAL PROVISIONS

16 Consequential duties on economic regulators

- (1) An economic regulator must carry out the regulator's functions so that the regulator—
 - (a) provides such assistance as is required by the Commission in connection with its preparation of a national infrastructure assessment under section 5 or its review of the assessment under section 7; and
 - (b) acts in accordance with the national infrastructure assessment and any sector infrastructure plan relevant to the regulator's functions.
- (2) The Secretary of State may from time to time give to an economic regulator directions or guidance as to the manner in which the regulator is to exercise its functions in order to comply with subsection (1).
- (3) In carrying out its functions, the economic regulator must—
 - (a) comply with a direction; and
 - (b) have regard to guidance,
given to it under subsection (2).
- (4) Directions and guidance under subsection (2) must be published by the Secretary of State in such manner as the Secretary of State considers appropriate.
- (5) The power to give directions and guidance under this section includes power to vary or revoke them.
- (6) In this section "economic regulator" means any person or body exercising regulatory functions in relation to the provision or operation of national infrastructure that is prescribed.

17 Regulations

- (1) Regulations made under this Act are to be made by statutory instrument.
- (2) Regulations made under section 19 which amend or repeal any provision of an Act may not be made unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.
- (3) A statutory instrument containing any other regulations made under this Act is subject to annulment in pursuance of a resolution of the House of Commons.

18 Interpretation

- (1) In this Act—
- “the Commission” means the National Infrastructure Commission;
- “national infrastructure” means infrastructure of strategic significance in or relating to the following sectors—
- (a) energy generation, storage, distribution and supply, including renewable energy, fossil fuels and nuclear energy;
 - (b) flood defences;
 - (c) hazardous waste;
 - (d) telecommunications;
 - (e) transport covering ports, transport networks (including railways and roads) and aviation; and
 - (f) water storage, transfer, supply and treatment, including waste water,
- and such other sectors as are prescribed;
- “the national infrastructure assessment” means the assessment for the time being published by the Commission under section 6(5);
- “national infrastructure sector” means a sector for national infrastructure;
- “prescribed” means prescribed by regulations made by the Treasury or, in the case of section 16(6), by the Secretary of State; and
- “sector infrastructure plan” means a sector infrastructure plan for the time being published by the Secretary of State under section 9(8) or 10(6).

19 Power to make supplementary and consequential provision

- (1) The Treasury may by regulations make—
- (a) such supplementary, incidental or consequential provision, or
 - (b) such transitory, transitional or saving provision,
- as the Treasury thinks appropriate for the general purposes, or any particular purpose, of this Act or in consequence of, or for giving full effect to, any provision made by this Act.
- (2) The power conferred by subsection (1) includes power to make different provision for different purposes (including different areas).
- (3) Regulations made under subsection (1) may amend, repeal, revoke or otherwise modify—
- (a) an Act passed on or before the last day of the Session in which this Act is passed, or
 - (b) an instrument made under an Act before the passing of this Act.

20 Amendments and repeals

Schedule 2 contains consequential amendments and repeals.

21 Financial provisions

- (1) There is to be paid out of money provided by Parliament—
- (a) any expenditure incurred under or by virtue of this Act by the Treasury or the Secretary of State, and
 - (b) any increase attributable to this Act in the sums payable under or by virtue of any other Act out of money so provided.

22 Extent

- (1) Parts 1 and 2 extend to England, Wales, Scotland and Northern Ireland but in the case of Wales, Scotland and Northern Ireland, only in relation to the following national infrastructure sectors:

Country	National infrastructure sector
Northern Ireland	<ol style="list-style-type: none"> 1. Aviation (but excluding aerodromes) 2. Nuclear energy 3. Telecommunications
Scotland	<ol style="list-style-type: none"> 1. Aviation (but excluding aerodromes) 2. Electricity networks 3. Fossil fuels energy generation 4. Nuclear energy 5. Oil and gas storage and supply 6. Railways (other than the promotion and construction of railways which start, end and remain in Scotland) 7. Renewable energy generation
Wales	<ol style="list-style-type: none"> 1. Aviation (including air transport, airports and aerodromes) 2. Electricity networks 3. Fossil fuels energy generation 4. Nuclear energy 5. Oil and gas storage and supply 6. Ports and harbours 7. Railways 8. Renewable energy generation 9. Telecommunications

- (2) Part 3 extends to England and Wales and (subject to subsection (3)) Scotland.
- (3) Section 15 does not extend to Scotland and the other provisions of Part 3 extend to Scotland only so far as required for the purpose of the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line—
 - (a) one end of which is in England or Wales, and
 - (b) the other end of which is in Scotland.
- (4) Part 4 extends to England, Wales, Scotland and Northern Ireland but it only extends to Wales, Scotland and Northern Ireland for purposes consistent with subsections (1), (2) and (3).
- (5) The amendment or repeal by this Act of any enactment has the same extent as the enactment amended or repealed.

23 Commencement

- (1) This Part comes into force on the day on which this Act is passed.
- (2) The other provisions of this Act come into force on such day as the Treasury appoints by regulations.
- (3) Regulations under subsection (2) may—
 - (a) appoint different days for different purposes; and
 - (b) include supplementary, incidental, consequential, transitional, transitory or saving provision.

24 Short title

This Act may be cited as the National Infrastructure Act 2015.

SCHEDULES

SCHEDULE 1

Section 1

THE NATIONAL INFRASTRUCTURE COMMISSION

Membership

- 1 (1) The Commission is to consist of—
- (a) a member to chair it, appointed by the Prime Minister with the consent of the Treasury Committee of the House of Commons (“the chair”),
 - (b) eight members appointed by the Chancellor of the Exchequer after consultation with the chair, and
 - (c) not more than six (or such other number as is prescribed) members nominated by the Commission and appointed by the Chancellor of the Exchequer.
- (But see paragraph 3, which makes special provision about the appointment of the initial members of the Commission.)
- (2) A person may be appointed under paragraph (1) only if the person has knowledge or experience likely to be relevant to the performance of the Commission’s functions.

Period of appointment and re-appointment

- 2 (1) An appointment under paragraph 1(1)(a) or (b) is to be for a period of 5 years (but see paragraph 3(4)).
- (2) An appointment under paragraph 1(1)(c) is to be for a period of no more than 5 years.
- (3) A person may not be appointed under paragraph 1 more than twice.

Appointment of initial members

- 3 (1) The consent of the Treasury Committee of the House of Commons is not required for the appointment under paragraph 1(1)(a) of a person who—
- (a) immediately before the person’s appointment, was chairing the non-statutory National Infrastructure Commission, and
 - (b) was appointed to do so by the Prime Minister with the consent of that Committee.
- (2) The period of the person’s appointment under paragraph 1(1)(a) is to be taken to have begun with the appointment of that person to chair the non-statutory National Infrastructure Commission.
- (3) The period of appointment under paragraph 1(1)(b) of each such person is to be taken to have begun with the appointment of that person as a member of the non-statutory National Infrastructure Commission.

- (4) The first two appointments under paragraph 1(1)(b) may be for less than 5 years to secure that those appointments and the first appointment under paragraph 1(1)(a) each expire at different times.

Remuneration

- 4 (1) The Commission may—
- (a) pay, or make provision for paying, to a member of the Commission such remuneration as the Commission may determine, and
 - (b) pay, or make provision for paying, to or in respect of a person who is or has been a member of the Commission any such pension, allowances or gratuities as the Commission may determine.
- (2) Where—
- (a) a person ceases to be a member of the Commission otherwise than at the end of the period for which the person was appointed, and
 - (b) it appears to the Commission that there are circumstances which make it right for the person to receive compensation,
- the Commission may make a payment to the person of such amount as the Commission may determine.

Other terms of appointment

- 5 The Chancellor of the Exchequer may determine other terms of an appointment under paragraph 1.

Termination of appointments

- 6 (1) A member of the Commission may resign by giving at least 3 months' notice in writing to the Chancellor of the Exchequer.
- (2) The Chancellor of the Exchequer may terminate the appointment of a member of the Commission by giving the member written notice if—
- (a) the member has been absent from meetings of the Commission without the Commission's permission for a period of more than 3 months,
 - (b) the member has become bankrupt or has made an arrangement with creditors,
 - (c) the member's estate has been sequestrated in Scotland or the member has entered into a debt arrangement programme under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) as the debtor or has, under Scots law, made a composition or arrangement with, or granted a trust deed for, the member's creditors,
 - (d) the member is unfit to continue the appointment because of misconduct,
 - (e) the member has been convicted of a criminal offence,
 - (f) the member has failed to comply with the terms of the appointment, or
 - (g) the member is otherwise unable, unfit or unwilling to carry out the member's functions.

- (3) But the appointment of a member is not to be terminated without the consent of the Prime Minister in the case of the chair.

Chief executive and staff

- 7 (1) The chair must appoint a person as the chief executive of the Commission, after consulting the Chancellor of the Exchequer.
 - (2) The chief executive—
 - (a) is not to be a member of the Commission, and
 - (b) is to be a member of the Commission's staff.
 - (3) The chief executive's terms and conditions of service are to be determined by the chair after consulting the Treasury.
- 8 (1) The Commission may appoint and employ such other staff as it thinks appropriate.
 - (2) A member of the Commission's staff is not to be a member of the Commission.
 - (3) Before the Commission appoints any staff, it must obtain the approval of the Treasury to the overall number of staff it proposes to appoint.
 - (4) The Commission may determine the terms and conditions of service of any staff it proposes to appoint.
- 9 The terms and conditions of service of the chief executive and any other member of staff may include provision—
 - (a) for the payment of remuneration, allowances and sums in respect of expenses,
 - (b) for the payment to or in respect of the person of pensions or sums in respect of the provision of pensions, and
 - (c) for the payment to or in respect of the person of compensation for loss of employment or reduction of remuneration.

Committees

- 10 (1) The Commission may establish committees.
 - (2) A committee established by the Commission may establish sub-committees.
 - (3) A committee or sub-committee established under this paragraph may consist of or include persons who are neither members of the Commission nor members of its staff.
 - (4) Appointment as a member of such a committee or sub-committee of a person who is neither a member of the Commission nor a member of its staff is to be on such terms as to remuneration and other matters as the Commission may determine.

Arrangements for assistance (research, etc)

- 11 (1) The Commission may make arrangements with such persons as it thinks appropriate for assistance to be provided to it, whether in the form of research or otherwise.
 - (2) The arrangements may include provision for the payment of fees to those persons.

Procedure

- 12 The Commission may determine—
- (a) its own procedure (including quorum), and
 - (b) the procedure of any committee or sub-committee established under paragraph 10 (including quorum).

Delegation

- 13 (1) The Commission may delegate any of its functions to—
- (a) any of its members,
 - (b) the chief executive,
 - (c) any other member of its staff, or
 - (d) any of its committees,
- except that the Commission itself is to perform the main duties imposed on it by section 2.
- (2) A committee established under paragraph 10 may delegate functions (including functions delegated to it) to a sub-committee.
 - (3) Functions delegated under sub-paragraph (1) may be delegated to such extent and on such terms as the Commission determines.
 - (4) References in this Act or any other enactment to the Commission, in connection with the exercise of any function of the Commission, are to be read, so far as necessary, as references to a person or body to whom the Commission has delegated the function under sub-paragraph (1).
 - (5) The delegation of a function under sub-paragraph (1) or (2) does not prevent the Commission or the committee (as the case may be) from carrying out the function itself.
- 14 (1) The chief executive may authorise (generally or specifically) any other member of the Commission's staff to do anything authorised or required to be done by the chief executive.
- (2) Sub-paragraph (1) does not apply to anything authorised or required to be done by the chief executive in relation to the certification of the annual accounts of the Commission.

General powers

- 15 (1) The Commission may do anything that appears to it necessary or appropriate for the purpose of, or in connection with, the carrying out of its functions.
- (2) In particular the Commission may—
 - (a) enter into contracts,
 - (b) acquire, hold and dispose of property,
 - (c) borrow money,
 - (d) accept gifts, and

- (e) invest money.
- (3) In exercising its functions, the Commission may—
 - (a) gather information and carry out research and analysis,
 - (b) commission others to carry out such activities, and
 - (c) publish the results of such activities carried out by the Commission or others.
- (4) The Commission must have regard to the desirability of involving the public in the exercise of its functions.

Annual Report

- 16 (1) The Commission must prepare a report of the performance of its functions in each financial year.
- (2) The report relating to a financial year must be prepared as soon as possible after the end of the financial year.
- (3) The report must include an assessment of—
 - (a) whether government departments are providing the strategic direction in relation to the provision of national infrastructure that the Commission considers is required;
 - (b) the performance of government departments in relation to the preparation of sector infrastructure plans and the implementation of those plans;
 - (c) whether the regulatory environment is fit for purpose in bringing forward investment in national infrastructure; and
 - (d) the availability of funding for national infrastructure investment.
- (4) The report must be sent to the Treasury.
- (5) The Treasury must lay the report before Parliament.
- (6) The Commission must publish the report.
- (7) “Financial year” means—
 - (a) the period which begins with the day on which the Commission is established and ends with the following 31 March;
 - (b) each successive period of 12 months.
- 17 (1) Sub-paragraph (2) applies if the Treasury asks the Commission to provide a report or information relating to an aspect of the Commission’s performance of its functions.
- (2) The Treasury must provide the Secretary of State with the report or information.

Funding

- 18 (1) The Commission’s expenditure is to be paid out of money provided by Parliament.
- (2) For each ten year period the Treasury must, in consultation with the Commission, prepare an estimate of the Commission’s funding requirements.
- (3) The Chancellor of the Exchequer must lay the estimate before the House of Commons for its approval.

Accounts and audit

- 19 (1) The Commission must—
- (a) keep proper accounts and proper records in relation to its accounts, and
 - (b) prepare in respect of each financial year a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Treasury as to—
- (a) the information to be contained in it and the manner in which it is to be presented,
 - (b) the methods and principles according to which the statement is to be prepared, and
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The Commission must send a copy of each statement of accounts to—
- (a) the Treasury, and
 - (b) the Comptroller and Auditor General,
- before the end of the month of June next following the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts, and
 - (b) send a copy of each report and certified statement to the Treasury.
- (5) The Treasury must lay before Parliament a copy of each such report and certified statement.
- (6) “Financial year” has the same meaning as in paragraph 16.
- 20 The Commission must keep under review whether its internal financial controls secure the proper conduct of its financial affairs.

Status

- 21 (1) The Commission is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The Commission’s property is not to be regarded as property of or held on behalf of the Crown.
- (3) The Commission’s staff are not to be regarded as servants or agents of the Crown or as enjoying any status, immunity or privilege of the Crown.

Validity

- 22 The validity of anything done by the Commission (or a committee or sub-committee of the Commission) is not affected by—
- (a) a vacancy, or

- (b) a defective appointment.

Application of seal and proof of instruments

- 23 (1) The application of the Commission's seal is to be authenticated by the signature of—
- (a) a member of the Commission, or
 - (b) any person authorised (whether generally or specifically) for the purpose by a member of the Commission.
- (2) A document purporting to be duly executed under the seal of the Commission or signed on its behalf—
- (a) is to be received in evidence, and
 - (b) is to be taken to be executed or signed in that way, unless the contrary is proved.

Parliamentary Commissioner

- 24 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments and authorities subject to investigation) insert at the appropriate place—
- “National Infrastructure Commission.”

Disqualification

- 25 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified), insert at the appropriate place—
- “The National Infrastructure Commission.”
- 26 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified), insert at the appropriate place—
- “The National Infrastructure Commission.”

Public Records

- 27 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records), in Part 2 of the Table at the end of paragraph 3, insert at the appropriate place—
- “National Infrastructure Commission.”

Freedom of Information

- 28 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities to which Act applies), insert at the appropriate place—
- “The National Infrastructure Commission.”

Equality

- 29 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities: general), under the heading “Industry, business, finance etc.” insert at the appropriate place—
“The National Infrastructure Commission.”

References to Treasury Committee

- 30(1) Any reference in this Schedule to the Treasury Committee of the House of Commons—
- (a) if the name of that Committee is changed, is to be treated as a reference to that Committee by its new name, and
 - (b) if the functions of that Committee (or substantially corresponding functions) become functions of a different Committee of the House of Commons, is to be treated as a reference to the Committee by which those functions are exercisable.
- (2) Any question arising under sub-paragraph (1) is to be determined by the Speaker of the House of Commons.

SCHEDULE 2

AMENDMENTS AND REPEALS

Town and Country Planning Act 1990 (c. 8)

- 1 References to a national policy statement in the provisions of the Town and Country Planning Act 1990 set out in paragraph 2 are replaced by references to a sector infrastructure plan.
- 2 The provisions mentioned in paragraph 1 are—
- (a) section 165A;
 - (b) section 169(6)(a); and
 - (c) paragraph 25 of Schedule 13.
- 3 Section 171(1) is amended by removing the definition of “national policy statement” and inserting in the appropriate place the following definition—
““sector infrastructure plan” means a sector infrastructure plan for the time being published by the Secretary of State under section 9(8) or 10(6) of the National Infrastructure Act 2015”.

Town and Country Planning (Scotland) Act 1997 (c. 8)

- 4 References to a national policy statement in the provisions of the Town and Country Planning (Scotland) Act 1997 set out in paragraph 5 are replaced by references to a sector infrastructure plan.

- 5 The provisions mentioned in paragraph 4 are—
- (a) section 116A;
 - (b) section 120(5)(a); and
 - (c) paragraph 18 of Schedule 14.
- 6 Section 122 is amended by removing the definition of “national policy statement” and inserting in the appropriate place the following definition—
- ““sector infrastructure plan” means a sector infrastructure plan for the time being published by the Secretary of State under section 9(8) or 10(6) of the National Infrastructure Act 2015”.

Planning Act 2008 (c. 29)

- 7 References to a national policy statement in the provisions of the Planning Act 2008 set out in paragraph 8 are replaced by references to a sector infrastructure plan.
- 8 The provisions mentioned in paragraph 7 are—
- (a) section 87(3)(b);
 - (b) section 94(8)(b);
 - (c) section 102(4)(e)(ii);
 - (d) section 104;
 - (e) section 105; and
 - (f) section 106
- 9 The following provisions of the Planning Act 2008 are repealed—
- (a) section 5;
 - (b) section 6;
 - (c) section 6A;
 - (d) section 6B;
 - (e) section 7;
 - (f) section 8;
 - (g) section 9;
 - (h) section 10;
 - (i) section 11;
 - (j) section 13; and
 - (k) section 108.
- 10 Section 108 of the Planning Act repealed by paragraph 9 is replaced by the following section—

“108

- (1) This section applies where—
 - (a) an application is made for an order granting development consent for development of a description in relation to which a sector infrastructure plan has effect; and
 - (b) the Secretary of State is reviewing the sector infrastructure plan under section 10 of the National Infrastructure Act 2015.
- (2) The Secretary of State may direct that until the review has been completed and the Secretary of State has complied with section 10(3) of that Act in relation to the review, examination of the application by a Panel under Chapter 2, or a single appointed person under Chapter 3, is suspended (if not already completed).”

- 11 Section 235(1) is amended by removing the definition of “national policy statement” and inserting in the appropriate place the following definition—
- ““sector infrastructure plan” means a sector infrastructure plan for the time being published by the Secretary of State under section 9(8) or 10(6) of the National Infrastructure Act 2015”.

Draft National Infrastructure Bill

A

BILL

To establish a National Infrastructure Commission and to make provision about its functions; to make provision about sector infrastructure plans; and for connected purposes.

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