



Department for  
Communities and  
Local Government

# The New Towns Act 1981 (Local Authority Oversight) Regulations

A consultation paper



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# Scope of the consultation

Topic of this consultation:	This consultation seeks views on draft Regulations setting out how a local authority is to oversee development of an area as a new town, following designation by the Secretary of State.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	We do not consider that these Regulations will have any impact on business. The creation of locally led New Town Development Corporations may result in additional costs for local authorities compared to other delivery vehicles for large scale housing development. It will though be entirely for the local authority or authorities covering the area of the proposed new town to decide to request the establishment of a locally led New Town Development Corporation, taking account of the benefits this may bring.

## Basic Information

Duration:	This consultation will last for 4 weeks from 4 December 2017 until 2 January 2018.
	<p>We encourage you to respond by completing an online survey at:  <a href="https://www.surveymonkey.co.uk/r/newtownsactconsultation">https://www.surveymonkey.co.uk/r/newtownsactconsultation</a></p> <p>Alternatively you can email your response to the questions in this consultation to:  <a href="mailto:newtownsregsconsultation@communities.gsi.gov.uk">newtownsregsconsultation@communities.gsi.gov.uk</a></p> <p>Or write to:            Garden Cities, Towns and Villages Team            Department for Communities and Local Government            3<sup>rd</sup> Floor – Fry Building            2 Marsham Street            London            SW1P 4DF</p> <p>If you are responding by email or in writing please make it clear which questions you are responding to.</p> <p>When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"> <li>- your name,</li> <li>- your position (if applicable),</li> </ul>

	<ul style="list-style-type: none"><li>- the name of organisation (if applicable),</li><li>- an email address (if you have one), and</li><li>- a contact telephone number.</li></ul>
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# 1. Introduction

- 1.1 New communities of significant scale, can play an important role in meeting this country's housing needs in a way that looks beyond the immediate future. They offer both a long-term stable pipeline of new homes and also the creation of sustainable, high quality and well designed places where those homes are supported by jobs, services and new infrastructure.
- 1.2 Across England, from Cornwall, to Kent, to Cumbria, the government is supporting the delivery of twenty-four locally-led garden cities, towns and villages with the potential for at least 220,000 new homes. At the Budget we announced that we would bring together public and private capital to build five more new garden towns.
- 1.3 In line with our locally-led approach, the government does not wish to prescribe any particular delivery model, but we want to encourage local authority leadership and ambition in the creation of new garden communities at scale.
- 1.4 The post-war New Towns were delivered by New Town Development Corporations created under the New Towns Acts. We need to learn the lessons from that programme as we support a new generation of garden towns and cities for the 21<sup>st</sup> century. We consider though that the designation of areas for new towns and the creation of New Town Development Corporations to drive forward their delivery remains a potentially effective route to securing the creation of high-quality new communities.
- 1.5 The earlier generation of New Town Development Corporations were answerable to central government. The powers to create New Town Development Corporations accountable to the Secretary of State remain on the statute book. We consider though that, alongside this, we need to create an oversight mechanism which reflects the locally-led approach to new garden towns and villages in our current programme.
- 1.6 The Government's Housing White Paper '*Fixing our broken housing market*'<sup>1</sup> published in February 2017 therefore set out our commitment to legislate to allow locally accountable New Town Development Corporations to be set up, enabling local areas to use them as the delivery vehicle if they wish to.
- 1.7 Section 16 of the Neighbourhood Planning Act 2017<sup>2</sup> enables the oversight of any area designated as a new town and New Town Development Corporation established under the New Towns Act 1981 to rest with one or more of the local authorities covering the area designated for the new town rather than the Secretary of State.

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<sup>1</sup> <https://www.gov.uk/government/publications/fixing-our-broken-housing-market>

<sup>2</sup> <http://www.legislation.gov.uk/ukpga/2017/20/section/16/enacted>

- 1.8 Section 16 of the Neighbourhood Planning Act also includes powers to make Regulations about how a local authority is to oversee the development of an area as a new town. Those draft Regulations are the subject of this consultation.

## 2. The Draft Regulations

### Principles

- 2.1 The Regulations provide the wiring to make the power to create New Town Development Corporations which are accountable to the local authority or authorities in the area designated for the new town rather than to the Secretary of State for Communities and Local Government, work in practice.
- 2.2 We are clear that a locally led New Town Development Corporation will only be created where this has the express support of and is requested by all the local authorities, including in two tier areas the county council, covering the area to be designated for the new town.
- 2.3 We would expect the local authority or authorities requesting the designation of an area for a new town and the establishment of a locally led New Town Development Corporation to have a strong evidence base demonstrating that the site or sites are suitable for development at the scale proposed and that appropriate consultation has been undertaken locally.
- 2.4 The designation of the area of a new town and establishment of a New Town Development Community will of course remain dependent on Parliamentary approval of the statutory instruments. Prior to these being laid, the Secretary of State will need to have consulted in line with the requirements in sections 1 and 3 of the New Towns Act 1981 and be satisfied that the statutory test in section 1, that the designation of the area for a new town is expedient in the public interest, is met.

***Question 1: Do you support the principle of enabling oversight of the development of an area as a new town to be transferred from the Secretary of State to the local authority or authorities covering the area in the circumstances outlined in paragraphs 2.1 to 2.4?***

### The Transfer of Functions

- 2.5 Paragraph 4 of the Regulations sets out which oversight functions of the Secretary of State in relation to the New Town Development Corporation, in the New Towns Act 1981, will be transferred to the local authority or authorities (hereafter referred to as the 'Oversight Authority'). Paragraph 5 sets out the functions which may only be exercised by the Secretary of State with the consent of the Oversight Authority.
- 2.6 Our broad policy aim has been, consistent with ensuring that these New Town Development Corporations are genuinely locally led, to transfer as many functions as possible from the Secretary of State to the Oversight Authority.



- 2.7 There are a limited number of functions, which are more generally the prerogative of the Secretary of State, outside the provisions of the New Towns Act, for example the confirmation of Compulsory Purchase Orders, which we consider should not be transferred to the Oversight Authority. Nor have we sought to transfer functions which we consider are now redundant or where it is not clear that the transfer of functions would have any practical effect in a contemporary context, for example authorisation to operate trolley vehicle services.
- 2.8 The transfer of some functions entails a degree of complexity that extends beyond substituting the word 'Oversight Authority' for 'Secretary of State'. The transfer of functions in relation to planning for example requires careful consideration of the relationship between the plans of the New Town Development Corporation and documents adopted as part of the local plans process.
- 2.9 The proposed amendments to section 7 of the New Towns Act 1981 at paragraph 7 of Schedule 1 to the draft Regulations are intended to ensure that there is no unnecessary duplication of effort in the preparation of planning documents between the New Town Development Corporation and the local planning authorities. Whilst broadly mirroring the existing provision of section 7, they are intended to provide a degree of flexibility in how plans are made and planning consent given in what we recognise may be a range of different circumstances locally.
- 2.10 Clearly it can only be the Secretary of State who can make the statutory instruments that are required under the New Towns Act 1981 to for example reduce the area designated for the new town or effect the dissolution of the New Town Development Corporation. In relation though to those and other functions relating to the disposition of the funds and property of the New Town Development Corporation, the draft Regulations ensure that these can only be exercised with the consent of the Oversight Authority.

***Question 2: Do you agree that the proposed list of functions to be transferred and functions that may only be exercised with the consent of the oversight authority is the correct one? If not, please specify which other functions you think should or should not be transferred and why.***

***Question 3: Where the draft Regulations provide for the transfer of functions has this been done correctly? If not please specify the changes you think are required and why.***

## Quality, Design and Stewardship

- 2.11 Where locally-led New Town Development Corporations are created in the future, we want them to be the driving force for the creation of a generation of 21<sup>st</sup> century garden cities and towns, which will stand out from the ordinary as exemplars of high quality and good design. We want them to be places that are sustainable for the long term, with the resources to reinvest both in the renewal of the physical place and supporting a thriving and diverse community.

- 2.12 The scope of these Regulations is limited to amending the New Towns Act 1981 to provide for how a local authority or local authorities is to oversee the development of an area as a new town. We do not for example consider that further amending the statutory objects of New Town Development Corporations in section 4 of the New Towns Act 1981 is within the scope of the Regulations.
- 2.13 Within the limitations of scope however we want to ensure that we set requirements for both the Oversight Authority and New Town Development Corporation that mean that the aspirations set out above are more likely to be realised.
- 2.14 Consultees, are in particular, invited to consider the proposed aims of the Oversight Authority in Paragraph 4 of Schedule 1 of the draft Regulations and the constitutional documents which we propose the New Town Development Corporation must publish and keep under review in Paragraph 22 of Schedule 1.

***Question 4: Do you agree that the draft Regulations appropriately support the delivery of high quality, sustainable communities and their long-term stewardship? If not, how should they go further or include less prescription?***

## The Board of the New Town Development Corporation

- 2.15 The local authority or authorities which have oversight of the New Town Development Corporation will need to ensure that proper controls, including financial controls are in place. We want and expect though the New Town Development to have significant operational independence to get on with the job of delivering the new garden city or town, drawing in private sector expertise and partners.
- 2.16 We consider therefore that a majority of the Board of the New Town Development Corporation, including the Chair and the Deputy Chair should be comprised of independent members and that in making appointments to the Board the Oversight Authority should seek to ensure that the skills which will be required to successfully deliver a project of this scale and complexity are represented.

***Question 5: Do you agree with the proposals for Board membership set out in Paragraph 22 of Schedule 1 of the draft Regulations? If not, how should these be changed?***

## Other Issues

- 2.17 We have highlighted above the policy questions arising from the draft Regulations which we consider are the key ones to consider further. We recognise though that there may be other points of detail which consultees may wish to raise.

***Question 6: Are there any issues with the draft Regulations not picked up in the questions above you would like to raise? If so, please set these out.***

# Annex A: Draft Regulations

*Draft Regulations laid before Parliament under section 77(2A) of the New Towns Act 1981, for approval by resolution of each House of Parliament.*

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## DRAFT STATUTORY INSTRUMENTS

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**2018 No. 000**

**NEW TOWNS, ENGLAND**

# The New Towns Act 1981 (Local Authority Oversight) Regulations 2018

*Made* - - - - *XX*

*Coming into force in accordance with regulation 1*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 1A of the New Towns Act 1981<sup>(3)</sup>.

In accordance with section 77(2A) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

### **Citation, commencement and application**

**1.**—(1) These Regulations may be cited as the New Towns Act 1981 (Local Authority Oversight) Regulations 2018 and come into force on the day after the date on which they are made.

(2) These Regulations apply in relation to any locally-led new town.

### **Interpretation**

**2.** In these Regulations—

“the 1981 Act” means the New Towns Act 1981;

“locally-led new town” means a new town, designated by order under section 1 of the 1981 Act (designation of areas), in relation to which the Secretary of State has appointed an oversight authority; and

“oversight authority” means one or more local authorities appointed by the Secretary of State to oversee the development of a new town pursuant to section 1A(2) of the 1981 Act (local authority to oversee development of new town).

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<sup>(3)</sup> 1981 c. 64. Section 1A was inserted by section 16(2) of the Neighbourhood Planning Act 2017 (c.20). Section 77(2A) was inserted by section 16(3) of the Neighbourhood Planning Act 2017.

### **Delegation of functions of the oversight authority**

3.—(1) Where a single local authority is appointed as the oversight authority, the functions of the oversight authority may be delegated by the appointed local authority to be discharged by a committee of the local authority.

(2) Where more than one local authority is appointed as the oversight authority, the functions of the oversight authority may from time to time be delegated by the appointed local authorities (with the agreement of each of those authorities) to be discharged by—

- (a) one of the appointed local authorities acting as the oversight authority; or
- (b) a joint committee established by all the appointed local authorities.

(3) An oversight authority may from time to time appoint a company to carry out any functions of the authority on its behalf provided the authority is the only member of the company.

### **Functions of oversight authority**

4. In relation to a locally-led new town, the oversight authority for the new town is to exercise the following functions of the Secretary of State under the 1981 Act—

- (a) the function in section 4(4) (objects and general powers of development corporations) of consenting to the development corporation contributing sums to any local authority or statutory undertaker;
- (b) the function in section 5(2) to (4) (restrictions on powers of development corporations) of giving directions to the development corporation;
- (c) the function of considering and approving proposals of the development corporation under section 7(1) (planning control);
- (d) the function in section 7(2) of making a development order granting planning permission in relation to approved proposals;
- (e) the function of consenting to acquisition of land by agreement under section 10(1) or (3) (acquisition of land);
- (f) the function of approving under section 17(1) and of consenting under section 17(2) (conditions of disposal);
- (g) the function of approving under section 39(1) and of consulting and publicising under section 39(2) and (3) (power of development corporation to transfer undertakings);
- (h) the function of consenting to the development corporation borrowing under section 59 (other borrowing powers);
- (i) the function of making a direction under section 67 (accounts of development corporations);
- (j) the function of appointing an auditor under section 68 (audit);
- (k) the function of receiving a report under section 70 (reports);
- (l) the function of obtaining information under section 71 (information);
- (m) the function of authorising persons under section 73(2) (rights of entry);
- (n) the function of consenting to disposal of land and making directions under paragraph 1 of Schedule 2 (disposal of land); and
- (o) the function of appointing, removing and determining the remuneration of members of the development corporation, and of giving directions as to quorum and arrangements for meetings of the corporation under Schedule 3 (constitution and proceedings of development corporation),

and the modifications provided for in regulation 6 have effect for these purposes.

### **Functions of the Secretary of State**

5. The functions of the Secretary of State under the following provisions of the 1981 Act may only be exercised by the Secretary of State in relation to a locally-led new town with consent of the oversight authority for that new town—

- (a) section 2 (reduction of designated areas);

- (b) section 6 (allocation or transfer of functions);
- (c) section 41 (transfer of property);
- (d) section 63 (Secretary of State's general power);
- (e) section 65 (disposal of surplus funds); and
- (f) paragraph 2 of Schedule 10 (additional provisions as to transfer of property),

and the modifications provided for in regulation 6 have effect for these purposes.

### **Modifications of the 1981 Act**

6. Where a locally-led new town has been designated, the provisions of the 1981 Act apply with the modifications set out in the Schedule 1.

### **Consequential amendments**

7. Schedule 2 contains consequential amendments.

Signed by authority of the Secretary of State for Communities and Local Government

Address Date	<i>Name</i> Parliamentary Under Secretary of State Department
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## SCHEDULE 1

Regulations 4, 5 and 6

### Modification of the 1981 Act

1. The 1981 Act is modified in accordance with the following provisions.
2. Section 2 (reduction of designated areas) has effect as if after subsection (4), there were inserted—
 

“(4A) The Secretary of State may not make an order under this section without the consent of the oversight authority.”;
3. Section 3 (establishment of development corporation for new towns) has effect as if for subsections (1) and (2) there were substituted—
 

“(1) Subsection (1A) applies if the Secretary of State receives a notification from the oversight authority for an area—

  - (a) requesting that a corporation, in this Act called a development corporation, is established for the purposes of the development of the new town designated under section 1; and
  - (b) specifying the name to be given to the development corporation.

(1A) The Secretary of State may by order—

  - (a) establish the development corporation; and
  - (b) give the development corporation the name notified to the Secretary of State by the oversight authority.

(2) A development corporation shall be a body corporate by such name as may be prescribed by the order, and shall consist of—

  - (a) a chairperson;
  - (b) a deputy chairperson; and
  - (c) such number of other members as may be prescribed by the order.”.
4. Section 4 (objects and general powers of development corporations) has effect as if for that section there were substituted—

### **Oversight authority and development corporation: aim, objects and powers**

4.—(1) The aim of the oversight authority in overseeing the development of an area as a new town is—

- (a) to plan for the creation of a high quality settlement which is a sustainable community;
- (b) to support sustainable development and good design, and
- (c) to plan from the outset for the long-term stewardship of the assets of the new town for the benefit of the community.

(2) The objects of a development corporation established for the purposes of a new town shall be to secure the laying out and development of the new town in accordance with proposals approved in that behalf under this Act.

(3) In pursuing those objects a development corporation must aim to contribute to the achievement of sustainable development and must, in particular, have regard to the desirability of good design.

(4) To secure such laying out and development every development corporation shall have power (subject to section 5 below)—

- (a) to acquire, hold, manage and dispose of land and other property,
- (b) to carry out building and other operations,
- (c) to provide water, electricity, gas, sewerage and other services,
- (d) to carry on any business or undertaking in or for the purposes of the new town,

and generally to do anything necessary or expedient for the purposes or incidental purposes of the new town.

(5) In relation to subsection (4) above—

- (a) the power of acquiring land conferred by that subsection on a development corporation includes power to acquire any land within the area of the new town, whether or not it is proposed to develop that particular land; and
- (b) the power of disposing of land conferred by that subsection on a development corporation includes, in relation to any land within the area of the new town, power to dispose of that land, whether or not the development of that particular land has been proposed or approved under section 7(1) below.

(6) Without prejudice to the generality of the powers conferred on development corporations by this Act, a development corporation may, with the consent of the oversight authority, contribute such sums as the authority may determine —

- (a) towards expenditure incurred or to be incurred by any local authority or statutory undertakers in the performance, in relation to the new town, of any of their statutory functions, including expenditure so incurred in the acquisition of land; and
- (b) by way of assistance towards the provision of amenities for the new town.

(7) A transaction between a person and a development corporation shall not be invalidated by reason of any failure by the corporation to observe—

- (a) the objects in subsection (2) above, or
- (b) the requirement in subsection (4) above that the corporation shall exercise the powers conferred by that subsection for the purpose there mentioned,

but (it being declared for the avoidance of doubt) nothing in this section shall be construed as authorising the disregard by a development corporation of any enactment or rule of law.”

5. Section 5 (restrictions on powers of development corporations) has effect as if for subsections (2) to (4) there were substituted—

“(2) The oversight authority may give directions to the development corporation—

- (a) for restricting the exercise of any of the corporation’s powers under this Act; or
- (b) for requiring the corporation to exercise those powers in any manner specified in the directions.

(3) Before giving any directions to the development corporation under subsection (2), the oversight authority must—

- (a) consult the chair of the corporation, or
- (b) if the chair is not available, consult the deputy chair,

unless the oversight authority is satisfied that, on account of the urgency, such consultation is impracticable.

(4) A transaction between—

- (a) a person, and
- (b) a development corporation acting in purported exercise of its powers under this Act,

is not void by reason only that it was carried out in contravention of a direction given by the oversight authority under subsection (2), and such person shall not be concerned to see or enquire whether a direction under that subsection has been given or complied with.”.

6. Section 6 (allocation or transfer of new town functions) has effect as if after subsection (3A) there were inserted—

“(3A) The Secretary of State may not make an order under this section without the consent of the oversight authority.”.

7. Section 7 (planning control) has effect as if for subsections (1) and (2) there were substituted—

“(1) The development corporation must from time to time submit to the oversight authority, in accordance with any directions given by the authority, the corporation’s proposals for the development of land within the area of the new town.

(1A) Where the oversight authority is the local planning authority (or is authorised to act on behalf of the local planning authority) for the area of the new town, the authority may approve the proposals whether by adopting them as a local development document (within the meaning of section 17 of the Planning and Compulsory Purchase Act 2004<sup>(4)</sup>) or otherwise.

(2) Where the oversight authority is the local planning authority (or is authorised to act on behalf of the local planning authority) for the area of the new town, the authority may make a local development order under section 61A of the Town and Country Planning Act 1990 which grants planning permission for any development of land in accordance with proposals approved under subsection (1A), and such permission shall be subject to such conditions, if any (including conditions requiring details of any proposed development to be submitted to the authority) as may be specified in the order.

(2A) Subsection (1A) is without prejudice to the generality of Part 2 of the Planning and Compulsory Purchase Act 2004 and subsection (2) is without prejudice to the generality of the powers conferred by section 61A of the Town and Country Planning Act 1990.”.

8. Section 10 (acquisition of land by development corporation) has effect as if—

(a) for subsection (1) there were substituted—

“(1) A development corporation may—

- (a) with the consent of the oversight authority, acquire by agreement, or
- (b) by means of an order made by the corporation, and submitted to and confirmed by the Secretary of State in accordance with Part 1 of Schedule 4 to this Act, be authorised to acquire compulsorily,

any land—

- (i) within the area of the new town, whether or not it is proposed to develop that particular land;
- (ii) adjacent to that area which they require for purposes connected with the development of the new town;

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<sup>(4)</sup> 2004 c. 5.

(iii) whether adjacent to that area or not, which they require for the provision of services for the purposes of the new town.”; and

(b) for subsection (3) there were substituted—

“(3) Where a development corporation have been authorised under subsection (1) above to acquire compulsorily land forming part of a common, open space or fuel or field garden allotment, it may be authorised under that subsection to acquire compulsorily, or may, with the consent of the oversight authority, acquire by agreement, land for giving in exchange for the land acquired.”.

**9.** Section 17 (conditions as to disposal) has effect as if for subsections (1) and (2) there were substituted—

“(1) Subject to any direction given by the oversight authority under this Act, in relation to land acquired by a development corporation (whether or not, in the case of land within the area of the new town, the development of that particular land has been proposed or approved under section 7(1)), the development corporation may dispose of that land to such persons, in such manner and subject to such covenants or conditions, as they consider expedient for securing the development of the new town in accordance with proposals approved by the oversight authority under section 7(1), or for purposes connected with the development of the new town.

(2) A development corporation has no power, except with the consent of the oversight authority (given generally or specifically) to transfer the freehold of any land, or to grant a lease of any land for a term of more than 99 years, or to dispose of any land by way of a gift.”.

**10.** Section 39 (power of development corporation to transfer undertakings) has effect as if for subsections (1) to (3) there were substituted—

“(1) Subject to the provisions of this section, development corporation may, by agreement made with any local authority or any statutory undertakers and approved by the oversight authority—

(a) transfer any part of the undertaking of the corporation to—

(i) that local authority,

(ii) a community land trust (as defined in section 79 of the Housing and Regeneration Act 2008),

(iii) a community interest company (as defined in Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004), or

(b) transfer to those statutory undertakers any part of the undertaking of the corporation which consists of a statutory undertaking,

upon such terms as may be prescribed by the agreement.

(1A) Subsection (1) is without prejudice to the powers of development corporations under this Act to dispose of any of their property, including any trade or business carried on by them.

(2) Before approving an agreement under this section the oversight authority shall consult with the council of every county and of every district in which the whole or any part of the area of the new town is situated (excluding, in the case of an agreement made with such council, the council with whom the agreement is made).

(3) Before approving an agreement under this section for the transfer of a statutory undertaking, the oversight authority must—

(a) publish in the London Gazette, and in one or more newspapers circulating in the areas in which the new town is situated, a notice stating that the agreement has been submitted for approval, and describing the general effect of the agreement,

(b) send the Secretary of State a copy of the notice, and

(c) where any objection to the agreement is made, within 28 days of the date of publication, by any statutory undertakers operating within the area in which the new town is situated or any adjacent area, send copies of such objection to the Secretary of State.”.

**11.** Section 41 (transfer of property and dissolution of corporation) has effect as if—

(a) before subsection (1) there were inserted—



“(A1) Where the oversight authority is satisfied that the purposes for which the development corporation is established under this Act have been substantially achieved, the authority may write to the Secretary of State requesting that an order be made under this section.”;

(b) after paragraph (2) there were insert—

“(2A) Where the oversight authority is comprised of more than one local authority an order under subsection (1) shall provide for the corporation’s property to vest in the relevant transferee—

(a) in such proportions as those local authorities which were designated as the oversight authority have agreed provided the details of the agreement have been notified to the Secretary of State before the order is made; or

(b) in the absence of such notification, in such proportions as the Secretary of State considers appropriate.”; and

(c) for subsection (5) there were substituted—

“(5) In the case of an order under this section, Schedule 10 shall apply with such modifications as may be provided by the order for the purpose in particular of determining what part of the corporation’s property, rights, liabilities and obligations is to be transferred to the relevant transferee.”.

(d) after subsection (5), there were inserted—

“(5A) The Secretary of State may not make an order under this section without the consent of the oversight authority.”.

**12.** Section 41A (Part 2: interpretation)<sup>(5)</sup> has effect as if in the definition of “the relevant transferee” after subparagraph (a) there were inserted—

“(aa) the local authority which was designated as the oversight authority for the new town; and”.

**13.** Section 59 (other borrowing powers of the development corporation) has effect as if for that section there were substituted—

“**59.** (1) Subject to subsections (2) and (3) below a development corporation may borrow (temporarily or otherwise) with the consent of the oversight authority, or in accordance with any general authority given by the oversight authority, in any currency from any other person, such sums as the development corporation may require for meeting its obligations or performing its functions.

(2) Without Treasury consent a development corporation is not to borrow money if the effect of the borrowing would be to cause the amount of its outstanding borrowing to be, or remain, in excess of £100 million.

(3) For the purpose of this section the amount of a development corporation’s outstanding borrowing at any time is the aggregate amount outstanding at that time in respect of the principal sums borrowed by it.”.

**14.** Section 63 (Secretary of State’s general power) has effect as if after subsection (2), there were inserted—

“(2A) The Secretary of State may not make a direction under this section without the consent of the oversight authority.”.

**15.** Section 65 (Disposal of surplus funds) has effect as if after subsection (2), there were inserted—

“(2A) The Secretary of State may not make a direction under this section without the consent of the oversight authority.”.

**16.** Section 67 (accounts of development corporations) has effect as if for that section there were substituted—

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<sup>(5)</sup> 1981 c. 64. Section 41A was inserted by paragraph 9 of Schedule 5 to the Housing and Regeneration Act 2008 (c.17).

## **“Accounts and audit**

**67.** The Local Audit and Accountability Act 2014 applies to a locally-led new town as if the development corporation were a “relevant authority” (as defined in section 2 of, and Schedule 2 to, the Local Audit and Accountability Act 2014).”.

**17.** Section 68 (audit), section 69 (Secretary of State’s account) and section 70 (reports) have effect as if they were omitted.

**18.** Section 71(information) has effect as if for that section there were substituted—

“**71.**—(1) Every development corporation shall provide the oversight authority with such information relating to its undertaking as the authority may from time to time require.

(2) For that purpose every development corporation—

- (a) shall permit any person authorised by the oversight authority in that behalf to inspect and copy the accounts, books, documents or papers of the corporation, and
- (b) shall provide such explanation of those accounts, books, documents or papers as that person or the oversight authority may reasonably require.”.

**19.** Section 73 (rights of entry) has effect as if for subsection (2) there were substituted—

“(2) Any person, being an officer of the Valuation Office or a person authorised in writing by the oversight authority, may at any reasonable time enter upon land for the purpose of surveying it or estimating its value in connection with any proposals relating to the land submitted or to be submitted under section 7(1) of this Act.”.

**20.** Section 80(1) (interpretation) has effect as if the following definition were inserted in the appropriate place—

“oversight authority” means one or more local authorities appointed by the Secretary of State to oversee the development of a new town pursuant to section 1A(2) of the 1981 Act (local authority to oversee development of new town);”.

**21.** Schedule 2 (effect of order for reduction of designated area) has effect as if for sub-paragraphs (3) to (6) of paragraph 1 there were substituted—

“(3) A corporation shall not without the oversight authority’s consent (given generally or specially) perform the duty so as—

- (a) to transfer the freehold of land; or
- (b) to grant a lease of land for a term of more than 99 years or
- (c) to dispose of any land by way of gift.

(4) A corporation shall comply with such directions as the oversight authority may give—

- (a) for preventing the duty from being performed; or
- (b) for restricting the duty; or
- (c) for requiring it to be performed in a manner specified in the directions.

(5) Before giving a direction under sub-paragraph (4), the oversight authority shall consult the corporation, unless the authority is satisfied that because of urgency consultation is impracticable.

(6) Where a corporation purports to dispose of land by virtue of this paragraph, then—

- (a) in favour of a person claiming under the corporation, the disposal so purporting to be made shall not be invalid by reason that any consent of the oversight authority required under this paragraph has not been given or that any direction of the authority given under this paragraph has not been complied with; and
- (b) a person dealing with the corporation, or a person claiming under the corporation, shall not be concerned to see or enquire whether any such consent has been given or whether any such direction has been given or complied with.”.

22. Schedule 3 (constitution and proceedings of development corporation) has effect as if for paragraphs 1 to 9 there were substituted—

*“Appointment of members and tenure of office*

1.—(1) The members of a development corporation (in this Schedule referred to as “the corporation”) shall be appointed by the oversight authority and the authority must ensure it appoints a majority of independent members.

(2) In appointing members, the oversight authority must have regard to the desirability of appointing one or more persons resident in or having special knowledge of the locality in which the new town will be situated.

(3) In appointing a member, the oversight authority—

- (a) must have regard to the desirability of appointing a person who has experience of, and has shown some capacity in, a matter relevant to the carrying-out of the development corporation’s functions, and
- (b) must be satisfied that the person will have no financial or other interest likely to affect prejudicially the exercise of the person’s functions as member.

(4) The oversight authority—

- (a) shall request nominations for members from each local authority which appear to the oversight authority to be concerned with the development of the new town (including any local authority which is, or forms part of, the oversight authority), and
- (b) must appoint at least one member of the corporation from each relevant authority.

(5) The oversight authority must appoint two of the independent members to be chairperson and deputy chairperson of the corporation.

(6) On ceasing to be an elected member of a local authority an LA nominated member also ceases to be a member of the corporation.

(7) In this paragraph—

“independent member” means any person who is appointed to be a member of the corporation who is not an LA nominated member;

“LA nominated member” means an elected member of a local authority who is appointed to be a member of the corporation following a nomination by a local authority under sub-paragraph (4); and

“relevant authority” means a local authority where any part of the designated area of the new town is within the authority’s area.

2. Subject to the following provisions of this Schedule, a member of the corporation, and the chairman and deputy chairman of the corporation, shall hold and vacate office as such in accordance with the terms of the instrument by which they are respectively appointed.

3. On ceasing to be a member of the corporation the chairperson or deputy chairperson, as the case may be, also ceases to be the chairpersons or deputy chairperson.

4. Any member of the corporation (including the chairperson or deputy chairperson) may resign by notice in writing addressed to the oversight authority.

5. If the oversight authority is satisfied that a member of the corporation—

- (a) has become bankrupt or made an arrangement with creditors or has had a debt relief order (under Part 7A of the Insolvency Act 1986) made in respect of the member,
- (b) is incapacitated by physical or mental illness,
- (c) has been absent from meetings of the corporation for a period longer than 3 consecutive months without the permission of the corporation, or
- (d) is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member,

the oversight authority may remove the member from membership of the corporation.

**6.** A member of the corporation who ceases to be a member or ceases to be chairman or deputy chairman shall be eligible for reappointment.

*Remuneration*

**7.** The corporation shall pay to their members, in respect of their office as such, such remuneration and such reasonable allowances in respect of expenses properly incurred in the performance of their duties as may be determined by the oversight authority, and shall pay to the chairman and deputy chairman, in respect of their office as such, such additional remuneration as may be so determined.

*Pension benefits for the chairperson*

**8.** In the case of any person who is or has been the chairman of the corporation, the oversight authority may direct the corporation—

- (a) to pay to or in respect of that person on retirement from office or death such pension, allowance or gratuity as may be so determined; or
- (b) to make payments towards the provision of such a pension, allowance or gratuity.

*Constitutional documents*

**8A.** The corporation must agree, publish and keep under review—

- (a) a statement setting out its development objectives including its requirements in relation to quality of any development carried out;
- (b) a statement setting out how it will ensure the long-term stewardship of the assets of the new town for the benefit of the community.

*Meetings and proceedings*

**9.** The quorum of the corporation and the arrangements relating to their meetings shall, subject to any directions given by the oversight authority, be such as the corporation may determine.”.

**23.** Schedule 10 (additional provisions as to transfer of property) has effect as if—

- (a) after paragraph 2(2) there were inserted—

“(2A) Before—

- (a) excepting anything referred to in sub-paragraph (1) from an order, or
- (b) providing for the disposal of any property so excepted and of any property received by the corporation after the transfer date,

the Secretary of State must obtain the consent of the oversight authority.”; and

- (b) for paragraph 3(3)(a) there were substituted—

“(a) any permission for development in the new town granted by order made, or having effect as if made, under section 59 or 61A of the Town and Country Planning Act 1990 and in force on the transfer date shall continue in force as if references in the order to the development corporation included the relevant transferee;”.

## SCHEDULE 2

Regulation 7

### Consequential amendments

[TO BE ADVISED]

#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which apply in relation to England only, make provision for the local oversight of new town development corporations. The Regulations apply where the Secretary of State, pursuant to section 1A(2) of the

New Towns Act 1981 (“the Act”), makes an order under section 1 of the Act appointing one or more local authorities to oversee the development of the area as a new town (“locally-led new town”).

Regulation 3 sets out the extent to which an oversight authority may delegate its oversight functions.

Regulation 4 specifies the functions of the Secretary of State under the Act which are to be exercised by the oversight authority instead of the Secretary of State.

Those include:

- (c) where the oversight authority is the local planning authority (or a combined authority with functions in relation to spatial development) for the area, approval of new town development corporations’ plans for development of the new town;
- (d) the appointment of the Board members of the new town development corporation;
- (e) approval of land acquisitions or disposals by the new town development corporation; and,
- (f) initiating the process for the dissolution of the new town development corporation.

Regulation 5 specifies the functions of the Secretary of State which can only be exercised by him with the consent of the oversight authority.

Those include: making an Order to reduce the size of the area designated for the new town; and, making an Order for the dissolution of the new town development corporation.

Regulation 6 provides that where the Secretary of State has designated an area as a locally-led new town the Act applies with the modifications set out in Schedule 1.

Regulation 7 and Schedule 2 make provision for consequential amendments in relation to locally-led new towns.

[Impact Assessment text]

## Annex B: Consultation Questions

***Question 1: Do you support the principle of enabling oversight of the development of an area as a new town to be transferred from the Secretary of State to the local authority or authorities covering the area in the circumstances outlined in paragraphs 2.1 to 2.4?***

***Question 2: Do you agree that the proposed list of functions to be transferred and functions that may only be exercised with the consent of the oversight authority is the correct one? If not, please specify which other functions you think should or should not be transferred and why.***

***Question 3: Where the draft Regulations provide for the transfer of functions has this been done correctly? If not please specify the changes you think are required.***

***Question 4: Do you agree that the draft Regulations appropriately support the delivery of high quality, sustainable communities and their long-term stewardship? If not, how should they go further or include less prescription?***

***Question 5: Do you agree with the proposals for Board membership set out in Paragraph 22 of Schedule 1 of the draft Regulations? If not, how should these be changed?***

***Question 6: Are there any issues with the draft Regulations not picked up in the questions above you would like to raise? If so, please set these out.***

# Annex C: About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not, or if you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).