



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Thursday 12 November 2015

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: NC35 to NC39

COMMITTEE OF THE WHOLE HOUSE

CITIES AND LOCAL GOVERNMENT DEVOLUTION BILL [LORDS]

NOTE

This document includes all remaining amendments and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the House [14 October 2015].

CLAUSES 20 AND 21; NEW CLAUSES AND NEW SCHEDULES RELATING TO THE SUBJECT MATTER OF CLAUSES 20 AND 21;

Secretary Greg Clark

61

Page **18**, line **41**, leave out Clause 20

Member's explanatory statement

This would remove clause 20 of the Bill, which amends the Representation of the People Act 1983, reducing the minimum voting age for local government electors in England and Wales from 18 to 16.

Cities and Local Government Devolution Bill [*Lords*], *continued*

Mr Graham Allen

NC3

To move the following Clause—

“Governance arrangements of local authorities in England: election of councillors

- (1) Section 36 of the Representation of the People Act 1983 (local elections in England and Wales) is amended as follows.
- (2) After subsection (1) insert—

“(1A) Rules made by the Secretary of State under subsection (1) must ensure that each poll at an election shall be conducted in accordance with an electoral system to be decided by that local authority.””

Member’s explanatory statement

This amendment transfers to local people the power to decide their own electoral system for local elections.

Mr Andrew Turner

NC9

To move the following Clause—

“Separation of local authorities: local referendums

- (1) The Secretary of State shall by regulations make provision about the circumstances in which a constituent part of a local authority can separate from the local authority of which it is currently a part and become established as a new local authority in its own right.
 - (2) Such regulations must provide that a constituent part of a local authority can secede from an existing local authority only if a majority of local government electors in that constituent part who take part in a vote on the proposal are in favour of the proposal.
 - (3) Such regulations must cover—
 - (a) The information that the proposed new local authority shall provide ahead of such a referendum being conducted, such which may include but shall not be limited to—
 - (i) information on geographic extent of the new local authority, and
 - (ii) information on the governance arrangements for the new local authority.
 - (b) The basis on which a transfer of resources from an existing local authority to a new local authority shall be calculated.
 - (4) Regulations made by the Secretary of State may make similar provision for a constituent part of a local authority to separate from the local authority of which it is currently a part in order to join a neighbouring local authority.”
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Cities and Local Government Devolution Bill [*Lords*], continued

*REMAINING NEW CLAUSES; REMAINING NEW SCHEDULES; CLAUSE 22; SCHEDULE 4;
CLAUSES 23 TO 25; REMAINING PROCEEDINGS ON THE BILL*

Secretary Greg Clark

NC34

To move the following Clause—

“Sub-national transport bodies

After Part 5 of the Local Transport Act 2008 insert—

“PART 5A

SUB-NATIONAL TRANSPORT BODIES

Establishment and constitution of STBs

102E Power to establish STBs

- (1) The Secretary of State may by regulations establish a sub-national transport body for any area in England outside Greater London.
- (2) In this Part—
 - (a) “STB” means a sub-national transport body established under this section, and
 - (b) references to the area of an STB are to the area in England for which the STB is established.
- (3) Regulations under this section must specify—
 - (a) the name by which the STB is to be known, and
 - (b) the area of the STB.
- (4) The area of an STB must consist of the whole of the area of two or more relevant authorities (whether or not of the same kind).
- (5) Each of the following is a “relevant authority” for the purposes of this Part—
 - (a) a combined authority;
 - (b) an ITA;
 - (c) a county council that comes within subsection (6);
 - (d) a unitary district council that comes within that subsection;
 - (e) the Council of the Isles of Scilly.
- (6) A council comes within this subsection if no part of its area forms part of—
 - (a) the area of a combined authority, or
 - (b) an integrated transport area.
- (7) An STB is to be established as a body corporate.

102F Requirements in connection with regulations under section 102E

- (1) Regulations under section 102E may be made establishing an STB for an area only if the Secretary of State considers that—
 - (a) its establishment would facilitate the development and implementation of transport strategies for the area, and

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (b) the objective of economic growth in the area would be furthered by the development and implementation of such strategies.
- (2) The reference in subsection (1)(a) to “transport strategies”, in relation to the area of an STB, is a reference to strategies for improving—
 - (a) the exercise of transport functions in the area (whether or not exercisable by the STB), and
 - (b) the effectiveness and efficiency of transport to, from or within the area.
- (3) Regulations under section 102E establishing an STB for an area may be made only if—
 - (a) the constituent authorities have together made a proposal to the Secretary of State for there to be an STB for the area, and
 - (b) those authorities consent to the making of the regulations.
- (4) For the purposes of this Part, the constituent authorities of an STB are every relevant authority whose area is within the area, or proposed area, of the STB.
- (5) Before making a proposal under this section the constituent authorities must consult—
 - (a) each appropriate authority (if it is not a constituent authority), and
 - (b) any other persons whom the constituent authorities consider it is appropriate to consult.
- (6) The Secretary of State may require the constituent authorities to consult any other persons (not already consulted under subsection (5)(b)) whom the Secretary of State considers should be consulted in connection with a proposal under this section.
- (7) For the purposes of subsection (5), each of the following is an “appropriate authority” if any part of the authority’s area adjoins the area of the proposed STB—
 - (a) a combined authority;
 - (b) an ITA;
 - (c) Transport for London;
 - (d) a county council;
 - (e) a unitary district council;
 - (f) a London borough council.

102G Constitution of STBs

- (1) The Secretary of State may by regulations make provision about the constitutional arrangements in relation to an STB.
- (2) “Constitutional arrangements”, in relation to an STB, include arrangements in respect of—
 - (a) the membership of the STB (including the number and appointment of members of the STB),
 - (b) the voting powers of members of the STB (including provision for different weight to be given to the vote of different descriptions of member),
 - (c) the executive arrangements of the STB, and
 - (d) the functions of any executive body of the STB.

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- (3) Regulations made by virtue of subsection (2)(a) which include provision about the number and appointment of members of the STB must provide—
 - (a) for the members of the STB to be appointed by the STB’s constituent authorities, and
 - (b) for those members to be appointed from among the elected members of the constituent authorities.
- (4) Regulations made by virtue of subsection (2)(a) may provide for persons, who are not elected members of the constituent authorities, to be appointed as co-opted members of an STB; but such regulations must provide (by virtue of subsection (2)(b)) for those co-opted members to be non-voting members of the STB.
- (5) The voting members of an STB may resolve that provision made in accordance with subsection (4) is not to apply (generally or in relation to particular matters) in the case of the STB.
- (6) In subsection (2)(c) “executive arrangements” means—
 - (a) the appointment of an executive;
 - (b) the functions of the STB which are the responsibility of an executive;
 - (c) the functions of the STB which are the responsibility of an executive and which may be discharged by a committee of the STB, by an officer of the STB or by a body other than the STB;
 - (d) arrangements relating to the review and scrutiny of the discharge of functions;
 - (e) access to information on the proceedings of an executive of the STB;
 - (f) the keeping of a record of any arrangements relating to the STB and falling within any of paragraphs (a) to (e).
- (7) The provision which may be made by regulations by virtue of subsection (2)(d) includes—
 - (a) provision setting up or dissolving an executive body of an STB, or merging two or more executive bodies of an STB;
 - (b) provision conferring functions on, or removing functions from, an executive body of an STB;
 - (c) provision transferring functions of an STB to an executive body of the STB, and transferring functions of an executive body of an STB to the STB.
- (8) Regulations under this section may authorise an STB to delegate any of its functions to one or more of its constituent authorities (and any such delegation may be made subject to conditions or limitations).
- (9) Regulations under this section may not provide for the budget of an STB to be agreed otherwise than by the STB.
- (10) For the purposes of subsections (3) and (4), the “elected members” of a constituent authority—
 - (a) in the case of a combined authority, are the mayor for the area of the combined authority (if there is one) and those members of the authority who are appointed from among the elected members of the authority’s constituent councils (see section 85(1)(b) above

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as applied by section 104(2) of the Local Democracy, Economic Development and Construction Act 2009);

- (b) in the case of an ITA, are those members of the ITA who are appointed from among the elected members of the ITA's constituent councils (see section 85(1)(b) above);
- (c) in the case of a county council, a unitary district council or the Council of the Isles of Scilly, are the elected members of the council.

Functions

102H General functions

- (1) The Secretary of State may by regulations provide for an STB to have any of the following functions in relation to its area—
 - (a) to prepare a transport strategy for the area (see section 102I);
 - (b) to provide advice to the Secretary of State about the exercise of transport functions in relation to the area (whether exercisable by the Secretary of State or others);
 - (c) to co-ordinate the carrying out of transport functions in relation to the area that are exercisable by different constituent authorities, with a view to improving the effectiveness and efficiency in the carrying out of those functions;
 - (d) if the STB considers that a transport function in relation to the area would more effectively and efficiently be carried out by the STB, to make proposals to the Secretary of State for the transfer of that function to the STB;
 - (e) to make other proposals to the Secretary of State about the role and functions of the STB.
- (2) The Secretary of State may by regulations provide for an STB to have other functions of a description set out in the regulations.
- (3) Regulations under subsection (2) may be made only for functions to be exercisable in relation to the area of the STB that—
 - (a) relate to transport,
 - (b) the Secretary of State considers can appropriately be exercised by the STB, and
 - (c) are not already exercisable in relation to that area by a local authority or a public authority (see instead sections 102J and 102K respectively for a power to transfer such functions to an STB).
- (4) The Secretary of State may by regulations make further provision about how an STB is to carry out functions that it has under or by virtue of this Part.
- (5) Regulations under this section in relation to an existing STB may be made only with the consent of the STB.
- (6) Nothing in this section limits the power of the Secretary of State to confer other functions on an STB under this Part.

102I Transport strategy of an STB

- (1) The transport strategy of an STB is a document containing the STB's proposals for the promotion and encouragement of sustainable, safe,

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integrated, efficient and economic transport facilities and services to, from and within the area of the STB.

- (2) The transport facilities and services mentioned in subsection (1) are—
 - (a) those required to meet the needs of persons (including pedestrians) living or working in, or visiting, the area of the STB, and
 - (b) those required for the transportation of freight.
- (3) An STB may include in its transport strategy any other proposals it considers appropriate that relate to transport to, from or within its area.
- (4) An STB must publish its transport strategy.
- (5) If an STB revises its transport strategy, the STB must publish the strategy as revised.
- (6) In preparing or revising its transport strategy an STB must carry out a public consultation.
- (7) In carrying out a public consultation under subsection (6), the STB must ensure that such of the following persons as the STB considers appropriate (taking into account the proposals to be contained in the strategy) have a reasonable opportunity to respond to the consultation—
 - (a) the Secretary of State;
 - (b) a combined authority;
 - (c) another STB;
 - (d) an ITA;
 - (e) a Passenger Transport Executive;
 - (f) Transport for London;
 - (g) a person to whom a licence is granted under section 8 of the Railways Act 1993 (licences authorising persons to be operator of railway assets);
 - (h) Highways England Company Limited;
 - (i) a local highway authority (within the meaning of the Highways Act 1980);
 - (j) a county council in England;
 - (k) a unitary district council;
 - (l) a London borough council.
- (8) In preparing or revising its transport strategy an STB must (among other matters) have regard to—
 - (a) the promotion of economic growth in its area,
 - (b) the social and environmental impacts in connection with the implementation of the proposals contained in the strategy,
 - (c) any current national policy relating to transport that has been published by or on behalf of Her Majesty's Government, and
 - (d) the results of the public consultation mentioned in subsection (6).
- (9) The Secretary of State must have regard to proposals contained in the transport strategy of an STB that appear to the Secretary of State to further the objective of economic growth in the area of the STB in determining—
 - (a) national policies relating to transport (so far as relevant in relation to such proposals), and

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- (b) how such policies are to be implemented in relation to the area of the STB.
- (10) The constituent authorities of an STB must exercise transport functions with a view to securing the implementation of the proposals contained in the STB's transport strategy.
- (11) In this Part "transport strategy", in relation to an STB, means the transport strategy prepared or revised by an STB under this section by virtue of the function in section 102H(1)(a).

102J Exercise of local transport functions

- (1) The Secretary of State may by regulations provide for functions that are exercisable by a local authority in an area that is, or is to become, the area of an STB to be exercisable by the STB.
- (2) Regulations under this section may be made—
 - (a) only in relation to functions that relate to transport, and
 - (b) only if the Secretary of State considers that the function can appropriately be exercised by the STB.
- (3) For the purposes of subsection (2)(a), regulations under this section may be made in respect of a function that relates both to transport and to other matters only so far as the function is exercisable in relation to transport.
- (4) Regulations under this section may make provision for a function to be exercisable by the STB either generally or subject to such conditions or limitations as may be specified in the regulations.
- (5) Regulations under this section may make provision—
 - (a) for a function to be exercisable by the STB instead of by the local authority, or
 - (b) for a function to be exercisable by the STB jointly with the local authority.
- (6) Regulations under this section may be made only with the consent of—
 - (a) the local authority concerned, and
 - (b) in the case of regulations made in relation to an existing STB, the STB.
- (7) In this section "local authority" means—
 - (a) a combined authority;
 - (b) an ITA;
 - (c) a Passenger Transport Executive;
 - (d) a county council in England;
 - (e) a unitary district council;
 - (f) the Council of the Isles of Scilly.

102K Other public authority functions

- (1) The Secretary of State may by regulations provide for functions that are exercisable by a public authority in relation to an area that is, or is to become, the area of an STB to be exercisable by the STB.
- (2) Regulations under this section may be made—
 - (a) only in relation to functions that relate to transport, and

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- (b) only if the Secretary of State considers that the function can appropriately be exercised by the STB.
- (3) For the purposes of subsection (2)(a), regulations under this section may be made in respect of a function that relates both to transport and to other matters only so far as the function is exercisable in relation to transport.
- (4) Regulations under this section may make provision for a function to be exercisable by the STB either generally or subject to such conditions or limitations as may be specified in the regulations.
- (5) Regulations under this section may make provision—
 - (a) for a function to be exercisable by the STB instead of by the public authority, or
 - (b) for a function to be exercisable by the STB jointly with the public authority.
- (6) Regulations under this section in relation to an existing STB may be made only with the consent of the STB.
- (7) In this section—
 - “function” does not include a power to make regulations or other instruments of a legislative character;
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
 - “public authority”—
 - (a) includes a Minister of the Crown or a government department;
 - (b) does not include a local authority as defined by section 102J.

102L Funding

- (1) The Secretary of State may pay grants to STBs to cover expenditure incurred in the carrying out of their functions.
- (2) Grants may be paid under this section subject to any conditions the Secretary of State thinks appropriate (including conditions as to repayment).
- (3) The Secretary of State may by regulations make provision—
 - (a) for the constituent authorities of an STB to contribute to its costs, and
 - (b) about the basis on which the amount payable by each constituent authority is to be determined.

*General powers etc***102M General powers**

- (1) An STB may do—
 - (a) anything it considers appropriate for the purposes of the carrying out of any of its functions (its “functional purposes”),
 - (b) anything it considers appropriate for purposes incidental (whether directly or indirectly) to its functional purposes,
 - (c) anything it considers to be connected with—
 - (i) any of its functions, or
 - (ii) anything it may do under paragraph (a) or (b), and

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (d) for a commercial purpose, anything which it may do under any of paragraphs (a) to (c) otherwise than for a commercial purpose.
- (2) Where subsection (1) confers power on an STB to do something, it confers power (subject to section 102N) to do it anywhere in the United Kingdom or elsewhere.
- (3) Power conferred on an STB by subsection (1) is in addition to, and is not limited by, the other powers of the STB.
- (4) Where an STB has an executive body established by virtue of section 102G, the STB may delegate to that body its function of taking action under subsection (1) (but not the function of determining what action to take).

102N Boundaries of power under section 102M

- (1) Section 102M(1) does not enable an STB to do anything which it is unable to do by virtue of a post-commencement limitation which is expressed to apply—
 - (a) to its power under section 102M(1),
 - (b) to all of its powers, or
 - (c) to all of its powers but with exceptions that do not include its power under section 102M(1).
- (2) Section 102M(1) does not authorise an STB to borrow money.
- (3) Section 102M(1)(a) to (c) do not authorise an STB to charge a person for anything it does otherwise than for a commercial purpose (but see section 93 of the Local Government Act 2003 (power of STBs and other best value authorities to charge for discretionary services)).
- (4) Section 102M(1)(d) does not authorise an STB to do things for a commercial purpose in relation to a person if a statutory provision requires the STB to do those things in relation to the person.
- (5) Where under section 102M(1)(d) an STB does things for a commercial purpose, it must do them through—
 - (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
 - (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014.
- (6) In this section—
 - “post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
 - (a) is contained in an Act passed after the end of the Session in which the Cities and Local Government Devolution Act 2015 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section (*Sub-national transport bodies*) of that Act;
 - “statutory provision” means a provision of an Act or of an instrument made under an Act.

Cities and Local Government Devolution Bill [*Lords*], *continued***102O Power to make provision supplemental to section 102M**

- (1) The Secretary of State may by regulations make provision preventing an STB from doing under section 102M(1) anything which is specified, or is of a description specified, in the regulations.
- (2) The Secretary of State may by regulations provide for the exercise by STBs of the power conferred by section 102M(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the regulations.
- (3) Before making regulations under subsection (1) or (2) the Secretary of State must consult—
 - (a) such representatives of STBs,
 - (b) such representatives of local government, and
 - (c) such other persons (if any),as the Secretary of State considers appropriate.
- (4) Subsection (3) does not apply to regulations under subsection (1) or (2) which are made only for the purpose of amending earlier such regulations—
 - (a) so as to extend the earlier regulations, or any provision of the earlier regulations, to a particular STB or to STBs of a particular description, or
 - (b) so that the earlier regulations, or any provision of the earlier regulations, cease to apply to a particular STB or to STBs of a particular description.

102P Power of direction

- (1) The Secretary of State may by regulations confer on an STB a power to give directions to a constituent authority about the exercise of transport functions by the authority in the area of the STB.
- (2) The power to give a direction by virtue of subsection (1) about the exercise of a function extends only so far as the exercise of the function is relevant to the implementation of the STB's transport strategy.
- (3) Regulations under this section conferring a power to direct may include provision—
 - (a) for the power to be given generally or subject to conditions or limitations;
 - (b) for the power to apply to all transport functions or only to those functions specified or described in the regulations;
 - (c) about the manner in which directions are to be given;
 - (d) about the consequences arising if there is a contravention of a direction.
- (4) Provision under subsection (3)(d) may include provision enabling the STB—
 - (a) to take any steps it considers appropriate to reverse or modify the effect of a constituent authority exercising a transport function in contravention of the direction, and
 - (b) to recover any reasonable expenses incurred in taking those steps as a civil debt from the constituent authority.

Cities and Local Government Devolution Bill [*Lords*], *continued**Boundary and name changes***102Q Change to boundaries of an STB's area**

- (1) The Secretary of State may by regulations change the boundaries of the area of an STB by—
 - (a) adding the area of a relevant authority to an existing area of an STB, or
 - (b) removing the area of a constituent authority from an existing area of an STB.
- (2) Regulations under this section may be made—
 - (a) only if the constituent authorities have together made a proposal to the Secretary of State for the boundaries to be changed in the manner that would be provided for in the regulations;
 - (b) in the case of regulations under subsection (1)(a), only if the relevant authority whose area would be added to the area of the STB joins in the making of the proposal;
 - (c) in the case of regulations under subsection (1)(b), only if the resulting area of the STB meets the condition in section 102E(4).
- (3) Regulations under this section changing the boundaries of the area of an STB may be made only if the Secretary of State considers that paragraphs (a) and (b) of section 102F(1) would apply in relation to the area as varied by the regulations.
- (4) Regulations under this section may be made only with the consent of—
 - (a) the STB, and
 - (b) in the case of regulations under subsection (1)(a), the relevant authority whose area would be added to the area of the STB.

102R Change of name

- (1) An STB may change its name by a resolution in accordance with this section.
- (2) The resolution must be considered at a meeting of the STB that is specially convened for the purpose.
- (3) Particulars of the resolution must be included in the notice of the meeting.
- (4) The resolution must be passed at the meeting by not less than two-thirds of the members of the STB who vote on it.
- (5) An STB which changes its name under this section must—
 - (a) send notice of the change to the Secretary of State, and
 - (b) publish the notice in such manner as the Secretary of State may direct.
- (6) A change of name under this section does not affect the rights or obligations of the STB or any other person, or render defective any legal proceedings.
- (7) Any legal proceedings may be commenced or continued as if there had been no change of name.

Cities and Local Government Devolution Bill [*Lords*], *continued**Supplementary***102S Incidental etc provision**

- (1) The Secretary of State may by regulations make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, regulations under this Part or for giving full effect to such regulations.
- (2) Regulations under this Part may make different provision for different STBs or otherwise for different purposes.
- (3) The provision which may be included by virtue of this section in regulations includes provision for the transfer under the regulations of property, rights and liabilities.
- (4) The provision which may be included by virtue of subsection (3) in regulations includes provision—
 - (a) for the creation or imposition by the Secretary of State of new rights or liabilities in respect of anything transferred under the regulations;
 - (b) for the management or custody of transferred property;
 - (c) for bodies to make agreements with respect to any property, income, rights, liabilities and expenses of, and any financial relations between, the parties to the agreement.
- (5) The provision which may be included by virtue of this section in regulations includes provision amending, modifying, repealing or revoking any enactment, whenever passed or made.
- (6) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

102T Procedure for regulations under this Part

- (1) Regulations under this Part must be made by statutory instrument.
- (2) A statutory instrument containing regulations under this Part may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (3) At the same time as laying a draft of a statutory instrument containing regulations under this Part before Parliament, the Secretary of State must lay before Parliament a report explaining the effect of the regulations and why the Secretary of State considers it appropriate to make the regulations.
- (4) Subsections (2) and (3) do not apply to a statutory instrument that contains regulations only of the following kinds—
 - (a) regulations under section 102J that make provision under subsection (4) of that section for a function to be exercisable by an STB for a limited period of time;
 - (b) regulations under section 102J that make provision under subsection (5)(b) of that section;
 - (c) regulations under section 102K that make provision under subsection (4) of that section for a function to be exercisable by an STB for a limited period of time;

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (d) regulations under section 102K that make provision under subsection (5)(b) of that section;
 - (e) regulations under section 102O(1) that make provision for the purpose mentioned in section 102O(4)(b);
 - (f) regulations under section 102O(2) that make provision for that purpose or for imposing conditions on the doing of things for a commercial purpose.
- (5) A statutory instrument to which subsections (2) and (3) do not apply is subject to annulment by resolution of either House of Parliament.
- (6) If a draft of regulations under this Part would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

102U Interpretation

In this Part—

“combined authority” means a body established as a combined authority under section 103 of the Local Democracy, Economic Development and Construction Act 2009;

“constituent authority”, in relation to an STB, has the meaning given by section 102F(4);

“ITA” means an Integrated Transport Authority for an integrated transport area in England;

“Passenger Transport Executive” means a body which is such an Executive for the purposes of Part 2 of the Transport Act 1968;

“relevant authority” has the meaning given by section 102E(5);

“STB” has the meaning given by section 102E(2);

“transport functions” means any statutory functions relating to transport;

“transport strategy” has the meaning given by section 102I(11);

“unitary district council” means a district council whose area is not part of the area of a county council.””

Member’s explanatory statement

This new clause inserts a new Part 5A into the Local Transport Act 2008. The new Part confers power to establish Sub-national Transport Bodies which will operate at a sub-national local government level in transport matters with the aim of furthering economic growth in their area.

Cities and Local Government Devolution Bill [*Lords*], *continued*

Mr Graham Allen

NC19

To move the following Clause—

“Constitutional Convention

A convention is to be held to consider and make recommendations on the constitution of the United Kingdom, commencing its operation no later than 31 December 2016.”

Member’s explanatory statement

This new clause would establish a national public discussion on the renewal of the UK democracy.

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

NC24

To move the following Clause—

“National framework for devolution of fiscal powers

Within twelve months of the passing of this Act, the Secretary of State must publish a framework for further devolution of fiscal powers, including but not limited to, setting and revaluating local tax rates, banding and discounts.”

Member’s explanatory statement

This new Clause would require the Secretary of State to set out a framework for further devolution of fiscal powers.

Mr Graham Allen

NC27

To move the following Clause—

“Devolution of tax revenues

- (1) From the beginning of the 2016–17 tax year, the main UK rates of income tax are reduced by 10 pence in the pound for those identified as English taxpayers.
- (2) The Department of Communities and Local Government must set a new substitute 10 pence English rate of income tax to be added to the reduced UK rates.
- (3) The English block grant must be adjusted to reflect the change in funding streams arising from subsections (1) and (2).
- (4) From the beginning of the 2016–17 tax year, the revenue from taxes on land transactions in England and on landfill in England shall be assigned to the Department of Communities and Local Government.”

Member’s explanatory statement

This new Clause would bring England into line with Scotland and devolve to England the income tax and other financial powers already devolved to Scotland in the Scotland Act 2012, so that

Cities and Local Government Devolution Bill [*Lords*], *continued*

English local government and the Department of Communities and Local Government can become the vehicle to deliver financial devolution in England.

Mr Graham Allen

NC28

To move the following Clause—

“Devolution of fiscal powers

English councils have the same powers from April 2016 as Scottish Ministers in the Scotland Act 2012—

- (a) to borrow from the National Loans Fund, commercial banks and local council bond issues, to deal with deviations between forecast and actual revenues, in year shortfalls and agreed capital investment, and
- (b) to devolve other existing taxes and to create with the consent of local electorates new locally specific taxes.”

Member’s explanatory statement

This new Clause would bring England into line with Scotland and devolve to England the borrowing powers already devolved to Scotland in the Scotland Act 2012, so that English local government and the Department of Communities and Local Government can become the vehicle to deliver financial devolution in England.

Mr Graham Allen

NC29

To move the following Clause—

“The Local Government Independence Code

- (1) There shall be a Code, to be known as “the Local Government Independence Code”, the principal purpose of which shall be to define and regulate the relationship between central and local government.
- (2) A court or tribunal determining a question which has arisen in connection with the functions of a local authority, or of the Secretary of State or other public authority in relation to any local authority, must take into account the provisions of the Code.
- (3) Schedule (The Local Government Independence Code) which—
 - (a) sets out the terms of the Code,
 - (b) makes provision about the application of the Code, and requires public authorities, including central and local government, to comply with the Code,
 - (c) makes provision for amending the Code,
 - (d) requires that, where it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which ensures compliance with the Code, and makes provision for the amending of legislation where it is found not to be compatible with the Code,
 - (e) makes provision about remedial orders to amend legislation,

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (f) makes provision for Ministers to make, or refuse to make, a statement that a Bill is compatible with the Code,
 - (g) amends the Parliament Act 1911 so as to exclude any Bill seeking to amend this Act from the provisions of the Parliament Act 1911,
 - (h) provides for amendments which are consequential on the making of the Code to certain enactments relating to local authorities, and
 - (i) requires the Secretary of State to provide for the review of provisions in pre-commencement legislation to assess their compatibility with the provisions of the Code,
- has effect.”

Member's explanatory statement

The intention of this new Clause is to define the independence of local government and to regulate the relationship between local and central government in England by means of a statutory Code.

John Stevenson
Martin Vickers

NC30

To move the following Clause—

“Reduction in petition threshold

- (1) The Local Government Act 2000 is amended as follows.
- (2) In section 34(4) (minimum number of local government electors for a local authority's area who must support any petition presented to the authority), for “5 per cent” substitute “1 per cent”.

Member's explanatory statement

This amendment would reduce the minimum number of local government electors for a local authority's area who must support any petition presented to the authority from 5 per cent to 1 per cent.

Mr David Burrowes
Dr Sarah Wollaston

NC31

To move the following Clause—

“Mayors of combined authorities: Further functions

- (1) After section 107E of the Local Democracy, Economic Development and Construction Act 2009 (inserted by section 6 above) insert—

“107F Functions of mayors: alcohol pricing

- (1) The Secretary of State may by order make provision for a mayor of a mayoral combined authority to have the power to set a minimum unit price for alcohol that is sold within that combined authority area.
- (2) An order made under subsection (1) above must include a provision that such a power may be exercised by a mayor only following a consultation

Cities and Local Government Devolution Bill [*Lords*], *continued*

which includes local residents on the proposed level of the minimum unit price for alcohol.””

Mr David Burrowes
 Caroline Ansell
 Fiona Bruce

NC32

To move the following Clause—

“Devolution to combined authorities: the family test

- (1) As soon as practicable after 31 March each year a mayoral combined authority in England shall produce and publish a report setting out its performance in applying the family test headings set out in subsection (3) over the most recent year to 31 March.
- (2) In applying the family test, the mayoral combined authority must consider the impact of its policies and performance under each of the family test headings set out in subsection (3) and consider any guidance issued by the Secretary of State.
- (3) The family test headings are—
 - (a) family formation;
 - (b) families going through key transitions such as becoming parents, getting married, fostering or adopting, bereavement, redundancy, new caring responsibilities or the onset of a long-term health condition;
 - (c) all family members’ ability to play a full role in family life, including with respect to parenting and other caring responsibilities;
 - (d) families before, during and after couple separation; and
 - (e) those families most at risk of deterioration of relationship quality and breakdown.
- (4) An overview and scrutiny committee of the mayoral combined authority shall review the report within four months of its publication.
- (5) The Secretary of State may issue guidance to mayoral combined authorities on applying the family test and on reporting on the test.”

Member’s explanatory statement

This new Clause would require mayoral combined authorities in England to report annually on their performance in relation to the DWP’s Family Test (October 2014) and for an overview and scrutiny committee to examine the contents of the report.

Cities and Local Government Devolution Bill [*Lords*], *continued*

Graham Allen

NC33

To move the following Clause—

“Parish Councils: Power of parish council to sell electricity

In Section 44 (1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 insert “11” between “1” and “16”.”

Member’s explanatory statement

This amendment will allow parish councils to be able to sell electricity that it generates.

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

NC35

★ To move the following Clause—

“Annual report on centralised powers

- (1) The Secretary of State must lay before each House of Parliament an annual report about new powers which have not been devolved to local authorities.
- (2) The report shall include information on—
 - (a) new legislation, powers, and government policies which are exercised at a national, rather than local, level; and
 - (b) reasons for not devolving these new powers to local authorities.”

Member’s explanatory statement

This clause places a duty on the Secretary of State to list powers centralised by the Government, and set out reasons for not devolving them: for example, employment schemes such as the Work Programme, or oversight of free schools.

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

NC36

★ To move the following Clause—

“Regard to neighbouring authorities

In exercising a devolved function, combined authorities must have regard to any significant direct impact on the population of neighbouring authorities.”

Member’s explanatory statement

This clause raises the concerns of some authorities which neighbour devolved authorities and

Cities and Local Government Devolution Bill [*Lords*], *continued*

ensures that combined authorities which have devolved functions give regard to the possible impact on neighbouring populations, particularly over issues such as transport and health.

Mr David Burrowes

NC37

★ To move the following Clause—

“Disqualification for election and holding office as a Member of a local authority

In section 80 (1)(d) of the Local Government Act 1972, omit “for a period of not less than three months without the option of a fine”.”

Member’s explanatory statement

This New Clause would extend the current disqualification regime to councillors sentenced to any custodial sentence (including a suspended sentence), instead of applying only to councillors sentenced to a term of imprisonment of at least three months.

Robert Neill

NC38

★ To move the following Clause—

“Enabling devolution to joint committees in London

- (1) Following a written request from either—
 - (a) a voluntary joint committee of London councils, or
 - (b) a voluntary joint committee of London councils and the Mayor of London,
 the Secretary of State may by order make arrangements for a function of a Minister of the Crown or a Government Department to be delegated to that joint committee, formed under Section 101 of the 1972 Local Government Act.
- (2) The voluntary joint committee may make such provision as is necessary in relation to—
 - (a) voting powers required to protect minority interests;
 - (b) the membership and process for individual authorities to enter or leave;
 - (c) the executive arrangements of the joint committee;
 - (d) arrangements for the administration and transfer of property and other liabilities.
- (3) A request made under subsection (1) above must have the agreement of all constituent members of the joint committee.
- (4) In this section—

“London councils” means

 - (a) London borough councils, and
 - (b) the Common Council of the City of London;

Cities and Local Government Devolution Bill [*Lords*], *continued*

“joint committee” has the same meaning as in the Local Government Act 1972;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

- (5) A function is eligible for the purposes of subsection (1) above if—
- (a) it does not consist of a power to make regulations or other instruments of a legislative character or a power to fix fees or charges, and
 - (b) the Secretary of State considers that it can be appropriately exercised by the joint committee.
- (6) No delegation under subsection (1) above, and no variation of a delegation under subsection (1) above can be made without the agreement of all constituent members of the relevant voluntary joint committee.
- (7) Before making or varying a delegation under subsection (1) above, the Secretary of State must consult—
- (a) London borough councils;
 - (b) The Common Council of the City of London;
 - (c) The Mayor of London (in the case of a joint committee of London councils and the Mayor of London).
- (8) The Secretary of State may make arrangements for the transfer from the Crown to the relevant joint committee of such property, rights or liabilities as the Secretary of State considers appropriate to the discharge of the function delegated under subsection (1).
- (9) If an order made under this section would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.”

Member’s explanatory statement

This clause would support further devolution of Ministerial functions to London by providing for decision-making arrangements to enable operational delegation to groups of London local authorities and for the strategic governance of devolved responsibilities to be shared between London councils and the Mayor through an appropriately constituted joint committee.

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

NC39

- ★ To move the following Clause—

“Environmental consideration

No later than three months after the passing of this Act, the Secretary of State shall prepare guidance on effective strategic planning for combined authorities including in the areas of—

- (a) mitigation of and adaptation to impacts of climate change;
- (b) natural resource use including water management;
- (c) delivery of low-carbon energy sources and infrastructure;
- (d) landscape-scale conservation, including green infrastructure.”

Member’s explanatory statement

This new clause places a duty on the Secretary of State to set out guidance on how co-operation

Cities and Local Government Devolution Bill [*Lords*], *continued*

between combined authorities can be strengthened to mitigate environmental problems and develop green infrastructure.

Mr Graham Allen

NS2

To move the following Schedule—

“SCHEDULE

THE LOCAL GOVERNMENT INDEPENDENCE CODE

- 1 Chapter 4ZA and Chapter 4A of Part 1 of the Local Government Finance Act 1992 are repealed.
- 2 (1) This Code—
 - (a) defines the relationship between central government and local authorities; and
 - (b) makes provision about the financial independence and conduct of local authorities.
- (2) For the avoidance of doubt, nothing in this Code shall affect the rights of individuals; and individuals may continue to seek judicial review of any action by a public authority which they regard as unjust or as infringing their rights.

Local Autonomy and Local Self-Government

- 3 (1) Local authorities’ accountability is to their electorates.
- (2) Local authorities are autonomous, democratically-elected bodies which independently decide upon, administer and regulate public affairs and deal with all matters of concern within their boundaries to the extent that such matters are not the statutory responsibility of another body.
- (3) Local authorities shall continue to operate within the rule of law.
- (4) Local authorities shall continue to operate with full legal personality and under a general power of competence. Subject to sub-paragraph (4), local authorities may pass measures on matters affecting the affairs and interests of their area.

Scope of Local Government

- 4 (1) The powers and responsibilities of local authorities will continue to be prescribed by statute.
- (2) Local authorities shall have power to exercise their initiative with regard to any matter which is not statutorily excluded from their competence or assigned to another body.
- (3) Central government may not propose actions which are intended to, or may reasonably be regarded as being likely to, infringe the independence of local government, as defined in this Code, or affect local government generally or any local authority, unless local government generally, or the local authority concerned, consents.

Cities and Local Government Devolution Bill [*Lords*], *continued**Inter-Governmental Activities*

- 5 Central government and local authorities shall establish joint inspection regimes to set and monitor the standards of services supplied or secured by them.

Territorial Autonomy

- 6 The geographical boundary of a local authority can be altered only by a proposal from the local authority itself or from its electorate. Local authorities must make arrangements for their electorates to put forward such proposals for consideration. Any such locally-inspired proposal for boundary changes, whether initiated directly by the authority or by the electorate of the authority, must be developed with the involvement of the Local Government Boundary Commission for England and shall be subject to approval of the electorate of the area concerned, under arrangements made by the local authority concerned and approved by the Electoral Commission.

Council Governmental Systems

- 7 (1) The electorate of each local authority, through methods agreed by the local authority concerned, shall have the power to choose that authority's internal political decision-making systems. The systems concerned shall include a directly elected mayor and cabinet, a cabinet and leader, a committee system, or any other political decision-making arrangement which the electorate may decide is appropriate.
- (2) The electorate of each local authority, through methods agreed by their local authorities, may, after a process of consultation carried out by the local authority concerned, agree to and adopt any electoral system for use in elections to that authority.

Local Government Financial Integrity

- 8 (1) Local authorities shall be financially independent of central government, save as otherwise provided for in this Code.
- (2) Central government may not place any restriction on decisions by local authorities about the exercise of their financial powers.
- (3) The distribution of central government funds between local authorities shall continue on the basis of existing equalisation arrangements. Distribution will continue to be based on the principle of ensuring fairness and balance between local authorities. The basis on which this distribution is carried out must continue to be made public.
- (4) Each local authority shall receive from central government a guaranteed share of the annual yield of income tax, as follows. Central government must in each financial year assign to the Secretary of State responsible for the distribution of central government funds between local authorities an amount of money equivalent to the yield from ten pence in the pound of income tax. The Secretary of State must make arrangements to inform each taxpayer in England of the amount of their income tax which makes up the central government funding distributed to English local authorities as a whole.
- (5) The amount of the income tax yield referred to in paragraph 8(4) shall be re-negotiated between central and local government whenever service provision responsibilities are transferred between central government and local authorities.
- (6) Local authorities may raise additional sources of income in their areas in any way they wish, and with the consent of their electorates as expressed through

Cities and Local Government Devolution Bill [Lords], continued

arrangements to be determined and put in place by the local authority concerned.

- (7) Local authorities shall be able to raise any loans, bonds or other financial instruments which their credit rating allows and as independent entities will be exclusively responsible for their repayment. All local authorities shall operate “a balanced budget” so that in any one financial year all outgoings, including interest repayments on borrowings, shall not exceed income.
- (8) Central government may not cap, or in any other way limit, local authorities’ taxation powers.
- (9) The financial transparency standards that apply to central government shall apply to local authorities.
- (10) Central government and local authorities may contract with each other in order to pursue their own policy objectives.

Local Authorities’ right to co-operate and associate

- 9 (1) Local authorities are entitled, in pursuit of any undertaking, to co-operate in any way with any other persons, including local authorities, public and private bodies, voluntary, charity or third-sector organisations, and financial, commercial or private enterprises.
- (2) Where more than one local authority is responsible for services in a geographic area, those local authorities shall co-operate so as to maximise the well-being of those living or working in that area.
- (3) Local authorities may join any association for the protection and promotion of their common interests and may belong to an international association of any sort.

Decision-making

- 10 The administration of any local referendum or other vote on proposals put forward by the electorate of any local authority, or other local decision-making processes involving a public vote, shall adhere to standards set by the Electoral Commission; and those responsible for the conduct of any such decision-making processes shall be accountable to the Electoral Commission for their performance against those standards.

Legal Protection of Local Government

- 11 Local authorities may seek a judicial remedy in order to secure the free exercise of their powers, and any other principles of local self-government or individual rights contained within this Code or otherwise enshrined in law.

Application of and Compliance with the Code: acts of public authorities

- 12 It is unlawful for a public authority to act in a way which is not in compliance with the Code.
- 13 Paragraph 12 does not apply to an act of a local authority if—
 - (a) as the result of one or more provisions of primary legislation, the authority could not have acted differently; or
 - (b) in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Code, the authority was acting so as to give effect to or enforce those provisions.
- 14 In this Schedule “public authority” includes central government, local authorities and any other person certain of whose functions are functions of a public nature, but does not include either House of Parliament or persons

Cities and Local Government Devolution Bill [*Lords*], *continued*

exercising functions in connection with proceedings in Parliament; and “an act” includes a failure to act.

Proceedings

- 15 (1) A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by paragraph 12 may—
- (a) bring proceedings against the authority under this Act in the appropriate court or tribunal, or
 - (b) rely on the Code in any legal proceedings.
- (2) In sub-paragraph (1)(a) “appropriate court or tribunal” means such court or tribunal as may be determined in accordance with rules; and proceedings against an authority include a counterclaim or similar proceeding.
- (3) If the proceedings are brought on an application for judicial review, the applicant must have a sufficient interest in relation to the act.
- (4) Proceedings under sub-paragraph (1)(a) must be brought before the end of—
- (a) the period of one year beginning with the date on which the act complained of took place; or
 - (b) such longer period as the court or tribunal considers equitable having regard to all the circumstances, but that is subject to any rule imposing a stricter time limit in relation to the procedure in question.
- (5) In sub-paragraph (1)(b) “legal proceedings” includes—
- (a) proceedings brought by or at the instigation of a public authority; and
 - (b) an appeal against the decision of a court or tribunal.
- (6) Nothing in this Act creates a criminal offence.
- (7) In this paragraph “person” includes a local authority.

Judicial remedies

- 16 (1) In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.
- (2) But damages may be awarded only by a court which has power to award damages, or to order the payment of compensation, in civil proceedings.
- (3) No award of damages is to be made unless, taking account of all the circumstances of the case, including—
- (a) any other relief or remedy granted, or order made, in relation to the act in question (by that or any other court), and
 - (b) the consequences of any decision (of that or any other court) in respect of that act, the court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made.
- (4) In this paragraph—
- “court” includes a tribunal;
 - “damages” means damages for an unlawful act of a public authority; and
 - “unlawful” means unlawful under paragraph 15.

Amendment of the Code

- 17 (1) The Secretary of State may by order make such amendments to the Code as the Secretary of State considers appropriate.
- (2) Before making an order under sub-paragraph (1), the Secretary of State must consult—
- (a) such local authorities,

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (b) such representatives of local government, and
 - (c) such other persons (if any),
- as the Secretary of State considers appropriate.
- (3) Any orders for amendments made by the Secretary of State are subject to the procedures set out in paragraphs 17 to 19 of this Schedule.

Limits on power of Secretary of State to amend the Code

- 18 (1) The Secretary of State may not make provision under paragraph 16(1) unless the Secretary of State considers that the conditions in sub-paragraph (2) are satisfied in relation to that provision.
- (2) Those conditions are that—
- (a) the provision does not reduce the powers or discretion of local authorities unless the Secretary of State objectively considers that the effect of the provision is proportionate to the policy objective intended to be secured by the provision;
 - (b) the provision does not remove any necessary protection for local government or breach the obligations arising under the European Charter of Local Self-Government; and
 - (c) an order under paragraph 16(1) may not make provision to abolish or vary any tax.

Procedure for orders under paragraph 1

- 19 (1) If, as a result of any consultation required by paragraph 16(2), it appears to the Secretary of State that it is appropriate to change all or any part of the Secretary of State's proposals, the Secretary of State must undertake such further consultation with respect to the changes as the Secretary of State considers appropriate.
- (2) If, after the conclusion of the consultation required by paragraph 16(2), the Secretary of State considers it appropriate to proceed with the making of an order under paragraph 16(1), the Secretary of State must lay before Parliament—
- (a) a draft of the order, and
 - (b) an explanatory document explaining the proposals and giving details of—
 - (i) the Secretary of State's reasons for considering that the conditions in paragraph 17(2) are satisfied in relation to the proposals,
 - (ii) any consultation undertaken under paragraph 16(2),
 - (iii) any representations received as a result of the consultation, and
 - (iv) any changes made as a result of those representations.

Super-affirmative resolution procedure

- 20 (1) A super-affirmative resolution procedure shall apply in relation to the making of an order pursuant to a draft order, as follows.
- (2) The Minister must have regard to—
- (a) any representations,
 - (b) any resolution of either House of Parliament, and
 - (c) any recommendations of a committee of either House of Parliament charged with reporting on the draft order, made during the 60-day period with regard to the draft order.

Cities and Local Government Devolution Bill [Lords], *continued*

- (3) If, after the expiry of the 60-day period, the Minister wishes to make an order in the terms of the draft, he must lay before Parliament a statement—
 - (a) stating whether any representations were made under sub-paragraph (2)(a), and
 - (b) if any representations were so made, giving details of them.
 - (4) The Minister may, after the laying of such a statement, make an order in the terms of the draft if it is approved by a resolution of each House of Parliament.
 - (5) However, a committee of either House charged with reporting on the draft order may, at any time after the laying of a statement under sub-paragraph (3) and before the draft order is approved by that House under sub-paragraph (4), recommend under this subsection that no further proceedings be taken in relation to the draft order.
 - (6) Where a recommendation is made by a committee of either House under sub-paragraph (5) in relation to a draft order, no proceedings may be taken in relation to the draft order in that House under sub-paragraph (4) unless the recommendation is, in the same Session, rejected by resolution of that House.
 - (7) If, after the expiry of the 60-day period, the Minister wishes to make an order consisting of a revised version of the draft order, the Minister must lay before Parliament—
 - (a) a revised draft order; and
 - (b) a statement giving details of—
 - (i) any representations made under sub-paragraph (2)(a); and
 - (ii) the revisions proposed.
 - (8) The Minister may, after laying a revised draft order and statement under sub-paragraph (7), make an order in the terms of the revised draft if it is approved by a resolution of each House of Parliament.
 - (9) However, a committee of either House charged with reporting on the revised draft order may, at any time after the revised draft order is laid under sub-paragraph (7) and before it is approved by that House under sub-paragraph (8), recommend under this subsection that no further proceedings be taken in relation to the revised draft order.
 - (10) Where a recommendation is made by a committee of either House under sub-paragraph (9) in relation to a revised draft order, no proceedings may, be taken in relation to the revised draft order in that House under sub-paragraph (8) unless the recommendation is, in the same Session, rejected by resolution of that House.
 - (11) For the purposes of sub-paragraphs (4) and (8) an order is made in the terms of a draft order if it contains no material changes to the provisions of the draft order.
 - (12) In this schedule the “60-day period” means the period of 60 days beginning with the day on which the draft order was laid before Parliament under sub-paragraph(4).
 - (13) In calculating any period of days for the purposes of this section, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.
- 21 A resolution of either House is valid for the purposes of this schedule if, and only if, the motion for the resolution—
 - (a) is agreed without a division; or
 - (b) is passed on a division in which the number of members who vote in favour of the motion is a number equal to or greater than two-thirds of the number of seats in the House (including vacant seats).

Cities and Local Government Devolution Bill [*Lords*], *continued*
Interpretation of Legislation

- 22 (1) So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Code.
- (2) This paragraph—
- (a) applies to primary legislation and subordinate legislation whenever enacted;
 - (b) does not affect the validity, continuing operation or enforcement of any incompatible primary legislation; and
 - (c) does not affect the validity, continuing operation or enforcement of any incompatible subordinate legislation if (disregarding any possibility of revocation) primary legislation prevents removal of the incompatibility.

Declaration of Incompatibility

- 23 (1) Sub-paragraph (2) applies in any proceedings in which a court determines whether a provision of primary legislation is compatible with the Code.
- (2) If the court is satisfied that the provision is incompatible with the Code, it may make a declaration of that incompatibility.
- (3) Sub-paragraph (4) applies in any proceedings in which a court determines whether a provision of subordinate legislation, made in the exercise of a power conferred by primary legislation, is compatible with a provision of the Code.
- (4) If the court is satisfied—
- (a) that the provision is incompatible with the Code, and
 - (b) that (disregarding any possibility of revocation) the primary legislation concerned prevents removal of the incompatibility, it may make a declaration of that incompatibility.
- (5) In this paragraph “court” means the Supreme Court; the Court of Appeal; and the High Court.
- (6) A declaration under this paragraph (“a declaration of incompatibility”)—
- (a) does not affect the validity, continuing operation or enforcement of the provision in respect of which it is given; and
 - (b) is not binding on the parties to the proceedings in which it is made.

Power to take remedial action

- 24 (1) This paragraph applies if—
- (a) a provision of legislation has been declared under paragraph 22 to be incompatible with the Code and, if an appeal lies—
 - (i) all persons who may appeal have stated in writing that they do not intend to do so;
 - (ii) the time for bringing an appeal has expired and no appeal has been brought within that time; or
 - (iii) an appeal brought within that time has been determined or abandoned; or
 - (b) it appears to the Secretary of State that, having regard to any finding of his under section 5(1) of the Localism Act 2011, a provision of legislation is incompatible with the Code.
- (2) If a Minister of the Crown considers that there are compelling reasons for proceeding under this section, he may by order make such amendments to the legislation as he considers necessary to remove the incompatibility.

Cities and Local Government Devolution Bill [Lords], continued

- (3) If, in the case of subordinate legislation, a Minister of the Crown considers that—
- (a) it is necessary to amend the primary legislation under which the subordinate legislation in question was made, in order to enable the incompatibility to be removed, and
 - (b) there are compelling reasons for proceeding under this paragraph, he may by means of a remedial order make such amendments to the primary legislation as he considers necessary.
- (4) This paragraph also applies where the provision in question is in subordinate legislation and has been quashed, or declared invalid, by reason of incompatibility with the Code and the Minister proposes to proceed under paragraph 25(b).
- (5) If the legislation is an Order in Council, the power conferred by sub-paragraph (2) or (3) is exercisable by Her Majesty in Council.

Remedial Orders

- 25 (1) A remedial order may—
- (a) contain such incidental, supplemental, consequential or transitional provision as the person making it considers appropriate;
 - (b) be made so as to have effect from a date earlier than that on which it is made;
 - (c) make provision for the delegation of specific functions;
 - (d) make different provision for different cases.
- (2) The power conferred by sub-paragraph (1)(a) includes—
- (a) power to amend primary legislation (including primary legislation other than that which contains the incompatible provision); and
 - (b) power to amend or revoke subordinate legislation (including subordinate legislation other than that which contains the incompatible provision).
- (3) A remedial order may be made so as to have the same extent as the legislation which it affects.
- (4) No person is to be guilty of an offence solely as a result of the retrospective effect of a remedial order.

Procedure

- 26 No remedial order may be made unless—
- (a) a draft of the order has been approved by a resolution of each House of Parliament made after the end of the period of 60 days beginning with the day on which the draft was laid; or
 - (b) it is declared in the order that it appears to the person making it that, because of the urgency of the matter, it is necessary to make the order without a draft being so approved.

Orders laid in draft

- 27 (1) No draft may be laid under paragraph 25(a) unless—
- (a) the person proposing to make the order has laid before Parliament a document which contains a draft of the proposed order and the required information; and
 - (b) the period of 60 days, beginning with the day on which the document required by this sub-paragraph was laid, has ended.

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (2) If representations have been made during that period, the draft laid under paragraph 25(a) must be accompanied by a statement containing—
- (a) a summary of the representations; and
 - (b) if, as a result of the representations, the proposed order has been changed, details of the changes.

Urgent cases

- 28 (1) If a remedial order (“the original order”) is made without being approved in draft, the person making it must lay it before Parliament, accompanied by the required information, after it is made.
- (2) If representations have been made during the period of 60 days beginning with the day on which the original order was made, the person making it must (after the end of that period) lay before Parliament a statement containing—
- (a) a summary of the representations; and
 - (b) if, as a result of the representations, he considers it appropriate to make changes to the original order, details of the changes.
- (3) If sub-paragraph (2)(b) applies, the person making the statement must—
- (a) make a further remedial order replacing the original order; and
 - (b) lay the replacement order before Parliament.
- (4) If, at the end of the period of 120 days beginning with the day on which the original order was made, a resolution has not been passed by each House approving the original or replacement order, the order ceases to have effect (but without that affecting anything previously done under either order or the power to make a fresh remedial order).

Definitions

- 29 In this Schedule—
- “representations” means representations about a remedial order (or proposed remedial order) made to the person making (or proposing to make) it and includes any relevant Parliamentary report or resolution; and
- “required information” means—
- (a) an explanation of the incompatibility which the order (or proposed order) seeks to remove, including particulars of the relevant declaration, finding or order; and
 - (b) a statement of the reasons for proceeding under paragraph (23) and for making an order in those terms.

Calculating periods

- 30 In calculating any period for the purposes of this Schedule, no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued; or
 - (b) both Houses are adjourned for more than four days.

Statements of Compatibility

- 31 (1) A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill—
- (a) make a statement to the effect that in his view the provisions of the Bill are compatible with the provisions of the Code (“a statement of compatibility”); or

Cities and Local Government Devolution Bill [*Lords*], *continued*

- (b) make a statement to the effect that although he is unable to make a statement of compatibility the government nevertheless wishes the House to proceed with the Bill.
- (2) The statement must be in writing and be published in such manner as the Minister making it considers appropriate.

Amendment to the Parliament Act 1911

- 32 In section 2(1) of the Parliament Act 1911 the words “or a Bill seeking to amend the Local Government Independence Code Act” shall be inserted after the words “maximum duration of Parliament beyond five years”.

Amendments to other Enactments

- 33 In Section 1 of the Localism Act 2011, after subsection (6) there is inserted—
- “(6A) The general power of competence includes the power to raise revenue through any method including although not limited to local taxation, levies and duties.”
- 34 Schedule 6 of the Localism Act 2011 is repealed.

Duty to review provisions in primary and subordinate legislation

- 35 (1) The Secretary of State shall, within six months of the passing of this Act, make provision by Order to provide for the review of all provisions in pre-commencement primary and subordinate legislation to assess their compatibility with the provisions of the Code.
- (2) The order must include—
- (a) provision requiring the review of the compatibility of pre-commencement legislation to be completed within a five year period, commencing with the date of passing of this Act;
 - (b) provision for incompatible pre-commencement legislation to cease to have effect no later than the end of a seven year period, commencing with the date of passing of this Act.
- (3) The provision that may be made by virtue of subsection (2)(a) includes provision requiring the person to consider whether the objectives which it was the purpose of the legislation to achieve remain appropriate and, if so, whether they could be achieved in another way.
- 36 (1) In this schedule, “pre-commencement legislation” means a provision that—
- (a) is contained in any other Act passed no later than the end of the Session in which this Act is passed, or
 - (b) is contained in an instrument made under any other Act and comes into force before the commencement of section 1 of this Act.
- (2) Subordinate legislation under paragraph (35)1 may make transitional, consequential, incidental or supplementary provision or savings in connection with such provision.”

Member’s explanatory statement

This new Schedule provides details relating to implementation of the new Clause on the Local Government Independence Code.

Cities and Local Government Devolution Bill [Lords], continued

Secretary Greg Clark

16

Clause 22, page 19, line 8, after “of” insert “, or made under,”

Member’s explanatory statement

This amendment provides that the power to make regulations under clause 22 of the Bill includes a power to make provision that is consequential on instruments made under the Bill.

Secretary Greg Clark

26

Schedule 4, page 34, line 22, at end insert—

“Local Government Act 1972

A1 The Local Government Act 1972 is amended as follows.

A2 In section 100E (application of Part 5A to committees and sub-committees), in subsection (3) after paragraph (b) insert—

“(bba) a committee in place by virtue of section 107D(3)(c)(ii) of the Local Democracy, Economic Development and Construction Act 2009;

(bbb) a joint committee in place by virtue of section 107DA of that Act.”

A3 In section 101 (arrangements for discharge of functions by local authorities)—

(a) after subsection (1C) insert—

“(1D) A combined authority may not arrange for the discharge of any functions under subsection (1) if, or to the extent that, the function is a mayoral function of a mayor for the area of the authority.

(1E) “Mayoral function” has the meaning given by section 107F(7) of the Local Democracy, Economic Development and Construction Act 2009.”;

(b) after subsection (5B) insert—

“(5C) Arrangements under subsection (5) by two or more local authorities with respect to the discharge of any of their functions cease to have effect with respect to that function if, or to the extent that, the function becomes a general function of a mayor for the area of a combined authority.

(5D) Subsection (5C) does not prevent arrangements under subsection (5) being entered into in respect of that function by virtue of section 107DA of the Local Democracy, Economic Development and Construction Act 2009 (joint exercise of general functions).

(5E) In subsection (5C), “general functions” has the meaning given in section 107D(2) of that Act.”

Member’s explanatory statement

This amendment provides for the cessation of existing joint committee arrangements where a combined authority function becomes a mayoral function in the combined authority, and for a committee established by section 107D(3)(c)(ii) or 107DA of the Local Democracy, Economic

Cities and Local Government Devolution Bill [Lords], continued

Development and Construction Act 2009 to be treated as a committee of a principal council for the purposes of Part 5A of the Local Government Act 1972.

Secretary Greg Clark

62

Schedule 4, page 34, line 22, at end insert—

“Local Government Act 1972

- A1 The Local Government Act 1972 is amended as follows.
- A2 In section 100J (application of Part 5A to new authorities etc)—
- (a) in subsection (1) after paragraph (be) insert—
 - “(bf) a sub-national transport body;”;
 - (b) in subsection (3), after “(be),” insert “(bf),”;
 - (c) in subsection (4), in paragraph (a) after “joint authority,” insert “a sub-national transport body,”.
- A3 In section 101 (arrangements for discharge of functions by local authorities), in subsection (13) after “combined authority,” insert “a sub-national transport body,”.
- A4 In section 270 (general provisions as to interpretation), in subsection (1) after the definition of “specified papers” insert—
- ““sub-national transport body” means a sub-national transport body established under section 102E of the Local Transport Act 2008;”.

Local Government Act 1985

- A5 The Local Government Act 1985 is amended as follows.
- A6 In section 72 (accounts and audit), for subsection (5) substitute—
- “(5) Any reference in this section to a new authority includes a reference to—
 - (a) the London Fire and Emergency Planning Authority;
 - (b) a sub-national transport body established under section 102E of the Local Transport Act 2008;
 - (c) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.”
- A7 In section 73 (financial administration), in subsection (2) after “reference to” insert “—
- (a) a sub-national transport body established under section 102E of the Local Transport Act 2008;
 - (b) ”.”

Member’s explanatory statement

This amendment makes consequential amendments regarding Sub-national Transport Bodies to make provision about the admission to the meetings of these bodies; to allow them to make arrangements for the discharge of their functions; and to impose a requirement to keep a general fund and to appoint a chief finance officer.

Cities and Local Government Devolution Bill [*Lords*], *continued*

Secretary Greg Clark

63

Schedule 4, page 34, line 31, at end insert—

Local Government and Housing Act 1989

- 1A (1) The Local Government and Housing Act 1989 is amended as follows.
- (2) In section 4 (designation and reports of head of paid service), in subsection (6)(a) for “, (ja) and (jb)” substitute “and (ja) to (jc)”.
- (3) In section 13 (voting rights of members of certain committees: England and Wales), in the definition of “relevant authority” in subsection (9), for “(jb)” substitute “(jc)”.
- (4) In section 20 (duty to adopt certain procedural standing orders), in subsection (4)(a) for “(jb)” substitute “(jc)”.
- (5) In section 21 (interpretation of Part 1 of Act), in subsection (1) after paragraph (jb) insert—
- “(jc) a sub-national transport body established under section 102E of the Local Transport Act 2008;”.

Railways Act 1993

- 1B (1) Section 24A of the Railways Act 1993 (Secretary of State franchise exemptions: operator agreements) is amended as follows.
- (2) In subsection (4)—
- (a) in paragraph (a), after sub-paragraph (i) insert—
- “(ia) an STB;”;
- (b) in paragraph (b), after “Executive” insert “, an STB;”;
- (c) in paragraph (c)(i), after “Executive” insert “, STB;”;
- (d) in paragraph (c)(ii), after “Executive” insert “, STB”.
- (3) In subsection (5)—
- (a) in paragraph (a) of the definition of “relevant company”, after “Executive” insert “, an STB;”;
- (b) in paragraph (b) of that definition, after “Executive” insert “, an STB;”;
- (c) after that definition insert—
- ““STB” means a sub-national transport body established under section 102E of the Local Transport Act 2008.”

Local Government Act 1999

- 1C In section 1 of the Local Government Act 1999 (best value authorities), in subsection (1) after paragraph (hb) insert—
- “(hc) a sub-national transport body established under section 102E of the Local Transport Act 2008;”.

Freedom of Information Act 2000

- 1D In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part 2 (local government: England and Wales), after paragraph 28 insert—
- “28A A sub-national transport body established under section 102E of the Local Transport Act 2008.”

Member’s explanatory statement

This amendment makes consequential amendments regarding Sub-national Transport Bodies so that the requirement to designate a head of paid service and a monitoring officer, and in relation

Cities and Local Government Devolution Bill [Lords], continued

to political balance of committees, will apply to these bodies; to make provision in connection with railway asset protection etc; and to provide for these bodies to be best value authorities and to be subject to the FOI regime.

Secretary Greg Clark

30

Schedule 4, page 34, line 35, leave out “In section 91 (exercise of local authority functions),” and insert “(1) Section 91 (exercise of local authority functions) is amended as follows.

(2) ”

Member’s explanatory statement

This makes a technical drafting amendment to the provision in paragraph 3 of Schedule 4 to the Bill which amends section 91 of the Local Democracy, Economic Development and Construction Act 2009.

Secretary Greg Clark

31

Schedule 4, page 34, line 36, at end insert—

“() In subsection (4)—

(a) omit “or” at the end of paragraph (a);

(b) after paragraph (b) insert—

“(c) for the function to be exercisable by the EPB and the local authority jointly, or

(d) for the function to be exercisable by the EPB jointly with the local authority but also continue to be exercisable by the local authority alone.”

Member’s explanatory statement

This amends paragraph 3 of Schedule 4 to the Bill to add new provision in subsection (4) of section 91 of the Local Democracy, Economic Development and Construction Act 2009. The amendments enable an order under Part 6 of the 2009 Act conferring local authority functions on a combined authority to require that both authorities exercise the functions concerned jointly.

Secretary Greg Clark

27

Schedule 4, page 35, line 43, at end insert—

“() After subsection (1) insert—

“(1A) In relation to an order under Schedule 5B, subsection (1) has effect as if the reference to the Secretary of State were a reference to the Secretary of State or the Chancellor of the Duchy of Lancaster.”

Member’s explanatory statement

This amendment provides for an order made by the Chancellor of the Duchy of Lancaster under Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 to be able to make incidental, consequential, transitional or supplementary provision in support of such an order.

Cities and Local Government Devolution Bill [Lords], continued

Secretary Greg Clark

28

Schedule 4, page 36, line 2, at end insert—

“10A In section 116 (consequential amendments), after subsection (1) insert—

“(1A) In relation to an order under Schedule 5B, subsection (1) has effect as if the references to the Secretary of State were references to the Secretary of State or the Chancellor of the Duchy of Lancaster.”

Member’s explanatory statement

This amendment provides that the Chancellor of the Duchy of Lancaster can, in consequence of an order made under Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, make provision in consequence of any provision made.

Secretary Greg Clark

64

Schedule 4, page 36, line 27, at end insert—

“Equality Act 2010

12A In Schedule 19 to the Equality Act 2010 (public authorities), in Part 1 (general), after the entry “A joint authority established under Part 4 of that Act for an area in England (including, by virtue of section 77(9) of the Local Transport Act 2008, an Integrated Transport Authority established under Part 5 of that Act of 2008)” insert—

“A sub-national transport body established under section 102E of the Local Transport Act 2008.””

Member’s explanatory statement

This amendment makes a consequential amendment regarding Sub-national Transport Bodies so that these bodies will be subject to the public sector equality duty.

Secretary Greg Clark

65

Schedule 4, page 37, line 8, at end insert—

“Local Audit and Accountability Act 2014

18 (1) The Local Audit and Accountability Act 2014 is amended as follows.

(2) In section 40 (access to local government meetings and documents), in subsection (6) after paragraph (j) insert—

“(ja) a sub-national transport body.”.

(3) In section 44 (interpretation of Act), in subsection (1) after the definition of “special trustees for a hospital” insert—

““sub-national transport body” means a sub-national transport body established under section 102E of the Local Transport Act 2008.”.

(4) In Schedule 2 (relevant authorities), after paragraph 28 insert—

“28A A sub-national transport body.””

Member’s explanatory statement

This amendment makes a consequential amendment regarding Sub-national Transport Bodies so that the transparency requirements for accounting and auditing and access to meetings and documents will be applied to these bodies.

Cities and Local Government Devolution Bill [*Lords*], *continued*

Secretary Greg Clark

17

Clause 25, page 20, line 3, leave out subsection (2)

Member's explanatory statement*This amendment removes the privilege amendment inserted by the Lords.*

Secretary Greg Clark

66

Title, line 5, after “functions;” insert “to confer power to establish, and to make provision about, sub-national transport bodies;”

Member's explanatory statement*This amendment makes consequential amendments to the long title of the Bill to incorporate a reference to establish and make provision regarding Sub-national Transport Bodies.*

ORDER OF THE HOUSE [14 OCTOBER 2015]
That the following provisions shall apply to the Cities and Local Government Devolution Bill [*Lords*]:*Committal*

1. The Bill shall be committed to a Committee of the Whole House.

Proceedings in Committee

2. Proceedings in Committee of the Whole House shall be completed in two days.
3. The proceedings shall be taken on the days shown in the first column of the Table and in the order so shown.
4. The proceedings shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

TABLE*Proceedings**Time for conclusion of proceedings**First day*

Clauses 1 and 2; new Clauses and new Schedules relating to the subject matter of Clauses 1 and 2; Clause 3; Schedule 1; Clause 4; new Clauses and new Schedules relating to the subject matter of Clauses 3 and 4;

Two and a half hours after commencement of proceedings on the Bill

Clause 5; Schedule 2; Clauses 6 to 8; Clauses 17 to 19; Clause 9; Schedule 3; Clauses 10 to 16; new Clauses and new Schedules relating to the subject matter of Clauses 5 to 19;

The moment of interruption on the first day

Cities and Local Government Devolution Bill [*Lords*], *continued*

Proceedings *Time for conclusion of proceedings*

First day

Second day

Clauses 20 and 21; new Clauses and new Schedules relating to the subject matter of Clauses 20 and 21;	Two and a half hours after commencement of proceedings on the Bill.
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Remaining new Clauses; remaining new Schedules; Clause 22; Schedule 4; Clauses 23 to 25; remaining proceedings on the Bill	The moment of interruption on the second day
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Consideration and Third Reading

5. Any proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
6. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

Programming committee

7. Standing Order No. 83B (Programming committees) shall not apply to proceedings in Committee of the whole House, to any proceedings on Consideration or to proceedings on Third Reading.

Other proceedings

8. Any other proceedings on the Bill (including any proceedings on consideration of any message from the Lords) may be programmed.

NOTICES WITHDRAWN

The following Notices were withdrawn on 19 October:

NC26
