



House of Commons

Wednesday 21 October 2015

COMMITTEE OF THE WHOLE HOUSE

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: NC30

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This document includes all remaining amendments and includes any withdrawn amendments at the end.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 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;

Secretary Greg Clark

29

Clause 1, page 1, line 14, leave out “under section 2”

Member’s explanatory statement

This amendment would be consequential on leaving out clause 2.

Secretary Greg Clark

3

Page 2, line 1, leave out Clause 2

Member’s explanatory statement

This removes the obligation for a Minister introducing a Bill in either House of Parliament to make and publish a written devolution statement before that Bill’s Second Reading.

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

Mr Graham Allen

NC1

To move the following Clause—

“Competences of local government

- (1) The Secretary of State must, after consultation with representatives from local government, publish a list of competences of local government.
- (2) After the list has been published, the Secretary of State may not publish any amended list of competences of local government without first obtaining approval of the revised list consent from—
 - (a) the House of Commons, with two-thirds of its membership voting in favour of the amended list, and
 - (b) the Local Government Association.”

Member’s explanatory statement

This new clause would define the independence of local government, and entrench it beyond easy repeal.

Mr Graham Allen

NC13

To move the following Clause—

“Double Devolution statements

- (1) A Minister of the Crown who has introduced a Bill in either House of Parliament having the effect of devolving functions or powers of the United Kingdom Parliament or the Secretary of State to a combined authority must, before the second reading of the Bill, make a double devolution statement on the arrangements for further devolving those functions or powers to the most appropriate local level except where those powers can more effectively be exercised by central government or by a combined authority.
- (2) The statement must be in writing and be published in such a manner as the Minister making it considers appropriate.”

Member’s explanatory statement

The intention of this new Clause is to make clear what double devolution to smaller councils and neighbourhoods will occur in the wake of big city deals being agreed by combined authorities when giving powers to cities and/or combined authorities.

Mr Graham Allen

NC18

To move the following Clause—

“Independent Review, Support and Governance

- (1) It shall be the duty of the Secretary of State to lay before each House of Parliament each year a report about devolution within England and Wales pursuant to the provisions of this Act (an “annual report”).
- (2) An annual report shall be laid before each House of Parliament as soon as practicable after 31 March each year.

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

- (3) The Secretary of State may by order make provision for an Independent Commission or Advisory Board to undertake a review, challenge and advisory role in relation to:
- (a) reviewing orders and procedure arising from the Secretary of State's decisions; and
 - (b) requests for orders received from combined or single local authorities."

Member's explanatory statement

This new clause would ensure the Secretary of State has the necessary power to create an Independent Commission or Advisory Board to scrutinise the work of the Secretary of State relating to devolution, Annual Devolution Report and handle requests from local government about the decisions made by the Secretary of State.

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

NC22

To move the following Clause—

“Devolution in London

- (1) Within six months of the passing of this Act, the Secretary of State must publish a report on a greater devolution of powers in London, including on whether to make provision for the Secretary of State to—
- (a) transfer a public authority function to a joint committee of London councils, and
 - (b) establish a joint board between London boroughs and the Mayor of London to support further devolution in London, and
 - (c) devolve responsibility on fiscal powers, including but not limited to, setting and revaluating local tax rates, banding and discounts.”

Member's explanatory statement

This new Clause makes it a requirement for the Secretary of State to report on further devolution options for London, including fiscal devolution (e.g. council tax revaluation, etc) which has been called for by the Greater London Assembly and the Mayor of London.

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

NC23

To move the following Clause—

“Fair funding settlement: report

Within six months of the passing of this Act, the Secretary of State must publish a report on the impact on the functions of combined authorities of the fairness of

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

the distribution of funding from central government to local authorities, particularly with regard to levels of deprivation.”

Member’s explanatory statement

This new Clause would require a report linking the impact of devolution with the level of funding.

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

NC25

To move the following Clause—

“Public authority functions

Within one month of the passing of this Act, the Secretary of State must publish a list of public authority functions which may be the subject of a transfer of functions under the provision of this Act.”

Member’s explanatory statement

This new Clause would require the Government to be more specific about the functions which it intends to developed to mayors, combined authorities and other local authorities.

Secretary Greg Clark

4

Clause 3, page 2, line 18, leave out subsection (2)

Member’s explanatory statement

This amendment removes the prohibition against an order providing for there to be a mayor for the area of a combined authority as a condition for agreeing to transfer the functions of local authorities or other public bodies to that combined authority.

William Wragg
Philip Davies
Mr David Nuttall
Adam Holloway
Jeremy Lefroy
Dr Julian Lewis

Mr Graham Brady
Chris Green
Mr Charles Walker
Mr Philip Hollobone

Chris Davies
Mr Christopher Chope
Mr Peter Bone

Sir Edward Leigh
Craig Mackinlay
Mr Steve Baker

51

Clause 3, page 2, line 19, at end insert—

“(2A) An order under subsection (1) may not be made unless the proposition that the combined authority have a mayor is approved by a referendum of the electorate in that combined authority.”

Member’s explanatory statement

The intention of this amendment is that elected mayors will be introduced only if that proposal has been endorsed, in a referendum, by 50% of the population.

Cities and Local Government Devolution Bill [Lords], continued

Mr Graham Brady
 William Wragg
 Mr David Nuttall
 Sir Edward Leigh
 Mr Philip Hollobone
 Mr Christopher Chope

Andrew Percy

43

Clause 3, page 2, line 31, leave out subsection (8) and insert—

“(8) An order under this section providing for there to be a mayor for the area of a combined authority may be revoked or amended by making a further order under this section; this does not prevent the making of an order under section 107 abolishing the authority (together with the office of mayor) or providing for a constituent part of the combined authority to leave the combined authority and to resume its existence as a separate local authority.

(8A) An order under this section providing for a constituent part of the combined authority to leave the combined authority and to resume its existence as a separate local authority must make fair provision for a reasonable and proportionate division of resources between the former combined authority and the seceding local authority.”

Member’s explanatory statement

The intention of this amendment is that a constituent part of a combined authority can leave a combined authority without the combined authority being dissolved, with provision for “fair terms” for the leaving part (i.e. their resource is calculated on a per capita basis, or similar.)

Mr Jacob Rees-Mogg

46

Clause 3, page 2, line 38, at end insert—

“(10) This section does not apply to the County of Somerset, as defined by the Lieutenancies Act 1997.”

Nigel Mills

39

Clause 3, page 3, line 2, at end insert—

“(1A) For an area of a Combined Authority where for any part of that area there exists both a County Council and District Council, no order may be made under section 107A unless either the Secretary of State or the existing combined authority has carried out a consultation with local government electors on replacing the existing County Council and District Councils with one or more unitary authorities.”

Mr Graham Brady
 William Wragg
 Mr David Nuttall
 Sir Edward Leigh
 Mr Christopher Chope
 Mr Philip Hollobone

44

Clause 3, page 3, line 14, at end insert—

“(4A) A constituent council may withdraw consent after the creation of a combined authority and a mayor for that authority.

(4B) Where one or more constituent councils have withdrawn their consent under subsection (4A), the Secretary of State must make an order either:

(a) abolishing the combined authority and the office of mayor, or

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

- (b) reconstituting the combined authority without the non-consenting council or councils concerned”.

Member’s explanatory statement

The intention of this amendment is that a constituent council may withdraw its consent to the creation of a combined authority, in which case the Secretary of State must either abolish the authority and mayor or re-constitute the authority without any non-consenting council.

Mr Graham Allen

53

Clause 3, page 3, line 27, at end insert—

- “(2A) The Secretary of State may make an order under section 107A in relation to a combined authority’s area if a proposal for other appropriate governance and accountability structures for the authority’s area has been made to the Secretary of State by the constituent authorities.
- (2B) The Secretary of State may set out accountability and governance tests in respect of other appropriate governance structures.
- (2C) Orders may allow for a mayor or other appropriate governance structure to enter into collaborative working arrangements with more than one combined authority, or local partnership board covering for example rural areas.”

Member’s explanatory statement

This amendment would allow for a Mayor to work with more than one Combined Authority, or partnership board covering, for example, rural areas.

Secretary Greg Clark

18

Schedule 1, page 21, line 29, after “State” insert “or the Chancellor of the Duchy of Lancaster”

Member’s explanatory statement

This provides for the order making power in paragraph 3 of new Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 to be exercised concurrently with the Chancellor of the Duchy of Lancaster.

Secretary Greg Clark

19

Schedule 1, page 25, line 28, after “State” insert “or the Chancellor of the Duchy of Lancaster”

Member’s explanatory statement

This amendment provides for the order making power in paragraph 12 of new Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 to be exercised concurrently with the Chancellor of the Duchy of Lancaster.

Secretary Greg Clark

20

Schedule 1, page 26, line 12, after “State” insert “or the Chancellor of the Duchy of Lancaster”

Member’s explanatory statement

This amendment provides that before making an order under paragraph 12 of new Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 the Chancellor of the Duchy of Lancaster must consult the Electoral Commission.

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

Secretary Greg Clark

21

Schedule 1, page 26, line 13, after “State” insert “or the Chancellor of the Duchy of Lancaster”

Member’s explanatory statement

This amendment provides that the Chancellor of the Duchy of Lancaster can only make an order limiting the expenses that can be incurred during an election for the return of a mayor, on the recommendation of the Electoral Commission.

Secretary Greg Clark

22

Schedule 1, page 26, line 17, after “State” insert “or the Chancellor of the Duchy of Lancaster”

Member’s explanatory statement

This amendment is consequential on amendment 20.

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris
Kate Green

57

Clause 4, page 3, line 33, at end insert—

“(1A) Where the mayor for the area of a combined authority appoints a deputy, regard to gender balance must be given”

Member’s explanatory statement

This amendment is intended to make sure that gender balance is taken into account in mayor/ deputy teams

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

NC21

To move the following Clause—

“Consultation with local community

The Secretary of State must make an order to determine the consultation processes which will be used with the local community.”

Member’s explanatory statement

This amendment is intended to ensure that mayors are provided only where the local resident population has been properly consulted.

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

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;

Mr Graham Brady
William Wragg
Mr David Nuttall
Sir Edward Leigh
Mr Christopher Chope
Andrew Percy

Mr Philip Hollobone

45

Clause 5, page 4, line 18, at end add “provided that in each exercise of that function the mayor has the consent of each constituent part of a combined authority.”

Member’s explanatory statement

The intention of this amendment is that any constituent part of a combined authority may veto any decision made by a major of a combined authority.

Mr Graham Brady
William Wragg
Mr David Nuttall
Sir Edward Leigh
Mr Christopher Chope
Mr Philip Hollobone

40

Clause 5, page 4, line 18, at end insert—

“(1A) An order under subsection (1) may only be made with the consent of the relevant combined authority; and that consent must be obtained prior to the creation of the office of mayor in the combined authority concerned”.

Member’s explanatory statement

The intention of this amendment is that a function of a mayoral authority may only be transferred to the mayor with the consent of the relevant combined authority, which must be obtained prior to the creation of the relevant office of mayor.

Secretary Greg Clark

5

Clause 5, page 4, line 26, at end insert “, or

(c) so far as authorised by an order made by the Secretary of State—

- (i) for a person appointed as the deputy PCC mayor by virtue of an order under paragraph 3(1) of Schedule 2, or
- (ii) for a committee of the combined authority, consisting of members appointed by the mayor (whether or not members of the authority),

to exercise any such function.

() An order under subsection (3)(c)(ii) may include provision—

- (a) about the membership of the committee;
- (b) about the member of the committee who is to be its chair;
- (c) about the appointment of members;
- (d) about the voting powers of members (including provision for different weight to be given to the vote of different descriptions of member);
- (e) about information held by the combined authority that must, or must not, be disclosed to the committee for purposes connected to the exercise of the committee’s functions;

Cities and Local Government Devolution Bill [Lords], continued

- (f) applying (with or without modifications) sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (political balance on local authority committees etc).”

Member’s explanatory statement

This amendment makes provision for a mayor to arrange for the person appointed as the deputy PCC mayor or a committee of the combined authority to exercise a general function which is exercisable by the mayor, if authorised to do so by an order made by the Secretary of State.

Secretary Greg Clark

6

Clause 5, page 4, line 39, leave out paragraph (b) and insert—

- “(b) in accordance with arrangements made by virtue of this section or section 107DA.”

Member’s explanatory statement

This amendment provides for a general function exercisable by the mayor for the area of a combined authority to be taken to be a function exercisable by a committee or by the deputy PCC mayor, where arrangements have been made under provision inserted by amendment 5 or new section 107DA, inserted by amendment 8.

Secretary Greg Clark

7

Clause 5, page 5, line 3, at end insert—

- “() provide that functions that the mayoral combined authority discharges in accordance with arrangements under section 101(1)(b) of the Local Government Act 1972 (discharge of local authority functions by another authority) are to be treated as general functions exercisable by the mayor (so far as authorised by the arrangements).”

Member’s explanatory statement

This amendment enables the Secretary of State to provide by order that functions of a mayoral combined authority discharged in accordance with arrangements under section 101(1)(b) of the Local Government Act 1972 are to be treated as general functions exercisable by the mayor of the authority.

Mr Clive Betts

60

☆ Clause 5, page 5, leave out lines 9 and 10

Member’s explanatory statement

As it stands the bill removes the right of the Secretary of State to give borrowing powers to an elected mayor but allows for borrowing powers to be given to a combined authority. The amendment will allow borrowing powers to be given to an elected mayor.

Secretary Greg Clark

8

Clause 5, page 5, line 16, at end insert—

“107DA Joint exercise of general functions

- (1) The Secretary of State may by order make provision for, or in connection with, permitting arrangements under section 101(5) of the Local Government Act 1972 to be entered into in relation to general functions of a mayor for the area of a combined authority.
- (2) Provision under subsection (1) may include provision—
 - (a) for the mayor for the area of a combined authority to be a party to the arrangements in place of, or jointly with, the authority;

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

- (b) about the membership of any joint committee;
 - (c) about the member of the joint committee who is to be its chair;
 - (d) about the appointment of members to a joint committee;
 - (e) about the voting powers of members of a joint committee (including provision for different weight to be given to the vote of different descriptions of member).
- (3) Provision under subsection (2)(b) to (d) may include provision for the mayor or other persons—
- (a) to determine the number of members;
 - (b) to have the power to appoint members (whether or not members of the combined authority or a local authority that is a party to the arrangements).
- (4) Provision under subsection (2)(c) may include provision as to the circumstances in which appointments to a joint committee need not be made in accordance with sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (political balance on local authority committees etc).
- (5) In this section references to a joint committee are to a joint committee falling within section 101(5)(a) of the Local Government Act 1972 that is authorised to discharge, by virtue of an order under this section, general functions of a mayor for the area of a combined authority.”

Member’s explanatory statement

This amendment enables the Secretary of State to make provision by order enabling the combined authority to enter into arrangements to discharge general functions of the mayoral combined authority jointly with one or more other local authorities or combined authorities.

Secretary Greg Clark

23

Schedule 2, page 26, line 33, leave out “police and crime commissioner functions” and insert “functions of a police and crime commissioner”

Member’s explanatory statement

This amendment makes a minor drafting change to paragraph 1(1) of new Schedule 5C to achieve consistency with the language used in new section 107E(1) as inserted by clause 5 of the Bill (to which sub-paragraph (1) cross-refers).

Secretary Greg Clark

24

Schedule 2, page 26, line 34, at end insert—

“() A duty under this Schedule to make provision by order is a duty to make such provision in an order made at any time before the first election of a mayor who, by virtue of an order under section 107E(1), is to exercise functions of a police and crime commissioner.”

Member’s explanatory statement

This amendment clarifies that an order made under new Schedule 5C can be made at any time before the relevant mayor is first elected and makes it plain that a Schedule 5C order can be made subsequently to an order under new section 107E.

Secretary Greg Clark

25

Schedule 2, page 30, line 12, at end insert—

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

“() Subsections (5) and (6) of section 107C, so far as relating to the exercise of PCC functions, are subject to any provision contained in an order under this Schedule.”

Member’s explanatory statement

This amendment ensures that an order under new Schedule 5C can make provision to prevent a person who is acting in place of a mayor with police and crime commissioner functions from carrying out particular PCC functions such as issuing or varying a police and crime plan, consistent with the current position in respect of actin PCCs.

Mr Graham Allen

56

Clause 6, page 6, line 24, at end insert “which is not restricted to a specific governance structure”

Member’s explanatory statement

This amendment will allow a council to choose any form of governance and would be defined as a local authority according to the 1992 Local Government Finance Act.

Mr Graham Brady
 William Wragg
 Mr David Nuttall
 Sir Edward Leigh
 Mr Christopher Chope
 Mr Philip Hollobone

41

Clause 8, page 8, line 20, leave out from beginning to end of line 12 on page 10 and insert—

“105A Functions of combined authorities

- (1) The Secretary of State may by order make provision for a function of the Secretary of State that is exercisable in relation to a combined authority’s area to be a function of a mayor of a combined authority;
- (2) An order under subsection (1) may not include provision about the exercise of functions currently exercised by local authorities.”

Member’s explanatory statement

The intention of this amendment is that the only powers that can be given to a mayor of a combined authority are powers currently exercised by central government.

Mr Graham Allen

54

Clause 8, page 8, line 27, at end insert—

- “(c) make provision for conferring on a combined authority, upon the request of that authority in relation to its area the full retention of business rates, business rate supplements, council tax, stamp duty land tax, annual tax on enveloped dwellings, capital gains property disposal tax, and multi-year finance settlements.”

Member’s explanatory statement

This amendment will allow local authorities to retain all of their local taxation, including Business Rates and Council Tax.

Cities and Local Government Devolution Bill [Lords], continued

Mr Graham Allen

55

Clause 8, page 8, line 27, at end insert—

“(c) make provision for conferring on a combined authority in relation to its area discretionary control of council tax discounts, business rate discounts and supplements, and other local fees, charges and subsidies in relation to other retained taxes.”

Member’s explanatory statement

This amendment will allow local authorities to control all of their local taxation discounts, including those applicable to Business Rates and Council Tax.

Secretary Greg Clark

32

Clause 8, page 9, line 15, at end insert—

“() See also section 19 of the Cities and Local Government Devolution Act 2015 (devolving health service functions) which contains further limitations.”

Member’s explanatory statement

This amendment inserts a new subsection into section 105A of the Local Democracy, Economic Development and Construction Act 2009 which alerts the reader to clause 19 of the Bill which contains limitations on the power to make an order under that section.

Mr Graham Brady

William Wragg

Mr David Nuttall

Sir Edward Leigh

Mr Philip Hollobone

42

Clause 8, page 10, line 12, at end insert—

“(2) The Secretary of State must lay before each House of Parliament at least once in each calendar year a report on the exercise by the Secretary of State of powers which have been devolved to the mayor of a combined authority.”

Member’s explanatory statement

The intention of this amendment is that the Government should publish every year publish a report that shows that it has not exercised a power that has been devolved to a combined authority mayor.

Secretary Greg Clark

33

Clause 17, page 17, line 32, at end insert—

“() See also section 19 (devolving health service functions) which contains further limitations.”

Member’s explanatory statement

This amendment inserts a new subsection into clause 17 which alerts the reader to clause 19 which contains limitations on the power to make regulations under that clause.

Mr Jacob Rees-Mogg

48

Clause 18, page 17, line 48, after “consents,” insert “and in the County of Somerset , as defined by the Lieutenancies Act 1997, approved by a referendum in the local

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

authority area”

Secretary Greg Clark

15

Clause 18, page 18, line 6, after “make” insert “incidental, supplementary, consequential,”

Member’s explanatory statement

This amendment provides that the power to make regulations under clause 17 of the Bill includes a power to make incidental, supplementary and consequential provision.

Secretary Greg Clark

34

Clause 19, page 18, leave out lines 29 to 33 and insert—

“(1) Regulations under section 17 of this Act or an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009 (transfer of public authority functions to combined authorities) (“the 2009 Act”)—

(a) must not transfer any of the Secretary of State’s core duties in relation to the health service;”

Member’s explanatory statement

This amendment confines the limitations contained in clause 19 to the exercise of the power to make regulations under clause 17 or an order under section 105A of Local Democracy, Economic Development and Construction Act 2009. Those powers concern the transfer of public authority functions to local or combined authorities. New clause 19(1)(a) prevents those powers being used to transfer any of the Secretary of State’s core duties in relation to the health service (as defined in clause 19(2) which is inserted by Amendment 38).

Secretary Greg Clark

35

Clause 19, page 18, line 34, leave out “or supervisory”

Member’s explanatory statement

This amendment removes the prohibition in clause 19(b) on the transfer of health service supervisory functions of national bodies by regulations under clause 17 or an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009.

Secretary Greg Clark

36

Clause 19, page 18, line 36, leave out from “must” to first “the” in line 37 and insert “, if transferring functions relating to the health service to a local authority or a combined authority, make provision about the standards and duties to be placed on that authority having regard to”

Member’s explanatory statement

This amendment and Amendment 37 replace the limitation in clause 19(c) with a requirement that regulations under clause 17 or an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009 which transfer functions relating to the health service to a local or combined authority must make provision about the standards and duties to be placed on that authority having regard to certain standards and obligations placed on the authority responsible for the functions being transferred.

Secretary Greg Clark

37

Clause 19, page 18, line 38, leave out from “on” to “being” in line 39 and insert

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

“the authority responsible for the functions”

Member’s explanatory statement

See the statement for Amendment 36.

Secretary Greg Clark

38

Clause 19, page 18, line 40, at end insert—

- “(2) For the purposes of subsection (1)(a), “the Secretary of State’s core duties in relation to the health service” means the duties of the Secretary of State under—
- (a) sections 1 to 1G of the National Health Service Act 2006 (“the NHS Act 2006”) (duty to promote comprehensive health service etc.),
 - (b) sections 6A to 6BB of that Act (duties regarding the reimbursement of costs of services provided in another EEA state),
 - (c) section 12E of that Act (duty as respects variation in provision of health services),
 - (d) sections 13A, 13B, 13U and 223B of that Act (duties regarding mandate to, and annual report and funding of, the NHS Commissioning Board),
 - (e) section 247C of that Act (duty to keep health service functions under review),
 - (f) section 247D of that Act (duty to publish annual report on performance of the health service in England),
 - (g) section 258 of that Act (duty regarding the availability of facilities for university clinical teaching and research), and
 - (h) sections 3 to 6 of the Health Act 2009 (duties in relation to the NHS Constitution and the Handbook to it),
- in so far as those duties would (apart from subsection (1)(a)) be transferable by regulations under section 17 or an order under section 105A of the 2009 Act.
- (3) For the purposes of subsection (1)(b)—
- (a) “health service regulatory function” means a function in relation to the health service which is a regulatory function within the meaning given by section 32 of the Legislative and Regulatory Reform Act 2006,
 - (b) the functions of the National Health Service Commissioning Board under sections 14Z16 to 14Z22 of the NHS Act 2006 (assessment of clinical commissioning groups and intervention powers) are to be treated as “health service regulatory functions” in so far as they do not fall within the definition in paragraph (a), and
 - (c) functions exercisable by a body by virtue of directions given under section 7 of the NHS Act 2006 (functions of Special Health Authorities) are not “vested in” that body.
- (4) But subsection (1)(b) does not prevent the transfer of functions of the National Health Service Commissioning Board which—
- (a) arise from arrangements under section 1H(3)(a) of the NHS Act 2006 (provision of services for the purpose of the health service), and
 - (b) relate to those providing services under those arrangements.
- (5) For the purposes of subsection (1)(c), “national service standards” means the standards contained in any of the following—
- (a) the NHS Constitution (within the meaning of Chapter 1 of Part 1 of the Health Act 2009);
 - (b) the standing rules under section 6E of the NHS Act 2006 (regulations as to the exercise of functions by the NHS Commissioning Board or clinical commissioning groups);

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

- (c) the terms as to service delivery required by regulations or directions under the NHSA 2006 for contracts or other arrangements for the provision of primary medical services, primary dental services, primary ophthalmic services or pharmaceutical services under Part 4, 5, 6 or 7 of that Act;
 - (d) the recommendations or guidance of the National Institute for Health and Care Excellence made or given pursuant to regulations under section 237 of the Health and Social Care Act 2012;
 - (e) the quality standards prepared by that Institute under section 234 of that Act;
 - (f) the guidance published under section 14Z8 of the NHSA 2006 (guidance on commissioning by the NHS Commissioning Board);
- and such standards are “placed on” a body if the body is required to have regard to or comply with them.
- (6) For the purposes of subsection (1)(c)—
 - (a) “national information obligations” means duties regarding the obtaining, retention, use or disclosure of information, and
 - (b) “national accountability obligations” means duties (for example, those to keep accounts or records, or to provide or publish reports, plans or other information) which enable the management of a body, or the way in which functions are discharged, to be examined, inspected, reviewed or studied.
 - (7) For the purposes of this section, a function is transferred by regulations under section 17 or by an order under section 105A of the 2009 Act, if—
 - (a) provision is made under subsection (1)(a) of the section in question for the function to be the function of a local authority or a combined authority, or
 - (b) provision is made under subsection (1)(b) of that section for a function corresponding to the function to be conferred on a local authority or a combined authority.
 - (8) Nothing in this section prevents the conferral on a local authority or a combined authority of duties to have regard to, or to promote or secure, the matters mentioned in sections 1 to 1F of the NHSA 2006 when exercising a function transferred to it by regulations under section 17, or by an order under section 105A of the 2009 Act.
 - (9) In this section, “the health service” has the meaning given by section 275(1) of the NHSA 2006.”

Member’s explanatory statement

This amendment adds provision to clause 19 which defines terms used in, and clarifies the scope of, the limitations contained in paragraphs (a) to (c) of the clause.

Mr Graham Allen

1

Schedule 3, page 32, line 12, after “persons” insert “including representatives of parish, neighbourhood, community and other councils in the area of the combined

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

authority”

Member’s explanatory statement

This amendment would allow local representation from parish, neighbourhood, community and other council is to attend combined authority scrutiny meetings.

Mr Graham Allen

52

Clause 10, page 11, line 3, at end insert—

“() In the Local Government Finance Act 1988, insert—

“78A(3) A local government finance report shall also specify, in respect of the financial year to which it relates:

- (a) The total financial assistance to be given to maintained schools in England under section 14 of the Education Act 2002;
- (b) The amount paid in respect of police grant to grant recipients under section 46 (2) (a) of the Police Act 1996;
- (c) The amount determined to be the “central share” of business rates under paragraph 4(a) of Schedule 7B to the Local Government Finance Act 1988

(4) A local government finance report shall:

- (a) compare the total amount of estimated income tax receipts attributable in England in respect of the financial year to which the report applies to the sum of the amounts in section 78 (3) and the amount of grant for the year specified under section 78 (3) (a).
- (b) explain whether and how the Government plans, during the five years following the financial year to which it relates, to equalise the two amounts compared.”

Member’s explanatory statement

This assigns income tax to English local government in the same way as it is now assigned to the Scottish Parliament but without the ability to vary the rate, making the line of account from taxpayer to local government more open and transparent.

Secretary Greg Clark

9

Clause 10, page 11, line 26, at end insert—

“() In section 105 of the Local Democracy, Economic Development and Construction Act 2009 (constitution and functions of combined authorities: economic development and regeneration), omit subsection (4).”

Member’s explanatory statement

This amendment removes the restriction on orders under section 105 of the Local Democracy, Economic Development and Construction Act 2009 only being able to make provision in relation to the costs of a combined authority that are reasonably attributable to the exercise of its functions relating to economic development and regeneration.

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

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

58

Clause 10, page 11, line 26, at end insert—

“(5) The Secretary of State may by order make provision for conferring powers on a combined authority to set multi-year finance settlements.”

Member’s explanatory statement

This amendment is intended to offer financial stability to city regions, allowing them long-term planning which is something not currently offered by the finance settlement or the funding of local enterprise partnership (LEPs).

Jon Trickett
Liz McInnes
Mr Steve Reed
Paula Sherriff
Grahame Morris

59

Clause 11, page 11, line 27, at end insert—

“(1) Within 12 months of the passing of this Act, the Secretary of State must publish a report on the performance of the Localism Act 2011 and a review of the general power of competence provision.”

Member’s explanatory statement

This amendment requires a review of the Localism Act and local authority innovation.

Mr Jacob Rees-Mogg

49

Clause 15, page 14, line 43, at end insert—

“(d) In the County of Somerset, as defined by the Lieutenancies Act 1997, approved by a referendum in the local authority area.”

Secretary Greg Clark

10

Clause 16, page 16, line 4, leave out from “arrangements” to end of line 6 and insert “, or electoral arrangements, in relation to local authorities under Part 1 of the Local Government and Public Involvement in Health Act 2007 or under Part 3 of the Local Democracy, Economic Development and Construction Act 2009.”

Member’s explanatory statement

This amendment clarifies that provision in regulations made under clause 16(1)(c) may include provision regarding any of the specified matters listed in Part 1 of the Local Government and Public Involvement in Health Act 2007 and Part 3 of the Local Democracy, Economic Development and Construction Act 2009.

Cities and Local Government Devolution Bill [Lords], continued

Mr Graham Allen

2

Clause 16, page 16, line 6, at end insert—

“(d) the creation of a Constitutional Convention to discuss further local authority governance, functions and related democratic issues.”

Member’s explanatory statement

This amendment creates the means by which every UK citizen can participate in a national public discussion on local devolution in the context of the wider renewal of UK democracy.

Secretary Greg Clark

11

Clause 16, page 16, line 9, at end insert—

“() Regulations under this section may in particular make provision—

- (a) about how the enactments mentioned in subsection (1) or in subsection (2) are to apply in relation to particular cases (including by disapplying the application of any such enactment to a particular case or applying it subject to any variations that are specified in the regulations);
- (b) about any of the matters listed in section 11(3) or (4) of the Local Government and Public Involvement in Health Act 2007 (including provision in relation to such matters of a kind mentioned in section 12 of that Act).

Nothing in paragraph (a) limits the power to make provision under subsection (4)(c).”

Member’s explanatory statement

This amendment provides that regulations made under clause 16(1) of the Bill may make provision about the application to particular cases of the Local Government Act 1972, Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and Local Democracy, Economic Development and Construction Act 2009.

Mr Jacob Rees-Mogg

47

Clause 16, page 16, line 11, after “apply” insert “and in the County of Somerset, as defined by the Lieutenancies Act 1997, approved by a referendum in the local authority area”

John Stevenson

50

Clause 16, page 16, line 11, at end insert—

“() In the case of two tier authorities, consent under section 16(3) may also be given where a majority of local authorities in the local authority area have indicated their support.”

Secretary Greg Clark

12

Clause 16, page 16, line 13, at end insert—

“() includes power to make different provision for different purposes;”

Member’s explanatory statement

This amendment provides that the power to make regulations under clause 16 of the Bill includes the power to make different provision for different purposes.

Secretary Greg Clark

14

Clause 16, page 16, line 14, after “make” insert “incidental, supplementary,

Cities and Local Government Devolution Bill [Lords], continued

consequential.”

Member’s explanatory statement

This amendment provides that the power to make regulations under clause 16 of the Bill includes a power to make incidental, supplementary and consequential provision.

Secretary Greg Clark

13

Clause 16, page 16, line 17, at end insert—

“() Section 15 of the Local Government and Public Involvement in Health Act 2007 (power to transfer functions, property etc as part of incidental etc provision) applies in relation to subsection (4)(b) above as it applies in relation to sections 13 and 14 of that Act.”

Member’s explanatory statement

This amendment enables incidental etc. provision under clause 16(4)(b) to include provision of a kind provided for in section 15 of the Local Government and Public Involvement in Health Act 2007 (transfer of functions, property etc).

Secretary Greg Clark

NC8

To move the following Clause—

“Amendments of the National Health Service Act 2006

Schedule (*Amendments of the National Health Service Act 2006*) contains amendments of the National Health Service Act 2006 in connection with the exercise of health service functions of combined or local authorities and the control of information about local authority social care.”

Member’s explanatory statement

This amendment inserts a clause to introduce Schedule 3A. That Schedule sets out provisions amending the National Health Service Act 2006.

Mr Graham Allen

NC2

To move the following Clause—

“Subsidiarity

That Subsidiarity as defined by the Maastricht Treaty 1992 Article 5(3) shall apply to the functions of national and local government.”

Member’s explanatory statement

This new clause would build in local government’s independence by using the principle of subsidiarity found in European law.

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

Mr Graham Allen

NC4

To move the following Clause—

“Local Government Constitutional Convention

- (1) A convention is to be held to consider and make recommendations on the constitution of local government in the United Kingdom.
- (2) The Secretary of State must make regulations to—
 - (a) appoint a day on which the convention must commence its operations,
 - (b) make fair and transparent rules about how the convention is to operate and how evidence is to be adduced,
 - (c) make further provision about the terms of reference prescribed under section (Local Government Constitutional Convention: terms of reference), and
 - (d) specify how those who are to be part of the convention are to be chosen in accordance with section (Local Government Constitutional Convention: composition).
- (3) The date appointed under subsection (2)(a) must not be later than 31 December 2016.”

Member’s explanatory statement

This new clause creates the means by which every UK citizen can engage in a national public discussion of devolution local government, governance and electoral systems and make recommendations and receive a response from government and parliament to that national debate.

Mr Graham Allen

NC5

To move the following Clause—

“Local Government Constitutional Convention: terms of reference

The convention must consider the following terms of reference—

- (a) the devolution of legislative and fiscal competence to local authorities within the United Kingdom,
- (b) the reform of the electoral system for local government,
- (c) constitutional matters relating to local government to be considered in further conventions, and
- (d) procedures to govern the consideration and implementation of any future constitutional reforms in relation to local government.”

Member’s explanatory statement

This new clause creates the means by which every UK citizen can engage in a national public discussion of devolution local government, governance and electoral systems and make recommendations and receive a response from government and parliament to that national debate.

Mr Graham Allen

NC6

To move the following Clause—

Cities and Local Government Devolution Bill [*Lords*], *continued***“Local Government Constitutional Convention: recommendations**

- (1) The Local Government Constitutional Convention must publish recommendations within the period of one year beginning with the day appointed under section (*Local Government Constitutional Convention*).
- (2) The Secretary of State must lay responses to each of the recommendations before each House of Parliament within six months beginning with the day on which the recommendations are published.”

Member’s explanatory statement

This new clause creates the means by which every UK citizen can engage in a national public discussion of devolution local government, governance and electoral systems and make recommendations and receive a response from government and parliament to that national debate.

Mr Graham Allen

NC7

To move the following Clause—

“Local Government Constitutional Convention: composition

- (1) The Local Government Constitutional Convention must be composed of representatives of the following—
 - (a) registered political parties within the United Kingdom,
 - (b) local authorities, and
 - (c) the nations and regions of the United Kingdom.
- (2) At least 50% of the members of the convention must not be employed in a role which can reasonably be considered to be political.”

Member’s explanatory statement

This new clause creates the means by which every UK citizen can engage in a national public discussion of devolution local government, governance and electoral systems and make recommendations and receive a response from government and parliament to that national debate.

Gareth Thomas

NC10

To move the following Clause—

“Housing devolution to London

In any enactment relating to housing, any power or duty of the Secretary of State applicable to any person or dwelling shall be exercisable in the Greater London area only by the Mayor of London, with the consent of the Greater London Assembly.”

Member’s explanatory statement

This new Clause provides for devolution to London of the Secretary of State’s housing powers.

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

Gareth Thomas

NC11

To move the following Clause—

“Local property taxes devolution to London

- (1) There shall be London Consolidated Fund into which shall be paid each month a sum equivalent to the previous month’s tax receipts in relation to properties in the greater London area accruing from—
 - (a) the stamp duty land tax,
 - (b) capital transfer tax,
 - (c) the annual tax on enveloped dwellings, and
 - (d) capital gains property disposal tax.
- (2) The Treasury must consult the Mayor of London and the Greater London Assembly on what band and rates should be applied in respect of the Greater London area for the next financial year in respect of each of the taxes mentioned in subsection (1).”

Member’s explanatory statement

This new Clause provides for devolution to London of the receipts from taxes on property and for formal consultation with the Treasury on the rates of those taxes to be set for the greater London area.

Mr Graham Allen

NC12

To move the following Clause—

“Local Government Financial Integrity

- (1) Local authorities shall be financially independent of central government, save as otherwise provided for by this section.
- (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 subsection (4) shall be renegotiated 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 arrangements to be determined and put in place by the local authority concerned.

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

- (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."

Member's explanatory statement

The intention of this new clause is that receipts from income tax should be assigned to the Department for Communities and Local Government who will then pass it on to councils.

Mr Graham Allen

NC14

To move the following Clause—

“Power to create new council tax bands

- (1) Section 5 of the Local Government Finance Act 1992 is amended as follows.
- (2) In subsection (4) omit “The Secretary of State may by order, as regards financial years beginning on or after such date as is specified in the order” and insert “A local authority may for any future financial year”.
- (3) Omit subsection (5).”

Member's explanatory statement

The intention of this new Clause is to devolve to councils the power to create new council tax bands.

Mr Graham Allen

NC15

To move the following Clause—

“Abolition of referendums relating to council tax increases

- (1) In Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) after Chapter 4 omit the Chapter set out in Schedule 5 to the Localism Act 2011.
- (2) Schedule 6 to the Localism Act 2011 (council tax referendums: further amendments) ceases to have effect.”

Member's explanatory statement

The intention of this new Clause is to end the council tax referendum system.

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

Mr Graham Allen

NC16

To move the following Clause—

“Effective devolution committees

- (1) The functions of local authorities include the formation of committees to collect and analyse data on effective performance by local authorities of powers and functions devolved to them.
- (2) The Secretary of State must not give any directions to such committees.”

Member’s explanatory statement

The intention of this new Clause is to enable Local Government to set up its own “what works” organisation on devolution to examine what’s effective, either independently or in partnership with, but separate from, the Department for Communities and Local Government.

Mr Graham Allen

NC17

To move the following Clause—

“Scale of devolution

- (1) The extent of the devolution of powers and functions to local authorities must not be dependent on the size of the population of the local authority.”

Member’s explanatory statement

The intention of this new Clause is to provide flexibility for devolution on varying scales and foot prints instead of linking the amount of devolution to the size of the recipient.

Gareth Thomas

NC20

To move the following Clause—

“Attendance at London Assembly meetings

- (1) Section 61 of the Greater London Authority Act 1999 (Power to require attendance at Assembly meetings) is amended as follows.
- (2) In subsection (1), for “(4) or (5)” substitute “(4), (5) or (5A)”
- (3) After subsection (5) insert new subsection as follows:

“(5A) This subsection applies to any person or organisation, whether or not they form part of GLA group, who are appointed by the Mayor, are formally influenced by the Mayor, or who have a significant London-wide role to play in delivering the Mayor’s strategies, and who in the case of persons and organisations external to the GLA group, are listed in an order made by the Secretary of State under subsection (5B).

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

- (5B) The Secretary of State must make an order listing persons and organisation external to the GLA group for the purposes of subsection (5A) and may amend the order from time to time.””
-

Secretary Greg Clark

NS1

To move the following Schedule—

“SCHEDULE 3A

AMENDMENTS OF THE NATIONAL HEALTH SERVICE ACT 2006

- 1 The National Health Service Act 2006 is amended as follows.
- 2 (1) Section 7A (exercise of Secretary of State’s public health functions) is amended as follows.
- (2) In subsection (2), after paragraph (c) insert—
 “(d) a combined authority.”
- (3) In subsection (4), after “group” insert “or a combined authority”.
- 3 In section 13Z (exercise of functions), after subsection (6) insert—
 “(7) This section is subject to sections 13ZA and 13ZB in the case of arrangements that are devolved arrangements (within the meaning of section 13ZA).”
- 4 After section 13Z insert—

“13ZA Section 13Z: further provision in relation to devolved arrangements

- (1) This section applies to arrangements under section 13Z(2) for a function of the Board to be exercised in relation to a particular area by or jointly with a relevant prescribed body (“devolved arrangements”).
- (2) “Relevant prescribed body” means a body prescribed under section 13Z(2)(c) that is either—
 (a) a combined authority whose area includes the whole or part of the area to which the arrangements relate, or
 (b) a local authority (within the meaning of section 2B) whose area includes the whole or part of that area.
- (3) The power of the Board under section 13Z(2) to enter into devolved arrangements includes power to arrange for the function to be exercised in relation to the area to which the arrangements relate—
 (a) by the relevant prescribed body jointly with one or more other eligible bodies;
 (b) jointly with the Board, the relevant prescribed body and one or more other eligible bodies.
- (4) A body is an “eligible body” if it—
 (a) falls within paragraph (a), (b) or (c) of section 13Z(2), and
 (b) exercises functions in relation to the area to which the arrangements relate.

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

- (5) Where, by virtue of subsection (3), the Board enters into devolved arrangements with a relevant prescribed body and one or more eligible bodies, at least one of those eligible bodies must be a clinical commissioning group.
- (6) Where, by virtue of subsection (3), one or more eligible bodies are a party to devolved arrangements, the power under section 13Z(4) to establish a joint committee includes a power to establish a joint committee of which one or more of the eligible bodies are members.
- (7) But the members of a joint committee established under section 13Z(4) by virtue of subsection (6) must include—
 - (a) the relevant prescribed body;
 - (b) each eligible body with whom a function is exercised jointly under the devolved arrangements;
 - (c) if under the devolved arrangements a function is exercisable jointly with the Board, the Board.
- (8) The terms and conditions on which devolved arrangements are made may include terms authorising a joint committee established by virtue of subsection (6) to establish and maintain a pooled fund.
- (9) A pooled fund is a fund—
 - (a) which is made up of payments received from the Board under the devolved arrangements in accordance with terms of payment agreed under section 13Z(5), and
 - (b) out of which payments may be made towards expenditure incurred in the discharge of any of the functions in relation to which the devolved arrangements are made.

13ZB Section 13Z: arrangements in relation to the function under section 3B(1)(d)

- (1) This section applies to arrangements under section 13Z(2) that are or include arrangements in relation to the exercise of a relevant commissioning function.
- (2) “Relevant commissioning function” means a function of the Board under section 3B(1)(d) of arranging for the provision of services or facilities in respect of a particular area (“the commissioning area”).
- (3) The power to enter into the arrangements under section 13Z is subject to the following provisions of this section.
- (4) The arrangements must provide for the relevant commissioning function to be exercisable by at least one relevant prescribed body jointly with—
 - (a) one or more eligible bodies, or
 - (b) the Board and one or more eligible bodies,
 (and the arrangements are, accordingly, devolved arrangements to which section 13ZA applies).
- (5) At least one of the eligible bodies mentioned in subsection (4) must be a clinical commissioning group.
- (6) The Board may enter into the arrangements in relation to the provision of a service or facility in the commissioning area only if it considers it appropriate to do so having regard to—

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

- (a) the impact on the provision of the service or facility in the commissioning area;
 - (b) the impact on the provision of the service or facility in other areas;
 - (c) the number of persons in the commissioning area to whom the service or facility is provided;
 - (d) the number of persons who are able to provide the service or facility;
 - (e) the cost of providing the service or facility;
 - (f) the financial implications for the relevant prescribed body, and for other bodies, with whom the arrangements are made.
- (7) Regulations may provide for this section not to apply to arrangements so far as relating to a relevant commissioning function of a prescribed description.
- (8) In this section, “eligible body” and “relevant prescribed body” have the same meaning as in section 13ZA.”

5 After section 14Z3 insert—

“14Z3A Joint exercise of functions with combined authorities

- (1) A clinical commissioning group may arrange for—
 - (a) any commissioning function of the group to be exercised jointly with a combined authority;
 - (b) any commissioning function that the group exercises on behalf of another clinical commissioning group under section 14Z3(2)(a) to be exercised jointly with a combined authority.
- (2) Two or more clinical commissioning groups may arrange for any commissioning functions of those groups that are exercised jointly with each other under section 14Z3(2)(b) to be exercised jointly also with a combined authority.
- (3) Regulations may provide that the powers in subsections (1) and (2) do not apply in relation to a commissioning function of a prescribed description.
- (4) Where any commissioning functions of a clinical commissioning group (or groups) are exercised jointly with a combined authority under subsection (1) or (2), they may be exercised by a joint committee of the group (or groups) and the authority.
- (5) Arrangements under subsection (1) or (2) may be on such terms and conditions (including terms as to payment) as may be agreed between the clinical commissioning group (or groups) and the combined authority.
- (6) Where two or more clinical commissioning groups enter into arrangements with the same combined authority under subsection (1) or (2), the terms as to payment mentioned in subsection (5) may include terms authorising a joint committee established under subsection (4) to establish and maintain a pooled fund.
- (7) A pooled fund is a fund—
 - (a) which is made up of payments received under the arrangements from all the groups that are parties to the arrangements, and

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

- (b) out of which payments may be made towards expenditure incurred in the exercise of any of the commissioning functions in respect of which the arrangements are made.
- (8) Arrangements under subsection (1) or (2) do not affect the liability of a clinical commissioning group for the exercise of any of its functions.
- (9) In this section “commissioning functions” means the functions of clinical commissioning groups in arranging for the provision of services as part of the health service (but does not include the function of making a request to the Board for the purposes of section 14Z9).”
- 6 In section 75 (arrangements between NHS bodies and local authorities), after subsection (7) insert—
- “(7A) For the purposes of this section, a combined authority that exercises a prescribed function within subsection (1)(a) of an NHS body under voluntary arrangements is to be treated as an NHS body.
- (7B) “Voluntary arrangements” means arrangements made with the combined authority under—
- (a) section 7A (exercise of Secretary of State’s public health functions),
- (b) section 13Z (exercise of the Board’s functions), or
- (c) section 14Z3A (joint exercise of functions with clinical commissioning groups).
- (7C) Regulations under this section, so far as made before or in the same Session as that in which the Cities and Local Government Devolution Act 2015 is passed, apply to a combined authority that is treated as an NHS body by virtue of subsection (7A) as if it were a prescribed NHS body for the purposes of those regulations.
- (7D) But a combined authority to which regulations under this section apply by virtue of subsection (7C) may enter into prescribed arrangements in relation to the exercise only of functions within subsection (1)(a) that are exercisable by the authority under voluntary arrangements.
- (7E) Regulations under this section may provide for the regulations to apply in relation to a combined authority subject to any prescribed limitations or conditions.
- (7F) Nothing in subsection (7D) prevents a combined authority from being a party to arrangements made by virtue of this section in relation to any prescribed functions of an NHS body that are exercisable by the authority as a result of an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009 (public authority functions exercisable by combined authorities).”
- 7 (1) Section 251 (control of patient information) is amended as follows.
- (2) In subsection (2)(a), after “health service bodies” insert “or relevant social care bodies”.
- (3) After subsection (12) insert—
- “(12A) In this section—
- “care” includes local authority social care,
- “local authority social care” means—
- (a) social care provided or arranged for by a local authority, and

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

- (b) any other social care all or part of the cost of which is paid for with funds provided by a local authority,
 “patient” includes an individual who needs or receives local authority social care or whose need for such care is being assessed by a local authority,
 “social care” includes all forms of personal care and other practical assistance provided for individuals who are in need of such care or assistance by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs or other similar circumstances.”
- (4) In subsection (13), at the end insert—
 ““relevant social care body” means—
 (a) a local authority, or
 (b) any other body or person engaged in the provision of local authority social care.”
- 8 In section 275(1) (interpretation), after the definition of “clinical commissioning group” insert—
 ““combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.”
- 9 In section 276 (index of defined expressions), at the appropriate place insert—
 “combined authority | section 275(1)”

Member’s explanatory statement

This amendment inserts Schedule 3A into the Bill, which provides for amendments to the National Health Service Act 2006. The amendments concern the making of arrangements with combined authorities or local authorities for the exercise of functions under the 2006 Act; and provision which may be made in regulations concerning local authority social care information.

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

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.

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

(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.”

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

Mr Graham Allen

NC19

To move the following Clause—

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

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 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.

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

- (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.

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

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

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 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.

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

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

(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,
 - (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

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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.
- (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.

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- (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).

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

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- (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.
- (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—

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- (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.
- (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).

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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
 - (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—

Cities and Local Government Devolution Bill [Lords], continued

- (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.

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)—

Cities and Local Government Devolution Bill [Lords], continued

- (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 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

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

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- (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.

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

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.

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.

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

<i>Proceedings</i>	<i>Time for conclusion of proceedings</i>
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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
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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
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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.

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

NOTICES WITHDRAWN

The following Notices were withdrawn on 19 October:

NC26
