

Cities and Local Government Devolution Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Communities and Local Government and the Home Office, are published separately as HL Bill 1 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Baroness Williams of Trafford has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Cities and Local Government Devolution Bill [HL] are compatible with the Convention rights.

Cities and Local Government Devolution Bill [HL]

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TO

Make provision for the election of mayors for the areas of, and for conferring additional functions on, combined authorities established under Part 6 of the Local Democracy, Economic Development and Construction Act 2009; to make other provision in relation to bodies established under that Part; to make provision about local authority governance; and for connected purposes.

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

Mayoral combined authorities

1 Power to provide for an elected mayor

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

“Mayors for combined authority areas

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107A Power to provide for election of mayor

- (1) The Secretary of State may by order provide for there to be a mayor for the area of a combined authority.
- (2) A mayor for the area of a combined authority is to be elected by the local government electors for that area in accordance with provision made by or under this Part.
- (3) In subsection (2) “local government elector” has the meaning given by section 270(1) of the Local Government Act 1972.
- (4) Schedule 5B makes further provision about the election of mayors for areas of combined authorities.
- (5) A mayor for the area of a combined authority is entitled to the style of “mayor”.

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- (6) A mayor for the area of a combined authority is by virtue of that office a member of, and the chair of, the combined authority.
- (7) An order under this section providing for there to be a mayor for the area of a combined authority may not be revoked by making a further order under this section; but this does not prevent the making of an order under section 107 abolishing the authority (together with the office of mayor). 5
- (8) In this Part “mayoral combined authority” means a combined authority for an area for which provision is made in an order under this section for there to be a mayor. 10

107B Requirements in connection with orders under section 107A

- (1) The Secretary of State may make an order under section 107A in relation to a combined authority’s area if a proposal for there to be a mayor for the authority’s area has been made to the Secretary of State by the appropriate authorities. 15
- (2) A proposal under subsection (1) may be included in a scheme prepared and published under section 109 or 112.
- (3) An order under section 107A may also be made without any such proposal having been made if—
- (a) the appropriate authorities consent, or 20
 - (b) in the case of an existing combined authority, the appropriate authorities consent apart from one non-consenting constituent council.
- (4) Where an order under section 107A is made by virtue of subsection (3)(b) of this section, the Secretary of State must make an order under section 106 to remove the area of the non-consenting constituent council from the existing area of the combined authority. 25
- (5) Subsection (2) of section 106 does not apply to an order made under that section as a result of subsection (4) of this section.
- (6) For the purposes of this section “the appropriate authorities” are— 30
- (a) each county council the whole or any part of whose area is within the area for which the combined authority is, or is to be, established,
 - (b) each district council whose area is within the area for which the combined authority is, or is to be, established, and 35
 - (c) in the case of an order in relation to an existing combined authority, the combined authority,
- and a “constituent council” is a council within paragraph (a) or (b).”
- (2) After Schedule 5A to that Act (inserted by section 7 below) insert, as Schedule 5B, the Schedule set out in Schedule 1 to this Act. 40

2 Deputy mayors etc

After section 107B of the Local Democracy, Economic Development and

Construction Act 2009 (inserted by section 1 above) insert –

“107C Deputy mayors etc

- (1) The mayor for the area of a combined authority must appoint one of the members of the authority to be the mayor’s deputy.
- (2) The deputy mayor holds office until the end of the term of office of the mayor, subject to subsection (3). 5
- (3) A person ceases to be the deputy mayor if at any time –
 - (a) the mayor removes the person from office;
 - (b) the person resigns as deputy mayor;
 - (c) the person ceases to be a member of the combined authority. 10
- (4) If a vacancy occurs in the office of deputy mayor, the mayor must appoint another member of the combined authority to be deputy mayor.
- (5) The deputy mayor must act in place of the mayor if for any reason –
 - (a) the mayor is unable to act, or 15
 - (b) the office of mayor is vacant.
- (6) If for any reason –
 - (a) the mayor is unable to act or the office of mayor is vacant, and
 - (b) the deputy mayor is unable to act or the office of deputy mayor is vacant, 20

the other members of the combined authority must act together in place of the mayor, taking decisions by a simple majority.
- (7) In this Part “deputy mayor”, in relation to a mayoral combined authority, means the person appointed under this section by the mayor for the authority’s area.” 25

3 Functions

- (1) After section 107C of the Local Democracy, Economic Development and Construction Act 2009 (inserted by section 2 above) insert –

“107D Functions of mayors: general

- (1) The Secretary of State may by order make provision for any function of a mayoral combined authority to be a function exercisable only by the mayor. 30
- (2) In this Part references to “general functions”, in relation to a mayor for the area of a combined authority, are to any functions exercisable by the mayor other than PCC functions. 35
- (3) The mayor may arrange for –
 - (a) the deputy mayor to exercise any general function of the mayor, or
 - (b) for another member or officer of the combined authority to exercise any such function. 40
- (4) Provision in an order under subsection (1) for a function to be exercisable only by the mayor is subject to subsection (3); but the

- Secretary of State may by order provide that arrangements under subsection (3) –
- (a) may authorise the exercise of general functions only of a description specified in the order, or
 - (b) may not authorise the exercise of general functions of a description so specified. 5
- (5) Any general function exercisable by the mayor for the area of a combined authority by virtue of this Act is to be taken to be a function of the combined authority exercisable –
- (a) by the mayor individually, or 10
 - (b) by a person acting under arrangements with the mayor made in accordance with subsection (3).
- (6) An order under this section may –
- (a) provide for members or officers of a mayoral combined authority to assist the mayor in the exercise of general functions; 15
 - (b) confer ancillary powers on the mayor for the purposes of the exercise of general functions;
 - (c) authorise the mayor to appoint one person as the mayor’s political adviser;
 - (d) provide for the terms and conditions of any such appointment. 20
- (7) Provision under subsection (6)(b) may include provision conferring power on the mayor that is similar to any power exercisable by the mayoral combined authority –
- (a) under section 113A, or
 - (b) under an order made under section 113D, 25
- but the power conferred on the mayor may not include a power to borrow money.

107E Functions of mayors: policing

- (1) The Secretary of State may by order provide for the mayor for the area of a combined authority to exercise functions of a police and crime commissioner in relation to that area. 30
- (2) The reference in subsection (1) to functions of a police and crime commissioner is to any functions conferred on police and crime commissioners by or under –
- (a) Part 1 of the Police Reform and Social Responsibility Act 2011, or 35
 - (b) any other Act (whenever passed).
- (3) In this Part references to “PCC functions”, in relation to a mayor for the area of a combined authority, are to the functions of a police and crime commissioner that are exercisable by the mayor by virtue of subsection (1). 40
- (4) An order under subsection (1) may be made only with the consent of the appropriate authorities (as defined by section 107B(6)).
- (5) If an order is made under subsection (1) in relation to a combined authority’s area – 45

- (a) the Secretary of State must by order provide that there is to be no police and crime commissioner for that area as from a specified date;
- (b) the Secretary of State may by order provide that any election of a police and crime commissioner for that area that would otherwise take place (whether before or after the specified date) by virtue of section 50(1)(b) of the Police Reform and Social Responsibility Act 2011 is not to take place. 5
- (6) An order under subsection (5) may include provision—
 - (a) for the term of office of a police and crime commissioner to continue until the date specified under subsection (5)(a) (in spite of section 50(7)(b) of the Police Reform and Social Responsibility Act 2011); 10
 - (b) for an election to fill a vacancy in the office of a police and crime commissioner, which otherwise would take place under section 51 of that Act, not to take place if the vacancy occurs within a period of six months ending with the specified date. 15
- (7) Schedule 5C contains further provision in connection with orders under this section.
- (8) Any PCC function exercisable by the mayor for the area of a combined authority by virtue of this Act is to be taken to be a function of the combined authority exercisable—
 - (a) by the mayor acting individually, or
 - (b) by a person acting under arrangements with the mayor made in accordance with provision made under Schedule 5C. 20 25
- (9) Where an order under subsection (1) is contained in the same instrument as an order made by virtue of section 107B(3)(b), the non-consenting constituent council is not to be treated as an appropriate authority for the purposes of subsection (4) above.”
- (2) After Schedule 5B to that Act (inserted by section 1 above) insert, as Schedule 5C, the Schedule set out in Schedule 2 to this Act. 30

4 Financial matters

- (1) In section 39 of the Local Government Finance Act 1992 (precepting and precepted authorities), in subsection (1) after paragraph (aa) insert—
 - “(ab) a mayoral combined authority, as defined by section 107A(8) of the Local Democracy, Economic Development and Construction Act 2009;”.
- (2) In section 40 of that Act (issue of precepts by major precepting authorities), after subsection (10) insert—
 - “(11) Where the precepting authority is a mayoral combined authority—
 - (a) a precept may be issued under this section only in relation to expenditure incurred by the mayor for the authority’s area in, or in connection with, the exercise of mayoral functions (as defined by section 107F(5) of the Local Democracy, Economic Development and Construction Act 2009), and
 - (b) the issuing and calculation of a precept under this Chapter is subject to any provision made in an order under that section.”

- (3) After section 107E of the Local Democracy, Economic Development and Construction Act 2009 (inserted by section 3 above) insert—

“107F Mayors for combined authority areas: financial matters

- (1) The Secretary of State may by order make provision for the costs of a mayor for the area of a combined authority that are incurred in, or in connection with, the exercise of mayoral functions to be met from precepts issued by the authority under section 40 of the Local Government Finance Act 1992. 5
- (2) Provision under subsection (1) may modify the application of Chapter 4 of Part 1 of the Local Government Finance Act 1992 so far as applying to cases where the precepting authority in question under that Chapter is a mayoral combined authority. 10
- (3) The Secretary of State may by order make provision—
- (a) requiring the mayor to maintain a fund in relation to receipts arising, and liabilities incurred, in the exercise of general functions; 15
- (b) about the preparation of an annual budget in relation to the exercise of general functions.
- (For power to make corresponding provision in relation to PCC functions, see paragraph 5 of Schedule 5C.) 20
- (4) Provision under subsection (3)(b) may in particular include provision for—
- (a) the mayor to prepare a draft budget;
- (b) the draft to be scrutinised by— 25
- (i) the other members of the combined authority, and
- (ii) a committee of the authority appointed in accordance with paragraph 1(1) of Schedule 5A;
- (c) the making of changes to the draft as a result of such scrutiny;
- (d) the approval of the draft by the combined authority (including a power to veto the draft in circumstances specified in the order and the consequences of any such veto); 30
- (e) the basis on which such approval is to be given.
- (5) In this section—
- “mayoral functions”, in relation to a mayor, means— 35
- (a) the mayor’s general functions, and
- (b) if the mayor exercises PCC functions, the mayor’s PCC functions;
- “modify” includes amend or repeal.”

Combined authorities: additional functions

- 5 Local authority functions** 40
- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- (2) In section 105 (constitution and functions: economic development and regeneration)—

- (a) for subsection (2) substitute –
 - “(2) Section 91(5) does not apply in relation to functions exercisable by a combined authority by virtue of subsection (1).”;
- (b) in the heading, for “economic development and regeneration” substitute “local authority functions generally”. 5
- (3) In section 108 (review by authorities: new combined authority), in subsection (1), for paragraphs (a) and (b) substitute “the exercise of statutory functions in relation to an area (“the review area”) with a view to deciding whether to prepare and publish a scheme under section 109”.
- (4) In section 109 (preparation and publication of scheme: new combined authority), in subsection (1), for paragraphs (a) to (d) substitute “the exercise of statutory functions in relation to the area”. 10
- (5) In section 110 (requirements in connection with establishment of combined authority), in subsection (1), for paragraphs (a) to (d) substitute “the exercise of statutory functions in relation to the area”. 15
- (6) In section 112 (preparation and publication of scheme: existing combined authority), in subsection (1), for paragraphs (a) to (d) substitute “the exercise of statutory functions in relation to an area of a combined authority or a proposed area of a combined authority”.
- (7) In section 113 (requirements in connection with changes to existing combined arrangements), in subsection (1) – 20
 - (a) after “only if” insert “either –
 - (a) the combined authority consents and the Secretary of State considers that the making of the order is likely to improve the exercise of statutory functions in the area or areas to which the order relates, or 25
 - (b) ”;
 - (b) for paragraphs (a) to (d) (as originally enacted) substitute “the exercise of statutory functions in the area or areas to which the order relates”.
- 6 Other public authority functions** 30

After section 105 of the Local Democracy, Economic Development and Construction Act 2009 insert –

“105A Other public authority functions

 - (1) The Secretary of State may by order –
 - (a) make provision for a function of a public authority that is exercisable in relation to a combined authority’s area to be a function of the combined authority; 35
 - (b) make provision for conferring on a combined authority in relation to its area a function corresponding to a function that a public authority has in relation to another area. 40
 - (2) An order under subsection (1)(a) may make provision –
 - (a) for the combined authority to have the function instead of the public authority, or
 - (b) for the function to be exercisable by the combined authority concurrently with the public authority. 45

- (3) An order under subsection (1)(a) may, in particular, include –
- (a) provision for the making of a scheme to transfer property, rights and liabilities from the public authority to the combined authority (including provision corresponding to any provision made by section 17(4) to (7) of the Localism Act 2011); 5
 - (b) provision to abolish the public authority in a case where, as a result of the order, it will no longer have any functions.
- (4) In this section –
- “function” (except in subsection (3)(b)) does not include a power to make regulations or other instruments of a legislative character; 10
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
 - “public authority” –
 - (a) includes a Minister of the Crown or a government department; 15
 - (b) does not include a county council or district council.

105B Section 105A orders: procedure

- (1) The Secretary of State may make an order under section 105A only if –
- (a) a proposal for the making of the order in relation to the combined authority has been made to the Secretary of State by the appropriate authorities, or 20
 - (b) in the case of an existing combined authority, the combined authority consents and the Secretary of State considers that the making of the order is likely to improve the exercise of statutory functions in the area or areas to which the order relates. 25
- (2) A proposal under subsection (1)(a) may be included in a scheme prepared and published under section 109 or 112.
- (3) For the purposes of this section “the appropriate authorities” are –
- (a) each county council the whole or any part of whose area is within the area for which the combined authority is, or is to be, established, 30
 - (b) each district council whose area is within the area for which the combined authority is, or is to be, established, and
 - (c) in the case of an order in relation to an existing combined authority, the combined authority.” 35

Combined authorities: other provision

7 Overview and scrutiny committees

- (1) In section 104 of the Local Democracy, Economic Development and Construction Act 2009 (constitution and functions: transport), after subsection (8) insert – 40
- “(9) Schedule 5A makes provision for combined authorities to have overview and scrutiny committees; and provision made in an order under subsection (1) is subject to that Schedule.”

- (2) After Schedule 5 to that Act insert, as Schedule 5A, the Schedule set out in Schedule 3 to this Act.

8 Funding of combined authorities

- (1) In section 74 of the Local Government Finance Act 1988 (levies), in subsection (10) – 5
- (a) for “attributable to” substitute “attributable –
(a) to”;
- (b) after “transport” insert “, or
(b) so far as the constituent councils consent, to the exercise of any other functions.” 10
- (2) After that subsection insert –
- “(11) Regulations under this section by virtue of subsection (8) may not make provision in relation to expenses of a combined authority that are attributable to the exercise of mayoral functions.
- (12) In subsections (10) and (11) – 15
- “constituent council” means –
- (a) a county council the whole or any part of whose area is within the area of the combined authority, or
- (b) a district council whose area is within the area of the combined authority; 20
- “mayoral functions” has the meaning given by section 107F(5) of the Local Democracy, Economic Development and Construction Act 2009.”
- (3) In section 23 of the Local Government Act 2003 (meaning of “local authority” for purposes of Part 1 of that Act), in subsection (5) after “only” insert “or in relation to any other functions of the authority that are specified for the purposes of this subsection in regulations made by the Secretary of State.” 25
- (4) After that subsection insert –
- “(6) A function of a combined authority may be specified in regulations under subsection (5) only with the consent of – 30
- (a) each county council the whole or any part of whose area is within the area of the authority, and
- (b) each district council whose area is within the area of the authority.
- (7) The reference in subsection (5) to functions of the authority includes, in the case of a mayoral combined authority, mayoral functions. 35
- (8) In subsection (7) –
- “mayoral combined authority” has the meaning given by section 107A(8) of the Local Democracy, Economic Development and Construction Act 2009; 40
- “mayoral functions” has the meaning given by section 107F(5) of that Act.
- (9) No regulations under subsection (5) may be made unless a draft of the statutory instrument containing the regulations (whether containing

them alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.”

9 General power of competence

After section 113C of the Local Democracy, Economic Development and Construction Act 2009 insert—

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“113D General power of competence

- (1) The Secretary of State may by order provide for Chapter 1 of Part 1 of the Localism Act 2011 (which confers a general power of competence on local authorities) to have effect in relation to a combined authority specified in the order as it has effect in relation to a local authority. 10
- (2) An order under this section may be made only with the consent of the appropriate authorities (as defined by section 107B(6)).
- (3) Where an order under subsection (1) is contained in the same instrument as an order made by virtue of section 107B(3)(b), the non-consenting constituent council is not to be treated as an appropriate authority for the purposes of subsection (2) above.” 15

Local authorities: governance and constitution

10 Governance arrangements etc of local authorities in England

- (1) The Secretary of State may by regulations make provision about—
 - (a) the governance arrangements of local authorities; 20
 - (b) the constitution and membership of local authorities under Part 1 of the Local Government Act 1972;
 - (c) the structural and boundary arrangements in relation to local authorities under Part 1 of the Local Government and Public Involvement in Health Act 2007. 25
- (2) In subsection (1) “governance arrangements” means the executive arrangements, committee system or prescribed arrangements operated by a local authority under Part 1A of the Local Government Act 2000.
- (3) Regulations under this section may be made only with the consent of the local authorities to whom the regulations apply. 30
- (4) The power to make regulations under this section—
 - (a) is exercisable by statutory instrument;
 - (b) includes power to make transitional, transitory or saving provision;
 - (c) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an Act passed before this Act or in the same Session. 35
- (5) A statutory instrument containing regulations under this section may be made only if a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
- (6) If a draft of regulations under this section would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament 40

as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

- (7) In this section “local authority” means a county council in England, a district council or a London borough council.

Final provisions

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11 Minor and consequential amendments

- (1) Schedule 4 contains minor and consequential amendments.
- (2) The Secretary of State may by regulations make provision that is consequential on any provision of this Act.
- (3) The power to make regulations under this section – 10
- (a) is exercisable by statutory instrument;
 - (b) includes power to make transitional, transitory or saving provision;
 - (c) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an Act passed before this Act or in the same Session. 15
- (4) A statutory instrument containing regulations under this section that amend or repeal any provision of an Act (whether alone or with other provision) may be made only if a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
- (5) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 20

12 Extent

This Act extends to England and Wales only.

13 Commencement

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- (1) This section, and sections 12 and 14, come into force on the day on which this Act is passed.
- (2) The other provisions of this Act –
- (a) so far as is necessary for the purpose of enabling the exercise, on or after the day on which this Act is passed, of any power to make provision by order or regulations made by statutory instrument, come into force on the day on which this Act is passed, and 30
 - (b) come into force for remaining purposes, at the end of the period of two months beginning with the day on which this Act is passed.
- (3) The Secretary of State may by regulations make saving, transitory or transitional provision in connection with the coming into force of any provision of this Act. 35
- (4) Regulations under this section –
- (a) are to be made by statutory instrument;
 - (b) may make different provision for different purposes. 40

14 Short title

This Act may be cited as the Cities and Local Government Devolution Act 2015.

SCHEDULES

SCHEDULE 1

Section 1

MAYORS FOR COMBINED AUTHORITY AREAS: FURTHER PROVISION ABOUT ELECTIONS

This is the Schedule to be inserted after Schedule 5A to the Local Democracy,
 Economic Development and Construction Act 2009 – 5

“SCHEDULE 5B

MAYORS FOR COMBINED AUTHORITY AREAS: FURTHER PROVISION ABOUT ELECTIONS

Interpretation

- 1 In this Schedule references to a mayor are references to a mayor for the area of a combined authority. 10

Timing of elections

- 2 The Secretary of State may by order make provision – 15
- (a) as to the dates on which and years in which elections for the return of a mayor may or must take place,
 - (b) as to the intervals between elections for the return of a mayor,
 - (c) as to the term of office of a mayor, and
 - (d) as to the filling of vacancies in the office of a mayor.

Voting at elections of mayors 20

- 3 (1) Each person entitled to vote as an elector at an election for the return of a mayor is to have the following vote or votes – 25
- (a) one vote (a “first preference vote”) which may be given for the voter’s first preference from among the candidates to be the mayor, and
 - (b) if there are three or more candidates to be the mayor, one vote (a “second preference vote”) which may be given for the voter’s second preference from among those candidates.
- (2) The mayor is to be returned under the simple majority system, unless there are three or more candidates. 30
- (3) If there are three or more candidates to be the mayor, the mayor is to be returned under the supplementary vote system in accordance with paragraph 4.

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- 4 (1) This paragraph applies if there are three or more candidates to be a mayor.
- (2) If one of the candidates to be the mayor receives more than half of all the first preference votes given in the election, that candidate is to be returned as the mayor. 5
- (3) If none of the candidates to be the mayor receives more than half of all the first preference votes given in the election, the following provisions are to have effect.
- (4) The two candidates who received the greatest number of first preference votes given in the election remain in the contest. 10
- (5) If, by reason of an equality of first preference votes, three or more candidates are qualified to remain in the contest by virtue of subparagraph (4), all of them remain in the contest.
- (6) The other candidates are eliminated from the contest.
- (7) The number of second preference votes given in the election for each of the candidates remaining in the contest by voters who did not give their first preference vote to any of those candidates is to be ascertained. 15
- (8) That number is to be added to the number of first preference votes given for that candidate, to give that candidate’s total number of preference votes. 20
- (9) The person who is to be returned as the mayor is that one of the candidates remaining in the contest who has the greatest number of preference votes.
- (10) If, by reason of an equality of total number of preference votes, two or more candidates remaining in the contest each have the greatest number of preference votes, the returning officer is to decide by lots which of them is to be returned as the mayor. 25
- (11) In this paragraph “first preference vote” and “second preference vote” has the meaning given in paragraph 3(1). 30

Entitlement to vote

- 5 (1) The persons entitled to vote as electors at an election for the return of a mayor for the area of a combined authority are those who on the day of the poll—
- (a) would be entitled to vote as electors at an election of councillors for an electoral area situated wholly or partly within the area of the authority, and 35
- (b) are registered in the register of local government electors at an address within the authority’s area.
- (2) A person is not entitled as an elector to cast more than one first preference vote, or more than one second preference vote, at an election for the return of a mayor. 40
- (3) In this paragraph—
“electoral area” has the meaning given by section 203(1) of the Representation of the People Act 1983; 45

“local government elector” has the meaning given by section 270(1) of the Local Government Act 1972.

Election as mayor and councillor

- 6 (1) If the person who is returned at an election as the mayor for the area of a combined authority is also returned at an election held at the same time as a councillor of a constituent council, a vacancy arises in the office of councillor. 5
- (2) If the person who is returned at an election (“the mayoral election”) as the mayor for the area of a combined authority – 10
- (a) is a councillor of a constituent council, and
- (b) was returned as such a councillor at an election held at an earlier time than the mayoral election, a vacancy arises in the office of councillor.
- (3) Subject to sub-paragraph (4), a person who is elected as the mayor for the area of a combined authority may not be a candidate in an election for the return of a councillor or councillors of a constituent council. 15
- (4) A person who is the mayor for the area of a combined authority may be a candidate in an election for the return of a councillor or councillors of a constituent council if the election is held at the same time as an election for the return of the mayor, but sub-paragraph (1) applies if the person is a candidate in both such elections and is returned as the mayor and as a councillor. 20
- (5) In this paragraph, “constituent council” means – 25
- (a) a county council the whole or any part of whose area is within the area of the combined authority, or
- (b) a district council whose area is within the area of the combined authority.

Qualification and disqualification

- 7 (1) In order to be qualified to be elected and to hold office as the mayor for the area of a combined authority, a person must, on the relevant day, be – 30
- (a) at least 18 years old, and
- (b) a qualifying citizen.
- (2) The person must also – 35
- (a) on and after the relevant day, be entitled (under paragraph 5) to vote in the election for the return of the mayor for that area, or
- (b) for the twelve months before the relevant day – 40
- (i) have occupied, as owner or tenant, land or other premises within an electoral area situated wholly or partly within the area of the authority,
- (ii) had his or her principal or only place of work in that electoral area, or
- (iii) resided in that electoral area. 45

- (3) In this paragraph—
- “electoral area” has the meaning given by section 203(1) of the Representation of the People Act 1983;
- “qualifying citizen” means a person who is a qualifying Commonwealth citizen or a citizen of the Republic of Ireland or a relevant citizen of the Union, within the meaning given in section 79 of the Local Government Act 1972; 5
- “relevant day” means—
- (a) if the election is preceded by the nomination of candidates, the day on which the person is nominated, and 10
- (b) if the election is not preceded by the nomination of candidates, the day of the election.
- 8 (1) A person is disqualified for being elected or holding office as the mayor for the area of a combined authority if the person— 15
- (a) holds any paid office or employment (other than the office of mayor or deputy mayor) appointments or elections to which are or may be made by or on behalf of the combined authority or any of the constituent councils; 20
- (b) is the subject of—
- (i) a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986, or
- (ii) a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986; 25
- (c) has in the five years before being elected, or at any time since being elected, been convicted in the United Kingdom, the Channel Islands or the Isle of Man of an offence and been sentenced to a period of imprisonment of three months or more without the option of a fine; 30
- (d) is disqualified for being elected or for being a member of a constituent council under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices). 35
- (2) For the purposes of sub-paragraph (1)(c), a person is to be treated as having been convicted on—
- (a) the expiry of the ordinary period allowed for making an appeal or application with respect to the conviction, or 40
- (b) if an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- (3) In this paragraph, “constituent council” means—
- (a) a county council the whole or any part of whose area is within the area of the combined authority, or 45
- (b) a district council whose area is within the area of the combined authority.
- 9 Paragraph 8 of Schedule 5C contains further provision about disqualification in the case of mayors who exercise PCC functions. 50

- 10 The acts of a person elected as a mayor for the area of a combined authority who acts in that office are, despite any disqualification or lack of qualification –
- (a) in respect of being, or being elected as, the mayor, or
 - (b) in respect of being, or being elected as, the mayor for that area,
- as valid and effectual as if the person had not been so disqualified or as if the person had been qualified. 5

Power to make further provision

- 11 (1) The Secretary of State may by order make provision as to – 10
- (a) the conduct of elections for the return of mayors, and
 - (b) the questioning of elections for the return of mayors and the consequences of irregularities.
- (2) An order under sub-paragraph (1)(a) may, in particular, include provision – 15
- (a) about the registration of electors,
 - (b) for disregarding alterations in a register of electors,
 - (c) about the limitation of election expenses (and the creation of criminal offences in connection with the limitation of such expenses), and 20
 - (d) for the combination of polls at elections for the return of mayors and other elections.
- (3) An order under this paragraph may –
- (a) apply or incorporate (with or without modifications) any provision of, or made under, the Representation of the People Acts or any provision of any other enactment (whenever passed or made) relating to parliamentary elections or local government elections, 25
 - (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of mayors, and 30
 - (c) so far as may be necessary in consequence of any provision made by or under this Part or any order under this paragraph, amend any provision of any enactment (whenever passed or made) relating to the registration of parliamentary electors or local government electors. 35
- (4) Before making an order under this paragraph, the Secretary of State must consult the Electoral Commission. 40
- (5) In addition, the power of the Secretary of State to make an order under this paragraph so far as relating to matters mentioned in sub-paragraph (2)(c) is exercisable only on, and in accordance with, a recommendation of the Electoral Commission, except where the Secretary of State considers that it is expedient to exercise that power in consequence of changes in the value of money. 45

- (6) No return of a mayor at an election is to be questioned except by an election petition under the provisions of Part 3 of the Representation of the People Act 1983 as applied by or incorporated in an order under this paragraph.”

SCHEDULE 2

Section 3

5

MAYORS FOR COMBINED AUTHORITY AREAS: POLICE AND CRIME COMMISSIONER FUNCTIONS

This is the Schedule to be inserted as Schedule 5C to the Local Democracy,
Economic Development and Construction Act 2009 –

“SCHEDULE 5C

10

MAYORS FOR COMBINED AUTHORITY AREAS: PCC FUNCTIONS

Introductory

- 1 (1) This Schedule applies where an order is made under section 107E(1) providing for a mayor to exercise police and crime commissioner functions. 15
- (2) In this Schedule references to “the mayor” and the “combined authority area” are references to a mayor or area in relation to which an order is made under section 107E(1).
- (3) In this Schedule “the 2011 Act” means the Police Reform and Social Responsibility Act 2011. 20

PCC functions exercisable by the mayor

- 2 (1) The Secretary of State may by order provide that the mayor may exercise in the combined authority area –
- (a) all PCC functions,
 - (b) all PCC functions other than those specified or described in the order, or 25
 - (c) only those PCC functions specified or described in the order.
- (2) But an order under sub-paragraph (1)(b) or (c) must secure that the following PCC functions are exercisable by the mayor in relation to the combined authority area – 30
- (a) the functions mentioned in subsections (6) to (8) of section 1 of the 2011 Act (securing maintenance of efficient and effective police force and holding the relevant chief constable to account); 35
 - (b) the functions under sections 5, 7 and 8 of that Act (issuing etc a police and crime plan);
 - (c) the functions under section 38 of that Act (appointing, suspending or removing a chief constable).

Delegation of functions

- 3 (1) The Secretary of State must by order make provision authorising the mayor –
- (a) to appoint a deputy mayor in respect of PCC functions (“deputy PCC mayor”), and 5
 - (b) to arrange for the deputy PCC mayor to exercise any PCC functions of the mayor.
- (2) An order under this paragraph must include provision authorising the mayor to arrange for any other person to exercise any PCC functions of the mayor. 10
- (3) An order under this paragraph must include provision preventing the mayor from appointing as deputy PCC mayor –
- (a) the person who is appointed as deputy mayor under section 107C;
 - (b) a person listed in subsection (6) of section 18 of the 2011 Act; 15
 - (c) any other person of a description specified in the order.
- (4) An order under this paragraph must include provision preventing the mayor from arranging for the deputy PCC mayor to exercise –
- (a) a PCC function of the mayor of a kind listed in subsection (7)(a) or (e) of section 18 of the 2011 Act, or 20
 - (b) any other PCC function specified or described in the order.
- (5) An order under this paragraph must include provision preventing the mayor from arranging, by virtue of provision under subparagraph (2), for a person to exercise –
- (a) any function if the person is listed in subsection (6) of section 18 of the 2011 Act;
 - (b) a function listed in subsection (7) of that section;
 - (c) any other PCC function specified or described in the order. 25
- (6) An order under this paragraph must include provision authorising the deputy PCC mayor to arrange for any other person to exercise any PCC function of the mayor which is exercisable by the deputy PCC mayor in accordance with provision made under this paragraph. 30
- (7) An order under this paragraph must include provision preventing the deputy PCC mayor from arranging for a person to exercise a function if –
- (a) the person is listed in subsection (6) of section 18 of the 2011 Act, or
 - (b) the function is a PCC function of the mayor – 40
 - (i) of a kind listed in subsection (7)(b), (c) or (d) of that section, or
 - (ii) of any other kind specified or described in the order.

Police and crime panels

- 4 The Secretary of State must by order provide for a panel to be established in relation to the combined authority area with functions, in relation to the exercise by the mayor of PCC functions, corresponding to those of a police and crime panel under sections 28 and 29 of the 2011 Act. 5

Financial matters

- 5 The Secretary of State must by order make provision—
- (a) requiring the mayor to maintain a fund in relation to receipts arising, and liabilities incurred, in the exercise of PCC functions; 10
 - (b) about the preparation of an annual budget in relation to the exercise of such functions.

Suspension

- 6 The Secretary of State must by order provide for the panel mentioned in paragraph 4 to have power to suspend the mayor, so far as acting in the exercise of PCC functions, in circumstances corresponding to those mentioned in section 30(1) of the 2011 Act in relation to a police and crime commissioner. 15

Conduct

- 7 The Secretary of State must by order make provision about the matters mentioned in paragraphs (a) to (c) of section 31 of the 2011 Act (taking references in those paragraphs to “relevant office holders” as references to the mayor in the exercise of PCC functions and the deputy PCC mayor). 20 25

Disqualification

- 8 (1) The Secretary of State must by order provide for sections 64 to 68 of the 2011 Act to apply in relation to a person being, or being elected as, the mayor as they apply in relation to a person being, or being elected as, a police and crime commissioner. 30
- (2) Provision under sub-paragraph (1) is in addition to paragraphs 7 and 8 of Schedule 5B.

Policing protocol

- 9 The Secretary of State must by order require the mayor to have regard, in the exercise of PCC functions, to the policing protocol issued under section 79 of the 2011 Act. 35

Application of certain enactments

- 10 (1) The Secretary of State must by order provide for the following provisions of the Police Act 1996 to apply to the mayor, in the exercise of PCC functions, as though the mayor were a police and crime commissioner— 40

- (a) sections 24(4) and 98(6) (aid of one police force by another);
 - (b) sections 23A to 23H (collaboration agreements);
 - (c) sections 40 to 40B (powers to give directions);
 - (d) sections 54 and 55 (appointment and functions of Her Majesty’s Inspectors of Constabulary); 5
 - (e) section 96A(2) (national and international functions).
- (2) The Secretary of State must by order provide for provision similar to section 41 of the Police Act 1996 (directions as to minimum budget) to have effect for the purpose of enabling directions to be given to the mayoral combined authority. 10

Supplementary

- 11 (1) Subject to the requirements of this Schedule, the Secretary of State may by order make any other provision the Secretary of State thinks appropriate for the purposes of giving full effect to an order under section 107E. 15
- (2) Sub-paragraphs (3) to (5) apply in relation to an order under –
- (a) this paragraph,
 - (b) another paragraph of this Schedule, or
 - (c) section 107E.
- (3) The order may include provision – 20
- (a) that is similar to any police and crime commissioner enactment, or
 - (b) for a purpose corresponding to a purpose for which any such enactment is made.
- (4) The order may provide for the mayor to be treated as a police and crime commissioner for the purposes of any police and crime commissioner enactment. 25
- (5) The order may amend, apply (with or without modifications), disapply, repeal or revoke any police and crime commissioner enactment. 30
- (6) “Police and crime commissioner enactment” means –
- (a) any enactment that is contained in, or is made under, Part 1 of the 2011 Act, and
 - (b) any other enactment that has effect in relation to police and crime commissioners. 35
- (7) In sub-paragraph (6) “enactment” includes an enactment whenever passed or made.
- (8) Power to make an order under this paragraph is in addition to (and does not limit) the power to make an order under section 114.
- (9) An order under this Schedule may relate to – 40
- (a) a particular mayor in respect of whom an order under section 107E(1) has effect, or
 - (b) all mayors in respect of whom any such order has effect.”

SCHEDULE 3

Section 7

OVERVIEW AND SCRUTINY COMMITTEES

This is the Schedule to be inserted as Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009 –

“SCHEDULE 5A 5

COMBINED AUTHORITIES: OVERVIEW AND SCRUTINY COMMITTEES

Functions of overview and scrutiny committee

- 1 (1) A combined authority must arrange for the appointment by the authority of one or more committees of the authority (referred to in this Schedule as overview and scrutiny committees). 10
- (2) The arrangements must ensure that the combined authority’s overview and scrutiny committee has power (or its overview and scrutiny committees have power between them) –
 - (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the authority; 15
 - (b) to make reports or recommendations to the authority with respect to the discharge of any functions that are the responsibility of the authority;
 - (c) to make reports or recommendations to the authority on matters that affect the authority’s area or the inhabitants of the area. 20
- (3) If the combined authority is a mayoral combined authority, the arrangements must also ensure that the combined authority’s overview and scrutiny committee has power (or its overview and scrutiny committees have power between them) – 25
 - (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the mayor of any general functions;
 - (b) to make reports or recommendations to the mayor with respect to the discharge of any general functions; 30
 - (c) to make reports or recommendations to the mayor on matters that affect the authority’s area or the inhabitants of the area.
- (4) The power of an overview and scrutiny committee under subparagraph (2)(a) and (3)(a) to review or scrutinise a decision made but not implemented includes power to recommend that the decision be reconsidered. 35
- (5) An overview and scrutiny committee of a combined authority may not discharge any functions other than the functions conferred by or under this Schedule. 40
- (6) Any reference in this Schedule to the discharge of any functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of those functions. 45

Overview and scrutiny committees: supplementary provision

- 2 (1) An overview and scrutiny committee of a combined authority –
 - (a) may appoint one or more sub-committees, and
 - (b) may arrange for the discharge of any of its functions by any such sub-committee. 5
- (2) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it under sub-paragraph (1)(b).
- (3) An overview and scrutiny committee of a combined authority may not include a member of the authority (including, in the case of a mayoral combined authority, the mayor for the authority’s area or deputy mayor). 10
- (4) An overview and scrutiny committee of a combined authority is to be treated –
 - (a) as a committee or sub-committee of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees), and 15
 - (b) as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies. 20
- (5) Subsections (2) to (5) of section 102 of the Local Government Act 1972 apply to an overview and scrutiny committee of a combined authority as they apply to a committee appointed under that section. 25
- (6) An overview and scrutiny committee of a combined authority –
 - (a) may require the members or officers of the authority to attend before it to answer questions (including, in the case of a mayoral combined authority, the mayor for the authority’s area and deputy mayor), and 30
 - (b) may invite other persons to attend meetings of the committee.
- (7) A person on whom a requirement is imposed under sub-paragraph (6)(a) is required to comply with the requirement.
- (8) A person is not obliged by sub-paragraph (6) to answer any question which the person would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales. 35
- (9) In exercising, or deciding whether to exercise, any of its functions an overview and scrutiny committee of a combined authority must have regard to any guidance for the time being issued by the Secretary of State. 40
- (10) Guidance under sub-paragraph (9) may make different provision for different cases or for different descriptions of committee.

- (11) In sub-paragraphs (3) to (9) references to an overview and scrutiny committee of a combined authority include references to any sub-committee of such a committee.

Power to make further provision about overview and scrutiny committees

- 3 (1) The Secretary of State may by order make further provision about overview and scrutiny committees of a combined authority. 5
- (2) Provision under sub-paragraph (1) may in particular include provision –
- (a) about the membership of an overview and scrutiny committee and the voting rights of such members; 10
 - (b) about the person who is to be chair of such a committee;
 - (c) for the appointment of a person to act as a scrutiny officer of an overview and scrutiny committee;
 - (d) about how and by whom matters may be referred to an overview and scrutiny committee; 15
 - (e) requiring persons (whether members of the authority or other persons) to respond to reports or recommendations made by an overview and scrutiny committee;
 - (f) about the publication of reports, recommendations or responses; 20
 - (g) about information which must, or must not, be disclosed to an overview and scrutiny committee (whether by members of the authority or by other persons).
- (3) Provision under sub-paragraph (2)(a) may include provision for members of a combined authority’s constituent councils to be members of its overview and scrutiny committee; and for this purpose “constituent council” means – 25
- (a) a county council the whole or any part of whose area is within the area of the combined authority, or
 - (b) a district council whose area is within the area of the combined authority. 30
- (4) In sub-paragraph (2)(c) the reference to a “scrutiny officer” of an overview and scrutiny committee is a reference to a person appointed with the function of –
- (a) promoting the role of the committee, and 35
 - (b) providing support and guidance –
 - (i) to the committee and its members, and
 - (ii) to members of the combined authority (so far as relating to the functions of the committee).
- (5) Provision under sub-paragraph (2)(f) may include provision for descriptions of confidential or exempt information to be excluded from the publication of reports, recommendations or responses. 40
- (6) In this paragraph references to an overview and scrutiny committee include references to any sub-committee of such a committee.” 45

SCHEDULE 4

Section 4

MINOR AND CONSEQUENTIAL AMENDMENTS

Local Government Finance Act 1988

- 1 In section 143 of the Local Government Finance Act 1988 (orders and regulations), after subsection (4A) insert— 5
- “(4B) The power to make regulations under section 74 above, so far as they are made in relation to a combined authority by virtue of subsection (8) of that section, shall be exercisable by statutory instrument, and no such regulations shall be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament.” 10

Local Democracy, Economic Development and Construction Act 2009

- 2 The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- 3 In section 104 (constitution and functions: transport), after subsection (2) insert— 15
- “(2A) But in relation to a mayoral combined authority, section 85(4) of that Act is not to be taken as preventing the mayor from being a voting member of the authority.”
- 4 In section 106 (changes to boundaries of combined authority’s area), in subsection (2)— 20
- (a) omit “and” at the end of paragraph (a);
- (b) in paragraph (b), after “order” insert “, and
- (c) in the case of an order made in respect of a mayoral combined authority, the mayor for the area of the authority also consents to the making of the order.” 25
- 5 (1) Section 107 (dissolution of combined authority’s area) is amended as follows.
- (2) In subsection (2) — 30
- (a) for “only if a majority” substitute “only if—
- (a) a majority”;
- (b) after “the order” insert “, and
- (b) in the case of an order made in respect of a mayoral combined authority, the mayor for the area of the authority also consents to the making of the order.” 35
- (3) After subsection (4) insert —
- “(4A) The order —
- (a) may transfer functions from the combined authority to any other public authority;
- (b) may provide for any function of the combined authority to no longer be exercisable in relation to the combined authority’s area.” 40
- 6 In section 113A (general power of EPB or combined authority), after

- subsection (3) insert –
- “(4) This section does not apply in relation to a combined authority in respect of which an order under section 113D has effect.”
- 7 (1) Section 117 (orders) is amended as follows.
- (2) After subsection (1) insert – 5
- “(1A) An order under this Part may make different provision for different authorities or descriptions of authority or otherwise for different purposes.”
- (3) In subsection (2A) –
- (a) omit “or” at the end of paragraph (b); 10
- (b) at the end of paragraph (c) insert “, or
- (d) an order under Schedule 5A.”
- 8 (1) In section 120 (interpretation) –
- (a) after the definition of “combined authority” insert – 15
- ““deputy mayor” has the meaning given by section 107C(7);
- “general functions” has the meaning given by section 107D(2);”;
- (b) after the definition of “local government area” insert – 20
- ““mayor”, in relation to the area of a combined authority, means the mayor for the area of the authority by virtue of an order under section 107A(1);
- “mayoral combined authority” has the meaning given by section 107A(8);
- “PCC functions” has the meaning given by section 107E(3);”.
- 25

Cities and Local Government Devolution Bill [HL]

A

B I L L

To make provision for the election of mayors for the areas of, and for conferring additional functions on, combined authorities established under Part 6 of the Local Democracy, Economic Development and Construction Act 2009; to make other provision in relation to bodies established under that Part; to make provision about local authority governance; and for connected purposes.

Baroness Williams of Trafford

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