

Cities and Local Government Devolution Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

Before Clause 1

LORD MCKENZIE OF LUTON
LORD BEECHAM

Insert the following new Clause—

“Devolution: annual report

- (1) The Secretary of State must lay before each House of Parliament an annual report about devolution for all areas within England pursuant to the provisions of this Act.
- (2) The report shall include information on—
 - (a) the areas of the country where agreements have been reached;
 - (b) the areas of the country where proposals have been received by the Secretary of State and negotiations have taken place but agreement has not yet been reached;
 - (c) additional financial resources and public functions which have been devolved as a result of agreements; and
 - (d) the extent to which consideration has been given by a Minister of the Crown to the principle under section (*Devolution statements*) that powers should be devolved to combined authorities or the most appropriate local level except where those powers can more effectively be exercised by central government.
- (3) The annual report shall be laid before each House of Parliament as soon as practicable after 31 March each year.”

Insert the following new Clause—

“Devolution statements

- (1) A Minister of the Crown who has introduced a Bill in either House of Parliament must, before the second reading of the Bill, make a devolution statement to the effect that in his view the provisions of the Bill are compatible with the principle that powers should be devolved to combined authorities except where those powers can more effectively be exercised by central government.

Before Clause 1 – continued

- (2) The statement must be in writing and be published in such a manner as the Minister making it considers appropriate.”

Clause 1

LORD McKENZIE OF LUTON
LORD BEECHAM

Page 1, line 8, at end insert –

- “() An order under subsection (1) shall not be used as a condition for agreeing to the transfer of local authority or public authority functions.”

Clause 2

LORD McKENZIE OF LUTON
LORD BEECHAM

Page 3, line 4, at end insert “with the consent of the combined authority.”

Clause 3

LORD McKENZIE OF LUTON
LORD BEECHAM

Page 3, line 32, at end insert “provided this has the consent of the combined authority.”

Page 3, line 40, at end insert –

- “() The mayor must consult the combined authority when any general function of the mayor is delegated to the deputy mayor or any other member or officer.”

Page 4, line 6, at end insert –

- “() may only be made in consultation with the combined authority.”

Clause 4

BARONESS WILLIAMS OF TRAFFORD

Page 6, line 8, at end insert –

- “(1A) The function of issuing precepts under Chapter 4 of Part 1 of the Local Government Finance Act 1992 in respect of mayoral functions is to be a function exercisable only by the mayor acting on behalf of the combined authority.”

Page 6, line 9, leave out “Provision under subsection (1) may” and insert “The Secretary of State may by order”

Page 6, line 10, after “4” insert “or 4ZA”

Clause 4 – *continued*

Page 6, line 12, at end insert –

- “(2A) Where the mayoral functions of a mayor include PCC functions –
- (a) the provision made by virtue of subsection (2) must include provision to ensure that the council tax requirement calculated under section 42A of the Local Government Finance Act 1992 consists of separate components in respect of the mayor’s PCC functions and the mayor’s general functions, and
 - (b) the function of calculating the component in respect of the mayor’s PCC functions is itself to be treated as a PCC function for the purposes of this Part.”

Clause 5

BARONESS WILLIAMS OF TRAFFORD

Page 7, line 13, leave out subsection (5)

Page 7, line 20, leave out subsection (7)

Clause 6

LORD MCKENZIE OF LUTON
LORD HUNT OF KINGS HEATH

Page 8, line 17, at end insert –

- “(5) An order under subsection (1) shall not extend to the transfer to the combined authority of any function of a public authority which is wholly or partly of a regulatory or supervisory nature.”

Page 8, line 26, insert “; and once the proposal or consent has been received by the Secretary of State, the requirements in subsections (1A) to (1C) have been fulfilled.

- “(1A) Before laying a draft order under subsection 105A before Parliament for approval, the Secretary of State must publish for consultation, in such manner as he considers appropriate, a proposal containing a draft of the instrument containing the order, and a statement explaining why the Secretary of State wishes to proceed with it.
- (1B) The Secretary of State must have regard to any representations made about a proposal within a 60-day period, starting on the day on which the proposal is published under subsection (1A).
- (1C) If after the expiry of the 60-day period the Secretary of State wishes to proceed, the Secretary of State shall lay before Parliament –
- (a) a draft order for approval under section 105A;
 - (b) a statement giving details of any representations received; and
 - (c) a statement as to whether the draft order has been revised, including whether the revisions have been made in response to representations or for any other reason.”

Clause 6 – continued

BARONESS WILLIAMS OF TRAFFORD

Page 8, line 26, at end insert –

- “() At the same time as laying a draft of a statutory instrument containing an order under this section before Parliament, the Secretary of State must lay before Parliament a report explaining the effect of the order and why the Secretary of State considers it appropriate to make the order.
- () The report must include –
- (a) a description of any consultation taken into account by the Secretary of State,
 - (b) information about any representations considered by the Secretary of State in connection with the order, and
 - (c) any other evidence or contextual information that the Secretary of State considers it appropriate to include.”

After Clause 6LORD MCKENZIE OF LUTON
LORD BEECHAM

Insert the following new 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 provisions of this Act.”

Clause 8LORD MCKENZIE OF LUTON
LORD BEECHAM

Page 10, line 2, at end insert –

- “() The Secretary of State may by order make provision for conferring powers on a combined authority to set multi-year finance settlements and retain additional business rates raised through growing business in their region.”

Clause 9LORD MCKENZIE OF LUTON
LORD BEECHAM

Page 10, line 7, leave out “may” and insert “shall”

After Clause 9

BARONESS WILLIAMS OF TRAFFORD

Insert the following new Clause –

“Requirements in connection with establishment etc. of combined authority

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- (2) In section 110 (requirements in connection with establishment of combined authority), for subsections (1) to (3) substitute –
 - “(1) The Secretary of State may make an order establishing a combined authority for an area only if –
 - (a) the Secretary of State considers that to do so is likely to improve the exercise of statutory functions in the area or areas to which the order relates, and
 - (b) the constituent councils consent.
 - (1A) If a scheme for the establishment of the combined authority has been prepared and published under section 109 the Secretary of State must have regard to that scheme in making the order.
 - (2) In a case where no such scheme has been prepared and published, the Secretary of State must consult such persons (if any) as the Secretary of State considers appropriate before making the order.
 - (3) In this section “constituent council” means –
 - (a) a county council the whole or any part of whose area is within the area for which the combined authority is to be established, or
 - (b) a district council whose area is within the area for which the combined authority is to be established.”
- (3) In section 113 (requirements in connection with changes to existing combined arrangements), for subsections (1) and (2) substitute –
 - “(1) The Secretary of State may make an order under section 104, 105, 106 or 107 in relation to an existing combined authority only if –
 - (a) the Secretary of State considers that to do so is likely to improve the exercise of statutory functions in the area or areas to which the order relates, and
 - (b) the constituent councils consent.
 - (1A) If a scheme has been prepared and published under section 112 the Secretary of State must have regard to that scheme in making the order.
 - (2) In a case where no such scheme has been prepared and published, the Secretary of State must consult such persons (if any) as the Secretary of State considers appropriate before making the order.
 - (2A) In this section “constituent council” means –
 - (a) a county council the whole or any part of whose area is within the area or proposed area of the combined authority, or

After Clause 9 – continued

- (b) a district council whose area is within the area or proposed area of the combined authority.”

Insert the following new Clause –

“Removal of geographical restrictions in relation to EPBs

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- (2) Omit subsections (3) and (4) of section 88 (EPBs and their areas).
- (3) In section 95(2)(a) (changes to boundaries of an EPB’s area: conditions), for “conditions A to D” substitute “conditions A and D”.
- (4) In section 98(3)(c) (preparation and publication of scheme for new EPB: conditions) for “conditions A to C” substitute “condition A”.
- (5) In section 99 (requirements in connection with establishment of EPB), after subsection (3) insert –

“(3A) Subsection (3B) applies where the Secretary of State is considering whether to make an order establishing an EPB for an area and –

- (a) part of the area is separated from the rest of it by one or more local government areas that are not within the area, or
- (b) a local government area that is not within the area is surrounded by local government areas that are within the area.

(3B) In deciding whether to make the order, the Secretary of State must have regard to the likely effect of the creation of the proposed EPB on economic development or regeneration in each local government area that is next to any part of the proposed EPB area.”

- (6) In section 102 (requirements in connection with changes to existing EPB arrangements), after subsection (2), insert –

“(2A) Subsection (2B) applies where the Secretary of State is considering whether to make an order under section 95 and –

- (a) part of the area to be created is separated from the rest of it by one or more local government areas that are not within the area, or
- (b) a local government area that is not within the area to be created is surrounded by local government areas that are within the area.

(2B) In deciding whether to make the order under section 95, the Secretary of State must have regard to the likely effect of the proposed change to the EPB’s area on economic development or regeneration in each local government area that is next to any part of the area to be created by the order.””

Insert the following new Clause –

“Removal of geographical restrictions in relation to combined authorities

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.

After Clause 9 – continued

- (2) Omit subsections (3) and (4) of section 103 (combined authorities and their areas).
- (3) In section 106(2)(a) (changes to boundaries of a combined authority’s area: conditions), for “conditions A to D” substitute “conditions A and D”.
- (4) In section 109(3)(c) (preparation and publication of scheme for new combined authority: conditions), for “conditions A to C” substitute “condition A”.
- (5) In section 110 (requirements in connection with establishment of combined authority), before subsection (4) insert –
 - “(3A) Subsection (3B) applies where the Secretary of State is considering whether to make an order establishing a combined authority for an area and –
 - (a) part of the area is separated from the rest of it by one or more local government areas that are not within the area, or
 - (b) a local government area that is not within the area is surrounded by local government areas that are within the area.
 - (3B) In deciding whether to make the order, the Secretary of State must have regard to the likely effect of the creation of the proposed combined authority on the exercise of functions equivalent to those of the proposed combined authority’s functions in each local government area that is next to any part of the proposed combined authority area.”
- (6) In section 113 (requirements in connection with changes to existing combined authorities), after subsection (2A) (inserted by section (*Requirements in connection with establishment etc. of combined authority*) above) insert –
 - “(2B) Subsection (2C) applies where the Secretary of State is considering whether to make an order under section 106 and –
 - (a) part of the area to be created is separated from the rest of it by one or more local government areas that are not within the area, or
 - (b) a local government area that is not within the area to be created is surrounded by local government areas that are within the area.
 - (2C) In deciding whether to make the order under section 106, the Secretary of State must have regard to the likely effect of the change to the combined authority’s area on the exercise of functions equivalent to those of the combined authority’s functions in each local government area that is next to any part of the area to be created by the order.””

Insert the following new Clause –

“Changes to existing EPB

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.

After Clause 9 – continued

- (2) In section 100 (review by authorities: existing EPB) –
- (a) in subsection (1), for “a review of one or more EPB matters.” substitute “a review of –
 - (a) a matter in relation to which an order may be made under section 95 or 96;
 - (b) a matter concerning the EPB that the EPB has power to determine.”;
 - (b) omit subsection (3).
- (3) In section 101 (preparation and publication of scheme: existing EPB –
- (a) in subsection (1), for “any one or more of sections 89, 91, 92, 95 and 96” substitute “section 95 or 96”;
 - (b) in subsection (2), omit “or powers”.
- (4) After section 101, insert –
- “101A Application in respect of change to constitution, functions or funding: existing EPB**
- (1) Any one or more of the authorities to whom this section applies may, in relation to an existing EPB, apply to the Secretary of State in respect of one or more EPB matters.
 - (2) This section applies to –
 - (a) the EPB;
 - (b) a county council whose area, or part of whose area, is within the area of the EPB;
 - (c) a district council whose area is within the area of the EPB.
 - (3) For the purposes of this section an “EPB matter” is a matter in relation to which an order may be made under any of sections 89, 91 and 92.
 - (4) An application to the Secretary of State under subsection (1) must –
 - (a) be made in writing;
 - (b) specify how the exercise of the power to make an order under any one or more of sections 89, 91 and 92 would be likely to improve –
 - (i) the exercise of statutory functions relating to economic development and regeneration in the area of the EPB, or
 - (ii) economic conditions in the area of the EPB.
 - (5) An application may be made under this section only if every authority to whom this section applies consents to the making of the application.”
- (5) In section 102 (requirements in connection with changes to existing EPB arrangements) –
- (a) in subsection (1), after “section 101” insert “or to an application made under section 101A”;
 - (b) in subsection (2)(a), after “section 100(2)” insert “or section 101A(2)”.

After Clause 9 – continued

LORD WARNER

Insert the following new Clause –

“Devolving NHS responsibilities

- (1) The Secretary of State may only exercise the powers in section 105A of the Local Democracy, Economic Development and Construction Act 2009 to transfer to a combined authority, or other designated body working in association with a combined authority, responsibilities of any health service body, if he considers that –
 - (a) it is in the best interests of the population served by the authority in terms of their health outcomes;
 - (b) it will facilitate the discharge of his duties in sections 2 and 4 of the Health and Social Care Act 2012 (duties to improve the quality of health services and reduce inequalities); and
 - (c) it will improve the effectiveness and sustainability of local health and care services.
- (2) Under subsection 1 an “other designated body” must be a body corporate with a governing body and a chief accounting officer that are able to produce annual audited public accounts and be accountable annually to the combined authority for its performance.
- (3) Where there is no other designated authority the combined authority must have a designated chief accounting officer for the NHS responsibilities transferred to it and must account separately in its accounts for the monies spent on those transferred responsibilities.
- (4) In making a transfer of responsibilities and resources in accordance with subsection (1) the Secretary of State shall require a memorandum of understanding on future service intentions, models of service delivery and use of resources to be agreed between NHS England and the combined authority or the other designated body working in association with the combined authority.
- (5) A memorandum of understanding under subsection (4) shall –
 - (a) be for a period of at least five years;
 - (b) be consistent with the Secretary of State’s responsibilities under the 2012 Act, including his Mandates to NHS England;
 - (c) ensure compliance with the regulatory and national service and information standards required of NHS commissioners and service providers; and
 - (d) specify the key health outcomes and improvements to be achieved for the period of the memorandum.
- (6) The provisions of an agreed memorandum of understanding under subsection (5) shall be incorporated in an order made by the Secretary of State.
- (7) An order may not be made under subsection (6) unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

After Clause 9 – continued

- (8) Once an order is approved, the Secretary of State may not use his powers of intervention in the actions of the combined authority or other designated body unless they have demonstrated, after due warning, a consistent inability to meet their population’s health needs or to do so within the agreed funding provisions made available to the authority or other designated body.
- (9) A combined authority or other designated body working in association with it under the provisions of this section shall publish an annual report on how responsibilities in the memorandum of understanding in subsection (4) have been discharged alongside the published annual accounts.
- (10) In this section, “health service body” has the same meaning as in the National Health Service Act 2006.”

Clause 10

LORD MCKENZIE OF LUTON
LORD BEECHAM

Page 10, line 25, at end insert –

- “() In making regulations under subsection (1), the Secretary of State must have regard to the need to reflect the identities and interests of local communities and to secure effective and convenient local government.”

BARONESS WILLIAMS OF TRAFFORD

Page 10, line 39, at end insert –

- “() At the same time as laying a draft of a statutory instrument containing regulations under this section before Parliament, the Secretary of State must lay before Parliament a report explaining the effect of the regulations and why the Secretary of State considers it appropriate to make the regulations.
- () The report must include –
 - (a) a description of any consultation taken into account by the Secretary of State,
 - (b) information about any representations considered by the Secretary of State in connection with the regulations, and
 - (c) any other evidence or contextual information that the Secretary of State considers it appropriate to include.”

After Clause 10

BARONESS WILLIAMS OF TRAFFORD

Insert the following new Clause –

“Power to transfer etc. public authority functions to certain local authorities

- (1) The Secretary of State may by regulations –
 - (a) make provision for a function of a public authority that is exercisable in relation to a relevant local authority’s area to be a function of the local authority;
 - (b) make provision for conferring on a relevant local authority in relation to its area a function corresponding to a function that a public authority has in relation to another area.
- (2) Regulations under subsection (1) may include further provision about the exercise of the function including –
 - (a) provision for the function to be exercisable by the public authority or relevant local authority subject to conditions or limitations specified in the regulations;
 - (b) provision as to joint working arrangements between the relevant local authority and public authority in connection with the function (for example, provision for the function to be exercised by a joint committee).
- (3) The provision that may be included in regulations under subsection (1)(a) includes, in particular, provision –
 - (a) for the relevant local authority to have the function instead of the public authority,
 - (b) for the function to be exercisable by the relevant local authority concurrently with the public authority,
 - (c) for the function to be exercisable by the relevant local authority and the public authority jointly, or
 - (d) for the function to be exercisable by the relevant local authority jointly with the public authority but also continue to be exercisable by the public authority alone.
- (4) Regulations 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 relevant local authority (including provision corresponding to any provision made by section 17(4) to (7) of the Localism Act 2011);
 - (b) provision to abolish the public authority in a case where, as a result of the regulations, it will no longer have any functions.
- (5) In this section –

“function” (except in subsection (4)(b)) does not include a power to make regulations or other instruments of a legislative character;

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

“public authority” includes a Minister of the Crown or a government department;

“relevant local authority” means a county council in England or a district council.”

After Clause 10 – continued

Insert the following new Clause –

“Section (Power to transfer etc. public authority functions to certain local authorities): procedure etc.

- (1) The Secretary of State may make regulations under section (*Power to transfer etc. public authority functions to certain local authorities*) only if –
 - (a) the relevant local authority consents, and
 - (b) the Secretary of State considers that the making of the regulations is likely to improve the exercise of statutory functions in the local authority’s area.
- (2) The power to make regulations under section (*Power to transfer etc. public authority functions to certain local authorities*) –
 - (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 whenever passed or made.
- (3) A statutory instrument containing regulations under section (*Power to transfer etc. public authority functions to certain local authorities*) 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.
- (4) At the same time as laying a draft of a statutory instrument containing regulations under section (*Power to transfer etc. public authority functions to certain local authorities*) before Parliament, the Secretary of State must lay before Parliament a report explaining the effect of the regulations and why the Secretary of State considers it appropriate to make the regulations.
- (5) The report must include –
 - (a) a description of any consultation taken into account by the Secretary of State,
 - (b) information about any representations considered by the Secretary of State in connection with the regulations, and
 - (c) any other evidence or contextual information that the Secretary of State considers it appropriate to include.
- (6) If a draft of regulations under section (*Power to transfer etc. public authority functions to certain local authorities*) would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.”

Schedule 1

BARONESS WILLIAMS OF TRAFFORD

Page 13, line 12, at end insert –

- “(1) The term of office of a mayor is to be four years.

Schedule 1 – continued

- (2) The first election for the return of a mayor is to take place on the first day of ordinary elections of councillors of a constituent council to take place after the end of the period 6 months beginning with the day on which the order under section 107A comes into force.
- (3) Subsequent elections for the return of a mayor are to take place in every fourth year thereafter on the same day as the ordinary election of councillors of that constituent council.
- (4) But this paragraph has effect subject to any provision made under paragraph 2.
- (5) 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
 - (b) a district council whose area is within the area of the combined authority.”

Page 17, line 4, leave out “the” and insert “a”

Schedule 2

LORD McKENZIE OF LUTON
LORD BEECHAM

Page 19, line 10, at end insert—

- “() An order under sub-paragraph (2) must include provision for an appointment process for any other person who may exercise any PCC functions of the mayor.”

BARONESS WILLIAMS OF TRAFFORD

Page 19, line 21, leave out “or (e)” and insert “, (e) or (f)”

Page 21, line 10, after “to” insert “the mayor acting on behalf of the”

Page 21, line 10, at end insert “in relation to the calculation of the component of the council tax requirement relating to the mayor’s PCC functions (see section 107F(2A)(a) above)”

Schedule 3

LORD McKENZIE OF LUTON
LORD BEECHAM

Page 22, line 15, after “taken,” insert “or under consideration,”

Page 22, line 22, at end insert—

- “(d) to appoint an independent chair of a committee to review and scrutinise the authority’s financial affairs;
- (e) to review and assess the authority’s risk management, internal control and corporate governance arrangements; and

Schedule 3 – continued

- (f) to review and assess the economy, efficiency and effectiveness with which resources have been used in discharging the authority’s functions.”

Page 22, line 28, after “taken,” insert “or under consideration,”

Page 23, line 44, at end insert –

“() Guidance may not be issued under sub-paragraph (9) unless it has been subject to a public consultation.

() Having been subject to a public consultation, guidance under sub-paragraph (9) must be contained in regulations made by statutory instrument, and the regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Schedule 4

BARONESS WILLIAMS OF TRAFFORD

Page 25, line 14, at end insert –

“2A In section 91 (exercise of local authority functions), in subsection (1), after “an area” insert “all or part of which is”.”

Page 25, line 19, at end insert –

“(2B) An order under subsection (1)(c) may include provision for a function exercisable by a local authority in relation to an area all or part of which is comprised in the combined authority’s area to be exercisable by the combined authority in relation to the combined authority’s area.”

Page 25, line 42, at end insert –

“5A In section 111 (review by authorities: existing combined authority), in subsection (3)(a), for “any of sections 104 to 107” substitute “section 104, 105, 106 or 107”.

5B In section 112 (preparation and publication of scheme: existing combined authority), in subsection (1), for “sections 104 to 107” substitute “sections 104, 105, 106 and 107”.”

Page 26, line 26, at end insert –

“*Localism Act 2011 (c. 20)*

9 The Localism Act 2011 is amended as follows.

10 (1) Section 15 (power to transfer local public functions to permitted authorities) is amended as follows.

(2) In subsection (1) –

- (a) in paragraph (a), for “a permitted authority” substitute “an EPB”;
 (b) in paragraph (b), for “permitted authorities” substitute “EPBs”.

(3) Omit subsection (4).

Schedule 4 – *continued*

- (4) In subsections (6) and (7), for “permitted authority” substitute “EPB”.
- (5) In subsection (8), for “a permitted authority” substitute “an EPB”.
- 11 In section 17 (transfer schemes), in subsection (1), for “permitted authority” substitute “EPB”.
- 12 (1) Section 18 (duty to consider proposals for exercise of powers under sections 15 and 17) is amended as follows.
 - (2) In subsection (1) –
 - (a) for “a permitted authority” substitute “an EPB”;
 - (b) in paragraph (b), for “permitted authority” substitute “EPB”.
 - (3) In subsection (3), in paragraph (a), for “permitted authority” substitute “EPB”.
- 13 In section 20 (interpretation) at the appropriate place insert –
 - “EPB” means an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;”.

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