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**Changes to legislation:** Local Democracy, Economic Development and Construction Act 2009, SCHEDULE 5B is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### [<sup>F1</sup>SCHEDULE 5B

#### MAYORS FOR COMBINED AUTHORITY AREAS: FURTHER PROVISION ABOUT ELECTIONS

##### Textual Amendments

- F1** Sch. 5B inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\), Sch. 1](#)

##### *Interpretation*

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

##### *Timing of elections*

- 2 (1) The term of office of a mayor is to be four years.
- (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 of 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 3.
- (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.
- 3 The Secretary of State <sup>F2</sup>... may by order make provision—
- (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.

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**Textual Amendments**

**F2** Words in Sch. 5B para. 3 omitted (8.12.2021) by virtue of [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), art. 1(2), **Sch. 2 para. 21(4)** (with art. 12)

**Modifications etc. (not altering text)**

**C1** Sch. 5B para. 3 functions transferred (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), arts. 1(2), 3(1), **Sch. 1(p)** (with arts. 3(2), 6, 12)

**C2** Sch. 5B para. 3: functions cease to be exercisable concurrently (8.12.2021) by [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), arts. 1(2), 9, **Sch. 1(l)** (with arts. 11, 12)

*Voting at elections of mayors*

4 [F3(1) Each person entitled to vote as an elector at an election for the return of a mayor is to have one vote which may be given for a candidate to be the mayor.]

(2) The mayor is to be returned under the simple majority system<sup>F4</sup>....

<sup>F5</sup>(3) .....

**Textual Amendments**

**F3** Sch. 5B para. 4(1) substituted (26.10.2022) by [Elections Act 2022 \(c. 37\)](#), **ss. 13(13)(a)**, 67(1); S.I. 2022/1093, reg. 2 (with reg. 3)

**F4** Words in Sch. 5B para. 4(2) substituted (26.10.2022) by [Elections Act 2022 \(c. 37\)](#), **ss. 13(13)(b)**, 67(1); S.I. 2022/1093, reg. 2 (with reg. 3)

**F5** Sch. 5B para. 4(3) omitted (26.10.2022) by virtue of [Elections Act 2022 \(c. 37\)](#), **ss. 13(13)(c)**, 67(1); S.I. 2022/1093, reg. 2 (with reg. 3)

<sup>F65</sup> .....

**Textual Amendments**

**F6** Sch. 5B para. 5 omitted (26.10.2022) by virtue of [Elections Act 2022 \(c. 37\)](#), **ss. 13(14)**, 67(1); S.I. 2022/1093, reg. 2 (with reg. 3)

*Entitlement to vote*

6 (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
- (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 [<sup>F7</sup>vote] at an election for the return of a mayor.

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(3) In this paragraph—

“electoral area” has the meaning given by section 203(1) of the Representation of the People Act 1983;

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

#### Textual Amendments

- F7** Word in Sch. 5B para. 6(2) substituted (26.10.2022) by Elections Act 2022 (c. 37), ss. 13(15), 67(1); S.I. 2022/1093, reg. 2 (with reg. 3)

#### *Election as mayor and councillor*

- 7 (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.
- (2) If the person who is returned at an election (“the mayoral election”) as the mayor for the area of a combined authority—
- (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.
- (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.
- (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.

#### *Qualification and disqualification*

- 8 (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—
- (a) at least 18 years old, and
  - (b) a qualifying citizen.
- (2) The person must also—
- (a) on and after the relevant day, be entitled (under paragraph 6) to vote in the election for the return of the mayor for that area, or
  - (b) for the twelve months before the relevant day—

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- (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.

(3) In this paragraph—

“electoral area” has the meaning given by section 203(1) of the Representation of the People Act 1983;

[<sup>F8</sup>“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;]

[<sup>F8</sup>“qualifying citizen” means a person who is—

- (a) a qualifying Commonwealth citizen (within the meaning given by section 79 of the Local Government Act 1972),
- (b) a citizen of the Republic of Ireland,
- (c) a qualifying EU citizen (within the meaning given by section 203A of the Representation of the People Act 1983), or
- (d) an EU citizen with retained rights (within the meaning given by section 203B of that Act).]

“relevant day” means—

- (a) if the election is preceded by the nomination of candidates, the day on which the person is nominated, and
- (b) if the election is not preceded by the nomination of candidates, the day of the election.

#### **Textual Amendments**

**F8** Words in [Sch. 5B para. 8\(3\)](#) substituted (1.11.2023 for specified purposes) by [Elections Act 2022 \(c. 37\), s. 67\(1\), Sch. 8 para. 5](#); S.I. 2023/1145, reg. 3(i)(iii)

- 9 (1) A person is disqualified for being elected or holding office as the mayor for the area of a combined authority if the person—
- (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;
  - (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;
  - (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;
  - (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).

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- [ is incapable of being elected to or holding—
- <sup>F9</sup>(e) (i) the office of member of the Northern Ireland Assembly having been reported personally guilty or convicted of a corrupt practice under section 114A of the Representation of the People Act 1983 (as applied by Schedule 1 to the Northern Ireland Assembly (Elections) Order 2001 (S.I. 2001/2599)) (undue influence);
- (ii) the office of member of a district council in Northern Ireland having been reported personally guilty or convicted of a corrupt practice under paragraph 3 of Schedule 9 to the Electoral Law Act (Northern Ireland) 1962 (undue influence).]
- (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
- (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
- (b) a district council whose area is within the area of the combined authority.

#### Textual Amendments

- F9** Sch. 5B para. 9(1)(e) inserted (1.11.2023) by Elections Act 2022 (c. 37), s. 67(1), Sch. 5 para. 6; S.I. 2023/1145, reg. 3(g) (with Sch. para. 9(2)(4))

#### Modifications etc. (not altering text)

- C3** Sch. 5B para. 9(1)(a) applied (with modifications) (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), Sch. 1 para. 16(2)
- C4** Sch. 5B para. 9(1)(a) modified (20.12.2023) by The York and North Yorkshire Combined Authority Order 2023 (S.I. 2023/1432), arts. 1(2), 33(2), Sch. 5 para. 16(2)

- [<sup>F10</sup>9A (1) A person is disqualified for being elected or holding office as the mayor for the area of a combined authority if the person is subject to—
- (a) any relevant notification requirements, or
- (b) a relevant order.
- (2) In this paragraph “relevant notification requirements” mean—
- (a) the notification requirements of Part 2 of the Sexual Offences Act 2003;
- (b) the notification requirements of Part 2 of the Sex Offenders (Jersey) Law 2010;
- (c) the notification requirements of Part 2 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013;
- (d) the notification requirements of Schedule 1 to the Criminal Justice Act 2001 (an Act of Tynwald: c. 4).
- (3) In this paragraph “relevant order” means—
- (a) a sexual harm prevention order under section 345 of the Sentencing Code;

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- (b) a sexual harm prevention order under section 103A of the Sexual Offences Act 2003;
  - (c) a sexual offences prevention order under section 104 of that Act;
  - (d) a sexual risk order under section 122A of that Act;
  - (e) a risk of sexual harm order under section 123 of that Act;
  - (f) a risk of sexual harm order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005;
  - (g) a sexual risk order under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016;
  - (h) a restraining order under Article 10 of the Sex Offenders (Jersey) Law 2010;
  - (i) a child protection order under Article 11 of that Law;
  - (j) a sexual offences prevention order under section 18 of that Law;
  - (k) a risk of sexual harm order under section 22 of that Law;
  - (l) a sexual offences prevention order under section 1 of the Sex Offenders Act 2006 (an Act of Tynwald: c. 20);
  - (m) a risk of sexual harm order under section 5 of that Act.
- (4) For the purposes of sub-paragraph (1)(a), a person who is subject to any relevant notification requirements is not to be regarded as disqualified until—
- (a) the expiry of the ordinary period allowed for making an appeal or application against the conviction, finding, caution, order or certification in respect of which the person is subject to the relevant notification requirements, or
  - (b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- (5) For the purposes of sub-paragraph (1)(b), a person who is subject to a relevant order is not to be regarded as disqualified until—
- (a) the expiry of the ordinary period allowed for making an appeal against the relevant order, or
  - (b) if such an appeal is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.]

#### **Textual Amendments**

**F10** Sch. 5B para. 9A inserted (28.6.2022) by [Local Government \(Disqualification\) Act 2022 \(c. 17\)](#), **ss. 2(2), 6(2)** (with s. 5)

#### **Modifications etc. (not altering text)**

**C5** Sch. 5B para. 9A: power to amend conferred (28.6.2022) by [Local Government \(Disqualification\) Act 2022 \(c. 17\)](#), **ss. 4(1)(2)(b), 6(2)** (with s. 5)

- 10 Paragraph 9 of Schedule 5C contains further provision about disqualification in the case of mayors who exercise PCC functions.
- 11 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, a 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.

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*Power to make further provision*

- 12 (1) The Secretary of State <sup>F11</sup>... may by order make provision as to—
- (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—
- (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
  - (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,
  - (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
  - (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.
- (4) Before making an order under this paragraph, the Secretary of State <sup>F12</sup>... must consult the Electoral Commission.
- (5) In addition, the power of the Secretary of State <sup>F13</sup>... 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 or the [<sup>F14</sup>Minister for the Cabinet Office] considers that it is expedient to exercise that power in consequence of changes in the value of money.
- (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.]

**Textual Amendments**

- F11** Words in Sch. 5B para. 12(1) omitted (8.12.2021) by virtue of [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), art. 1(2), **Sch. 2 para. 21(4)** (with art. 12)
- F12** Words in Sch. 5B para. 12(4) omitted (8.12.2021) by virtue of [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), art. 1(2), **Sch. 2 para. 21(4)** (with art. 12)



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- F13** Words in Sch. 5B para. 12(5) omitted (8.12.2021) by virtue of [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), art. 1(2), **Sch. 2 para. 21(4)** (with art. 12)
- F14** Words in Sch. 5B para. 12(5) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), **Sch. 2 para. 22(c)** (with art. 12)

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**Modifications etc. (not altering text)**

- C6** Sch. 5B para. 12 functions transferred (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), arts. 1(2), 3(1), **Sch. 1(p)** (with arts. 3(2), 6, 12)
- C7** Sch. 5B para. 12: functions cease to be exercisable concurrently (8.12.2021) by [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), arts. 1(2), 9, **Sch. 1(l)** (with arts. 11, 12)



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**Changes and effects yet to be applied to :**

- Sch. 5B para. 8(3) savings for the effects of the amendment by 2022 c. 37, Sch. 8 paras. 3-5 by [S.I. 2023/1406 reg. 1718](#)