

SCHEDULES

SCHEDULE 1

Section 2

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—

“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.

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 or the Chancellor of the Duchy of Lancaster 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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Voting at elections of mayors

- 4 (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—
- (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.
- (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 5.
- 5 (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.
 - (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.
 - (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 sub-paragraph (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.
 - (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.
 - (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.
 - (11) In this paragraph “first preference vote” and “second preference vote” has the meaning given in paragraph 4(1).

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

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- (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.
- (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.

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—
 - (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,

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- (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;
 - “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;
 - “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.
- 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).
- (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.
- 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.

Power to make further provision

- 12 (1) The Secretary of State or the Chancellor of the Duchy of Lancaster 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 or the Chancellor of the Duchy of Lancaster must consult the Electoral Commission.
- (5) In addition, the power of the Secretary of State or the Chancellor of the Duchy of Lancaster 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 Chancellor of the Duchy of Lancaster 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.”

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SCHEDULE 2

Section 4

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

MAYORS FOR COMBINED AUTHORITY AREAS: PCC FUNCTIONS

Introductory

- 1 (1) This Schedule applies where an order is made under section 107F(1) providing for a mayor to exercise functions of a police and crime commissioner.
- (2) A duty under this Schedule to make provision by order is a duty to make such provision in an order made at any time before the first election of a mayor who, by virtue of an order under section 107F(1), is to exercise functions of a police and crime commissioner.
- (3) 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 107F(1).
- (4) In this Schedule “the 2011 Act” means the Police Reform and Social Responsibility Act 2011.

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
 - (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—
 - (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);
 - (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 mayor for policing and crime”), and

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- (b) to arrange for the deputy mayor for policing and crime 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.
 - (3) An order under this paragraph must include provision preventing the mayor from appointing as deputy mayor for policing and crime—
 - (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;
 - (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 mayor for policing and crime to exercise—
 - (a) a PCC function of the mayor of a kind listed in subsection (7)(a), (e) or (f) of section 18 of the 2011 Act, or
 - (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 sub-paragraph (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.
 - (6) An order under this paragraph must include provision authorising the deputy mayor for policing and crime to arrange for any other person to exercise any PCC function of the mayor which is exercisable by the deputy mayor for policing and crime in accordance with provision made under this paragraph.
 - (7) An order under this paragraph must include provision preventing the deputy mayor for policing and crime 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—
 - (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 (1) The Secretary of State may by order provide for a police and crime panel to have oversight functions in relation to any general functions of the mayor that are the subject of arrangements under section 107D(3)(c)(i) (power to arrange for general functions to be exercisable by deputy mayor for policing and crime).
- (2) If it appears to the Secretary of State expedient for the police and crime panel also to have oversight functions in relation to other general functions of the mayor that are related to general functions in respect of which an order is made under sub-

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paragraph (1), the Secretary of State may by order provide for the panel to have oversight functions in relation to those other general functions.

(3) An order under this paragraph may disapply, or otherwise modify, the application of paragraph 1(3) of Schedule 5A so far as relating to general functions of the mayor in respect of which a police and crime panel has oversight functions.

(4) In this paragraph—

“oversight functions”, in relation to general functions of the mayor, are functions that are of a corresponding or similar kind to those that a police and crime panel has in relation to PCC functions of the mayor;

“police and crime panel” means a panel established by virtue of an order under paragraph 4.

Financial matters

6 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;
- (b) about the preparation of an annual budget in relation to the exercise of such functions.

Suspension

7 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.

Conduct

8 The Secretary of State must by order make provision about the matters mentioned in paragraphs (a) to (c) of section 31(1) of the 2011 Act (taking references in those paragraphs to “relevant office holders” as references to the mayor and the deputy mayor for policing and crime).

Disqualification

9 (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.

(2) Provision under sub-paragraph (1) is in addition to paragraphs 8 and 9 of Schedule 5B.

Policing protocol

10 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.

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Application of certain enactments

- 11 (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—
- (a) sections 24(4) and 98(6) (aid of one police force by another);
 - (b) sections 22A 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);
 - (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 mayor acting on behalf of the mayoral combined authority in relation to the calculation of the component of the council tax requirement relating to the mayor's PCC functions (see section 107G(4)(a) above).

Supplementary

- 12 (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 107F.
- (2) Sub-paragraphs (3) and (4) apply in relation to an order under—
- (a) this paragraph,
 - (b) another paragraph of this Schedule, or
 - (c) section 107F.
- (3) The order may include provision—
- (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.
- (5) “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.
- (6) In sub-paragraph (5) “enactment” includes an enactment whenever passed or made.
- (7) 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.
- (8) Subsections (5) and (6) of section 107C, so far as relating to the exercise of PCC functions, are subject to any provision contained in an order under this Schedule.
- (9) An order under this Schedule may relate to—
- (a) a particular mayor in respect of whom an order under section 107F(1) has effect, or
 - (b) all mayors in respect of whom any such order has effect.”

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SCHEDULE 3

Section 8

OVERVIEW AND SCRUTINY COMMITTEES AND AUDIT COMMITTEES

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

“SCHEDULE 5A

COMBINED AUTHORITIES: OVERVIEW AND SCRUTINY COMMITTEES AND AUDIT 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).
- (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;
 - (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.
- (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)—
 - (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;
 - (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 sub-paragraph (2)(a) and (3)
 - (a) to review or scrutinise a decision made but not implemented includes—
 - (a) power to direct that a decision is not to be implemented while it is under review or scrutiny by the overview and scrutiny committee, and
 - (b) power to recommend that the decision be reconsidered.
- (5) An overview and scrutiny committee of a combined authority must publish details of how it proposes to exercise its powers in relation to the review and scrutiny of decisions made but not yet implemented and its arrangements in connection with the exercise of those powers.
- (6) Before complying with sub-paragraph (5) an overview and scrutiny committee must obtain the consent of the combined authority to the proposals and arrangements.
- (7) An overview and scrutiny committee of a combined authority may not discharge any functions other than the functions conferred by or under this Schedule.

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- (8) 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.

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.
- (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).
- (4) An overview and scrutiny committee of a combined authority is to be treated 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).
- (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.
- (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
 - (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.
- (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.
- (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.

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- (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;
 - (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;
 - (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;
 - (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);
 - (h) as to the minimum or maximum period for which a direction under paragraph 1(4)(a) may have effect.
- (3) Provision must be made under sub-paragraph (2)(a) so as to ensure that the majority of members of an overview and scrutiny committee are members of the combined authority's constituent councils.
- (4) Provision must be made under sub-paragraph (2)(b) so as to ensure that the chair of an overview and scrutiny committee is—
- (a) an independent person (as defined by the order), or
 - (b) an appropriate person who is a member of one of the combined authority's constituent councils.
- (5) For the purposes of sub-paragraph (4)(b) “appropriate person”—
- (a) in relation to a mayoral combined authority, means a person who is not a member of a registered political party of which the mayor is a member, and
 - (b) in relation to any other combined authority, means a person who is not a member of the registered political party which has the most representatives among the members of the constituent councils (or, if there is no such party because two or more parties have the same number of representatives, is not a member of any of those parties).
- (6) 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
 - (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).
- (7) 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.
- (8) In this paragraph—
- “constituent council”, in relation to a combined authority, means—

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- (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;
- “registered political party” means a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000.
- (9) In this paragraph references to an overview and scrutiny committee include references to any sub-committee of such a committee.

Audit committees

- 4 (1) A combined authority must arrange for the appointment by the authority of an audit committee.
- (2) The functions of the audit committee are to include—
- (a) reviewing and scrutinising the authority's financial affairs,
 - (b) reviewing and assessing the authority's risk management, internal control and corporate governance arrangements,
 - (c) reviewing and assessing the economy, efficiency and effectiveness with which resources have been used in discharging the authority's functions, and
 - (d) making reports and recommendations to the combined authority in relation to reviews conducted under paragraphs (a), (b) and (c).
- (3) The Secretary of State may by order make provision about—
- (a) the membership of a combined authority's audit committee;
 - (b) the appointment of the members.
- (4) Provision must be made under sub-paragraph (3) so as to ensure that at least one member of an audit committee is an independent person (as defined by the order).”

SCHEDULE 4

Section 19

AMENDMENTS OF THE NATIONAL HEALTH SERVICE ACT 2006

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

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

- (1) This section applies to arrangements under section 13Z(2) for one or more functions of the Board to be exercised in relation to a particular area by or jointly with a relevant prescribed body (“devolved arrangements”).
- (2) “Relevant prescribed body” means a body prescribed under section 13Z(2)
 - (c) that is either—
 - (a) a combined authority whose area includes the whole or part of the area to which the arrangements relate, or
 - (b) a local authority (within the meaning of section 2B) whose area includes the whole or part of that area.
- (3) The power of the Board under section 13Z(2) to enter into devolved arrangements in relation to any functions includes power to arrange for such functions to be exercised in relation to the area to which the arrangements relate—
 - (a) by the relevant prescribed body jointly with one or more other eligible bodies;
 - (b) jointly with the Board, the relevant prescribed body and one or more other eligible bodies.
- (4) A body is an “eligible body” if it—
 - (a) falls within paragraph (a), (b) or (c) of section 13Z(2), and
 - (b) exercises functions in relation to the area to which the arrangements relate.
- (5) Where, by virtue of subsection (3), the Board enters into devolved arrangements with a relevant prescribed body and one or more eligible bodies, at least one of those eligible bodies must be a clinical commissioning group.
- (6) Where, by virtue of subsection (3), one or more eligible bodies are a party to devolved arrangements, the power under section 13Z(4) to establish a joint committee includes a power to establish a joint committee of which one or more of the eligible bodies are members.
- (7) But the members of a joint committee established under section 13Z(4) by virtue of subsection (6) must include—
 - (a) the relevant prescribed body;
 - (b) at least one clinical commissioning group with whom a function is exercised jointly under the devolved arrangements;
 - (c) if under the devolved arrangements a function is exercisable jointly with the Board, the Board.
- (8) The terms and conditions on which devolved arrangements are made may include terms authorising a joint committee established by virtue of subsection (6) to establish and maintain a pooled fund.
- (9) A pooled fund is a fund—
 - (a) which is made up of payments received from the Board under the devolved arrangements in accordance with terms of payment agreed under section 13Z(5), and

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- (b) out of which payments may be made towards expenditure incurred in the discharge of any of the functions in relation to which the devolved arrangements are made.

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

- (1) This section applies to arrangements under section 13Z(2) that are or include arrangements in relation to the exercise of a relevant commissioning function.
- (2) “Relevant commissioning function” means a function of the Board under section 3B(1)(d) of arranging for the provision of services or facilities in respect of a particular area (“the commissioning area”).
- (3) The power to enter into the arrangements under section 13Z is subject to the following provisions of this section.
- (4) The arrangements must provide for the relevant commissioning function to be exercisable by at least one relevant prescribed body jointly with—
 - (a) one or more eligible bodies, or
 - (b) the Board and one or more eligible bodies,(and the arrangements are, accordingly, devolved arrangements to which section 13ZA applies).
- (5) At least one of the eligible bodies mentioned in subsection (4) must be a clinical commissioning group.
- (6) The Board may enter into the arrangements in relation to the provision of a service or facility in the commissioning area only if it considers it appropriate to do so having regard to—
 - (a) the impact on the provision of the service or facility in the commissioning area;
 - (b) the impact on the provision of the service or facility in other areas;
 - (c) the number of persons in the commissioning area to whom the service or facility is provided;
 - (d) the number of persons who are able to provide the service or facility;
 - (e) the cost of providing the service or facility;
 - (f) the financial implications for the relevant prescribed body, and for other bodies, with whom the arrangements are made.
- (7) Regulations may provide for this section not to apply to arrangements so far as relating to a relevant commissioning function of a prescribed description.
- (8) In this section, “eligible body” and “relevant prescribed body” have the same meaning as in section 13ZA.”

5 After section 14Z3 insert—

“14Z3A Joint exercise of functions with combined authorities

- (1) A clinical commissioning group may arrange for—
 - (a) any commissioning function of the group to be exercised jointly with a combined authority;

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- (b) any commissioning function that the group exercises on behalf of another clinical commissioning group under section 14Z3(2)(a) to be exercised jointly with a combined authority.
 - (2) Two or more clinical commissioning groups may arrange for any commissioning functions of those groups that are exercised jointly with each other under section 14Z3(2)(b) to be exercised jointly also with a combined authority.
 - (3) Regulations may provide that the powers in subsections (1) and (2) do not apply in relation to a commissioning function of a prescribed description.
 - (4) Where any commissioning functions of a clinical commissioning group (or groups) are exercised jointly with a combined authority under subsection (1) or (2), they may be exercised by a joint committee of the group (or groups) and the authority.
 - (5) Arrangements under subsection (1) or (2) may be on such terms and conditions (including terms as to payment) as may be agreed between the clinical commissioning group (or groups) and the combined authority.
 - (6) Where two or more clinical commissioning groups enter into arrangements with the same combined authority under subsection (1) or (2), the terms as to payment mentioned in subsection (5) may include terms authorising a joint committee established under subsection (4) to establish and maintain a pooled fund.
 - (7) A pooled fund is a fund—
 - (a) which is made up of payments received under the arrangements from all the groups that are parties to the arrangements, and
 - (b) out of which payments may be made towards expenditure incurred in the exercise of any of the commissioning functions in respect of which the arrangements are made.
 - (8) Arrangements under subsection (1) or (2) do not affect the liability of a clinical commissioning group for the exercise of any of its functions.
 - (9) In this section “commissioning functions” means the functions of clinical commissioning groups in arranging for the provision of services as part of the health service (but does not include the function of making a request to the Board for the purposes of section 14Z9).”
- 6 In section 75 (arrangements between NHS bodies and local authorities), after subsection (7) insert—
- “(7A) For the purposes of this section, a combined authority that exercises a prescribed function within subsection (1)(a) of an NHS body under voluntary arrangements is to be treated as an NHS body.
 - (7B) “Voluntary arrangements” means arrangements made with the combined authority under—
 - (a) section 7A (exercise of Secretary of State's public health functions),
 - (b) section 13Z (exercise of the Board's functions), or
 - (c) section 14Z3A (joint exercise of functions with clinical commissioning groups).

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- (7C) Regulations under this section, so far as made before or in the same Session as that in which the Cities and Local Government Devolution Act 2016 is passed, apply to a combined authority that is treated as an NHS body by virtue of subsection (7A) as if it were a prescribed NHS body for the purposes of those regulations.
- (7D) But a combined authority to which regulations under this section apply by virtue of subsection (7C) may enter into prescribed arrangements in relation to the exercise only of functions within subsection (1)(a) that are exercisable by the authority under voluntary arrangements.
- (7E) Regulations under this section may provide for the regulations to apply in relation to a combined authority subject to any prescribed limitations or conditions.
- (7F) Nothing in subsection (7D) prevents a combined authority from being a party to arrangements made by virtue of this section in relation to any prescribed functions of an NHS body that are exercisable by the authority as a result of an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009 (public authority functions exercisable by combined authorities).”
- 7 (1) Section 251 (control of patient information) is amended as follows.
- (2) In subsection (2)(a), after “health service bodies” insert “ or relevant social care bodies ”.
- (3) After subsection (12) insert—
- “(12A) In this section—
- “care” includes local authority social care,
- “local authority social care” means—
- (a) social care provided or arranged for by a local authority, and
- (b) any other social care all or part of the cost of which is paid for with funds provided by a local authority,
- “patient” includes an individual who needs or receives local authority social care or whose need for such care is being assessed by a local authority,
- “social care” includes all forms of personal care and other practical assistance provided for individuals who are in need of such care or assistance by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs or other similar circumstances.”
- (4) In subsection (13), at the end insert—
- ““relevant social care body” means—
- (a) a local authority, or
- (b) any other body or person engaged in the provision of local authority social care.”
- 8 In section 275(1) (interpretation), after the definition of “clinical commissioning group” insert—

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- (5E) In subsection (5C), “general functions” has the meaning given in section 107D(2) of that Act.”;
- (c) in subsection (13) after “combined authority,” insert “ a sub-national transport body, ”.
- 5 In section 270 (general provisions as to interpretation), in subsection (1) after the definition of “specified papers” insert—
- ““sub-national transport body” means a sub-national transport body established under section 102E of the Local Transport Act 2008;”.

Local Government Act 1985

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

Local Government Finance Act 1988

- 9 The Local Government Finance Act 1988 is amended as follows.
- 10 In section 74 (levies), omit subsection (9).
- 11 In section 143 (orders and regulations), after subsection (4A) insert—
- “(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.”

Local Government and Housing Act 1989

- 12 (1) The Local Government and Housing Act 1989 is amended as follows.
- (2) In section 4 (designation and reports of head of paid service), in subsection (6)(a) for “, (ja) and (jb)” substitute “ and (ja) to (jc) ”.
 - (3) In section 13 (voting rights of members of certain committees: England and Wales), in the definition of “relevant authority” in subsection (9), for “(jb)” substitute “ (jc) ”.
 - (4) In section 20 (duty to adopt certain procedural standing orders), in subsection (4)(a) for “(jb)” substitute “ (jc) ”.

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(5) In section 21 (interpretation of Part 1 of Act), in subsection (1) after paragraph (jb) insert—

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

Railways Act 1993

13 (1) Section 24A of the Railways Act 1993 (Secretary of State franchise exemptions: operator agreements) is amended as follows.

(2) In subsection (4)—

(a) in paragraph (a), after sub-paragraph (i) insert—

“(ia) an STB;”;

(b) in paragraph (b), after “Executive” insert “ , an STB ”;

(c) in paragraph (c)(i), after “Executive” insert “ , STB ”;

(d) in paragraph (c)(ii), after “Executive” insert “ , STB ”.

(3) In subsection (5)—

(a) in paragraph (a) of the definition of “relevant company”, after “Executive” insert “ , an STB ”;

(b) in paragraph (b) of that definition, after “Executive” insert “ , an STB ”;

(c) after that definition insert—

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

Environment Act 1995

14 (1) Section 65 of the Environment Act 1995 (National Park authorities: general purposes and powers) is amended as follows.

(2) In subsection (5), after paragraph (b) insert—

“Paragraph (b) is subject to subsection (6A).”

(3) After subsection (6) insert—

“(6A) Subsection (5)(b) does not apply in relation to a National Park authority for a National Park in England (see instead section 65A for general powers of such authorities).”

Local Government Act 1999

15 In section 1 of the Local Government Act 1999 (best value authorities), in subsection (1) after paragraph (hb) insert—

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

Freedom of Information Act 2000

16 In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part 2 (local government: England and Wales), after paragraph 28 insert—

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“28A A sub-national transport body established under section 102E of the
Local Transport Act 2008.”

Local Democracy, Economic Development and Construction Act 2009

17 The Local Democracy, Economic Development and Construction Act 2009 is
amended as follows.

18 (1) Section 91 (exercise of local authority functions) is amended as follows.

(2) In subsection (1), after “an area” insert “ all or part of which is ”.

(3) In subsection (4)—

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

(b) after paragraph (b) insert—

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

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

19 In section 104 (constitution and functions: transport), after subsection (2) insert—

“(2A) But section 85 of that Act, in its application to a combined authority by virtue
of subsection (2), is subject to subsections (2B) and (2C).

(2B) If the area of the combined authority includes the area of the whole of
a county that comprises the areas of one or more district councils, the
representative councils for the purposes of section 85(1)(c) of that Act (as
applied to a combined authority) are either the county council or the council
for each of the districts (as determined by or in accordance with the order).

(2C) 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.

(2D) 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.”

20 In section 106 (changes to boundaries of combined authority's area), in
subsection (2) omit “and” at the end of paragraph (a).

21 (1) Section 107 (dissolution of combined authority's area) is amended as follows.

(2) In subsection (2)—

(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.”

(3) After subsection (4) insert—

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- “(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.”
- 22 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 ”.
- 23 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 ”.
- 24 In section 113 (requirements in connection with changes to existing combined arrangements), after subsection (3) insert—
- “(4) This section does not apply to an order under section 106(1)(b) that is made as a result of the duty in section 105B(5) or 107B(4).”
- 25 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.”
- 26 (1) Section 114 (incidental etc. provision) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) In relation to an order under Schedule 5B, subsection (1) has effect as if the reference to the Secretary of State were a reference to the Secretary of State or the Chancellor of the Duchy of Lancaster.”
- (3) Omit subsection (2).
- (4) In subsection (3), for “by virtue of subsection (2)” substitute “ in an order under this section by virtue of section 117(5) ”.
- 27 In section 115 (transfer of property, rights and liabilities), in subsection (1) after “liabilities” insert “ (including criminal liabilities) ”.
- 28 In section 116 (consequential amendments), after subsection (1) insert—
- “(1A) In relation to an order under Schedule 5B, subsection (1) has effect as if the references to the Secretary of State were references to the Secretary of State or the Chancellor of the Duchy of Lancaster.”
- 29 (1) Section 117 (orders) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) An order under this Part may make different provision for different authorities or descriptions of authority or otherwise for different purposes.”
- (3) After subsection (4) insert—
- “(5) An order under any provision of this Part, other than an order under section 116 or an order mentioned in subsection (2A)(a) or (b), may include

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provision amending, applying (with or without modifications), disapplying, repealing or revoking any enactment whenever passed or made.”

30 (1) In section 120 (interpretation)—

(a) after the definition of “combined authority” insert—

““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—

““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 107F(3);”.

Equality Act 2010

31 In Schedule 19 to the Equality Act 2010 (public authorities), in Part 1 (general), after the entry “A joint authority established under Part 4 of that Act for an area in England (including, by virtue of section 77(9) of the Local Transport Act 2008, an Integrated Transport Authority established under Part 5 of that Act of 2008)” insert — “ A sub-national transport body established under section 102E of the Local Transport Act 2008. ”

Localism Act 2011

32 The Localism Act 2011 is amended as follows.

33 (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).

(4) In subsections (6) and (7), for “permitted authority” substitute “ EPB ”.

(5) In subsection (8), for “a permitted authority” substitute “ an EPB ”.

34 In section 17 (transfer schemes), in subsection (1), for “permitted authority” substitute “ EPB ”.

35 (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 ”.

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- 36 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;”.

Local Audit and Accountability Act 2014

- 37 (1) The Local Audit and Accountability Act 2014 is amended as follows.
- (2) In section 40 (access to local government meetings and documents), in subsection (6) after paragraph (j) insert—
- “(ja) a sub-national transport body.”.
- (3) In section 44 (interpretation of Act), in subsection (1) after the definition of “special trustees for a hospital” insert—
- ““sub-national transport body” means a sub-national transport body established under section 102E of the Local Transport Act 2008.”.
- (4) In Schedule 2 (relevant authorities), after paragraph 28 insert—
- “28A A sub-national transport body.”

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