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DRAFT STATUTORY INSTRUMENTS

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**2024 No.**

The Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) (Amendment) Regulations 2024

PART 2

Amendment of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017

**Amendment of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017**

2. The Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017<sup>(1)</sup> is amended in accordance with this Part.

**Article 2 (interpretation)**

3. In article 2(2) (interpretation)—

(a) in paragraph (1)—

(i) in the appropriate places insert—

““the 2023 Act” means the Levelling-up and Regeneration Act 2023;”

““independent remuneration panel” has the meaning given in article 16;”

““principal council” has the same meaning as in the Local Government Act 1972<sup>(3)</sup>;”

““substitute member” means any person appointed to act as a member of a combined authority or, as the case may be, of a combined county authority, in the absence of a member of that authority;”;

(ii) in the definition of “mayor”, at the end insert “or, as the case may be, for the area of a combined county authority established in regulations made under section 27 of the 2023 Act”;

(iii) in the definition of “non constituent council”, for “non constituent” substitute “non-constituent” in both places those words occur;

(iv) omit the definition of “principal authority”, and “and” at the end of that definition;

(b) after paragraph (2) insert—

“(3) For the purposes of this Order, any reference to a council which can nominate a non-constituent member of a combined authority or a combined county authority, means

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(1) S.I. 2017/68.

(2) Article 2 has been amended but these amendments are not relevant.

(3) 1972 c. 70.

any council which has been designated as a nominating body in relation to the appointment of a non-constituent member of a combined authority or, as the case may be, a combined county authority, or is a member of a body which has been so designated—

- (a) in the case of a combined authority, under section 104A(1)(4) of the 2009 Act; or
- (b) in the case of a combined county authority, under section 11(1) of the 2023 Act.

(4) For the purposes of this Order, an elected mayor (as defined in section 9H(1) of the Local Government Act 2000(5)) of any council is to be treated as a member of that council.”.

### **Article 3 (overview and scrutiny committees)**

4. In article 3 (overview and scrutiny committees)—

- (a) in paragraph (1), after “authority’s” in both places it occurs, insert “or, as the case may be, combined county authority’s,”;
- (b) in paragraph (4), after “authority” insert “or, as the case may be, combined county authority”.

### **Article 4 (appointment of members)**

5. In article 4 (appointment of members)—

- (a) in paragraph (1), after “authority” insert “or, as the case may be, combined county authority,”;
- (b) in paragraph (2)(a), after “authority” insert “or, as the case may be, combined county authority,”.

### **Article 5 (appointment of chair)**

6. In article 5 (appointment of chair)—

- (a) in paragraph (1), after “Act” insert “, in the case of a combined authority, or in accordance with provision made under paragraph 3 of Schedule 1 to the 2023 Act, in the case of a combined county authority”;
- (b) for paragraph (2) substitute—

“(2) A person is independent if the person—

- (a) is not a member or substitute member, or officer, of the combined authority, or, as the case may be, combined county authority;
- (b) is not a member, co-opted member, or officer of a principal council or parish council, whose area is within the area of the combined authority, or, as the case may be, the combined county authority;
- (c) is not a relative, or close friend, of a person within sub-paragraph (a) or (b); and
- (d) was not—
  - (i) a member or substitute member, or officer, of the authority, or
  - (ii) a member, co-opted member, or officer of a principal council or parish council, whose area is within the area of the authority,

at any time during the five years ending with an appointment as chair of the overview and scrutiny committee under arrangements made by the authority in

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(4) Section 104A was inserted by section 64 of the Levelling-Up and Regeneration Act 2023 (c. 55).

(5) 2000 c. 22. Section 9H was inserted by paragraph 1 of Schedule 2 to the Localism Act 2011 (c. 20).

accordance with paragraph 3(4)(a) of Schedule 5A to the 2009 Act, in the case of a combined authority, or paragraph 3(4)(a) of Schedule 1 to the 2023 Act, in the case of a combined county authority.”;

- (c) in paragraph (3)—
  - (i) in sub-paragraph (a), after “authority” insert “or, as the case may be, combined county authority.”;
  - (ii) in sub-paragraphs (b) and (c), after “authority” insert “or, as the case may be, combined county authority.”;
- (d) in paragraph (5), after “Act” insert “in the case of a combined authority, or in accordance with provision made under paragraph 3(4)(b) of Schedule 1 to the 2023 Act, in the case of a combined county authority.”;
- (e) in paragraph (6)(a), after “authority” insert “or, as the case may be, on the combined county authority”.

#### **Article 6 (reference of matters to overview and scrutiny committees)**

7. In article 6 (reference of matters to overview and scrutiny committees)—

- (a) in paragraph (1)—
  - (i) in the opening words, after “authority” insert “or, as the case may be, combined county authority.”;
  - (ii) in sub-paragraph (c)—
    - (aa) after “member” insert “or substitute member”;
    - (bb) after “authority” insert “or, as the case may be, combined county authority.”;
  - (iii) after sub-paragraph (c) omit “and”;
  - (iv) for sub-paragraph (d) substitute—
    - “(d) any member of a constituent council, non-constituent council or principal council which can nominate a non-constituent member of the combined authority, or, as the case may be, of the combined county authority, to refer to an overview and scrutiny committee any matter which is relevant to the functions of the committee and is not an excluded matter; and
    - (e) any other principal council whose area is within the area of the combined county authority, but not a member of that council, to refer to an overview and scrutiny committee any matter which is relevant to the functions of the committee and is not an excluded matter, and is related to the area of that principal council.”;
- (b) in paragraph (2)—
  - (i) after “authority” insert “or, as the case may be, combined county authority.”;
  - (ii) after “member” in the first place it occurs substitute “or substitute member”;
  - (iii) after “(d)” insert “or a council mentioned in paragraph (1)(e)”;
  - (iv) after “member” in the second place it occurs insert “, substitute member or council”;
- (c) for paragraph (3) substitute—
  - “(3) Paragraphs (4) to (7) apply where a matter is referred to an overview and scrutiny committee by—
    - (a) a member or substitute member of a combined authority or, as the case may be, a member or substitute member of a combined county authority,

- (b) a member of a constituent council,
  - (c) a member of a non-constituent council,
  - (d) a member of a principal council which can nominate a non-constituent member,
  - (e) a principal council referred to in paragraph (1)(e),
- in accordance with arrangements made by the combined authority or, as the case may be, the combined county authority, pursuant to paragraph (1)(c), (d) or (e).”;
- (d) for paragraph (4) substitute—
- “(4) In considering whether or not to exercise any of the powers under arrangements made in accordance with—
- (a) paragraph 1(2)(a) or (3)(a) of Schedule 5A to the 2009 Act in the case of a combined authority, or
  - (b) paragraph 1(2)(a) or (3)(a) of Schedule 1 to the 2023 Act in the case of a combined county authority,
- in relation to a matter referred to the committee, the committee must have regard to any representations made by the member, substitute member or council as to why it would be appropriate for the committee to exercise any of these powers in relation to the matter.”;
- (e) in paragraph (5)—
- (i) for “paragraph 1(2)(a)” to “Act” substitute “the provisions specified in paragraph (4)”;
  - (ii) after “member” insert “, substitute member or council”;
- (f) in paragraph (6)—
- (i) after “member” in both places it occurs insert “, substitute member or council”;
  - (ii) after “Act” insert “in the case of a combined authority, or under paragraph 1(2)(b) or (3)(b) of Schedule 1 to the 2023 Act in the case of a combined county authority,”.

**Article 7 (duty of combined authority and mayor to respond to overview and scrutiny committee)**

- 8.** In article 7 (duty of combined authority and mayor to respond to overview and scrutiny committee)—
- (a) in the heading, after “authority” insert “or combined county authority”;
  - (b) in paragraph (1)(b), after “authority” in both places it occurs insert “or, as the case may be, combined county authority,”;
  - (c) in paragraph (2)—
    - (i) after “authority” in the first place it occurs insert “or, as the case may be, combined county authority,”;
    - (ii) for “the combined” in the second place those words occur, substitute “that”;
  - (d) in paragraph (3)—
    - (i) after “authority” in the first place it occurs insert “or, as the case may be, combined county authority,”;
    - (ii) for “the combined” in the second place those words occur, substitute “that”;
  - (e) in paragraph (4), after “Where” in the first place it occurs insert “, in relation to a combined authority,”;
  - (f) after paragraph (4) insert—

“(5) Where, in relation to a combined county authority, an overview and scrutiny committee exercises any of its powers under arrangements made in accordance with paragraph 1(2) or 1(3) of Schedule 1 to the 2023 Act in relation to a decision made but not implemented—

- (a) where recommendations have been made under paragraph 1(4)(b) of Schedule 1 to the 2023 Act, the combined county authority or the mayor must hold a meeting to reconsider the decision no later than 10 days after the date on which the recommendations of the overview and scrutiny committee were received by the combined county authority; and
- (b) any direction under arrangements made in accordance with paragraph 1(4)(a) of Schedule 1 to the 2023 Act may have effect for a period not exceeding 14 days from the date on which the direction is issued.”.

#### **Article 8 (confidential and exempt information)**

**9.** In article 8 (confidential and exempt information)—

- (a) in paragraph (1)—
  - (i) in sub-paragraph (a) after “authority” in both places it occurs, insert “or combined county authority”;
  - (ii) in sub-paragraph (b)—
    - (aa) after “member” in the first place it occurs insert “or substitute member”;
    - (bb) after “authority” in the first place it occurs insert “or of a combined county authority”;
    - (cc) for “or a non-constituent council” substitute “, a non-constituent council or a principal council which can nominate a non-constituent member of the combined authority or, as the case may be, of the combined county authority, or to another principal council whose area is within the area of the combined county authority”;
    - (dd) after “authority” in the second place it occurs insert “or a combined county authority”;
- (b) in paragraph (2), after “authority” insert “or combined county authority”;
- (c) in paragraph (3)—
  - (i) after “authority” in the first place it occurs, insert “or combined county authority”;
  - (ii) after “member” in the first place it occurs insert “or substitute member”;
  - (iii) after “authority” in the second place it occurs, insert “or of the combined county authority”;
  - (iv) for “or a non-constituent council” substitute “, a non-constituent council or a principal council which can nominate a non-constituent member of the combined authority or, as the case may be, of the combined county authority, or to another principal council whose area is within the area of the combined county authority”;
- (d) in paragraph (4), after “authority” insert “or, as the case may be, combined county authority”;
- (e) in paragraph (5), after “authority” insert “or combined county authority”.

#### **Article 9 (scrutiny officer)**

**10.** In article 9 (scrutiny officer)—

- (a) in paragraph (1), after “authority” insert “or, as the case may be, combined county authority”;
- (b) in paragraph (2)(c), after “authority” insert “or combined county authority”;
- (c) in paragraph (3)—
  - (i) after “authority” in the first place it occurs, insert “or combined county authority”;
  - (ii) for “the combined” substitute “that”.

**Article 10 (additional rights of access to documents for members of overview and scrutiny committees)**

**11.** In article 10 (additional rights of access to documents for members of overview and scrutiny committees)—

- (a) in paragraph (1)—
  - (i) in sub-paragraph (a) after “authority” insert “or combined county authority”;
  - (ii) in sub-paragraph (b)(ii) after “authority” insert “or combined county authority”;
- (b) in paragraph (2)—
  - (i) after “authority” in the first place it occurs insert “or combined county authority”;
  - (ii) omit “combined” in the second place it occurs;
- (c) in paragraph (4) after “authority” insert “or combined county authority”.

**New article 10A**

**12.** After article 10 (additional rights of access to documents for members of overview and scrutiny committees) insert—

**“Payment of overview and scrutiny committee members**

**10A.—(1)** A combined authority or, as the case may be, a combined county authority, may pay an allowance to a member of a constituent council who is appointed to an overview and scrutiny committee of that authority.

(2) Any such allowance may only be paid after the authority has considered a report published by an independent remuneration panel containing recommendations for the payment of allowances to members of an overview and scrutiny committee, and any allowance paid must not exceed the amount recommended by that panel.

(3) In this article references to an overview and scrutiny committee include references to any sub-committee of such a committee.”.

**Article 11 (key decisions)**

**13.** In article 11 (key decisions)—

- (a) in paragraph (1)—
  - (i) in sub-paragraph (a)—
    - (aa) in the opening words after “authority” insert “or combined county authority”;
    - (bb) in paragraph (i) for “the combined” in both places those words occur, substitute “that”;
    - (cc) in paragraph (ii) after “authority” insert “or combined county authority”;

- (ii) for sub-paragraph (b) substitute—
  - “(b) “decision maker” includes a mayor or a person exercising functions pursuant to—
    - (i) in the case of a combined authority, arrangements under section 107D(3)(a) or (b) of the 2009 Act, or
    - (ii) in the case of a combined county authority, arrangements under section 30(3)(a) or (b) of the 2023 Act.”.
- (b) in paragraph (2)(a), after “authority” insert “or, as the case may be, combined county authority”;
- (c) in paragraph (3)—
  - (i) in sub-paragraph (a)(i) after “authority” insert “or, as the case may be, combined county authority,”;
  - (ii) in sub-paragraph (b) “authority” insert “or, as the case may be, combined county authority”.

#### **Article 12 (general exception)**

- 14. In article 12 (general exception)—
  - (a) in paragraph (1)(b)—
    - (i) after “authority” insert “or, as the case may be, combined county authority,”;
    - (ii) for “the combined” in the second place those words occur, substitute “that”;
  - (b) in paragraph (3), for “the combined” in both places those words occur, substitute “that”.

#### **Article 13 (cases of special urgency)**

- 15. In article 13 (cases of special urgency)—
  - (a) in paragraph (1)—
    - (i) in sub-paragraph (b), after “authority” insert “or, as the case may be, combined county authority”;
    - (ii) in sub-paragraph (c), for “the combined” in both places those words occur, substitute “that”;
  - (b) in paragraph (2)—
    - (i) in sub-paragraph (a) after “authority” insert “or, as the case may be, combined county authority,”;
    - (ii) in sub-paragraph (b), for “the combined” substitute “that”.

#### **Article 14 (audit committees)**

- 16. In article 14 (audit committees)—
  - (a) in paragraph (1) after “authority” insert “or, as the case may be, combined county authority,”;
  - (b) in paragraph (2) for “the combined” in both places those words occur, substitute “that”;
  - (c) in paragraph (3), after “authority” insert “or, as the case may be, combined county authority,”;
  - (d) in paragraph (4)—
    - (i) in sub-paragraph (a) for “, co-opted member” substitute “or substitute member”;

- (ii) for sub-paragraph (b) substitute—
  - “(b) is not a member, co-opted member or officer of a principal council or a parish council whose area is within the area of the authority;”;
- (iii) in sub-paragraph (d)—
  - (aa) in paragraph (i) for “, co-opted member” substitute “or substitute member”;
  - (bb) for paragraph (ii) substitute—
    - “(ii) a member, co-opted member or officer of a principal council or a parish council whose area is within the area of the authority.”;
- (e) in paragraph (5)—
  - (i) in sub-paragraph (a) after “authority” insert “or, as the case may be, combined county authority,”;
  - (ii) in sub-paragraphs (b) and (c) for “the combined” substitute “that”;
- (f) in paragraph (7), after “authority” insert “or, as the case may be, combined county authority,”.

## **New article 15**

17. After article 14 insert—

### **“Payment of audit committee members**

15.—(1) A combined authority or, as the case may be, a combined county authority, may pay an allowance to a member of a constituent council who is appointed to the audit committee of that authority.

(2) Any such allowance may only be paid after the authority has considered a report published by an independent remuneration panel containing recommendations for the payment of allowances to members of the audit committee, and any allowance paid must not exceed the amount recommended by that panel.”.

## **Independent remuneration panels**

18. After Part 4 insert—

### **“PART 5**

#### **Independent Remuneration Panels**

### **Independent remuneration panels**

- 16.—(1) An independent remuneration panel is—
- (a) a panel established by one or more of the combined authority’s, or combined county authority’s, constituent councils, under regulation 20 of the Local Authorities (Members’ Allowances) (England) Regulations 2003(6), or
  - (b) a panel established by the combined authority or combined county authority to make recommendations to that authority about allowances paid in accordance



with articles 10A (payment of overview and scrutiny committee members) and 15 (payment of audit committee members).

(2) An independent remuneration panel established in accordance with paragraph (1)(b) must consist of at least three members none of whom—

(a) is also a member of the combined authority or, as the case may be, the combined county authority, or is a member of a committee or sub-committee of that authority; or

(b) is disqualified from being or becoming a member of that authority.

(3) The independent remuneration panel may be a panel established to make recommendations to the combined authority or, as the case may be, combined county authority about other allowances payable by that authority.

(4) An independent remuneration panel established by the combined authority or combined county authority in accordance with paragraph (1)(b) may be used by that authority to make recommendations about other allowances payable by the authority.

(5) The combined authority or, as the case may be, combined county authority, may pay the expenses of an independent remuneration panel in carrying out its functions and may pay the members of the panel such allowances or expenses as that authority may determine.”.