

# CITIES AND LOCAL GOVERNMENT DEVOLUTION ACT 2016

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Cities and Local Government Devolution Act 2016 (c. 1) which received Royal Assent on 28 January 2016.

- These Explanatory Notes have been prepared by the Department for Communities and Local Government, the Department of Transport, the Department of Health, the Department of Environment, Food and Rural Affairs and the Home Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act. So where a provision of the Act does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

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## Overview of the Act

- 1 The Act is intended to support delivery of the Government's manifesto commitment to "devolve powers and budgets to boost local growth in England", in particular to "devolve far-reaching powers over economic development, transport and social care to large cities which choose to have elected mayors" and "legislate to deliver the historic deal for Greater Manchester". The Act takes forward a number of reforms which are intended to allow for the implementation of devolution agreements with combined authority areas and with other areas. It is enabling legislation which provides a legislative framework which can be applied flexibly to different areas by secondary legislation. It will enable secondary legislation to:
  - enable any public authority function relating to an area to be conferred on a county council or district council;
  - provide for streamlined local governance as agreed by councils;
  - provide for fast track structural and boundary changes to non-unitary local authority areas where at least one local authority asks for this;
  - enable any public authority function relating to an area to be conferred on a combined authority;
  - confer any local government function on a combined authority (these are currently limited to economic development, regeneration, and transport);
  - provide for an elected mayor for a combined authority's area who would exercise specified functions individually and chair the authority; and
  - provide for the possibility for the mayor additionally to undertake the functions of a Police and Crime Commissioner for the combined authority area (in place of the Police and Crime Commissioner).
  
- 2 The Act also:
  - streamlines the process for making changes to existing combined authorities and establishing and changing the area of a combined authority or an economic prosperity board, and removes geographical limitations as to the establishment of combined authorities and economic prosperity boards;
  - makes certain other changes to arrangements for local governance;
  - amends the National Health Service Act 2006 to provide for joint and devolved exercise of functions (including provisions about sharing and control of patient data).
  - provides National Park Authorities with a functional power of competence;
  - inserts provision into the Local Transport Act 2008 to enable the establishment of Sub-national Transport Bodies, enabling decision making over strategic transport schemes to be devolved below national level.

# Policy background

## Devolution

- 3 At the time of passing of this Act, there has already been devolution in the form of City Deals, Growth Deals and the more recent devolution agreements between the Government and Greater Manchester, Liverpool City Region, Sheffield City Region, West Midlands, the North East, Tees Valley and Cornwall. The Government's first devolution agreement with Greater Manchester made on 3 November 2014 provided for an offer of powers and budgets from Government on the basis that Greater Manchester would deliver certain reforms and measures. Central to this agreement is a reformed governance system for the Greater Manchester Combined Authority which will involve adopting a model of a directly elected mayor covering the whole of the Greater Manchester Combined Authority area, and the combined authority receiving a number of new powers from local authorities, other local public services and devolved powers from government departments and agencies.
- 4 In its manifesto the Government committed to devolve powers over budgets to boost local growth in England. The Government is ready to have conversations with any area about the powers that area wishes to be devolved to it and about their proposals for the governance to support these powers if devolved. The Government's intention is to conclude bespoke devolution deals with areas. Such deals may involve functions being conferred on county councils, district councils and combined authorities. This Act allows functions of public authorities to be conferred on county councils, district councils and combined authorities, including broadening the scope of powers that it is possible to confer on a combined authority.

## Combined Authorities

- 5 Part 6 of the Local Democracy, Economic Development and Construction Act 2009 contains powers which enable the Secretary of State to make an order establishing a combined authority for an area which meets certain specified conditions. A combined authority is a corporate body which, under Part 6 of the Local Democracy, Economic Development and Construction Act 2009 as originally enacted, enables local authorities to work jointly to deliver improvements in economic development, regeneration and transport across a functional economic area. Before making an order the Secretary of State must be satisfied that its creation will improve the efficiency and effectiveness of transport and economic development in the area; and Parliament must approve the order. Five combined authorities have so far been established.
- 6 The Government considers that combined authorities are suitable governance structures to undertake a greater set of functions within their local area. This Act broadens the scope of powers that it is possible to confer on a combined authority and on all other local authorities including those in non-metropolitan areas.

## Elected Mayors

- 7 As stated in the manifesto commitment, "we will devolve far-reaching powers over economic development, transport and social care to large cities which choose to have elected mayors". With the devolution of powers from the centre to cities to give them greater control over powers currently exercised by ministers over transport, housing, skills and healthcare, the Government considers that it is necessary for the people of the area to have a single point of direct accountability. The Government's view is that for cities, elected mayors for combined authority areas will achieve this and ensure the continuation of strong democracy.
- 8 The Government will consider on a case by case basis the merit of transferring functions of a police and crime commissioner to the mayor of a combined authority area.

## Sub-national Transport Bodies

- 9 To support local growth, such as the Northern Powerhouse, Government is putting Sub-national Transport Bodies on a statutory footing. This will enable decisions to be taken at sub-national level on transport matters with the aim of furthering economic growth in the areas concerned.

## Legal background

- 10 The legislation relating to the existing policy is set out in a combination of primary and subordinate legislation. The current provisions are:
  - Local Audit and Accountability Act 2014
  - Localism Act 2011
  - Police Reform and Social Responsibility Act 2011
  - Equality Act 2010
  - Health Act 2009
  - Local Democracy, Economic Development and Construction Act 2009
  - Local Transport Act 2008
  - Local Government and Public Involvement in Health Act 2007
  - National Health Service Act 2006
  - Local Government Act 2003
  - Freedom of Information Act 2000
  - Local Government Act 2000
  - Local Government Act 1999
  - Police Act 1996
  - Railways Act 1993

- Local Government Finance Act 1992
- Local Government and Housing Act 1989
- Local Government Finance Act 1988
- Local Government Act 1985
- Representation of the People Act 1983
- Local Government Act 1972
- And secondary legislation made under the above Acts.

## **Territorial extent and application**

- 11 The provisions of the Act extend to the whole of England and Wales. In effect, they apply only in England as Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (which enables combined authorities to be established) and the other provisions relating to governance arrangements (Section 16), apply only in England.

## Commentary on provisions of Act

- 12 The Act includes generic provisions (to be applied to individual areas agreeing deals by secondary legislation) which will:
- a. remove the current statutory limitation on functions that can be conferred on a combined authority (currently economic development, regeneration, and transport);
  - b. enable local governance to be streamlined as agreed by councils;
  - c. provide for fast track structural and boundary changes to non-unitary local authority areas
  - d. enable public authority functions to be conferred on a combined authority or local authority;
  - e. enable an elected mayor for the combined authority's area who will exercise specified functions individually and chair the authority;
  - f. enable the mayor to undertake the functions of a Police and Crime Commissioner for the area (in place of the Police and Crime Commissioner); and
  - g. where a mayor is to have functions of a Police and Crime Commissioner, cancel Police and Crime Commissioner elections that would otherwise have taken place and allow the current Police and Crime Commissioner's term of office to be extended until the mayor's first term begins

## Reports and statements about local devolution

### Section 1: Devolution: annual reports

- 13 Section 1 places a statutory duty on the Secretary of State to provide annual reports to Parliament, as soon as possible after 31 March each year, which set out information about devolution in all areas of England which have been made under the provisions of this Act. The report must include information on the areas of the country where devolution deals have been agreed and the areas of the country that have made proposals to the Secretary of State where agreement has yet to be reached. The report would also include information on the additional financial resources and public functions that have been devolved through the deals, including functions devolved from a Minister of the Crown, those functions to be exercisable by a mayor of a combined authority, and functions to be exercised concurrently with the Secretary of State.

## Combined authorities

### Section 2: Power to provide for an elected mayor

- 14 Section 2 inserts new sections 107A and 107B into the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act"), which empower the Secretary of State to provide by order for there to be an elected mayor of a combined authority area, who will be a member of, and chair, the combined authority.
- 15 Section 107B(1) provides that the Secretary of State can make an order for there to be an elected mayor of the area of a combined authority following a proposal being made by each county and district council within the area of a proposed, or existing, combined authority, and by an existing combined authority (the appropriate authorities).



- 16 A proposal for there to be a mayor for the authority's area may be included in a scheme prepared and published under section 109 or 112 of the 2009 Act. Section 109 of the 2009 Act provides that if two or more of the authorities who have conducted a review in accordance with section 108 conclude that the establishment of a combined authority would be likely to improve the exercise of statutory functions they may prepare and publish a scheme.
- 17 Subsection (3) of new section 107B provides that an order can be made under new section 107A without a proposal being made if the appropriate authorities consent, or at least two of the constituent councils and the combined authority consent. Subsection (4) of new section 107B provides that where the order is made following consent from two constituent councils and the combined authority the Secretary of State must make an order changing the area of the combined authority by removing the area of the non consenting constituent councils from the existing area of the combined authority.
- 18 Subsection (2) of Section 2 introduces new Schedule 5B into the 2009 Act. New Schedule 5B makes provision for a default term of office for a mayor, default dates on which elections for mayors are to take place, the voting system and entitlement to vote, and provisions for an order to be made as to the dates on which and years in which elections for the return of an elected mayor will take place, the intervals between elections for the return of an elected mayor, the term of office of an elected mayor, and the filling of vacancies in the office of elected mayor.

### Section 3: Deputy mayors etc

- 19 Section 3 inserts new Section 107C into the 2009 Act, which requires a mayor of the area of a combined authority to nominate a deputy mayor from the members of the combined authority. The deputy mayor would take over the functions of the mayor in the event that the mayor is unable to act (e.g. due to illness) or the office of mayor is vacant (e.g. the mayor resigns). In the event that both the mayor and deputy mayor are unable to act, or both offices are vacant, the other members of the combined authority must act together, taking decisions by simple majority.

### Section 4: Functions

- 20 A mayoral combined authority is a single body corporate, which comprises the mayor and the remaining members of the combined authority. Section 4 inserts new Section 107D into the 2009 Act. Subsection (1) of new section 107D allows the Secretary of State to provide by order that any function that is a function of the mayoral combined authority is exercisable only by the mayor. Such an order may only be made with the consent of all appropriate authorities. Subsection (3) provides that the mayor may arrange (a) for the deputy mayor to exercise any function exercisable by the mayor or (b) for any other member or officer of the combined authority to exercise any such function. Subsection (3) provides that the mayor may delegate a function to a committee appointed by the mayor, or to the deputy mayor for policing and crime appointed under paragraph 3(1) of Schedule 5C to the 2009 Act, if authorised in an order by the Secretary of State.
- 21 Subsection (7) of new section 107D provides that an order made under that section may provide for members and officers of a mayoral combined authority to assist the mayor in the exercise of his/her functions, confer ancillary powers on the mayor, authorise the mayor to appoint a political adviser, provide for the terms and conditions of any appointment of a political adviser, and provide for any arrangements for the discharge of functions under section 101(1)(b) of the Local Government Act 1972 ("the 1972 Act") to be treated as general functions to be exercisable by the mayor.

- 22 An order under new section 107D may subject a function exercisable only by the mayor to conditions or limitations in certain circumstances - for instance, that a general function may only be exercisable by the mayor with the consent of appropriate authorities. Subsection (8) enables the mayor to be conferred a general power of competence.
- 23 An order may be made for a mayor of a combined authority to jointly discharge a general mayoral function and another authority's function; the order may also provide for membership, chairing, appointment, voting powers and political balance requirements for a joint committee set up to discharge powers.
- 24 Section 4 also inserts new section 107F into the 2009 Act. This enables the Secretary of State by order to enable the mayor to exercise the functions of a Police and Crime Commissioner in relation to the area. Such an order may only be made with the consent of all appropriate authorities, and the mayor of the combined authority, if there is one. Where such an order is made, subsection (5) requires the Secretary of State to provide that there will be no Police and Crime Commissioner for that area from a specified date (in practice this will be the date that the mayor takes office) and enables the Secretary of State to cancel any Police and Crime Commissioner ordinary election that would otherwise take place in the area (whether before the date that the mayor takes over or after). The order can also extend the term of the existing Police and Crime Commissioner for the area and cancel any Police and Crime Commissioner by-election to fill a vacancy that arises in the six month period before the date that the functions of a Police and Crime Commissioner pass to the mayor.

## Section 5: Financial matters

- 25 Section 5 amends sections 39 and 40 of the Local Government Finance Act 1992 ("the 1992 Act") to include a mayoral combined authority as a major precepting authority, and enables a precept to be set in relation to funding of the mayoral functions. It also inserts a new section 107G in the 2009 Act which enables the Secretary of State to make provision for the costs of a mayor for the area of a combined authority that are incurred in, or in connection with, the exercise of mayoral functions to be met by precepts issued by the combined authority under section 40 of the 1992 Act.
- 26 Subsection (2) of new section 107G provides that only the mayor, acting on behalf of the combined authority, may issue precepts for mayoral functions. Where a mayor takes on functions of a Police and Crime Commissioner, subsection (4) of the new section 107G provides that the precept is required to have two components: one for the mayor's PCC functions and one for their general functions. Calculating the PCC component of the precept will be a PCC function exercisable only by the mayor.
- 27 Subsection (5) of new section 107G provides that the Secretary of State may by order make provision (a) requiring the mayor to maintain a fund in relation to receipts arising and liabilities incurred, in the exercise of the mayor's functions, and (b) about the preparation of an annual mayoral budget. Subsection (6) provides that an order about the preparation of a mayoral budget may in particular make provision for (a) the mayor to prepare a draft budget, (b) the scrutiny of the draft budget, (c) the making of changes to the budget following scrutiny, (d) the approval of the draft by the mayoral combined authority, and (e) the basis on which such approval is to be given.

## Combined authorities: additional functions

### Section 6: Local authority functions

- 28 Section 6 amends sections 105, 108, 109, and 112 of the 2009 Act to enable any combined authority by order to be conferred any function of a local authority, rather than just those relating to economic development, regeneration and transport. The authorities concerned can undertake a review of the exercise of statutory functions in the area and publish a scheme for the establishment of the combined authority. The authorities' review would consider whether the proposed changes would be likely to improve the exercise of the statutory functions. This replaces the previous requirements for the authorities' review to consider whether establishing or changing the combined authority is likely to improve the exercise of statutory functions relating to transport, regeneration and economic development; the effectiveness and efficiency of transport; and economic conditions in the area.

### Section 7: Other public authority functions

- 29 Section 7 inserts section 105A into the 2009 Act. Subsection (1) of new section 105A enables the Secretary of State by order to make provision for a function of a public authority that is exercisable in relation to a combined authority's area to be exercisable by the combined authority; or confer on a combined authority, in relation to its area, a function which corresponds to a function which another public authority has in relation to another area. Conditions or limitations can be specified together with any conferral of powers on combined authorities. This might, for example, be used to specify that a transfer of health powers would not change responsibilities in relation to the NHS Constitution or mandate.
- 30 An order made under subsection (1)(a) of new section 105A may make provision for the combined authority to have a function instead of another public authority, for the public function to be exercised concurrently with the other public authority, for the public function to be exercised jointly by the combined authority and public authority, or for the function to be exercised jointly by the combined authority and public authority but also continue to be exercised by the public authority alone. An order under subsection (1)(a) of new section 105A may also make provision for the making of a scheme to transfer property, rights and liabilities from the public authority to the combined authority, and abolishing the public authority if it will no longer have any functions. Functions of a national regulatory nature cannot be conferred on a combined authority which exercises the powers which are regulated by these functions.
- 31 Section 7 also inserts new section 105B which specifies the procedure for making an order under new section 105A, including that it can only be made if (a) the appropriate authorities make a proposal for the making of the order or (b) in the case of an existing combined authority, the authority and each constituent council within the combined authority consents, and the Secretary of State considers that the making of the order is likely to improve the exercise of statutory functions in the area or areas to which the order relates. Where an order under new section 105A is made for the first time, subsection (4) provides that it may be made with the consent of at least two constituent councils (together with the combined authority). Where an order has been made under subsection (4) the Secretary of State must make an order under section 106 to remove any non-consenting councils from the area of the combined authority. Consent requirements need not be met when a revocation order under new section 105A is made in relation only to health functions. When laying before Parliament an order which confers public authority functions to an authority, the Secretary of State must also place a report before Parliament which sets out the effect of the order and why the Secretary of State considers it is appropriate to make it. The report must include any consultation and

information which has been taken into account, for example any discussions with Police and Crime Commissioners in respect of consideration of policing within any deal, as well as any other evidence or contextual information that the Secretary of State considers it appropriate to include.

## **Combined authorities: accountability etc**

### **Section 8: Overview and scrutiny committees and audit committees**

- 32 Section 8 amends section 104 of the 2009 Act by inserting a new subsection (9) which introduces new Schedule 5A to the 2009 Act. New Schedule 5A requires all combined authorities to establish one or more overview and scrutiny committee(s) and an audit committee, with the functions and powers specified. It also enables the Secretary of State to make provision by order about the overview and scrutiny committee(s) of a combined authority. This provision may include details about the membership of an overview and scrutiny committee and the voting rights of such members; the person who is to be chair of such a committee; the appointment of a scrutiny officer of an overview and scrutiny committee; the circumstances in which matters may be referred to an overview and scrutiny committee; obligations on persons to respond to reports or recommendations made by an overview and scrutiny committee; the publication of reports, recommendations or responses; and the information which must, or must not, be disclosed to an overview and scrutiny committee.

### **Section 9: Funding of combined authorities**

- 33 Section 9 amends section 74 of the Local Government Finance Act 1988 to enable the Secretary of State by regulations to provide that a combined authority can levy for transport functions and for any other specified functions with the consent of the constituent councils and the combined authority. Specified functions cannot include functions which are exercisable individually by the mayor. It also amends the Local Government Finance Act 2003 enabling the Secretary of State by order to enable a combined authority to borrow to fund specified functions, with all constituent councils' and combined authority's consent. Constituent councils are able to make financial contributions for any function of the combined authority if they wish.

### **Section 10: General power of competence**

- 34 Section 10 enables the Secretary of State by order to confer the General Power of Competence, found in Chapter 1 of Part 1 of the Localism Act 2011, on a combined authority, thereby aligning with the General Power of Competence available to its constituent councils. The General Power of Competence gives authorities the same power to act that an individual generally has. If such a power is conferred on a combined authority, the more limited General Power of Competence in section 113A will be dis-applied (se paragraph 9 of Schedule 4 to the Act). Section 10 requires the appropriate authorities to consent before such a power can be conferred.

## **Combined Authorities and EPBs: areas and procedure**

### **Section 11: Removal of geographical restrictions in relation to EPBs**

- 35 Section 11 removes the current geographical restrictions in relation to the establishment of Economic Prosperity Boards (EPBs). Subsections (1) - (4) remove the requirements in the 2009 Act which prevent EPB areas from being non-contiguous or doughnut shaped (i.e. member areas surrounding a local government area which is not part of the EPB area).

- 36 Subsection (5) inserts new subsections (3A) and (3B) into section 99 of the 2009 Act. These subsections require that when the Secretary of State is considering making orders to establish EPBs for areas where part of the proposed area of the EPB is separated from the rest of the EPB area, or where a local government area which is not part of the EPB area is surrounded by the EPB area, he must additionally have regard to the likely impact of the creation of the EPB on economic development or regeneration in neighbouring local authority areas.
- 37 Subsection (6) inserts new subsections (2A) and (2B) into section 102 of the 2009 Act. These apply when the Secretary of State is considering making changes to an existing EPB following a proposal from the area concerned. If the proposed area of the EPB includes part of the area which is separated from the rest of the area or if an area outside the EPB area is surrounded by local government areas within the area, the Secretary of State must have regard to the likely impact of the changes to the EPB on economic development or regeneration in each local government area adjacent to any part of the EPB area.

### Section 12: Removal of geographical restrictions in relation to combined authorities

- 38 Section 12 removes the current geographical restrictions in relation to the establishment of combined authorities by removing the requirements in the 2009 Act which prevent combined authority areas from being non-contiguous or doughnut shaped.
- 39 Subsection (5) inserts new subsections (3A) and (3B) into section 110 of the 2009 Act. These require that when the Secretary of State is considering making orders to establish a combined authority in an area where part of the area of the combined authority is separated from the rest of the combined authority area or where a local government area which is not part of the combined authority area is surrounded by the combined authority area, he must additionally have regard to the likely impact of the creation of the combined authority on the exercise of functions in neighbouring local authority areas.
- 40 Subsection (6) inserts new subsections (2A) and (2B) into section 113 of the 2009 Act. These apply when the Secretary of State is considering making changes to an existing combined authority following a proposal from the area concerned. If part of the proposed area of the combined authority is separated from the rest of the combined authority area, or if a local government area which is not part of the combined authority area is surrounded by the combined authority area, the Secretary of State must have regard to the likely impact of the changes to the combined authority on the exercise of functions equivalent to the combined authority's functions in the neighbouring local authority areas.

### Section 13: Changes to existing EPB

- 41 Section 13 amends section 100, 101 and 102 of, and inserts new section 101A into the 2009 Act to amend the process by which minor changes can be made to an existing EPB's functions, constitution or funding. The requirement to undertake a review and publish a scheme for these minor changes is replaced by a requirement to make an application to the Secretary of State.

### Section 14: Requirements in connection with establishment etc. of combined authority

- 42 New section 14 amends existing provisions within sections 103, 104, 105, 106, 110 and 113 of the 2009 Act and inserts section 106A to amend the process required in the establishment of a combined authority and making changes within an existing combined authority. Amended sections 110 and 113 set out that the Secretary of State may make an order establishing a combined authority or making changes to an existing combined authority if he considers that

doing so is likely to improve the exercise of statutory functions and each of the authorities consent. The consent of constituent councils and, for an order relating to an existing combined authority, the combined authority, will be required to orders made under sections 104 and 105 of the 2009 Act.

- 43 Orders made under section 106 of the 2009 Act to add or remove a local government area to or from an existing area of a combined authority require the consent of the relevant council, the combined authority and the mayor (in the case of a mayoral combined authority). In a local government area where there is more than one relevant council, a proposal to add the area of one of those councils to the area of an existing combined authority requires the consent of only one of the councils in the area. In the case of a mayoral combined authority the consent of the mayor is also required. If a scheme has been published, the Secretary of State must have regard to the scheme. The Secretary of State must carry out a public consultation unless a scheme has been published, the constituent councils carried out a public consultation and provided the Secretary of State with consultation responses, and the Secretary of State considers that no further consultation is necessary. The Secretary of State must also consider that the making of the order is likely to improve the exercise of statutory functions in the area or areas to which the order relates; and have regard to the need to reflect the identities and interests of local communities and to secure effective and convenient local government.

## **Combined and local authorities: governance, constitution and functions etc**

### **Section 15: Governance arrangements, etc. of local authorities in England**

- 44 Section 15 provides for the Secretary of State to make regulations making provisions about local authorities' electoral arrangements, governance arrangements, their constitution and membership, and structural and boundary arrangements. These regulations may set out how any changes are to apply in particular cases. For these purposes a local authority is a county council in England, a district council or a London Borough council.
- 45 Governance arrangements mean the arrangements an authority operates for taking decisions, namely executive arrangements, the committee system, or prescribed arrangements as provided for under Part 1A of the Local Government Act 2000.
- 46 For structural, boundary, or other changes, the context in which this power could be used is where Devolution Deals, conferring powers and budgets on an area, are agreed by Government with areas where it may not be appropriate for the existing councils to establish a combined authority.
- 47 An example may be where a single county, which may or may not be a unitary authority, covers a functional economic area which may be the basis for a Devolution Deal, and all the constituent councils involved agree that the strong and accountable governance needed for the new powers and budgets to be conferred on the area necessitates simplifying the local government structures for the area. That may involve mergers of councils, moves to unitary structures, or changing the democratic representation of the area with different electoral cycles and fewer councillors.
- 48 This power will enable the Secretary of State to effect those changes simply and efficiently. Regulations under this section are to be made only with the consent of the local authorities to which the regulations apply, except in the case of structural and boundary changes where the consent of only one authority is needed. In non-unitary local authority areas, the Secretary of State may fast track structural and boundary changes with the consent of one local authority within that area; this is subject to a sunset provision, expiring on 31 March 2019, without

affecting any regulations made under it. All regulations would be subject to the affirmative procedure in Parliament and may include transitional, transitory or saving provision. In addition, at the same time as the Secretary of State lays any such regulations, he is required to lay a report in Parliament explaining what these regulations do, describing why they are being made, and including details of any consultation taken into account, any representations considered, and any other evidence or contextual information the Secretary of State considers appropriate.

## Section 16: Power to transfer etc. public authority functions to certain local authorities

- 49 Section 16 enables the Secretary of State to make regulations which make provision for a function of a public authority that is exercisable in relation to a local authority's area to be undertaken by the local authority; or confer on a local authority, in relation to its area, a function which corresponds to a function which a public authority has in relation to another area. Conditions or limitations can be specified together with any conferral of powers on local authorities. Subsection (3) enables the regulations to make provision for the local authority to have the function instead of the public authority, for the public function to be exercised concurrently with the public authority, for the public function to be exercised jointly by the local authority and public authority, or for the function to be exercised jointly by the combined authority and public authority but also continue to be exercised by the public authority alone. Subsection (4) provides that regulations may also make provision for the making of a scheme to transfer property, rights and liabilities, including criminal liabilities, from the public authority to the local authority, and abolishing the public authority if it will no longer have any functions. A regulatory function exercisable by a public body in relation to the whole of England cannot be conferred on a local authority which has power to undertake the regulated functions.

## Section 17: Section 16: procedure etc.

- 50 Section 17 specifies the procedure to be followed for the Secretary of State to make regulations under section 16. Regulations can only be made if the local authority by whom the function is exercisable under the proposed regulations consents and the Secretary of State considers that making the regulations is likely to improve the exercise of statutory functions in the local authority's area. In respect of health functions, revocation by the Secretary of State of a transfer of such functions may be made without local authority consent. Subsections (5), (6) and (7) provide that the regulations may only be made following approval from each House of Parliament. Subsections (4) and (5) provide that when laying the regulations before Parliament the Secretary of State must lay a report before both Houses of Parliament explaining what the regulations do and why he proposes to make the regulations, to include details of any consultation taken into account by the Secretary of State as well as any representations considered in connection with the regulations and any other evidence or contextual information that the Secretary of State considers it appropriate to include.

## Section 18: Devolving health service functions

- 51 Section 18 requires that the Secretary of State responsible for such services must retain specified core duties in relation to the health service, and continue to be able to fulfil his statutory duties conferred by existing legislation notwithstanding any transfer of functions under section 16 or section 105A of the 2009 Act. It also requires that the combined authority or other public body to whom the functions are transferred should adhere to national standards and accountabilities which are attached to those functions under existing legislation, which must be set out in the order. There is no restriction on a transfer order imposing on a combined authority or local authority transferee duties and obligations on matters set out in sections 1 to 1F of the National Health Service Act 2006.
- 52 This section describes what is and is not within scope of the transfer powers, and defines "national service standards", "national information obligations", and "health service". This section also confirms that a transfer order may impose on a combined authority or local authority transferee duties relating to duties set out in section 1 to 1F in the National Health Service Act 2006.

## Section 19: Amendments of the National Health Service Act 2006

- 53 Section 19 provides for Schedule 4, which makes amendments to the National Health Service Act 2006 regarding the exercise of health service functions of combined or local authorities and the control of local authority social care information.

## Section 20: Referendums to undo change to mayor and cabinet executive

- 54 Section 20 amends the Local Government Act 2000. It removes the existing moratorium on petitions for changing governance arrangements in areas that have directly elected mayors, where these have been elected following a referendum that had been required under an order made by the Secretary of State under that Act, and agreed by Parliament. As of the date of these Explanatory Notes, only Bristol has a mayor elected following such a referendum.

## Section 21: Sub-national transport bodies

- 55 This Section inserts a new Part 5A into the Local Transport Act 2008 establishing Sub-national Transport Bodies (STBs), which will operate at a sub-national level on transport matters with the aim of furthering economic growth in their area.
- 56 The Section sets out provisions which enable proposals put forward by STBs to be tailored to the individual needs of the area. Functions of the STB will be defined within the regulations made to establish the STB or subsequently under regulations under the new Part 5A.
- 57 Section 102E allows the Secretary of State to make regulations to establish an STB as a body corporate for any area in England outside Greater London and requires the regulations to specify the name and area of the STB. Subsection (4) provides that the area of an STB must consist of the whole of the area of two or more relevant authorities. Subsection (5) defines a "relevant authority".
- 58 Section 102F sets out that regulations can only be made if the Secretary of State considers that establishing an STB would facilitate the development and implementation of transport strategies for the area and that the effect of those strategies would be to promote economic growth in that area. Subsection (2) defines "transport strategies". Subsection (3) provides that regulations establishing an STB may be made only if the constituent authorities, of the proposed STB, have submitted a proposal to the Secretary of State and consent to the regulations being made. "Constituent authorities" of an STB means every relevant authority whose area is within the area, or proposed area, of the STB (subsection (4)). Before making a



proposal the constituent authorities must consult each “appropriate authority” that is not a constituent authority and whom the constituent authorities consider appropriate (subsection (5)). The Secretary of State may also require the constituent authorities to consult any other persons (not already consulted) whom the Secretary of State considers should be consulted in connection with the proposal (subsection (6)). An “appropriate authority” is defined in (subsection (7)).

- 59 Section 102G allows the Secretary of State to make regulations to provide for the STB’s membership, voting, executive arrangements of the STB (as defined in subsection (6)) and the functions of the executive body of the STB. Subsection (3) sets out that members of an STB must be appointed by the STB’s constituent authorities and that those members must come from the elected members (as defined in subsection (10)) of the constituent authorities. Subsection (4) sets out that where an STB chooses a member who is not an elected member of a constituent authority, they can only be a co-opted member and non-voting member of an STB. Subsection (7) provides for regulations to be made concerning the executive functions of an STB executive body. Those regulations may include provisions for setting up, dissolving or merging an STB, conferring functions on or removing functions from an executive body of an STB or transferring functions to and from the STB and STB executive body. Subsection (8) sets out that regulations may authorise an STB to delegate any of its functions, subject to conditions or limitations, to one or more of its constituent authorities. Subsection (9) stipulates that regulations in this section may not provide for a budget of an STB to be agreed other than by the STB.
- 60 Section 102H allows the Secretary of State to make regulations to provide for an STB to have any of these functions for its area: (a) to prepare a transport strategy for the STB area; (b) to provide advice to the Secretary of State on the exercise of transport functions in the STB area; (c) to co-ordinate the carrying out of functions in the STB area that are exercisable by different constituent authorities with a view to improving the effectiveness and efficiency in those functions being carried out; (d) if the STB considers that a transport function in relation to its area would be more effectively and efficiently carried out by the STB, they may make proposals to the Secretary of State for the transfer of that function to the STB; and (e) to make other proposals to the Secretary of State about the future role and functions of the STB. Subsection (2) provides that the Secretary of State may make regulations to provide for an STB to have other functions as described in the regulations. Subsection (3) provides that regulations can only be made for functions to be exercised in relation to the area of the STB that (a) relate to transport; (b) the Secretary of State considers can be appropriately exercised by the STB; and (c) are not already exercisable in relation to that area by a local authority or a public authority, except where functions have been transferred under 102J or 102K. Subsection (4) provides that regulations may make further provision on how the STB is to carry out functions. Subsection (5) sets out that regulations made in relation to an existing STB may only be made with the consent of the STB. Subsection (6) provides that nothing in the section limits the power of the Secretary of State to confer other functions on an STB.
- 61 Section 102I describes the transport strategy of an STB as a document containing the STB’s proposals for the promotion and encouragement of sustainable, safe, integrated, efficient and economic transport facilities and services to, from and within the STB area. The STB may include in its transport strategy any other proposals that relate to transport to, from or within its area (subsection (3)). The STB must publish its transport strategy or revised transport strategy (subsections (4) and (5)); and in preparing or revising its transport strategy an STB must carry out a public consultation, and in doing so must consult any of the listed persons as the STB considers appropriate (subsections (6) and (7)). In preparing or revising its transport strategy, an STB must have regard to (a) the promotion of economic growth; (b) the social and environmental impacts in connection with implementation of the proposals contained in the

strategy; (c) any current transport related national policy published by or on behalf of Her Majesty's Government; and (d) the results of the public consultation carried out (subsection 8)). The constituent authorities of an STB must exercise transport functions with the aim of securing the implementation of the proposals contained in the STB's transport strategy.

- 62 Section 102J permits the Secretary of State, by regulations, to provide for functions exercised by a local authority in an area that is, or is to become, an STB area to be exercised by the STB. Subsection (2) sets out that regulations may be made (a) only in relation to transport functions and (b) only if the Secretary of State considers that it is appropriate for the STB to exercise the function. The transferred functions may be different between STBs, reflecting the local context. Subsection (3) sets out that regulations may be made regarding functions that relate both to transport and to other matters but can be transferred only so far as the function is exercisable in relation to transport. Subsection (4) provides for the function to be exercised by the STB generally or subject to conditions or limitations as specified. Subsection (5) sets out that regulations may also provide for the function to be exercised by the STB instead of the local authority or for the function to be exercised by the STB concurrently with the local authority. Subsection (6) provides that regulations may be made only with the consent of the local authority concerned and, where regulations are made in relation to an existing STB, the STB.
- 63 Section 102K permits the Secretary of State, by regulations, to provide for functions carried out by a public authority in relation to an STB area, to be carried out by the STB. Regulations under subsection (2), may be made (a) only in relation to functions that relate to transport, and (b) only if the Secretary of State considers them appropriate for exercise by the STB (subsection (2)). Subsection (3) sets out that regulations may be made with regard to a function that relates both to transport and to other matters, but may be transferred only so far as the function is carried out in relation to transport. Subsection (4) provides that regulations may provide for a function to be carried out by the STB either generally or subject to conditions or limitations specified. Subsection (5) sets out that regulations may make provision for the transferred function to be exercised (a) solely by the STB instead of the public authority or (b) jointly by the STB with the public authority. If the STB already exists, its consent is required before the Secretary of State makes any regulations under this section (subsection (6)).
- 64 Section 102L allows the Secretary of State to pay grants to the STB to cover expenditure incurred in carrying out its functions and such grants may be subject to any conditions that the Secretary of State thinks appropriate. Subsection (3) allows the Secretary of State to make regulations that allow constituent authorities of an STB to contribute to its costs and about the basis on which the amount payable by each constituent authority is to be determined.
- 65 Section 102M provides that an STB may do (a) anything it considers appropriate to carry out any of its functions and, as with local authority functions, this would vary from STB to STB. An STB may also do anything (b) it considers appropriate for purposes related to its functions or (c) anything it considers to be connected with any of its functions. An STB also may do, for a commercial purpose, anything it may do under paragraphs (a) to (c) but for non-commercial purposes. Power conferred on an STB by subsection (1) is in addition to other powers of the STB (subsection (3)). Where an STB has an executive body, the STB may delegate to that body its function of taking action but not the function of determining what action to take (subsection (4)).

- 66 Section 102N does not allow an STB to do anything where there is a post-commencement limitation expressed to apply a) to its powers conferred by section 102M(1); (b) to all its powers; (c) to all its powers but with exceptions that do not include its power under section 102M(1). This section sets out that an STB is not authorised to borrow money (subsection (2)) or to charge a person for anything it does otherwise than for a commercial purpose; but with certain exceptions (subsection (3)). An STB is also not authorised to do things for a commercial purpose regarding a person, if a statutory provision requires the STB to those things (subsection (4)). The effect here is to ensure that an STB does not transfer functions to a commercial operator. Where an STB does things for a commercial purpose it must do them through a company or a registered society (subsection (5)).
- 67 Section 102O allows the Secretary of State by regulations to make provisions preventing an STB from doing anything under the general powers section that is specified or described in the regulations. Under subsection (2) the Secretary of State may, by regulations, provide for the exercise by STBs of the powers (as provided in the general powers section) to be subject to conditions, whether generally or in relation to doing anything specified or described in regulations. Subsection (3) provides that before making such regulations the Secretary of State must consult representatives of the STBs, local government and any other person the Secretary of State considers appropriate. Under subsection (4) the Secretary of State is not required to consult where the regulations are made only for the purpose of amending earlier regulations, for example to extend earlier regulations, or any provision of the earlier regulations or so that the earlier regulations or any provision in the earlier regulations, cease to apply to an STB.
- 68 Section 102P allows the Secretary of State by regulations to give an STB power to give directions to a constituent authority about the exercise of transport functions by the authority. This direction will only be possible if it is relevant to the implementation of the STB's transport strategy. Subsection (3) provides that regulations giving a power to direct may include provision (a) for the power to be given generally or subject to conditions or limitations; (b) for the power to apply to all transport functions or only to those functions specified or described in the regulations; (c) about the manner in which the directions are to be given; and (d) about the consequences if there is a contravention of a direction given. Subsection (4) provides that regulations made about the consequences of contravention may include provisions enabling the STB to take any steps it considers appropriate to reverse or modify the effect of a constituent authority exercising a transport function in contravention of the direction and to recover any reasonable expenses incurred in taking those steps as a civil debt from the local authority.

- 69 Section 102Q allows the Secretary of State to make regulations to change the boundaries of an STB's area by (a) adding the area of a relevant authority to an existing STB area or (b) removing the area of a constituent authority from an existing STB area. Subsection (2) provides that regulations may be made (a) only if the constituent authorities have together made a proposal to the Secretary of State for the change in boundaries; (b) in the case of regulations adding an area, only if authority joining the STB area joins in the making of the proposal; and (c) in the case of a constituent authority exiting an STB, only if the resulting area of the STB still consist of the whole of two or more relevant authorities. Subsection (3) provides that regulations changing the boundaries of an STB's area may only be made if the Secretary of State considers that the new STB area would still facilitate the development and implementation of transport strategies for the area and economic growth in the area would still be furthered by the development and implementation of the STB's transport strategies. By subsection (4) regulations may only be made with the consent of the STB but also the consent of the relevant authority whose area would be added to the STB.
- 70 Section 102R sets out provisions which allow an STB to change its name by a resolution which is to be considered at a meeting of the STB convened for that purpose. The resolution must be included in the notice of the meeting and the resolution must be passed at the meeting by not less than two-thirds of the members of the STB who vote on it. Subsection (5) requires an STB which changes its name under this section to (a) send notice of the change to the Secretary of State, and (b) publish the notice as the Secretary of State may direct. A change of name under this section does not affect the rights or obligations of the STB or render defective any legal proceedings (subsection (6)). Any legal proceedings may be commenced or continued as if there had been no change of name (subsection (7)).
- 71 Section 102S enables the Secretary of State, by regulations, to make incidental, consequential, transitional or supplementary provisions in relation to regulations made under Part 5A. Subsection (2) allows regulations being made under Part 5A to make different provision for different STBs or otherwise for different purposes. Subsection (3) allows the regulations under Part 5A to include provision for the transfer under the regulations of property, rights and liabilities. Subsection (4) provides that the regulations may include provisions (a) for the creation or imposition by the Secretary of State of new rights or liabilities regarding anything transferred under the regulations; (b) for the management or custody of transferred property; and (c) for bodies to make agreements with respect to any property, income, rights, liabilities and expenses of, and any financial relations between, the parties to the agreement. Subsection (5) provides for a Henry VIII power. This provision allows the Secretary of State to make regulations to amend either primary or secondary legislation.
- 72 Section 102T provides that regulations under Part 5A must be made by statutory instrument and for the affirmative resolution procedure to be used. Subsection (3) requires the Secretary of State to lay a report before Parliament at the time the draft statutory instruments are laid explaining the effect of the regulations and why the Secretary of State considers it appropriate to make the regulations. Subsection (3) provides that the negative resolution procedure shall apply to regulations made under section 102J(4) and (5)(b); section 102K(4) and (5)(b); section 102O(1) for the purposes mentioned in section 102O(4)(b); and section 102O(2). Subsection (6) disapplies the hybrid instrument procedure in respect of regulations under new Part 5A of the Local Transport Act 2008, which but for this subsection might otherwise be hybrid.
- 73 Section 102U provides definitions for Part 5A of the Local Transport Act 2008.

## Section 22: English National Park authorities: general powers

- 74 Section 22 inserts new sections 65A to 65D into the Environment Act 1995, to provide English National Park authorities (“NPAs”) with a clear function-specific power of competence. This will assist NPAs to fully engage in the negotiation and implementation of devolution deals.
- 75 New section 65A sets out the general powers and new section 65B the boundaries of those powers, largely mirroring the approach taken in section 13 of the Localism Act 2011 (which inserts section 113A into the 2009 Act) in respect of combined authorities.
- 76 Section 65A(1) sets out the general powers, and subsection (2) enables English NPAs to work in cross-border partnerships. Subsection (3) makes it clear that the new powers are in addition to, and not limited by, existing powers.
- 77 New section 65B(1) provides that the new powers do not override any existing restriction, and subsection (2) that they are subject to any subsequent restriction unless expressly exempted. Under subsection (3), any restrictions on existing powers will apply to the exercise of the new powers so far as they overlap. Subsection (4) continues the bar on NPAs borrowing money under general powers, which at present is contained in section 65(6)(b) of the Environment Act 1995, and subsection (5) makes it clear that the general powers do not authorise an NPA to charge for anything other than commercial services. Although existing specific powers will continue to allow charges for the provision of certain statutory services, subsection (6) makes it clear that the new general power cannot be used to charge for statutory services. In keeping with the parallel provisions in the Localism Act 2011, subsection (7) restricts NPAs to conducting commercial activities through a company or a registered society.

New section 65C(1) provides a power for the Secretary of State to make regulations limiting what an NPA may do under the general power, again mirroring the approach taken in the Localism Act 2011, as does subsection (2) in providing for regulations to attach conditions to the use of the powers. Before making such regulations, subsection (3) requires the Secretary of State to consult those she considers appropriate, including representatives of NPAs, and subsection (4) limits that requirement to where new provision is made.

- 78 New section 65D sets out the procedure for making regulations under new section 65C, subsection (2) providing that the affirmative procedure will normally apply. Subsection (3) sets out where the negative procedure will apply: where revoking certain regulations under section 65C; where regulations impose conditions on the doing of things for a commercial purpose; or where making incidental, supplementary or transitional etc. provision that does not entail amending an Act. Subsection (4) provides that in such instances the negative procedure would apply. Subsection (5) provides that no draft regulations under new section 65C would be caught under hybrid instrument standing orders of either House of Parliament.

## Final provisions

### Section 23: Minor and consequential amendments

- 79 Section 23 enables the Secretary of State to make amendments consequential on any provision in this Act, including transitional, transitory or savings provisions, and to make any necessary changes following the making of secondary legislation under the powers in this Act.

### Section 24: Extent

- 80 Section 24 provides for the Act to extend to England and Wales.

## Section 25: Commencement

- 81 Section 25 provides for the extent, commencement and short title of this Act, together with the powers conferred by the Act to make secondary legislation, to come into force on the day on which it is passed. Other provisions will come into force two months after Royal Assent.

## Section 26: Short title

- 82 Section 26 provides the short title of the Act as the Cities and Local Government Devolution Act 2016.

## Schedules

### Schedule 1: Mayors for combined authority areas: further provision about elections

- 83 Schedule 1 inserts Schedule 5B into the 2009 Act to make provisions about the elections of mayors of combined authority areas. The Schedule provides a default term of office of four years for an elected mayor, and the default dates on which elections for the return of a mayor will take place. It enables the Secretary of State, or the Chancellor of the Duchy of Lancaster to make further provision on the timing of elections, for example the date on which an election is to be held and the length of a mayor's term.
- 84 It details that the voting system for an elected mayor will be by simple majority unless there are three or more candidates, in which case it will be by supplementary vote. In the supplementary vote system, electors give a first and second preference so that if no candidate has a majority of first preference votes, the second preference votes will be taken into account. The Schedule sets out that those entitled to vote are those that would be entitled to vote at local government elections.
- 85 The Schedule provides that an elected mayor for the area of a combined authority cannot also be a councillor and sets out the qualification and disqualification criteria for people to be able to stand for election or hold the office of elected mayor of the area of a combined authority.
- 86 The Schedule also provides that the Secretary of State, or the Chancellor of the Duchy of Lancaster, after consulting the Electoral Commission, may make provision about the conduct and the questioning of the elections for elected combined authority mayors.

### Schedule 2: Mayors for combined authority areas: police and crime commissioner functions

- 87 Schedule 2 inserts Schedule 5C into the 2009 Act and makes further provision in relation to orders made under section 107F(1) (orders transferring functions of a Police and Crime Commissioner to mayors). It is envisaged that, whilst an initial order under section 107F(1) will set out that the mayor is to take over functions of a Police and Crime Commissioner from the Police and Crime Commissioners for the area, the detailed arrangements will be set out in a subsequent order under Schedule 5C.
- 88 Schedule 5C enables the Secretary of State to provide by order that the mayor may exercise all functions of a Police and Crime Commissioner or a specified number. The Schedule further provides that some functions that must always be exercisable by the mayor (including holding the relevant chief constable to account and issuing a police and crime plan). This Schedule also details a number of essential matters that, where functions of a Police and Crime Commissioner are transferred to a mayor, the Secretary of State must put in place by order. These include enabling the mayor to appoint a deputy mayor for functions of a Police and Crime Commissioner, to be known as a deputy mayor for policing and crime, requiring the establishment of a scrutiny panel for policing matters, giving the panel the power to suspend the mayor from exercising functions of a Police and Crime Commissioner and requiring the

mayor to keep a police fund and prepare an annual budget in relation to the exercise of functions of a Police and Crime Commissioner. The Secretary of State is also required to make provision in respect of the conduct of the mayor and the deputy mayor for policing and crime as "relevant officers" for the purposes of regulations made under section 31 (1)(a) to (c) of the Police Reform and Social Responsibility Act 2011 regarding the making and handling of complaints about, the recording of matters in the case of which there is an indication that a relevant office holder may have committed a criminal offence, and the manner in which qualifying complaints and conduct matters are investigated or otherwise dealt with. Where a mayor is to exercise functions of a Police and Crime Commissioner, paragraph 9 of Schedule 5C requires the Secretary of State to apply the same disqualification criteria to persons being elected or holding office as a mayor as currently apply to Police and Crime Commissioners. These provisions will be additional to the criteria that already exist in relation to mayors (paragraphs 7 and 8 of new Schedule 5B) and therefore mean that more stringent qualification and disqualification criteria can be applied to mayors that exercise functions of a Police and Crime Commissioner, in line with the criteria that currently apply in relation to Police and Crime Commissioners. The Secretary of State must require the mayor to have regard in the exercise of Police and Crime Commissioner functions to the policing protocol issued under section 79 of the Police Reform and Social Responsibility Act 2011. The Secretary of State may also make provision for the application of enactments to apply to the mayor, in the exercise of Police and Crime Commissioner functions, as though the mayor were a Police and Crime Commissioner.

### Schedule 3: Overview and scrutiny committees

- 89 Schedule 3 inserts new Schedule 5A into the 2009 Act. It places a requirement on all combined authorities to establish one or more overview and scrutiny committees and sets out the way in which such committees will be comprised and operate.
- 90 New Schedule 5A provides that an overview and scrutiny committee for a combined authority has the power to review and scrutinise decisions made, or action taken, by the combined authority and, in the case of a mayoral combined authority, the mayor on behalf of the combined authority. The committee may also make reports and recommendations in respect of the discharge of functions of the combined authority and about any matters that affect the authority's area or its inhabitants. An overview and scrutiny committee will be able to call-in a decision which has been made but not implemented, direct that the decision cannot be implemented while it is called in, and recommend that the decision be reconsidered. Paragraph 3(2)(h) gives the Secretary of State the power to provide for a minimum or maximum call-in period. An overview and scrutiny committee may require the members and officers of the authority to answer questions before it. A police and crime panel may have scrutiny functions over any general functions of the mayor which have been arranged for the deputy mayor for policing and crime to exercise, ensuring scrutiny of these functions is undertaken by the appropriate body.
- 91 Provisions about the membership and structure of an overview and scrutiny committee for a combined authority are also included in new Schedule 5A. Paragraph 2(1) provides that an overview and scrutiny committee may appoint one or more sub-committees to discharge its functions. The Schedule provides that the majority of members of an overview and scrutiny committee must be members of constituent councils of the combined authority area and the membership may not include any member of the combined authority. Paragraphs 3(4) and 3(5) of new Schedule 5A provide that the chair of the committee must be either an independent person as defined in the order made by the Secretary of State or a member of a constituent council who is not of the same political party as, in the case of a mayoral combined authority, the mayor, or, in the case of any other combined authority, the largest political

party on the combined authority. The Secretary of State may make further provision by order about matters including membership, voting and the chair.

- 92 New Schedule 5A also requires a combined authority to appoint an audit committee to review and scrutinise the authority's financial affairs, and review and assess the authority's risk management, internal control, corporate governance arrangements, and the economy, efficiency and effectiveness with which resources have been used. It requires that at least one member of the audit committee be an independent member as defined in the order made by the Secretary of State.

#### Schedule 4: Amendments of the National Health Service Act 2006

- 93 This Schedule provides for amendments to the National Health Service Act 2006 ("the 2006 Act"). The amendments concern the making of arrangements by National Health Service bodies with combined authorities or local authorities for the exercise of health commissioning functions under the 2006 Act, as well as provision which may be made in regulations concerning local authority social care information. The Schedule inserts in the 2006 Act sections 13ZA, 13ZB, 14Z3A, and amends sections 75, 251, 275 and 276 of that Act.
- 94 Sections 13ZA and 13ZB concern "devolved arrangements" for the exercise of functions of the NHS Commissioning Board which it may make with clinical commissioning groups and other prescribed bodies under section 13Z of the 2006 Act. Combined authorities, and local authorities may be prescribed under section 13Z. Sections 13ZA and 13ZB make provision for those authorities and clinical commissioning groups, amongst others, to be able to exercise functions of the Board jointly, subject to certain requirements, to do so via a joint committee, and to pool funds received under section 13Z arrangements. "Devolved arrangements" may relate to one or more of the functions of the Board: the Board may agree terms with its delegates or partners that permit payments out of pooled funds to be spent on any of its functions which are the subject of a single set of devolved arrangements. Section 13ZB makes particular provision in respect of functions of the Board under section 3B(1)(d) of the 2006 Act, requiring that section 13Z arrangements may only be made if they are "devolved arrangements" under section 13ZA and the Board considers it appropriate to make such arrangements having regard to specified considerations.
- 95 The Schedule further amends section 13ZA to clarify that "devolved arrangements" may relate to one or more of the functions of the NHS Commissioning Board. The Board may agree terms with its delegates or partners that permit payments out of pooled funds to be spent on any of its functions which are the subject of a single set of devolved arrangements. It also provides that the minimum membership of a joint committee exercising functions under section 13ZA must include one clinical commissioning group and one combined authority or local authority.
- 96 Section 14Z3A makes provision for one or more clinical commissioning groups to make arrangements to exercise their functions jointly with a combined authority.
- 97 Amendments to section 75 of the 2006 Act make provision for the participation of combined authorities in partnership arrangements under that section where they exercise a function by virtue of voluntary arrangements (as defined).
- 98 Amendments to section 251 of the 2006 Act clarify the existing regulation-making power to ensure that local authority social care information about individuals may, alongside health care patient data, be the subject of regulations controlling patient data.



## Schedule 5: Minor and consequential amendments

- 99 This Schedule makes minor and consequential amendments to legislation including the Local Government Finance Act 1988 and to the 2009 Act relating to the newly created 'mayoral combined authority', to allow the Secretary of State to provide for a function to be exercised across part of the area of a combined authority, and to allow the Secretary of State to make different provisions for different authorities or different descriptions of authority.
- 100 Paragraph 19 amends section 104 of the 2009 Act to enable a county council to transfer its transport functions to a combined authority for part of the county's area, which aligns with the areas of the district councils included within the area of the combined authority.
- 101 Paragraphs 13 to 17 of the Schedule amends sections 15, 17, 18 and 20 of the Localism Act 2011 to limit the power to transfer functions at section 15 of that Act to an EPB, as the Act makes separate provision to transfer functions to combined authorities, county councils and district councils.
- 102 Paragraphs 1 to 3 of the Schedule amend the 1972 Act so that a committee put in place under section 107E of the 2009 Act, or a joint committee put in place under these provisions, will be subject to Part 5A of the Local Government Act 1972 which provides for access to meetings and documents.
- 103 Paragraph 4 amends section 101 of that Act to provide that a combined authority may not arrange for the discharge of a mayoral function by a committee, a sub-committee or an officer of the authority, or by any other local authority. Only a mayor can make such an arrangement, and then only for the discharge of general mayoral functions by a joint committee under section 101(5) of the 1972 Act.
- 104 New subsections (5C), (5D) and (5E) to section 101 of that Act provide that where a combined authority is exercising a function jointly through a joint committee, and that function becomes a general function of the mayor, those arrangements must cease. However, this does not preclude the mayor from deciding to exercise such a function jointly through a mayoral joint committee established under new section 107DA.

## Commencement

105 The extent, commencement and short title of this Act, together with the powers conferred by the Act to make secondary legislation to make saving, transitory or transitional provision in connection with the coming into force of any provision of this Act, will come into force on the day on which it is passed. Other provisions will come into force two months after Royal Assent.

## Related documents

106 The following documents contain further information which is relevant to this Act

- Chancellor's "Northern Powerhouse" speech 23 June 2014 - <https://www.gov.uk/government/speeches/chancellor-we-need-a-northern-powerhouse>
- Government's devolution agreement with Greater Manchester 3 November 2014 - <https://www.gov.uk/government/publications/devolution-to-the-greater-manchester-combined-authority-and-transition-to-a-directly-elected-mayor>
- Government's manifesto - <https://www.conservatives.com/Manifesto>
- Chancellor's speech on 14 May 2015 - <https://www.gov.uk/government/speeches/chancellor-on-building-a-northern-powerhouse>

## Annex A - Territorial extent and application

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion required?	Extends to Scotland?	Legislative Consent Motion required?	Extends to Northern Ireland?	Legislative Consent Motion required?
<i>Reports about local devolution</i> Section 1	Yes	No	No	No	No	No	No
<i>Mayoral combined authorities</i> Section 2	Yes	No	No	No	No	No	No
Section 3	Yes	No	No	No	No	No	No
Section 4	Yes	No	No	No	No	No	No
Section 5	Yes	No	No	No	No	No	No
<i>Combined authorities: additional functions</i> Section 6	Yes	No	No	No	No	No	No
Section 7	Yes	No	No	No	No	No	No
<i>Combined authorities: accountability etc</i> Section 8	Yes	No	No	No	No	No	No
Section 9	Yes	No	No	No	No	No	No
Section 10	Yes	No	No	No	No	No	No
<i>Combined authorities and EPBs: areas and procedure</i> Section 11	Yes	No	No	No	No	No	No
Section 12	Yes	No	No	No	No	No	No
Section 13	Yes	No	No	No	No	No	No
Section 14	Yes	No	No	No	No	No	No
<i>Local authorities: governance, constitution and functions</i> Section 15	Yes	No	No	No	No	No	No
Section 16	Yes	No	No	No	No	No	No
Section 17	Yes	No	No	No	No	No	No
Section 18	Yes	No	No	No	No	No	No

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Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion required?	Extends to Scotland?	Legislative Consent Motion required?	Extends to Northern Ireland?	Legislative Consent Motion required?
Section 19							
Section 20	Yes	No	No	No	No	No	No
Section 21	Yes	No	No	No	No	No	No
Section 22	Yes	No	No	No	No	No	No
<i>Final provisions</i>							
Section 23	Yes	No	No	No	No	No	No
Section 24	Yes	No	No	No	No	No	No
Section 25	Yes	No	No	No	No	No	No
Section 26	Yes	No	No	No	No	No	No

## Annex B - Hansard References

The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage		Hansard Reference
House of Lords		
Introduction	28 May 2015	Vol. [762] Col. [29]
Second Reading	8 June 2015	Vol. [762] Col. [651]
Committee (1st Sitting)	22 June 2015	Vol. [762] Col. [1362]
Committee (2nd Sitting)	24 June 2015	Vol. [762] Col. [1596]
Committee (3rd Sitting)	29 June 2015	Vol. [762] Col. [1806]
Report (1st Sitting)	13 July 2015	Vol. [764] Col. [350]
Report (2nd Sitting)	15 July 2015	Vol. [764] Col. [591]
Third Reading	21 July 2015	Vol. [764] Col. [1032]
House of Commons		
Introduction	21 July 2015	No debate
Second Reading	14 October 2015	Vol. [600] Col. [324]
Public Bill Committee (1st Sitting)	21 October 2015	Vol. [600] Col. [963]
Public Bill Committee (2nd Sitting)	17 November 2015	Vol. [602] Col. [555]
Report	7 December 2015	Vol. [603] Col. [724]
Third Reading	7 December 2015	Vol. [603] Col. [821]
Lords Consideration of Commons Amendments	12 January 2016	Vol. [604] Col. [139]
Royal Assent	28 January 2016	House of Commons Vol. [605] Col. [436]
	28 January 2016	House of Lords Vol. [768] Col. [1399]

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## Annex C - Progress of Bill Table

This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as amended on Report in the Commons
Section 1		Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 1	Clause 3	Clause 3	Clause 2	Clause 2
Section 3	Clause 2	Clause 4	Clause 4	Clause 3	Clause 3
Section 4	Clause 3	Clause 5	Clause 5	Clause 4	Clause 4
Section 5	Clause 4	Clause 6	Clause 6	Clause 5	Clause 5
Section 6	Clause 5	Clause 7	Clause 7	Clause 6	Clause 6
Section 7	Clause 6	Clause 8	Clause 8	Clause 7	Clause 7
Section 8	Clause 7	Clause 9	Clause 9	Clause 8	Clause 8
Section 9	Clause 8	Clause 10	Clause 10	Clause 9	Clause 9
Section 10	Clause 9	Clause 11	Clause 11	Clause 10	Clause 10
Section 11		Clause 12	Clause 12	Clause 11	Clause 11
Section 12		Clause 13	Clause 13	Clause 12	Clause 12
Section 13		Clause 14	Clause 14	Clause 13	Clause 13
Section 14			Clause 15	Clause 14	Clause 14
Section 15	Clause 10	Clause 15	Clause 16	Clause 15	Clause 15
Section 16		Clause 16	Clause 17	Clause 16	Clause 16
Section 17		Clause 17	Clause 18	Clause 17	Clause 17
Section 18			Clause 19	Clause 18	Clause 18
Section 19				Clause 19	Clause 19
Section 20		Clause 19	Clause 21	Clause 20	Clause 20
Section 21				Clause 21	Clause 21
Section 22					Clause 22
Section 23	Clause 11	Clause 20	Clause 22	Clause 22	Clause 23
Section 24	Clause 12	Clause 21	Clause 23	Clause 23	Clause 24
Section 25	Clause 13	Clause 22	Clause 24	Clause 24	Clause 25
Section 26	Clause 14	Clause 23	Clause 25	Clause 25	Clause 26
Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1
Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2
Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3

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Schedule 4				Schedule 4	Schedule 4
Schedule 5	Schedule 4	Schedule 4	Schedule 4	Schedule 5	Schedule 5

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02/2016 54148 19585

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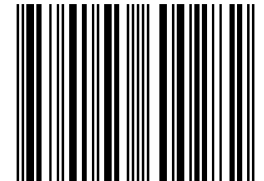
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ISBN 978-0-10-560028-2



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