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SCHEDULES

SCHEDULE 2

NEW ARRANGEMENTS WITH RESPECT TO GOVERNANCE OF ENGLISH LOCAL AUTHORITIES

PART 1

NEW PART 1A OF THE LOCAL GOVERNMENT ACT 2000

1 After Part 1 of the Local Government Act 2000 insert—

"PART 1A

ARRANGEMENTS WITH RESPECT TO LOCAL AUTHORITY GOVERNANCE IN ENGLAND

CHAPTER 1

PERMITTED FORMS OF GOVERNANCE

Permitted forms of governance for local authorities in England

9B (1) A local authority must operate—

(a) executive arrangements,

(b) a committee system, or

(c) prescribed arrangements.

(2) Executive arrangements must conform with any provisions made by or under this Part which relate to such arrangements (see, in particular, Chapter 2).

(3) A committee system must conform with any provisions made by or under this Part which relate to such a system (see, in particular, Chapter 3).

(4) In this Part—

"a committee system" means the arrangements made by a local authority, which does not operate executive arrangements or prescribed arrangements, for or in connection with the discharge of its functions in accordance with—

(a) Part 6 of the Local Government Act 1972, and

(b) this Part;

"executive arrangements" means arrangements by a local authority—

(a) for and in connection with the creation and operation of an executive of the authority, and

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(b) under which certain functions of the authority are the responsibility of the executive;

"prescribed arrangements" means such arrangements as may be prescribed in regulations made by the Secretary of State under section 9BA.

Power of Secretary of State to prescribe additional permitted governance arrangements

9BA(1) The Secretary of State may by regulations make provision prescribing arrangements that local authorities may operate for and in connection with the discharge of their functions.

(2) In particular, the regulations—

(a) must include provision about how, and by whom, the functions of a local authority are to be discharged, and

(b) may include provision enabling functions to be delegated.

(3) Regulations under this section may, in particular, include provision which applies or reproduces (with or without modifications) any provisions of, or any provision made under, Chapters 2 to 4 of this Part.

(4) In considering whether or how to exercise the power in this section, the Secretary of State must have regard to any proposals made under subsection (5).

(5) A local authority may propose to the Secretary of State that the Secretary of State make regulations prescribing arrangements specified in the proposal if the authority considers that the conditions in subsection (6) are met.

(6) The conditions are—

(a) that the operation by the authority of the proposed arrangements would be an improvement on the arrangements which the authority has in place for the discharge of its functions at the time that the proposal is made to the Secretary of State,

(b) that the operation by the authority of the proposed arrangements would be likely to ensure that the decisions of the authority are taken in an efficient, transparent and accountable way, and

(c) that the arrangements, if prescribed under this section, would be appropriate for all local authorities, or for any particular description of local authority, to consider.

(7) A proposal under subsection (5)—

(a) must describe the provision which the authority considers should be made under subsection (2) in relation to the proposed arrangements, and

(b) explain why the conditions in subsection (6) are met in relation to the proposed arrangements.

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CHAPTER 2

EXECUTIVE ARRANGEMENTS

Local authority executives

Local authority executives

9C (1) The executive of a local authority must take a form specified in subsection (2) or (3).

(2) The executive may consist of—

(a) an elected mayor of the authority, and

(b) two or more councillors of the authority appointed to the executive by the elected mayor.

Such an executive is referred to in this Part as a mayor and cabinet executive.

(3) The executive may consist of—

(a) a councillor of the authority (referred to in this Part as the executive leader) elected as leader of the executive by the authority, and

(b) two or more councillors of the authority appointed to the executive by the executive leader.

Such an executive is referred to in this Part as a leader and cabinet executive (England).

(4) A local authority executive may not include the chairman or vice-chairman of the authority.

(5) The number of members of a local authority executive may not exceed 10 or such other number as may be specified in regulations made by the Secretary of State.

(6) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of electing a leader under subsection (3)(a).

Executive functions

Functions which are the responsibility of an executive

9D (1) This section has effect for the purposes of determining which of the functions of a local authority that operates executive arrangements are the responsibility of an executive of the authority under those arrangements.

(2) Subject to any provision made by this Act or by any enactment which is passed or made after the day on which this Act is passed, any function of the local authority which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the authority under executive arrangements.

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(3) The Secretary of State may by regulations make provision for any function of a local authority specified in the regulations—

(a) to be a function which is not to be the responsibility of an executive of the authority under executive arrangements,

(b) to be a function which may be the responsibility of such an executive under such arrangements, or

(c) to be a function which—

(i) to the extent provided by the regulations, is to be the responsibility of such an executive under such arrangements, and

(ii) to the extent provided by the regulations, is not to be the responsibility of such an executive under such arrangements.

(4) Executive arrangements must make provision for any function of a local authority falling within subsection (3)(b)—

(a) to be a function which is to be the responsibility of an executive of the authority,

(b) to be a function which is not to be the responsibility of such an executive, or

(c) to be a function which—

(i) to the extent provided by the arrangements, is to be the responsibility of such an executive, and

(ii) to the extent provided by the arrangements, is not to be the responsibility of such executive.

(5) The power under subsection (3)(c) or (4)(c) includes power in relation to any function of a local authority that operates executive arrangements—

(a) to designate any action in connection with the discharge of that function which is to be the responsibility of an executive of the local authority, and

(b) to designate any action in connection with the discharge of that function which is not to be the responsibility of such an executive.

(6) The Secretary of State may by regulations specify cases or circumstances in which any function of a local authority which, by virtue of the preceding provisions of this section, would otherwise be the responsibility of an executive of the authority to any extent is not to be the responsibility of such an executive to that or any particular extent.

(7) A function of a local authority may, by virtue of this section, be the responsibility of an executive of the authority to any extent notwithstanding that section 101 of the Local Government Act 1972, or any provision of that section, does not apply to that function.

(8) Any reference in this section to a function specified in regulations includes a reference to a function of a description specified in regulations.

(9) In this section—

"action" in relation to any function includes any action (of whatever nature and whether or not separately identified by any enactment) involving—

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(a) the taking of any step in the course of, or otherwise for the purposes of or in connection with, the discharge of the function,

(b) the doing of anything incidental or conducive to the discharge of the function, or

(c) the doing of anything expedient in connection with the discharge of the function or any action falling within paragraph (a) or (b);

"function" means a function of any nature, whether conferred or otherwise arising before, on or after the passing of this Act.

Functions of an executive: further provision

9DA(1) Any reference in the following provisions of this Chapter to any functions which are, or are not, the responsibility of an executive of a local authority under executive arrangements is a reference to the functions of the authority to the extent to which they are or (as the case may be) are not, by virtue of section 9D, the responsibility of the executive under such arrangements.

(2) Any function which is the responsibility of an executive of a local authority under executive arrangements—

(a) is to be regarded as exercisable by the executive on behalf of the authority, and

(b) may be discharged only in accordance with any provisions made by or under this Part or section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England) which apply to the discharge of any such function by that form of executive.

(3) Accordingly, any function which is the responsibility of an executive of a local authority under executive arrangements—

(a) may not be discharged by the authority,

(b) is not to be a function to which section 101(1) of the Local Government Act 1972 applies, and

(c) may be the subject of arrangements made under section 101(5) of that Act only if permitted by any provision made under section 9EB.

(4) Subject to any provision made under subsection (5), any function of a local authority that operates executive arrangements which, under those arrangements, is not the responsibility of the executive of the local authority is to be discharged in any way which would be permitted or required apart from the provisions made by or under this Chapter.

(5) The Secretary of State may by regulations make provision with respect to the discharge of any function of a local authority that operates executive arrangements which, under those arrangements, is not the responsibility of the executive of the local authority (including provision disapplying section 101 of the Local Government Act 1972 or any provision of that section).

(6) In this section "function" has the same meaning as in section 9D.

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Discharge of functions

Discharge of functions: general

9E (1) Subject to any provision made under section 9EA or 9EB, any functions which, under executive arrangements, are the responsibility of—

(a) a mayor and cabinet executive, or

(b) a leader and cabinet executive (England),

are to be discharged in accordance with this section.

(2) The senior executive member—

(a) may discharge any of those functions, or

(b) may arrange for the discharge of any of those functions—

(i) by the executive,

(ii) by another member of the executive,

(iii) by a committee of the executive,

(iv) by an area committee, or

(v) by an officer of the authority.

(3) Where by virtue of this section any functions may be discharged by a local authority executive, then, unless the senior executive member otherwise directs, the executive may arrange for the discharge of any of those functions—

(a) by a committee of the executive,

(b) by an area committee, or

(c) by an officer of the authority.

(4) Where by virtue of this section any functions may be discharged by a member of a local authority executive, then, unless the senior executive member otherwise directs, the member who may discharge the functions may arrange for the discharge of any of those functions—

(a) by an area committee, or

(b) by an officer of the authority.

(5) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, then, unless the senior executive member otherwise directs, the committee may arrange for the discharge of any of those functions—

(a) by an area committee, or

(b) by an officer of the authority.

(6) Where by virtue of this section any functions may be discharged by an area committee, then, unless the senior executive member otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the authority.

(7) Any arrangements made by virtue of this section by a senior executive member, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the

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senior executive member, executive, member or committee by whom the arrangements are made from exercising those functions.

(8) In this section—

"area committee", in relation to a local authority, means a committee or sub-committee of the authority which satisfies the conditions in subsection (9);

"senior executive member" means—

(a) in the case of a mayor and cabinet executive, the elected mayor;

(b) in the case of a leader and cabinet executive (England), the executive leader.

(9) A committee or sub-committee of a local authority satisfies the conditions in this subsection if—

(a) the committee or sub-committee is established to discharge functions in respect of part of the area of the authority, and

(b) the members of the committee or sub-committee who are members of the authority are elected for electoral divisions or wards which fall wholly or partly within that part.

Discharge of functions of and by another local authority

9EA(1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority, or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive—

(a) by a relevant authority (other than the local authority), or

(b) by a relevant executive (other than an executive of the local authority) or a committee or specified member of such an executive.

(2) The Secretary of State may by regulations make provision for or in connection with enabling a relevant authority in England to arrange for the discharge of any of its functions by a relevant executive (other than an executive of the relevant authority) or a committee or specified member of such an executive.

(3) The reference in subsection (2) to the functions of a relevant authority in England, in a case where the authority is operating executive arrangements, is a reference to the functions which, under those arrangements, are not the responsibility of the authority's executive.

(4) Regulations under subsection (1) or (2) may, in particular, include provision—

(a) requiring, in the case of arrangements for the discharge of any functions by a relevant executive or a committee or member of such an executive, the approval of the authority of which the executive is part to such arrangements;

(b) which, in the case of arrangements for the discharge of any functions by a relevant authority, enables any of those functions to be delegated;

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(c) which, in the case of arrangements for the discharge of any functions by a relevant executive or a committee or member of such an executive, enables any of those functions to be delegated.

(5) The provision made under subsection (4)(b) may, in particular, apply or reproduce (with or without modifications) any provisions of section 101(2) to (4) of the Local Government Act 1972.

(6) The provision made under subsection (4)(c) may, in particular, apply or reproduce (with or without modifications) any provisions of section 9E.

(7) In this section—

"relevant authority" means a local authority within the meaning of section 101 of the Local Government Act 1972;

"relevant executive" means an executive of a local authority under either this Part or Part 2;

"specified" means specified in regulations under this section.

Joint exercise of functions

9EB(1) The Secretary of State may by regulations make provision for or in connection with permitting arrangements under section 101(5) of the Local Government Act 1972 where any of the functions which are the subject of the arrangements are the responsibility of an executive of a local authority under executive arrangements.

(2) The provision which may be made under subsection (1) includes, in particular, provision—

(a) as to the circumstances in which the executive, or a committee or specified member of the executive, is to be a party to the arrangements in place of the authority,

(b) as to the circumstances in which—

(i) the authority, and

(ii) the executive or a committee or specified member of the executive,

are both to be parties to the arrangements,

(c) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of the Local Government Act 1972, so far as they relate to any joint committee falling within section 101(5)(a) of that Act, are instead to be exercised by the executive or a committee or specified member of the executive,

(d) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of that Act, so far as they relate to any such joint committee, are to be exercised by the authority,

(e) as to the circumstances in which appointments to any such joint committee by the executive, or a committee or specified member of the executive, need not be made in accordance with the political balance requirements,

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(f) as to the persons (including officers of the authority) who may be appointed to any such joint committee by the executive or a committee or specified member of the executive.

(3) In this section "specified" means specified in regulations under this section.

Overview and scrutiny committees

Overview and scrutiny committees: functions

9F (1) Executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees of the authority (referred to in this Chapter as overview and scrutiny committees).

(2) Executive arrangements by a local authority must ensure that its overview and scrutiny committee has power (or its overview and scrutiny committees, and any joint overview and scrutiny committees, have power between them) —

(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,

(b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,

(c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,

(d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,

(e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area,

(f) in the case of the overview and scrutiny committee, or committees, of an authority to which section 244 of the National Health Service Act 2006 applies—

(i) to review and scrutinise, in accordance with regulations under that section, matters relating to the health service (within the meaning given by that Act as extended by that section) in the authority's area, and

(ii) to make reports and recommendations on such matters in accordance with the regulations.

(3) In subsection (2) "joint overview and scrutiny committee", in relation to a local authority ("the authority concerned"), means—

(a) a joint overview and scrutiny committee within the meaning given by subsection (2)(a) of section 245 of the National Health Service Act 2006 appointed by the authority concerned and one or more other local authorities,

(b) an overview and scrutiny committee of another local authority exercising relevant functions (within the meaning given by

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subsection (1) of that section) of the authority concerned by virtue of arrangements made under regulations under subsection (2)(b) of that section, or

(c) a joint overview and scrutiny committee within the meaning of section 123 of the Local Government and Public Involvement in Health Act 2007 (joint overview and scrutiny committees) appointed by two or more local authorities including the authority concerned.

(4) The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—

(a) to recommend that the decision be reconsidered by the person who made it, or

(b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority.

(5) An overview and scrutiny committee of a local authority may not discharge any functions other than—

(a) its functions under this section and sections 9FA to 9FI, or

(b) its functions under section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters).

Overview and scrutiny committees: supplementary provision

9FA (1) An overview and scrutiny committee of a local authority—

(a) may appoint one or more sub-committees, and

(b) may arrange for the discharge of any of its functions by any such sub-committee.

(2) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it under subsection (1)(b).

(3) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, may not include any member of the authority's executive.

(4) An overview and scrutiny committee of a local authority, or any sub-committee of such a committee, may include persons who are not members of the authority.

(5) Subject to any provision made by or under paragraphs 6 to 8 of Schedule A1 and to section 20(6) of the Police and Justice Act 2006, any persons who are not members of the local authority are not entitled to vote at any meeting of its overview and scrutiny committee, or any sub-committee of such a committee, on any question which falls to be decided at that meeting, unless permitted to do so under paragraphs 11 and 12 of that Schedule.

(6) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, is to be treated—

(a) as a committee or sub-committee of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees), and

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(b) as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

(7) Subsections (2) and (5) of section 102 of the Local Government Act 1972 apply to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, as they apply to a committee appointed under that section.

(8) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—

(a) may require members of the executive, and officers of the authority, to attend before it to answer questions,

(b) may require any other member of the authority to attend before it to answer questions relating to any function which is exercisable by the member by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and

(c) may invite other persons to attend meetings of the committee.

(9) It is the duty of any member or officer mentioned in paragraph (a) or (b) of subsection (8) to comply with any requirement mentioned in that paragraph.

(10) A person is not obliged by subsection (9) to answer any question which the person would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

(11) In exercising, or deciding whether to exercise, any of its functions an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Secretary of State.

(12) Guidance under subsection (11) may make different provision for different cases or for different descriptions of committee or sub-committee.

Scrutiny officers

9FB (1) Subject as follows, a local authority must designate one of its officers to discharge the functions in subsection (2).

(2) Those functions are—

(a) to promote the role of the authority's overview and scrutiny committee or committees,

(b) to provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees,

(c) to provide support and guidance to—

(i) members of the authority,

(ii) members of the executive of the authority, and

(iii) officers of the authority,

in relation to the functions of the authority's overview and scrutiny committee or committees.

(3) An officer designated by a local authority under this section is to be known as the authority's “scrutiny officer”.

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(4) A local authority may not designate any of the following under this section—
- (a) the head of the authority's paid service designated under section 4 of the Local Government and Housing Act 1989;
- (b) the authority's monitoring officer designated under section 5 of that Act;
- (c) the authority's chief finance officer, within the meaning of that section.

(5) The duty in subsection (1) does not apply to a district council for an area for which there is a county council.

(6) In this section, references to an overview and scrutiny committee include any sub-committee of that committee.

Reference of matters to overview and scrutiny committee etc

9FC(1) Executive arrangements by a local authority must include provision which—
- (a) enables any member of an overview and scrutiny committee of the authority to refer to the committee any matter which is relevant to the functions of the committee,
- (b) enables any member of a sub-committee of such a committee to refer to the sub-committee any matter which is relevant to the functions of the sub-committee, and
- (c) enables any member of the authority to refer to an overview and scrutiny committee of the authority of which the member of the authority is not a member any matter which is relevant to the functions of the committee and is not an excluded matter.

(2) For the purposes of subsection (1), provision enables a person to refer a matter to a committee or sub-committee if it enables the person to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.

(3) In considering whether to exercise the power which a member of an authority has by virtue of subsection (1)(c) in any case, the member must have regard to any guidance for the time being issued by the Secretary of State.

(4) Guidance under subsection (3) may make different provision for different cases.

(5) In subsection (1)(c) “excluded matter” means any matter which is—
- (a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
- (b) a matter of any description specified in an order made by the Secretary of State for the purposes of this section.

Dealing with references under section 9FC(1)(c)

9FD(1) This section applies where a matter is referred to an overview and scrutiny committee by a member of a local authority in accordance with provision made pursuant to section 9FC(1)(c).

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(2) In considering whether or not to exercise any of its powers under section 9F(2) in relation to the matter, the committee may have regard to—
  (a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and
  (b) any representations made by the member as to why it would be appropriate for the committee to exercise any of its powers under section 9F(2) in relation to the matter.

(3) If the committee decides not to exercise any of those powers in relation to the matter, it must notify the member of—
  (a) its decision, and
  (b) the reasons for it.

(4) The committee must provide the member with a copy of any report or recommendations which it makes to the authority or the executive under section 9F(2) in relation to the matter.

(5) Subsection (4) is subject to section 9FG (confidential and exempt information).

Duty of authority or executive to respond to overview and scrutiny committee

9FE (1) This section applies where an overview and scrutiny committee of a local authority makes a report or recommendations to the authority or the executive, otherwise than—
  (a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
  (b) by virtue of subsection (3)(a) of that section.

(2) The overview and scrutiny committee may publish the report or recommendations.

(3) The overview and scrutiny committee must by notice in writing require the authority or executive—
  (a) to consider the report or recommendations,
  (b) to respond to the overview and scrutiny committee indicating what (if any) action the authority, or the executive, proposes to take,
  (c) if the overview and scrutiny committee has published the report or recommendations under subsection (2), to publish the response, and
  (d) if the overview and scrutiny committee provided a copy of the report or recommendations to a member of the authority under section 9FD(4), to provide the member with a copy of the response.

(4) The notice served under subsection (3) must require the authority or executive to comply with it within two months beginning with the date on which the authority or executive received the report or recommendations or (if later) the notice.

(5) It is the duty of an authority or executive to which a notice is given under subsection (3) to comply with the requirements specified in the notice.

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(6) Subsections (2) and (5) are subject to section 9FG and to any provision made under section 9GA(8) (confidential and exempt information).

(7) In this section—

(a) references to an overview and scrutiny committee include references to a sub-committee of such a committee;

(b) references to "the authority" or "the executive", in relation to an overview and scrutiny committee, or a sub-committee of such a committee, are to the authority by which the overview and scrutiny committee is established or to the executive of that authority.

Reports and recommendations of overview and scrutiny committees: duties of certain partner authorities

9FF (1) This section applies where—

(a) a relevant committee makes a report or recommendations to the authority or the executive, otherwise than—

(i) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or

(ii) by virtue of subsection (3)(a) of that section, and

(b) the report or any of the recommendations relates to functions of a relevant partner authority so far as exercisable in relation to—

(i) the authority's area, or

(ii) the inhabitants of that area.

(2) The relevant committee may by notice in writing to the relevant partner authority require the relevant partner authority to have regard to the report or recommendation in question in exercising its functions.

(3) A notice under subsection (2) must be accompanied by a copy of the report or recommendations.

(4) It is the duty of a relevant partner authority to which a notice is given under subsection (2) to comply with the requirement specified in the notice.

(5) Subsection (2) does not apply if—

(a) the relevant partner authority is a health service body, and

(b) either—

(i) the relevant committee is a non-unitary district council committee, or

(ii) by virtue of section 244 of the National Health Service Act 2006, the report was, or the recommendations were, made to the health service body (as well as to the authority or the executive).

(6) In subsection (5) "health service body" means—

(a) a National Health Service trust,

(b) an NHS foundation trust, or

(c) a Primary Care Trust.

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(7) Subsections (2) and (3) are subject to section 9FG (confidential and exempt information).

(8) In this section—

"the authority", in relation to a relevant committee, means—

(a) in the case of an overview and scrutiny committee, the local authority by which it is established, and

(b) in the case of a sub-committee of an overview and scrutiny committee, the local authority by which the overview and scrutiny committee is established,

"the executive", in relation to a relevant committee, means the executive of the authority,

"non-unitary district council committee" means—

(a) an overview and scrutiny committee of a district council for a district in a county for which there is a county council, or

(b) a sub-committee of such a committee,

"relevant committee" means an overview and scrutiny committee or a sub-committee of such a committee,

"relevant partner authority", in relation to a relevant committee other than a non-unitary district council committee, means any person who is a partner authority in relation to the authority for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than a chief officer of police, and

"relevant partner authority", in relation to a relevant committee that is a non-unitary district council committee, means—

(a) the county council for the county concerned, or

(b) any person (other than the district council concerned) who is a partner authority in relation to that county council for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than a chief officer of police.

Publication etc of reports, recommendations and responses: confidential and exempt information

9FG(1) This section applies to—

(a) the publication under section 9FE of any document comprising—

(i) a report or recommendations of an overview and scrutiny committee, or

(ii) a response of a local authority to any such report or recommendations, and

(b) the provision of a copy of such a document—

(i) to a member of a local authority under section 9FD(4) or section 9FE, or

(ii) to a relevant partner authority under section 9FF,

by an overview and scrutiny committee or a local authority.

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(2) The overview and scrutiny committee or the local authority, in publishing the document or providing a copy of the document to a relevant partner authority—

(a) must exclude any confidential information, and

(b) may exclude any relevant exempt information.

(3) The overview and scrutiny committee or the local authority, in providing a copy of the document to a member of the local authority, may exclude any confidential information or relevant exempt information.

(4) Where information is excluded under subsection (2) or (3), the overview and scrutiny committee or the local authority, in publishing, or providing a copy of, the document—

(a) may replace so much of the document as discloses the information with a summary which does not disclose that information, and

(b) must do so if, in consequence of excluding the information, the document published, or copy provided, would be misleading or not reasonably comprehensible.

(5) Subsection (6) applies if, by virtue of subsection (2), (3) or (4), an overview and scrutiny committee, in publishing or providing a copy of a report or recommendations—

(a) excludes information, or

(b) replaces part of the report or recommendations with a summary.

(6) The overview and scrutiny committee is nevertheless to be taken for the purposes of section 9FE(3)(c) or (d) to have published or provided a copy of the report or recommendations.

(7) In this section, references to relevant exempt information are references to—

(a) in relation to a report or recommendations of an overview and scrutiny committee, exempt information of a description specified in a resolution of the overview and scrutiny committee under section 100A(4) of the Local Government Act 1972 which applied to the proceedings, or part of the proceedings, at any meeting of the overview and scrutiny committee at which the report was, or recommendations were, considered, and

(b) in relation to a response of the authority, exempt information of a description specified in such a resolution of the authority which applied to the proceedings, or part of the proceedings, at any meeting of the authority at which the report or response was, or recommendations were, considered.

(8) In this section—

"confidential information" has the meaning given by section 100A(3) of the Local Government Act 1972 (admission to meetings of principal councils),

"exempt information" has the meaning given by section 100I of that Act and, in relation to—

(a) any report or recommendations of an overview and scrutiny committee which has functions under section 9F(2)(f) (national health service functions), or

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(b) any response to such a report or recommendations,

also includes information which is exempt information under section 246 of the National Health Service Act 2006, and

"relevant partner authority", in relation to an overview and scrutiny committee which is a relevant committee within the meaning of section 9FF, has the same meaning as in that section.

(9) In this section, references to an overview and scrutiny committee include references to a sub-committee of such a committee.

Overview and scrutiny committees: flood risk management

9FH(1) This section applies to a local authority that operates executive arrangements and that is a lead local flood authority.

(2) The arrangements required under section 9F(2) include arrangements to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.

(3) A risk management authority must comply with a request made by an overview and scrutiny committee, in the course of arrangements under subsection (2), for—

(a) information;

(b) a response to a report.

(4) The Secretary of State may make regulations about the duty under subsection (3) which may, in particular, include provision—

(a) about the procedure to be followed in relation to requests and compliance with them,

(b) about notices to be served in relation to requests,

(c) for exemptions from the duty,

(d) requiring persons to attend to give information orally,

(e) about the nature of the information and responses that may be requested, and

(f) about the publication of requests, information and responses.

(5) A risk management authority must have regard to reports and recommendations of an overview and scrutiny committee made in the course of arrangements under subsection (2).

(6) Regulations under section 123 of the Local Government and Public Involvement in Health Act 2007 may make provision about the application of this section in relation to joint overview and scrutiny committees.

(7) Expressions used in this section have the same meaning as in Part 1 of the Flood and Water Management Act 2010.

Overview and scrutiny committees: provision of information etc by certain partner authorities

9FI (1) The Secretary of State may by regulations make provision, in relation to a relevant committee—

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(a) as to information which relevant partner authorities must provide to the relevant committee, and

(b) as to information which may not be disclosed by a relevant partner authority to the relevant committee.

(2) In subsection (1), references to information do not include information in respect of which provision may be made in exercise of the power conferred by—

(a) section 20(5)(c) or (d) of the Police and Justice Act 2006 (guidance and regulations regarding crime and disorder matters), or

(b) section 244(2)(d) or (e) of the National Health Service Act 2006 (functions of overview and scrutiny committees).

(3) For the purposes of subsection (1), "relevant committee" and "relevant partner authority" have the meanings given by section 9FF.

(4) Regulations under this section may make different provision in relation to different persons or committees or descriptions of person or committee.

(5) The power conferred by subsection (4) does not affect the power conferred by section 105(2)(b).

Further provision in relation to executives

Meetings and access to information etc

9G (1) Meetings of a local authority executive, or a committee of such an executive, are to be open to the public or held in private.

(2) Subject to regulations under section 9GA(4), it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.

(3) A written record must be kept of prescribed decisions made at meetings of local authority executives, or committees of such executives, which are held in private.

(4) A written record must be kept of prescribed decisions made by individual members of local authority executives.

(5) Written records under subsection (3) or (4) must include reasons for the decisions to which they relate.

(6) In this section "prescribed" means prescribed by regulations made by the Secretary of State.

Meetings and access to information etc: further provision and regulations

9GA(1) Written records under section 9G(3) and (4), together with such reports, background papers or other documents as may be prescribed, must be made available to members of the public in accordance with regulations made by the Secretary of State.

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(2) Regulations under subsection (1) may make provision for or in connection with preventing the whole or part of any record or document containing prescribed information from being made available to members of the public.

(3) The Secretary of State may by regulations make provision—

(a) with respect to the access of the public to meetings of joint committees, or sub-committees of such committees, at which decisions are made in connection with the discharge of functions which are the responsibility of executives (including provision enabling such meetings to be held in private),

(b) for or in connection with requiring written records to be kept of decisions made at meetings which by virtue of paragraph (a) are held in private,

(c) for or in connection with requiring written records falling within paragraph (b) to include reasons,

(d) for or in connection with requiring any such written records to be made available to members of the public,

(e) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of the public.

(4) The Secretary of State may by regulations make provision—

(a) as to the circumstances in which meetings mentioned in section 9G(2), or particular proceedings at such meetings, must be open to the public,

(b) as to the circumstances in which meetings mentioned in section 9G(2), or particular proceedings at such meetings, must be held in private,

(c) with respect to the information which is to be included in written records kept by virtue of this section or section 9G,

(d) with respect to the reasons which are to be included in any such written records,

(e) with respect to the persons who are to produce, keep or make available any such written records,

(f) for or in connection with requiring any such written records to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,

(g) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,

(h) for or in connection with requiring information to be made available by electronic means,

(i) for or in connection with conferring rights on members of the public or members of local authorities, overview and scrutiny committees or sub-committees in relation to records or documents,

(j) for or in connection with the creation of offences in respect of any rights or requirements conferred or imposed by virtue of this section or section 9G.

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(5) The Secretary of State may by regulations make provision for or in connection with requiring prescribed information about prescribed decisions made in connection with the discharge of functions which are the responsibility of a local authority executive to be made available to members of the public or members of the authority.

(6) The provision which may be made under subsection (5) includes provision—

(a) requiring prescribed information to be made available in advance of the prescribed decisions mentioned in that subsection,

(b) as to the way or form in which prescribed information is to be made available.

(7) The Secretary of State may by regulations make provision which, in relation to meetings of—

(a) local authority executives or committees of such executives, or

(b) joint committees, or sub-committees of such committees, falling within subsection (3)(a),

applies or reproduces (with or without modifications) any provisions of Part 5A of the Local Government Act 1972.

(8) The Secretary of State may by regulations make provision, in relation to—

(a) the publication by executives of local authorities under section 9FE of responses to reports or recommendations of overview and scrutiny committees and sub-committees of such committees, or

(b) the provision by such executives under that section of copies of such responses,

which applies or reproduces (with or without modifications) any provisions of section 9FG (confidential and exempt information).

(9) In this section—

"joint committee" means a joint committee falling within section 101(5)(a) of the Local Government Act 1972,

"prescribed" means prescribed by regulations made by the Secretary of State.

Further provision

9GB Schedule A1 (which makes further provision in relation to executive arrangements under this Part) has effect.

Absence of requirement for political balance

9GC Neither—

(a) a local authority executive, nor

(b) a committee of a local authority executive,

is to be regarded as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

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Elected mayors etc

Elected mayors etc

9H (1) In this Part "elected mayor", in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority's area in accordance with the provisions made by or under this Part.

(2) An elected mayor is to be entitled to the style of "mayor".

(3) A reference in any enactment (whenever passed or made) to—

(a) a member of a local authority, or

(b) a councillor of a local authority,

does not include a reference to an elected mayor of the authority.

(4) But subsection (3) is subject to—

(a) regulations made by the Secretary of State under this paragraph which provide that an elected mayor is to be treated as a member or councillor of a local authority for the purposes of an enactment (whenever passed or made), and

(b) any other contrary intention that appears in any enactment (whenever passed or made).

(5) Section 2(2A) of, and paragraph 5C(1) of Schedule 2 to, the Local Government Act 1972 are not to be taken to indicate any contrary intention for the purposes of subsection (4)(b).

(6) Elections for the return of an elected mayor are to take place on the ordinary day of election in each of the relevant election years.

(7) The term of office of an elected mayor of a local authority is to be four years.

(8) This section is subject to regulations under section 9HB or 9HE.

Election as elected mayor and councillor

9HA(1) If the person who is returned at an election as the elected mayor of a local authority is also returned at an election held at the same time as a councillor of the authority, a vacancy arises in the office of councillor.

(2) If the person who is returned at an election ("the mayoral election") as the elected mayor of a local authority—

(a) is a councillor of the authority, and

(b) was returned as such a councillor at an election held at an earlier time than the mayoral election,

a vacancy shall arise in the office of councillor.

(3) Subject to subsection (4), a person who is the elected mayor of a local authority may not be a candidate in an election for the return of a councillor or councillors of the authority.

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(4) A person who is the elected mayor of a local authority may be a candidate in an election for the return of a councillor or councillors of the authority if the election is held at the same time as an election for the return of the elected mayor of the authority, but subsection (1) applies if the person is a candidate in both such elections and is returned both as the elected mayor and as a councillor.

Time of elections etc

9HB The Secretary of State may by regulations make provision—

(a) as to the dates on which and years in which elections for the return of elected mayors may or must take place,

(b) as to the intervals between elections for the return of elected mayors,

(c) as to the term of office of elected mayors, and

(d) as to the filling of vacancies in the office of elected mayor.

Voting at elections of elected mayors

9HC(1) Each person entitled to vote as an elector at an election for the return of an elected mayor is to have the following vote or votes—

(a) one vote (referred to in this Part as a first preference vote) which may be given for the voter's first preference from among the candidates to be the elected mayor, and

(b) if there are three or more candidates to be the elected mayor, one vote (referred to in this Part as a second preference vote) which may be given for the voter's second preference from among those candidates

(2) The elected mayor is to be returned under the simple majority system, unless there are three or more candidates.

(3) If there are three or more candidates to be the elected mayor, the elected mayor is to be returned under the supplementary vote system in accordance with Schedule 2.

Entitlement to vote

9HD(1) The persons entitled to vote as electors at an election for the return of an elected mayor are those who on the day of the poll—

(a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the area of the local authority concerned, and

(b) are registered in the register of local government electors at an address within the authority's area.

(2) A person is not entitled as an elector to cast more than one first preference vote, or more than one second preference vote, at an election for the return of an elected mayor.

Power to make provision about elections

9HE(1) The Secretary of State may by regulations make provision as to—

(a) the conduct of elections for the return of elected mayors, and

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(b) the questioning of elections for the return of elected mayors and the consequences of irregularities.

(2) Regulations made under subsection (1)(a) may, in particular, include provision—

(a) about the registration of electors,

(b) for disregarding alterations in a register of electors,

(c) about the limitation of election expenses (and the creation of criminal offences in connection with the limitation of such expenses), and

(d) for the combination of polls at elections for the return of elected mayors and other elections.

(3) Regulations under this section may—

(a) apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts or any provision of any other enactment (whenever passed or made) relating to parliamentary elections or local government elections,

(b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of elected mayors, and

(c) so far as may be necessary in consequence of any provision made by or under this Part or any regulations under this section, amend any provision of any enactment (whenever passed or made) relating to the registration of parliamentary electors or local government electors.

(4) Before making any regulations under this section, the Secretary of State must consult the Electoral Commission.

(5) In addition, the power of the Secretary of State to make regulations under this section so far as relating to matters mentioned in subsection (2)(c) is exercisable only on, and in accordance with, a recommendation of the Electoral Commission, except where the Secretary of State considers that it is expedient to exercise that power in consequence of changes in the value of money.

(6) No return of an elected mayor at an election is to be questioned except by an election petition under the provisions of Part 3 of the Representation of the People Act 1983 as applied by or incorporated in regulations under this section.

Leader and cabinet executives (England)

Election and term of office of leader

9I Executive arrangements by a local authority which provide for a leader and cabinet executive (England)—

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(a) must include provision with respect to the election of the executive leader, including provision for an election where there is a vacancy in the office of executive leader, and

(b) may include provision with respect to the term of office of the executive leader.

Removal of leader

9IA (1) Executive arrangements by a local authority which provide for a leader and cabinet executive (England) must include provision for the council to remove the executive leader by resolution.

(2) If a council passes a resolution to remove the executive leader, a new executive leader is to be elected—

(a) at the meeting at which the leader is removed from office, or

(b) at a subsequent meeting.

Leader to continue to hold office as councillor

9IB (1) A person who is the executive leader of a leader and cabinet executive (England) remains a member of the council during the period that the person is the executive leader.

(2) Accordingly, any enactment which provides for the person's earlier retirement as a councillor does not apply.

(3) This section does not affect anything by which the executive leader may cease to be a councillor otherwise than by retirement (including disqualification or resignation).

No other means of removing leader

9IC (1) This section applies to a local authority which operates a leader and cabinet executive (England).

(2) An executive leader may not be removed from office except in accordance with section 9IA or regulations under section 9ID.

Regulations

9ID (1) The Secretary of State may by regulations make provision—

(a) as to the election and removal from office of executive leaders of leader and cabinet executives (England),

(b) as to the term of office of an executive leader of a leader and cabinet executive (England), and

(c) as to the filling of vacancies in the office of executive leader of a leader and cabinet executive (England).

(2) Sections 9I to 9IC are subject to regulations under this section.

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CHAPTER 3

THE COMMITTEE SYSTEM

Secretary of State's power to prohibit delegation of functions etc

9J (1) The Secretary of State may by regulations—

(a) specify or describe any function of a committee system local authority that is to be a non-delegable function;

(b) specify or describe cases or circumstances in which any specified or described function of a committee system local authority is to be a non-delegable function;

(c) specify or describe any action in connection with the discharge of a function of a committee system local authority that is to be a non-delegable action;

(d) specify or describe cases or circumstances in which any specified or described action in connection with the discharge of a function of a committee system local authority is to be a non-delegable action.

(2) If a function or action is non-delegable—

(a) it must be carried out by the local authority, and

(b) such provisions of section 101 of the Local Government Act 1972 as may be specified in regulations under this section do not apply to it.

(3) In this Part "committee system local authority" means a local authority that operates a committee system.

(4) For the purposes of this section, something is specified or described if it is specified or described in regulations made by the Secretary of State under this section.

(5) In this section—

"action" in relation to any function includes any action (of whatever nature and whether or not separately identified by any enactment) involving—

(a) the taking of any step in the course of, or otherwise for the purposes of or in connection with, the discharge of the function,

(b) the doing of anything incidental or conducive to the discharge of the function, or

(c) the doing of anything expedient in connection with the discharge of the function or any action within paragraph (a) or (b);

"function" means a function of any nature, whether conferred or otherwise arising before, on or after this section comes into force.

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Overview and scrutiny committee

9JA (1) A committee system local authority may by resolution appoint one or more committees as the authority's overview and scrutiny committee or, as the case may be, committees.

(2) The Secretary of State may by regulations make provision about—

(a) the functions, composition and procedure of a committee that has been appointed as an overview and scrutiny committee under this section, and

(b) the appointment by committee system local authorities of joint committees and sub-committees as overview and scrutiny committees.

(3) Provision under subsection (2) may, in particular, include provision which applies or reproduces (with or without modifications) any provision of, or made under, sections 9F to 9FI or paragraphs 6 to 13 of Schedule A1.

Overview and scrutiny: flood risk management

9JB (1) A committee system local authority that is a lead local flood authority must review and scrutinise the exercise by risk management authorities of—

(a) flood risk management functions, or

(b) coastal erosion risk management functions,

which may affect the local authority's area.

(2) A local authority may issue such reports and recommendations as it considers appropriate in the course of exercising the function in subsection (1).

(3) A risk management authority must comply with a request made by a local authority in the course of exercising the function in subsection (1) for—

(a) information;

(b) a response to a report.

(4) The Secretary of State may make regulations about the duty under subsection (3) which may, in particular, include provision—

(a) about the procedure to be followed in relation to requests and compliance with them,

(b) about notices to be served in relation to requests,

(c) for exemptions from the duty,

(d) requiring persons to attend to give information orally,

(e) about the nature of the information and responses that may be requested, and

(f) about the publication of requests, information and responses.

(5) A risk management authority must have regard to any reports or recommendations mentioned in subsection (2) that relate to it.

(6) Expressions used in this section have the same meaning as in Part 1 of the Flood and Water Management Act 2010.

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CHAPTER 4

CHANGING GOVERNANCE ARRANGEMENTS

Changes to governance arrangements by local authorities: general provision

Changing from one form of governance to another

9K (1) A local authority may—
(a) cease to operate its existing form of governance, and
(b) start to operate a different form of governance.

(2) This section is subject to section 9NA (effect of order requiring, and giving effect to, referendum on change to mayor and cabinet executive).

Executive arrangements: different form of executive

9KA(1) A local authority which operates executive arrangements may—
(a) vary the arrangements so that they provide for a different form of executive, and
(b) if it makes such a variation, vary the arrangements in such other respects (if any) as it considers appropriate.

(2) This section is subject to section 9NA (effect of order requiring, and giving effect to, referendum on change to mayor and cabinet executive).

Executive arrangements: other variation of arrangements

9KB A local authority which operates executive arrangements may vary those arrangements so that they—
(a) differ from the existing arrangements in any respect, but
(b) still provide for the same form of executive.

Resolution of local authority

9KC(1) A resolution of a local authority is required in order for the authority to make a change in governance arrangements.

(2) As soon as practicable after passing such a resolution a local authority must—
(a) secure that copies of a document setting out the provisions of the arrangements that are to have effect following the resolution are available at its principal office for inspection by members of the public, and
(b) publish in one or more newspapers circulating in its area a notice which—
(i) states that the authority has resolved to make a change in its governance arrangements,
(ii) states the date on which the change is to have effect,

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(iii) describes the main features of the change,

(iv) states that copies of a document setting out the provisions of the arrangements that are to have effect following the resolution are available at the authority's principal office for inspection by members of the public, and

(v) specifies the address of the authority's principal office.

(3) Subsection (4) applies if a local authority passes a resolution in accordance with this section ("Resolution A") which makes a change in governance arrangements of the kind set out in—

(a) section 9K (change from one form of governance to another), or

(b) section 9KA (change to a different form of executive).

(4) The local authority may not pass another resolution that makes a change in governance arrangements of a kind mentioned in subsection (3) ("Resolution B") before the end of the period of 5 years beginning with the date Resolution A is passed, unless Resolution B is approved in a referendum held in accordance with this Chapter.

(5) This section does not apply to a change in governance arrangements effected by an order under section 9N (power by order to require, and give effect to, referendum on change to mayor and cabinet executive).

Implementation of certain changes to governance arrangements

Implementation: change in form of governance or change in form of executive

9L (1) This section applies if a local authority passes a resolution which makes a change in governance arrangements of the kind set out in—

(a) section 9K (change from one form of governance to another), or

(b) section 9KA (change to a different form of executive).

(2) At a relevant change time, the local authority must—

(a) cease operating the old form of governance or (as the case may be) old form of executive, and

(b) start operating the form of governance or (as the case may be) form of executive which the change in governance arrangements provides for.

(3) Subject to subsection (2) and section 9MB(2), the local authority may take steps for the purposes of preparing for the change or implementing it (including steps relating to transitional arrangements).

(4) If the local authority is not currently operating a mayor and cabinet executive and the change does not provide for the local authority to operate a mayor and cabinet executive, a "relevant change time" for the purposes of subsection (2) is a time during—

(a) the first annual meeting of the local authority to be held after the resolution to make the change in governance arrangements is passed, or

(b) a later annual meeting of the local authority specified in that resolution.

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(5) If the local authority is not currently operating a mayor and cabinet executive and the change provides for the local authority to operate a mayor and cabinet executive, a "relevant change time" for the purposes of subsection (2) is—
  (a) a time during the third day after the day of the declaration of the result of the poll at the first election of the mayor, or
  (b) if a person is returned as the mayor at that first election without a poll being taken, a time during the third day after the day on which a poll would have been taken.

(6) If the local authority is currently operating a mayor and cabinet executive and the change provides for the local authority to cease to operate a mayor and cabinet executive, a "relevant change time" for the purposes of subsection (2) is a time during the third day after the day on which the next ordinary election of a mayor was expected to be held when the resolution to make the change in governance arrangements was passed.

Referendums

Cases in which change is subject to approval in a referendum in accordance with sections 9MA and 9MB

9M (1) A change in governance arrangements which a local authority proposes to make by resolution is subject to approval in a referendum in either of the following cases.

(2) The first case is where—
  (a) the proposed change in governance arrangements is of a kind set out in—
    (i) section 9K (change from one form of governance to another), or
    (ii) section 9KA (change to a different form of executive), and
  (b) the implementation of the local authority's existing form of governance or existing form of executive was approved in a referendum under this Chapter.

(3) The second case is where the local authority resolves that a proposed change in governance arrangements is to be subject to approval in a referendum.

Referendum: proposals by local authority

9MA(1) This section applies to a local authority which wishes to make a change in governance arrangements that is subject to approval in a referendum under section 9M.

(2) The local authority must draw up proposals for the change.

(3) The proposals must include—
  (a) a timetable with respect to the implementation of the proposals,
  (b) details of any transitional arrangements which are necessary for the implementation of the proposals, and
  (c) a statement that the change in governance arrangements is to be subject to approval in a referendum.

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(4) Subsections (5) and (6) apply where the proposed change in governance arrangements is of the kind set out in—

(a) section 9K (change from one form of governance to another), or

(b) section 9KA (change to a different form of executive).

(5) If the proposed change in governance arrangements would result in the local authority having executive arrangements, the proposals must state the extent to which the functions specified in regulations under section 9D(3)(b) are to be the responsibility of the executive which will be operated if the proposals are implemented.

(6) The proposals (particularly any provision about timetables and transitional matters included in accordance with subsection (3)) must be such as to ensure that the proposed change can take effect (so far as required to) in accordance with section 9L(2).

(7) After drawing up the proposals, the local authority must—

(a) secure that copies of a document setting out the proposals are available at its principal office for inspection by members of the public at all reasonable times, and

(b) publish in one or more newspapers circulating in its area a notice which—

(i) states that the authority has drawn up the proposals,

(ii) describes the main features of the proposals,

(iii) states that copies of a document setting out the proposals are available at the authority's principal office for inspection by members of the public at such times as may be specified in the notice, and

(iv) specifies the address of the authority's principal office.

Requirement to hold and give effect to referendum

9MB(1) This section applies to a local authority which wishes to make a change in governance arrangements that is subject to approval in a referendum under section 9M.

(2) The local authority must, after complying with section 9MA(7), hold a referendum on its proposals before taking any steps to implement them.

(3) The local authority may not pass a resolution which makes the proposed change unless the result of the referendum is to approve the proposals.

(4) Any such resolution must be passed within the period of 28 days beginning with the day when the referendum is held.

(5) Any such resolution must be passed at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object.

Referendum following petition

9MC(1) The Secretary of State may by regulations make provision for or in connection with requiring a local authority which receives a petition which complies with the provisions of the regulations to hold a referendum, in

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such circumstances as may be prescribed in the regulations, on whether the authority should have a relevant type of governance arrangement.

(2) Regulations under subsection (1) may, in particular, include provision—

(a) as to the form and content of petitions (including provision for petitions in electronic form),

(b) as to the minimum number of local government electors for a local authority's area who must support any petition presented to the authority during any period specified in the regulations,

(c) for or in connection with requiring an officer of a local authority to publish the number of local government electors for the authority's area who must support any petition presented to the authority,

(d) as to the way in which local government electors for a local authority's area are to support a petition (including provision enabling local government electors to support petitions by telephone or by electronic means),

(e) as to the action which may, may not or must be taken by a local authority in connection with any petition,

(f) as to the manner in which a petition is to be presented to a local authority,

(g) as to the verification of any petition,

(h) as to the date on which, or the time by which, a referendum must be held,

(i) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,

(j) as to the action which may, may not or must be taken by a local authority after a referendum, and

(k) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.

(3) Provision made by virtue of subsection (2) may, in particular, apply or reproduce (with or without modifications) any provisions of, or made under, this Chapter.

(4) The number of local government electors mentioned in subsection (2)(b) is to be calculated at such times as may be provided by regulations under this section and (unless such regulations otherwise provide) is to be 5 per cent of the number of local government electors at each of those times.

(5) This section is subject to section 9NA (effect of order requiring, and giving effect to, referendum on change to mayor and cabinet executive).

Referendum following direction

9MD(1) The Secretary of State may by regulations make provision for or in connection with enabling the Secretary of State, in such circumstances as may be prescribed in the regulations, to direct a local authority to hold a referendum on whether it should have a relevant type of governance arrangements specified in the direction.

(2) Regulations under this section may, in particular, include provision—

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(a) as to the date on which, or the time by which, a referendum must be held,

(b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,

(c) as to the action which may, may not or must be taken by a local authority after a referendum, and

(d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.

(3) Provision made by virtue of subsection (2) may, in particular, apply or reproduce (with or without modifications) any provisions of, or made under, this Chapter.

(4) This section is subject to section 9NA (effect of order requiring, and giving effect to, referendum on change to mayor and cabinet executive).

Referendum following order

9ME(1) The Secretary of State may by order make provision requiring every local authority, or every local authority falling within a description of authority specified in the order, to hold a referendum on whether they should have a relevant type of governance arrangements specified in the order.

(2) An order under this section may, in particular, include provision—

(a) as to the date on which, or the time by which, a referendum must be held,

(b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,

(c) as to the action which may, may not or must be taken by a local authority after a referendum, and

(d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the order, to take that action.

(3) Provision made by virtue of subsection (2) may, in particular, apply or reproduce (with or without modifications) any provisions of, or made under, this Chapter.

(4) This section is subject to section 9NA (effect of order requiring, and giving effect to, referendum on change to mayor and cabinet executive).

Further provision with respect to referendums

9MF(1) If a local authority holds a referendum under this Chapter ("Referendum A") it may not hold, or be required to hold, another referendum under this Chapter ("Referendum B") within the period of ten years beginning with the date of Referendum A, unless subsection (2) or (3) applies.

(2) This subsection applies if—

(a) Referendum A was held by the authority by virtue of an order under section 9N (power by order to require, and give effect to, referendum on change to mayor and cabinet executive), and

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(b) the proposal for the authority to operate a mayor and cabinet executive was rejected in Referendum A.

(3) This subsection applies if Referendum B is required to be held by virtue of an order made under section 9N.

(4) If the result of a referendum held by virtue of regulations, an order or a direction made under any provision of this Chapter is to approve the proposals to which the referendum relates, the local authority concerned must implement those proposals.

(5) If the result of a referendum held by virtue of regulations, an order or a direction made under any provision of this Chapter is to reject the proposals to which the referendum relates, the local authority concerned may not implement those proposals.

(6) Subsections (4) and (5) do not apply to a referendum held by virtue of section 9N (but see section 9N(2)(c)).

Voting in and conduct of referendums

9MG(1) The persons entitled to vote in a referendum held by a local authority under this Chapter are those who on the day of the referendum—

(a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the authority's area, and

(b) are registered in the register of local government electors at an address within the authority's area.

(2) The Secretary of State may by regulations make provision as to the conduct of referendums under this Chapter.

(3) The Secretary of State may by regulations make provision for the combination of polls at referendums under this Chapter with polls at any elections.

(4) Regulations under subsection (2) or (3) may apply or incorporate, with or without modifications or exceptions, any provision of any enactment (whenever passed or made) relating to elections or referendums.

(5) Regulations under subsection (2) may, in particular, include provision—

(a) as to the question to be asked in a referendum,

(b) as to the publicity to be given in connection with a referendum (including the publicity to be given with respect to the consequences of the referendum),

(c) about the limitation of expenditure in connection with a referendum (and the creation of criminal offences in connection with the limitation of such expenditure),

(d) as to the conduct of the authority, members of the authority and officers of the authority in relation to a referendum,

(e) as to when, where and how voting in a referendum is to take place,

(f) as to how the votes cast in a referendum are to be counted, and

(g) for disregarding alterations in a register of electors.

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(6) Before making any regulations under this section that include provision as to the question to be asked in a referendum, the Secretary of State must consult the Electoral Commission.

Further provisions as to mayor and cabinet executive

Requiring referendum on change to mayor and cabinet executive

9N (1) The Secretary of State may by order require a specified local authority to hold a referendum on whether the authority should operate a mayor and cabinet executive.

(2) An order under this section may include provision—

(a) as to the date on which, or the time by which, a referendum must be held,

(b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,

(c) as to the effect of a referendum and the action which may, may not or must be taken by a local authority after a referendum,

(d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the order, to take that action.

(3) Provision made by virtue of subsection (2) may, in particular, apply or reproduce (with or without modifications) any provisions of, or made under, this Chapter.

(4) In this section "specified" means specified in an order made by the Secretary of State under this section.

Effect of section 9N order

9NA(1) Subject as follows, the provisions of this Chapter listed in subsection (2) do not apply to a local authority in relation to whom an order under section 9N has been made (and has not been revoked) unless the proposal for the authority to operate a mayor and cabinet executive has been rejected in the referendum held under the order.

(2) Those provisions are—

(a) section 9K (changing from one form of governance to another);

(b) section 9KA (executive arrangements: different form of executive);

(c) section 9MC (referendum following petition);

(d) section 9MD (referendum following direction);

(e) section 9ME (referendum following order).

Variation of mayoral executive

9NB(1) This section applies to a change in governance arrangements of the kind set out in section 9KB (variation of executive arrangements) if the local authority is operating a mayor and cabinet executive.

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(2) The local authority may not resolve to make a change in governance arrangements unless the elected mayor has given written consent to the proposed change.

Miscellaneous

General

9O (1) A local authority may not—
(a) cease to operate a form of governance, or
(b) vary executive arrangements,
other than in accordance with this Chapter.

(2) In making a change in governance arrangements, the local authority must comply with any directions given by the Secretary of State in connection with the making of such a change.

Interpretation

9OA(1) This section applies for the purposes of this Chapter.

(2) References to a change in governance arrangements are references to any change of a kind set out in sections 9K to 9KB.

(3) References to a relevant type of governance arrangement are references to—
(a) a leader and cabinet executive (England);
(b) a mayor and cabinet executive;
(c) a committee system;
(d) any prescribed arrangements.

(4) References to a form of governance are references to—
(a) executive arrangements;
(b) a committee system;
(c) any prescribed arrangements.

CHAPTER 5

SUPPLEMENTARY

Local authority constitution

Local authority constitution

9P (1) A local authority must prepare and keep up to date a document (referred to in this section as its constitution) which contains—
(a) a copy of the authority's standing orders for the time being,
(b) a copy of the authority's code of conduct (if any) for the time being under section 28 of the Localism Act 2011,
(c) such information as the Secretary of State may direct, and

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(d) such other information (if any) as the authority considers appropriate.

(2) In the case of a committee system local authority, the authority's constitution must also contain a statement as to whether the authority has resolved to have an overview and scrutiny committee under section 9JA.

(3) A local authority must ensure that copies of its constitution are available at its principal office for inspection by members of the public at all reasonable hours.

(4) A local authority must supply a copy of its constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

Guidance

Guidance

9Q (1) A local authority must have regard to any guidance for the time being issued by the Secretary of State for the purposes of this Part.

(2) Guidance under this section may make different provision for different cases or descriptions of local authority.

Interpretation

Interpretation of Part 1A

9R (1) In this Part, unless the context otherwise requires—

"committee system" has the meaning given by section 9B,

"committee system local authority" has the meaning given by section 9J(3),

"elected mayor" has the meaning given by section 9H,

"electoral area" has the meaning given by section 203(1) of the Representation of the People Act 1983,

"enactment" includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the Interpretation Act 1978),

"executive", in relation to a local authority, is to be construed in accordance with section 9C,

"executive arrangements" has the meaning given by section 9B,

"executive leader" has the meaning given by section 9C(3)(a),

"first preference vote" has the meaning given by section 9HC,

"leader and cabinet executive (England)" has the meaning given by section 9C(3),

"local authority" means a county council in England, a district council or a London borough council,

"local government elector" has the meaning given by section 270(1) of the Local Government Act 1972,

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"mayor and cabinet executive" has the meaning given by section 9C(2),

"ordinary day of election", in relation to a local authority, means the day of ordinary elections of councillors of the authority,

"the political balance requirements" means the provisions made by or under sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989,

"prescribed arrangements" has the meaning give by section 9B, and

"second preference vote" has the meaning given by section 9HC.

(2) In this Part "relevant election years", in relation to a local authority, means the years specified in the second column of the following table in relation to that type of authority.

Type of local authority	***Relevant election years***
Metropolitan district	2014 and every fourth year afterwards
County	2013 and every fourth year afterwards
London borough	2014 and every fourth year afterwards
Non-metropolitan district	2011 and every fourth year afterwards

(3) Any reference in this Part to the chairman of a local authority—

(a) is a reference to that person whether or not the person is entitled to another style, and

(b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the Local Government Act 1972) is referred to in Part 1 of that Schedule as the mayor of the borough.

(4) Any reference in this Part to the vice-chairman of a local authority—

(a) is a reference to that person whether or not the person is entitled to another style, and

(b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the Local Government Act 1972) is referred to in Part 1 of that Schedule as the deputy mayor.

(5) Any reference in this Part to the discharge of any functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of those functions.

(6) Section 101 of the Local Government Act 1972 does not apply to the function of the passing of a resolution under any provision made by or under this Part.

(7) Any functions conferred on a local authority by virtue of this Part are not to be the responsibility of an executive of the authority under executive arrangements.

(8) Any directions given by the Secretary of State under any provision of this Part—

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(a) may be varied or revoked by subsequent directions given by the Secretary of State under that provision, and

(b) may make different provision for different cases, different local authorities or different descriptions of local authority."

Commencement Information

I1 Sch. 2 para. 1 in force at 3.12.2011 for specified purposes by S.I. 2011/2896, **art. 2(e)**

I2 Sch. 2 para. 1 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(b)** (with arts. 6, 7, arts. 9-11)

I3 Sch. 2 para. 1 in force at 9.3.2012 for specified purposes by S.I. 2012/628, **art. 2(a)**

I4 Sch. 2 para. 1 in force at 4.5.2012 in so far as not already in force by S.I. 2012/1008, **art. 4(b)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 158(8)-(9B) substituted for s. 158(8)(9) by 2016 c. 22 s. 121(2)(e)
- s. 202(3A) inserted by 2023 c. 55 s. 176(2)