



Draft Regional Assemblies Bill

Including Explanatory Notes and Regulatory Impact Assessment

Presented to Parliament by the
Deputy Prime Minister and
First Secretary of State
By Command of Her Majesty
July 2004

© Crown Copyright 2004

The text in this document (excluding the Royal Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Any enquiries relating to the copyright in this document should be addressed to
The Licensing Division, HMSO, St Clements House, 2-16 Colegate, Norwich, NR3 1BQ.
Fax: 01603 723000 or e-mail: licensing@cabinet-office.x.gsi.gov.uk

Regional Assemblies Bill

CONTENTS

PART 1

CONSTITUTION

Establishment and status

- 1 Establishment of assemblies
- 2 Status

Members and constituencies

- 3 Assembly members
- 4 Constituencies

Ordinary elections

- 5 Time
- 6 Votes
- 7 Franchise
- 8 Constituency candidates
- 9 Regional candidates
- 10 Return of constituency members
- 11 Return of regional members

Holding office

- 12 Term of office
- 13 Acceptance of office
- 14 Resignation
- 15 Termination of office for non-attendance

Disqualification

- 16 Grounds of disqualification
- 17 Consequences of disqualification
- 18 Judicial proceedings as to disqualification

Vacancies between elections

- 19 Vacancies: constituency members
- 20 Vacancies: regional members
- 21 Date of vacancies

Conduct of elections

- 22 Returning officers
- 23 Expenditure for first ordinary election: returning officers
- 24 Expenditure for first ordinary election: Secretary of State
- 25 Supplementary provision relating to elections
- 26 Power to make further provision relating to elections

General

- 27 Interpretation of Part 1

PART 2

STRUCTURE

Meetings

- 28 First meeting of assemblies
- 29 Subsequent meetings
- 30 Chairing assemblies
- 31 Procedure at meetings

Executive

- 32 Executive
- 33 Executive functions

Elections for post holders

- 34 Elections for post holders

Remuneration etc. of assembly members

- 35 Members' salaries and allowances
- 36 Limit on salaries of members of other public bodies
- 37 Members' pensions etc.
- 38 Publication of information

General

- 39 Standing orders
- 40 Service of documents
- 41 Authentication of documents by signature
- 42 Custody of records and documents

PART 3

ROLE

Purposes and powers of assemblies

- 43 Purposes and powers of assemblies
- 44 Restrictions on powers

Additional functions

- 45 Additional functions
- 46 Additional duties
- 47 Requirements for making order under sections 45 and 46

Assembly scheme

- 48 Assembly scheme

Equality

- 49 Equality of opportunity etc.
- 50 Duties of office holders in relation to discrimination and harassment

Assembly report

- 51 Assembly report
- 52 Report meeting

Promoting participation

- 53 Promoting participation

Charging and trading

- 54 Charging
- 55 Power to trade through a company

PART 4

FINANCE

Grants

- 56 Assembly general grant
- 57 Extra grant

Precepting

- 58 Assemblies as precepting authorities
- 59 Provision of information by functional bodies
- 60 Calculation of budget requirements
- 61 Aggregate needs
- 62 Available resources

- 63 Calculation of basic amount of tax

Distribution of budget amounts

- 64 Distribution of budget amounts

Financial administration

- 65 Proper financial administration; accounts and records
 66 Summary statement of accounts
 67 Chief finance officer's report on robustness of estimates and adequacy of proposed financial reserves
 68 Minimum reserves
 69 Chief finance officer's report on inadequacy of a controlled reserve
 70 Budget monitoring

Capital finance etc.

- 71 Capital finance etc.
 72 Interpretation of Part 4

PART 5

REVIEW AND MONITORING

Review and monitoring

- 73 Assembly's duties to review and monitor
 74 RMCs
 75 RMC sub-committees
 76 Area RMC sub-committees
 77 Power of RMCs and RMC sub-committees to compel evidence

Co-opted members of RMCs and RMC sub-committees

- 78 Power to co-opt individuals as members of RMCs and RMC sub-committees
 79 Declaration of political activities by co-opted members of RMCs and RMC sub-committees
 80 Voting schemes relating to co-opted members of RMCs and RMC sub-committees
 81 Regulations as to voting schemes
 82 Provision for co-opted members of RMCs and RMC sub-committees

PART 6

REGIONAL DEVELOPMENT AGENCIES

- 83 Regional development agencies

PART 7

REGIONAL FIRE AND RESCUE AUTHORITIES

- 84 Reconstitution of existing combined authorities

- 85 Constitution of new authorities
- 86 General provision about authorities
- 87 Transitional etc. provision

PART 8

REGIONAL CULTURAL CONSORTIUMS

Establishment and constitution

- 88 Establishment of new bodies
- 89 Constitution

Purposes and powers

- 90 Purposes and powers
- 91 Charging

Cultural strategic plan

- 92 Consortium's preparation of a draft cultural strategic plan
- 93 Assembly's adoption of a cultural strategic plan
- 94 Assembly's revision of its cultural strategic plan

Reporting

- 95 Accounts and records
- 96 Annual report

Change of name

- 97 Change of name

PART 9

PLANNING

Regional spatial strategy

- 98 Regional Spatial Strategy
- 99 RSS functions
- 100 RSS revision
- 101 RSS: participation
- 102 RSS examination in public
- 103 RSS: further procedure
- 104 RSS: Secretary of State's powers

Miscellaneous

- 105 Strategic planning applications
- 106 Amendments of planning Acts
- 107 National Parks
- 108 Transitional
- 109 Regulations

PART 10

OTHER FUNCTIONAL RESPONSIBILITIES

CHAPTER 1

HOUSING

- 110 Local authority housing strategies
- 111 Social housing grants: change of landlord
- 112 Purchase grant where right to acquire exercised
- 113 Purchase grant in respect of other disposals
- 114 Amendments of 1996 Act

CHAPTER 2

TRANSPORT

Railways

- 115 Prohibited financial assistance in respect of railways
- 116 Assemblies and functional bodies not to be railway franchisees

Local transport plans

- 117 Local transport plans

Highways

- 118 Notification of proposals relating to highways

CHAPTER 3

LEARNING AND SKILLS

- 119 Local learning and skills councils
- 120 Guidance to local learning and skills councils
- 121 Plans of local learning and skills councils

CHAPTER 4

ENVIRONMENTAL

- 122 Consultation etc on environmental matters
- 123 Biodiversity

PART 11

ASSEMBLY EMPLOYEES

General provision as to employees

- 124 Appointment
- 125 Practical arrangements for the separation of certain employees

- 126 Secondment of an employee to another assembly
- 127 Standing orders relating to employment questions

Senior officers

- 128 Designation of senior officers
- 129 Functions of certain senior officers

Political restriction

- 130 Political restriction
- 131 Politically restricted positions
- 132 Exemption from political restriction

Political assistants

- 133 Political assistants
- 134 Qualifying political group

Reports by certain senior officers

- 135 Reports by the chief executive officer of an assembly
- 136 Certain reports by the chief finance officer of an assembly
- 137 Reports by the monitoring officer of an assembly
- 138 Duties of an assembly following certain reports by the chief finance officer
- 139 Duties of the executive of an assembly following certain reports by the chief finance officer
- 140 Duties of an assembly following a report by the monitoring officer
- 141 Duties of the executive of an assembly following a report by the monitoring officer

General

- 142 Interpretation of Part 11

PART 12

REGIONS

Extent of regions

- 143 Regions

Regional changes involving assemblies

- 144 Request for recommendations
- 145 Review by Boundary Committee
- 146 Opinion of Audit Commission
- 147 Recommendations of Electoral Commission
- 148 Implementation of recommendations
- 149 Consequential review of electoral arrangements
- 150 Order relating to electoral arrangements

Supplementary and general

- 151 Regional changes not involving assemblies
- 152 Consequential and supplementary amendments
- 153 Financing reviews
- 154 Interpretation of Part 12

PART 13

MISCELLANEOUS AND GENERAL

CHAPTER 1

MISCELLANEOUS

Audit and best value

- 155 Application of the Audit Commission Act 1998
- 156 Application of certain “best value” provisions under the Local Government Act 1999 (c.27)

Comptroller and Auditor General

- 157 Access to documents by Comptroller and Auditor General

Special advisers

- 158 Special advisers

Contracts etc.

- 159 Contracts: exclusion of non-commercial considerations
- 160 Certified contracts
- 161 Standing orders for making of contracts
- 162 Contracting out

Political groups

- 163 Regulations as to political groups

Assembly companies

- 164 Regulations as to assembly companies

Boundaries

- 165 Prohibition of local government review under 1992 Act
- 166 Prohibition of local government review under Preparations Act

CHAPTER 2

GENERAL

- 167 Interpretation
- 168 Miscellaneous amendments

169	Repeals
170	Commencement
171	Orders and regulations
172	Directions and guidance
173	Extent
174	Short title

Schedule 1	– Review of constituencies
Schedule 2	– Elections: supplementary
Schedule 3	– Amendments of Local Government Finance Act 1992 relating to precepting
Schedule 4	– Regional Development Agencies
Schedule 5	– Regional fire and rescue authorities: membership etc.
Schedule 6	– Regional fire and rescue authorities: amendments
Schedule 7	– Regional cultural consortiums: predecessor companies
Schedule 8	– Regional cultural consortiums: constitution
Schedule 9	– Consultation etc. on environmental matters
Schedule 10	– Regions
Schedule 11	– Regions: consequential and supplementary
Schedule 12	– Miscellaneous amendments
Schedule 13	– Repeals

PART 1

CONSTITUTION

Establishment and status

1 Establishment of assemblies

- (1) The Secretary of State may by order establish an elected assembly for a region to which this section applies.
- (2) This section applies to a region if –
 - (a) a referendum has been held in the region in pursuance of an order under section 1 of the Regional Assemblies (Preparations) Act 2003 (c. 10), and
 - (b) a majority of the votes cast in the referendum is in favour of there being an elected assembly for the region.
- (3) The order must specify –
 - (a) the name by which the assembly is to be known;
 - (b) the date on which the establishment is to take effect.
- (4) Any question as to the number of votes cast in a referendum in favour of an answer to a question is determined by the certificate of the Chief Counting Officer given under section 128 of the Political Parties, Elections and Referendums Act 2000 (c. 41).
- (5) But an order must not be made before the end of the period of six weeks starting on the date of the certificate.

2 Status

- (1) An assembly established by order under section 1 is a body corporate.
- (2) An assembly is not to be regarded as the servant or agent of the Crown nor as having any status, immunity or privilege of the Crown.
- (3) The validity of anything done by an assembly or of any of its proceedings is not affected by any vacancy –
 - (a) in its membership;
 - (b) in the membership of the executive constituted in pursuance of section 32.

*Members and constituencies***3 Assembly members**

- (1) An assembly is to consist of—
 - (a) constituency members, and
 - (b) regional members.
- (2) Constituency members of an assembly are members for electoral areas (in this Part called “constituencies”) within the assembly’s region.
- (3) Regional members of an assembly are members for the whole of the assembly’s region.
- (4) The number of constituency members and the number of regional members for an assembly is to be such as the Secretary of State may by order prescribe (having regard to the advice given to him under Part 3 of the Regional Assemblies (Preparations) Act 2003 (c. 10)).
- (5) The total number of members for an assembly may not be less than 25 or more than 35.
- (6) Members of an assembly are to be returned in accordance with the provisions of this Part for—
 - (a) the holding of ordinary elections, and
 - (b) the filling of vacancies in the office of constituency or regional member.
- (7) An ordinary election of an assembly involves the holding of elections for the return of an entire assembly.
- (8) Subsection (4) is subject to any provision made under section 150 of this Act or Part 2 of the Local Government Act 1992 (c. 19).

4 Constituencies

- (1) There is to be one constituency member for each constituency.
- (2) The region of an assembly is accordingly to be divided into as many constituencies as there are constituency members.
- (3) The constituencies for an assembly are to be such areas, known by such names, as the Secretary of State may by order prescribe (having regard to the advice given to him under Part 3 of the Regional Assemblies (Preparations) Act 2003).
- (4) Subsection (3) is subject to any provision made under section 150 of this Act or Part 2 of the Local Government Act 1992.
- (5) Schedule 1 (revision of constituencies) has effect.

*Ordinary elections***5 Time**

- (1) The poll at the first ordinary election of an assembly is to be held on a day or over a period appointed by the Secretary of State by order.
- (2) The poll at each subsequent ordinary election of an assembly is to be held—

- (a) on the first Thursday in May in the fourth calendar year following that in which the previous ordinary election was held, or
 - (b) if the Secretary of State by order so appoints, over a period so appointed which ends on the first Thursday in May in that fourth calendar year.
- (3) The Secretary of State may by order require the poll at such an ordinary election to be held –
- (a) on a day which is neither more than one month earlier nor more than one month later than the first Thursday in May, or
 - (b) over a period appointed in the order which ends on a day neither more than one month earlier nor more than one month later than the first Thursday in May.

6 Votes

- (1) Each person entitled to vote in a constituency at an ordinary election of an assembly has two votes.
- (2) One vote (referred to in this Part as “the constituency vote”) is to be given for a candidate to be the constituency member of the assembly for that constituency.
- (3) The other vote (referred to in this Part as “the regional vote”) is to be given for –
 - (a) a registered political party which has submitted a list of candidates to be regional members of that assembly, or
 - (b) an individual who is a candidate to be a regional member of that assembly.

7 Franchise

- (1) The persons entitled to vote in a constituency at an ordinary election of an assembly are those who on the day of the poll (or, where the poll takes place over a period, on the last day of that period) –
 - (a) would be entitled to vote as electors at a local government election in an electoral area which falls wholly or partly within that constituency, and
 - (b) are registered in the register of local government electors at an address within that constituency.
- (2) A person is not entitled as an elector –
 - (a) to cast more than one constituency vote or more than one regional vote in the same constituency at any ordinary election;
 - (b) to vote in more than one constituency for an assembly at any ordinary election of that assembly.

8 Constituency candidates

At an ordinary election of an assembly a person may not be a candidate to be a constituency member for more than one constituency for that assembly.

9 Regional candidates

- (1) Any registered political party may, in relation to an ordinary election of an assembly, submit a list of candidates to be regional members of that assembly.

- (2) The list must be submitted to the returning officer.
- (3) The list may not include more than 40 persons (but may include only one).
- (4) The list has effect in relation to both—
 - (a) the ordinary election of the assembly, and
 - (b) any vacancies in seats of regional members of the assembly which occur after that election and before the next ordinary election.
- (5) The list may not include a person—
 - (a) who is a candidate to be a constituency member of the assembly but is not a candidate of that party;
 - (b) who is included on any other list submitted for the election of regional members to that assembly;
 - (c) who is an individual candidate to be a regional member of the assembly.
- (6) A person may not be an individual candidate to be a regional member of an assembly if he is—
 - (a) a candidate of a registered political party to be a constituency member of that assembly, or
 - (b) included on a list submitted by a registered political party for that assembly.

10 Return of constituency members

- (1) Each constituency member of an assembly is to be returned under the simple majority system.
- (2) The persons who are to be returned as the constituency members of an assembly must be determined before it is determined who are to be returned as the regional members of that assembly.
- (3) If the poll at the election of a constituency member of an assembly is countermanded or abandoned for any reason, the persons who are to be returned as regional members of the assembly are to be determined without regard to the determination of that constituency member.

11 Return of regional members

- (1) For each registered political party by which a list of candidates has been submitted for the election of regional members of an assembly—
 - (a) the total number of regional votes given for the party in all the assembly's constituencies is to be calculated, and
 - (b) the number arrived at under paragraph (a) is then to be divided by the aggregate of one and the number of candidates of the party returned as constituency members of that assembly.
- (2) For each individual candidate to be a regional member of an assembly the total number of regional votes given for that candidate in all the assembly's constituencies is to be calculated.
- (3) The number arrived at—
 - (a) in the case of a registered political party, from each calculation or recalculation under subsection (1)(b), or
 - (b) in the case of an individual candidate, under subsection (2),

is for the purposes of this section the “regional figure” for that party or individual candidate.

- (4) If—
 - (a) the number of regional votes referred to in subsection (1) in the case of a registered political party, or
 - (b) the number of regional votes referred to in subsection (2) in the case of an individual candidate,is not more than five per cent of the total number of regional votes polled by all of the registered political parties and individual candidates at the ordinary election of an assembly, none of the seats for regional members of that assembly are to be allocated to that party or individual candidate.
- (5) The seats for regional members of an assembly are to be allocated as follows—
 - (a) the first seat is to be allocated to the party or the individual candidate with the highest initial regional figure;
 - (b) the second and subsequent seats are to be allocated to the party or individual candidate with the highest regional figure after any recalculation required by subsection (6) has been carried out.
- (6) This subsection requires a recalculation under subsection (1)(b) in relation to a party—
 - (a) for the first application of subsection (5)(b), if the application of subsection (5)(a) resulted in the allocation of a seat to the party, or
 - (b) for any subsequent application of subsection (5)(b) if the previous application of that provision did so,and a recalculation is to be carried out after adding the number of candidates of the party already returned as regional members under subsection (5) to the aggregate mentioned in subsection (1)(b).
- (7) An individual candidate already returned as an assembly member is to be disregarded for the purposes of subsection (5).
- (8) Seats for regional members which are allocated to a party are to be filled by the persons on the party’s list submitted under section 9 in the order in which they appear on the list.
- (9) For the purposes of subsection (8), a person included on a list submitted by a registered political party who is returned as a constituency member of the assembly is to be treated as ceasing to be on the list.
- (10) A party is to be disregarded for the purposes of subsection (5) once its list has been exhausted (by the return of persons included on it as constituency members or by the previous application of that subsection).
- (11) If on the application of subsection (5)(a) or on any application of subsection (5)(b) the highest regional figure is the regional figure of—
 - (a) two or more parties,
 - (b) two or more individual candidates, or
 - (c) one or more parties and one or more individual candidates,that provision is to apply to each of them.
- (12) Where the application of subsection (11) would mean that more than the full number of seats for regional members of an assembly was allocated, subsection (5)(a) or (b) does not apply until—

- (a) a recalculation has been carried out under subsection (1)(b) after adding one to the number of votes given for each party with that regional figure, and
 - (b) one has been added to the number of votes given for each individual candidate with that regional figure.
- (13) If, after that, the highest regional figure is still the regional figure of two or more parties or individual candidates, or one or more parties and one or more individual candidates, the returning officer is to decide between them by lot.

Holding office

12 Term of office

- (1) Subject to this Act, the term of office of assembly members returned at an ordinary election –
- (a) begins on the second day after the day on which the last of the successful candidates at that election is declared to be returned, and
 - (b) ends on the second day after the day on which the last of the successful candidates at the next ordinary election is declared to be returned.
- (2) If at any ordinary election for an assembly the poll at the election of a constituency member is countermanded or abandoned for any reason, the day on which the last of the successful candidates at the ordinary election is declared to be returned is to be determined for the purposes of subsection (1) without regard to the return of the constituency member for that constituency.

13 Acceptance of office

- (1) A person elected at an ordinary election of an assembly to the office of member may not act in that office unless –
- (a) he has made a declaration of acceptance of the office in a form prescribed in an order made by the Secretary of State, and
 - (b) within two months from the day of his election, the declaration has been delivered to the proper officer of the assembly (subject to this section).
- (2) If such a declaration is not made and delivered to that officer within that period, the office of the person elected becomes vacant at the expiration of that period.
- (3) The declaration under this section must be made before –
- (a) the proper officer of the assembly,
 - (b) a justice of the peace or magistrate in the United Kingdom,
 - (c) a commissioner appointed to administer oaths in the Supreme Court, or
 - (d) any two members of the assembly.
- (4) Any person before whom a declaration is authorised to be made under this section may take the declaration.
- (5) The Secretary of State may by order make provision with respect to the making and delivery of declarations of acceptance of office by persons elected as members of an assembly at the first ordinary election of that assembly.
- (6) An order made under subsection (5) may in particular make provision –

- (a) permitting declarations to be made before such persons as may be specified or described in the order (in addition to those specified in subsection (3));
 - (b) authorising any person so specified or described to take declarations;
 - (c) requiring declarations to be delivered to such person as may be specified or described in the order instead of the proper officer of the assembly;
 - (d) requiring declarations so delivered to be transmitted to the proper officer of the assembly on his appointment.
- (7) No salary, and no payment towards the provision of superannuation benefits, is to be paid under this Act to or in respect of an assembly member until he has complied with the requirements of this section.
- (8) Subsection (7) does not affect an assembly member's entitlement to payments in respect of the period before he complies with the requirements of this section once he has complied with those requirements.

14 Resignation

- (1) An assembly member may at any time resign his membership of the assembly by giving notice in writing to the proper officer of the assembly.
- (2) Any such resignation takes effect on the officer's receipt of the notice.

15 Termination of office for non-attendance

- (1) If a member of an assembly fails, throughout a period of six consecutive months beginning with the day of his last attendance to attend any meeting of the assembly, he ceases to be a member of the assembly and his office becomes vacant.
- (2) For the purposes of subsection (1), attending a meeting of an assembly includes—
 - (a) attending as a member a meeting of any committee or sub-committee of the assembly;
 - (b) attending as a member of the executive of the assembly any meeting of the executive or of any of its committees or sub-committees;
 - (c) attending as a representative of the assembly a meeting of any other body of persons.
- (3) Subsection (1) does not apply in relation to a member if before the end of the period referred to in that subsection the assembly approves his non-attendance.
- (4) Subsection (1) does not apply in relation to a member if the reason for his failure to attend during the period referred to in that subsection is that—
 - (a) he is a member of any branch of Her Majesty's naval, military or air forces employed during war or any emergency on any naval, military or air force service, or
 - (b) he is employed in the service of Her Majesty in connection with war or any emergency in employment which, in the opinion of the Secretary of State, entitles him to relief from ceasing to be a member of the assembly by virtue of this section.

- (5) Where a person ceases to be a member of an assembly under this section, the proper officer of the assembly must, as soon as may be practicable, declare the member's office to be vacant (unless it has already been declared vacant by the High Court).

Disqualification

16 Grounds of disqualification

- (1) A person is disqualified from being elected or otherwise returned as a member of an assembly if –
- (a) he is neither a Commonwealth citizen nor a citizen of the European Union;
 - (b) on the relevant day he has not attained the age of 21;
 - (c) he satisfies none of the requirements in subsection (2);
 - (d) he is an employee of the assembly or of an assembly company of that assembly;
 - (e) he is an employee of another assembly holding a politically restricted position;
 - (f) he holds any office or appointment specified by the Secretary of State by order for the purposes of this section;
 - (g) he is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order;
 - (h) he has in the period of five years ending with the day on which he is elected or otherwise returned been convicted in the United Kingdom, the Channel Islands or the Isle of Man of an offence in respect of which he has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.
- (2) The requirements referred to in subsection (1)(c) in relation to a person are that –
- (a) he is on the relevant day a local government elector registered in the register of local government electors at an address within the region of the assembly;
 - (b) he has, during the whole of the period of twelve months ending with the relevant day occupied as owner or tenant any land or other premises in that region;
 - (c) his principal or only place of work during that period has been in that region;
 - (d) he has during the whole of that period resided in that region.
- (3) A person is disqualified from being a member of an assembly if –
- (a) he is neither a Commonwealth citizen nor a citizen of the European Union;
 - (b) he is not a local government elector registered in the register of local government electors at an address within the region of the assembly;
 - (c) he is an employee of the assembly or of an assembly company of that assembly;
 - (d) he is an employee of another assembly holding a politically restricted position;

- (e) he holds any office or appointment specified by the Secretary of State by order for the purposes of this section;
 - (f) he is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order;
 - (g) he is convicted in the United Kingdom, the Channel Islands or the Isle of Man of an offence in respect of which he has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.
- (4) Subsection (3)(b) does not apply where a person on being elected or otherwise returned satisfied one or more of the conditions in subsection (2)(b) to (d).
- (5) For the purposes of this section the date of a conviction is –
- (a) the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires, or
 - (b) if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its non-prosecution.
- (6) For the purposes of this section –
- “assembly company” must be construed in accordance with regulations made by the Secretary of State under section 164(a);
 - “citizen of the European Union” is to be determined in accordance with Article 17.1 of the Treaty establishing the European Community;
 - “local government elector” has the same meaning as in the Local Government Act 1972 (c. 70);
 - “politically restricted position” has the same meaning as in section 131;
 - “relevant day” means –
- (a) in relation to a candidate to be a constituency member at an ordinary election or an election under section 19 –
 - (i) the day on which he is nominated as a candidate, and also
 - (ii) the day of the poll (or, where the poll takes place over a period, the last day of that period);
 - (b) in relation to a candidate to be a regional member at an ordinary election, the day of the poll (or, where the poll takes place over a period, the last day of that period);
 - (c) in relation to a regional member returned under section 20, the day on which his name is notified to the chairman of the assembly in accordance with that section.

17 Consequences of disqualification

- (1) If a person who is disqualified from being elected or otherwise returned as a member of an assembly is so elected or otherwise returned, his return is void and his office vacant.
- (2) If a member of an assembly becomes disqualified from being an assembly member, he ceases to be a member (so that his office is vacant).
- (3) Where an office becomes vacant under this section, the proper officer of the assembly must, as soon as may be practicable, declare it to be vacant (unless it has already been declared vacant by the High Court).
- (4) The acts and proceedings of any person elected or otherwise returned as a member of an assembly under this Part and acting in that office are,

notwithstanding his disqualification, as valid and effectual as if he had been qualified.

18 Judicial proceedings as to disqualification

- (1) Any person may apply to the High Court for a declaration that the office of a person who purports to be a member of an assembly is vacant on the grounds that—
 - (a) that person was disqualified from being elected or otherwise returned as a member of the assembly, or
 - (b) that person is, or at any time since being elected or otherwise returned as a member has been, disqualified from being a member of the assembly.
- (2) No declaration is to be made under this section in respect of any person on grounds which subsisted when he was returned if an election petition is pending or has been tried in which his disqualification on those grounds is or was in issue.
- (3) On an application under this section—
 - (a) the person in respect of whom the application is made is the respondent, and
 - (b) the applicant must give such security for the costs of the proceedings as the court may direct.
- (4) The amount of the security may not exceed £5,000 or such other sum as the Secretary of State may by order specify.
- (5) The decision of the court on an application under this section is final.

Vacancies between elections

19 Vacancies: constituency members

- (1) Where the office of a member of an assembly returned as a constituency member is vacant an election must, subject to this section, be held in that constituency to fill the vacancy.
- (2) The persons entitled to vote in a constituency at an election under this section are those who on the day of the poll (or, where the poll takes place over a period, on the last day of that period)—
 - (a) would be entitled to vote as electors at a local government election in an electoral area which falls wholly or in partly within that constituency, and
 - (b) are registered in the register of local government electors at an address within that constituency.
- (3) A person is not entitled as an elector to cast more than one vote in a constituency in an election under this section.
- (4) At an election under this section—
 - (a) each person entitled to vote at the election has a constituency vote, and
 - (b) the constituency member for the constituency is to be returned under the simple majority system.

- (5) The returning officer at the election is to fix the date on which, or period over which, the poll is to be held.
- (6) The date, or the last day of the period, fixed under subsection (5) must be within the period of 35 days beginning with—
 - (a) in a case where the High Court or proper officer has declared the office vacant, the making of the declaration, or
 - (b) in any other case, the giving of notice in writing of the vacancy to the proper officer of the assembly by two or more local government electors (within the meaning of the Local Government Act 1972 (c. 70)) for the constituency concerned.
- (7) Section 243(4) of the Local Government Act 1972 applies for the purpose of calculating the period of 35 days referred to in subsection (6) as it applies for the purposes of section 89(1) of that Act.
- (8) A person may not be a candidate at an election under this section if he is—
 - (a) a member of the assembly concerned, or
 - (b) a candidate in another such election for the assembly concerned.
- (9) The term of office of a person returned at an election under this section—
 - (a) begins immediately upon his being declared to be returned as the constituency member, and
 - (b) ends at the time when it would have ended had he been returned as the constituency member at the previous ordinary election.
- (10) Section 13 (declaration of acceptance of office) applies in relation to a person elected to an assembly under this section as it applies in relation to a person elected to an assembly at an ordinary election.
- (11) An election is not to be held under this section where—
 - (a) the vacancy occurs within the period of six months ending with the day of the poll at an ordinary election (or, where the poll takes place over a period, the last day of that period), and
 - (b) on the occurrence of the vacancy (or, in the case of simultaneous vacancies, the vacancies) the total number of unfilled vacancies in the membership of the assembly is no more than one third of the whole number of assembly members.
- (12) Where subsection (11) applies, the vacancy is to be left unfilled until the next ordinary election.

20 Vacancies: regional members

- (1) This section applies where the office of a regional member of an assembly is vacant.
- (2) If—
 - (a) the regional member was returned as an individual candidate, or
 - (b) the vacancy is not filled in accordance with the following provisions, the vacancy remains unfilled until the next ordinary election.
- (3) If the regional member was returned (under section 11 or this section) from a registered political party's list, the returning officer must notify the chairman of the assembly in writing of the name of the person who is to fill the vacancy.

- (4) The person who is to fill the vacancy must be one who –
 - (a) is included in that list,
 - (b) is willing to serve as a regional member for that assembly, and
 - (c) is not a person to whom subsection (5) applies.
- (5) This subsection applies to a person if –
 - (a) he is not a member of the party which submitted that list, and
 - (b) the party gives notice in writing to the returning officer that his name is not to be notified under subsection (3) as the name of the person who is to fill the vacancy.
- (6) Where more than one person satisfies the conditions in subsection (4), the returning officer must notify the name of whichever of them is higher, or highest, in the list.
- (7) For the purposes of this section, a person included on a list submitted by a registered political party who has been returned as a constituency member of the assembly is to be treated as ceasing to be on the list.
- (8) Where a person's name has been notified under subsection (3), his term of office as a regional member of the assembly –
 - (a) begins on the day on which the notification is received under that subsection, and
 - (b) ends at the time when it would have ended had he been returned as a regional member at the previous ordinary election.
- (9) Section 13 (declaration of acceptance of office) applies in relation to a person returned to an assembly under this section as it applies in relation to person elected to an assembly at an ordinary election, subject to subsection (10).
- (10) In the application of section 13 to a person returned under this section, the reference in subsection (1)(b) of that section to the day of the election is to be read as a reference to the day on which the person's name is notified to the chairman of the assembly in accordance with this section.

21 Date of vacancies

- (1) For the purpose of filling a vacancy in the membership of an assembly under section 19 or 20, the date on which the vacancy is to be regarded as occurring is –
 - (a) where the vacancy arises on a member's death, the date of death;
 - (b) where the vacancy arises under section 13 (non-acceptance of office), the date on which the vacancy arises;
 - (c) where the vacancy arises on a member's resignation, the date on which the resignation has effect (see section 14);
 - (d) where the vacancy arises under section 15 (failure to attend meetings), the date on which the office is declared to have been vacated by the High Court or by the proper officer of the assembly;
 - (e) where the vacancy arises on a member's disqualification, the date on which his office is so declared to have been vacated;
 - (f) in the case of an election being declared void on an election petition, the date of the report or certificate of the election court.
- (2) The proper officer of an assembly must as soon as practicable –

- (a) give notice in writing to the returning officer of any vacancy among the regional members of the assembly;
 - (b) give public notice of any vacancy among the constituency members.
- (3) A notice under subsection (2)(b) must be given –
 - (a) by posting it in some conspicuous place or places in the constituency of the assembly,
 - (b) where the assembly has a website, by posting it on the website, and
 - (c) in such other manner as the proper officer considers desirable for giving publicity to it.

Conduct of elections

22 Returning officers

- (1) The returning officer for any election of a constituency member of an assembly is to be such a person, or a person of such description, as the Secretary of State may by order specify.
- (2) The returning officer for the election or other return of regional members of an assembly is, subject to subsection (3), to be the proper officer of the assembly.
- (3) The returning officer for the election of regional members of an assembly at the first ordinary election of the assembly is to be such a person, or a person of such description, as the Secretary of State may by order specify.

23 Expenditure for first ordinary election: returning officers

- (1) A returning officer is entitled to recover expenditure properly incurred by him in relation to the holding of the first ordinary election of an assembly if the expenditure –
 - (a) is of a kind determined by the Secretary of State, and
 - (b) is reasonable.
- (2) The Secretary of State may determine a maximum recoverable amount for expenditure of such description as he may determine; and the returning officer may not recover more than that amount in respect of any such expenditure.
- (3) In order to recover expenditure under this section a returning officer must –
 - (a) submit an account to the Secretary of State, and
 - (b) furnish the Secretary of State with such information or documents relating to the account as the Secretary of State may require.
- (4) If the Secretary of State is satisfied that the expenditure in an account submitted under subsection (3) is properly payable under this section, the amount of that expenditure is to be charged on and paid out of the Consolidated Fund.
- (5) The Secretary of State must prepare an account of any sums which are issued to him out of the Consolidated Fund for the purpose of making a payment under this section and of his use of those sums.
- (6) An account prepared under subsection (5) is to be audited by the Comptroller and Auditor General.

24 Expenditure for first ordinary election: Secretary of State

The Secretary of State may incur expenditure in doing anything which he considers expedient—

- (a) in preparation for the holding of the first ordinary election of any assembly,
- (b) for the purpose of facilitating the conduct of such an election, or
- (c) otherwise in connection with the holding of such an election.

25 Supplementary provision relating to elections

Schedule 2 (supplementary provision relating to elections under this Part) has effect.

26 Power to make further provision relating to elections

- (1) The Secretary of State may by order make provision relating to elections for the return of members of an assembly.
- (2) Provision which may be made under subsection (1) includes in particular provision—
 - (a) about the conduct of an election;
 - (b) as to the registration of electors (including provision for disregarding alterations and provision relating to electoral registers);
 - (c) about the expenses of returning officers at an election other than the first ordinary election of an assembly (including provision for their payment by an assembly);
 - (d) about the limitation of election expenses of candidates;
 - (e) about control of donations made to or received by candidates;
 - (f) about the delivery of election addresses on behalf of candidates at the expense of the assembly in question;
 - (g) for and in connection with the combination of polls at any election for the return of members to an assembly with polls at any other election;
 - (h) as to how an election and the consequences of irregularities may and may not be questioned.
- (3) An order under this section may in particular—
 - (a) apply or incorporate, with or without modification or exceptions, any provision of, or made under, the Representation of the People Acts, the European Parliamentary Elections Act 2002 (c. 24) or any other enactment (whenever passed or made) relating to elections or referendums;
 - (b) modify any form contained in or under any such enactment so far as may be necessary to enable it to be used both for its original purpose and in relation to elections for the return of members of an assembly;
 - (c) make consequential and supplementary amendments to any such enactment.
- (4) The Secretary of State must consult the Electoral Commission before making any order under this section.

General

27 Interpretation of Part 1

In this Part—

- “constituency” has the meaning given by section 3;
- “constituency member” and “regional member” are to be construed in accordance with section 3;
- “constituency vote” and “regional vote” have the meanings given by section 6;
- “local government election” and “electoral area” have the same meanings as in the Representation of the People Act 1983 (c. 2);
- “registered political party” means a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

PART 2

STRUCTURE

Meetings

28 First meeting of assemblies

- (1) This section applies in connection with the first meeting of an assembly.
- (2) Before the first ordinary election is held under section 5 the Secretary of State must appoint a person who is to preside at the first meeting (the presiding officer).
- (3) The first meeting must be held not later than the end of the period of 12 weeks starting on the day that the last declaration is made by the returning officer of a person elected to be a member of the assembly.
- (4) The presiding officer must—
 - (a) arrange a date, time and place for the first meeting of the assembly, and
 - (b) give notice to all of the persons elected to the assembly of the date, time and place.
- (5) The notice must be sent by post so as to arrive not later than two days before the date arranged in pursuance of subsection (4)(a).
- (6) The presiding officer must also publish the notice in such manner as he thinks appropriate.
- (7) The Secretary of State may pay to the presiding officer such amount as he thinks appropriate in respect of the fees and expenses of the presiding officer.
- (8) The presiding officer must continue in office until a person is elected as chairman of the assembly in pursuance of section 30(1).
- (9) Returning officer must be construed in accordance with section 22.

29 Subsequent meetings

- (1) The chairman of the assembly must cause a meeting of the assembly to be held before the end of the period of 10 days starting on the day after an ordinary election (other than the first ordinary election).
- (2) An assembly must hold not less than six ordinary meetings in each year.
- (3) The ordinary meetings must be held at regular intervals throughout the year.
- (4) An assembly may hold such other meetings as it decides.
- (5) An extraordinary meeting of an assembly may be called by the chairman at any time.
- (6) An extraordinary meeting of an assembly may also be called by not less than five members of the assembly if they have requested the chairman to do so but either—
 - (a) the chairman refuses to call such a meeting, or
 - (b) he fails to call such a meeting before the end of the period of seven days starting on the day the request is made.
- (7) Notice of a meeting of an assembly must be given to each member of the assembly not later than the day before the beginning of the period of six days ending on the day of the meeting.
- (8) An ordinary meeting does not include—
 - (a) the first meeting of an assembly held in pursuance of section 28;
 - (b) the first meeting of an assembly held after an ordinary election.
- (9) A year starts on the date of establishment of an assembly by virtue of an order under section 1.

30 Chairing assemblies

- (1) At the first meeting of an assembly after an ordinary election the first business of the meeting must be the election of—
 - (a) one member to be chairman of the assembly;
 - (b) one member to be deputy chairman of the assembly.
- (2) The functions of the chairman are—
 - (a) to preside at the meetings of the assembly;
 - (b) such other functions as are conferred on him by or under any enactment.
- (3) The functions of the deputy chairman are—
 - (a) to preside at meetings of the assembly if the chairman is not present;
 - (b) to carry out the functions of chairman if there is a vacancy in that office;
 - (c) such other functions as are conferred on him by or under any enactment.
- (4) If there is a vacancy in the office of chairman or deputy chairman the first business of the next meeting of the assembly held after the vacancy occurs must be the election of a new chairman or deputy chairman (as the case may be).

- (5) A person elected under this section as chairman or deputy chairman continues in that office until any of the following occurs –
 - (a) he resigns as chairman or deputy chairman (as the case may be);
 - (b) the assembly passes a vote of no confidence in him as chairman or deputy chairman (as the case may be);
 - (c) he ceases to be a member of the assembly, but this is subject to subsection (7);
 - (d) the election of another person as chairman or deputy chairman (as the case may be).
- (6) If at a meeting of the assembly a vote of no confidence is passed as mentioned in subsection (5)(b) the same meeting of the assembly must hold an election for a new chairman or deputy chairman (as the case may be).
- (7) If at an ordinary election the chairman or deputy chairman (as the case may be) is not elected to be a member of the assembly he continues as chairman or deputy chairman (as the case may be) until a new chairman or deputy chairman (as the case may be) is elected at the first meeting following the election.
- (8) For the purposes of subsection (7) a person who is not so elected has no vote in the election for chairman or deputy chairman.
- (9) If at any election under this section the person who is deputy chairman is elected as chairman the meeting must proceed to elect a new deputy chairman in accordance with this section.

31 Procedure at meetings

- (1) The quorum for a meeting of an assembly is not less than one quarter of the total number of the members of the assembly prescribed by order under section 3(4).
- (2) Any question to be decided by an assembly must be decided by a majority of the members of the assembly present and voting.
- (3) If an equal number of votes is cast for and against a question, the chairman of the assembly has an additional, casting vote.
- (4) If any requirement of this Act or of the standing orders of an assembly as to notice of a meeting or item of business at the meeting is not complied with then –
 - (a) the meeting must not be held;
 - (b) the item of business must not be considered.
- (5) Subsection (4) does not apply if the chairman or other person presiding at the meeting thinks that the meeting must be held or item considered (as the case may be) as a matter of urgency.
- (6) If subsection (5) applies the chairman's or other person's reason for his decision must be recorded in the minutes of the meeting.

*Executive***32 Executive**

- (1) An assembly must have an executive consisting of—
 - (a) a member elected as leader, and
 - (b) such other members of the assembly as the leader appoints.
- (2) The election of the leader of the executive must be held at the first meeting of the assembly following an ordinary election of members.
- (3) The number of members appointed by the leader under subsection (1)(b) must be—
 - (a) not less than two;
 - (b) not more than six.
- (4) A member of the executive must not be the chairman or deputy chairman of the assembly.
- (5) A person elected as leader of the executive remains in office until any of the following occurs—
 - (a) he resigns as leader of the executive;
 - (b) the assembly passes a vote of no confidence in him or in the executive;
 - (c) he ceases to be a member of the assembly, but this is subject to subsection (8);
 - (d) the election of another person as leader.
- (6) If at a meeting of the assembly a vote of no confidence is passed as mentioned in subsection (5)(b) the same meeting of the assembly must hold an election for a new leader of the executive.
- (7) A person ceases to be a member of the executive—
 - (a) if his appointment is terminated by the leader;
 - (b) if he ceases to be a member of the assembly.
- (8) But if, at an ordinary election of an assembly, the leader is not elected to be a member of the assembly he continues as leader until a new leader is elected at the first meeting of the assembly following the ordinary election.
- (9) If the person who is the leader of the executive ceases to be a member of the assembly but subsection (8) does not apply the remaining members of the executive must designate one of their number to be the acting leader of the executive.
- (10) Anything which may be done by or in relation to the leader of the executive may be done by or in relation to the acting leader.
- (11) The assembly must elect a new leader as soon as practicable after the vacancy in the membership of the assembly mentioned in subsection (9) is filled.
- (12) A person designated as acting leader of the assembly ceases to hold that office when a new leader is elected.

33 Executive functions

- (1) The functions of the assembly must be discharged by the executive on behalf of the assembly.

- (2) But subsection (1) is subject to—
 - (a) express provision made by or under this Act or an enactment passed or made after the passing of this Act;
 - (b) subsections (3) to (6).
- (3) The following functions must not be discharged by the executive—
 - (a) the election of a person under section 34;
 - (b) any express requirement or authority for the assembly to adopt or approve any thing;
 - (c) the decision under subsection (4) that a function must not be discharged by the executive;
 - (d) any function under Part 5 which is not expressly a function of the executive or any member of it;
 - (e) the designation of a person for the purposes of section 128(1)(a) or (d);
 - (f) the appointment or dismissal of such a person;
 - (g) the determination of the terms and conditions of employment of such a person;
 - (h) the confirmation of an appointment in accordance with any provision in standing orders made under section 130(2);
 - (i) the duty under section 135(3), section 140(2), section 140(3)(b) or section 141(3)(b);
 - (j) the duty under section 138(2) to consider at a meeting a report made by the chief finance officer under section 136(1);
 - (k) the duty under section 11 of the Audit Commission Act 1998 (c. 18) to consider a report or recommendation in accordance with that section;
 - (l) the function of giving consent to the appointment of the chief executive of a regional development agency in pursuance of paragraph 4(2)(b) of Schedule 2 to the Regional Development Agencies Act 1998 (c. 45);
 - (m) the duty under section 3(1) of the Local Government Act 2003 (c. 26) (as substituted by section 71(3) below) to determine the borrowing limit of the assembly.
- (4) If the assembly so decides, the following functions must not be discharged by the executive—
 - (a) the designation of a person for the purposes of section 128(1)(b), (c), (e) or (f);
 - (b) the appointment or dismissal of such a person;
 - (c) the determination of the terms and conditions of employment of such a person;
 - (d) the duty under section 138(2) to consider at a meeting a report made by the chief finance officer under section 136(4).
- (5) Subsection (4)(c) does not apply unless the assembly decides that the executive must not discharge (in relation to the position concerned) the function mentioned in subsection (4)(a) or (b).
- (6) The Secretary of State may, by order, make provision as to functions of the assembly which, to such extent or in such circumstances as is so provided—
 - (a) must be discharged by the executive on behalf of the assembly;
 - (b) must not be discharged by the executive.

- (7) The assembly may make provision as to circumstances in which anything that must or may be done for the purpose of the discharge by the executive of a function may be done—
 - (a) by the leader of the executive,
 - (b) by any other specified member of the executive,
 - (c) by the whole executive,
 - (d) by a committee of the executive, or
 - (e) by an employee of the assembly.
- (8) Provision under subsection (7) may be made for general or particular purposes.
- (9) For the purposes of subsection (7)(b) a member of the executive may be specified by name or by reference to any role he has in the executive.
- (10) Provision under section (7)(e) must not permit anything to be done by or in relation to a person who is a political assistant.
- (11) The standing orders of an assembly must make provision—
 - (a) for the purposes of any decision taken under subsection (4);
 - (b) in relation to meetings of the executive or any of its committees.
- (12) Political assistant must be construed in accordance with section 133.

Elections for post holders

34 Elections for post holders

- (1) This section applies to an election held—
 - (a) under section 30 to elect the chairman or deputy chairman of the assembly;
 - (b) under section 32 to elect the leader of the executive of the assembly.
- (2) The person who gains the greatest number of votes in a single ballot is elected.
- (3) If two or more persons have an equal number of votes which is greater than the number of votes cast for any other candidate a further ballot must be held between those with the equal number of votes and so on until one person is elected with the greatest number of votes.
- (4) If at any time there are only two candidates and both candidates receive an equal number of votes the person who is to be chairman, deputy chairman or leader (as the case may be) must be decided by lot.
- (5) No election to which this section applies may be held at any time when the number of vacancies in the membership of the assembly exceeds one third of the total number prescribed in pursuance of section 3(4).
- (6) A person must not stand for election unless—
 - (a) paragraphs (a) and (b) of section 13(1) have been complied with in relation to him, or
 - (b) in the case of a person elected at the first ordinary election, such provision as is made by order under section 13(5) has been complied with in relation to him.

Remuneration etc. of assembly members

35 Members' salaries and allowances

- (1) An assembly must pay a salary to each member of the assembly in accordance with—
 - (a) a decision adopted by the assembly from time to time, or
 - (b) before the first decision, a direction given by the Secretary of State.
- (2) An assembly may not pay an allowance to a member of the assembly except in accordance with—
 - (a) a decision adopted by the assembly from time to time, or
 - (b) before the first decision, a direction given by the Secretary of State.
- (3) A decision or direction under subsection (1) or (2) may provide for—
 - (a) a higher salary to be payable to an assembly member specified in subsection (8);
 - (b) levels of salaries or allowances to change from time to time by reference to a specified formula.
- (4) A decision under subsection (1) or (2) may make different provision for different purposes.
- (5) An assembly may not adopt a decision under subsection (1) or (2) unless it has passed a motion to approve the decision on a vote in which at least two-thirds of the members of the assembly voting support the motion.
- (6) The standing orders of an assembly must provide for the publication of every decision adopted under subsection (1) or (2).
- (7) The Secretary of State must publish any direction given under subsection (1) or (2).
- (8) The assembly members are—
 - (a) the chairman of the assembly;
 - (b) the deputy chairman of the assembly;
 - (c) a member of the assembly's executive;
 - (d) a member holding a position specified for the purposes of this section in the assembly's standing orders.

36 Limit on salaries of members of other public bodies

- (1) The Secretary of State may by order provide that the amount of the salary payable under section 35 to a relevant assembly member—
 - (a) must be reduced to a specified proportion of what it would otherwise be or to a specified amount;
 - (b) must be reduced by the amount of the relevant remuneration, by a specified proportion of that amount or by some other specified amount.
- (2) A relevant assembly member is an assembly member to whom relevant remuneration is payable.
- (3) Relevant remuneration is a salary or an allowance of a description specified by order made by the Secretary of State payable—
 - (a) pursuant to a resolution (or combination of resolutions) of either House of Parliament relating to the remuneration of members of that House;

- (b) under section 1 of the European Parliament (Pay and Pensions) Act 1979 (c. 50);
- (c) in respect of membership of any other public body (whether elected or appointed) specified in the order.

37 Members' pensions etc.

- (1) An assembly may not pay a pension, an allowance or a gratuity to or in respect of a person who has ceased to be a member of the assembly except in accordance with—
 - (a) a decision adopted by the assembly from time to time, or
 - (b) before the first decision, a direction given by the Secretary of State.
- (2) A decision or direction under subsection (1) may provide for—
 - (a) the making of payments towards the provision of pension benefits;
 - (b) establishing and administering one or more schemes for the provision of such benefits.
- (3) A decision under subsection (1) may make different provision for different purposes.
- (4) An assembly may not adopt a decision under subsection (1) unless it has passed a motion to approve the decision on a vote in which at least two-thirds of the members of the assembly voting support the motion.
- (5) The standing orders of an assembly must provide for the publication of every decision adopted under subsection (1).
- (6) The Secretary of State must publish any direction given under subsection (1).
- (7) A decision or direction under subsection (1) does not affect a pension or an allowance in payment before the adoption of the decision or the giving of the direction.

38 Publication of information

An assembly's standing orders must provide for the publication of information relating to amounts paid under sections 35 and 37 for each financial year.

General

39 Standing orders

- (1) Before the end of the period of six months starting with the day on which an assembly is established by order under section 1 the assembly must prepare and adopt standing orders to regulate its procedure and the procedure of its committees and sub-committees.
- (2) The standing orders must include provision to enable members of the assembly to put oral questions—
 - (a) to the leader of the executive;
 - (b) to any member of the executive in respect of any particular role he has in the executive.

- (3) The standing orders may make provision in relation to any other matter for which provision is made under this Act or any other enactment requiring or authorising an assembly to make standing orders.
- (4) An assembly must keep under review its standing orders and may vary or replace them from time to time.
- (5) Subsections (1) to (4) are subject to any provision of this Act or any other enactment which regulates or provides for the regulation of the procedure of the assembly.
- (6) The Secretary of State may by regulations require an assembly –
 - (a) to incorporate in its standing orders such provision or provision of such description as is prescribed for regulating the proceedings and business of the assembly;
 - (b) to make or refrain from making such modifications or modifications of such description as is so prescribed.
- (7) If an assembly fails to comply with subsection (1) the Secretary of State may, by order, provide for standing orders to regulate the procedure of the assembly and its committees and sub-committees.

40 Service of documents

- (1) This section applies to any requirement or authorisation by or under any enactment (including an enactment contained in this Act) to serve any document on –
 - (a) an assembly;
 - (b) the chairman or any member of an assembly;
 - (c) an officer of an assembly.
- (2) Service may be effected –
 - (a) by addressing the document to the assembly at the assembly’s principal office or any other office of the assembly specified by it as one at which it will accept service of such documents or documents of such description, and
 - (b) by leaving the document at or sending it by post to such office.
- (3) Serving includes giving.

41 Authentication of documents by signature

- (1) Any notice or other document which an assembly may or must give or issue under any enactment may be signed on behalf of the assembly by the proper officer of the assembly.
- (2) Any document purporting to be signed on behalf of an assembly is to be received in evidence and, unless the contrary is proved, taken to be so signed.

42 Custody of records and documents

The records and documents kept by an assembly are to be held by the proper officer of the assembly.

PART 3

ROLE

*Purposes and powers of assemblies***43 Purposes and powers of assemblies**

- (1) An assembly has the following general purposes in relation to its region—
 - (a) the promotion of economic development;
 - (b) the promotion of social development;
 - (c) the improvement and protection of the environment.
- (2) An assembly may engage in any activity mentioned in subsection (3) if it thinks that doing so—
 - (a) is likely to further one or more of its general purposes, or
 - (b) is likely to facilitate or is conducive or incidental to the exercise of any function it has.
- (3) These are the activities—
 - (a) the acquisition and disposal of property;
 - (b) incurring expenditure;
 - (c) forming or participating in the formation of companies;
 - (d) giving financial assistance to any person;
 - (e) entering into arrangements or agreements with any person;
 - (f) giving advice or making proposals or representations about any matter;
 - (g) exercising on behalf of any person any function of that person;
 - (h) the provision (with or without charge) of staff, goods, services or accommodation to any person;
 - (i) any other activity the assembly thinks appropriate.
- (4) It is immaterial that anything done by an assembly in pursuance of subsection (2)—
 - (a) is done in or in relation to only a part of its region;
 - (b) is done outside or in relation to an area outside its region.
- (5) Social development includes—
 - (a) promoting the health, safety and security of the community;
 - (b) reducing health inequalities that are attributable to social conditions;
 - (c) enhancing the ability of all individuals to participate in society;
 - (d) improving the availability of good housing;
 - (e) improving the availability of appropriate training for employment and other desirable skills;
 - (f) improving the availability of cultural and recreational activities.

44 Restrictions on powers

- (1) Section 43(2) does not permit an assembly to do anything which is specified, or is of a description specified, by the Secretary of State by order.
- (2) In acting in pursuance of section 43(2) an assembly must have regard to—

-
- (a) its assembly scheme;
 - (b) guidance issued by the Secretary of State.
 - (3) The Secretary of State –
 - (a) must not issue such guidance unless he consults the assembly and such other persons and organisations as he thinks appropriate;
 - (b) must publish the guidance in such manner as he thinks appropriate.
 - (4) An assembly must take all reasonable steps to ensure that in the exercise of its functions (taken as a whole) –
 - (a) an appropriate balance is maintained between making provision for the needs of both the present and the future;
 - (b) equivalent consideration is given to the interests of different communities both inside and outside the region.
 - (5) Section 43(2) does not permit an assembly –
 - (a) to charge for providing staff, goods, services or accommodation if the assembly is required to make the provision by or under an enactment;
 - (b) to do anything for a commercial purpose.
 - (6) Section 43(2) does not permit an assembly –
 - (a) to acquire any interest in housing accommodation;
 - (b) to provide (or manage the provision of) housing.
 - (7) Subsection (6) does not prohibit an assembly from participating to any extent in doing anything mentioned in that subsection in so far as it does so with the agreement of a person whose function it is by virtue of any enactment to do the thing.
 - (8) The Secretary of State may by order modify the effect of subsections (6) and (7) in relation to an assembly.
 - (9) The Secretary of State may not make an order under this section unless he has consulted the assembly and such other persons and organisations as he thinks appropriate.

Additional functions

45 Additional functions

- (1) This section applies in relation to any function if the Secretary of State thinks –
 - (a) that the function is one which could be exercised by an assembly in pursuance of section 43,
 - (b) that for any reason an assembly is prevented (to any extent) from exercising the function, and
 - (c) that it is appropriate for the function to be exercised by an assembly.
- (2) The Secretary of State may, by order, make such provision as he thinks appropriate to facilitate the exercise by an assembly of the function.
- (3) An order under this section must not be made unless the Secretary of State first complies with the requirements of section 47.
- (4) An order under this section –
 - (a) may impose duties on the assembly or any other person;

- (b) may make the exercise of the function by the assembly subject to such conditions as the Secretary of State thinks appropriate.
- (5) An order under this section may –
 - (a) amend, repeal or revoke any enactment or charter (whenever passed, made or granted);
 - (b) apply (with or without modification) any such enactment.
- (6) Provision under subsection (5) may include provision creating a new criminal offence.
- (7) An order under this section has effect in relation to every assembly established under section 1 (whether before or after the order under this section is made).
- (8) Enactment –
 - (a) includes an enactment contained in subordinate legislation within the meaning of section 21 of the Interpretation Act 1978 (c. 30);
 - (b) does not include section 43 or 44.

46 Additional duties

- (1) The Secretary of State may, by order, impose a duty on an assembly if he thinks –
 - (a) that it is appropriate for the assembly to be subject to the duty, and
 - (b) that the performance of the duty is consistent with sections 43 and 44.
- (2) An order under this section –
 - (a) may also impose duties on any other person;
 - (b) may make the performance of the duty by the assembly subject to such conditions as the Secretary of State thinks appropriate.
- (3) Subsections (3) and (5) to (8) of section 45 apply in relation to an order under this section as they apply in relation to an order under that section.

47 Requirements for making order under sections 45 and 46

- (1) The Secretary of State must consult such persons or authorities as he thinks are representative of those whose interests he thinks may be affected by an order under section 45 or 46.
- (2) If following the consultation the Secretary of State proposes to make the order he must lay before each House of Parliament a document explaining his proposals including –
 - (a) a draft of the proposed order;
 - (b) a description of the consultation.
- (3) If a document is laid as mentioned in subsection (2), no draft of an order under section 45 or 46 giving effect to the proposals is to be laid before Parliament before the end of the period of 60 days starting with the day on which the document is laid.
- (4) In calculating the period of 60 days no account must be taken of any time during which –
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House is adjourned for a period of more than four days.

- (5) In preparing a draft order under section 45 or 46 the Secretary of State must consider any representations made during the period of 60 days.
- (6) A draft order under section 45 or 46 laid before Parliament in accordance with section 171(3)(f) or (g) must be accompanied by a statement of the Secretary of State giving details of—
 - (a) any representations considered in accordance with subsection (5), and
 - (b) any changes made to the proposals contained in the document laid under subsection (2).

Assembly scheme

48 Assembly scheme

- (1) An assembly must prepare a scheme setting out—
 - (a) its medium-term and long-term objectives in relation to furthering its general purposes;
 - (b) the periods to which the objectives relate;
 - (c) its priorities in relation to the furthering of the purposes with particular reference to the requirements of section 44(4).
- (2) The scheme must indicate the means by which the assembly's exercise of its functions is intended to contribute to the achievement of sustainable development.
- (3) In preparing the scheme the assembly must have regard to—
 - (a) the community strategies prepared or modified in pursuance of section 4 of the Local Government Act 2000 (c. 22) by the local authorities in the region;
 - (b) relevant national policies.
- (4) In preparing the scheme the assembly must encourage and facilitate the participation of assembly participants.
- (5) The assembly must adopt a scheme prepared or revised under this section.
- (6) The assembly must publish its first scheme before the end of the period of two years starting with the date on which it is established.
- (7) The assembly must keep its scheme under review and must (from time to time) publish a revised scheme.
- (8) Subsections (3) and (4) apply to the revision of a scheme as they apply to its preparation.
- (9) The assembly must have regard to guidance issued by the Secretary of State for the purposes of this section.
- (10) But the Secretary of State must not issue guidance under subsection (9) unless he first consults—
 - (a) the assembly;
 - (b) such other persons and organisations as he thinks appropriate.
- (11) Relevant national policies are policies of Her Majesty's government which—
 - (a) are available in written form,

- (b) have been laid before or announced or otherwise presented to either House of Parliament or have been published by a Minister of the Crown, and
- (c) are specified in a direction given by the Secretary of State for the purposes of this section.

Equality

49 Equality of opportunity etc.

- (1) In the discharge of its functions an assembly must have regard to the need –
 - (a) to promote equality of opportunity for all persons, regardless of their sex, their age, their sexual orientation, their religion or any disability that they may have;
 - (b) to eliminate unlawful discrimination;
 - (c) to promote good relations among persons of different sexual orientations and different religions.
- (2) In Schedule 1A to the Race Relations Act 1976 (c. 74) (bodies subject to the general statutory duty under section 71 of that Act), after paragraph 11 insert –

“Regional assemblies

11A. A regional assembly established under section 1 of the Regional Assemblies Act 2004.”
- (3) An assembly must make appropriate arrangements with a view to securing that it complies with –
 - (a) subsection (1);
 - (b) section 71(1) of the Race Relations Act 1976.
- (4) Discrimination is unlawful if it is prohibited by any provision of –
 - (a) the Sex Discrimination Act 1975 (c. 65);
 - (b) the Race Relations Act 1976;
 - (c) the Disability Discrimination Act 1995 (c. 50);
 - (d) the Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660);
 - (e) the Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661).

50 Duties of office holders in relation to discrimination and harassment

- (1) In section 76ZA(9)(b) of the Race Relations Act 1976 after sub-paragraph (xi) insert –

“(xiA) any office of a regional assembly established under section 1 of the Regional Assemblies Act 2004 held by a member of it;”.
- (2) In section 4C(5) of the Disability Discrimination Act 1995 after paragraph (k) insert –

“(ka) any office of a regional assembly established under section 1 of the Regional Assemblies Act 2004 held by a member of it;”.

Assembly report

51 Assembly report

- (1) After the end of each financial year an assembly must prepare its annual report.
- (2) The annual report must contain –
 - (a) an assessment of the assembly’s progress by reference to its assembly scheme;
 - (b) a statement of any targets it sets itself or agrees with the Secretary of State;
 - (c) an assessment of its progress towards meeting such targets;
 - (d) an assessment of the involvement of assembly participants;
 - (e) an assessment of the effectiveness of the arrangements made by the assembly under section 49(3).
- (3) The report may also contain such other matters as the assembly thinks appropriate.
- (4) The assembly must –
 - (a) adopt the report;
 - (b) publish the report.
- (5) At the same time as the report is published, the assembly must send a copy of it to the Secretary of State.
- (6) An assembly must have regard to any guidance published by the Secretary of State for the purposes of this section.
- (7) But the Secretary of State must not publish such guidance unless he first consults –
 - (a) the assembly;
 - (b) such other persons and organisations as he thinks appropriate.

52 Report meeting

- (1) After its report has been published under section 51 the assembly must hold a public meeting for the purpose of enabling members of the public to ask questions relating to the report.
- (2) Not later than the beginning of the period of one month before the date of the meeting the assembly must take such steps as it thinks appropriate to give notice to the public of the time and place of the meeting.
- (3) The assembly must ensure that there are present at the meeting for the purpose of answering questions put by members of the public –
 - (a) all of the members of the executive;
 - (b) the chairman of the review and monitoring committee.
- (4) The assembly must appoint a person to preside at the meeting.
- (5) The meeting must be conducted in accordance with such procedure as is decided by the assembly.
- (6) A person mentioned in subsection (3) need not attend a meeting held in pursuance of this section if the reason for his non-attendance is any of the following grounds –

- (a) illness;
 - (b) bereavement;
 - (c) performance of any obligation of service to the Crown (including service in any of Her Majesty's forces);
 - (d) performance of any function in the service of a local authority in relation to a war or other emergency.
- (7) The absence from or inability to attend a meeting of which notice has been given under subsection (2) of not more than one person mentioned in subsection (3) for a ground not falling within subsection (6) does not have effect to prevent the meeting being held if subsection (8) applies.
- (8) If the person appointed to preside at the meeting thinks that it is appropriate to do so he may decide to proceed with the meeting.
- (9) For the purposes of subsections (7) and (8) it is immaterial whether any other person is excused attendance at a meeting by virtue of subsection (6).
- (10) The assembly's standing orders may make provision in connection with the absence of a person mentioned in subsection (3) from meetings held in pursuance of this section.

Promoting participation

53 Promoting participation

- (1) An assembly must make arrangements to encourage and facilitate the participation (to such extent as the assembly thinks appropriate) of each of the following persons and organisations (assembly participants) in the exercise of its functions –
- (a) representatives of businesses in the region;
 - (b) representatives of persons employed in the region;
 - (c) local authorities in the region;
 - (d) voluntary organisations in the region;
 - (e) community groups in the region;
 - (f) such other persons and organisations as the assembly thinks appropriate.
- (2) An assembly must from time to time keep under review and (as necessary) modify the arrangements.
- (3) Arrangements made in pursuance of this section are in addition to arrangements made in pursuance of any other provision of this Act or any other enactment.
- (4) An assembly must have regard to any guidance issued by the Secretary of State for the purposes of this section.
- (5) The Secretary of State must not issue guidance unless he first consults –
- (a) the assembly;
 - (b) such other persons and organisations as he thinks appropriate.
- (6) The Secretary of State must publish any guidance issued under this section.

Charging and trading

54 Charging

- (1) If an assembly charges for providing staff, goods, services or accommodation, it must secure that, taking one financial year with another, the income from charges in respect of the provision does not exceed the cost of the provision.
- (2) The duty under subsection (1) applies separately in respect of each kind of provision.
- (3) An assembly must have regard to such guidance as the Secretary of State may issue for the purposes of this section.

55 Power to trade through a company

- (1) Despite section 44(5)(b), the Secretary of State may by order—
 - (a) confer on an assembly the power to trade through a company;
 - (b) make provision about the persons with which the assembly may so trade;
 - (c) impose conditions in relation to the exercise of the power.
- (2) An assembly trades through a company if—
 - (a) the company is an assembly company of the assembly, and
 - (b) the business of the company consists wholly or mainly of carrying out, for a commercial purpose, any activity which the assembly is able to carry out.
- (3) An order under subsection (1) may not confer the power to do in relation to a person anything which the assembly is required by or under an enactment to do in relation to him.
- (4) In exercising a power conferred by an order under subsection (1), an assembly must have regard to any guidance issued by the Secretary of State.
- (5) Assembly company must be construed in accordance with regulations made by the Secretary of State under section 164(a).

PART 4

FINANCE

Grants

56 Assembly general grant

- (1) For each financial year the Secretary of State must pay to each assembly a grant to be called the assembly general grant.
- (2) The grant is to be paid for the purposes of the assembly and its functional bodies.
- (3) For each financial year the Secretary of State must make a determination under this section.
- (4) The determination must state the amount of the grant for the year.

- (5) Before making the determination the Secretary of State must consult the assembly.
- (6) The grant is to be paid in such instalments or amounts and at such times as the Secretary of State decides.
- (7) The Secretary of State may make payment of the grant subject to such conditions as he thinks fit.

57 Extra grant

- (1) The Secretary of State may at any time pay to an assembly a grant in addition to the assembly general grant (an extra grant).
- (2) The extra grant may be made for such purposes as the Secretary of State thinks appropriate.
- (3) The Secretary of State may make payment of the extra grant subject to such conditions as he thinks fit.

Precepting

58 Assemblies as precepting authorities

- (1) In subsection (1) of section 39 of the Local Government Finance Act 1992 (c. 14) (precepting and precepted authorities) after paragraph (aa) insert—
 - “(ab) a regional assembly established under section 1 of the Regional Assemblies Act 2004;”.
- (2) After subsection (5) of that section (provision relating to the Receiver for the Metropolitan Police District) insert—
 - “(6) For the purposes of any enactment relating to a precept issued by a regional assembly, the area of the assembly is the region for which it is established.”
- (3) In section 78(5) of the Local Government Finance Act 1988 (c. 41) (requirements for making determination of revenue support grant) for “and” after paragraph (a) substitute—
 - “(aa) consult every regional assembly (established under section 1 of the Regional Assemblies Act 2004) and such other persons representing the interests of regional assemblies as appear to him to be appropriate, and”.
- (4) In section 78A(3) of that Act (requirements relating to local government finance reports) for the words from “notify” to the end substitute “give notice of the general nature of the basis of distribution to—
 - (a) such representatives of local government as appear to him to be appropriate;
 - (b) every regional assembly (established under section 1 of the Regional Assemblies Act 2004) and such other persons representing the interests of regional assemblies as appear to him to be appropriate.”
- (5) Schedule 3 (amendments to Chapter 4 of Part 1 of the Local Government Finance Act 1992) has effect.

59 Provision of information by functional bodies

- (1) A functional body must at the request of its assembly provide the assembly with such relevant financial information as is specified or described in the request.
- (2) The information must be provided in such form and manner and within such time as is specified in the request.
- (3) Relevant financial information is information relating to the financial affairs of the body which may be required for the purpose of any function exercisable by the assembly and includes –
 - (a) information which the body has or can reasonably obtain;
 - (b) information about the body’s plans or proposals relating to the finances or expenditure of the body or of any company in which the body has an interest.

60 Calculation of budget requirements

- (1) Section 43 of the Local Government Finance Act 1992 (c. 14) does not apply in relation to an assembly.
- (2) In relation to each financial year an assembly must make the calculations required by this section and sections 61 and 62.
- (3) If, in the case of a constituent body, the aggregate calculated under section 61 exceeds that calculated under section 62 –
 - (a) the assembly must calculate the amount equal to the difference, and
 - (b) the amount so calculated is the body’s component budget requirement for the year.
- (4) If, in the case of a constituent body, the aggregate calculated under section 61 does not exceed that calculated under section 62 the body’s component budget requirement for the year is nil.
- (5) In calculating the component budget requirement of a functional body the assembly may agree with the body conditions subject to which any sum payable by reference to the budget requirement is to be paid.
- (6) The assembly must calculate the aggregate of the component budget requirements of each of the constituent bodies and that aggregate is the assembly’s consolidated budget requirement for the year.
- (7) The assembly must adopt its consolidated budget requirement not later than 1 March in the year before that to which it relates.
- (8) The Secretary of State may, by regulations, do one or both of the following –
 - (a) alter the constituents of any calculation to be made under section 61 or 62 (whether by adding, deleting or amending items);
 - (b) alter the rules governing the making of any such calculation (whether by deleting or amending subsection (4) of section 61 or by adding other provisions or by a combination of those methods.)

61 Aggregate needs

- (1) The assembly must in the case of each constituent body calculate the aggregate of –

-
- (a) the expenditure the assembly estimates the body will incur in the year in performing its functions and will charge to a revenue account for the year;
 - (b) such allowances as the assembly estimates will be appropriate for contingencies in relation to expenditure to be charged to a revenue account for the year;
 - (c) the financial reserves which the assembly estimates it will be appropriate for the body to raise in the year for meeting the body's estimated future expenditure;
 - (d) such of the body's financial reserves as are sufficient to meet so much of the amount estimated by the assembly to be a revenue account deficit of the body for any earlier financial year as has not already been provided for.
- (2) Expenditure mentioned in subsection (1)(a) does not include expenditure which the assembly estimates will be incurred in pursuance of regulations under section 99(3) of the Local Government Finance Act 1988 (c. 41).
 - (3) In calculating the aggregate the assembly must not include an amount in respect of the assembly (as a constituent body) which is included in respect of a functional body.
 - (4) For the purposes of subsection (1)(c) an assembly's estimated future expenditure is –
 - (a) expenditure which the assembly estimates it will incur in the financial year following the year in question and which the assembly will charge to a revenue account for the year and will have to defray in the year before the sums mentioned in subsection (5) are sufficiently available;
 - (b) expenditure which the assembly estimates it will incur in that financial year or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year.
 - (5) These are the sums –
 - (a) sums which will be payable to the assembly for the financial year mentioned in subsection (4)(a);
 - (b) sums in respect of which amounts will be credited to a revenue account for the year.

62 Available resources

- (1) The assembly must in the case of each constituent body calculate the aggregate of –
 - (a) the sums which the assembly estimates will be payable to the body for the year and in respect of which amounts will be credited to a revenue account for the year;
 - (b) the amount of the body's financial reserves which the assembly estimates the body will use in order to provide for the items mentioned in paragraphs (a) and (b) of section 61(1).
- (2) The sums mentioned in subsection (1)(a) do not include sums which the assembly estimates will be payable –
 - (a) in respect of redistributed non-domestic rates, revenue support grant, additional grant, relevant special grant, assembly general grant or extra grant;
 - (b) in respect of any precept issued by the assembly;

- (c) in pursuance of regulations under section 99(3) of the Local Government Finance Act 1988 (c. 41).
- (3) In calculating the aggregate the assembly must not include an amount in respect of the assembly (as a constituent body) which is included in respect of a functional body.
- (4) Relevant special grant must be construed in accordance with section 32(12) of the Local Government Finance Act 1992 (c. 14).

63 Calculation of basic amount of tax

- (1) Section 44 of the Local Government Finance Act 1992 does not apply in relation to an assembly established under section 1.
- (2) In relation to each financial year the assembly must calculate the basic amount of its council tax by applying the following formula –

$$\frac{(R - P1)}{T}$$

where –

R is the amount calculated (or last calculated) by the assembly under section 60(6) as its consolidated budget requirement for the year;

P1 is the aggregate of such amounts as may be prescribed, being amounts representing the sums which the Secretary of State estimates will be payable to the assembly for the year in respect of the following items –

- (a) redistributed non-domestic rates;
- (b) revenue support grant;
- (c) assembly general grant;
- (d) extra grant;
- (e) additional grant;
- (f) relevant special grant;

T is the aggregate of the amounts which are calculated by the billing authorities to which the assembly issues precepts (the billing authorities concerned) as their council tax bases for the year for their areas and are notified by them to the assembly within the prescribed period.

- (3) In the definition of P1 “prescribed” means specified in, or determined in accordance with, either –
 - (a) the appropriate report or determination, or
 - (b) regulations made by the Secretary of State,as the Secretary of State determines in the case of any particular item and any particular financial year or years.
- (4) The appropriate report or determination is –
 - (a) in the case of an item specified in paragraph (a) or (b) of the definition of P1, the local government finance report for the financial year in question;
 - (b) in the case of the item specified in paragraph (c) of the definition, the determination under section 56 for the financial year in question;

- (c) in the case of the item specified in paragraph (e) of that definition, the report under section 85 of the Local Government Finance Act 1988 (c. 41) relating to that item.
- (5) The aggregate of the sums mentioned in item P1 must be—
- (a) increased by the aggregate amount of any sums which the assembly estimates will be paid to it in the year by billing authorities in accordance with regulations under section 99(3) of the Local Government Finance Act 1988;
 - (b) reduced by the aggregate amount of any sums which the assembly estimates will be paid by it in the year to billing authorities in accordance with such regulations.
- (6) The Secretary of State must make regulations containing rules for making for any year the calculation required by item T, and the billing authorities concerned must make the calculations for any year in accordance with the rules for the time being effective (as regards the year) under the regulations.
- (7) Regulations prescribing a period for the purposes of item T may provide that, in any case where a billing authority fails to notify its calculation to the precepting authority within that period, that item must be determined in the prescribed manner by such authority as is prescribed.
- (8) The Secretary of State may by regulations do one or both of the following—
- (a) alter the constituents of any calculation to be made under subsection (2) (whether by adding, deleting or amending items);
 - (b) alter the rules about the making of any calculation under subsection (2) (whether by deleting or amending subsections (3) to (5), or any of them, or by adding other provisions, or by a combination of those methods).
- (9) A negative amount given by a calculation under subsection (2) must be taken as nil for the purposes of this Part and Chapter 4 of Part 1 of the Local Government Finance Act 1992.
- (10) Relevant special grant must be construed in accordance with section 32(12) of the Local Government Finance Act 1992 (c. 14).

Distribution of budget amounts

64 Distribution of budget amounts

- (1) For each financial year an assembly must pay to each functional body the amount required by that body in accordance with the calculations (or last calculations) under sections 60(2) to (4), 61 and 62.
- (2) The payments must be made by instalments during the financial year.
- (3) The instalments must be—
 - (a) payments of such amounts and payable at such times as will enable the body to meet its budgeted expenditure for the year as it falls due;
 - (b) paid punctually.
- (4) The payments are subject to—
 - (a) any conditions agreed by the assembly and the body as mentioned in section 60(5);

- (b) any conditions imposed by the Secretary of State in relation to payment of the assembly grant or extra grant which relate to the functions of the body.
- (5) The budgeted expenditure of a functional body is the amount calculated (or last calculated) in respect of the body under sections 60(2) to (4), 61 and 62.
- (6) If an overpayment is made to a functional body in respect of the sums payable to it by virtue of this section, the body must make such payments to the assembly –
 - (a) as the assembly directs;
 - (b) at such times and in such manner as is so directed.

Financial administration

65 Proper financial administration; accounts and records

- (1) An assembly must make arrangements for the proper administration of its financial affairs.
- (2) An assembly must –
 - (a) keep proper accounts and proper accounting records;
 - (b) prepare a statement of accounts, giving a true and fair view of the state of affairs and the income and expenditure of the assembly, in respect of each financial year.
- (3) Accounting records includes all books, papers and other records of the assembly relating to, or to matters dealt with in, the assembly's accounts.

66 Summary statement of accounts

- (1) For each financial year an assembly must prepare a summary statement of accounts in respect of the assembly and its functional bodies.
- (2) Subsection (1) does not affect any other duty of the assembly or of a functional body to prepare accounts or statements of accounts.
- (3) Section 14 of the Audit Commission Act 1998 (c. 18) (inspection of statements of accounts and auditors' reports) applies in relation to a summary statement of accounts required to be prepared under this section as it applies in relation to a statement of accounts prepared by the assembly under regulations under section 27 of that Act.
- (4) Sections 15 to 24 of the Audit Commission Act 1998 (public inspection etc and action by the auditor, and prevention of unlawful expenditure) do not apply in relation to a summary statement of accounts required to be prepared under this section.
- (5) Section 27 of the Audit Commission Act 1998 (accounts and audit regulations) applies in relation to a summary statement of accounts required to be prepared under this section as it applies in relation to accounts or statements of accounts.

67 Chief finance officer's report on robustness of estimates and adequacy of proposed financial reserves

- (1) This section applies where an assembly is making calculations in accordance with sections 60 to 62.
- (2) The chief finance officer must make a report in writing to the assembly on—
 - (a) the robustness of the estimates made for the purposes of the calculations, and
 - (b) the adequacy of the proposed financial reserves.
- (3) The assembly must have regard to a report under subsection (2) when making decisions about the calculations in connection with which the report is made.

68 Minimum reserves

- (1) This section applies to an assembly's estimation of appropriate financial reserves under section 61(1)(c).
- (2) In the case of a controlled reserve, the estimated reserve is not appropriate if the estimated balance of the reserve at the end of the financial year is less than the minimum amount in relation to that reserve.
- (3) A controlled reserve is a financial reserve of a description specified for the purposes of this section by regulations made by the Secretary of State.
- (4) The minimum amount in relation to a controlled reserve is the amount determined for the purposes of this subsection in accordance with regulations made by the Secretary of State.

69 Chief finance officer's report on inadequacy of a controlled reserve

- (1) This section applies where an assembly is making calculations in accordance with sections 60 to 62.
- (2) If it appears to the chief finance officer that a controlled reserve in relation to the previous financial year is or is likely to be inadequate, he must make a report in writing to the assembly on—
 - (a) the reasons for that inadequacy, and
 - (b) the action, if any, which he considers it would be appropriate to take to prevent the corresponding reserve in relation to the financial year under consideration from being inadequate.
- (3) A controlled reserve is inadequate if the balance of the reserve at the end of the financial year concerned is less than the minimum amount in relation to that reserve.
- (4) A controlled reserve is a financial reserve of a description specified for the purposes of section 68 by regulations made by the Secretary of State.
- (5) The minimum amount in relation to a controlled reserve is the amount determined for the purposes of section 68(4) in accordance with regulations made by the Secretary of State.
- (6) The assembly must have regard to a report under subsection (2) when making decisions about the calculations in connection with which the report is made.

70 Budget monitoring

- (1) Where an assembly has made the calculations required by sections 60 to 62 in relation to a financial year, each of the constituent bodies must from time to time during the year review the calculations relating to it.
- (2) In carrying out a review under subsection (1), a constituent body must use the same figures for financial reserves as those used in the calculations under review, except in the case of financial reserves to meet a revenue account deficit from an earlier financial year.
- (3) If as a result of carrying out a review under subsection (1) it appears to the body that there has been a deterioration in its financial position, it must—
 - (a) take such action, if any, as it considers necessary to deal with the situation, and
 - (b) if it is a functional body, report the deterioration to the assembly.
- (4) A report under subsection (3)(b) must—
 - (a) include a statement of the reasons for the deterioration, and
 - (b) set out what action, if any, the body proposes to take to deal with the situation.
- (5) For the purposes of subsection (2), there is a deterioration in a body's financial position if on the review an amount falls to be calculated under section 60(3) and—
 - (a) none fell at the time of the calculations under review to be calculated under that provision, or
 - (b) if an amount did then fall to be calculated under that provision, the amount then calculated is less than the amount calculated on the review.
- (6) Where substitute calculations have effect, it is in relation to those calculations that the duty under subsection (1) applies.

Capital finance etc.

71 Capital finance etc.

- (1) The following provisions of Part 1 of the Local Government Act 2003 (provision about capital finance etc., and accounts) apply to an assembly—
 - (a) section 2 (control of borrowing);
 - (b) sections 4 to 8 (other restrictions on borrowing);
 - (c) sections 9 and 11(1) and (2)(a) (capital receipts);
 - (d) sections 13 to 18 (miscellaneous and supplementary provision);
 - (e) section 20 (directions);
 - (f) section 21 (accounting practice), ignoring subsections (4) and (6);
 - (g) section 22(1) (revenue account).
- (2) Any reference in those provisions—
 - (a) to a local authority (however expressed) must be construed as a reference to an assembly;
 - (b) to section 3 of that Act must be construed as a reference to that section as substituted by subsection (3) below.
- (3) The following applies to an assembly in place of section 3 of that Act (duty to

determine affordable borrowing limit) –

“3 Duty to determine affordable borrowing limits

- (1) A regional assembly established under section 1 of the Regional Assemblies Act 2004 must determine and keep under review how much money it can afford to borrow.
 - (2) The assembly must also determine and keep under review how much money each of its functional bodies can afford to borrow.
 - (3) Before making a determination under subsection (2) the assembly must consult the functional body concerned.
 - (4) The Secretary of State may by regulations make provision about the performance of the duty under subsection (1) or (2).
 - (5) The regulations may, in particular, make provision about –
 - (a) when, how and the period for which a determination under subsection (1) or (2) is to be made;
 - (b) the monitoring of an amount so determined;
 - (c) the factors to which regard may be had in making the determination or in monitoring an amount so determined.
 - (6) The regulations may include provision requiring the assembly to have regard to one or more codes of practice, whether issued by the Secretary of State or another.
 - (7) The power under subsection (6) is not to be read as limited to the specification of an existing document.
 - (8) Each of the following is a functional body –
 - (a) the regional development agency for the assembly’s region;
 - (b) the regional fire and rescue authority for the assembly’s region;
 - (c) the regional cultural consortium for the assembly’s region.
 - (9) Region has the same meaning as in the Regional Assemblies Act 2004.”
- (4) For the purposes of the application of section 18 of that Act –
 - (a) the reference in subsection (1) to a body mentioned in subsection (2) must be construed as a reference to an assembly company;
 - (b) subsection (2) must be ignored;
 - (c) the reference in subsection (3) to any body or bodies falling within subsection (2)(a) or (b) with which the regulations link the authority must be construed as a reference to any assembly company or companies of the assembly.
 - (5) Assembly company must be construed in accordance with regulations made by the Secretary of State under section 164(a).

72 Interpretation of Part 4

- (1) This section applies for the purposes of this Part.
- (2) The constituent bodies are –
 - (a) the assembly;
 - (b) each of its functional bodies.

- (3) Expressions used in this Part and in the Local Government Finance Act 1992 (c. 14) have the same meaning in this Part as in that Act.

PART 5

REVIEW AND MONITORING

Review and monitoring

73 Assembly's duties to review and monitor

- (1) An assembly must—
- (a) keep under review the executive's exercise of its functions;
 - (b) monitor the executive's development and implementation of policy in pursuance of the assembly's general purposes.
- (2) For the purposes of subsection (1), an assembly must have a review and monitoring committee (referred to in this Part as an "RMC").

74 RMCs

- (1) The members of the RMC of an assembly are—
- (a) every assembly member who is not a member of the executive;
 - (b) any individual co-opted as a member of the RMC under section 78(1).
- (2) The function of the RMC is to examine—
- (a) any matter relating to the discharge of a function by a person specified in subsection (3);
 - (b) any other matter which the RMC thinks it is appropriate to examine, if the matter relates to the general purposes and functions of the assembly.
- (3) The persons are—
- (a) the executive or a committee, sub-committee or member of the executive;
 - (b) a special adviser;
 - (c) a functional body of the assembly;
 - (d) an employee of the assembly;
 - (e) an employee of a functional body.
- (4) At the end of each reporting period, an RMC must submit a report to the assembly on the matters which it or an RMC sub-committee has examined during that period.
- (5) A reporting period is—
- (a) unless paragraph (b) applies, a year (starting on the date of establishment of the assembly specified in an order under section 1), or
 - (b) if the assembly provides a shorter period in its standing orders, such shorter period.
- (6) An RMC may at any time submit a report to the assembly on a matter which it or an RMC sub-committee has examined.
- (7) A report of an RMC may include recommendations to the assembly.

- (8) The chairman of an RMC must be an assembly member.
- (9) An assembly member ceases to be a member of an RMC if he ceases to be a member of the assembly.
- (10) An RMC may delegate the discharge of any of its functions to any member of the RMC who is an assembly member.
- (11) An RMC continues in existence until a new RMC is established at the first meeting of the assembly following the next ordinary election of the assembly.

75 RMC sub-committees

- (1) An assembly's RMC may –
 - (a) establish and appoint one or more sub-committees (and such a sub-committee is referred to in this Part as an RMC sub-committee), and
 - (b) delegate to any extent the discharge of its function under section 74(2) to an RMC sub-committee.
- (2) The members of an RMC sub-committee may be –
 - (a) any member of the RMC who is an assembly member;
 - (b) any individual co-opted as a member of the RMC sub-committee under section 78(1).
- (3) An RMC sub-committee must have at least three members who are assembly members.
- (4) The RMC must secure that, so far as practicable, the number of members of an RMC sub-committee who are assembly members belonging to each political group is derived in accordance with the formula set out in subsection (5).
- (5) The formula is –

$$A = B \times \frac{C}{D}$$

where –

A is the number of members of the RMC sub-committee who are assembly members belonging to the political group;

B is the number of members of the RMC sub-committee who are assembly members;

C is the number of members of the RMC who are assembly members belonging to the political group;

D is the number of members of the RMC who are assembly members.

- (6) An RMC sub-committee must submit a report on each matter which it has examined –
 - (a) to the RMC, or
 - (b) at the direction of the RMC, to the assembly.
- (7) A report of an RMC sub-committee may include recommendations to the RMC or the assembly (as the case may be).
- (8) The chairman of an RMC sub-committee must be an assembly member.

- (9) An assembly member ceases to be a member of an RMC sub-committee if he ceases to be a member of the assembly.
- (10) An RMC sub-committee may delegate the discharge of any of its functions to any member of the sub-committee who is an assembly member.
- (11) An RMC sub-committee continues in existence until –
 - (a) the RMC dissolves it, or
 - (b) the RMC ceases to exist by virtue of section 74(11).
- (12) Political group must be construed in accordance with regulations made by the Secretary of State under section 163.

76 Area RMC sub-committees

- (1) In exercising its power under section 75, an assembly’s RMC may establish and appoint RMC sub-committees for specified areas within the assembly’s region (area RMC sub-committees).
- (2) The RMC may not establish an area RMC sub-committee unless –
 - (a) it identifies two or more areas in the region;
 - (b) each of those areas is composed of two or more constituencies of the assembly;
 - (c) each constituency of the assembly falls within one of those areas;
 - (d) it establishes an area RMC sub-committee for each of those areas.
- (3) A member of the RMC who is a constituency member of the assembly for a constituency which falls within the area of an area RMC sub-committee is entitled to be appointed on request to that sub-committee.
- (4) The RMC must secure that, so far as practicable, the number of members of an area RMC sub-committee who are regional members of the assembly is derived in accordance with the formula set out in subsection (5).
- (5) The formula is –

$$A = B \times \frac{C}{D}$$

where –

A is the number of members of the area RMC sub-committee who are regional members of the assembly;

B is the number of members of the sub-committee who are assembly members;

C is the number of members of the RMC who are regional members of the assembly;

D is the number of members of the RMC who are assembly members.

- (6) If the Electoral Commission makes a boundary order relating to a constituency falling within the area of an area RMC sub-committee –
 - (a) if the effect of the order is that a substantial change is made to the constituency, the constituency ceases to exist or the constituency is known by a different name, the RMC must dissolve the sub-committee

- and establish an area RMC sub-committee for a new area identified in accordance with subsection (2);
- (b) in any other case, the sub-committee continues in existence.
- (7) A boundary order is an order made under –
- (a) section 150(1);
 - (b) paragraph 4 of Schedule 1;
 - (c) section 17(1) of the Local Government Act 1992 (c. 19).
- (8) Except if subsection (6)(a) applies, the RMC may only dissolve an area RMC sub-committee –
- (a) in order to establish area sub-committees in consequence of any change that it is making to the areas identified for the purposes of subsection (2), and
 - (b) if the sub-committee consents.
- (9) Sections 75(3) to (5) do not apply to area RMC sub-committees.
- (10) Constituency, constituency member and regional member must be construed in accordance with sections 3 and 4.

77 Power of RMCs and RMC sub-committees to compel evidence

- (1) For the purpose of the discharge of the RMC's function under section 74(2), the RMC or any RMC sub-committee of an assembly may require an individual falling within subsection (2) –
- (a) to attend proceedings of the RMC or RMC sub-committee;
 - (b) to answer questions put to him by members of the RMC or RMC sub-committee in the course of those proceedings;
 - (c) to produce to the RMC or RMC sub-committee any document in his possession or under his control.
- (2) An individual falls within this subsection if he –
- (a) is a member of the assembly;
 - (b) is an individual appointed as a special adviser;
 - (c) is a special adviser representative;
 - (d) is a member of a functional body of the assembly;
 - (e) is an employee of the assembly;
 - (f) is an employee of a functional body of the assembly;
 - (g) was, at any time in the period of three years ending on the date on which the RMC or RMC sub-committee seeks to impose a requirement under subsection (1), an individual falling within any of paragraphs (a) to (f).
- (3) The assembly must provide in its standing orders for the procedures to be followed by the RMC or an RMC sub-committee in exercising its power under subsection (1).
- (4) Any individual on whom a requirement is imposed under subsection (1) must comply with that requirement.
- (5) An individual is not obliged under this section to answer any question or produce any document which he would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales.

- (6) A special adviser representative is, in the case of a person appointed as a special adviser which is not an individual, an employee or other representative who is responsible for its activities in its capacity as special adviser.

Co-opted members of RMCs and RMC sub-committees

78 Power to co-opt individuals as members of RMCs and RMC sub-committees

- (1) An assembly's RMC may co-opt individuals who are not assembly members as members of the RMC or of an RMC sub-committee.
- (2) The RMC may not co-opt under subsection (1) –
- (a) an individual appointed as a special adviser;
 - (b) a member of a functional body of the assembly;
 - (c) an employee of the assembly;
 - (d) an employee of a functional body of the assembly.
- (3) The number of members of the RMC or an RMC sub-committee who are assembly members must at all times be greater than the number of members of the RMC or RMC sub-committee who are co-opted.
- (4) For the purposes of subsection (1), the RMC must have regard to –
- (a) the guidance issued by the Secretary of State under section 82(1);
 - (b) the assembly's standing orders.

79 Declaration of political activities by co-opted members of RMCs and RMC sub-committees

- (1) A co-opted member of the RMC or of any RMC sub-committee of an assembly must not act in that capacity unless he has made a declaration under this section as to whether –
- (a) he is or during the relevant period was a member of a political party;
 - (b) during the relevant period, he made a donation to a political party.
- (2) If a co-opted member of the RMC or of any RMC sub-committee –
- (a) joins a political party, or
 - (b) makes a donation to a political party,
- he must make a declaration under this section of that matter.
- (3) A declaration under this section –
- (a) is a declaration to a meeting of the RMC or the RMC sub-committee;
 - (b) must be made in accordance with such rules as the assembly may provide in its standing orders as to timing and procedure.
- (4) The relevant period is the period of five years ending on the date on which the individual is co-opted as a member of the RMC or of the RMC sub-committee.

80 Voting schemes relating to co-opted members of RMCs and RMC sub-committees

- (1) An assembly which has a voting scheme may permit an individual who has been co-opted as a member of its RMC or of an RMC sub-committee under section 78(1) to vote in accordance with the scheme at meetings of the RMC or the RMC sub-committee.

- (2) A voting scheme is a scheme which provides—
 - (a) for a maximum or minimum number of the co-opted members of the RMC or an RMC sub-committee who may be permitted to vote at meetings of the RMC or the RMC sub-committee;
 - (b) for rules by which the assembly may determine in any particular case which of the co-opted members are permitted to vote at a meeting.
- (3) The assembly must—
 - (a) publish its voting scheme;
 - (b) make its voting scheme available for inspection by any person at reasonable hours at its principal office.
- (4) The assembly may vary or revoke its voting scheme from time to time.
- (5) The Secretary of State may by direction require an assembly to vary or revoke its voting scheme.
- (6) If an assembly makes, varies or revokes a voting scheme, it must publish a required notice in one or more newspapers circulating in its region.
- (7) In the case of the making or the variation of a voting scheme, a required notice is a notice which—
 - (a) records the making or the variation of the voting scheme;
 - (b) describes what the voting scheme or the variation does;
 - (c) states that copies of the voting scheme or the voting scheme as varied are available for inspection at the principal office of the assembly;
 - (d) specifies the address of that office;
 - (e) specifies the times at which the voting scheme or the voting scheme as varied is available for inspection there.
- (8) In the case of the revocation of a voting scheme, a required notice is a notice which records the revocation.

81 Regulations as to voting schemes

- (1) The Secretary of State may by regulations make provision as to an assembly's exercise of its power to make, vary or revoke a voting scheme under section 80.
- (2) Regulations under subsection (1) may require a voting scheme—
 - (a) to provide that the assembly may only give permission to vote to co-opted members of the RMC or an RMC sub-committee by approving a proposal made by the RMC or the RMC sub-committee;
 - (b) to provide that such a proposal must specify the individual to whom it relates;
 - (c) to provide that a proposal must specify the questions on which it is proposed that the individual should be permitted to vote;
 - (d) to provide that a proposal must specify for how long it is proposed that the individual should be permitted to vote;
 - (e) to include such other provision about the form and content of a proposal as the regulations may provide;
 - (f) to provide that a proposal may be made only in accordance with a published statement of the policy of the RMC or the RMC sub-committee about the making of such proposals;
 - (g) to include such provision about the procedure to be followed in relation to the approval of a proposal as the regulations may provide.

- (3) Regulations under subsection (1) may provide for an assembly to notify the Secretary of State of the making, variation or revocation of a voting scheme.

82 Provision for co-opted members of RMCs and RMC sub-committees

- (1) The Secretary of State must issue guidance as to—
- (a) the circumstances in which, and the means by which, it is appropriate for an assembly to co-opt a member of the RMC or an RMC sub-committee;
 - (b) the descriptions of persons who may be appropriate to be co-opted, and the circumstances in which it may be appropriate to co-opt an assembly participant or an assembly participant representative;
 - (c) the function of co-opted members;
 - (d) provision to be made by an assembly in its standing orders for co-opted members.
- (2) The Secretary of State may not issue guidance under subsection (1) unless he first—
- (a) prepares a draft of such guidance, and
 - (b) consults such persons and organisations as he thinks appropriate about the draft guidance.
- (3) The assembly must provide in its standing orders for—
- (a) any restrictions which the assembly adopts in relation to eligibility to be a co-opted member;
 - (b) the procedures to be followed by the RMC in exercising its power under section 78(1);
 - (c) the procedures by which an individual's position as a co-opted member may be terminated;
 - (d) the procedures to be followed by the assembly in connection with the payment to co-opted members of fees in respect of, and allowances relating to expenses incurred in, the performance of their duties.
- (4) In adopting its standing orders an assembly must have regard to the guidance issued by the Secretary of State under subsection (1).
- (5) An assembly participant representative is, in the case of an assembly participant which is not an individual, an employee or other representative of the assembly participant.

PART 6

REGIONAL DEVELOPMENT AGENCIES

83 Regional development agencies

Schedule 4 which amends the Regional Development Agencies Act 1998 (c. 45) has effect.

PART 7

REGIONAL FIRE AND RESCUE AUTHORITIES

84 Reconstitution of existing combined authorities

- (1) This section applies in relation to a region if—
 - (a) an assembly has been established for the region under section 1, and
 - (b) there is a combined fire and rescue authority for the region.
- (2) The Secretary of State must make an order at such time as he thinks appropriate appointing a date for the purposes of this section.
- (3) On the appointed date—
 - (a) the scheme by which the combined fire and rescue authority is constituted ceases to have effect (and accordingly so does an appointment to the authority in pursuance of the scheme), but
 - (b) the body corporate constituting the authority continues in being and is reconstituted as a regional fire and rescue authority.
- (4) “Combined fire and rescue authority” means a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.

85 Constitution of new authorities

- (1) This section applies in relation to a region if—
 - (a) an assembly has been established for the region under section 1, and
 - (b) section 84 does not apply in relation to the region.
- (2) The Secretary of State must make an order at such time as he thinks appropriate appointing a date for the purposes of this section.
- (3) On the appointed date, a regional fire and rescue authority is constituted for the region.
- (4) The regional fire and rescue authority is constituted as a body corporate.

86 General provision about authorities

- (1) A regional fire and rescue authority is the fire and rescue authority for the region for which it is constituted.
- (2) The Secretary of State may by order make provision in connection with a regional fire and rescue authority.
- (3) An order under subsection (2) may in particular include provision about—
 - (a) the name of the authority;
 - (b) the transfer of staff, property, rights and liabilities to or from the authority;
 - (c) the payment of compensation in respect of loss suffered by any person in consequence of the reconstitution of the authority under section 84 or the constitution of the authority under section 85 (as the case may be).

- (4) Schedule 5 makes provision in connection with the membership etc of a regional fire and rescue authority.
- (5) Schedule 6 makes minor and consequential amendments in connection with regional fire and rescue authorities.

87 Transitional etc. provision

- (1) The Secretary of State may by order make any transitional, transitory or saving provision which he considers necessary or expedient for the purposes of any provision of this Part.
- (2) An order under subsection (1) may in particular provide for any provision of this Part to have effect, for a period specified in the order, with any modifications specified in the order.

PART 8

REGIONAL CULTURAL CONSORTIUMS

Establishment and constitution

88 Establishment of new bodies

- (1) If the Secretary of State makes an order under section 1 establishing an assembly for a region, he must make an order under this section at such time as he thinks appropriate.
- (2) An order under this section must provide, as of the date set out in the order (the establishment date), for –
 - (a) the creation of a body corporate incorporated under, and constituted in accordance with, the provisions of this Part and the order,
 - (b) the transfer of the staff, property, rights and liabilities of the predecessor company to that body, and
 - (c) the dissolution or other termination of the predecessor company.
- (3) The predecessor company is –
 - (a) the private company registered and formed under the Companies Act 1985 which is specified in the table in Schedule 7 opposite the reference to the region mentioned in subsection (1), or
 - (b) if that company no longer exists, such entity as appears to the Secretary of State to exercise similar functions in relation to cultural and recreational interests in the region.
- (4) From the establishment date, the body corporate is the regional cultural consortium (referred to in this Part as a consortium) for the region mentioned in subsection (1).
- (5) An order under this section may –
 - (a) make provision for anything done by, or in relation to, the predecessor company before the establishment date to have effect on and after the establishment date as if it had been done by, or in relation to, the body corporate;

- (b) make provision for anything being done by, or in relation to, the company to be continued on and after the establishment date by, or in relation to, the body;
 - (c) make provision for any reference in any document to the company to be construed on and after the establishment date as a reference to the body;
 - (d) make provision for the body to have the same name as the company and, if applicable, to use the business name of the company;
 - (e) make provision (other than provision imposing a charge to tax) as to the tax treatment of anything done by virtue of, or affected by, the order;
 - (f) make further provision in connection with the transfer of rights and liabilities under a contract of employment;
 - (g) direct the registrar of companies to strike the company's name off the register of companies on the establishment date;
 - (h) make such other provision as the Secretary of State thinks expedient.
- (6) In this Part the assembly, in relation to a consortium, means the assembly referred to in subsection (1).

89 Constitution

- (1) An assembly must appoint—
 - (a) a person to be the chairman of its consortium, and
 - (b) not fewer than 11 and not more than 29 persons to be the other members of the consortium.
- (2) Before appointing the chairman of the consortium the assembly must consult the Secretary of State.
- (3) Before appointing the other members of the consortium the assembly must consult the chairman.
- (4) In appointing a person to be a member of the consortium, the assembly must—
 - (a) have regard to the desirability of ensuring that all cultural and recreational interests in the region are represented on the consortium;
 - (b) ensure that the person has experience of some matter relevant to the purposes of the consortium.
- (5) Schedule 8 (which makes further provision about the constitution of consortiums) has effect.

Purposes and powers

90 Purposes and powers

- (1) A consortium has the following purposes in relation to its region—
 - (a) the promotion, consideration and representation of cultural and recreational interests;
 - (b) the promotion of economic development so far as relating to cultural and recreational interests;
 - (c) the provision of, or support for the provision of, cultural and recreational services.

- (2) A consortium may engage in any activity mentioned in subsection (3) if it thinks that doing so –
 - (a) is likely to further one or more of its purposes, or
 - (b) is likely to facilitate or is conducive or incidental to the exercise of any function it has.
- (3) These are the activities –
 - (a) the acquisition and disposal of property;
 - (b) incurring expenditure;
 - (c) forming or participating in the formation of companies;
 - (d) giving financial assistance to any person;
 - (e) entering into arrangements or agreements with any person;
 - (f) giving advice or making proposals or representations about any matter;
 - (g) exercising on behalf of any person any function of that person;
 - (h) the provision (with or without charge) of staff, goods, services or accommodation to any person;
 - (i) any other activity the consortium thinks appropriate.
- (4) Subsection (2) does not permit a consortium –
 - (a) to borrow money;
 - (b) to charge for providing staff, goods, services or accommodation if the consortium is required to make the provision by or under an enactment;
 - (c) to do anything for a commercial purpose.
- (5) Subsection (2) does not permit a consortium to do anything which is specified, or is of a description specified, by the Secretary of State by order.
- (6) The Secretary of State may not make an order under subsection (5) unless he has consulted the consortium, the assembly and such other persons and organisations as he thinks appropriate.

91 Charging

- (1) Unless subsection (2) applies, a consortium may only provide staff, goods, services or accommodation with the consent of the assembly.
- (2) This subsection applies –
 - (a) in the case of provision without charge, if the cost of the provision does not exceed such amount as the assembly from time to time notifies in writing to the consortium;
 - (b) in the case of provision with charge, where the charge made for the provision does not exceed such amount as the assembly from time to time notifies in writing to the consortium.
- (3) If a consortium charges for providing staff, goods, services or accommodation, it must secure that, taking one financial year with another, the income from charges in respect of the provision does not exceed the cost of the provision.
- (4) The duty under subsection (3) applies separately in respect of each kind of provision.
- (5) A consortium must have regard to such guidance as the Secretary of State may issue for the purposes of subsection (3).

*Cultural strategic plan***92 Consortium's preparation of a draft cultural strategic plan**

- (1) A consortium must—
 - (a) prepare a draft strategic plan in relation to its purposes;
 - (b) submit the draft strategic plan to the assembly.
- (2) The assembly may give a consortium directions in relation to its preparation of a draft strategic plan, in particular with respect to—
 - (a) the matters to be covered by the draft strategic plan;
 - (b) issues to be taken into account in formulating the draft strategic plan;
 - (c) the strategy to be adopted in relation to a particular matter.
- (3) In preparing a draft strategic plan, a consortium must—
 - (a) have regard to the assembly scheme for its region;
 - (b) have regard to any guidance given to it by the assembly;
 - (c) comply with any direction given to it by the assembly under subsection (2).
- (4) In preparing a draft strategic plan, a consortium must consult such persons and organisations with an interest in cultural or recreational activities in its region as it thinks appropriate.

93 Assembly's adoption of a cultural strategic plan

- (1) After a consortium has submitted a draft strategic plan under section 92(1)(b), the assembly must—
 - (a) consider the draft strategic plan;
 - (b) adopt it, with any changes that the assembly thinks appropriate, as the assembly's cultural strategic plan;
 - (c) publish the cultural strategic plan in such manner as the assembly thinks appropriate.
- (2) In exercising its functions, a consortium must have regard to the assembly's cultural strategic plan.
- (3) Before adopting a cultural strategic plan under subsection (1)(b), an assembly must consult the Secretary of State.

94 Assembly's revision of its cultural strategic plan

- (1) An assembly may at any time revise its cultural strategic plan and adopt the revised plan as its cultural strategic plan.
- (2) A consortium must keep the assembly's cultural strategic plan under review.
- (3) The assembly may give a consortium directions in relation to its duty to keep the cultural strategic plan under review.
- (4) In keeping the cultural strategic plan under review, a consortium must—
 - (a) have regard to any guidance given to it by the assembly;
 - (b) comply with any direction given to it by the assembly under subsection (3).

- (5) Before submitting a proposed revision to the cultural strategic plan to the assembly, a consortium must consult such persons and organisations with an interest in cultural or recreational activities in its region as it thinks appropriate.
- (6) If a consortium submits a proposed revision to the cultural strategic plan to the assembly, the assembly must—
 - (a) consider the proposed revision;
 - (b) if it thinks appropriate, revise the plan and adopt the revised plan as its cultural strategic plan.
- (7) Before adopting a revised cultural strategic plan under subsection (6)(b), an assembly must consult the Secretary of State.
- (8) If an assembly adopts a revised cultural strategic plan, it must publish it in such manner as it thinks appropriate.

Reporting

95 Accounts and records

- (1) A consortium must—
 - (a) keep proper accounts and proper accounting records;
 - (b) prepare a statement of accounts, giving a true and fair view of the state of affairs and the income and expenditure of the consortium, in respect of each financial year.
- (2) Accounting records includes all books, papers and other records of the consortium relating to, or to matters dealt with in, the consortium's accounts.
- (3) A consortium must send a copy of its audited accounts to the assembly.

96 Annual report

- (1) As soon as reasonably practicable after the end of each financial year a consortium must—
 - (a) prepare a report on its activities during that financial year;
 - (b) send a copy of that report to the assembly.
- (2) A report under this section must—
 - (a) be in such form and contain such information as the assembly may specify by directions to the consortium;
 - (b) set out any other directions given by the assembly to the agency during the relevant financial year.
- (3) Following receipt of a report under this section, the assembly must arrange for it to be published in such manner as it thinks appropriate.

Change of name

97 Change of name

- (1) A consortium may only change the name by which it is to be known—

- (a) by a resolution which complies with the requirements set out in subsection (2), and
 - (b) if the assembly consents.
- (2) The requirements are –
- (a) that the resolution is considered at a meeting of the consortium which is specially convened for that purpose;
 - (b) that particulars of the resolution are included in the notice of the meeting;
 - (c) that the resolution is passed at the meeting by not less than two-thirds of the members of the consortium who vote on the resolution.
- (3) A consortium which changes its name must –
- (a) give written notice of the change to the assembly;
 - (b) publish the notice in such manner as the assembly may direct.
- (4) A change of name of a consortium –
- (a) does not affect the rights or obligations of the consortium or any other person;
 - (b) does not render defective any legal proceedings.
- (5) If a consortium changes its name, legal proceedings may be commenced or continued as if it had not changed its name.

PART 9

PLANNING

Regional spatial strategy

98 Regional Spatial Strategy

- (1) Part 1 of the Planning and Compulsory Purchase Act 2004 does not apply in the case of a region for which an assembly is established under section 1 (an assembly region).
- (2) For each assembly region there is to be a regional spatial strategy (in this Part referred to as the “RSS”).
- (3) The RSS must set out the policies of the assembly (however expressed) in relation to the development and use of land within the region.
- (4) In subsection (3) the reference to a region includes a reference to any area within the region which includes the area or part of the area of more than one local planning authority.
- (5) If to any extent a policy set out in the RSS conflicts with any other statement or information in the RSS the conflict must be resolved in favour of the policy.

99 RSS functions

- (1) An assembly must keep under review the RSS.
- (2) The assembly must keep under review the matters which may be expected to affect –
 - (a) development in its region or any part of its region;

- (b) the planning of that development.
- (3) The assembly must—
 - (a) monitor the implementation of the RSS throughout the region;
 - (b) consider whether the implementation is achieving the purposes of the RSS.
- (4) The assembly must for each year prepare a report on the implementation of the RSS in the region.
- (5) The report—
 - (a) must be in respect of such period of 12 months as is prescribed;
 - (b) must be in such form and contain such information as is prescribed;
 - (c) must be published on such date as is prescribed.
- (6) At the same time as the report is published, the assembly must send a copy of it to the Secretary of State.
- (7) The assembly must give advice to any other body or person if it thinks that to do so will help to achieve the implementation of the RSS.

100 RSS revision

- (1) An assembly must prepare a draft revision of the RSS—
 - (a) when it appears to it necessary or expedient to do so, or
 - (b) if it is directed to do so by the Secretary of State.
- (2) In preparing the draft revision the assembly must have regard to—
 - (a) national policies and advice contained in guidance issued by the Secretary of State;
 - (b) the RSS for each adjoining region;
 - (c) the spatial development strategy, if any part of the region adjoins Greater London;
 - (d) the Wales Spatial Plan, if any part of the region adjoins Wales;
 - (e) any relevant Scottish document, if any part of the region adjoins Scotland;
 - (f) the resources likely to be available for implementation of the RSS;
 - (g) the desirability of making different provision in relation to different parts of the region;
 - (h) the assembly scheme and any other statement of policy adopted by the assembly;
 - (i) such other matters as are prescribed.
- (3) In preparing a draft revision the assembly must also—
 - (a) carry out an appraisal of the sustainability of the proposals in the draft, and
 - (b) prepare a report of the findings of the appraisal.
- (4) In preparing the draft revision the assembly must consult—
 - (a) every local planning authority whose area falls within or adjoins the region;
 - (b) a county council whose area falls within or adjoins the region;
 - (c) the assembly for each adjoining region for which an assembly has been established under section 1;

- (d) the RPB for every adjoining region for which no assembly has been so established;
 - (e) the Mayor of London if the region adjoins Greater London;
 - (f) such other persons or organisations prescribed for the purposes of this subsection if the assembly thinks it appropriate to do so.
- (5) When the assembly has prepared –
- (a) the draft revision,
 - (b) the report to be prepared under subsection (3)(b), and
 - (c) any other document to be prepared in pursuance of subsection (7)(a),
- it must adopt the draft revision and publish the draft revision, report and other document.
- (6) Any person may make representations about the draft revision.
- (7) The Secretary of State may, by regulations, make provision as to –
- (a) any further documents which must be prepared by the assembly in connection with the preparation of a draft revision;
 - (b) the form of any draft, report or other document prepared under this section;
 - (c) the persons the assembly must consult in preparing the revision;
 - (d) inspection by the public of any such draft, report or other document;
 - (e) the making of representations about the draft revision.
- (8) A relevant Scottish document is a document which sets out the policy of the Scottish Administration in relation to spatial planning.

101 RSS: participation

- (1) For the purposes of the exercise of its functions under section 100, an assembly must prepare and publish a statement of its policies as to the involvement of persons who appear to the assembly to have an interest in the exercise of those functions.
- (2) The assembly must keep the policies under review and from time to time must –
- (a) revise the statement;
 - (b) publish the revised statement.
- (3) The assembly must comply with the statement or revised statement (as the case may be) in the exercise of its functions under section 100.
- (4) Section 100(7) (b) applies to the statement and revised statement as it applies to a document mentioned in that section.

102 RSS examination in public

- (1) An assembly must hold an examination in public of a draft revision to an RSS published under section 100(5).
- (2) But subsection (1) does not apply if –
- (a) the assembly thinks that it is not necessary to hold an examination in public, and
 - (b) the Secretary of State agrees.

- (3) For the purposes of subsection (2) the assembly and the Secretary of State must have regard to—
 - (a) the extent of any revision proposed by the draft;
 - (b) the extent and nature of the consultation on the draft before it was published;
 - (c) the level of interest shown in the draft;
 - (d) such other matters as they think appropriate.
- (4) The examination must be held before a person appointed by the Secretary of State.
- (5) No person has a right to be heard at an examination in public.
- (6) The Secretary of State may, after consultation with the Lord Chancellor, make regulations with respect to the procedure to be followed in connection with an examination in public.
- (7) The person appointed under subsection (4) must make a report of the examination to the assembly.
- (8) The assembly must publish the report.
- (9) The Secretary of State may, by regulations, make provision as to the procedure to be followed in connection with the recommendations of the person appointed under subsection (4).
- (10) An examination in public—
 - (a) is a statutory inquiry for the purposes of section 1(1)(c) of the Tribunals and Inquiries Act 1992 (c. 53) (report on administrative procedures);
 - (b) is not a statutory inquiry for any other purpose of that Act.

103 RSS: further procedure

- (1) If no examination in public is held the assembly must consider any representations made on the draft revision of the RSS under section 100(6).
- (2) If an examination in public is held the assembly must consider—
 - (a) the report of the person appointed to hold the examination;
 - (b) any representations which are not considered by that person.
- (3) If, after proceeding under subsection (1) or (2) the assembly proposes to make any changes to the draft it must consider whether it is necessary to consult any person in relation to the changes.
- (4) For the purposes of subsection (3) the assembly must have regard to any guidance issued by the Secretary of State for the purpose.
- (5) After proceeding under subsections (1) or (2) and (3) the assembly must adopt the revision to the RSS (incorporating any changes made as mentioned in subsection (3)).
- (6) The assembly must give notice to the Secretary of State of its intention to adopt the revised RSS, but it must not adopt the revised RSS before—
 - (a) the end of the prescribed period, or
 - (b) such later date as the Secretary of State directs.
- (7) At the same time as the assembly gives notice as mentioned in subsection (6) it must also send a copy of the revised RSS to the Secretary of State.

- (8) The assembly must publish –
 - (a) the RSS incorporating its revisions;
 - (b) if it decides not to have any consultation as mentioned in subsection (3), its reasons for not having the consultation.
- (9) If an examination in public has been held and the assembly has not (to any extent) accepted the recommendations of the person appointed to hold the examination, it must also publish its reasons for not accepting the recommendation.
- (10) The assembly may withdraw a draft revision of the RSS at any time before it adopts the revised RSS in accordance with subsection (5).
- (11) The prescribed period is such period as the Secretary of State, by regulations, prescribes starting on the day the assembly gives notice under subsection (6).

104 RSS: Secretary of State’s powers

- (1) If the Secretary of State thinks it necessary or expedient to do so he may direct an assembly to prepare a draft revision of the RSS.
- (2) The direction may require the assembly to draft the revision –
 - (a) in relation to such aspects of the RSS as are specified;
 - (b) in accordance with such timetable as is specified.
- (3) If the Secretary of State thinks that a policy contained in a draft revision of an RSS –
 - (a) is inconsistent with a national policy, the RSS of another region or the Mayor of London’s spatial development strategy, or
 - (b) will be detrimental to the interests of an area outside the region,
 he may give the assembly a direction under subsection (4).
- (4) The direction is a direction to modify the revised RSS in accordance with the direction and not to adopt it unless the Secretary of State is satisfied that –
 - (a) the inconsistency has been removed, or
 - (b) the detriment will be avoided.
- (5) National policies are policies of Her Majesty’s government which are available in written form and –
 - (a) have been laid before or announced or otherwise presented to either House of Parliament, or
 - (b) have been published by a Minister of the Crown.

Miscellaneous

105 Strategic planning applications

In section 74 of the Town and Country Planning Act 1990 (c. 8) (directions etc. as to method of dealing with applications) after subsection (1C) insert –

- “(1D) Provision may be made by development order –
- (a) for enabling a regional assembly in prescribed circumstances and subject to prescribed conditions to direct a local planning authority in its region to refuse an application for planning permission of a prescribed description in any particular case;

- (b) for prohibiting a local planning authority to which such a direction is given from implementing the direction in prescribed circumstances;
 - (c) for modifying any provision of this Act relating to an appeal against a refusal of planning permission (and, in particular, any such provision regarding parties or costs) in its application in relation to a refusal in compliance with such a direction.
- (1E) In determining whether to exercise a power to direct a local planning authority to refuse an application the assembly must have regard to the development plan so far as material to the application.
- (1F) In subsection (1D)–
- (a) a regional assembly is an assembly established under section 1 of the Regional Assemblies Act 2004;
 - (b) region must be construed in accordance with that Act;
 - (c) prescribed means prescribed by, or by directions made under, a development order.”

106 Amendments of planning Acts

- (1) In section 296(1A) of the Town and Country Planning Act 1990 (c. 8) (exercise of powers in relation to Crown land) in paragraph (a) after 2004 insert “or Part 9 of the Regional Assemblies Act 2004”.
- (2) In paragraph 7 of Schedule 1 to that Act (distribution of functions of local planning authorities) in sub-paragraph (11) after “Act” insert “or (if the region is one for which an assembly is established under section 1 of the Regional Assemblies Act 2004) Part 9 of that Act”.
- (3) In section 24 of the Planning and Compulsory Purchase Act 2004 (c. 5) (local development documents conformity with regional strategy) after subsection (9) insert—

“(10) Subsections (3)(a), (8) and (9) do not apply if the RPB is an assembly established under section 1 of the Regional Assemblies Act 2004.”
- (4) In section 37 of that Act (interpretation of Part 2) for subsection (6) substitute—

“(6) RSS—

 - (a) in relation to a region for which an assembly has been established under section 1 of the Regional Assemblies Act 2004 must be construed in accordance with section 98 of that Act;
 - (b) in relation to any other region must be construed in accordance with Part 1.

(6A) RPB—

 - (a) in relation to a region for which an assembly has been established under section 1 of the Regional Assemblies Act 2004 is the assembly;
 - (b) in relation to any other region must be construed in accordance with Part 1.

(6B) A region is a region specified in Schedule 10 to the Regional Assemblies Act 2004.”

107 National Parks

- (1) The Secretary of State may by order direct that if the area of a National Park falls within more than one region it is treated as falling within such region as is specified in the order.
- (2) An order under this section must not be made in respect of a National Park if an order under section 12(2) of the Planning and Compulsory Purchase Act 2004 is in force in respect of the Park.
- (3) An order under that section must not be made in respect of a National Park if an order under this section is in force in respect of the Park.

108 Transitional

- (1) The RSS for a region (within the meaning of Part 1 of the Planning and Compulsory Purchase Act 2004) at the date this Part takes effect for the purposes of an assembly established for that region is the assembly's RSS.
- (2) Anything done by or in relation to an RPB (within the meaning of Part 1 of that Act) in connection with the revision of the RSS before that date must be treated for the purposes of this Part as having been done by or in relation to the assembly.

109 Regulations

- (1) The Secretary of State may by regulations make provision in connection with the exercise by any person of functions under this Part.
- (2) The regulations may in particular make provision as to—
 - (a) the procedure to be followed for the purposes of section 100;
 - (b) requirements about giving of notice and publicity;
 - (c) requirements about inspection by the public of a draft revision or any other document;
 - (d) the nature and extent of consultation for the purposes of this Part;
 - (e) the making of representations in relation to the RSS;
 - (f) the consideration of such representations;
 - (g) the remuneration and allowances payable to a person appointed to carry out an examination in public under section 102;
 - (h) the determination of the time at which anything must be done for the purposes of this Part;
 - (i) the making of reasonable charges for the provision of copies of documents required by or under this Part.
- (3) In this Part a power to prescribe is a power for the Secretary of State to prescribe by regulations.

PART 10

OTHER FUNCTIONAL RESPONSIBILITIES

CHAPTER 1

HOUSING

110 Local authority housing strategies

In the application of section 87 of the Local Government Act 2003 (housing strategies) to a local housing authority whose area falls within a region for which an assembly is established under section 1 the appropriate person is –

- (a) the assembly, or
- (b) after consultation with the assembly, the Secretary of State.

111 Social housing grants: change of landlord

- (1) This section applies in relation to the making of grants by an assembly to registered social landlords in respect of expenditure incurred or to be incurred by such landlords in connection with their housing activities.
- (2) If –
 - (a) a grant is payable to a registered social landlord, and
 - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, another registered social landlord, or trustees for another such landlord,the grant (or such proportion of it as is specified or determined under subsection (3)) is payable to the other landlord.
- (3) The proportion is that which in the circumstances of the case –
 - (a) the assembly, acting in accordance with such principles as it may from time to time determine, specifies as being appropriate, or
 - (b) the assembly determines to be appropriate.
- (4) Expressions used in this section and in Chapter 3 of Part 1 of the Housing Act 1996 (c. 52) have the same meaning as in that Chapter.

112 Purchase grant where right to acquire exercised

- (1) An assembly must make grants to registered social landlords in respect of discounts given by them to persons exercising the right to acquire conferred by section 16 of the Housing Act 1996 if the dwelling is in the assembly's region.
- (2) The amount of the grant for any year is the aggregate of the value of the discounts given in relation to such dwellings in that year.
- (3) The assembly may specify –
 - (a) the procedure to be followed in relation to applications for grant;
 - (b) the manner in which, and time or times at which, grant is to be paid.
- (4) The assembly may make payment of a grant conditional on compliance by the landlord with such conditions as the assembly specifies.

- (5) Expressions used in this section and in Part 1 of the Housing Act 1996 (c. 52) have the same meaning as in that Part.

113 Purchase grant in respect of other disposals

- (1) This section applies if –
- (a) a registered social landlord disposes of a dwelling situated in an assembly’s region to the tenant,
 - (b) the landlord gives a discount in respect of the disposal, and
 - (c) the disposal is not made in pursuance of the right conferred by section 16 of the Housing Act 1996 (right to acquire).
- (2) If the tenant was entitled to exercise that right in relation to another dwelling of the landlord’s situated in the region the assembly must make a grant to the landlord of an amount not exceeding the amount of the discount to which the tenant would have been entitled in respect of the other dwelling.
- (3) In relation to a grant mentioned in subsection (2) and any other grant made in circumstances where this section applies the assembly may specify –
- (a) the procedure to be followed in relation to applications for grant;
 - (b) the circumstances in which grant is or is not to be payable;
 - (c) the method for calculating, and any limitations on, the amount of grant;
 - (d) the manner in which, and the time or times at which, grant is to be paid.
- (4) The assembly may make payment of a grant conditional on compliance by the landlord with such conditions as the assembly specifies.
- (5) Expressions used in this section and in Part 1 of the Housing Act 1996 have the same meaning as in that Part.

114 Amendments of 1996 Act

- (1) The Housing Act 1996 is amended as follows.
- (2) In section 18 (social housing grants) after subsection (8) insert –
- “(9) The Relevant Authority must not make a grant under this section in relation to any property which is situated in the region of an assembly established under section 1 of the Regional Assemblies Act 2004.
 - (10) Region has the same meaning as in that Act.”
- (3) In section 20 (purchase grant where right to acquire exercised) after subsection (4) insert –
- “(5) This section does not apply if the dwelling in respect of which the right to acquire is exercised is situated in the region of an assembly established under section 1 of the Regional Assemblies Act 2004.
 - (6) Region has the same meaning as in that Act.”
- (4) In section 21 (purchase grant in respect of other disposals) after subsection (4) insert –
- “(5) The Relevant Authority must not make a grant under this section in relation to any property which is situated in the region of an assembly established under section 1 of the Regional Assemblies Act 2004.

- (6) Subsection (5) does not apply if, in a case falling within subsection (2) –
 - (a) the dwelling in respect of which the tenant was entitled to exercise the right under section 16 above is not situated in such a region; but
 - (b) the dwelling he acquires is situated in such a region.
- (7) Region has the same meaning as in that Act.”
- (5) In section 32(2) (power for certain bodies to make disclosures to the Relevant Authority) after paragraph (a) insert –
 - “(aa) a regional assembly established under section 1 of the Regional Assemblies Act 2004;”.
- (6) In section 33(2) (disclosure of information to certain bodies) after paragraph (a) insert –
 - “(aa) a regional assembly established under section 1 of the Regional Assemblies Act 2004;”.

CHAPTER 2

TRANSPORT

Railways

115 Prohibited financial assistance in respect of railways

- (1) An assembly may not enter into an agreement or other arrangement under which it provides prohibited financial assistance in respect of railways.
- (2) Prohibited financial assistance in respect of railways is –
 - (a) financial assistance with the sole or principal purpose of securing the provision, improvement or development by others of services for the carriage of goods by railway;
 - (b) financial assistance with the sole or principal purpose of securing the provision, improvement or development by others of a train being used on a network for the purpose of carrying goods by railway.
- (3) Railway does not have its wider meaning.
- (4) Expressions used in this section and in the Railways Act 1993 (c. 43) have the same meaning in this section as in that Act.

116 Assemblies and functional bodies not to be railway franchisees

- (1) Section 25(1) of the Railways Act 1993 is amended as follows.
- (2) After paragraph (bc), insert the following paragraph –
 - “(bd) a regional assembly established under section 1 of the Regional Assemblies Act 2004;
 - (be) a functional body within the meaning of that Act;”
- (3) In paragraph (d), after “Transport for London” insert “, a regional assembly established under section 1 of the Regional Assemblies Act 2004, a functional body within the meaning of that Act”.

Local transport plans

117 Local transport plans

- (1) Section 109 of the Transport Act 2000 (c. 38) (further provision about local transport plans) is amended as follows.
- (2) In subsection (3)(b) after “Secretary of State” insert “and any regional assembly in whose region the authority’s area falls”.
- (3) After subsection (6) insert—
 - “(7) In this section, “regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004.”

Highways

118 Notification of proposals relating to highways

- (1) Schedule 1 to the Highways Act 1980 (c. 66) (procedures for making and confirming orders and schemes) is amended as follows.
- (2) In the table at the end of paragraph 3—
 - (a) in head (i), at the end insert—
 - “A regional assembly, where—
 - (a) the highway or proposed highway to which the order relates is situated in the area of two or more councils in the assembly’s region; or
 - (b) that highway or proposed highway is situated in the area of one such council and the proposals would have a material impact on the area of any other council in the region.”;
 - (b) in head (iii), at the end insert—
 - “A regional assembly, where—
 - (a) the works authorised by the proposed order are to be carried out in the area of two or more councils in the assembly’s region; or
 - (b) those works are to be carried out in the area of one such council and the proposals would have a material impact on the area of any other council in the region.”;
 - (c) in head (vi), at the end insert—
 - “A regional assembly, where—
 - (a) the highway is situated in the area of two or more councils in the assembly’s region; or
 - (b) the highway is situated in the area of one such council and the proposals would have a material impact on the area of any other council in the region.”
- (3) In paragraph 11, after paragraph (a) insert—
 - “(aa) on a regional assembly, where—
 - (i) any part of the route of the special road or, as the case may be, the site of the bridge or tunnel is situated in the area of two or more councils in the assembly’s region; or

- (ii) any part of that route or site is situated in the area of one such council and the proposals would have a material impact on the area of any other council in the region; and”.
- (4) In paragraph 14—
 - (a) in sub-paragraph (1)(a), after “any council” insert “, regional assembly”; and
 - (b) in sub-paragraph (2), after “such council” insert “, regional assembly,”.
- (5) After paragraph 21 insert—
 - “22 In this Schedule “regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004; and “region” means a region for the purposes of that Act.
 - 23 In this Schedule references to the impact of proposals on an area are to their impact on—
 - (a) transport links for the area; and
 - (b) traffic congestion in the area.”

CHAPTER 3

LEARNING AND SKILLS

119 Local learning and skills councils

- (1) Section 19 of the Learning and Skills Act 2000 (c. 21) is amended as follows.
- (2) For subsection (2) substitute—
 - “(2) A local council must consist of not fewer than 12 and not more than 16 members.
 - (2A) If the area of a local council falls wholly or mainly within the region of a regional assembly—
 - (a) the regional assembly must appoint five of the members of the local council following consultation with its chairman;
 - (b) the Council must appoint the remaining members following the required consultation.
 - (2B) If the area of a local council does not fall wholly or mainly within the region of a regional assembly, the Council must appoint the members with the approval of the Secretary of State.”
- (3) In subsection (3) for “them” substitute “the members”.
- (4) After subsection (5) insert—
 - “(6) In making an appointment under subsection (2A)(a), a regional assembly must have regard to any guidance issued by the Secretary of State.
 - (7) The required consultation is consultation with—
 - (a) the chairman of the local council,
 - (b) the Secretary of State, and
 - (c) the regional assembly.

- (8) A regional assembly is an assembly established under section 1 of the Regional Assemblies Act 2004.
- (9) Region has the same meaning as in that Act.”

120 Guidance to local learning and skills councils

- (1) Section 21 of the Learning and Skills Act 2000 (c. 21) is amended as follows.
- (2) In subsection (4) for “regional development agencies” substitute “regional bodies”.
- (3) For subsection (6) substitute—
 - “(6) A regional body is—
 - (a) a regional assembly established under section 1 of the Regional Assemblies Act 2004;
 - (b) a development agency established by section 1 of the Regional Development Agencies Act 1998, unless a regional assembly has been established for the agency’s region.
 - (7) Region has the same meaning as in the Regional Assemblies Act 2004.”

121 Plans of local learning and skills councils

- (1) Section 22 of the Learning and Skills Act 2000 is amended as follows.
- (2) In subsection (4)—
 - (a) in paragraph (b) for “section 7A of that Act” substitute “section 7AA of that Act”;
 - (b) after paragraph (b) insert—
 - “(bb) the strategy of any relevant regional assembly published under section 7AA of that Act;”.
- (3) In subsection (5) after paragraph (b) insert—
 - “(bb) any relevant regional assembly;”.
- (4) In subsection (6) after “relevant regional development agency” insert “and any relevant regional assembly”.
- (5) In subsection (10)—
 - (a) at the end of paragraph (b) insert “, unless a regional assembly has been established for the agency’s region”;
 - (b) after paragraph (b) insert—
 - “(bb) a regional assembly is an assembly established under section 1 of the Regional Assemblies Act 2004;
 - (bbb) a regional assembly is a relevant regional assembly if any part of the area of the local council concerned falls within the region of the regional assembly;
 - (bbbb) “region” means a region as defined in the Regional Assemblies Act 2004;”.

CHAPTER 4

ENVIRONMENTAL

122 Consultation etc on environmental matters

Schedule 9 (provision for the consultation and representation of assemblies in relation to various environmental matters) has effect.

123 Biodiversity

- (1) Section 74 of the Countryside and Rights of Way Act 2000 (c. 37) (conservation of biological diversity) is amended as follows.
- (2) In subsection (1) (duty of certain persons and bodies to have regard to the purpose of conserving biological diversity), after paragraph (c) insert “and
(d) any regional assembly,”.
- (3) In subsection (7) (definitions), at the end insert –
““regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004.”

PART 11

ASSEMBLY EMPLOYEES

General provision as to employees

124 Appointment

- (1) An assembly may not appoint an individual falling within subsection (2) as an employee.
- (2) An individual falls within this subsection if he is –
 - (a) a member of the assembly;
 - (b) a co-opted member of the assembly’s review and monitoring committee or of a sub-committee of that committee;
 - (c) a special adviser;
 - (d) an individual who, within the previous twelve months, was an individual falling within paragraph (a), (b) or (c).
- (3) The appointment by an assembly of an employee must be made on merit, subject to –
 - (a) section 7 of the Sex Discrimination Act 1975 (c. 65) (discrimination permitted in relation to employment where sex of employee is a genuine occupational qualification);
 - (b) section 5 of the Race Relations Act 1976 (c. 74) (discrimination permitted in relation to race where being of a particular racial group is a genuine occupational qualification);
 - (c) sections 4, 4A, 4D and 4E of the Disability Discrimination Act 1995 (c. 50) (meaning of discrimination and duty to make adjustments);
 - (d) section 128(3).

125 Practical arrangements for the separation of certain employees

- (1) An assembly must make practical arrangements for the separation of—
 - (a) on the one hand, the employees of the assembly who report directly to or are accountable to the executive or to a member of the executive, and
 - (b) on the other hand, the other employees of the assembly.
- (2) The Secretary of State must issue guidance as to the practical arrangements to be made by an assembly under subsection (1).
- (3) The Secretary of State may not issue guidance under subsection (2) unless he first consults such representatives as he thinks appropriate of every assembly established under section 1.

126 Secondment of an employee to another assembly

- (1) An assembly may second an employee to another assembly—
 - (a) for the purposes of the discharge of the functions of the other assembly;
 - (b) on such terms as may be agreed between the assemblies.
- (2) An assembly may not second an employee to another assembly without the employee's consent.
- (3) Where an employee has been seconded to another assembly—
 - (a) for a purpose relating to a pension, his service on behalf of that other assembly is service as an employee of the assembly which is his employer;
 - (b) for the purpose of any enactment relating to the discharge of the functions of an assembly, he is treated as an employee of the other assembly.

127 Standing orders relating to employment questions

- (1) The Secretary of State may by regulations require an assembly—
 - (a) to incorporate prescribed provisions in its standing orders relating to employment questions;
 - (b) to make or refrain from making other prescribed modifications of those standing orders.
- (2) Regulations under subsection (1) may require an assembly's standing orders—
 - (a) to restrict the power of the assembly or the executive to give directions in relation to the making of appointments;
 - (b) to require the assembly's monitoring officer to prepare a report to the assembly in respect of every proposed appointment of a person to a politically restricted post;
 - (c) to require each such report to include a monitoring officer's required statement;
 - (d) to prohibit the assembly or the executive or any person acting on its behalf from dismissing or taking other disciplinary action against an employee except in accordance with independent recommendations.
- (3) Regulations under subsection (1) may include—
 - (a) provision which (with or without modifications) applies provisions of section 137 to a report prepared by a monitoring officer in accordance with regulations made by virtue of subsection (2)(c);

- (b) provision specifying the consequences of any contravention of standing orders made in pursuance of the regulations in relation to a relevant matter;
 - (c) special provision in relation to the appointment of political assistants.
- (4) Standing orders relating to employment questions are standing orders which provide for –
 - (a) the appointment of individuals as employees of the assembly;
 - (b) the dismissal of individuals from the employment of the assembly;
 - (c) the taking of other disciplinary action against employees of the assembly.
- (5) A monitoring officer's required statement is a statement by the monitoring officer whether in his opinion the proposed appointment can be made –
 - (a) without contravention of any provision made by or under this Part, and
 - (b) without any matter being taken into account which could not properly be taken into account;and, if not, his reasons.
- (6) Independent recommendations are recommendations contained in a report made to the assembly by an independent person of such a description as is prescribed by the regulations.
- (7) A relevant matter is –
 - (a) any appointment or contract of employment;
 - (b) any proceedings on a complaint to an employment tribunal;
 - (c) any expenditure incurred by the assembly.

Senior officers

128 Designation of senior officers

- (1) An assembly must designate –
 - (a) one of its employees as its chief executive officer;
 - (b) one of its employees as its chief finance officer;
 - (c) one of its employees as its monitoring officer;
 - (d) one of its employees as its deputy chief executive officer;
 - (e) one of its employees as its deputy chief finance officer;
 - (f) one of its employees as its deputy monitoring officer.
- (2) An assembly may not designate the same employee as –
 - (a) both its chief finance officer and its monitoring officer;
 - (b) both its chief finance officer and its deputy monitoring officer;
 - (c) both its monitoring officer and its deputy chief finance officer;
 - (d) both its deputy chief finance officer and its deputy monitoring officer.
- (3) An assembly may not designate an employee as its chief finance officer or its deputy chief finance officer under subsection (1) unless the employee is a member of one or more of the bodies listed in subsection (4).
- (4) The bodies are –
 - (a) the Institute of Chartered Accountants in England and Wales;
 - (b) the Institute of Chartered Accountants of Scotland;

- (c) the Chartered Association of Certified Accountants;
- (d) the Chartered Institute of Public Finance and Accountancy;
- (e) the Institute of Chartered Accountants in Ireland;
- (f) the Chartered Institute of Management Accountants;
- (g) any body of accountants not mentioned in paragraphs (a) to (f) which is established in the United Kingdom and for the time being approved by the Secretary of State for the purpose of this section.

129 Functions of certain senior officers

- (1) The chief executive officer of an assembly has responsibility for—
 - (a) the co-ordination of the discharge by the assembly of its different functions in an efficient and effective manner;
 - (b) the management of its employees.
- (2) The chief finance officer of an assembly has responsibility for the administration of its financial affairs.
- (3) The monitoring officer of an assembly has responsibility for securing that the assembly does not act in a way that is unlawful or likely to constitute maladministration.

Political restriction

130 Political restriction

- (1) The terms and conditions of employment of an employee of an assembly who holds a politically restricted position include such restriction on his political activities as may be prescribed for the purposes of this subsection.
- (2) An assembly may provide in its standing orders that no appointment of an employee to a specified politically restricted position or description of politically restricted position has effect unless it has been confirmed by the assembly.

131 Politically restricted positions

- (1) An employee of an assembly holds a politically restricted position if he is—
 - (a) a senior officer;
 - (b) a political assistant;
 - (c) an employee not falling within paragraphs (a) or (b) whose position is for the time being on the assembly's political restriction list.
- (2) An assembly must prepare and maintain a list (the political restriction list) of all positions held by its employees that are specified in subsection (3) but are not—
 - (a) for the time being exempted under section 132, or
 - (b) of a description specified in regulations made by the Secretary of State.
- (3) The positions are—
 - (a) a full-time position for which the annual salary is or exceeds £32,127 or such higher amount as may be specified in or determined under regulations made by the Secretary of State;

- (b) a part-time position which is paid at a rate that if the position were full-time would produce an annual salary equal to or greater than that amount;
 - (c) any other position the duties of which appear to the assembly to fall within subsection (4).
- (4) The duties of a position fall within this subsection if they consist in or involve –
 - (a) giving advice on a regular basis to the assembly, the executive, any committee or sub-committee of the assembly or of the executive or any member of the executive;
 - (b) speaking on behalf of the assembly on a regular basis to journalists or broadcasters.
- (5) An assembly must –
 - (a) deposit the first political restriction list prepared in accordance with subsection (2) with the proper officer before the expiry of the period of two months beginning with the date specified in relation to the assembly by the Secretary of State by order for the purposes of this paragraph;
 - (b) upon making a revision to the political restriction list, deposit a revised political restriction list with the proper officer before the expiry of the period of two months beginning with the day on which the revision is made.
- (6) In preparing and maintaining the political restriction list, an assembly must have regard to any general advice about questions arising by virtue of subsection (4) given by the exemptions official under section 132(10).
- (7) A senior officer is –
 - (a) the assembly’s chief executive officer or deputy chief executive officer;
 - (b) the assembly’s chief finance officer or deputy chief finance officer;
 - (c) the assembly’s monitoring officer or deputy monitoring officer.
- (8) The chief executive officer must designate an employee who does not otherwise hold a politically restricted position to be treated as holding such a position for such period as he thinks appropriate if –
 - (a) the employee is required to carry out any function which is normally carried out by an employee who holds a politically restricted position;
 - (b) the employee is required to carry out such other function as is prescribed.
- (9) A designation under subsection (8) is of no effect until it is confirmed by the chairman of the assembly.
- (10) An employee may refuse to accept a designation under subsection (8), and if he does so he is not in breach of his contract of employment only by reason –
 - (a) of refusing to accept the designation, or
 - (b) of failing to carry out a function mentioned in paragraph (a) or (b) of that subsection because he is not so designated.
- (11) For the purposes of subsection (8) a period may be identified by reference to a period of time or the existence of any specified circumstances.
- (12) A function to which subsection (8)(a) applies does not include a function which is solely –
 - (a) of a secretarial or clerical nature, or

- (b) otherwise in the nature of a support service.

132 Exemption from political restriction

- (1) The Secretary of State must appoint an individual (the exemptions official) to carry out the functions conferred by this section.
- (2) The exemptions official –
 - (a) must consider any application by an employee of an assembly for exemption from political restriction in respect of the employee's position;
 - (b) may, on the application of any person or otherwise, give directions to an assembly requiring it to include a position in the political restriction list.
- (3) An employee of an assembly may not make an application by virtue of subsection (2)(a) unless –
 - (a) the assembly has included or is proposing to include his position in the political restriction list, and
 - (b) if the employee's position is a position falling within paragraph (a) or (b) of section 131(3), the assembly has made a required certification in relation to the position.
- (4) If an employee requests, the assembly must make a required certification in relation to his position for the purposes of subsection (3)(b).
- (5) A required certification in relation to a position is a certification by the assembly as to whether or not the duties of the position appear to the assembly to fall within section 131(4).
- (6) If, on an application by an employee by virtue of subsection (2)(a), the exemptions official is satisfied that the duties of the employee's position do not fall within section 131(4), the exemptions official must direct –
 - (a) that the employee's position is not to be regarded as a politically restricted position, for so long as he directs, and
 - (b) that the assembly must refrain from including the position in the political restriction list or, as the case may be, must remove the position from the political restriction list.
- (7) The exemptions official may not give a direction under subsection (2)(b) in respect of any position unless he is satisfied that the position is –
 - (a) a position the duties of which fall within section 131(4),
 - (b) not included in the political restriction list, and
 - (c) not of a description specified in any regulations under section 131(2)(b).
- (8) An assembly must –
 - (a) give the exemptions official all such information as he may reasonably require for the purpose of carrying out his functions under this section;
 - (b) comply with any direction under this section with respect to the political restriction list;
 - (c) on being given a direction under subsection (2)(b), notify the employee who for the time being holds the position to which the direction relates of its terms.
- (9) The exemptions official must give priority, according to the time available before a forthcoming election, to any application made by virtue of subsection

- (2)(a) by an employee of an assembly who certifies that it is made for the purpose of enabling him to be a candidate in that forthcoming election.
- (10) The exemptions official must give such general advice about questions arising by virtue of section 131(4) as, following the required consultation, he thinks appropriate.
- (11) The required consultation is consultation by the exemptions official with—
- (a) such representatives of assemblies, and
 - (b) such organisations appearing to him to represent employees of assemblies,
- as he thinks appropriate.
- (12) Political restriction list must be construed in accordance with section 131(2).
- (13) The Secretary of State may—
- (a) provide for the appointment of such staff to assist the exemptions official and to act on his behalf as the Secretary of State may decide;
 - (b) pay to or in respect of the exemptions official and members of his staff such remuneration and such other sums by way of, or towards, the payment of pensions, allowances and gratuities as the Secretary of State may decide;
 - (c) provide for the exemptions official and his staff to hold office on such other terms as the Secretary of State may decide.

Political assistants

133 Political assistants

- (1) An assembly may create a position of political assistant—
- (a) to be held by an employee, and
 - (b) to be allocated by the assembly to a political group to which assembly members belong.
- (2) An assembly may not create more than three positions of political assistant.
- (3) The function of a political assistant is to provide assistance to the assembly members belonging to the political group to which his position has been allocated, in the discharge of any of their functions as assembly members.
- (4) The standing orders of an assembly which creates a position of political assistant must—
- (a) provide that the appointment of an individual to the position must be in accordance with the wishes for the time being of the political group to which the position has been allocated;
 - (b) prohibit an appointment of an individual to the position until the assembly has allocated a position to each qualifying political group;
 - (c) prohibit the allocation of the position to a political group which is not a qualifying political group;
 - (d) prohibit the allocation of more than one position to any one political group.
- (5) The appointment of an individual as a political assistant is not subject to—
- (a) section 124(3);

- (b) any other enactment, standing order or rule of law by virtue of which it is unlawful for an assembly to have regard to the individual's political activities or affiliations in deciding whether he should be appointed as an employee of the assembly.
- (6) The terms of appointment of a political assistant must secure that his employment ends on the same day as the term of office of the members of the assembly in accordance with section 12(1)(b).
- (7) No employee of an assembly may be required to obey any direction of a political assistant, except for the purpose of providing secretarial or clerical services to—
 - (a) the political assistant;
 - (b) the political group to which his position is allocated.
- (8) Political group must be construed in accordance with regulations made by the Secretary of State under section 163.
- (9) Qualifying political group must be construed in accordance with section 134.

134 Qualifying political group

- (1) Unless subsection (7) applies, a political group is a qualifying political group if—
 - (a) its membership is at least one-tenth of the membership of the assembly,
 - (b) there are no more than two other groups which have a larger membership, and
 - (c) if there are relevant tied groups in the assembly, the assembly has designated it to be a qualifying political group.
- (2) Relevant tied groups are political groups which have memberships of equal size, if as a consequence of that equality of size—
 - (a) each of the groups would by operation of paragraphs (a) and (b) of subsection (1) be a qualifying political group, and
 - (b) that would result in there being more than three qualifying political groups.
- (3) If there are relevant tied groups in the assembly—
 - (a) the assembly must designate such number of the relevant tied groups to be qualifying political groups as results in there being three qualifying political groups;
 - (b) the assembly may not allocate a position of political assistant to any political group until it has made the designations required by paragraph (a).
- (4) If subsection (7) applies, a political group is a qualifying political group if it is—
 - (a) that group;
 - (b) the group specified in subsection (5).
- (5) A political group is the group specified in this subsection if—
 - (a) it is the political group with the second largest membership, or
 - (b) if two or more groups have the second largest membership, the assembly has designated it to be a qualifying political group.
- (6) If subsection (7) applies and there are two or more political groups with the second largest membership—

- (a) the assembly must designate one of them to be a qualifying political group;
 - (b) the assembly may not allocate a position of political assistant to any political group until it has made the designation required by paragraph (a).
- (7) This subsection applies if there is only one political group with a membership that is at least one-tenth of the membership of the assembly.
- (8) Membership means –
- (a) in relation to a political group, the number of members of that group who are for the time being assembly members;
 - (b) in relation to the assembly, the number of persons who are for the time being assembly members.
- (9) Political group must be construed in accordance with regulations made by the Secretary of State under section 163.

Reports by certain senior officers

135 Reports by the chief executive officer of an assembly

- (1) If the chief executive officer of an assembly wishes to make a proposal to the assembly with respect to a matter specified in subsection (4), he may make a report in writing to the assembly setting out the proposal.
- (2) After the chief executive officer has made a report he must send a copy of it to each member of the assembly.
- (3) The assembly must consider the report at a meeting held not later than the end of the period of three months beginning with the day on which the chief executive officer sends copies of the report under subsection (2).
- (4) The matters are –
 - (a) the co-ordination of the discharge by the assembly of its different functions;
 - (b) the number and grades of employees required by the assembly for the discharge of its functions;
 - (c) the organisation of the assembly's employees;
 - (d) the appointment and proper management of the assembly's employees.
- (5) An assembly must provide its chief executive officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow him to perform his duties under this section.

136 Certain reports by the chief finance officer of an assembly

- (1) The chief finance officer of an assembly must make a report in writing to the assembly if it appears to him that a person specified in subsection (11) –
 - (a) has made a decision which involves the assembly incurring expenditure which is unlawful;
 - (b) is about to make a decision which would involve the assembly incurring expenditure which is unlawful;

-
- (c) has taken a course of action which is unlawful and likely to cause a loss or deficiency on the part of the assembly;
 - (d) has embarked upon a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the assembly;
 - (e) is about to take a course of action which would be unlawful and likely to cause a loss or deficiency on the part of the assembly;
 - (f) is about to embark upon a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the assembly;
 - (g) is about to enter an item of account the entry of which would be unlawful.
- (2) Subsection (1) does not apply if the person is acting on behalf of the executive of the assembly.
- (3) The chief finance officer of an assembly must make a report in writing to the executive of the assembly if it appears to him that, in the course of the discharge of functions of the assembly, the executive or a person acting on behalf of the executive –
- (a) has made or is about to make a decision which involves or would involve the assembly incurring expenditure which is unlawful;
 - (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the assembly;
 - (c) is about to enter an item of account the entry of which is unlawful.
- (4) The chief finance officer of an assembly must make a report in writing to the assembly if –
- (a) he thinks that the expenditure of the assembly incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it in the same financial year to meet that expenditure, and
 - (b) taking into account any expenditure that he expects to be incurred in the following financial year and any resources that he expects to be available to the assembly in the following financial year, he thinks that the likely excess will continue to exist.
- (5) In preparing a report under subsection (1) or (3), the chief finance officer must consult so far as practicable –
- (a) the chief executive officer of the assembly;
 - (b) the monitoring officer of the assembly.
- (6) After the chief finance officer has made a report he must send a copy of it to –
- (a) the assembly’s auditor;
 - (b) each member of the assembly.
- (7) Unless he is unable to act because of absence or illness, the chief finance officer must make a report under this section personally.
- (8) If the chief finance officer is unable to act because of absence or illness, his duty to make a report under this section must be performed –
- (a) by the deputy chief finance officer, or

- (b) if the deputy chief finance officer is unable to act because of absence or illness, by the chief finance officer's nominee for the purposes of this subsection.
- (9) The chief finance officer must nominate for the purposes of subsection (8) an employee who—
 - (a) is a member of his staff,
 - (b) is a member of a body listed in section 128(4), unless no member of his staff is a member of such a body, and
 - (c) holds a politically restricted position (within the meaning of section 131) or has been designated under section 131(8) to be treated as holding such a position.
- (10) An assembly must provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.
- (11) The persons specified in this subsection are—
 - (a) the assembly;
 - (b) a committee or sub-committee of the assembly;
 - (c) an employee of the assembly.

137 Reports by the monitoring officer of an assembly

- (1) The monitoring officer of an assembly must make a report in writing to the assembly if it appears to him that any proposal, decision or omission by a person specified in subsection (10) constitutes, has given rise to or is likely to or would give rise to a contravention by that person or body of any enactment or rule of law.
- (2) Subsection (1) does not apply if the person is acting on behalf of the executive of the assembly.
- (3) The monitoring officer of an assembly must make a report in writing to the executive if it appears to him that any proposal, decision or omission by the executive or a person acting on behalf of the executive in the course of the discharge of functions of the assembly constitutes, has given rise to or is likely to or would give rise to a contravention by that person of any enactment or rule of law.
- (4) In preparing a report, the monitoring officer must consult so far as practicable—
 - (a) the chief executive officer of the assembly;
 - (b) the chief finance officer of the assembly.
- (5) After the monitoring officer has made a report he must send a copy of it to each member of the assembly.
- (6) Unless he is unable to act because of absence or illness, the monitoring officer must make a report under this section personally.
- (7) If the monitoring officer is unable to act because of absence or illness, his duty to make a report under this section must be performed—
 - (a) by the deputy monitoring officer, or

- (b) if the deputy monitoring officer is unable to act because of absence or illness, by the monitoring officer's nominee for the purposes of this subsection.
- (8) The monitoring officer must nominate for the purposes of subsection (7) an employee who—
 - (a) is a member of his staff, and
 - (b) holds a politically restricted position (within the meaning of section 131) or has been designated under section 131(8) to be treated as holding such a position.
- (9) An assembly must provide its monitoring officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.
- (10) The persons specified in this subsection are—
 - (a) the assembly;
 - (b) a committee or sub-committee of the assembly;
 - (c) an employee of the assembly.

138 Duties of an assembly following certain reports by the chief finance officer

- (1) This section applies where the chief finance officer of an assembly has made a report under section 136(1) or (4).
- (2) The assembly must consider the report at a meeting at which it must decide—
 - (a) whether it agrees or disagrees with the views contained in the report;
 - (b) what action (if any) it proposes to take in consequence of it.
- (3) The meeting must be held not later than the end of the period of 21 days beginning with the day on which the chief finance officer sends copies of the report under section 136(6).
- (4) The proper officer must—
 - (a) notify the assembly's auditor of the date, time and place of a proposed meeting;
 - (b) after a meeting is held notify the auditor of any decision made at the meeting.
- (5) During the prohibition period—
 - (a) if the report was made under section 136(1), the matter which led to the report being made must not be pursued;
 - (b) if the report was made under section 136(4), the assembly must not enter into any new agreement which may involve the incurring of expenditure (at any time) by the assembly unless the chief finance officer of the assembly gives authority for it to do so.
- (6) If subsection (5)(a) is not complied with, and the assembly makes any payment during the prohibition period as a result of the course of conduct being pursued, the assembly must be taken not to have had the power to make the payment.
- (7) Subsection (6) applies despite any obligation to make the payment under contract or otherwise.

- (8) If subsection (5)(b) is not complied with, the assembly must be taken not to have had power to enter into the agreement.
- (9) Subsection (8) applies despite any option to enter into the agreement under contract or otherwise.
- (10) The prohibition period is the period –
 - (a) beginning with the day on which the chief finance officer sends copies of the report under section 136(6);
 - (b) ending with the first business day after the day on which the assembly concludes its consideration of the report under subsection (2).
- (11) For the purposes of subsection (10)(b) it is immaterial whether or not subsection (3) is complied with.
- (12) The chief finance officer may only give authority for the purposes of subsection (5)(b) if he thinks that the agreement concerned is likely to –
 - (a) prevent the likely excess of expenditure over resources referred to in section 136(4) from occurring or increasing;
 - (b) reduce the likely excess of expenditure over resources;
 - (c) prevent such an excess of expenditure over resources from occurring in a future financial year.
- (13) Authority for the purposes of subsection (5)(b) must –
 - (a) be in writing;
 - (b) identify the ground on which it is given;
 - (c) explain the chief finance officer's reasons for thinking that the ground applies.

139 Duties of the executive of an assembly following certain reports by the chief finance officer

- (1) This section applies where the chief finance officer of an assembly has made a report under section 136(3).
- (2) The executive of the assembly must consider the report at a meeting at which it must decide –
 - (a) whether it agrees or disagrees with the views contained in the report;
 - (b) what action (if any) it proposes to take in consequence of it.
- (3) The meeting must be held not later than the end of the period of 21 days beginning with the day on which the chief finance officer sends copies of the report under section 136(6).
- (4) The leader of the executive must –
 - (a) notify, or instruct the proper officer to notify, the assembly's auditor of the date, time and place of a proposed meeting;
 - (b) after a meeting is held notify, or instruct the proper officer to notify, the auditor of any decision made at the meeting.
- (5) During the prohibition period the matter which led to the report being made must not be pursued.
- (6) If subsection (5) is not complied with, and the executive makes any payment during the prohibition period as a result of the course of conduct being

- pursued, the executive must be taken not to have had power to make the payment.
- (7) Subsection (6) applies despite any obligation to make the payment under contract or otherwise.
 - (8) After the executive has concluded its consideration of the chief finance officer's report under subsection (2), the executive must make a report in writing to the assembly which specifies –
 - (a) what action (if any) the executive has taken in response to the chief finance officer's report;
 - (b) what action (if any) the executive proposes to take in response to the chief finance officer's report and when it proposes to take that action;
 - (c) the reasons for taking the action specified in the executive's report or, as the case may be, for taking no action.
 - (9) After the executive has made a report under subsection (8), the executive must send a copy of it to –
 - (a) the assembly's auditor;
 - (b) each member of the assembly;
 - (c) the chief finance officer.
 - (10) The prohibition period is the period –
 - (a) beginning with the day on which the chief finance officer sends copies of the report under section 136(6);
 - (b) ending with the first business day after the day on which the executive concludes its consideration of the report under subsection (2).
 - (11) For the purposes of subsection (10)(b) it is immaterial whether or not subsection (3) is complied with.

140 Duties of an assembly following a report by the monitoring officer

- (1) This section applies where the monitoring officer of an assembly has made a report under section 137(1).
- (2) The assembly must consider the report at a meeting held not later than the end of the period of 21 days beginning with the day on which the monitoring officer sends copies of the report under section 137(5).
- (3) During the suspension period –
 - (a) the proposal or decision to which the report relates must not be implemented;
 - (b) the assembly must ensure that no step is taken for the purpose of doing so.
- (4) The suspension period is the period –
 - (a) beginning with the day on which the monitoring officer sends copies of the report under section 137(5);
 - (b) ending with the first business day after the day on which the assembly concludes its consideration of the report under subsection (2).

141 Duties of the executive of an assembly following a report by the monitoring officer

- (1) This section applies where the monitoring officer of an assembly has made a report under section 137(3).
- (2) The executive of the assembly must consider the report at a meeting held not later than the end of the period of 21 days beginning with the day on which the monitoring officer sends copies of the report under section 137(5).
- (3) During the suspension period –
 - (a) the proposal or decision to which the report relates must not be implemented;
 - (b) the assembly must ensure that no step is taken for the purpose of doing so.
- (4) After the executive has concluded its consideration of the monitoring officer's report under subsection (2), the executive must make a report in writing to the assembly which specifies –
 - (a) what action (if any) the executive has taken in response to the monitoring officer's report;
 - (b) what action (if any) the executive proposes to take in response to the monitoring officer's report and when it proposes to take that action;
 - (c) the reasons for taking the action specified in the executive's report or, as the case may be, for taking no action.
- (5) After the executive has made a report under subsection (4), the executive must send a copy of it to –
 - (a) each member of the assembly;
 - (b) the monitoring officer.
- (6) The suspension period is the period –
 - (a) beginning with the day on which the monitoring officer sends copies of the report under section 137(5);
 - (b) ending with the first business day after the day on which the executive concludes its consideration of the report under subsection (2).

General

142 Interpretation of Part 11

In this Part –

- (a) the auditor of an assembly is the person appointed by the Audit Commission under the Audit Commission Act 1998 (c. 18) to audit the assembly's accounts;
- (b) a business day is any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales;
- (c) political assistant must be construed in accordance with section 133;
- (d) prescribed means prescribed by regulations made by the Secretary of State.

PART 12

REGIONS

*Extent of regions***143 Regions**

- (1) The regions for the purposes of this Act are the regions specified in Schedule 10.
- (2) Any reference in that Schedule to a local authority area is to that area as it is for the time being.

*Regional changes involving assemblies***144 Request for recommendations**

- (1) The Secretary of State may request the Electoral Commission to make recommendations –
 - (a) as to which local authority areas specified in Schedule 10 should be included in a particular region for which an assembly is established;
 - (b) as to whether a particular local authority area specified in that Schedule should be transferred to or from such a region.
- (2) Recommendations made pursuant to this section in relation to a region for which an assembly is established may also relate to a region for which no assembly is established.
- (3) The Electoral Commission is not obliged to make recommendations in response to a request under this section.
- (4) A request may not be made under this section before 1 January 2012.

145 Review by Boundary Committee

- (1) If the Electoral Commission decide to respond to a request under section 144, they must direct the Boundary Committee to conduct a review, and make a report containing recommendations, in response to the request.
- (2) In considering their recommendations the Boundary Committee must have regard in particular to –
 - (a) the need to reflect the identities and interests of communities;
 - (b) the need to secure effective and convenient regional government;
 - (c) the need to minimise interference with arrangements made in any region to encourage economic development;
 - (d) guidance given to them for the purpose by the Secretary of State.
- (3) The Electoral Commission may (subject to the following provisions of this section) give the Boundary Committee guidance as to the procedure to be followed by them in conducting the review.
- (4) As soon as reasonably practicable after being directed to conduct a review, the Boundary Committee must take such steps as they consider sufficient to secure that persons who may be interested in the review are informed of –

- (a) the direction requiring the review to be conducted, and
 - (b) the period within which representations with respect to the review may be made.
- (5) Before submitting their report, the Boundary Committee must—
 - (a) prepare a draft report and deposit copies at the places specified in subsection (7);
 - (b) take such steps as they consider sufficient to secure that persons who may be interested in the draft report are informed of it and of the period within which representations with respect to the draft report may be made.
- (6) After making their report to the Electoral Commission the Boundary Committee must—
 - (a) deposit copies at the places specified in subsection (7);
 - (b) take such steps as they consider sufficient to secure that persons who may be interested in the report are informed of it and of the period within which it may be inspected.
- (7) The places referred to in subsections (5)(a) and (6)(a) are—
 - (a) the principal office of each assembly to whose region the recommendations in the draft report or report relate,
 - (b) where the recommendations also relate to a region for which no assembly is established, the principal office of the regional development agency for the region, and
 - (c) the principal office of each local authority within any region (whether or not there is an assembly) to which the recommendations relate.
- (8) After receiving the Boundary Committee's report the Electoral Commission may direct them—
 - (a) to supply them with such additional information as may be specified in the direction;
 - (b) with a view to reconsidering their recommendations, conduct a further review by reference to such matter or matters as may be specified in the direction.
- (9) Subsections (4) to (7) apply in relation to a further review under subsection (8)(b), subject to such modifications as the Electoral Commission may direct.

146 Opinion of Audit Commission

- (1) The Audit Commission must, if so required by either the Secretary of State or the Electoral Commission, provide him or them with a written opinion as to the likely impact of any recommendations requested under section 144 on the economy, efficiency and effectiveness of—
 - (a) any assembly whose region would be affected by the recommendations, and
 - (b) any functional body of such an assembly.
- (2) The Audit Commission may charge the Secretary of State or Electoral Commission such fees for an opinion provided to him or them under this section as will cover the full cost of providing it.

- (3) Any reference in the Audit Commission Act 1998 (c.18) to the Audit Commission's functions under that Act includes a reference to its functions under this section.

147 Recommendations of Electoral Commission

- (1) Where the Electoral Commission have received a report of the Boundary Committee under section 145, they must as soon as reasonably practicable make their recommendations to the Secretary of State.
- (2) In considering their recommendations the Electoral Commission must have regard in particular to –
 - (a) the matters referred to in section 145(2), and
 - (b) any opinion provided to them under section 146.
- (3) After receiving the Electoral Commission's recommendations the Secretary of State may request them to –
 - (a) supply him with such additional information as may be described in the request;
 - (b) reconsider the recommendations by reference to such matter or matters as the Secretary of State may specify.
- (4) If the Secretary of State makes a request under subsection (3)(b), the Electoral Commission may direct the Boundary Committee to conduct a further review under section 145 with reference to the matter or matters specified by the Secretary of State.
- (5) Subsections (4) to (7) of section 145 apply in relation to a further review under subsection (4) above, subject to such modifications as the Electoral Commission may direct.

148 Implementation of recommendations

- (1) The Secretary of State may by order amend Schedule 10 so as to give effect to any recommendations made by the Electoral Commission under section 147.
- (2) An order may not be made under subsection (1) in relation to any recommendations before the end of the period of six weeks beginning with the day on which the Secretary of State receives the recommendations.
- (3) The Secretary of State may (without prejudice to section 171(2)) by order make such other provision as he considers appropriate for the purposes of giving effect to the recommendations, and in particular provision –
 - (a) as to the transfer of property, rights or liabilities from any of the following bodies or persons to another of them –
 - (i) an assembly;
 - (ii) a functional body of an assembly;
 - (iii) any other public body;
 - (iv) the Secretary of State;
 - (b) as to the management or custody of transferred property;
 - (c) as to the transfer of staff, compensation for loss of office, pensions and other staffing matters;
 - (d) for treating any person or body to whom a transfer is made under the order as the same person in law as the person or body from whom the transfer was made;

- (e) as to the area of jurisdiction of any public body and the membership, constitution, costs and expenses of any public body.
- (4) An order under this section may include provision amending, modifying the effect of or revoking any enactment.
- (5) Section 20 of the Local Government Act 1992 (c. 19) (agreements between public bodies as to incidental matters) applies in relation to public bodies affected by an order under this section as it applies in relation to public bodies affected by an order under Part 2 of that Act.
- (6) An order under this section may not make provision with respect to the electoral arrangements for a region, within the meaning of section 149.

149 Consequential review of electoral arrangements

- (1) The Electoral Commission may direct the Boundary Committee to conduct a review of, and report to them on, what changes should be made in the electoral arrangements for a region in connection with any recommendations made or to be made under section 145.
- (2) For the purposes of this section the “electoral arrangements” for a region are—
 - (a) the number of constituency members of the assembly;
 - (b) the number of regional members of the assembly;
 - (c) the way in which all or any part of the region is divided into constituencies;
 - (d) the name of any constituency.
- (3) In conducting a review under this section in relation to the matters specified in subsection (2)(a) and (b) the Boundary Committee must have regard in particular to any guidance given to them for the purpose by the Secretary of State after consulting the Electoral Commission.
- (4) In conducting a review under this section in relation to the matters specified in subsection (2)(c) and (d) the Boundary Committee must have regard in particular to—
 - (a) the need to reflect the identities and interests of local communities;
 - (b) the need to secure that the number of electors in a constituency of an assembly is as near as is reasonably practicable to the number of electors for other constituencies in the assembly’s region (taking account, where appropriate, of special geographical considerations);
 - (c) any guidance given for the purpose by the Electoral Commission.
- (5) Subsections (3) to (9) of section 145 apply in relation to a review under this section as they apply in relation to a review under that section.
- (6) A review under this section may be combined with a review under section 145.

150 Order relating to electoral arrangements

- (1) The Electoral Commission may by order give effect to any recommendations of the Boundary Committee made under section 149 in connection with recommendations to which effect is given under section 148(1).
- (2) An order may not be made under this section in relation to any recommendations of the Boundary Committee before the end of the period of

six weeks beginning with the day on which the Electoral Commission receives the recommendations.

- (3) An order made under this section may give effect to a recommendation with modifications, but only with the agreement of the Boundary Committee.
- (4) An order under this section may (without prejudice to section 171(2)) include—
 - (a) provision assigning existing constituency members of an assembly to any new or altered constituencies of that assembly;
 - (b) provision ordering the retirement of all existing members of an assembly and the holding of a fresh election of all members of the assembly.
- (5) An order under this section may include provision amending, modifying the effect of or revoking any enactment (including an order made by the Secretary of State under section 3(4) or 4(3)).
- (6) But an order under this section may not modify the effect of section 3(5) or 4(1) and (2).

Supplementary and general

151 Regional changes not involving assemblies

- (1) The Secretary of State may by order amend Schedule 10 so as to transfer a local authority area specified in that Schedule from one region for which no assembly is established to another such region.
- (2) Where the Secretary of State proposes to make an order under subsection (1), he must take such steps as he considers sufficient to secure that members of the public who may be interested in the proposed order are informed of it and of the period within which they may make representations to him about it.
- (3) Before making an order under subsection (1) the Secretary of State must consult—
 - (a) every regional development agency affected by the proposed order;
 - (b) the local authority for the local authority area concerned and every other local authority whose area is comprised within that area, and
 - (c) such other persons as he thinks fit.
- (4) The Secretary of State may for the purposes of an order under subsection (1) (and without prejudice to section 171(2)) by order make provision—
 - (a) as to the membership of a regional development agency;
 - (b) for the transfer of property, rights and liabilities;
 - (c) for the transfer of staff;
 - (d) as to pending legal proceedings.
- (5) The Secretary of State may cause a local inquiry to be held in connection with the making of an order under subsection (1).
- (6) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (c. 70) (evidence at, and cost of, local inquiries) apply in relation to any inquiry held under this section.

152 Consequential and supplementary amendments

Schedule 11 (consequential and supplementary amendments relating to this Part) has effect.

153 Financing reviews

- (1) The Secretary of State may pay to the Electoral Commission such amount as he thinks appropriate by way of reimbursement for any expenditure specified in subsection (2).
- (2) That expenditure is expenditure incurred by the Electoral Commission which is attributable to the provision by them of recommendations to the Secretary of State under –
 - (a) this Part, or
 - (b) section 14(9) of the Local Government Act 1992 (c. 19).

154 Interpretation of Part 12

In this Part –

“the Boundary Committee” means the Boundary Committee for England;

“local authority” means a county council, a district council and the Council of the Isles of Scilly;

“local authority area” means the area of a local authority.

PART 13

MISCELLANEOUS AND GENERAL

CHAPTER 1

MISCELLANEOUS

Audit and best value

155 Application of the Audit Commission Act 1998

- (1) The Audit Commission Act 1998 (c. 18) is amended as follows.
- (2) In paragraph 1 of Schedule 2 (accounts subject to audit) –
 - (a) in subparagraph (bc), before “functional body” insert “London”;
 - (b) after subparagraph (bd), insert –
 - “(be) a regional assembly;
 - (bf) a regional functional body;”.
- (3) In section 7(9) (consultation by the Secretary of State as to fees for audit), after paragraph (a) insert –
 - “(aa) such representatives of regional assemblies as he thinks appropriate,”.
- (4) In section 10(2) (transmission and consideration of certain auditors’ reports) –
 - (a) before “functional body”, insert “London”;

-
- (b) after “Mayor of London”, insert “or (in the case of a regional functional body) to the regional assembly for the body’s region”.
- (5) In section 11 (consideration of auditor’s reports or recommendations) –
- (a) in subsection (2A), insert “London” before “functional body”;
- (b) after subsection (2A), insert –
- “(2B) Where a written recommendation within subsection (3) is sent to a regional functional body, a copy must be sent at the same time to the regional assembly for the body’s region.”
- (6) In section 33(6)(a) (consultation by the Audit Commission as to studies for improving economy etc. in services), after “associations” insert “or representatives”.
- (7) In section 34(4) (Comptroller and Auditor General’s power to require the Audit Commission to provide information obtained in connection with a report on the impact of statutory provisions etc.), after “body” insert “other than a regional assembly or a regional functional body”.
- (8) In section 35A (studies for London functional bodies at request of Greater London Authority), insert “London” before “functional body” in the title, in subsection (1) and in subsection (4).
- (9) After section 35A insert –
- “35AA Studies for regional functional bodies at request of regional assemblies**
- (1) The Commission may, at the request of a regional assembly, promote or undertake studies designed to improve economy, efficiency and effectiveness in the management or operation of a regional functional body for the assembly’s region.
- (2) Before making a request under subsection (1), the assembly must consult –
- (a) the body concerned, and
- (b) such associations of employees as it thinks appropriate.
- (3) The Commission must charge the assembly such fees for services provided under this section as will cover the full cost of providing them.
- (4) This section does not affect the power of a regional functional body to make a request under section 35(1).”
- (10) In section 49(1) (restriction on disclosure of information) –
- (a) after paragraph (d), insert –
- “(da) to a regional assembly, where the information relates to a regional functional body for the assembly’s region;
- (db) by the Commission to the Comptroller and Auditor General in accordance with section 34(3) and (4), where the information relates to a regional assembly or a regional functional body;”;
- (b) in paragraph (dd) inserted by the Greater London Authority Act 1999 (c. 29), insert “London” before “functional body”.
- (11) In subsection 53(1) (interpretation) –

- (a) delete “functional body” and insert “London functional body”;
- (b) at the appropriate place, insert the following definitions –
 - “region” has the same meaning as in the Regional Assemblies Act 2004;
 - “regional assembly” means a regional assembly established under section 1 of the Regional Assemblies Act 2004;
 - “regional functional body” means a functional body within the meaning of the Regional Assemblies Act 2004.”.

156 Application of certain “best value” provisions under the Local Government Act 1999 (c.27)

- (1) The provisions of the Local Government Act 1999 (c. 27) specified in the left hand column of the Table apply to an assembly subject to the modifications (if any) specified in the right hand column:

Section 3	Ignore subsection (2)(b).
Section 5	In subsection (4)(d), for “any performance indicator specified for the function under section 4 or under subsection (6)(a) below” substitute “any target mentioned in its most recent annual report in accordance with section 51(2)(b) of the Regional Assemblies Act 2004”. Ignore subsections (4)(g), (h) and (i), (6) and (7).
Section 10	In subsection (4)(a), for “section 7(4)(e)” substitute “subsection (5)”.
Sections 11 and 12	
Section 13	Ignore subsections (2)(b) and (4). In subsection (5), for “performance plan prepared by the authority under section 6” substitute “annual report prepared by the assembly under section 51 of the Regional Assemblies Act 2004”.
Section 23	In subsection (6), ignore “(within the meaning of section 7)”.

Section 25		Ignore subsection (2)(b) to (i).
Section 26		

- (2) In the application of those provisions any reference –
- (a) to a best value authority (however expressed) must be construed as a reference to an assembly;
 - (b) to the requirements of Part 1 of that Act must be construed as a reference to the requirements of any of those provisions.
- (3) Section 10 must be construed as if the following appeared after subsection (4) –
- “(5) In his opinion under section 9(1)(b) of the Audit Commission Act 1998 (general report following the conclusion of an audit) the auditor of an assembly must include a recommendation whether the Audit Commission should carry out a best value inspection of the assembly under this section.”
- (4) Section 23 must be construed as if the following appeared after subsection (6) –
- “(7) Unless subsection (8) applies, the reference in subsection (6) to an assembly’s auditor is, in respect of a financial year, a reference to the auditor or auditors appointed to audit the assembly’s accounts for the previous financial year.
- (8) If a person who would by virtue of subsection (7) be an assembly’s auditor in respect of a financial year or one of an assembly’s auditors in respect of a financial year –
- (a) is no longer eligible for appointment under section 3 of the Audit Commission Act 1998, or
 - (b) is not willing to act,
- the reference in subsection (6) to the assembly’s auditor is, in respect of that financial year, a reference to an auditor or auditors appointed by the Audit Commission.”

Comptroller and Auditor General

157 Access to documents by Comptroller and Auditor General

- (1) Section 8 of the National Audit Act 1983 (c. 44) (right of the Comptroller and Auditor General to obtain access to certain documents) applies to relevant documents if the Comptroller and Auditor General thinks that the documents are likely to be of assistance for the purposes of any examination he is carrying out under section 6 of that Act (examination into the economy, efficiency and effectiveness of any departments and certain bodies).
- (2) Relevant documents are documents in the custody or under the control of –
- (a) an assembly;
 - (b) the regional development agency for its region;
 - (c) the regional cultural consortium for its region.

Special advisers

158 Special advisers

- (1) The Secretary of State must issue guidance as to –
 - (a) the circumstances in which, and the means by which, it is appropriate for an assembly to appoint a special adviser;
 - (b) the descriptions of persons who may be appropriate for appointment as a special adviser;
 - (c) the function of special advisers;
 - (d) provision to be made by an assembly in its standing orders for special advisers.
- (2) A special adviser is a person appointed by an assembly to advise the assembly or its executive, but does not include a person providing services to the assembly or a functional body by way of a trade, business or profession.
- (3) None of the following may be appointed as a special adviser –
 - (a) a co-opted member of the RMC or an RMC sub-committee of the assembly;
 - (b) a member of a functional body of the assembly;
 - (c) an employee of the assembly;
 - (d) an employee of a functional body of the assembly.
- (4) The Secretary of State may not issue guidance under subsection (1) unless he first –
 - (a) prepares a draft of such guidance, and
 - (b) consults such persons and organisations as he thinks appropriate about the draft guidance.
- (5) The assembly must provide in its standing orders for –
 - (a) any restrictions which the assembly adopts in relation to eligibility to be appointed as a special adviser;
 - (b) the procedures to be followed by the assembly in appointing a special adviser;
 - (c) the procedures by which a person’s appointment as a special adviser may be terminated;
 - (d) the procedures to be followed by the assembly in connection with the payment to special advisers of fees in respect of, and allowances relating to expenses incurred in, the performance of their duties.
- (6) An assembly must have regard to the guidance issued by the Secretary of State under subsection (1) –
 - (a) in appointing a special adviser;
 - (b) in adopting its standing orders.
- (7) RMC must be construed in accordance with section 73 and RMC sub-committee must be construed in accordance with section 75.

Contracts etc.

159 Contracts: exclusion of non-commercial considerations

In Schedule 2 to the Local Government Act 1988 (c. 9) (authorities to which

section 17 of that Act applies), in the list of “public authorities”, after “A local authority” insert—

“An assembly established under section 1 of the Regional Assemblies Act 2004.”

160 Certified contracts

In the Local Government (Contracts) Act 1997 (c. 65), after section 9 insert—

“9A Regional assemblies

Sections 2 to 8(1) apply in relation to an assembly established under section 1 of the Regional Assemblies Act 2004 as they apply in relation to a local authority.”

161 Standing orders for making of contracts

- (1) An assembly may make standing orders with respect to the making of contracts by or on behalf of the assembly.
- (2) Standing orders made by an assembly under subsection (1) may in particular specify the procedures for regulating the manner in which tenders are invited and contracts awarded.
- (3) A person entering into a contract with an assembly is not bound to inquire whether the standing orders of the assembly which apply to that contract have been complied with; and non-compliance with such orders will not invalidate any contract entered into by or on behalf of the assembly.

162 Contracting out

- (1) Part 2 of the Deregulation and Contracting Out Act 1994 (c. 40) (contracting out) is amended as follows.
- (2) In section 70 (functions of local authorities), in subsection (1)—
 - (a) after “function of a local authority” insert “or regional assembly”;
 - (b) in paragraph (b), after “which” insert “in the case of a local authority”;
 - (c) after that paragraph insert—
 - “(ba) which, in the case of a regional assembly, may be exercised by the executive of the assembly;”.
- (3) In that section, in subsection (2), after “the local authority” insert “or regional assembly”.
- (4) In that section, after subsection (2) insert—
 - “(2A) In the case of a regional assembly, the function of authorisation under subsection (2) is not to be exercised by the executive of the assembly.”
- (5) In that section, after subsection (3) insert—
 - “(3A) A Minister shall not make an order under this section in relation to a regional assembly without first consulting the assembly.”
- (6) In that section, in subsection (4), after “the local authority” insert “or regional assembly”.

-
- (7) In section 72 (effect of contracting out) –
- (a) in subsection (1), for “or local authority” substitute “local authority or regional assembly”;
 - (b) in subsection (2), at the end insert –
 - “(c) in the case of a function of a regional assembly, by or in relation to that assembly.”;
 - (c) in subsection (3)(a), for “or local authority” substitute “local authority or regional assembly”.
- (8) In section 73 (termination of contracting out), in subsections (1), (2) and (3), for “or local authority” substitute “, local authority or regional assembly”
- (9) In section 79 (interpretation), in subsection (1) –
- (a) in the definition of “function”, after “local authority” insert “or regional assembly”;
 - (b) after the definition of “officer” insert –
 - ““regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004;”.
- (10) In Schedule 15 (restrictions on the disclosure of information) –
- (a) in paragraphs 1(1)(a), (2)(a) and (b), 2(c), 4(1) and 5, after “office-holder” insert “, regional assembly”;
 - (b) in paragraph 7(2) –
 - (i) after “authority A is a” insert “regional assembly or”;
 - (ii) in paragraph (a), after “disclosure is to” insert “the regional assembly’s or”;
 - (c) in paragraph 7(3), in the definition of “chief finance officer”, after “officer” insert “in relation to a regional assembly means the person so designated under section 128(1)(b) of the Regional Assemblies Act 2004 and in relation to a local authority”;
 - (d) in paragraph 10(1), in the definition of “authorised officer”, after each occurrence of “office-holder” insert “, regional assembly”;
 - (e) in paragraph 10(3)(b), after each occurrence of “office-holder” insert “, regional assembly”.

Political groups

163 Regulations as to political groups

For the purposes of sections 75, 133 and 134 and any standing orders of an assembly relating to RMC sub-committees or political assistants, the Secretary of State must by regulations make provision –

- (a) under which each member of an assembly must be treated as belonging to a political group;
- (b) as to the identification of the political groups within an assembly and the identification of which members of the assembly belong to each of those groups;
- (c) as to the circumstances in which a member of an assembly is treated as having ceased to belong to one political group and having joined another;
- (d) requiring an assembly from time to time to review allocations made for the purposes of section 133;

- (e) specifying the manner in which, and times at which, the wishes of a political group are to be expressed for the purposes of section 133 and the consequences of a failure by a political group to express its wishes.

Assembly companies

164 Regulations as to assembly companies

The Secretary of State must by regulations make provision –

- (a) for the purposes of sections 16, 55 and 71, prescribing descriptions of companies that are assembly companies;
- (b) as to permitted, required or prohibited acts of an assembly company or of an assembly in relation to an assembly company.

Boundaries

165 Prohibition of local government review under 1992 Act

- (1) This section applies if, in relation to a region (the specified region), any of the conditions set out in subsection (3) is satisfied.
- (2) The Secretary of State must not make a request to the Electoral Commission under section 13(1) of the Local Government Act 1992 (c. 19) (local government reviews) in respect of an area which comprises or includes a protected local government area.
- (3) These are the conditions –
 - (a) the Secretary of State is considering in pursuance of section 13(2) of the Preparations Act the level of interest in the holding of a referendum under section 1 of that Act, and subsection (4) applies;
 - (b) the Secretary of State has given a direction under section 13(1) of that Act but the Boundary Committee have not made recommendations in pursuance of paragraph (b) of that section;
 - (c) the Boundary Committee have made such recommendations and subsection (5) applies;
 - (d) the Secretary of State has made an order under section 1(1) of that Act but the referendum provided for by the order has not been held;
 - (e) in a referendum held in pursuance of such an order a majority of the votes cast is in favour of there being an elected assembly for the region but no order has been made under section 1(1) above establishing an assembly and the Secretary of State has not announced to either House of Parliament that he will not make such an order;
 - (f) a draft of such an order has been laid before Parliament but both Houses have not passed a resolution approving the order;
 - (g) the Secretary of State makes such an order but the first ordinary election for the assembly has not been held in pursuance of an order under section 5 above.
- (4) This subsection applies if the Secretary of State has neither –
 - (a) given a direction to the Boundary Committee for England under section 13(1) of that Act, nor
 - (b) announced to either House of Parliament that he will not give such a direction.

- (5) This subsection applies if the Secretary of State has neither –
 - (a) made an order under section 1(1) of the Preparations Act, nor
 - (b) announced to either House of Parliament that he will not make such an order.
- (6) For the purposes of subsection (3)(e), any question as to the number of votes cast in a referendum in favour of an answer to a question is determined by the certificate of the Chief Counting Officer given under section 128 of the Political Parties, Elections and Referendums Act 2000 (c. 41).
- (7) Each of the following is a protected local government area –
 - (a) a local government area in the specified region, if any part of the boundary of the area is part of the boundary of the region;
 - (b) a local government area outside the specified region, if to any extent its boundary abuts the boundary of the region.
- (8) A reference to a direction, recommendations or an order is to a direction, recommendations or an order which has or have not been quashed or revoked.
- (9) The Preparations Act is the Regional Assemblies (Preparations) Act 2003 (c. 10).

166 Prohibition of local government review under Preparations Act

- (1) This section applies to a region during the prohibition period.
- (2) The Secretary of State must not give a direction in respect of the region to the Boundary Committee for England for the purposes of section 13(1) of the Preparations Act.
- (3) The prohibition period is the period which starts on the day the Secretary of State makes a request to the Electoral Commission in pursuance of section 13(1) of the Local Government Act 1992 (c. 19) in relation to a relevant area and ends with the occurrence of the earliest of the following –
 - (a) the Secretary of State withdraws the request;
 - (b) the Electoral Commission announces a decision not to give a direction in relation to the area under section 13(2) of that Act;
 - (c) such a direction is quashed;
 - (d) any recommendations made by the Electoral Commission in relation to the area are quashed;
 - (e) the Electoral Commission has given a direction in relation to the area under section 13(2) of the Local Government Act 1992 but the Secretary of State announces to either House of Parliament that no order in relation to the area is to be made under section 17 of that Act implementing recommendations in relation to the area;
 - (f) a draft of such an order is laid before Parliament but one House resolves not to approve the draft;
 - (g) such an order is made.
- (4) Each of the following is a relevant area –
 - (a) a local government area in the region, if any part of its boundary is part of the boundary of the region;
 - (b) a local government area outside the region, if to any extent its boundary abuts the boundary of the region.

- (5) The Preparations Act is the Regional Assemblies (Preparations) Act 2003 (c. 10).

CHAPTER 2

GENERAL

167 Interpretation

- (1) This section has effect for the purposes of this Act.
- (2) An assembly is an assembly established by order under section 1.
- (3) Ordinary election must be construed in accordance with section 3.
- (4) Assembly participants must be construed in accordance with section 53.
- (5) Each of the following is a functional body of an assembly –
 - (a) the regional development agency for the assembly’s region;
 - (b) the regional fire and rescue authority for the assembly’s region;
 - (c) the regional cultural consortium for the assembly’s region.
- (6) The assembly scheme is the scheme prepared in pursuance of section 48.
- (7) A financial year is any period of 12 months beginning with 1 April or such other date as the Secretary of State generally, or in any particular case, directs.
- (8) Special adviser must be construed in accordance with section 158.
- (9) The Audit Commission is the Audit Commission for Local Authorities and the National Health Service in England and Wales.
- (10) The proper officer, in relation to any purpose of the assembly, is the officer appointed by the assembly for that purpose.

168 Miscellaneous amendments

Schedule 12 (miscellaneous amendments) has effect.

169 Repeals

Schedule 13 (repeals) has effect.

170 Commencement

The preceding provisions of this Act come into force on such day as the Secretary of State may by order appoint.

171 Orders and regulations

- (1) Any power to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Any power to make an order or regulations under this Act includes power to make –

- (a) incidental, consequential, supplemental or transitional provision or savings;
 - (b) different provision for different purposes.
- (3) The Secretary of State may not make a statutory instrument containing an order under any of the following provisions unless a draft of the order has been laid before and approved by resolution of each House of Parliament—
 - (a) section 1(1);
 - (b) section 3(4);
 - (c) section 16(1)(f) or (3)(e);
 - (d) section 26;
 - (e) section 44(1) or (8);
 - (f) section 45(2);
 - (g) section 46(1);
 - (h) section 88;
 - (i) section 90(5)
 - (j) section 148(1);
 - (k) section 151(1).
- (4) A statutory instrument containing an order or regulations under this Act to which subsection (3) does not apply is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subsection (4) does not apply to an order under section 5(3) or 22.
- (6) If a draft of a statutory instrument would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument it must proceed in that House as if it were not such an instrument.

172 Directions and guidance

- (1) Any direction given under this Act—
 - (a) may be amended or revoked by the person who gave it;
 - (b) may make different provision for different purposes.
- (2) Guidance issued under this Act may contain different provision for different purposes.

173 Extent

This Act extends only to England and Wales.

174 Short title

This Act may be cited as the Regional Assemblies Act 2004.

SCHEDULES

SCHEDULE 1

Section 4

REVIEW OF CONSTITUENCIES

Power to order review

- 1 (1) The Electoral Commission may direct the Boundary Committee for England (“the Boundary Committee”) to carry out a review of, and to report to the Electoral Commission on, either or both of the matters referred to in sub-paragraph (2).
- (2) Those matters are—
 - (a) the way in which all or any part of an assembly’s region is divided into constituencies (but not the number of constituencies);
 - (b) the name of any constituency.
- (3) In carrying out a review under sub-paragraph (2)(a) the Boundary Committee must have regard in particular to—
 - (a) the need to reflect the identities and interests of local communities;
 - (b) the need to secure that the number of electors for a constituency is as near as is reasonably practicable to the number of electors for other constituencies in the assembly’s region (taking account, where appropriate, of special geographical considerations);
 - (c) guidance given for the purpose by the Electoral Commission.
- (4) A report under this paragraph must—
 - (a) make recommendations that the Electoral Commission should make changes in the matters which are the subject of the review, or
 - (b) make recommendations that the Electoral Commission should make no such changes,and give reasons for its recommendations.
- (5) The Electoral Commission may direct the Boundary Committee to reconsider any recommendations under sub-paragraph (4) with reference to any matter specified in sub-paragraph (3).

Review procedure

- 2 (1) A direction under paragraph 1 must specify a timetable in accordance with which—
 - (a) the report is to be prepared and delivered to the Electoral Commission;
 - (b) the report may be inspected, and representations made, under this paragraph.
- (2) As soon as reasonably practical after receiving a direction to submit a report under paragraph 1, the Boundary Committee must take such steps as they

consider sufficient to secure that persons who may be interested in the subject-matter of the report are informed of the direction (and, in particular, the period specified in the timetable within which representations with respect to the subject-matter of the review may be made to the Committee).

- (3) Before submitting their report, the Boundary Committee must—
 - (a) prepare a draft report and deposit copies at the places specified in sub-paragraph (5);
 - (b) take such steps as they consider sufficient to secure that persons who may be interested in the draft report are informed of it and of the period specified in the timetable within which representations with respect to the draft report may be made.
- (4) After making their report to the Electoral Commission the Boundary Committee shall—
 - (a) deposit copies at the places specified in sub-paragraph (5);
 - (b) take such steps as they consider sufficient to secure that persons who may be interested in the report are informed of it and of the period specified in the timetable within which it may be inspected.
- (5) The places referred to in sub-paragraphs (3)(a) and (4)(a) are—
 - (a) the principal office of the assembly for the region concerned; and
 - (b) the principal office of each county or district council within that region.
- (6) Copies of any draft report or report deposited under sub-paragraph (3) or (4) are to be kept available for inspection at the places concerned during the period referred to in that provision.
- (7) The reference in sub-paragraph (5)(b) to a district council includes the Council of the Isles of Scilly.

Alternative review procedure

- 3 Where the Electoral Commission consider it appropriate they may direct the Boundary Committee not to follow the procedure for review set out in paragraph 2 but—
 - (a) to take sufficient steps to secure that persons who may be interested in the matters which are the subject of the review are informed of them and of the period within which representations about them may be made; and
 - (b) to inform any person who has made representations of the recommendations which are made to the Electoral Commission in the report.

Implementation

- 4 (1) The Electoral Commission may by order give effect, with or without modifications, to all or any of the recommendations of the Boundary Committee made to them under this Schedule.
- (2) An order under this paragraph may only give effect to a recommendation with modifications if the modifications have been agreed with the Boundary Committee.
- (3) Before making an order under this paragraph, the Electoral Commission may direct the Boundary Committee to supply them with such additional information as may be described in the direction.

- (4) An order may only be made under this paragraph after the end of the period of six weeks beginning on the date on which the report containing the recommendations to which the order gives effect was delivered to the Electoral Commission.
- (5) An order under this paragraph may include—
- (a) provision assigning existing constituency members to any new or altered constituencies; and
 - (b) where there is a substantial change in the constituencies of an assembly, provision ordering the retirement of all existing members of the assembly and the holding of a fresh election of all members of the assembly.
- (6) An order under this paragraph may (without prejudice to section 171(2)) include provision amending, modifying the effect of or revoking any enactment.
- 5 (1) Where the Electoral Commission are satisfied that—
- (a) a mistake has occurred in the preparation of an order under paragraph 4 above, and
 - (b) the mistake is such that it cannot be rectified by a subsequent order made under that provision by virtue of section 14 of the Interpretation Act 1978 (c. 30) (implied power to amend),
- they may by order make such provision as they think necessary or expedient for rectifying the mistake.
- (2) In this paragraph “mistake”, in relation to an order, includes a provision contained in or omitted from the order in reliance on inaccurate or incomplete information.

SCHEDULE 2

Section 25

ELECTIONS: SUPPLEMENTARY

Sex Discrimination Act 1975 (c.65)

- 1 (1) In section 42A of the Sex Discrimination Act 1975 (selection of candidates at elections), in subsection (3), after paragraph (d) insert—
- “(da) elections to an assembly established under section 1 of the Regional Assemblies Act 2004;”.
- (2) This paragraph expires when the Sex Discrimination (Election Candidates) Act 2002 (c. 2) expires.

Representation of the People Act 1985 (c. 50)

- 2 In section 15 of the Representation of the People Act 1985 (combined polls), in subsection (3), after “European Parliamentary elections” insert “and any election to an assembly established under section 1 of the Regional Assemblies Act 2004”.

Political Parties, Elections and Referendums Act 2000 (c.41)

- 3 The Political Parties, Elections and Referendums Act 2000 is amended as follows.

- 4 In section 6 (reviews of electoral and political matters), in subsection (6)(a), after sub-paragraph (i) insert—
“(ia) ordinary elections of regional assemblies;”.
- 5 In section 10 (giving of advice and assistance), in subsection (6), after paragraph (e) insert—
“(ea) a regional assembly;”.
- 6 In section 13 (education), in subsection (1)(b), for “local government” substitute “local, regional”.
- 7 In section 22 (requirement for parties to be registered)—
 - (a) in subsection (2)(a), for “or electoral region” substitute “electoral region or other electoral area”;
 - (b) in subsection (5), after paragraph (e) insert—
“(ea) elections to a regional assembly;”.
- 8 In section 67 (weekly donation reports in connection with elections other than general elections), in subsection (2)(b), after sub-paragraph (i) insert—
“(ia) an election to a regional assembly;”.
- 9 In section 160 (interpretation), in subsection (1), at the appropriate place insert—
““regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004;”.
- 10 In Schedule 7 (control of donations to individuals), in paragraph 1(8), after paragraph (e) insert—
“(ea) member of a regional assembly;”.

Regional Assemblies (Preparations) Act 2003 (c.10)

- 11 In section 22 of the Regional Assemblies (Preparations) Act 2003 (preparation and submission of advice of Electoral Commission), at the end insert—
“(7) The Secretary of State may, after receiving the advice of the Commission, by direction require the Commission to supply him with such additional information as may be described in the direction.”

SCHEDULE 3

Section 58

AMENDMENTS OF LOCAL GOVERNMENT FINANCE ACT 1992 RELATING TO PRECEPTING

- 1 The Local Government Finance Act 1992 (c. 14) is amended as follows.
- 2 In section 30 (setting amounts by billing authorities) after subsection (11) insert—
“(12) If the major precepting authority is a regional assembly established under section 1 of the Regional Assemblies Act 2004, subsections (2)(b) and (4) above have effect as if the references to sections 43 to 47 were references to sections 60 to 63 of that Act and section 47 below.

- 3 In section 40 (issue of precepts by major precepting authorities), after subsection 10 insert—
- “(11) If the precepting authority is a regional assembly established under section 1 of the Regional Assemblies Act 2004, this section has effect subject to the following modifications—
- (a) for subsection (2)(a) substitute—
- “(a) the amount which, in relation to the year and each category of dwellings in the billing authority’s area, has been calculated (or last calculated) by the precepting authority in accordance with sections 60 to 63 of the Regional Assemblies Act 2004 and section 47 below; and”;
- (b) in subsection (6) for the reference to item T in section 44(1) substitute a reference to item T in section 63(2) of the Regional Assemblies Act 2004;
- (c) in subsection (6) the reference to item TP in section 45(3) must be ignored.”
- 4 In section 47 (calculation of tax for different valuation bands) after subsection (3) insert—
- “(4) If the precepting authority is a regional assembly established under section 1 of the Regional Assemblies Act 2004 subsection (1) above has effect as if the definition of A were as follows—
- “A is the amount calculated or last calculated by the assembly for that year under section 63(2) of the Regional Assemblies Act 2004;”.
- 5 (1) Section 48 (calculation of amount payable by each billing authority) is amended as follows.
- (2) In subsection (1) after paragraph (a) insert—
- “(aa) subsection (1B) below applies in relation to a precept issued by a regional assembly established under section 1 of the Regional Assemblies Act 2004;”.
- (3) After subsection (1A) insert—
- “(1B) Where an amount calculated (or last calculated) for the year under section 63(2) of the Regional Assemblies Act 2004 applies to dwellings in the billing authority’s area, the amount payable by that authority shall be calculated by applying the formula—

C×T

where—

C is the amount so calculated, and

T is the amount which, in relation to the billing authority, is determined for item T in section 33(1) above.”

- 6 (1) Section 49 (substitute calculations) is amended as follows.
- (2) In subsection (1)—

- (a) after paragraph (b) omit “or”;
 - (b) after paragraph (c) insert “or
 - (d) sections 60 to 63 of the Regional Assemblies Act 2004 and sections 47 and 48 above (originally or by way of substitution),”.
 - (3) In subsection (1A) –
 - (a) after paragraph (a) omit “and”;
 - (b) after paragraph (b) insert –
 - “(c) in a case falling within paragraph (d), the provisions specified in that paragraph.”
 - (4) In subsection (2) –
 - (a) in paragraph (a) after “Greater London Authority” insert “or a regional assembly established under section 1 of the Regional Assemblies Act 2004”;
 - (b) after paragraph (aa) insert “or
 - (ab) in a case where the major precepting authority is a regional assembly, a relevant regional amount; “
 - (c) in paragraph (b) for “or (3A)” substitute “(3A) or (3B)”.
 - (5) After subsection (2) insert –
 - “(2A) In subsection (2)(ab) a relevant regional amount is any of the following –
 - (a) the amount of a component budget requirement calculated under subsection (3) or (4) of section 60 of the Regional Assemblies Act 2004;
 - (b) the amount calculated under subsection (6) of that section;
 - (c) the amount calculated under section 63(2) of that Act.”
 - (6) After subsection (3A) insert –
 - “(3B) In making a substitute calculation under section 63(2) of the Regional Assemblies Act 2004 the authority must use any amount determined in any previous calculation for item P1 or T.”
 - (7) After subsection (4C) insert –
 - “(4D) For the purposes of subsection (3B) above the authority may treat any amount determined in the previous calculations for item P1 in section 63(2) of the Regional Assemblies Act 2004 as increased by the amount of any sum which –
 - (a) it estimates will be payable to it for the year in respect of extra grant, and
 - (b) was not taken into account by it in making those calculations.”
 - (8) After subsection (6) insert –
 - “(6A) Subsections (2) and (3B) above do not apply if the previous calculations have been quashed because of a failure to comply with sections 60 to 63 of the Regional Assemblies Act 2004 and sections 47 and 48 above.”
- 7 In section 52A (interpretation of chapter 4A of Part 1) after subsection (1)

insert—

“(1A) In this Chapter—

- (a) a regional assembly is an assembly established under section 1 of the 2004 Act;
- (b) the 2004 Act is the Regional Assemblies Act 2004.”

8 In section 52F (challenge of maximum amount for budget requirement) after subsection (6) insert—

“(6A) In the application of subsection (5)(a) above in relation to a regional assembly for the reference to section 43 substitute a reference to sections 60 to 62 of the 2004 Act.”

9 (1) Section 52J (duty of precepting authority in relation to limitation) is amended as follows.

(2) In subsection (1) after paragraph (a) insert—

“(aa) sections 60 to 63 of the 2004 Act and sections 47 and 48 above (where the authority is a regional assembly),”.

(3) After subsection (3) insert—

“(3A) In the application of subsection (2)(b) above in the case of a regional assembly for the reference to section 44(1) substitute a reference to section 63(2) of the 2004 Act.”

(4) After subsection (6) insert—

“(6A) In making a substitute calculation under section 63(2) of the 2004 Act the authority must use any amount determined in any previous calculation for item P1 or T.”

(5) After subsection (8) insert—

“(8A) For the purposes of subsection (6A) above the authority may treat any amount determined in the previous calculations for item P1 in section 63(2) of the 2004 Act as increased by the amount of any sum which—

- (a) it estimates will be payable to it for the year in respect of extra grant, and
- (b) was not taken into account by it in making those calculations.”

10 In section 52K(1) (failure to make substitute calculations), in paragraph (a), after “Authority” insert “or a regional assembly”.

11 In section 52Q (challenge of maximum amount) after subsection (5) insert—

“(5A) In the application of subsection (4)(a) above in relation to a regional assembly for the reference to section 43 substitute a reference to sections 60 to 62 of the 2004 Act.”

12 (1) Section 52U (duty of precepting authority in relation to limitation) is amended as follows.

(2) In subsection (2) after paragraph (a) insert—

“(aa) sections 60 to 63 of the 2004 Act and sections 47 and 48 above (where the authority is a regional assembly),”.

- (3) After subsection (4) insert—
- “(4A) In the application of subsection (4) above to a regional assembly for “sections 43 to 48” in each place substitute “sections 60 to 63 of the 2004 Act and sections 47 and 48”.”
- (4) After subsection (6) insert—
- “(6A) In the application of subsection (5)(b) above to a regional assembly for “section 44(1) or 45(2) or (3) above” substitute “section 63(2) of the 2004 Act”.”
- (5) After subsection (8) insert—
- “(8A) In making substitute calculations under section 63(2) of the 2004 Act the authority must use any amount determined in the previous calculations for item P1 or T.”
- (6) After subsection (10) insert—
- “(10A) For the purposes of subsection (8A) above the authority may treat any amount determined in the previous calculations for item P1 as increased by the relevant portion of any new extra grant.”
- 13 (1) Section 52W (meaning of budget requirement) is amended as follows.
- (2) In subsection (1) after “Greater London Authority” insert “or a regional assembly”.
- (3) After subsection (2) insert—
- “(2A) Any reference in this Chapter to the amount calculated (or already calculated) by a regional assembly as its budget requirement for a financial year is a reference to the amount calculated by it in relation to the year under section 60(6) of the 2004 Act.”

SCHEDULE 4

Section 83

REGIONAL DEVELOPMENT AGENCIES

- 1 The Regional Development Agencies Act 1998 (c. 45) is amended as follows.
- 2 After section 1 (establishment) insert—
- “1A Responsible authority**
- The responsible authority for a regional development agency is—
- (a) the Mayor of London, in the case of the London Development Agency;
- (b) the regional assembly, in the case of an agency for a region for which the assembly has been established;
- (c) the Secretary of State, in any other case.”
- 3 (1) Section 2 (constitution) is amended as follows.
- (2) In subsections (1) to (4) for “Secretary of State” in each place where it occurs substitute “responsible authority”.

(3) After subsection (4) insert—

“(4A) A responsible authority which is a regional assembly must not make an appointment under subsection (1) unless it first consults the Secretary of State.”

(4) Subsections (6) to (11) are omitted.

4 After section 2 insert—

“2A Appointments: London Development Agency

(1) Section 2 is subject to the following modifications in its application to the London Development Agency.

(2) Before making an appointment under section 2(1) the Mayor must consult the London Assembly.

(3) The Mayor may only make the appointment if, after it takes effect, each of the following conditions is satisfied.

(4) The first condition is that there will be at least four members of the Agency who are (or, at the time of their appointment, were) elected members of—

- (a) the London Assembly,
- (b) a London borough council, or
- (c) the Common Council of the City of London.

(5) The second condition is that at least half of the members of the Agency will be persons who appear to the Mayor to be persons who have experience of running a business.

(6) Subsection (3)(d) must be ignored.

(7) The Mayor may designate a person to be the chairman of the Agency only if the person appears to the Mayor to have experience of running a business.”

5 In section 5 (powers)—

(a) in subsection (2) for “Secretary of State” substitute “responsible authority”;

(b) for subsection (4) substitute—

“(4) For the purposes of subsections (2)(a) and (b) the responsible authority in relation to the London Development Agency is the Secretary of State.”

6 For sections 6 and 6A (delegation of functions by Ministers) substitute—

“6 Delegation of functions by Ministers

(1) This section has effect in relation to the delegation by a Minister of the Crown of an eligible function.

(2) A function is eligible if—

- (a) it does not consist of a power to make regulations or other instruments of a legislative character or a power to fix fees or charges, and
- (b) the responsible authority thinks it can appropriately be exercised by the person to whom it is delegated.

- (3) A Minister of the Crown may delegate an eligible function –
 - (a) to a regional development agency for a region for which no regional assembly is established;
 - (b) to a regional assembly or, with the consent of the assembly, to the regional development agency for the region;
 - (c) to the Mayor of London or, with his consent, to the London Development Agency.
- (4) The delegation of a function under this section is to such extent and subject to such conditions as the Minister of the Crown thinks fit.
- (5) The Minister of the Crown may, from time to time, vary the delegation of an eligible function (including variation of any conditions attached to the delegation).
- (6) In the case of an eligible function which is delegated to a regional development agency before an order is made under section 1 of the Regional Assemblies Act 2004 establishing an assembly for the agency's region the Minister of the Crown may, at the request of the assembly, transfer the delegation from the agency to the assembly.
- (7) A delegation must not be made to a person without his agreement.
- (8) Subsection (7) does not apply –
 - (a) if the delegation is subject to a requirement for consent under subsection (3)(b), or
 - (b) if a delegation to the same extent and subject to the same conditions is made for the purposes of every region.
- (9) A delegation may be revoked at any time.
- (10) For the purposes of subsection (2)(b) the responsible authority in relation to the London Development Agency is the Secretary of State.
- (11) Schedule 3 (transfer schemes) has effect.

6B Onward delegation

- (1) This section applies if a Minister of the Crown delegates an eligible function to –
 - (a) a regional assembly, or
 - (b) the Mayor of London.
 - (2) The assembly may authorise the regional development agency for its region to exercise the function.
 - (3) The Mayor may, by an authorisation under section 38 of the Greater London Act 1999, make the function exercisable by the London Development Agency.
 - (4) An authorisation referred to in subsection (2) or (3) must be subject to conditions which have the same effect as those on which the function is delegated by the Minister of the Crown.
 - (5) Expressions used in this section and in section 6 have the same meaning as in that section.”
- 7 (1) Section 7 (strategy) is amended as follows.
- (2) In subsection (1) after “agency” insert “to which this section applies”.

(3) After subsection (3) insert—

- “(3A) This section applies to a regional development agency—
- (a) which is not the London Development Agency, or
 - (b) if no regional assembly is established for its region.”

(4) Omit subsection (4).

8 (1) After section 7 insert—

“7AA Other regional economic strategies

- (1) This section applies to—
 - (a) the London Development Agency;
 - (b) the regional development agency for a region for which a regional assembly is established,(a relevant agency).
- (2) Each relevant agency must formulate and submit to its responsible authority a draft strategy in relation to its purposes.
- (3) In formulating the draft strategy an agency mentioned in subsection (1)(b) must have regard to the assembly scheme for its region (within the meaning of section 48 of the Regional Assemblies Act 2004.)
- (4) The responsible authority must proceed under subsections (5) to (7).
- (5) The responsible authority—
 - (a) must first carry out appropriate consultation;
 - (b) may then make such modifications to the draft strategy as it thinks fit.
- (6) If the responsible authority is the Mayor of London he must publish a document to be known as the London Development Agency strategy.
- (7) If the responsible authority is a regional assembly, the assembly must adopt and publish a document to be known as the Regional Economic Strategy.
- (8) The relevant agency must keep its strategy under review and may submit proposed modifications to the responsible authority.
- (9) The responsible authority may give guidance and directions to its relevant agency in particular with respect to—
 - (a) the preparation, content and submission of the draft strategy;
 - (b) keeping the strategy under review.
- (10) If the responsible authority intends to revise the strategy it must proceed under subsections (5) to (7) as if the proposed modifications were the draft strategy.
- (11) Consultation is appropriate if—
 - (a) the Mayor of London consults the persons mentioned in section 2(3)(b) and (c) and those he is required to consult by virtue of section 42 of the Greater London Authority Act 1999;

- (b) a regional assembly consults assembly participants (within the meaning of section 53 of the Regional Assemblies Act 2004).
- (12) In this Act and in the Greater London Authority Act 1999 a reference to the London Development Agency strategy includes (unless the context otherwise requires) a reference to that strategy as revised.

7AB Other strategies: Secretary of State's functions

- (1) The Secretary of State may give guidance to a responsible authority about the exercise of its functions in relation to a strategy mentioned in section 7AA with respect to—
 - (a) the matters to be covered by the strategy;
 - (b) the issues to be taken into account in preparing or revising the strategy.
- (2) The issues include issues relating to any one or more of the following—
 - (a) the relevant agency's region;
 - (b) the area of any other regional development agency;
 - (c) any part of the United Kingdom outside England.
- (3) The responsible authority must have regard to the guidance.
- (4) If the responsible authority is a regional assembly it must—
 - (a) consult the Secretary of State on the draft strategy, and
 - (b) have regard to his comments.
- (5) If the Secretary of State thinks—
 - (a) that a strategy (or any part of it) is inconsistent with national policies, or
 - (b) that a strategy or its implementation is having or is likely to have a detrimental effect on any area outside the region for which the responsible authority is established,he may direct the responsible authority to make appropriate revisions of the strategy.
- (6) Appropriate revisions are revisions—
 - (a) which are specified in the direction, and
 - (b) which will remove the inconsistency or detrimental or likely detrimental effect (as the case may be).
- (7) The responsible authority must revise the strategy in accordance with the direction.
- (8) In the case of such a revision—
 - (a) the requirement for appropriate consultation under section 7AA(5) does not apply;
 - (b) section 42 of the Greater London Authority Act 1999 does not apply.
- (9) National policies are any policies of Her Majesty's government which are available in written form and which—
 - (a) have been laid before or otherwise presented to either House of Parliament, or

(b) have been published by a Minister of the Crown.

7AC Other strategies: duty to have regard

- (1) The regional development agency for a region for which a regional assembly is established must have regard to its region's Regional Economic Strategy in the exercise of its functions.
 - (2) Each of the following must have regard to the London Development Agency strategy in the exercise of any function it has –
 - (a) the London Development Agency;
 - (b) Transport for London;
 - (c) the Metropolitan Police Authority;
 - (d) the London Fire and Emergency Planning Authority.”
- (2) Anything done before the commencement of this Schedule by the London Development Agency or the Mayor of London for the purposes of any provision of section 7A or 7B of the Regional Development Agencies Act 1998 must be taken to have been done for the purposes of any corresponding provision of section 7AA or 7AB of that Act.
- 9 Omit sections 7A (London Development Agency strategy) and 7B (functions of the Secretary of State).
- 10 In section 8 (regional chambers) after subsection (4) insert –
- “(5) This section does not apply to the regional development agency for a region for which a regional assembly is established.”
- 11 In section 9 (general financial duties) after subsection (5) insert –
- “(6) This section does not apply to the regional development agency for a region for which a regional assembly is established.”
- 12 In section 10 (grants) after subsection (3) insert –
- “(5) This section does not apply to the regional development agency for a region for which a regional assembly is established.”
- 13 In section 11 (borrowing) after subsection (8) insert –
- “(9) In the application of this section to a regional development agency for a region for which a regional assembly is established –
- (a) subsection (2) is not subject to subsection (5);
 - (b) in subsections (2) and (3) the references to the Secretary of State must be construed as references to the assembly;
 - (c) subsections (4) to (7) do not apply.”
- 14 In section 12 (government guarantees of borrowing) after subsection (5) insert –
- “(6) This section does not apply to the regional development agency for a region for which a regional assembly is established.”
- 15 In section 13 (government loans) after subsection (6) insert –
- “(7) This section does not apply to the regional development agency for a region for which a regional assembly is established.”

- 16 In section 14 (accounts and records) after subsection (7) insert—
- “(8) This section (except subsections (1) and (6)) does not have effect in relation to the regional development agency for a region for which a regional assembly is established.”
- 17 In section 15 (audit) after subsection (5) insert—
- “(6) Subsections (1) to (3) do not have effect in relation to the regional development agency for a region for which a regional assembly is established.
- (7) But such an agency must send a copy of its audited accounts to its assembly.”
- 18 In section 16 (provision of information, etc) for “Secretary of State” substitute “responsible authority”.
- 19 (1) Section 17 (annual report) is amended as follows.
- (2) In subsections (1) and (2) for “Secretary of State” substitute “responsible authority”.
- (3) For subsection (3) substitute—
- “(3) Following receipt of a report under this section—
- (a) if the responsible authority is the Secretary of State he must lay a copy of it before each House of Parliament;
- (b) in every case the responsible authority must arrange for publication of the report in such manner as it thinks appropriate.”
- (4) Subsections (4), (5) and (7) are omitted.
- 20 (1) Section 18 (regional accountability) is amended as follows.
- (2) In subsections (2) to (4) for “Secretary of State” in each place where it occurs substitute “responsible authority”.
- (3) Subsection (5) is omitted.
- 21 In section 20 (acquisition of land) after subsection (3A) insert—
- “(3B) A regional development agency for a region for which a regional assembly is established must not by virtue of subsection (1) or (3) submit to the Secretary of State a compulsory purchase order authorising the acquisition of any land in accordance with section 2(2) of the Acquisition of Land Act 1981 unless the assembly has given its consent.”
- 22 (1) Section 26 (change of name of agency) is amended as follows.
- (2) After subsection (2A) insert—
- “(2B) A regional development agency for a region for which a regional assembly is established must not change the name by which it is to be known without the consent of the assembly.”
- (3) In subsection (3) in each place where it occurs for “Secretary of State” substitute “responsible authority”.
- (4) Omit subsection (3A).
- 23 (1) Section 26A (power to promote Bills) is amended as follows.

- (2) In subsection (1) for “the London Development Agency” substitute “a relevant regional development agency”.
- (3) In each subsequent place where it occurs for “the London Development Agency” substitute “the relevant regional development agency”.
- (4) In each place where it occurs for “Mayor of London” substitute “responsible authority”.
- (5) In subsection (2) for “his” substitute “its”.
- (6) In subsection (3) for “he” substitute “it”.
- (7) In subsection (4) –
- (a) for “he” substitute “it”;
 - (b) for “his” substitute “its”.
- (8) In subsection (6) for “his” substitute “its”.
- (9) For subsection (8) substitute –
- “(8) If the responsible authority is the Mayor of London he must not exercise the functions conferred by subsections (2)(a) or (b), (4) or (6) unless he first consults the London Assembly.”
- (10) After subsection (9) insert –
- “(10) Each of the following is a relevant regional development agency –
- (a) the London Development Agency;
 - (b) the regional development agency for a region for which a regional assembly is established.”

24 (1) Section 27 (guidance and directions) is amended as follows.

 - (2) In subsection (1) for “Secretary of State” substitute “responsible authority”.
 - (3) Subsection (1A) is omitted.

25 (1) Section 28 (supplementary provision about guidance) is amended as follows.

 - (2) In subsection (4) for “Secretary of State” substitute “responsible authority”.
 - (3) After subsection (4) insert –

“(5) The power of a responsible authority which is a regional assembly to give guidance under this Part is exercisable instead of any other power a regional assembly has to give guidance to any person.”

26 In section 29 (consents) in each place where it occurs for “Secretary of State” substitute “responsible authority”.

27 In section 30 (validity of transactions) in each place where it occurs for “Secretary of State” substitute “responsible authority”.

28 Omit section 30A (application of sections 28 to 30 to London Development Agency).

29 In section 41 (general interpretation) after the definition of “Minister of the Crown” insert –

““regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004;”.

30 (1) Schedule 2 (constitution of agencies) is amended as follows.

- (2) For “Secretary of State” in each place where it occurs in the following provisions substitute “responsible authority” –
 - (a) paragraphs 1 to 3;
 - (b) paragraph 4 (except sub-paragraph (2)(a)).
- (3) In paragraph 1 –
 - (a) in sub-paragraph (3) for the first “he” substitute “it”;
 - (b) in sub-paragraph (5) omit “by virtue of section 2(7)”.
- (4) In paragraph 2(3) omit “by virtue of section 2(7)”.
- (5) Omit the following –
 - (a) paragraph 1(4);
 - (b) paragraph 2(2);
 - (c) paragraph 4(5).
- (6) For paragraph 3A (application of paragraph 3 to London Development Agency) substitute –

“Application of paragraph 3 to assembly development agencies

- 3B (1) Payments by way of remuneration or allowances, other than allowances in respect of expenses incurred in the exercise of their functions, must not be made under paragraph 3(1) to a person who is a dual member.
 - (2) The payments that may be made to or in respect of a person –
 - (a) under paragraph 3(2)(a) or (b), or
 - (b) under a scheme provided or maintained under paragraph 3(2)(c),do not include payments referable to any period when the person is or was a dual member.
 - (3) A person is a dual member if he is a member of –
 - (a) both the London Assembly and the London Development Agency, or
 - (b) both the regional assembly and the regional development agency for the region.”
- 31 (1) Schedule 3 (transfer schemes) is amended as follows.
- (2) Before paragraph 1 insert –

“Introduction

- A1 A delegatee is a person to whom an eligible function is delegated in pursuance of section 6 (and includes a person to whom such a delegation is transferred).”
- (3) For “regional development agencies” in each place where it occurs substitute “delegatees”.
- (4) For “regional development agency” in each place where it occurs substitute “delegatee”.
- (5) In paragraph 1 (power to make a scheme) after sub-paragraph (2) insert –
 - “(3) A Minister of the Crown may make a scheme for the transfer from one delegatee to another of such property, rights and liabilities as appear to him appropriate to be transferred in consequence of the

transfer under section 6 of the delegation under that section of a function of his.”

- 32 (1) Schedule 6A (promotion of Bills) is amended as follows.
- (2) In the title for “the London Development Agency” substitute “certain development agencies”.
- (3) In each subsequent place where they occur for “London Development Agency” substitute “relevant regional development agency”.
- (4) In paragraph 2—
- (a) in sub-paragraph (1)(b) after “(2)” insert “or (2A)”;
 - (b) in sub-paragraph (2) at the beginning insert “In the case of the London Development Agency,”;
 - (c) after sub-paragraph (2) insert—
 - “(2A) In the case of any other relevant regional development agency those bodies and persons are—
 - (a) its regional assembly;
 - (b) every local authority whose area falls within the region.”
- (5) After paragraph 5 insert—

“Bills affecting statutory functions of other local authorities

- 5A If a Bill proposed to be deposited in Parliament by virtue of section 26A(1)(a) contains provisions affecting the exercise of statutory functions by a local authority in the region of a relevant regional development agency (other than the London Development Agency), the Bill must not be deposited in Parliament unless—
- (a) in a case where the exercise of statutory functions of one authority is affected, the authority has given its written consent to the Bill in the form in which it is to be so deposited, or
 - (b) in a case where the exercise of statutory functions of two or more such authorities is affected, at least 90 per cent of all local authorities in the region have given their written consent to the Bill in that form.”

- (6) After paragraph 6 insert—

“Relevant regional development agency

- 7 Each of the following is a relevant regional development agency—
- (a) the London Development Agency;
 - (b) the regional development agency for a region for which a regional assembly is established.”

SCHEDULE 5

Section 86

REGIONAL FIRE AND RESCUE AUTHORITIES: MEMBERSHIP ETC.

Interpretation

- 1 In this Schedule—
- “the appointed date” —
- (a) in the case of a body corporate reconstituted as a regional fire and rescue authority under section 84, means the date appointed in relation to the authority for the purposes of that section;
 - (b) in the case of a regional fire and rescue authority constituted under section 85, means the date appointed in relation to the authority for the purposes of that section;
- “the assembly”, in relation to a regional fire and rescue authority, means the assembly established under section 1 for the region for which the authority is constituted;
- “joint authority” has the same meaning as in the Local Government Act 1972 (c. 70);
- “local authority” means a county council or district council;
- “the local authorities”, in relation to a regional fire and rescue authority, means the local authorities whose areas are comprised in the region for which the authority is constituted;
- “political group” —
- (a) in relation to members of the assembly, must be construed in accordance with regulations made by the Secretary of State under section 163;
 - (b) in relation to members of the local authorities, must be construed in accordance with regulations made by the Secretary of State under section 9(10) of the Local Government and Housing Act 1989 (c. 42).

Membership

- 2 (1) The number of members of a regional fire and rescue authority is to be specified by the Secretary of State by order.
- (2) Some of the members (the “assembly representatives”) are to be appointed by the assembly from among its members.
- (3) The remainder of the members (the “local authority representatives”) are to be—
- (a) members of any of the local authorities, and
 - (b) appointed by the assembly after being nominated for appointment by the local authorities acting jointly.
- (4) An order under sub-paragraph (1)—
- (a) must provide for the number of assembly representatives and the number of local authority representatives;
 - (b) must provide for the number of assembly representatives to exceed by one the number of local authority representatives;
 - (c) must not provide for a total number of members exceeding 17.

- (5) Before making an order under sub-paragraph (1) in relation to a regional fire and rescue authority the Secretary of State must consult the assembly and the local authorities.
- (6) Before making an order under sub-paragraph (1) in relation to a regional fire and rescue authority which –
 - (a) is to be made after the appointed date, and
 - (b) is to vary or replace an earlier order under that sub-paragraph,the Secretary of State must also consult the regional fire and rescue authority.
- 3 (1) In appointing persons under paragraph 2(2), the assembly must try to ensure that, so far as practicable, those persons reflect the balance of political groups for the time being prevailing among the members of the assembly.
- (2) The assembly must not appoint a person who is disqualified from being a member of the regional fire and rescue authority.
- 4 (1) In nominating persons for appointment under paragraph 2(3), the local authorities must try to ensure that, so far as practicable, those persons reflect the balance of political groups for the time being prevailing among the members of the local authorities taken as a whole.
- (2) The local authorities must not nominate a person who is disqualified from being a member of the regional fire and rescue authority.
- (3) The local authorities must nominate the first persons for appointment under paragraph 2(3) in sufficient time before the appointed date to enable the appointment of those persons to take effect on that date.

Tenure of office

- 5 (1) A member of a regional fire and rescue authority holds office for a period of one year or any shorter period decided on by the assembly.
- (2) The assembly may renew a member's appointment.
- (3) But the assembly must not renew the appointment of a member who is a local authority representative if, at least one month before the end of the member's term of office, the local authorities acting jointly notify the assembly of their nomination of another person to succeed the member.
- (4) The assembly may terminate a member's appointment if it is satisfied that the member is unable or unfit to discharge his functions.
- (5) A person ceases to be a member of a regional fire and rescue authority if he resigns by giving notice in writing to an officer of the authority appointed for the purpose of receiving such notices.
- (6) The resignation takes effect on the officer's receipt of the notice.
- (7) A person who ceases to be a member of a regional fire and rescue authority is eligible for re-appointment (subject to paragraph 3(2)).

Chairman and vice-chairman

- 6 (1) The assembly must appoint a person from among the members of a regional fire and rescue authority to be the chairman of the authority.
- (2) The chairman must be appointed to office for a period of one year.

- (3) If there is a vacancy in the office of chairman before the end of that period, the assembly must as soon as reasonably practicable appoint a person from among the members of the authority to fill the vacancy.
- 7
 - (1) The authority must appoint a person from among its members to be the vice-chairman of the authority.
 - (2) The vice-chairman must be appointed to office for a period of one year.
 - (3) The first vice-chairman must be appointed at the first meeting of the authority.
 - (4) Each subsequent vice-chairman must be appointed at the annual meeting of the authority.
 - (5) The appointment of the vice-chairman must be the first item of business at the meeting concerned.
- 8
 - (1) The authority may pay to the chairman and vice-chairman any allowance it thinks reasonable for the purpose of enabling them to meet the expenses of their offices.
 - (2) If the chairman or vice-chairman ceases to be a member of the authority he ceases to be chairman or vice-chairman at the same time.

Disqualification from membership of authority

- 9
 - (1) A person is disqualified from being a member of a regional fire and rescue authority if he holds a paid office or employment falling within sub-paragraph (2), other than the office of vice-chairman of the authority.
 - (2) An office or employment falls within this sub-paragraph if appointment to the office or employment may be made or confirmed by –
 - (a) the authority or a committee or sub-committee of the authority,
 - (b) a committee on which the authority is represented, or
 - (c) a person who holds a paid office or employment, other than the office of vice-chairman of the authority, which falls within this sub-paragraph by virtue of paragraph (a) or (b).
 - (3) A person ceases to be a member of a regional fire and rescue authority if he becomes disqualified under sub-paragraph (1) from being a member of the authority.

Disqualification of authority employees from membership of other bodies

- 10
 - (1) This paragraph applies if an employee of a regional fire and rescue authority is employed under the direction of a committee on which the authority is represented.
 - (2) If any member of the committee is appointed on the nomination of the assembly, the employee is disqualified from being a member of the assembly.
 - (3) If any member of the committee is appointed on the nomination of a joint authority, the employee is disqualified from being a member of the joint authority.
 - (4) If any member of the committee is appointed on the nomination of a local authority, the employee is disqualified from being a member of the local authority.

Failure to attend meetings

- 11 (1) A person ceases to be a member of a regional fire and rescue authority if he attends no meetings of the authority during a period of six months.
- (2) The person is to be treated as having attended a meeting of the authority on an occasion on which—
- (a) he attends as a member a meeting of a committee or sub-committee of the authority, or
 - (b) he attends as a representative of the authority a meeting of any other body of persons.
- (3) Sub-paragraph (1) does not apply in relation to a member if before the end of the six month period the authority approves his absence.
- (4) Sub-paragraph (1) does not apply in relation to a member if the reason for his failure to attend during the six month period is that—
- (a) he is a member of any branch of Her Majesty’s naval, military or air forces employed during war or emergency on any naval, military or air force service, or
 - (b) he is employed in the service of Her Majesty in connection with war or emergency in employment which, in the opinion of the Secretary of State, entitles him to relief from ceasing to be a member of the authority by virtue of this paragraph.
- (5) A period during which a member of a regional fire and rescue authority is suspended or partially suspended under section 66, 78 or 79 of the Local Government Act 2000 (c. 22) must be disregarded for the purpose of calculating the six month period mentioned in sub-paragraph (1).

Loss of a member’s qualifying office: assembly representatives

- 12 (1) A person ceases to be a member of a regional fire and rescue authority if he is an assembly representative and he ceases to be a member of the assembly.
- (2) If an assembly representative ceases to be a member of the assembly, the assembly must as soon as practicable give notice of that fact to the authority.
- (3) But an assembly representative does not cease to be a member of the authority if—
- (a) he ceases to be a member of the assembly only because of the expiry of his term of office as such a member, and
 - (b) he is re-elected as a member of the assembly not later than the day of the expiry of his term of office as such a member.

Loss of a member’s qualifying office: local authority representatives

- 13 (1) A person ceases to be a member of a regional fire and rescue authority if he is a local authority representative and he ceases to be a member of any of the local authorities.
- (2) If a local authority representative ceases to be a member of any of the local authorities, the local authority concerned must as soon as practicable give notice of that fact to the regional fire and rescue authority.
- (3) But a local authority representative does not cease to be a member of the regional fire and rescue authority if—

- (a) he ceases to be a member of the local authority concerned only because of his retirement in accordance with section 7 of the Local Government Act 1972 (c. 70), and
- (b) he is re-elected as a member of that local authority not later than the day of his retirement.

Filling of vacancies

- 14 (1) If a person who is an assembly representative ceases to be a member of a regional fire and rescue authority, the assembly must, as soon as reasonably practicable, appoint a person to fill the vacancy.
- (2) If a person who is a local authority representative ceases to be a member of a regional fire and rescue authority, the local authorities must, as soon as reasonably practicable, nominate a person to fill the vacancy.
- (3) Where the local authorities have nominated a person under sub-paragraph (2), the assembly must, as soon as reasonably practicable, appoint that person to fill the vacancy.

Term of office of person appointed to fill vacancy

- 15 (1) This paragraph applies if –
- (a) a person ceases to be a member of a regional fire and rescue authority other than by virtue of the expiry of his term of office, and
 - (b) another person is appointed in his place.
- (2) The term of office of the second person is the unexpired residue of the first person's term of office.

Meetings and proceedings

- 16 The first meeting of a regional fire and rescue authority must be held as soon as reasonably practicable after the appointed date.
- 17 (1) Paragraphs 1 to 5 of Schedule 12 to the Local Government Act 1972 (c. 70) (meetings and proceedings of principal councils) apply in relation to a regional fire and rescue authority as they apply in relation to a principal council.
- (2) As applied by sub-paragraph (1), those paragraphs apply with the modifications in sub-paragraphs (3) and (4).
- (3) In paragraph 1, for sub-paragraph (2) substitute –
- “(2) The annual meeting of a regional fire and rescue authority shall be held on such day in the month of March, April, May or June as the authority may fix.”.
- (4) In paragraph 3(2), for “five members” (in both places) substitute “three members”.
- (5) Business may be transacted at a meeting of a regional fire and rescue authority only if at least five members are present, of whom –
- (a) at least one is an assembly representative, and
 - (b) at least one is a local authority representative.
- 18 (1) Part 6 of Schedule 12 to the Local Government Act 1972 (meetings and proceedings of local authorities generally) applies in relation to a regional fire and rescue authority as it applies in relation to a local authority.

- (2) As applied by sub-paragraph (1), that Part has effect as if the reference in paragraph 43 to the election of a member were a reference to the appointment of a member.

SCHEDULE 6

Section 86

REGIONAL FIRE AND RESCUE AUTHORITIES: AMENDMENTS

Landlord and Tenant Act 1954 (c. 56)

- 1 In section 69(1) of the Landlord and Tenant Act 1954 (interpretation), in the definition of “local authority”, after “London Fire and Emergency Planning Authority” insert “, a regional fire and rescue authority”.

Local Government (Records) Act 1962 (c. 56)

- 2 (1) The Local Government (Records) Act 1962 is amended as follows.
- (2) In section 2(6) (acquisition and deposit of records), after “London Fire and Emergency Planning Authority,” insert “to a regional fire and rescue authority,”.
- (3) In section 8(1) (interpretation), in the definition of “local authority”, after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority,”.

Local Government Act 1966 (c. 42)

- 3 In section 11(2) of the Local Government Act 1966 (grants for certain expenditure due to ethnic minority population), after “London Fire and Emergency Planning Authority” insert “, a regional fire and rescue authority,”.

Leasehold Reform Act 1967 (c. 88)

- 4 (1) The Leasehold Reform Act 1967 is amended as follows.
- (2) In section 28 (retention or resumption of land required for public purposes), in subsection (5)(a) after “London Fire and Emergency Planning Authority,” insert “any regional fire and rescue authority,”.
- (3) In Schedule 4A (exclusion of certain share ownership leases), in paragraph 2(2) after paragraph (bb) insert—
“(bc) a regional fire and rescue authority;”.

Local Government Grants (Social Need) Act 1969 (c. 2)

- 5 In section 1(3) of the Local Government Grants (Social Need) Act 1969 (provision of grants), after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority,”.

Employers’ Liability (Compulsory Insurance) Act 1969 (c. 57)

- 6 In section 3 of the Employers’ Liability (Compulsory Insurance) Act 1969 (exempted employers), in subsection (2)(b) after “London Fire and

Emergency Planning Authority” insert “, a regional fire and rescue authority”.

Pensions (Increase) Act 1971 (c. 56)

- 7 In paragraph 6(1) of Schedule 3 to the Pensions (Increase) Act 1971 (meaning of “local authority”), in paragraph (a) after sub-paragraph (ib) insert—
“(ic) a regional fire and rescue authority;”.

Local Government Act 1972 (c. 70)

- 8 The Local Government Act 1972 is amended as follows.
- 9 (1) Section 70 (restriction on promotion of Bills) is amended as follows.
- (2) In subsection (1), for “or joint authority” substitute “, joint authority or regional fire and rescue authority”.
- (3) In subsection (3), for “or joint authority” substitute “, joint authority or regional fire and rescue authority”.
- 10 (1) Section 100J (authorities to which Part 5A applies) is amended as follows.
- (2) In subsection (1) after paragraph (bb) insert—
“(bc) a regional fire and rescue authority;”.
- (3) In subsection (2) after “(bb)” insert “, (bc)”.
- (4) In subsection (3) after “(bb),” insert “(bc),”.
- (5) After subsection (4A) insert—
“(4B) In its application by virtue of subsection (1)(bc) above in relation to a regional fire and rescue authority, section 100G(1)(a) shall have effect with the substitution for the words “the ward or division which he represents” of the words “whether he is an assembly representative or a local authority representative, and—
(i) if he is an assembly representative, whether he is a constituency member or a regional member and, if he is a constituency member, the assembly constituency for which he is a member; or
(ii) if he is a local authority representative, the local authority of which he is a member”.”.
- 11 In section 101(13) (meaning of “local authority” in Part 6), after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority,”.
- 12 In section 104 (disqualification for membership of committees and joint committees), after subsection (5) insert—
“(6) In the application of this section to a regional fire and rescue authority, the reference to a person who is disqualified under Part 5 of this Act for being elected or being a member of a local authority shall be treated as if it included a reference to a person who is disqualified under section 16 of the Regional Assemblies Act 2005 from being a member of the relevant regional assembly.
(7) In subsection (6) “the relevant regional assembly” means the assembly established under section 1 of the Regional Assemblies Act

2005 for the region for which the regional fire and rescue authority is constituted.”.

- 13 In section 138(5) (powers of principal councils with respect to emergencies and disasters), after “metropolitan county fire and civil defence authority” insert “, a regional fire and rescue authority”.
- 14 In section 142(4) (provision of information etc relating to matters affecting local government), after “London Fire and Emergency Planning Authority” insert “and a regional fire and rescue authority”.
- 15 In section 146A(1) (joint authorities), after “London Fire and Emergency Planning Authority” insert “, a regional fire and rescue authority,”.
- 16 (1) Section 175 (allowances for attending conferences and meetings) is amended as follows.
- (2) In subsection (3B) after “London Fire and Emergency Planning Authority” insert “, a regional fire and rescue authority”.
- (3) After subsection (4) insert—
- “(5) In its application to a regional fire and rescue authority, the reference in subsection (1) above to a member of the body shall be taken to be a reference to a member of the regional fire and rescue authority who is a local authority representative.”
- 17 In section 176(3) (payments of expenses of official visits etc: meaning of “local authority”), after “joint authority” insert “, a regional fire and rescue authority”.
- 18 In section 222(2) (powers of local authorities to prosecute or defend legal proceedings: meaning of “local authority”), after “Council” insert “, a regional fire and rescue authority”.
- 19 (1) Section 244A (application of Part 11 to the London Fire and Emergency Planning Authority) is amended as follows.
- (2) In the heading, for “London Fire and Emergency Planning Authority” substitute “other bodies”.
- (3) After “London Fire and Emergency Planning Authority” insert “and a regional fire and rescue authority”.

Employment Agencies Act 1973 (c. 35)

- 20 In section 13(7) of the Employment Agencies Act 1973 (interpretation), after paragraph (fh) insert—
- “(fi) the exercise by a regional fire and rescue authority of any of its functions;”.

Health and Safety at Work Act 1974 (c. 37)

- 21 In section 28(6) of the Health and Safety at Work Act 1974 (restrictions on disclosure of information: local authorities), after “Local Government Act 1985” insert “, a regional fire and rescue authority”.

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

- 22 In section 44(1) of the Local Government (Miscellaneous Provisions) Act 1976 (interpretation etc of Part 1), in the definition of “local authority” –
- (a) in paragraph (a) after “Local Government Act 1985” insert “, a regional fire and rescue authority”, and
 - (b) in paragraph (c) after “disposal authorities),” insert “a regional fire and rescue authority;”.

Rent (Agriculture) Act 1976 (c. 80)

- 23 In section 5(3) of the Rent (Agriculture) Act 1976 (no statutory tenancy in certain cases), after paragraph (bbb) insert –
- “(bbc) a regional fire and rescue authority;”.

Rent Act 1977 (c. 42)

- 24 In section 14 of the Rent Act 1977 (landlord’s interest belonging to local authority etc), after paragraph (cc) insert –
- “(cd) a regional fire and rescue authority;”.

Protection from Eviction Act 1977 (c. 43)

- 25 In section 3A(8) of the Protection from Eviction Act 1977 (excluded tenancies and licences), in paragraph (a) after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority;”.

Local Government, Planning and Land Act 1980 (c. 65)

- 26 (1) The Local Government, Planning and Land Act 1980 is amended as follows.
- (2) In section 2(1) (authorities with duties to publish information), after paragraph (kb) insert –

“(kc) a regional fire and rescue authority;”.

 - (3) In section 98 (disposal of land at direction of Secretary of State), in the subsection (8A) to be inserted by paragraph 56 of Schedule 11 to the Local Government and Housing Act 1989, after “Local Government Act 1985” insert –

“(ea) a regional fire and rescue authority;”.

 - (4) In section 100 (interpretation and extent of Part 10), in subsection (1) as to be substituted by paragraph 57 of Schedule 11 to the Local Government and Housing Act 1989, in paragraph (a) after “London Fire and Emergency Planning Authority” insert “, a regional fire and rescue authority”.
 - (5) In Schedule 16 (bodies to whom Part 10 applies), after paragraph 5BB insert –

“5BC A regional fire and rescue authority.”

Acquisition of Land Act 1981 (c. 67)

- 27 (1) The Acquisition of Land Act 1981 is amended as follows.
- (2) In section 7(1) (interpretation), in the definition of “local authority” after

paragraph (a1) insert—

“(a2) a regional fire and rescue authority;”.

- (3) In section 17(4) (local authority and statutory undertakers’ land), in paragraph (a) of the definition of “local authority” after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority;”.

Local Government (Miscellaneous Provisions) Act 1982 (c. 30)

- 28 (1) The Local Government (Miscellaneous Provisions) Act 1982 is amended as follows.
- (2) In section 33(9) (enforceability by local authorities of certain land covenants), in paragraph (a) after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority;”.
- (3) In section 41(13) (lost and uncollected property), in the definition of “local authority”, after “Local Government Act 1985;” insert—
“(ea) a regional fire and rescue authority;”.
- (4) In section 45(2) (arrangements under Employment and Training Act 1973), after “City of London;” insert—
“(ca) a regional fire and rescue authority;”.

County Courts Act 1984 (c. 28)

- 29 In section 60(3) of the County Courts Act 1984 (rights of audience), in the definition of “local authority” after “London Fire and Emergency Planning Authority” insert “, a regional fire and rescue authority”.

Housing Act 1985 (c. 68)

- 30 In section 4 of the Housing Act 1985 (other descriptions of authority), in paragraph (e) after “Local Government Act 1985” (in both places) insert “, a regional fire and rescue authority”.

Housing Associations Act 1985 (c. 69)

- 31 In section 106(1) of the Housing Associations Act 1985 (minor definitions), in the definition of “local authority”—
- (a) after “Local Government Act 1985” insert “, a regional fire and rescue authority”; and
- (b) after “such a joint authority,” insert “a regional fire and rescue authority;”.

Landlord and Tenant Act 1985 (c. 70)

- 32 In section 38 of the Landlord and Tenant Act 1985 (minor definitions), in the definition of “local authority” after “Local Government Act 1985” insert “, a regional fire and rescue authority”.

Local Government Act 1986 (c. 10)

- 33 (1) The Local Government Act 1986 is amended as follows.
- (2) In section 6(2) (interpretation: Part 2) in paragraph (a), after “the London Fire

and Emergency Planning Authority,” insert—
“a regional fire and rescue authority;”.

- (3) In section 9(1) (interpretation: Part 3) in paragraph (a), after “the London Fire and Emergency Planning Authority,” insert—
“a regional fire and rescue authority;”.

Landlord and Tenant Act 1987 (c. 31)

- 34 In section 58(1) of the Landlord and Tenant Act 1987 (exempt landlords), in paragraph (a) after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority;”.

Local Government Act 1988 (c. 9)

- 35 In Schedule 2 to the Local Government Act 1988 (public supply or works contracts: public authorities), after the entry “The London Fire and Emergency Planning Authority.” insert—
“A regional fire and rescue authority.”

Housing Act 1988 (c. 50)

- 36 (1) The Housing Act 1988 is amended as follows.
(2) In section 74(8) (transfer of land and other property to housing action trusts: meaning of “local authority”), after paragraph (g) insert—
“(h) a regional fire and rescue authority.”
(3) In paragraph 12(2) of Schedule 1 (local authority tenancies etc), after paragraph (ee) insert—
“(ef) a regional fire and rescue authority;”.

Road Traffic Act 1988 (c. 52)

- 37 In section 144(2) of the Road Traffic Act 1988 (exceptions from requirement of third party insurance), in paragraph (a)(i) after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority”.

Local Government and Housing Act 1989 (c. 42)

- 38 (1) The Local Government and Housing Act 1989 is amended as follows.
(2) In section 21(1) (interpretation of Part 1), after paragraph (f) insert—
“(fa) a regional fire and rescue authority;”.
(3) In section 152(2) (meaning of relevant authority for sections 150 and 151), after paragraph (n) insert—
“(o) a regional fire and rescue authority.”
(4) In section 155(4) (authorities that are local authorities for section 155), after “passenger transport authority;” insert—
“(ga) a regional fire and rescue authority;”.

Town and Country Planning Act 1990 (c. 8)

- 39 (1) The Town and Country Planning Act 1990 is amended as follows.

- (2) In section 252(12) (procedure for making orders), in the definition of “local authority” after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority,”.
- (3) In paragraph 1(3) of Schedule 14 (procedure for footpaths and bridleways orders: confirmation), in the definition of “council” after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority”.

Local Government (Overseas Assistance) Act 1993 (c. 25)

- 40 In section 1(10) of the Local Government (Overseas Assistance) Act 1993 (power to provide advice and assistance: meaning of “local authority”), after paragraph (dd) insert—
“(de) a regional fire and rescue authority;”.

Housing Grants, Construction and Regeneration Act 1996 (c. 53)

- 41 In section 3(2) of the Housing Grants, Construction and Regeneration Act 1996 (ineligible applicants), after “(waste disposal);” insert—
“(ja) a regional fire and rescue authority;”.

Channel Tunnel Rail Link Act 1996 (c. 61)

- 42 In paragraph 2(11) of Schedule 3 to the Channel Tunnel Rail Link Act 1996 (stopping up of highways: meaning of “local authority”), after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority,”.

Crime and Disorder Act 1998 (c. 37)

- 43 In section 17(2) of the Crime and Disorder Act 1998 (authorities on whom duty to consider crime and disorder implications is imposed), after “London Fire and Emergency Planning Authority,” insert “a regional fire and rescue authority,”.

Local Government Act 1999 (c. 27)

- 44 In section 1(1) of the Local Government Act 1999 (best value authorities), after paragraph (e) insert—
“(ea) a regional fire and rescue authority;”.

Local Government Act 2000 (c. 22)

- 45 In section 49(6) of the Local Government Act 2000 (meaning of “relevant authority” in Part 3), after paragraph (i) insert—
“(ia) a regional fire and rescue authority;”.

Fire and Rescue Services Act 2004 (c.?)

- 46 (1) The Fire and Rescue Services Act 2004 is amended as follows.
(2) In section 1(4) (fire and rescue authorities), after “subject to” insert “— (a)”

- and at the end insert “, and
 (b) section 86(1) of the Regional Assemblies Act 2004 (regional fire and rescue authorities).”.
- (3) In section 2 (power to create combined fire and rescue authorities), after subsection (2) insert—
- “(2A) A scheme under this section may not be made in relation to an area that includes the area of a regional fire and rescue authority.”.

SCHEDULE 7

Section 88

REGIONAL CULTURAL CONSORTIUMS: PREDECESSOR COMPANIES

<i>Region</i>	<i>Predecessor company</i>
East Midlands	East Midlands Cultural Consortium
Eastern	Living East
North East	Culture North East
North West	The Cultural Consortium England’s Northwest
South East	South East England Cultural Consortium
South West	Culture South West
West Midlands	West Midlands Life
Yorkshire and the Humber	Yorkshire Culture

SCHEDULE 8

Section 89

REGIONAL CULTURAL CONSORTIUMS: CONSTITUTION

Interpretation

- 1 In this Schedule—
- (a) consortium means a regional cultural consortium;
 - (b) the assembly, in relation to a consortium, means the assembly established under section 1 for the consortium’s region.

Term of office of members

- 2 (1) The term of office of a member of a consortium is as specified in the terms of his appointment.
- (2) At the end of his term of office, a member of a consortium is eligible for reappointment.

- (3) A member of a consortium may resign at any time by giving notice in writing to the assembly.
- (4) The assembly may dismiss a member of a consortium if it is satisfied that—
 - (a) he has been adjudged bankrupt;
 - (b) his estate has been sequestrated;
 - (c) he has made a composition or arrangement with, or granted a trust deed for, his creditors;
 - (d) he is unable, unwilling or unfit to carry out the functions of his position.
- (5) The assembly may not remove the chairman of a consortium under sub-paragraph (4) unless it first consults the Secretary of State.

Remuneration of chairman

- 3 A consortium must pay to its chairman such remuneration, which may include payments towards provision for the payment of a pension, as the assembly decides.

Reimbursement of members' expenses

- 4 A consortium must pay to its members such allowances in respect of expenses incurred in the performance of their duties as the assembly decides.

Employees

- 5 (1) The assembly may give a consortium directions in relation to the terms and conditions of employment of the consortium's employees.
- (2) In setting the terms and conditions of employment of its employees a consortium must comply with any direction given to it by the assembly under sub-paragraph (1).

Delegation of functions

- 6 (1) Anything authorised or required under any enactment to be done by a consortium may be done by—
 - (a) a member of the consortium who has been authorised for the purpose, whether generally or specially, by the consortium;
 - (b) an employee of the consortium who has been so authorised;
 - (c) a committee or sub-committee of the consortium which has been so authorised.
- (2) No member of a consortium may act in relation to any matter delegated to him under sub-paragraph (1)(a) if he is in any way directly or indirectly interested in that matter.

Vacancies and defective appointments

- 7 The validity of any proceedings of a consortium is not affected by—
 - (a) a vacancy in the membership;
 - (b) a defect in the appointment of a member.

Minutes of proceedings

- 8 (1) A consortium must secure that minutes are kept of all proceedings of the consortium and of any committees and sub-committees.
- (2) If minutes of proceedings have been signed by the person mentioned in sub-paragraph (3) –
- (a) the minutes are evidence of those proceedings;
 - (b) those proceedings are deemed, unless the contrary is shown, to have been validly convened and constituted.
- (3) The person is –
- (a) a person purporting to have acted as chairman of the proceedings to which the minutes relate, or
 - (b) a person purporting to have acted as chairman of subsequent proceedings in the course of which the minutes were approved as a correct record.

Execution and proof of instruments

- 9 (1) The application of the seal of a consortium may be authenticated by the signature of –
- (a) a member of the consortium;
 - (b) an employee of the consortium who has been authorised for the purpose, whether generally or specially, by the consortium.
- (2) Any document which a consortium is authorised or required by or under any enactment to serve, make or issue may be signed on behalf of the consortium by –
- (a) a member of the consortium;
 - (b) an employee of the consortium who has been authorised for the purpose, whether generally or specially, by the consortium.
- (3) A document mentioned in sub-paragraph (4) must be received in evidence and, unless the contrary is shown, treated without further proof as being so made or issued.
- (4) A document is a document mentioned in this sub-paragraph if it purports to be –
- (a) an instrument made or issued by or on behalf of a consortium, and
 - (b) duly executed under the seal of the consortium or signed or executed by a person authorised by the consortium for the purpose.
- (5) In sub-paragraph (1), the reference to the signature of a person includes a reference to a facsimile of a signature by whatever process reproduced, and “signed” in sub-paragraphs (2) and (4) must be construed accordingly.

SCHEDULE 9

Section 122

CONSULTATION ETC. ON ENVIRONMENTAL MATTERS

National Parks

- 1 (1) Section 7 of the National Parks and Access to the Countryside Act 1949 (c. 97) (designation and variation of national parks) is amended as follows.

- (2) In subsection (1) –
- (a) after “joint planning board,” insert “regional assembly,”;
 - (b) after “whose area” insert “or region”.
- (3) In subsection (5) –
- (a) after “such board” insert “, regional assembly”;
 - (b) after “whose area”, in both places, insert “or region”.
- (4) In subsection (6), after “joint planning board” insert “, regional assembly”.
- (5) At the end insert –
- “(7) In this section “regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004.”
- 2 (1) Section 66 of the Environment Act 1995 (c. 25) (national park management plans) is amended as follows.
- (2) In subsection (7)(a), after “relevant Park” insert “, to every regional assembly within whose region that Park is wholly or partly comprised”.
 - (3) At the end insert –
- “(10) In subsection (7)(a), “regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004.”

Sites of Special Scientific Interest

- 3 The Wildlife and Countryside Act 1981 (c. 69) is amended as follows.
- 4 In section 28 (sites of special scientific interest), in subsection (1), after paragraph (a) insert –
- “(aa) to a regional assembly in whose region any of the land is situated;”.
- 5 In section 28A (variation of notification relating to SSSIs), in subsection (3), after paragraph (a) insert –
- “(aa) a regional assembly in whose region any of the land is situated;”.
- 6 In section 28B (notification of additional land), in subsection (2), after paragraph (a) insert –
- “(aa) a regional assembly in whose region any of the extra land is situated;”.
- 7 In section 28C (enlargement of SSSI), in subsection (2), after paragraph (a) insert –
- “(aa) a regional assembly in whose region any of the land (including the SSSI) is situated;”.
- 8 In section 28D (denotification), in subsection (2), after paragraph (a) insert –
- “(aa) a regional assembly in whose region any of that land is situated;”.
- 9 In section 52 (interpretation), in subsection (1), after the definition of “notice” and “notification” insert –
- ““regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004.”

Long-distance routes

- 10 (1) Section 51 of the National Parks and Access to the Countryside Act 1949 (c. 97) (long-distance routes) is amended as follows.
- (2) In subsection (4) –
- (a) after “National Park authority,” insert “regional assembly,”;
 - (b) after “whose Park” insert “, region”;
 - (c) after “such authority” insert “, regional assembly”.
- (3) At the end insert –
- “(7) In this section and section 52, “regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004.”
- 11 In section 52 of that Act (approval of proposals relating to a long-distance route), in subsection (2) –
- (a) after “National Part authority” insert “, regional assembly,”;
 - (b) after “whose Park” insert “, region”.

Areas of Outstanding Natural Beauty

- 12 The Countryside and Rights of Way Act 2000 (c. 37) is amended as follows.
- 13 (1) Section 83 (procedure for designation of areas of outstanding natural beauty) is amended as follows.
- (2) In subsection (1) –
- (a) after “local authority” insert “and regional assembly”;
 - (b) after “whose area” insert “or region”.
- (3) In subsection (2), for “such local authority” substitute “local authority referred to in subsection (1)”.
- (4) In subsection (3), after “local authority” insert “or regional assembly”.
- (5) In subsections (5) and (9)(b) –
- (a) after “local authority” insert “and regional assembly”;
 - (b) after “whose area” insert “or region”.
- 14 In section 86 (establishment of conservation boards), in subsection (6) –
- (a) after paragraph (b) insert “and
 - (c) any regional assembly whose region includes any part of the area of outstanding natural beauty,”;
 - (b) for “those local authorities” substitute “the local authorities referred to in paragraph (b)”.
- 15 In section 90 (supplementary provisions relating to management plans), in subsection (1)(a)(i), at the end insert “and a regional assembly whose region includes any part of that area”.
- 16 In section 92 (interpretation), in subsection (1), at the end insert –
- ““regional assembly” means an assembly established under section 1 of the Regional Assemblies Act 2004.”
- 17 (1) Schedule 13 (conservation boards) is amended as follows.

- (2) In paragraph 3, in sub-paragraph (1), at the end insert “and
(d) in the case of an English conservation board, such number (which may be zero) of regional assembly members as may be so specified”.
- (3) In paragraph 3, in sub-paragraph (2)(a), after “local authority members” insert “and of any regional assembly members, taken together,”.
- (4) After paragraph 4 insert—

“Regional assembly members

- 4A (1) The regional assembly members of an English conservation board shall be appointed in accordance with the provisions of the relevant order.
- (2) The relevant order must provide for the regional assembly members to be appointed by—
- (a) the regional assembly within whose region the area of outstanding natural beauty is wholly or partly comprised;
or
- (b) if the area is comprised within the regions of two or more regional assemblies, such of those assemblies as may be specified in or determined under the order.
- (3) A person shall not be appointed as a regional assembly member of an English conservation board unless he is a member of a regional assembly within whose region the area of outstanding natural beauty is wholly or partly comprised.
- (4) Subject to the following provisions of this Schedule and to the provisions of the relevant order, where a person who qualifies for his appointment by virtue of his membership of a regional assembly is appointed as regional assembly member of an English conservation board, he shall hold office from the time of his appointment until he ceases to be a member of that assembly.
- (5) Sub-paragraph (4) shall have effect so as to terminate the term of office of a person who, on retiring from any regional assembly, immediately becomes such a member again as a newly elected member; but a person who so becomes a member again shall be eligible for re-appointment to the conservation board.”

SCHEDULE 10

Section 143

REGIONS

<i>Name of region</i>	<i>Extent</i>
East Midlands	The counties of Derbyshire, Leicestershire, Lincolnshire, Northamptonshire and Nottinghamshire. The non-metropolitan districts of Derby, Leicester, Nottingham and Rutland.

<i>Name of region</i>	<i>Extent</i>
Eastern	<p>The counties of Bedfordshire, Cambridgeshire, Essex, Hertfordshire, Norfolk and Suffolk.</p> <p>The non-metropolitan districts of Luton, Peterborough, Southend-on-Sea and Thurrock.</p>
North East	<p>The counties of Durham and Northumberland.</p> <p>The metropolitan districts of Gateshead, Newcastle upon Tyne, North Tyneside, South Tyneside and Sunderland.</p> <p>The non-metropolitan districts of Darlington, Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees.</p>
North West	<p>The counties of Cheshire, Cumbria and Lancashire.</p> <p>The metropolitan districts of Bolton, Bury, Knowsley, Liverpool, Manchester, Oldham, Rochdale, St. Helens, Salford, Sefton, Stockport, Tameside, Trafford, Wigan and Wirral.</p> <p>The non-metropolitan districts of Blackburn with Darwen, Blackpool, Halton and Warrington.</p>
South East	<p>The counties of Buckinghamshire, East Sussex, Hampshire, Isle of Wight, Kent, Oxfordshire, Surrey and West Sussex.</p> <p>The non-metropolitan districts of Bracknell Forest, Brighton and Hove, the Medway Towns, Milton Keynes, Portsmouth, Reading, Slough, Southampton, West Berkshire, Windsor and Maidenhead and Wokingham.</p>
South West	<p>The counties of Cornwall, Devon, Dorset, Gloucestershire, Somerset and Wiltshire.</p> <p>The non-metropolitan districts of Bath and North East Somerset, Bournemouth, Bristol, North Somerset, Plymouth, Poole, South Gloucestershire, Swindon and Torbay.</p> <p>The Isles of Scilly.</p>
West Midlands	<p>The counties of Shropshire, Staffordshire, Warwickshire and Worcestershire.</p> <p>The metropolitan districts of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton.</p> <p>The non-metropolitan districts of Herefordshire, Stoke-on-Trent and Telford and Wrekin.</p>
Yorkshire and the Humber	<p>The county of North Yorkshire.</p> <p>The metropolitan districts of Barnsley, Bradford, Calderdale, Doncaster, Kirklees, Leeds, Rotherham, Sheffield and Wakefield.</p> <p>The non-metropolitan districts of the East Riding of Yorkshire, Kingston upon Hull, North East Lincolnshire, North Lincolnshire and York.</p>

SCHEDULE 11

Section 152

REGIONS: CONSEQUENTIAL AND SUPPLEMENTARY

Local Government Act 1992 (c. 19)

- 1 Part 2 of the Local Government Act 1992 (local government changes for England) is amended as follows.
- 2 In section 14 (changes that may be recommended), at the end insert—
 - “(9) Where the Electoral Commission or the Boundary Committee for England make recommendations for a boundary change which involves constituting a new local government area out of two or more such areas or parts of such areas previously comprised in two or more regions, the recommendations shall include recommendations as to which of those regions the new area should be comprised in.
 - (10) In considering recommendations under subsection (9), the Electoral Commission and the Boundary Committee for England shall have regard to the matters specified in section 145(2) of the Regional Assemblies Act 2004 (instead of those specified in section 13(5) above).
 - (11) Where the Boundary Committee for England make recommendations for a boundary change which (by virtue of section 143(2) of the Regional Assemblies Act 2004) involves a change in the extent of any region for which an assembly is established, the recommendations shall include recommendations as to what consequential changes should be made to the electoral arrangements for that region.
 - (12) Subsections (3) and (4) of section 149 of the Regional Assemblies Act 2004 apply to the Boundary Committee for England for the purposes of subsection (11) as they apply to the Committee for the purposes of a review under that section.”
- 3 (1) Section 15 (procedure on a review) is amended as follows.
 - (2) In subsection (3), after paragraph (c) insert—
 - “(ca) where the draft recommendations include recommendations under section 14(9) or (11) in relation to a region, deposit copies of them at the principal office of—
 - (i) the regional assembly for the region, if there is one; or
 - (ii) the regional development agency for the region, if there is no assembly; and”.
 - (3) In subsection (4), after paragraph (c) insert “and
 - (d) where the recommendations include recommendations under section 14(9) or (11) in relation to a region, deposit copies of them at the principal office of—
 - (i) the regional assembly for the region, if there is one; or
 - (ii) the regional development agency for the region, if there is no assembly.”
- 4 In section 16 (consultation with Audit Commission), in subsection (1)—

- (a) after “structural changes” insert “or recommendations under section 14(9)”;
 - (b) at the end insert “or recommendations”.
- 5 (1) Section 17 (implementation of recommendations) is amended as follows.
- (2) In subsection (1), after “boundary changes” insert “(including any recommendations under section 14(9))”.
 - (3) In subsection (1A), after “electoral changes” insert “or recommendations under section 14(11)”.
 - (4) In subsection (3), at the end insert—
 - “(j) in the case of an order containing provision which has the effect of changing the extent of any region, the transfer of property, rights or liabilities from any of the following bodies or persons to another of them—
 - (i) a regional assembly;
 - (ii) a regional development agency, regional cultural consortium or regional fire and rescue authority;
 - (iii) any other public body;
 - (iv) the Secretary of State;
 - (k) in the case of an order relating to the electoral arrangements for a region—
 - (i) the assignment of existing constituency members of a regional assembly to any new or altered constituencies of that assembly (but not so as to modify the effect of section 3(5) or 4(1) and (2) of the Regional Assemblies Act 2004);
 - (ii) where there is a substantial change in the extent of the region, the retirement of all existing members of the regional assembly and the holding of a fresh election of all members of the assembly.”
 - (5) In subsection (3A), for “and (ea)” substitute “, (ea) and (k)”.
 - (6) In subsection (3B), for “(g) and (h)” substitute “and (g) to (j)”.
 - (7) At the end insert—
 - “(8) The Secretary of State shall exercise his powers under this section so as to ensure that every new local government area established under this Part is comprised within a region.”
- 6 In section 28 (interpretation), at the appropriate places insert—
- ““electoral arrangements”, in relation to a region, has the same meaning as in section 149 of the Regional Assemblies Act 2004;”;
 - ““region” means a region for the purposes of the Regional Assemblies Act 2004 and “regional assembly” means an assembly established under section 1 of that Act;”.

Regional Development Agencies Act 1998 (c. 45)

- 7 The Regional Development Agencies Act 1998 is amended as follows.
- 8 (1) Section 1 (establishment) is amended as follows.
- (2) For subsection (1) substitute—

- “(1) There shall continue to be a development agency for—
- (a) each region specified in Schedule 10 to the Regional Assemblies Act 2004 (as that region is for the time being); and
 - (b) the region (“the London region”) consisting of Greater London (as it is for the time being).”
- (3) In subsection (2), for “established by” substitute “under”.
- (4) Omit subsection (3).
- 9 Omit section 25 (power to alter regions).
- 10 Omit Schedule 1 (regions).

Political Parties, Elections and Referendums Act 2000 (c. 41)

- 11 The Political Parties, Elections and Referendums Act 2000 is amended as follows.
- 12 In section 101 (referendums to which Part 7 of that Act applies), in subsection (1)(c), for the words from “Schedule 1” to the end substitute “Schedule 10 to the Regional Assemblies Act 2004 or Greater London.”
- 13 In Schedule 1 (the Electoral Commission)—
- (a) in paragraph 9(2), at the end insert “or to any function of the Commission under Part 2 of the Local Government Act 1992 in relation to the electoral arrangements for a region (within the meaning of that Part) or under Part 12 of, or Schedule 1 to, the Regional Assemblies Act 2004”;
 - (b) in paragraph 14(1), at the end insert “or
 - (c) reimbursed by the Secretary of State under section 153(1) of the Regional Assemblies Act 2004.”

Regional Assemblies (Preparations) Act 2003 (c. 10)

- 14 In section 28 of the Regional Assemblies (Preparations) Act 2003 (regions), for the words from “(except London)” to the end substitute “specified for the time being in Schedule 10 to the Regional Assemblies Act 2004”.

Planning and Compulsory Purchase Act 2004 (c. 5)

- 15 In section 12 of the Planning and Compulsory Purchase Act 2004 (supplementary), in subsection (1), for the words from “(except London)” to the end substitute “specified in Schedule 10 to the Regional Assemblies Act 2004”.

Civil Contingencies Act 2004

- 16 In section 31 of the Civil Contingencies Act 2004 (interpretation), in subsection (2), for “Regional Development Agencies Act 1998 (c.45)” substitute “Regional Assemblies Act 2004 or Greater London”.

SCHEDULE 12

Section 168

MISCELLANEOUS AMENDMENTS

European Communities (Amendment) Act 1993 (c. 32)

- 1 In section 6 of the European Communities (Amendment) Act 1993 (Committee of the Regions) after “London Assembly” insert “, a member of a regional assembly established under section 1 of the Regional Assemblies Act 2004”.

Waste and Emissions Trading Act 2003 (c. 33)

- 2 In section 17(4) of the Waste Emissions Trading Act 2003 (consultation requirements for biodegradable waste strategy for England) after paragraph (a) insert –
 “(aa) consult such bodies or persons appearing to him to be representative of the interests of regional assemblies established under section 1 of the Regional Assemblies Act 2004 as he considers appropriate,”.

SCHEDULE 13

Section 169

REPEALS

<i>Short title and Chapter</i>		<i>Extent of repeal</i>
Regional Development Agencies Act 1998 (c. 45)		Section 1(3) Section 2(6) to (11) Section 5(4) Section 6A Section 7(4) Sections 7A and 7B Section 17(4), (5) and (7) Section 18(5) Section 25 Section 26(3A) Section 27(1A) Section 30A Schedule 1 In Schedule 2, paragraph 1(4), in paragraph 1(5) the words “by virtue of section 2(7)”, and paragraphs 2(2), 3A and 4(5)
Greater London Authority Act 1999 (c. 29)		Sections 305 to 307 In Schedule 25, paragraphs 12, 15(3), 17, 18 and 20(5) and (6)

DRAFT REGIONAL ASSEMBLIES BILL

EXPLANATORY NOTES

Introduction

1. These explanatory notes relate to the draft Regional Assemblies Bill as published for information on 22 July 2004. They have been prepared by the Office of the Deputy Prime Minister in order to assist the reader of the draft Bill and to help inform debate on it. They do not form part of the draft Bill.
2. The notes need to be read in conjunction with the draft Bill. They are not, and are not meant to be, a comprehensive description of the draft Bill. So where a clause does not seem to require any explanation or comment, none is given.

Summary

3. The draft Bill extends only to England and Wales.
4. If enacted, the draft Bill would allow the Secretary of State to establish by order a regional assembly in any English region outside Greater London provided that the electorate there had voted for one in a referendum held under section 1 of the Regional Assemblies (Preparations) Act 2003 (c.10) ('the Preparations Act').
5. The draft Bill also makes provision about elections to a regional assembly. Furthermore, it sets out how an assembly would be internally organised; in particular an assembly would have an executive that would be principally responsible for the performance of its functions. The rest of the members of the assembly would be able to scrutinise the work of executive.
6. The draft Bill also sets out what would be the general purposes of an assembly. An assembly would have general powers to take action to further any of those purposes in relation to its region, subject to a number of restrictions.
7. The draft Bill would also provide an assembly with functions in a number of different areas. For instance, in relation to economic development, for a region where an assembly is established, responsibility for the funding of and appointments to the board of, the regional development agency there would pass from the Secretary of State to the regional assembly. The regional development agency ('RDA') there would become one of three functional bodies of an assembly. Functional bodies are organisations that would be sponsored by an assembly; an assembly would be responsible for funding these bodies as well as making appointments to them. As well as a regional development agency, a regional fire and rescue authority and a regional cultural consortium would be assembly functional bodies.
8. On planning, responsibility for revising the region's spatial strategy would pass from the existing regional planning body or Secretary of State to an assembly. Responsibility for publishing the revised regional spatial strategy would pass from the Secretary of State to an assembly. It is likely that regional spatial strategies will continue to include a regional transport strategy and a regional waste strategy. On housing, in addition to the housing policies in the RSS, an assembly would be able to allocate monies to local authorities for capital investment in housing in their

region and would take over the role of the Housing Corporation in allocating grant to registered social landlords.

9. The draft Bill would also make arrangements regarding changes to regional boundaries. There are provisions that would provide for changing the boundaries of those regions where an assembly was not established. These would largely re-enact section 25 of the Regional Development Agencies Act 1998 (c.45). An entirely new mechanism would be put in place for changing boundaries of regions where an assembly had been established. This would be done by order of the Secretary of State based on recommendations made by the Electoral Commission. There is also provision in the draft Bill in connection with changing the boundaries of an assembly region where local authority boundaries are changed.

Background

10. Principal features of the Government's policy on regional governance were set out in the White Paper, *Your Region, Your Choice: Revitalising the English Regions* (Cm 5511) published in May 2002 ('the White Paper'). England has had a well-established system of elected local government for many years, which is considered to have represented and served well the needs of cities, towns and rural areas. However, outside Greater London, there has been no system for elected government at the purely regional level. The draft Bill, if enacted, would provide for this.
11. At the time the White Paper was published the Government did not envisage a role for a regional assembly on fire and rescue. However, the White Paper *Our Fire and Rescue Service* (Cm 5808), published in June 2003, sets out extensive proposals for modernising the fire and rescue service and identified six issues that, in the Government's view, would be most effectively discharged at a regional level. These ranged from securing the safety of the community in the event of large-scale terrorist incidents or environmental disasters to achieving value for money through regional collaboration in training, human resources and procurement. *Our Fire and Rescue Service* proposed that these functions be discharged by voluntary regional management boards in regions where there was no assembly. Where an elected regional assembly had been established, the functions would be carried out by new regional fire and rescue authorities constituted on similar lines to the London Fire and Emergency Planning Authority – with a majority of members drawn from the assembly for the region.
12. In the White Paper, it was proposed that a regional assembly would only be established in a region (outside Greater London) where its inhabitants voted for one in a referendum. Last year, the Preparations Act was enacted to allow for referendums to be held on the establishment of a regional assembly in any of these eight English regions outside Greater London. The Government will not introduce the Bill into Parliament until there has been a 'yes' vote in one region.
13. During debate on the Regional Assemblies (Preparations) Bill, the Government undertook to publish a draft Bill before any referendum. This draft Bill does not contain everything that the Government intends would be in a Regional Assemblies Bill that would be introduced to Parliament. A policy paper has been published at the same time as this draft Bill that identifies the additional matters that the Government currently intends to be included in the Bill when it is introduced into Parliament. Furthermore, work will continue on the Bill refining or developing what

is already there. Nevertheless (aside from what is covered by the policy paper) it is not the intention that radical changes would be made to the policy already reflected in this draft.

Overview

14. The draft Bill contains 13 Parts and 13 Schedules dealing with different matters affecting an assembly. A very broad outline of the principal features of the Bill follows.

Elections to a regional assembly (Part 1)

15. Assembly members would be elected under what is called the 'Additional Member System' (also used for the election of members to the Greater London Authority). This means that a number of members ('constituency members') would be elected for constituencies on the traditional 'first-past-the-post' method. The rest ('regional members') would be elected on a region-wide basis, as 'top-up members'. The precise division between the number of each type of elected member would be decided by an order of the Secretary of State but it is expected that the constituency members would make up the majority.
16. All those eligible to vote in local government elections would be eligible to vote in elections to a regional assembly.

The constitution and structure of a regional assembly (Parts 1, 2 and 5)

17. A regional assembly would be established by order of the Secretary of State but only after a 'yes' vote in a referendum. Furthermore, the total number of elected members of each assembly would be specified by order of the Secretary of State, although there would be a minimum number of 25 and a maximum of 35 members.
18. An assembly would have an executive of between three and seven members that would be appointed from among the assembly members. The executive would make most of the decisions for an assembly with some exceptions. A significant exception would be the assembly's annual budget, which would need to be approved by the assembly as a whole.
19. The assembly (excluding the members of its executive) would have as its principal role the scrutiny of the executive through its review and monitoring committee ('RMC') and any sub-committees of the RMC.
20. An RMC and any sub-committee would need to report to the assembly on any matter that they examined. In addition, an RMC and its sub-committees would be able to co-opt, as members, individuals who were not assembly members.

Assembly general purposes and power (Part 3)

21. In many cases, the work that an assembly would undertake would be taken over from central government (including Government Offices), non-departmental public bodies or regional chambers.
22. Where an assembly acts, the draft Bill is constructed so that it would usually be doing so under its power (its 'general power') to do certain things that it thinks are

likely to further one or more of its general purposes, or to do anything to facilitate, or which is conducive, or incidental to the exercise of any of its functions. The purposes would be, in relation to an assembly's region, the promotion of economic development, the promotion of social development and the improvement and protection of the environment. 'Social development' is defined in the draft Bill to include, for example, improving the availability of good housing and of cultural and recreational activities and reducing health inequalities.

23. The action that an assembly could undertake under its general power is defined widely under the draft Bill and could include, for example, providing grants, working with other public bodies and giving advice or making proposals. An assembly could also act outside its region. Exceptions, delineating the use of the general power are also to be found in the draft Bill, and include preventing an assembly on its own from providing and managing housing. The intention here is that an assembly should not duplicate the responsibilities of local authorities or the other bodies who provide certain housing services.
24. The general power would not always suffice (since, for example, it could not be used to impose obligations on third parties) though it is intended to be extensive. So the draft Bill also grants an assembly certain other specific powers. Although, the exercise of these powers would always have to be consistent with one of its general purposes.

Assembly scheme, report and participants (Part 3)

25. An assembly would be required to draw up a scheme setting out its strategic vision for its region. The scheme would have to set out medium and long-term objectives, priorities and how the assembly intends to contribute to sustainable development.
26. An assembly would have to report annually on how it was progressing against its scheme, on how it had involved people in its work and how it was meeting any targets agreed with the Secretary of State. This report would have to be published and discussed at a meeting open to the general public, where there would be an opportunity to ask questions about it.
27. A regional assembly would be required to encourage representatives of employers and employees, local authorities, the voluntary sector and community groups ('assembly participants') to participate in carrying out its functions.

Finance (Part 4)

28. The majority of funding for a regional assembly would be provided through Government grant. Therefore, the draft Bill provides the Secretary of State with two powers to make grants for funding an assembly. It is intended that an assembly would have flexibility on how it spends this money.
29. A contribution to an assembly's running costs could be made by a precept on the council tax, and an assembly would be able to raise additional funds this way if it chose. The money would be collected on behalf of the assembly by local authorities in the region as part of the existing arrangements for collecting council tax. The Secretary of State would have a power to limit the amount raised through council tax by arrangements comparable to the existing local authority-capping regime.

30. The draft Bill here also makes provision for an assembly to budget for and fund its three functional bodies, being a regional development agency, a regional cultural consortium and a regional fire and rescue authority.

Specific functions of an assembly (the general powers and Parts 6 to 10)

Regional development agencies and economic development

31. As explained above, economic development would be one of a regional assembly's general purposes. Connected with this, a regional assembly would be provided with powers under the draft Bill with respect to the RDA for its region.
32. RDAs were established in 1999 in each of the eight English regions outside Greater London, under the Regional Development Agencies Act 1998. The London Development Agency was established in 2000 and is one of the bodies for which the Greater London Authority is responsible. The role of RDAs is to take a strategic lead in driving improved economic performance in the regions.
33. In regions where an assembly is established, the RDA for its region would become accountable to the assembly whilst retaining its present-day operational independence and Board responsibility for meeting the targets and Corporate Plan it could agree with the assembly. An assembly would appoint the members of its RDA and become responsible for its funding (see Part 4 for this specifically). The RDA would continue to develop the regional economic strategy ('RES') but this would be for adoption and publication by its assembly. An RDA has to take account of its RES in the performance of its functions.

Regional Fire and Rescue Authorities

34. In regions where an assembly is established, any region-wide combined fire and rescue authority that already existed at the time the assembly was established would become a regional fire and rescue authority ('RFRA'). Where there was not a pre-existing region-wide combined fire and rescue authority, the Secretary of State would create a RFRA after an assembly was established. The membership of RFRAs would be drawn both from the assembly for its region and from representatives of local authorities in the region but in both cases would be appointed by the assembly. RFRAs would have the functions conferred on fire and rescue authorities by the Fire and Rescue Services Act 2004 (currently a Bill). RFRAs would be the fire and rescue authority for their region, responsible for fire fighting and emergency rescue (including from road traffic accidents), for community fire safety and for fire safety education. They would be funded by the assembly for their region (again, see Part 4 for this specifically).

Regional Cultural Consortiums

35. As stated above, a regional assembly's general purposes of promoting social development in the region is defined in the draft Bill as including improving the availability of cultural and recreational activities and so under its general powers an assembly would be able to allocate funding towards this. Furthermore, each assembly would have to adopt a strategy, prepared for it by the regional cultural consortium ('RCC'), setting out its objectives for the promotion of matters relating to culture and recreation.

36. RCCs currently exist as non-departmental public bodies funded by the Department for Culture, Media and Sport. In regions where an assembly was established, the RCC for the region would become a body corporate and the assembly would appoint the consortium members. It is likely that an assembly would provide most of the consortium's funding and to this end the draft Bill provides (in Part 4) for an assembly to provide funding. A RCC's purposes would relate to the development and provision of cultural and recreational services in the region.

Planning

37. Part 9 would make provision about an assembly's planning functions and provides that responsibility for regional planning would pass from the regional planning body ('RPB') established under the Planning and Compulsory Purchase Act 2004 (c.5) ('PCPA') to the assembly. The PCPA provides that every region is to have a regional spatial strategy ('RSS'). The RSS is the spatial planning document for the region, setting out the land use and development policies of the Secretary of State. Under the PCPA, the RPB (so designated by the Secretary of State) must keep the RSS under review and must monitor and report on its implementation. It must prepare draft RSS revisions. Part 9 would provide for these duties to be transferred to an assembly and for the RSS to set out an assembly's policies. It would then be for the assembly to issue the RSS (a role fulfilled by the Secretary of State for the RPBs under the PCPA).
38. Additionally, the assembly would have powers to direct local authorities to refuse strategic planning applications. An assembly would have to give advice to others if it believed that would assist the implementation of the RSS. The Part would also make general provision about the preparation of draft revisions and about holding examinations in public of draft revisions. The Secretary of State would have various default powers and would be able to make provision in connection with the exercise by any person of functions under this Part by regulations. It is intended that the PCPA will be commenced in stages from 2004 to 2005, beginning with (but not limited to) the local and regional planning provisions in Parts 1 and 2 in Autumn 2004.

Housing

39. Social development is also defined in the Bill as including improving the availability of good housing. An assembly could use its general powers to provide funding to local authorities, registered social landlords and other housing providers in support of housing capital investment, which could include the provision of new homes or the renovation of existing stock.

Transport

40. An assembly would have responsibility for producing and issuing regional transport strategies as part of its regional spatial strategy. When Part 1 of the Planning and Compulsory Purchase Act 2004 is brought into force this will be prepared by regional planning bodies and issued by the Secretary of State. A regional planning body would be responsible for producing any revised strategy.
41. An assembly could use its general power to make proposals to the national organisations responsible for highways and rail. The draft Bill would in turn require the Highways Agency to consult the assembly on certain highways schemes.

Learning and Skills

42. Under the Learning and Skills Act 2000 (c.21), local learning and skills councils are the responsibility of the Learning and Skills Council for England ('the Council'). Where a local learning and skills council's area fell wholly or mainly in an assembly's region, the assembly would appoint five of its members, having regard to guidance issued by the Secretary of State. The Council would be required to consult the assembly on the annual guidance it gives to local and learning and skills councils and each such council would be required to have regard to any assembly regional economic strategy in the preparation of its annual spending plans.

Environment

43. Using its general powers, an assembly would be able to prepare a biodiversity strategy and nominate members to a regional environment protection advisory committee of the Environment Agency (on these committees see section 12 of and Schedule 3 to the Environment Act 1995 (c.25)). Similarly, it could make recommendations to the Forestry Commission about membership of their regional advisory committees (on these committees see sections 37 and 38 of the Forestry Act 1967 (c.10)). An assembly would also be able to take advantage of an opportunity to be represented on areas of outstanding natural beauty ('AONB') conservation boards (on these boards see sections 86 to 91 of the Countryside and Rights of Way Act 2000 (c.37)).
44. An assembly would have to be consulted on various environmental matters in its region, including proposed boundary changes to National Parks and AONBs and any proposals to publish, adopt or review the management plans for these areas. The Countryside Agency would have to also consult an assembly before it prepared a report on a long-distance route that passed through the assembly's region.
45. An assembly would have imposed on it the duty under section 74 of the Countryside and Rights of Way Act 2000 that relates to the conservation of biological diversity.

Assembly employees (Part 11)

46. Under its general power an assembly would be able to appoint the staff it needed to carry out its various functions. It would also be able to appoint political assistants to provide assistance to political groups in the assembly. The assembly's staff would be appointed on merit, although for political assistants other considerations could be taken into account.
47. An assembly would have to have a chief executive officer, a chief finance officer and a monitoring officer. These senior officers would be responsible for the carrying out of the assembly's executive functions and would make reports to the assembly and executive on matters of interest and concern to the members. Some assembly employees, including the senior officers, would be subject to restrictions on their political activities.

Regions and Miscellaneous Matters (Parts 12 and 13)*Regions*

48. The draft Bill sets out the extent of the present regions. It provides two new methods by which they may be altered in the future. They may be altered either (1)

as a consequence of the creation of a new local authority (that would otherwise cross a number of regions); or (2) in the case of a region where an assembly is, by moving a local authority area from one region to another following an independent review involving the Electoral Commission and the Boundary Committee for England. The draft Bill includes powers to make consequential changes to electoral arrangements and, for example, for requiring transfers of assets and liabilities as a result of an alteration of a region.

Miscellaneous matters

49. Part 13 deals with a number of miscellaneous matters including further provision regulating the use by an assembly of its general powers. For example, under the general powers an assembly could appoint special advisers and such appointments are regulated under Part 13.
50. Further an assembly could, under the general powers, set up companies and have interests in companies by, for example, owning shares. The Secretary of State would be able to regulate an assembly company in order to ensure that the assembly did not, for example, attempt to get round borrowing restrictions by borrowing through such a company. Similarly, an assembly would be prevented from taking into account certain non-commercial considerations when contracting under its general powers.
51. The Deregulation and Contracting Out Act 1994 (c.40) would apply to an assembly. The means by which the Secretary of State may, under that Act, confer power to contract-out functions by way of order, would therefore apply to an assembly function.
52. An assembly and its functional bodies would be subject to audit under the Audit Commission Act 1998 (c.18) by auditors appointed by the Audit Commission. An assembly would prepare a summary statement of accounts in respect of itself and its functional bodies. An assembly would be subject to general principles of best value and continuous improvement as set out for local authorities under the Local Government Act 1999 (c.27), but only specified provisions of that Act would apply to an assembly. RFRAs would be best value authorities within section 1 of the 1999 Act. Access to documents by the Comptroller and Auditor General for the purposes of a value for money examination under section 6 of the National Audit Act 1983 (c.44), which are held by an assembly or its RDA or RCC, would be granted by extending section 8 of the 1983 Act.
53. The final provisions of the draft Bill deal with a number of miscellaneous matters, including general interpretation of the Bill, the procedure for making orders and regulations under the Bill and clarifying that powers to give a direction under the Bill include the power to amend or revoke the direction.

Territorial Application: Wales

54. This draft Bill would extend only to England and Wales. But it principally concerns the English regions outside Greater London. It does not affect the functions of the National Assembly for Wales and has no other particular effect on Wales.

Commentary on clauses

Part 1 Constitution

Establishment and status

Clause 1: Establishment of assemblies

55. Clause 1 provides the Secretary of State with the discretion to establish by order an elected regional assembly in those regions that have voted ‘yes’ in a referendum (on the establishment of an elected regional assembly) held under the Preparations Act (*subsections (1) and (2)*). The Chief Counting Officer’s certificate, which would have to be issued at the end of each such referendum under section 128(6) of the Political Parties, Elections and Referendums Act 2000 (c. 41) and which would set out the number of votes cast at a referendum and the number of votes cast in favour of an elected assembly, would be determinative of whether a majority had voted in favour of an assembly (*subsection (4)*). It is therefore the Chief Counting officer’s certificate that would establish whether the condition of a ‘yes’ vote had been satisfied so that the Secretary of State would be able to establish an assembly.
56. Any draft of an order establishing an assembly would have to be approved by both Houses of Parliament (clause 171(3)). Such an order would have to specify the name by which the assembly would be known and when it would be established, and could not be made until at least six weeks after the Chief Counting Officer’s certificate (*subsections (3) and (5)*). This latter restriction ties in with section 11 of the Preparations Act which requires that any legal challenge to the result of a regional referendum result is commenced within six weeks of when the Chief Counting Officer certifies the result. So, no order could be made until the time for mounting a legal challenge had expired.

Clause 2: Status

57. An assembly would be a body corporate, which would mean that it would be a legal entity in its own right (*subsection (1)*). An assembly would not be considered a servant or agent of the Crown and would not have the status, immunities and privileges, which that might bring (*subsection (2)*). So for example, an assembly would not benefit from the rule that unless the contrary intention appears, Acts of Parliament do not bind the Crown or its servants or agents. Crown servants cannot be made liable for the wrongful acts of their subordinates, unless the acts are proved to have been authorised by them, such that they become their own act. This is because they and their subordinates are fellow servants of the Crown rather than employer and employee. A regional assembly, because it is not a servant or agent of the Crown, would, however, be vicariously responsible for its servants and agents in the same way as any other employer.
58. *Subsection (3)* clarifies in case of any doubt, that the validity of the proceedings or actions of an assembly would not be affected by any vacancies in its, or its executive’s, membership. Clauses 19 to 21, 32 and 33 deal with vacancies and the executive generally. So, for example, if a member of an assembly were to resign or die, an assembly would still be able to legally act.

Members and constituencies

Clause 3: Assembly Members

59. This clause provides for an assembly to have two types of members: constituency members, who represent their constituency, and regional members, who represent the whole region (*subsections (1) to (3)*). The electoral system for a regional assembly would be the Additional Member System, which is the same system as used for the Greater London Assembly. The constituency members would be elected by the traditional ‘first-past-the-post’ system. The regional members would be elected as ‘top-up’ members from party lists (or individual candidates), by applying the d’Hondt Formula, which is explained in relation to clause 11 below. This would limit the chances of an assembly being dominated by a single party, and is intended to encourage a co-operative governing style.
60. An assembly would have between 25 and 35 members, as set out in *subsection (5)*, which is intended to allow them to be as small as possible whilst still large enough to represent all parts of the region. The actual number of members and the number of constituency and regional members respectively for each assembly would be fixed by an order made by the Secretary of State (*subsection (4)*). There is, however, a mechanism for changing the number of members where there is a change in the extent of a region (see commentary on Part 12).

Clause 4 and Schedule 1: Constituencies and Review of Constituencies

61. *Subsection (1)* sets out that each constituency would have one member. *Subsection (3)* provides that the Secretary of State would be able to designate the boundaries and names of the constituencies by order, having taken into account advice given by the Electoral Commission under Part 3 of the Preparations Act. That Part requires that once a referendum has been held in a region, the Secretary of State must direct the Electoral Commission to advise him on certain matters relating to the election of a regional assembly for that region. Those matters are:
- the division of the region into constituencies;
 - the number of constituencies to create;
 - the name of each constituency; and
 - the total number of members to be elected to the assembly.
62. *Subsection (5)* incorporates Schedule 1, which provides for the process by which it would be possible to alter constituency boundaries and names. This is so that account could be taken of, for example, demographic changes (such as the construction of a new town).
63. *Paragraph 1* of Schedule 1 provides that the Electoral Commission would have the power to direct the Boundary Committee for England (a committee of the Commission) to carry out a review of the division of a region into constituencies and the names of those constituencies. Such a review could not however, address the extent of a region or the number of constituencies into which a region is divided. The Electoral Commission is the independent body that advises on electoral issues and which has responsibility for reviewing Parliamentary and local government boundaries.

64. In carrying out a review, the Committee would have to consider the same criteria as those that the Commission was required to apply when advising the Secretary of State about the original constituency boundaries under the Preparations Act. These include the need to reflect the identities and interests of local communities and the need to ensure as far as practical that the number of electors in each constituency is the same.
65. *Paragraph 2* sets out the review procedure, which is based on the model in the Local Government Act 1992 (c.19) for changing local authority boundaries. The Committee would be able to make its recommendations in the form of a report and those affected would be able to make representations upon draft proposals.
66. *Paragraph 3* sets out the alternative procedure, which would exist as a shorter and more convenient option that could be used where it would not be appropriate to follow the full procedure. This also follows the scheme of the Local Government Act 1992. It is envisaged that this would be used if a change would be very minor and the normal procedure would, therefore, be unnecessarily cumbersome.
67. *Paragraph 4* provides for the Commission to make an order implementing the Boundary Committee's recommendations, with any modifications that the Committee have agreed to. Such an order could make provision allocating existing members to altered or new constituencies where minor changes took place outside the ordinary elections cycle. However, if substantial changes took place outside the ordinary elections cycle then it would provide for fresh elections to be held for all seats in the assembly. A power would be included to correct mistakes in any orders made, to ensure that this can be done where necessary without a fresh review being undertaken.
68. Constituency boundaries and names (and, in addition, the number of constituencies) can also be altered as a consequence of a change in the extent of a region (see commentary on Part 12).

Ordinary elections

Clause 5: Time

69. *Subsection (1)* provides that the first elections to a regional assembly would take place on a date or, to allow for postal voting, over a period appointed by the Secretary of State in an order. *Subsections (2) and (3)* provide that ordinary elections (i.e. routine elections of all members) would be held on the first Thursday in May once every four years, to correspond with the arrangements for other sub-national elections in Britain. The Secretary of State would be able, by order, to provide for ordinary elections to be held up to a month early or late in case of emergency, such as occurred in the outbreak of foot and mouth disease in 2001.

Clause 6: Votes

70. This sets out that electors would be able to cast two votes: one for their constituency member and one for a regional member. The vote for a regional member would have to be given either for a party that has provided a list or for an individual candidate.

Clause 7: Franchise

71. *Subsection (1)* sets out that the franchise (those who can vote at elections) for regional assembly elections would be same as the local government franchise.

Clause 8: Constituency candidates

72. This sets out that a candidate cannot stand for more than one constituency in a region. A candidate can, however, stand for both a constituency seat and for a seat as a regional member.

Clause 9: Regional candidates

73. This clause specifies how the candidates to be a regional member would be nominated. *Subsection (1)* provides that a list of candidates could be submitted by a registered political party. A 'registered political party' would be one that was registered under Part 2 of the Political Parties, Elections and Referendums Act 2000.
74. *Subsection (4)* establishes that a party list for the regional seats would remain in use after an ordinary election for the purpose of filling any vacancies in the seats of regional members held by that party that arise before the next ordinary election.
75. *Subsection (5)* sets out that a party list could not include:
- a candidate who was standing for a constituency seat in that region for another party or as an independent;
 - a candidate who was on another party list for that region; or
 - an individual candidate who was standing to be a regional member.

In practice this would mean that voters who voted for a party list could be sure that the candidates on that party's list were clearly identified with that party. This would be consistent with the arrangements for the elections to the Greater London Authority in Schedule 2 to the Greater London Authority Act 1999 (c.29).

76. Under *subsection (6)*, a candidate could not stand to be an individual regional member if he stands as a constituency candidate for a registered political party or if he was on a party list. Again, this would mean in practice that voters who voted for an individual regional member would be able to distinguish that member from the party alternatives, and is consistent with Schedule 2 to the Greater London Authority Act 1999.

Clause 10: Return of constituency members

77. Elections for constituency members would be conducted by the 'first-past-the-post' system and would have to be decided before the election of regional members was decided, unless a constituency election was abandoned or overturned. This is because constituency member results for each party would be needed to calculate the 'regional figure'. The regional figure would be the basis of determining which candidates were elected as regional members.

Clause 11: Return of regional members

78. *Subsection (1)* sets out that for regional members, the total number of regional votes for each party would be calculated and divided by the number of constituency seats

- won by that party plus one. That number would be the ‘regional figure’ for that party (*subsection (3)*).
79. *Subsection (2)* says that the number of votes for each individual regional candidate would be calculated, and that would be the ‘regional figure’ for that candidate (*subsection (3)*).
 80. *Subsection (4)* establishes that no party or individual with a regional vote of less than 5% of the total number of regional votes would be allocated a regional seat. The purpose of this provision would be to eliminate from representation in a regional assembly any parties (or individuals) with only a very small proportion of the votes.
 81. *Subsection (5)* sets out that the party or individual with the highest regional figure would be allocated the first regional seat. Where that seat goes to a party, the regional figure for that party would then be recalculated (to take account of the seat won). This process would then be repeated for each regional seat.
 82. The regional seats which were allocated to a party would be filled by the people on that party’s list in the order in which they appeared on the list, until the names on the list were exhausted. Anyone on the list who had already been elected as a constituency member would be disregarded (*subsections (8), (9) and (10)*).
 83. *Subsections (11), (12) and (13)* set out the process for allocating regional seats if there is a tie (i.e. more than one party (or individual candidate) had the highest regional figure). Each would win a seat unless that would mean allocating more seats than were available. In such a case, *subsection (12)* would determine that the regional figures would be recalculated for the tied parties (or candidates), with one vote being added to each vote tally, and the higher of the resulting figures winning the seat. If after that recalculation there was still a tie *subsection (13)* sets out that the winner would be decided by lot, as is the case in the case of ties at Parliamentary and local government elections.

Holding office

Clause 12: Term of office

84. This provides that the term of office for assembly members would run from two days after the return of the last member was declared until two days after the return of the last member was declared at the following ordinary election. Any constituency elections that were abandoned or overturned would not be included in this determination. This means that in practice the last member to be declared returned would be the regional member allocated the last regional seat and so the term of office of all members would run from two days after that declaration.

Clause 13: Acceptance of office

85. *Subsections (1) and (2)* set out that an elected candidate must make a declaration of acceptance of office before one of a number of designated people and deliver it to the appropriate assembly officer within two months of the election or their seat would become vacant. *Subsection (3)* designates the people who could make such a declaration.

86. *Subsections (5) and (6)* give the power to the Secretary of State to make different provision for declarations of office following the first ordinary election, when there would not be an appropriate officer already in place.
87. The main purpose of the requirement to make a declaration of acceptance of office is to ensure that only those who actually agree to take on and fulfil the duties of being a member of an assembly should receive any payment for acting as such. Accordingly, *subsections (7) and (8)* establish that until an elected candidate had made and delivered a declaration of acceptance, he would receive no salary or pension contribution, although he could be paid for that period after he had complied with these requirements.

Clause 14: Resignation

88. This establishes that a member would be able to resign at any time, and that if he did so, this would take effect when the proper officer received the written notice of resignation.

Clause 15: Termination of office for non-attendance

89. *Subsection (1)* details that a member would have to attend at least one meeting of the assembly or, if he is a member of the executive, its executive, or of any other body on which he represents the assembly in any six-month period or that member's seat would become vacant. This is to ensure that where a member was persistently absent he could not retain his seat.
90. *Subsections (3) and (4)* set out the circumstances in which subsection (1) would not apply. These are if the member had prior approval from the assembly for his absence or his absence was due to certain activities associated with war or emergency.
91. Where a member's seat became vacant under these provisions, the proper officer of the assembly would have to declare the seat vacant, which would 'activate' the provisions in clauses 19 and 20 for filling vacancies.

Disqualification

Clause 16: Grounds of disqualification

92. Clause 16 sets out the grounds on which a person would be disqualified from being elected to, or being a member of, a regional assembly. The grounds for disqualification are similar but not identical for each case. Grounds for disqualification would include not being a Commonwealth or European Union citizen, being employed by another assembly in a politically restricted post (see clauses 130, 131 and 132) and being subject to a bankruptcy restrictions order or an interim bankruptcy restrictions order.

Clause 17: Consequences of disqualification

93. This clause sets out what the effects of disqualification would be. Where a disqualified person was elected or otherwise returned, his return would be void and his office vacant. If an existing member of an assembly became disqualified during the course of his office he would cease to be an assembly member and his office would become vacant (*subsections (1) and (2)*). If an office became vacant, the assembly's proper officer would have to declare that it was vacant (*subsection (3)*).

94. The validity of any action of a member of the assembly acting in that office would not be affected by his disqualification (*subsection (4)*).

Clause 18: Judicial proceedings as to disqualification

95. Legal proceedings could be brought to establish whether a member was disqualified at any time, unless his election was already being challenged under the provisions for challenging election results, which it was anticipated would be made under clause 26.

Vacancies between elections

Clause 19: Vacancies: constituency members

96. *Subsections (1), (2), (3), (4), (5), (6), (8) and (10)* set out that by-elections would be held for constituency seats if they become vacant, conducted by the ‘first-past-the-post’ system, and otherwise on the same basis as ordinary elections. A by-election would have to be held within 35 days of the vacancy being declared or notified on a date (or over a period) which would be fixed by the returning officer.
97. *Subsection (7)* determines that the 35 days would be calculated so that Saturdays, Sundays, bank and public holidays would be disregarded when carrying out this calculation, in the same way as they are in relation to local government elections under the Local Government Act 1972 (c.70).
98. The term of office of a constituency member elected to fill a vacancy expires when it would have done had he been elected at the last ordinary elections (*subsection (9)*).
99. *Subsection (10)* provides that a constituency member elected to fill a vacancy would have to make and deliver a declaration of acceptance of office in the same way as if he had been elected at the last ordinary election (with the same consequences if he failed to do so).
100. *Subsections (11) and (12)* establish that no by-election may take place if a vacancy occurs in the six-month period before ordinary elections, and there are no more than a third of the seats vacant. The reason for this is that in those circumstances (i.e. so close to an ordinary election and at a time when at least two thirds of the seats of the assembly are taken), it would be considered reasonable to avoid the costs etc. of holding a by-election.

Clause 20: Vacancies: regional members

101. *Subsection (2)* determines that if a vacancy occurs in a seat that was held by a regional member who was an individual candidate, then the seat would remain empty until the next ordinary elections. This is because where a regional member is an individual rather than a representative of a party, there is no one who can properly fill the seat without holding a region-wide election.
102. Otherwise, a regional member vacancy would be filled by the next person on the list of the party that held that seat who would be willing to serve, unless that person was not a member of the party any longer and the party had already informed the regional returning officer that he was not to be elected, as set out in *subsections (3) to (6)*.

103. The term of office of a regional member selected to fill a vacancy would expire when it would have done had he been returned at the last ordinary election (*subsection (8)*).
104. *Subsection (9)* provides that a regional member returned to fill a vacancy must make and deliver a declaration of acceptance of office in the same way as if he had been returned at the last ordinary election (with the same consequences if he failed to do so).

Clause 21: Date of vacancies

105. This defines when a vacancy would be regarded as having arisen, depending on the cause, and how it should be publicised.

Conduct of elections

Clause 22: Returning officers

106. This sets out that the returning officer for the election of constituency members would be specified by order of the Secretary of State. The regional returning officer would be the proper officer of the assembly, except for at the first ordinary election, when he would be specified by order of the Secretary of State.

Clause 23: Expenditure for first ordinary election: returning officers

107. This sets out that the returning officer would be entitled to recover his legitimate expenditure in running the first ordinary election. In order to do so, he would have to submit an account to the Secretary of State who, if satisfied that it was properly payable, would pay no more than any maximum amount which he had determined out of the Consolidated Fund.

Clause 24: Expenditure for first ordinary election: Secretary of State

108. This sets out the circumstances in which the Secretary of State would be able to incur expenditure in relation to the first ordinary election.

Clause 25 and Schedule 2: Supplementary provision relating to elections and Elections: Supplementary

109. Clause 25 incorporates Schedule 2. *Paragraph 1* of Schedule 2 would amend the Sex Discrimination Act 1975 (c.65), so that the amendments made to that Act by the Sex Discrimination (Election Candidates) Act 2002 (c.2) would apply to an election to a regional assembly in the same way as they apply to other elections. Those amendments allow political parties to make arrangements to regulate the selection of candidates in elections. Such arrangements are adopted for the purpose of reducing inequality in the numbers of men and women elected to the bodies concerned. The amendment would cease to have effect when the Sex Discrimination (Election Candidates) Act 2002 expires in 2015 (unless the date of expiration is extended by an order made by the Secretary of State).
110. *Paragraphs 2 to 10* of Schedule 2 would amend various provisions of the Representation of the People Act 1985 (c.50) and the Political Parties, Elections and Referendums Act 2000 to incorporate references to, and apply them to regional assembly elections.

111. *Paragraph 11* of Schedule 2 would amend the Preparations Act to give the Secretary of State power to request additional information from the Electoral Commission when they give advice on how a region is to be divided up into constituencies.

Clause 26: Power to make further provision relating to elections

112. This gives the Secretary of State the power to make an order governing the conduct of elections to a regional assembly. It is envisaged that the order-making power would be used to deal with matters such as the expenses of returning officers in elections other than the first ordinary elections, controls on donations to candidates and the procedures for challenging election results. This provision would also be used to specify the detailed arrangements for the conduct of the election, including for example, the form of the ballot papers, the polling hours or days, and the procedures to be followed at the counting of the votes. Before making any such order, the Secretary of State would have to consult the Electoral Commission.

General

Clause 27: Interpretation of Part 1

113. This defines some of the terms used in Part 1.

Part 2 Structure

Meetings

Clause 28: First meeting of assemblies

114. The first ever meeting of an assembly would have to take place within 12 weeks of the end of the first ordinary election and, before that election, the Secretary of State would be required to appoint somebody to preside over the first meeting and would be able to pay them for carrying out their duties (*subsections (1) to (3) and (7)*). The presiding officer would stay in office until the assembly elected itself a chairman (*subsection (8)*) and he would have to arrange a date, time and place for the meeting and give notice of it to those people elected as well as publishing those details (*subsections (4), (5) and (6)*).

Clause 29: Subsequent meetings

115. An assembly would be obliged to hold at least six ordinary meetings each year, not including the first meeting after any ordinary election, and to hold those meetings at regular intervals (*subsections (2), (3) and (8)*). An assembly would be able to hold further, ordinary meetings if it wished (*subsection (4)*). The first meeting after an ordinary election would have to be held within 10 days after the election (*subsection (1)*).
116. The chairman of an assembly would be empowered to call an extraordinary meeting of the assembly at any time. An extraordinary meeting of the assembly could also be called by at least five members of the assembly if the chairman had refused to call such a meeting or failed to call a meeting within seven days of a request (*subsections (5) and (6)*). It is expected that an extraordinary meeting might be called to consider emergencies. For instance, if a region was subject to widespread flooding then an assembly might be unable to wait for the next scheduled ordinary assembly meeting to discuss it.
117. Notice of a meeting (either ordinary or extraordinary) of the assembly would have to be given at least 5 full days before the meeting was due to take place (*subsection (7)*). An exception to this requirement can be found in clause 31(5), which would

allow meetings to be called in the case of emergencies by the chairman of the assembly (or any other person presiding at the meeting).

Clause 30: Chairing assemblies

118. At the first meeting of an assembly after it was elected, its first business would be required to be the election of a chairman and deputy chairman (*subsection (1)*). It would be the chairman's job to preside over meetings of the assembly as well as to carry out any other functions conferred on him (*subsection (2)*). The role of the deputy chairman would be to preside at meetings when the chairman was absent, to carry out the functions of the chairman if there was a vacancy and to carry out any other functions conferred on him (*subsections (2) and (3)*). It would be for an assembly to choose what additional functions were conferred on the chairman, but it might, for instance, include the signing in of new members of the assembly.
119. Whenever there was a vacancy in either of these above posts, the first business of the next meeting of an assembly would have to be to fill that vacancy (*subsection (4)*). There could be a number of reasons why somebody would cease to be chairman or deputy chairman and these are set out in *subsection (5)*. For example, they would include resignation from that post or ceasing to be an assembly member. If the vacancy in an office was due to a vote of no confidence passed by the assembly, that same meeting of the assembly would be required to elect a new chairman or deputy chairman (*subsection (6)*).
120. However, under *subsection (7)*, if the chairman or deputy chairman ceased to be a member of the assembly because they were not re-elected at an ordinary election, they would continue in office as chairman or deputy chairman until someone was chosen by the assembly to fill their posts.
121. The outgoing chairman or deputy chairman would therefore oversee the election of his or her successor. They would not be able to vote for their successor, however, as they would not be a member of the assembly (*subsection (8)*).

Clause 31: Procedure at meetings

122. For a meeting of an assembly to undertake any business at least a quarter of all its members would have to be present (*subsection (1)*). In addition, decisions at a meeting of an assembly would have to be taken by a majority of those voting and present. If assembly members were to vote in equal proportions, the assembly's chairman would have an additional and casting vote (*subsections (2) and (3)*).
123. Where any requirements with regard to notice of a meeting or item of business at a meeting set out in an assembly's standing orders or under an enactment were not complied with, a meeting could not be held or the particular item of business could not be considered (*subsection (4)*). This would ensure that assembly members were given adequate notice that an issue was to be discussed or that particular papers were to be tabled so that they would be able to prepare themselves. This would not be the case if the chairman or other person presiding at the meeting considered the issue to be a matter of urgency. However, the minutes of the assembly meeting would have to record the reasons why it was decided to hold the meeting or consider the matter as a matter of urgency (*subsections (5) and (6)*).

*Executive***Clause 32: Executive**

124. An assembly would be required to have an executive made up of a leader elected by the assembly (who would be elected at the first assembly meeting after any assembly ordinary election) and other members appointed by the leader (*subsections (1) and (2)*). The maximum number of executive members that the leader would be able to appoint would be six and the minimum would be two (*subsection (3)*). So, the total number of members of an assembly's executive would range from three to seven. The executive would not be able to include either the chairman or deputy chairman of the assembly (*subsections (4)*).
125. The leader of the executive would remain in office until he resigned, lost a vote of no confidence, lost his assembly seat or a new leader was elected (*subsection (5)*). If the leader lost his seat at an ordinary election, as a transitional arrangement, he would remain the leader until a new one was elected (which under subsection (2) would have to take place at the first assembly meeting). Where the assembly passed a vote of no confidence, it would, at the same meeting, have to elect a new leader (*subsection (6)*).
126. If the leader ceases to be a member of the assembly other than at an ordinary election of the assembly, the remaining members of the executive would in the meantime have to designate one of themselves to be acting leader (*subsection (9)*). The acting leader would be able to perform the roles of the leader (*subsection (10)*). The assembly would have to elect a new leader as soon as practicable after the vacancy in the membership of the assembly caused by the leader's departure was filled (*subsection (11)*). An acting leader would cease to hold that office upon the election of a new leader (*subsection (12)*).
127. A member of the executive would cease to be a member when he was dismissed by the leader of the executive or ceased to be a member of the assembly (*subsection (7)*).

Clause 33: Executive functions

128. The functions of an assembly, with some exceptions, would have to be carried out by its executive, though this would be on the assembly's behalf (*subsection (1) and (2)*). The first exception to this rule would be any exception specified in primary or secondary legislation. This would be where a subsequent piece of legislation conferred a new function on an assembly and specified it as for the assembly as a whole to exercise rather than the executive.
129. A number of other exceptions are set out in the clause (*subsections (3), (4) and (5)*). These are mainly functions which are considered fundamental to the operation of the assembly and which should therefore be carried out by the assembly as a whole. These include the appointment (including the terms on which such appointment is made) and dismissal of the assembly's chief executive officer. Where the assembly had so decided, the appointment or designation of an existing member of staff as the chief finance officer and monitoring officer would also be the decision of the whole assembly and the assembly's standing orders will have to make provision in relation to the making of such a decision (*subsection (11)*). This is so that the assembly can be satisfied that the relationship between the executive and the assembly's senior officers is in order (*subsections (3) and (4)*).

130. The Secretary of State would also be able, by order, to decide which functions could be carried out by the executive on the assembly's behalf and which could not. This power could be used, for example, if new powers were conferred on the assembly and would be subject to annulment by either House of Parliament (*subsection (6)*).
131. The assembly would have the power to decide the circumstances in which the carrying out of functions which are to be discharged by the executive could be delegated by the executive to its leader, another member of the executive, the whole executive, a committee of the executive or an assembly employee other than a political assistant (*subsections (7) to (11)*).
132. The assemblies standing orders would need to make provision for the meetings of the executive and its committees.

Elections for post holders

Clause 34: Elections for post holders

133. This clause makes general provision about how an assembly would be able to elect its chairman and deputy chairman and the leader of its executive.
134. The person who would be elected to any of these posts would be the person who gains the most votes of assembly members (*subsections (1) and (2)*).
135. However, if there were two people who each had an equal number of votes which was the highest number, then a further ballot between only those two would have to be held in order to decide who would be elected (*subsection (3)*). An exception to this would be where there were only two candidates originally. In that case where the votes were the same, the result would be decided by the drawing of lots (*subsection (4)*). By the same token, if a further ballot was held between two candidates and the votes were equal, then lots would need to be drawn.
136. An election to any of these three posts could not take place when the vacancies in assembly membership exceeded one third of the assembly's membership (*subsection (5)*). Also, a person could not stand for election unless they had signed and provided a declaration of acceptance of office, as they would not be able to act as an assembly member until they had done so (*subsection (6)*).

Remuneration etc. of assembly members

Clause 35: Members' salaries and allowances

137. *Subsection (1)* provides that an assembly must pay a salary to assembly members in accordance with a decision adopted by the assembly, or, if a decision has not yet been adopted, in accordance with a direction given by the Secretary of State. Allowances may not be paid to members except in accordance with a decision adopted by the assembly, or such a direction given by the Secretary of State (*subsection (2)*).
138. A decision may not be adopted by an assembly unless it had been approved by a vote in which a majority of at least two thirds of those voting supported it (*subsection (5)*). Decisions relating to salaries may provide for a higher salary to be paid to specified assembly members (*subsections (3)(a) and (8)*). Every decision adopted under subsection (2) or (3) would have to be published (*subsection (6)*) as would any direction of the Secretary of State (*subsection (7)*).

Clause 36: Limit on salaries of members of other public bodies

139. This clause provides for the Secretary of State to make orders requiring the salary to which an assembly member would otherwise be entitled to be reduced to take account of relevant remuneration. That is defined in *subsection (3)* as being salary or an allowance payable pursuant to a resolution relating to remuneration of either House of Parliament, payable under section 1 of the European Parliament (Pay and Pensions) Act 1979 (c.50), or in respect of membership of any other public body specified in the order. The purpose of this would be so that members did not get paid twice for doing the same work if they already represent the public.

Clause 37: Members' pensions etc.

140. This clause allows provision to be made in accordance with a decision adopted by the assembly, or, of a decision has not yet been adopted, in accordance with a direction given by the Secretary of State, relating to pensions, allowances or gratuities of former members of an assembly.
141. A decision may not be adopted by an assembly unless it has been approved by a vote in which a majority of at least two-thirds of those voting supported it (*subsection (4)*). Every decision adopted would have to be published (*subsection (5)*) as would any direction of the Secretary of State (*subsection (6)*). Decisions or directions under this clause would not affect any pension or allowance already in payment (*subsection (7)*).

Clause 38: Publication of information

142. This clause would require an assembly's standing orders to provide for the publication of information about the amounts paid under clauses 35 and 37.

*General***Clause 39: Standing orders**

143. Within six months of its establishment an assembly would need to prepare and adopt its standing orders, setting out how it (as well as any committees and sub-committees) should operate (*subsection (1)*).
144. These standing orders would have to make provision for oral questions to the leader of the executive and any executive member who held a particular role, as well as covering any other matter (*subsections (2) and (3)*). The assembly would need to keep these orders under review and the Secretary of State could require an assembly to incorporate certain provisions in their standing orders (*subsections (4), (6) and (7)*).

Clause 40: Service of documents

145. Where a document needed to be served on an assembly, assembly chairman, member, or assembly officer, this could be achieved by addressing it to the assembly at its principal office (or any other address it specified) and by leaving the document at, or posting it to, such an office (*subsections (1) and (2)*).

Clause 41: Authentication of documents by signature

146. Clause 41 provides for the method for signing documents that the assembly would be required to issue. It would be the proper officer (defined as the officer appointed for the purpose) who could sign on behalf of the assembly. Where a document appears to be signed on behalf of an assembly, it could be used in evidence in

court and would be assumed to be signed in the proper manner unless and until the contrary was proven.

Clause 42: Custody of records and documents

147. Clause 42 provides that records of an assembly would have to be looked after by the proper officer of an assembly appointed for that purpose. For instance, under clause 43, which sets out the general purposes of an assembly, an assembly would be able to create and maintain an historical archive. If an assembly created such an archive, then clause 42 would operate to ensure that the records for that archive would be deposited with the proper officer. In practical terms, it would mean that members of the public and of the assembly would be able to identify the person or persons responsible for that task.

Part 3 Role

Purposes and powers of assemblies

Clause 43: Purposes and powers of assemblies

148. *Subsection (1)* sets out an assembly's general purposes, which would be to promote economic and social development in relation to its region, and to improve and protect the environment in relation to its region. 'Social development' is elaborated on in *subsection (5)* and is defined there to include, for instance, reducing health inequalities, improving the availability of good housing and improving the availability of cultural and recreational activities. These purposes, taken together with the restrictions in clause 44(4) and the power in *subsection (2)* described below, would provide a legal framework for an assembly to work towards the achievement of sustainable development in relation to its region.
149. An assembly would have the power to do anything that it thought was likely to further one or more of its general purposes or was likely to facilitate or was conducive or incidental to the exercise of any of the functions conferred on it (whether or not conferred on it by the Bill) (*subsection (2)*). An assembly's general power is defined by *subsection (3)* to include specific activities such as spending money (including providing grants to any person), co-operating with other bodies, making representations to others or providing advice and anything else it thinks appropriate. An assembly's general power would be able to be used to further any of its general purposes by action in all or part of its region or in an area outside the region (*subsection (4)*).
150. So, for instance, an assembly could use its general power to make representations on behalf of its region to central government or to the European Union. An assembly could also use its general power to promote tourism if, in its view, doing so would result in, for instance, the economic development of the region (or part of it). An assembly could also finance initiatives to reduce crime in order to promote social development and/or further another of its purposes, or develop and implement a strategy for protecting biodiversity or otherwise improve the environment in the region and areas bordering it.

Clause 44: Restrictions on powers

151. Clause 44 places a number of express restrictions on how an assembly could use its general power.

152. First, an assembly would not be permitted to do anything using its general power that is specified in an order made by the Secretary of State under *subsection (1)*. Clause 171(3) sets out the Parliamentary procedure for such an order and the agreement of both Houses of Parliament would be required to any draft order. *Subsection (9)* also contains the requirements that the Secretary of State would have to consult any assembly and such other persons and organisations as he thought appropriate before he made such an order.
153. Secondly, an assembly would have to have regard to the objectives and priorities it has set out in its scheme (see commentary on clause 48 below) when exercising its general power (*subsection (2)*). It would also have to have regard to any guidance issued by the Secretary of State to it on its general purposes, the general power and any restrictions on it. That guidance could only be issued by the Secretary of State where he had consulted any assemblies and such other persons as he thinks appropriate (*subsection (3)*). It would also have to be published.
154. Thirdly, drawing again from the concept of sustainable development, *subsection (4)* would require an assembly to do two things. First, it would have to do everything it reasonably could across the range of its functions to maintain an appropriate balance between the needs of present and future generations. Secondly, it would need to do everything it reasonably could to give equivalent consideration to the needs of different communities within its region and outside it. Thus, for example, an assembly would be obliged to consider not just urban communities but rural ones also. Similarly, across its activities, it would need to consider, for example, what might be the environmental impact on a neighbouring area.
155. Fourthly, *subsection (5)* provides for restrictions on the use of an assembly's general power to charge or trade. *Subparagraph 5(a)* would ensure that an assembly could not charge for something that it was legally obliged to provide, and so it means that an assembly could only charge, for example, for the provision of a discretionary service. Further provisions on what charges could be levied are to be found in clause 54. *Subparagraph 5(b)* would prevent an assembly from using its general power to do anything for a commercial purpose (that is to say with a view to making a profit), including trading. Specific powers to trade only through a company would have to be conferred on an assembly by the Secretary of State by order under clause 55.
156. Finally, an assembly would not be able to provide or manage the provision of, or buy any interest in, housing (*subsection (6)*). The intention here is to prevent an assembly using its general power to duplicate the provision of housing by, amongst others, local authorities. The Secretary of State would be able to modify these restrictions by order (*subsection (8)*) but such an order would again require to have been agreed in draft by both Houses of Parliament (clause 171(3)).

Additional functions

Clause 45: Additional functions

157. Clause 45 would enable the Secretary of State to confer additional functions on an assembly by order. *Subsection (1)* stipulates that the function would have to fall within the general purposes and power of an assembly as contained in clause 43. In addition the assembly would have to be currently prevented, either entirely or to some degree, from exercising the function. It might be that the function was being

carried out by another body or the Secretary of State, that the function was an entirely new function that was being created, or that it was intended to impose duties on third parties in order to make activities which could be carried out under the general power effective. The Secretary of State would also have to consider the function an appropriate one to be exercised by an assembly.

158. An order under this clause could impose duties on an assembly or on any other person and the Secretary of State could attach conditions to the exercise of the function (*subsection (4)*). An order under this clause could amend, repeal or revoke any enactment or charter, apply any enactment and make such consequential, incidental, supplementary or transitional provision or saving as the Secretary of State thought appropriate (*subsections (5) and (8)*). In effect, under this clause the Secretary of State could make such changes to legislation or charters as were required to confer additional function(s) on an assembly.
159. *Subsection (6)* provides that the power to make consequential provisions described in the previous paragraph would include a power to create offences under this section. This power could be used where the potential exercise of a function was hampered by the absence of a sanction on others who do not co-operate with the person exercising the function.
160. *Subsection (7)* provides that the power when exercised would confer the additional functions on all assemblies. This would mean that all assemblies would have the same range of powers and responsibilities.
161. *Subsection (8)(b)* provides that this power to confer additional functions set out in clause 45 could not be used to amend the purposes and power of an assembly and the restrictions on that power as contained within clauses 43 and 44. The effect of this would be that the Secretary of State could not use this order-making power to alter the purposes and power of an assembly. However, if it was necessary to remove restrictions, which applied under clause 44 in order for an assembly to exercise new functions, the power in this clause could be used in conjunction with that clause to remove restrictions.

Clause 46: Additional duties

162. Clause 46 would enable the Secretary of State to impose additional duties that were consistent with an assembly's general purposes on all assemblies by order (*subsection (1)*). An order under this section could impose a duty on any other person and could provide for conditions to be imposed as to how any such duty was to be carried out (*subsection (2)*). *Subsections (3) and (5) to (8)* of clause 45 also apply to orders under this section.

Clause 47: Requirements for making order under section 45 and 46

163. Clause 47 describes the procedure the Secretary of State would have to follow in making an order under clauses 45 and 46. He would be required to consult such authorities or persons as appeared to him to be representative of interests affected by his proposals, and to lay before each House of Parliament for a period of 60 days before any draft order was laid, a document explaining his proposals. Clause 171(3) sets out that orders made under clause 45 would be subject to the affirmative resolution procedure in both Houses.

*Assembly scheme***Clause 48: Assembly scheme**

164. An assembly would be required to draw up and publish a scheme within two years of it being established and to keep that scheme under review, making changes where necessary and publishing any revisions (*subsections (1), (5), (6) and (7)*). *Subsections (1) and (2)* set out specific requirements on what the scheme (or any revision) would have to contain. The scheme should set out the assembly's medium and long-term objectives by reference to particular time frames. It should also set out the assembly's priorities in relation to its general purposes, taking into account the need to maintain an appropriate balance between present and future needs and the need to give equivalent consideration to the interests of different communities within and outside the region (see clause 44(4) above).
165. Subsection (2) also provides that the scheme would be required to cover how the assembly's exercise of its functions was intended to contribute to the achievement of sustainable development (both inside and outside its region).
166. In preparing a scheme (or a revision), an assembly would be obliged to have regard to the community strategies that are prepared by local authorities in its region under section 4 of the Local Government Act 2000 (c.22) (*subsection (3)*). These are strategies about how a local authority intends to promote well-being in its local area and how it intends to contribute to sustainable development. An assembly would also have to have regard to 'relevant' national policies (*subsection (3)*). Such policies are defined in *subsection (11)* to be those written policies of the Government, which are specified in a direction of the Secretary of State, and have been presented to Parliament or published by a Minister of the Crown. Without such a definition, the potential would be that innumerable Government policies would have to be taken into account. An assembly would also be obliged to ensure that it encouraged the participation of assembly participants in the preparation of its scheme (*subsection (4)*). Here an 'assembly participant' would be defined as it is in clause 53 below. So, representatives of employers and employees, local authorities, voluntary organisations and community groups would need to be involved, as well as any other person or organisation that the assembly thought appropriate. Finally, in preparing a scheme (or revising it) an assembly would also have to have regard to any guidance on it issued by the Secretary of State (*subsection (9)*), who must, before issuing such guidance, consult the assembly and such other persons as he thought appropriate (*subsection (10)*).

*Equality***Clause 49: Equality of opportunity etc.**

167. Under *subsection (1)* an assembly would be under an obligation, in exercising its functions, to have regard to the need to (i) promote equality of opportunity for all persons irrespective of their sex, age, sexual orientation, religion or disability; (ii) to eliminate unlawful discrimination; and (iii) to promote good relations among individuals of different sexual orientations and persons of different religions. This obligation would apply in respect of any of an assembly's activities. 'Unlawful discrimination' for the purposes of subsection (1) is defined in *subsection (4)* by reference to the Sex Discrimination Act 1975, the Race Relations Act 1976 (c.74), the Disability Discrimination Act 1995 (c.50), the Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660) and the Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661), each of which define 'unlawful

discrimination', and what is prohibited, differently. So, for example, the Race Relations Act 1976 makes it unlawful to discriminate against someone directly because of their colour, race, nationality or national or ethnic origin by harassing them or subjecting them to racist abuse. It also makes indirect discrimination, which occurs when people from a particular racial group are less likely to be able to comply with a particular requirement or condition, which cannot be justified on non-racial grounds, unlawful. The Disability Discrimination Act 1995 makes it unlawful for employers to discriminate against current or prospective workers who have a disability or who have had a disability in the past. Discrimination occurs where an employer treats a person with a disability less favourably than he treats other people and this treatment cannot be justified. Discrimination also occurs if an employer fails to comply with a duty to make a reasonable adjustment in relation to the disabled person and the failure to do so cannot be justified.

168. *Subsection (2)* deals with equality of opportunity for people of different races and with race discrimination. The way in which subsection (2) deals with race discrimination would be by amending the Race Relations Act 1976 to add a regional assembly to the list of bodies in Schedule 1A to which the duty set out in section 71 of that Act applies. An assembly would, therefore, have to comply with the duty in section 71 to have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The aim of the duty in section 71 is to make the promotion of racial equality central to the work of the public authorities to which section 71 applies. In practice it would mean that a regional assembly would have to take account of racial equality in its day to day work of, for example, policy-making, employment practice and other functions. For example, a new recruitment policy may help to promote equal opportunities, but if it was poorly introduced, it could in practice damage race relations.
169. Under *subsection (3)* an assembly would be required to make appropriate arrangements with a view to complying with its obligations in subsection (1). For example, an assembly would need to ensure that policy development and decision making had regard to its impact on equality of opportunity and the need to eliminate unlawful discrimination. This might include, for example, considering the effect of a particular policy on a particular group and seeking to ensure that policies benefit different groups in society equally and do not, for example, inadvertently neglect the needs of particular groups when they are implemented. This might occur where, for example, a health initiative was put in place which addressed a particular health problem which principally affects white communities and so those communities disproportionately benefited from the policy. This might mean that fewer resources were available to help other racial groups with different but equally pressing health problems and so the policy would have a disproportionate impact. It might also require an assembly to give training to its members on how to avoid discrimination in the work place.

Clause 50: Duties of office holders in relation to discrimination and harassment

170. *Subsection (1)* provides for the amendment of section 76ZA(9)(b) of the Race Relations Act. Section 79ZA(9)(b) lists the political offices to which (by virtue of section 76ZA(7)) the obligations not to unlawfully discriminate (on the grounds of race, ethnic or national origin) do not apply. Subsection (1) would therefore add 'any office of a regional assembly held by a member of it' to section 76ZA(9)(b).

The effect of this amendment would be that members of the executive would be excluded from the application of the obligations set out in section 76ZA.

171. Political offices are excluded from the application of section 76ZA because the European Council Directive (2000/43 EC), to which section 76ZA seeks to give effect, was not intended to apply to political offices or posts. Holders of political offices and posts are not considered to be engaged in economic activity amounting to employment or self-employment within the meaning of the Directive.
172. *Subsection (2)* provides for the amendment of section 4C(5) of the Disability Discrimination Act 1995 so as to exclude any office of a regional assembly held by a member of it from the application of sections 4D and 4E of that Act.
173. Section 4D makes it unlawful to discriminate against or harass a disabled individual who has been appointed to, or is seeking or being considered for appointment to, the offices or posts to which the section applies. Section 4E sets out an obligation to make reasonable adjustments either to practices which apply in relation to an office or post or to the physical features of premises at which the functions of an office or post are performed where, without the adjustment, a disabled person would be put at a substantial disadvantage in comparison with persons who are not disabled. The adjustments should seek to prevent such disadvantage from occurring.
174. Sections 4C-4F were inserted into the Disability Discrimination Act 1995 in order to give effect to European Directive 2000/78/EC. That Directive does not apply to appointments to political offices (such as Ministerial posts or posts held by local councillors within a local council) as holders of those posts are not considered to be engaged in economic activity amounting to employment or self-employment within the meaning of the Directive. Section 4C(5), therefore, lists a number of political offices to which the Directive was not intended to apply. The effect of the amendment in this subsection is that sections 4D and 4E would not apply to the members of the executive.

Assembly report

Clause 51: Assembly report

175. Under clause 51 an assembly would be required to produce and publish a report at the end of each financial year (*subsection (1)*). *Subsection (2)* contains a list of matters that the report would have to cover. These are the assembly's assessment of progress on its assembly scheme prepared under clause 48; a statement of the assembly's targets (which would include those agreed with the Secretary of State in relation to its general grant) and an assessment of its progress towards meeting them, an assessment of the involvement of assembly participants and an assessment of the effectiveness of the arrangements the assembly has made under clause 49(3) for promoting equality of opportunity. The report could also contain such other matters as the assembly thought appropriate (*subsection (3)*).
176. An assembly would be required to have regard to guidance provided by the Secretary of State (on which the Secretary of State should consult each assembly and other appropriate people) in preparing its report. Furthermore, an assembly would have to ensure that it sent a copy of the final report to the Secretary of State (*subsections (5), (6) and (7)*).

Clause 52: Report meeting

177. Once an assembly had produced its annual report it would be required to organise a public meeting. The purpose of this meeting would be to allow the public to question the members of the assembly executive, as well as the chairman of the review and monitoring committee, on the content of the report. The assembly would have to give at least one month's notice of the meeting (*subsections (1), (2) and (3)*).
178. An assembly would have to appoint somebody to preside over this meeting (*subsection (4)*) and the meeting would have to be conducted in accordance with any procedure decided by the assembly (*subsection (5)*).
179. An assembly would be under a duty to ensure that all the members of its executive and the chairman of the review and monitoring committee attended this meeting. This would be unless they were ill, had suffered a bereavement, were performing an obligation of service to the Crown (such as being on active service) or were performing a function in the service of a local authority in relation to a war or another emergency (*subsections (3) and (6)*). If a member of the executive or the chairman of the review and monitoring committee were to be absent for any other reason it would be up to the person appointed to preside over the meeting to decide whether it should proceed or not (*subsections (7), (8) and (9)*).
180. *Subsection (10)* would allow an assembly to set out in its standing orders provisions on the absence from report meetings of a member of the executive or the chairman of the review and monitoring committee.

Promoting participation

Clause 53: Promoting participation

181. Under *subsection (1) and (2)*, an assembly would be required to make arrangements, and to keep them under review, to encourage and help the participation of stakeholders in the region in relation to the exercise of the assembly's functions. Those stakeholders, referred to in the Bill as 'participants', are defined as representatives of employers and employees of the region, local authorities in the region, voluntary organisations and community groups in the region, and such other persons and organisations as the assembly thinks appropriate.
182. These arrangements would be additional to anything done under other statutory provisions (*subsection (3)*). So, for example, where an assembly co-opted members onto its review and monitoring committee or complied with a duty to consult, that would not count towards the discharge of its duty under this section.
183. In making arrangements for promoting participation by stakeholders, an assembly should have regard to any guidance issued by the Secretary of State. He would be required to consult the assembly (and others he thought appropriate) on the content of the guidance before issuing it and to publish it (*subsections (4) to (6)*).

Charging and trading

Clause 54: Charging

184. Under clause 43(3)(h) a regional assembly would have a power to charge for provision of staff, goods, services or accommodation. Clause 44(5) expresses a

restriction on this power to charge, and provides that an assembly would not be able to charge for providing staff, goods, services or accommodation which it was already required by statute to provide.

185. Under *subsection (1)* the assembly would have to ensure that, year on year, income from charges did not exceed the cost of providing the staff, goods, services or accommodation. In other words, charging by an assembly would be only for the purposes of cost recovery rather than producing profit.
186. *Subsection (3)* requires an assembly to have regard to guidance issued by the Secretary of State in relation to the power to charge.

Clause 55: Power to trade through a company

187. An assembly would be prohibited by clause 44(5)(b) from doing, within its general power, anything for a commercial purpose
188. *Subsection (1)* provides that, despite clause 44(5)(b), the power for an assembly to trade could be granted through an order made by the Secretary of State. This power would be limited to trading through a company, so an assembly should not be able to use its position to obtain any kind of unfair advantage by being able to avoid the normal trading requirements and tax burdens to which a commercial company would be subject. The order could make provision about whom an assembly may trade with and impose conditions in relation to the exercise of the power.
189. *Subsection (2)* explains that an assembly would be considered to be trading through a company if the company was an assembly company and where the company's trading consisted wholly or mainly of doing what the assembly itself could do in the exercise of its functions for a non-commercial purpose. *Subsection (5)* explains that the meaning of 'assembly company' would be as set out in regulations made by the Secretary of State under clause 164(a).
190. *Subsection (3)* provides that the power to trade would apply only to discretionary functions of an assembly. This means that an assembly would only be able to trade in activities that it would not be required under law to provide.
191. Under *subsection (4)* an assembly would be required to take into consideration any guidance that the Secretary of State issued as to the exercise of these powers.

Part 4 Finance

Grants

Clause 56: Assembly general grant

192. A regional assembly would be funded primarily by central government block grant. Clause 56 would provide for the creation of this grant. Under *subsection (1)* the Secretary of State would be required to pay a regional assembly a grant for each financial year. The grant would be called the assembly general grant. Under *subsection (2)* the grant would be paid for the purposes of the assembly and its functional bodies (as defined in clause 167(5)).
193. *Subsection (3) to (7)* set out details of the assembly general grant. It would be an annual determination for each financial year that would state the amount of grant for that year, and the Secretary of State would be required to consult the assembly

on the amount of grant. The grant would be paid to the assembly in such instalments and at such times as the Secretary of State decided and he would have power to attach conditions to the payment.

Clause 57: Extra grant

194. Clause 57 provides that the Secretary of State would be able to, at any time, pay extra grant to the assembly for such purposes as he thought appropriate and subject to such conditions as he thought fit.

Precepting

Clause 58 and Schedule 3: Assemblies as precepting authorities and amendments of Local Government Finance Act 1992 relating to precepting

195. A regional assembly would be able to raise money from electors within its region through a precept on the council tax. Under *subsection (1)* an assembly would be able to do this through being added to the list of major precepting authorities in section 39 of the Local Government Finance Act 1992 (c.14).
196. The effect of this would be to bring an assembly within the local government finance regime set out in the 1992 Act.
197. By so doing, the assembly would thereby become a ‘receiving authority’ under section 76(2) of the Local Government Finance Act 1988 (c.41). Receiving authorities are paid revenue support grant under section 78 of that Act and are included in the distribution of redistributed non-domestic rate under Part III of Schedule 8 to the same Act. As a receiving authority, the assembly would also be a potential recipient of special grant under section 88B of the Local Government Finance Act 1988.
198. Under *subsection (3)*, section 78(5) of the Local Government Finance Act 1988 would be amended so that, before paying revenue support grant, the Secretary of State would be required to consult every regional assembly and such other persons representing the interests of a regional assembly as appeared to him to be appropriate.
199. Under *subsection (4)*, section 78A(3) of the Local Government Finance Act 1988 would be amended so that the Secretary of State would be required to give notice of the general nature of the basis of the distribution of revenue support grant to a regional assembly and such other persons representing the interests of a regional assembly as appear to him to be appropriate.
200. *Subsection (5)* would provide that Schedule 3 to the Act had effect. This would require amendments to Chapter 4 of Part 1 of the 1992 Act (Precepts) to take account of the establishment of a regional assembly.

Clause 59: Provision of information by functional bodies

201. *Subsection (1)* provides that a functional body of the assembly would have to supply the assembly with such relevant financial information as an assembly requested. *Subsection (3)* defines what is meant by relevant financial information. *Subsection (2)* provides that the information would be required to be provided in the form and manner and within such time as specified by the assembly in its request.

Clause 60: Calculation of budget requirements

202. Clause 60 sets out how an assembly would be required to calculate its budget and the budget of each of its functional bodies. The assembly would calculate its own budget requirement and the component calculations for each of its functional bodies and aggregate them to produce a consolidated budget requirement.
203. *Subsection (1)* provides that section 43 of the Local Government Finance Act 1992 would not apply to a regional assembly. Section 43 defines how a major precepting authority must calculate its budget. An assembly would follow a different procedure, which would take account of the functional bodies. Thus the standard procedure is disapplied in order to apply one specific to a regional assembly.
204. Under *subsection (2)* an assembly would be required to make the calculations set out in this clause and in clauses 61 and 62 in relation to each financial year.
205. *Subsection (3)* provides that if in the case of a constituent body the expenditure aggregate (as calculated under clause 61) was greater than the income aggregate (as specified in clause 62) then the assembly would have to calculate the difference and this amount would be the body's component budget requirement for the year.
206. *Subsection (4)* provides that if the income aggregate was greater than the expenditure aggregate, the body's component budget requirement for the year would be nil. In effect, if there was no shortfall then the body would not have a budget requirement under this section.
207. *Subsection (5)* enables the assembly to agree with a functional body conditions to be attached to payment of the money payable in consequence of the budget calculation.
208. Under *subsection (6)* once the assembly had calculated the component budget requirements of each of the constituent bodies it would then have to calculate an overall aggregate of these component budget requirements. This aggregate would be the assembly's consolidated budget requirement for the year, and the assembly must adopt that consolidated budget requirement by March 1st in the year preceding the year it relates to (*subsection (7)*).
209. *Subsection (8)* provides that the Secretary of State would be able, by regulations, to alter the constituents of the calculations to be made under clauses 61 and 62 or alter the rules governing the making of any such calculation.

Clause 61: Aggregate needs

210. *Subsection (1)* deals with the first of the two aggregates the assembly would have to calculate as part of calculating its budget requirement. This aggregate is concerned with the estimated expenditure of each constituent body. This subsection sets out the four components of the aggregate, which are summarised below:
- the expenditure the assembly estimated the body would incur in the year;
 - the allowances for contingencies which the assembly estimated the body would require;

- the financial reserves which the assembly estimated the body would need to raise in the year; and
 - the body's financial reserves as would be sufficient to meet the revenue account deficit of the body for earlier years.
211. *Subsection (2)* provides that expenditure mentioned in subsection (1)(a) would not include expenditure that the assembly estimated would be incurred in pursuance of regulations made under section 99(3) of the Local Government Finance Act 1988. Section 99(3) of the 1988 Act enables the Secretary of State to make regulations that, as regards any financial year, a billing authority must estimate during the preceding year whether there is a surplus or deficit in its collection fund (a fund which authorities were required to establish under section 89 of the Act), and how such surplus or deficit is to be shared between the billing authority and major precepting authorities. As an assembly would be a major precepting authority, it would be caught by any such regulations, and so the effect of such regulations is excluded by clause 61(2) regarding expenditure (and clause 62(2)(c) regarding income).
212. *Subsection (3)* specifies that in calculating the expenditure aggregate of each constituent body the assembly would not be able to include an amount in respect of the assembly (as a constituent body) which would be included in respect of a functional body. This ensures that there could be no double counting of any amount in the calculation of budgets.
213. *Subsections (4) and (5)* define what is meant in subsection (1)(c) by an assembly's estimated future expenditure.

Clause 62: Available Resources

214. *Subsection (1)* deals with the second of the two aggregates the assembly must calculate as part of calculating its budget requirement. This aggregate is concerned with the estimated available resources of each constituent body. This subsection sets out the two components of the aggregate, which are summarised below:
- the income from all sources which the assembly estimated would be payable to the body; and
 - the amount which would be transferred to the body's financial reserves against future expenditure estimated by the assembly.
215. *Subsection (2)* provides that the estimated income from all sources as specified in subsection (1)(a) would not include redistributed non-domestic rates, revenue support grant, additional grant, relevant special grant, assembly general grant, or any extra grant, any precept issued by the assembly, or expenditure incurred in pursuance of regulations made under section 99(3) of the Local Government Finance Act 1988.
216. *Subsection (3)* specifies that in calculating the available resources aggregate of each constituent body the assembly would not be able to include an amount in respect of the assembly (as a constituent body) which would be included in respect of a functional body. In practice this would mean that there could be no double counting of any amount in the calculation of budgets.

217. *Subsection (4)* provides that relevant special grant would have to be construed in accordance with section 32(12) of the Local Government Finance Act 1992.

Clause 63: Calculation of basic amount of tax

218. As a major precepting authority, an assembly would be required to issue a precept to the appropriate billing authorities, which would collect the council tax on the assembly's behalf. Clause 63 would provide for the calculation of what would be the basic amount of the assembly's council tax for the financial year.
219. *Subsection (1)* provides for the disapplication of section 44 of the 1992 Act, which sets out the formula for calculating the basic amount of tax for major precepting authorities. *Subsection (2)* provides the formula that would be applicable to an assembly's calculation. *Subsection (8)* provides that the Secretary of State would be able to, by regulations:
- alter the formula as set out in subsection (2); and
 - alter the rules about making any calculation under subsection (2).

Distribution of budget amounts

Clause 64: Distribution of budget amounts

220. *Subsection (1)* provides that an assembly would have to pay to each of its functional bodies the amount calculated to be required by that body in accordance with the budget calculations made under clauses 60, 61 and 62.
221. *Subsections (2) and (3)* state that the payments would be required to be made by instalments during the financial year. The instalments would need to be paid punctually and in enough time to enable the body to meet its budgeted expenditure requirements.
222. *Subsection (4)* makes it clear that payment of the budget amount is subject to any conditions agreed under clause 60(5) and any conditions to which the payment of grant by the Secretary of State to the assembly was subject if they are relevant to the functions of the functional body.
223. *Subsection (6)* sets out that in the case of an overpayment being made to a functional body in respect of the sums payable to it under this section, the body would have to repay the sum as and when directed by the assembly.

Financial administration

Clause 65: Proper financial administration; accounts and records

224. Assemblies would be required to make arrangements to ensure their financial affairs were properly administered. In particular, they would be required to keep proper accounts and accounting records and prepare a statement of accounts for each financial year. Clause 65 defines 'accounting records' broadly, and these would include all books, papers and other records of the assembly which relate to the assembly's accounts, or matters dealt with in its accounts. The assembly's accounts would be subject to regulation by the Audit Commission under the Audit Commission Act 1998 by virtue of clause 155.

Clause 66: Summary statement of accounts

225. The assembly would prepare a summary statement of accounts in respect of itself and its functional bodies and provision on the form of that statement and other matters will be made in regulations under section 27 of the Audit Commission Act 1998. To avoid duplication in respect of matters already subject to sections 15 to 24 of the 1998 Act, those sections would not apply to this summary statement.

Clause 67: Chief finance officer's report on robustness of estimates and adequacy of proposed financial reserves

226. *Subsection (1)* provides that this clause would apply where an assembly was making its budget requirement calculations in accordance with clauses 60 to 62.
227. Under *subsection (2)*, the chief finance officer would be required to make a report in writing to the assembly when it was considering its budget. This report would need to include an evaluation of the robustness of the assembly's budget estimates and the adequacy of the proposed financial reserves allowed for in the budget. The assembly would have to have regard to the report made under subsection (2) in reaching its decisions on the budget.

Clause 68: Minimum reserves

228. This clause would apply where an assembly, as part of its calculations, has to estimate the financial reserves appropriate for each constituent body to raise under clause 61(1)(c).
229. Under *subsections (3) and (4)*, the Secretary of State would have the power to determine minimum reserves by regulation. The minimum would apply to the budget process: an assembly would have to ensure that their budget made allowance for reserves at least equal to the minimum as specified.

Clause 69: Chief finance officer's report on inadequacy of a controlled reserve

230. Under *subsection (1)*, this clause would apply where an assembly was estimating appropriate financial reserves in the process of calculating its budget as set out in clauses 60 to 62. This section provides a mechanism for monitoring the adequacy of minimum reserves which are dealt with in clause 68.
231. Nothing in clause 68 would prevent these controlled reserves being used during the year, even if as a result they would fall below the minimum. However, if it were forecast that this was likely to happen, under *subsection (2)* the chief finance officer would be required to report in writing to the assembly to explain the reasons for the inadequacy and any action considered necessary to prevent a repetition.
232. *Subsection (6)* provides that an assembly would be required to have regard to the report made under subsection (2) in reaching their decisions on the budget.

Clause 70: Budget monitoring

233. An assembly and its functional bodies would need to monitor their income and expenditure against their own budget during the financial year to which the calculations relate, and be ready to take action if overspends or shortfalls in income emerge. Under clause 70 this would be a statutory duty.

234. *Subsection (3)* provides that if monitoring established that there had been a deterioration in the body's financial situation, that body would be required to take such action as it considered necessary. Suitable action might include, for instance, action to reduce spending in the rest of the year, or to increase income, or the assembly might decide to take no action but to finance the shortfall from reserves.
235. The monitoring duty would be placed on the functional bodies and (for the overall budget) on the assembly. However, because the assembly would be responsible for setting the budgets of the functional bodies, if one of these bodies identified a financial deterioration, *subsections (3)(b) and (4)* would require the body to report the deterioration, the reasons for it, and the action it proposes to take in response, to the assembly.
236. *Subsection (5)* explains when there would be deemed to be a deterioration in a body's financial position. This would occur when either an amount fell to be calculated in respect of the budget requirement under clause 60(3) when previously no amount had fallen to be calculated at the time of calculating the budget or when the amount calculated under clause 60(3) was greater at the time of the review than at the time of calculating the budget. In effect, this means that if a body was facing a shortfall in balancing its aggregate expenditure and available resources, or was facing an enlarged shortfall, there would be deemed to have been a deterioration in the body's financial position.

Capital finance etc.

Clause 71: Capital finance etc.

237. An assembly would have borrowing powers to raise money for capital expenditure, which would fall within the scope of its general power. The White Paper indicated that this power would be subject to limits. These limits would follow the pattern of those that exist under the prudential borrowing regime applicable to local authorities, which is set out in Part 1 of the Local Government Act 2003 (c.26). Under clause 71, Part 1 of the 2003 Act would apply to a regional assembly, with some modifications and omissions.
238. Part 1 of the 2003 Act deals with the capital finance system for local authorities and sets the legal framework within which local government may undertake capital expenditure and central Government may regulate that activity. Under this relatively new system local authorities are free to raise finance for capital expenditure without Government consent where they can afford to service the debt without Government support. There are reserve powers for Government to set limits on borrowing and credit, but it is envisaged that these would be used only in exceptional circumstances.
239. Under *subsections (1) and (2)*, selected provisions of Part 1 of the 2003 Act would apply to a regional assembly.
240. *Subsection (3)* sets out a substituted section 3 of the 2003 Act on the duty to determine affordable borrowing limits, which would apply to an assembly.
241. It first imposes a duty under which an assembly would have to determine and keep under review the amount it and each of its functional bodies could afford to borrow. The Secretary of State would be empowered to define that duty in more

detail in regulations, which could in turn require an assembly to have regard to specified codes of practice, whether issued by the Secretary of State or not.

242. *Subsection (4) and (5)* provides that the same definition of assembly company would apply in respect of both the financial controls under section 18 of the 2003 Act and the proprietary controls under clause 164(a).

Clause 72: Interpretation of Part 4

243. This Part refers throughout to the ‘constituent bodies’. *Subsection (2)* defines the constituent bodies as the assembly and each of its functional bodies. *Subsection (3)* provides that expressions in this Part and in the Local Government Finance Act 1992 have the same meaning in this Part as in that Act.

Part 5 Review and monitoring

Review and monitoring

Clause 73: Assembly’s duties to review and monitor

244. This clause would require a regional assembly to establish a committee – the Review and Monitoring Committee (RMC) – to scrutinise the executive’s actions by keeping under review its exercise of those functions and monitoring the strategies it develops and its implementation of them (*subsections (1) and (2)*).

Clause 74: RMCs

245. RMCs would be able to examine the discharge of any function by the executive or its committees, special advisers (to the assembly or executive), assembly employees and assembly functional bodies (or their employees). Also, the RMC could examine other matters related to the assembly’s general purposes and functions which it thought were appropriate (*subsections (2) and (3)*).
246. The RMC would be made up of every assembly member who was not a member of the executive as well as any individual they co-opted (*subsection (1)*). This is because an assembly would be a small strategic body and might not want to appoint a significantly smaller body to lead and carry out its scrutiny function. Its chairman would have to be an assembly member, and an RMC could delegate the carrying out of its functions to any RMC member who was also an assembly member but not to co-opted members (*subsections (8) and (10)*). If an assembly member ceased to be a member of the assembly they would cease to be a member of the RMC (*subsection (9)*). An RMC would continue in existence until the first meeting of an assembly following an ordinary election (*subsection (11)*).
247. An RMC would be required to report to the assembly on the issues which it and its sub-committees had examined over a given period, which would be each year, with the first such year beginning on the date the assembly is established, unless the assembly provided for a shorter period in its standing orders (*subsections (4) and (5)*). In addition to its regular periodic reports an RMC could submit a report at any time to the assembly on any matter which it or one of its sub-committees had examined. This, for example, might be the case when the issue considered was a particularly pressing one. RMC reports could make recommendations to the assembly (*subsections (6) and (7)*).

Clause 75: RMC sub-committees

248. This clause would allow an RMC to establish one or more sub-committees to help it carry out its job of scrutiny by reviewing and monitoring the executive's actions (*subsection (1)*). RMCs would be able to delegate any of their functions to any sub-committee.
249. Such a sub-committee could include any RMC member who was also an assembly member and also any individual co-opted to the sub-committee by the RMC. Each sub-committee would need to include at least three assembly members (and its chair would have to be an assembly member) and, as far as was practicable, the political balance should mirror that of the RMC (*subsections (2), (3), (4), and (8)*). An RMC sub-committee could delegate the performance of any of its functions to any member who was an assembly member (*subsection (10)*).
250. *Subsection (5)* of this clause explains how that political balance would be calculated. In calculating political balance, co-opted members would be disregarded and only those members of the sub-committee who were assembly members would be taken into account. So far as practicable, the proportion of the assembly members of any RMC sub-committee who belonged to any political group would have to be the same as the proportion of assembly members who were members of that political group in the RMC as a whole.

For example, in an assembly of 25 members, where 15 are Labour members, 5 are Conservative members and 5 are Liberal Democrat members, the political balance is 3:1:1. If 5 of the Labour members form the executive a RMC that consisted of all the 'backbenchers' would have 10 Labour members together with the 5 members from each of the other parties represented, and the political balance is 2:1:1. A smaller RMC sub-committee with 8 members would be required to comprise 4 Labour members, 2 Conservative members and 2 Liberal Democrat members, in order to reflect the 2:1:1 composition of the RMC.

251. An RMC sub-committee would be required to submit a report on each matter it examined to the RMC, or at the RMC's direction, to the assembly. Such reports could make recommendations to the RMC or the assembly (*subsections (6) and (7)*). An assembly member would cease to be a member of an RMC sub-committee if he ceased to be an assembly member (*subsection (9)*). An RMC sub-committee would continue in existence until dissolved by the RMC or until the RMC ceased to exist (*subsection (11)*).

Clause 76: Area RMC sub-committees

252. An assembly RMC could establish area sub-committees. Such a committee would be responsible for review and monitoring in relation to a particular geographical area of the region (*subsection (1)*). Area sub-committees, if any were appointed, would have to cover the whole of a region, without any overlap, and it would not be possible to selectively appoint a sub-committee for only part of a region. This is to ensure that the executive would be held to account equally for its actions in the constituent areas of the region. Each area covered by an area sub-committee must consist of two or more complete constituencies of the assembly.

253. Any member of the RMC who was a constituency member for a constituency that fell within the area of the area RMC sub-committee would be entitled to be a member of the sub-committee if they wished, so that they could play a role in the review of the executive's actions in the geographical area of which their constituency was a part (*subsection (3)*). It is also the intention that, as far as is practicable, the balance between constituency members and 'top-up' individual regional members should mirror that of the RMC (*subsections (4) and (5)*).
254. These provisions would allow the coverage of area sub-committees to be amended if necessary. *Subsection (6)* also provides that the areas served by an area RMC sub-committee would change automatically if there were a change to the boundaries of a constituency as a result of a review under any of the powers that allow for such a review. However, if the change was substantial, the constituency ceased to exist or its name changed, the RMC would have to dissolve all the affected area sub-committee(s) and reconstitute area sub-committees for newly defined areas. Except in such cases, an RMC would only be able to dissolve an area sub-committee if the sub-committee agreed and the purpose of dissolution was to change the boundaries of the areas for which area sub-committees were established (*subsection (8)*).

Clause 77: Power of RMCs and RMC sub-committees to compel evidence

255. It is important that, in the discharging of their duty to review and monitor the assembly executive, the RMC and its sub-committees should be able to compel the production of evidence from people connected with the assembly. This is in order to ensure that the RMC or sub-committee would have access to all the information it needed to allow it to carry out such scrutiny. Therefore, clause 77 (*subsections (1) and (2)*) provide that:

- a member of the assembly;
- a special adviser (or a representative of a special adviser in any case where a special adviser appointed was not an individual);
- a member or employee of an assembly functional body;
- an employee of the assembly; or
- an individual who held any of the above positions at any time in the three years before the RMC or sub-committee's investigation;

could be compelled to attend a meeting of the committee in order to provide such evidence by answering questions and providing any relevant documents. The assembly would be obliged to specify the procedures, which would have to be followed by the RMC or sub-committee when it exercised this power in its standing orders (*subsection (3)*).

256. Any person compelled to give evidence would not be obliged to answer any question or provide any document, which he would be entitled to refuse to answer or provide to a court in England or Wales (*subsection (5)*).

*Co-opted members of RMCs and RMC sub-committees***Clause 78: Power to co-opt individuals as members of RMCs and RMC sub-committees**

257. An RMC could co-opt an individual who was not a member of the assembly to sit on the committee, or any of its sub-committees (*subsection (1)*). The intention is that it could do so in order to involve someone who could give informed comment and assistance on policy areas in which that person had a specific expertise. If this were to be done, it would have to be done in accordance with any guidance issued by the Secretary of State and the assembly's standing orders (*subsection (4)*). Assembly employees, special advisers or members or employees of an assembly functional body would not be eligible to be co-opted and the number of co-opted members could not outnumber the assembly members on a committee or sub-committee (*subsections (2) and (3)*).

Clause 79: Declaration of political activities by co-opted members of RMCs and RMC sub-committees

258. It is not intended that the power to co-opt people to the RMC or its sub-committees should be used to distort the political balance of the membership. To seek to ensure that it would be apparent whether co-optees had a strong political allegiance, an individual co-opted to an assembly's RMC or one of its sub-committees would have to make a declaration to a meeting of the committee as to whether he was or had in the last five years been a member of, or made a donation to, a political party. The declaration would have to be made in accordance with any rules, which the assembly had made for such declarations in its standing orders (*subsections (1), (3) and (4)*).
259. If the co-opted individual was not a member of a political party and had not made any donation to one at the time of his co-option, but became a member or made a donation after being co-opted, then a declaration would be needed when that occurred (*subsection (2)*).

Clauses 80 and 81: Voting schemes for co-opted members

260. It is intended that an assembly should be able to allow the co-opted members of its RMC or sub-committees to vote at meetings in certain circumstances. Clause 80 provides that an assembly could provide such voting rights through the creation of a voting scheme (*subsection (1)*). A voting scheme would set out the maximum or minimum numbers of co-opted members of the RMC or RMC sub-committee who could be permitted to vote at meetings and the rules by which the assembly would decide which co-opted members could vote in any particular case (*subsection (2)*).
261. If an assembly were to choose to give co-opted members the power to vote it would have to publish its voting scheme and make it available to the public at its main offices (*subsection (3)*). Also, the assembly could vary or revoke its voting scheme (and could be directed to do so by the Secretary of State) (*subsections (4) and (5)*). If an assembly produced a voting scheme (or varied or revoked an existing scheme) then it would have to publish a notice in one or more of the region's newspapers drawing peoples' attention to it (*subsection (6)*). *Subsection (7)* sets out what information would have to be included in such a notice.

262. Clause 81 provides the Secretary of State with the power to make regulations:
- as to how an assembly should exercise its power to make, vary or revoke a voting scheme, in particular that it could only be made by approving a proposal to that effect made by the RMC or the relevant sub-committee;
 - as to what a voting scheme should include; and
 - requiring notification to the Secretary of State of the making, variation or revocation of a voting scheme.

Clause 82: Provision for co-opted members of RMCs and RMC sub-committees

263. The Secretary of State would have to issue guidance on the nature and function of co-opted members, including outlining the circumstances in which and the means by which it would be appropriate to co-opt assembly participants (*subsection (1)*). The Secretary of State would have to consult with appropriate individuals and organisations on a draft of such guidance (*subsection (2)*).
264. In addition, an assembly would be required to make provisions in its standing orders for eligibility to be a co-opted member, the procedures to be followed by an RMC when co-opting members, the procedures for terminating an individual's appointment as a co-opted member and the procedures for the payment of fees and allowances to co-opted members in relation to the performance of their duties (*subsection (3)*). In adopting these standing orders the assembly would be required to have regard to the guidance issued by the Secretary of State (*subsection (4)*).

Part 6 Regional Development Agencies

Clause 83 and Schedule 4: Regional development agencies

265. Clause 83 incorporates Schedule 4, which would make a number of amendments to the Regional Development Agencies Act 1998 ('the 1998 Act') as amended by the Greater London Authority Act 1999 ('the 1999 Act'). The amendments would transfer responsibility for a regional development agency, in a region where an assembly was established, from the Secretary of State to the assembly.

Regional development agencies were established by section 1 of the 1998 Act. There are nine RDAs including one for Greater London, the London Development Agency ('LDA'). With the exception of the LDA, RDAs are non-departmental public bodies. An RDA's purposes are set out in section 4 of the 1998 Act and include, in relation to its area:

- furthering economic development and regeneration;
- promoting business efficiency, investment and competitiveness;
- promoting employment;
- enhancing the development and application of skills relevant to employment; and
- contributing to the achievement of sustainable development in the United Kingdom where it is relevant to its area to do so.

Currently the Mayor of London is responsible for the LDA and the Secretary of State is responsible for every other RDA.

266. *Paragraph 2* of Schedule 4 provides for the amendment of section 1 of the 1998 Act by identifying which authority is responsible for which RDA and providing that, where an assembly was established, it would be the responsible authority for the RDA in its region ('the assembly RDA'), not the Secretary of State. As a result, an assembly RDA would not be classified as a non-departmental public body.
267. *Paragraph 3* provides for the amendment of section 2 of the 1998 Act by providing that an assembly would appoint members to the board of the assembly RDA. Prior to appointing board members an assembly would be required to consult with representatives of local authorities, employers, employees and those in rural areas. An assembly would also be required to consult with the Secretary of State. The Secretary of State currently fulfils the consultation requirements by seeking the views of interested parties on the person specification to be used for each appointment round and it is anticipated that an assembly would take the same approach to consulting on board appointments.
268. *Paragraph 4* concerns the appointment of members to the LDA. It would replace subsections (6) to (11) of section 2 of the 1998 Act. Whilst it would make no changes to the current position, the amendment would be necessary to identify clearly, in the light of other changes made to section 2, the fact that a different regime would apply in London.
269. *Paragraph 5* provides for the amendment of section 5 of the 1998 Act which empowers an RDA to do anything which it considers expedient for its purposes except that it may only undertake the activities set out in section 5(2)(a) to (c) if it obtains consent to do so. These activities are (a) providing financial assistance, (b) disposing of land for less than the best consideration and (c) forming or acquiring an interest in a body corporate. The amendments would not change the position for the LDA or a non-assembly RDA but would provide a slightly different regime for an assembly RDA. The effect would be as follows:

- in the case of an assembly RDA, it would require the consent of the assembly in order to undertake the activities in section 5(2)(a) to (c);
 - in the case of the LDA, it would continue to require the consent of the Secretary of State to undertake the activities in section 5(2)(a) and (b) and the consent of the Mayor to undertake the activity set out in section 5(2)(c); and
 - in the case of any other RDA, it would continue to require the consent of the Secretary of State to undertake the activities in section 5(2)(a) to (c).
270. *Paragraph 6* would replace sections 6 and 6A of the 1998 Act, which relate to the power of a Minister of the Crown to delegate an eligible function to an RDA, the Mayor of London or to the LDA with the Mayor's consent. Paragraph 6 would provide that a Minister of the Crown would be able to delegate a function to an assembly or to an assembly RDA with the assembly's consent. Examples of such delegations have included the operation of the Single Regeneration Budget and the award of up to £2 million of Regional Selective Assistance (now known as Selective Finance for Investment in England). A Minister of the Crown would continue to be able to attach conditions to and revoke a delegation. Where a delegation had been made to an RDA before an assembly was established in the RDA's region, the assembly would be able to request that the delegation be transferred from the RDA to the assembly, although there would be no obligation on the Minister of the Crown to do so (paragraph 6, proposed new section 6(6)).
271. A Minister of the Crown would not be able to delegate a function without the recipient's agreement unless the same delegation was made to every RDA or the delegation required the consent of the assembly (see proposed new clause 6(7) and (8)). The effect of this is that an assembly RDA would not be able to refuse to accept a delegation if its assembly wished the RDA to exercise it.
272. Under paragraph 6 (proposed new section 6B(2)) an assembly would be entitled to pass on to an assembly RDA a function delegated to the assembly by the Secretary of State. An assembly could, for example, decide after the function had been delegated to it that the assembly RDA should exercise it instead. Alternatively it could decide that only part of the function should be delegated to the assembly RDA. In either case, under paragraph 6 (proposed new section 6B(4)) where the Secretary of State had imposed conditions on the delegation to an assembly, those conditions would have to be included in the onward delegation to an assembly RDA. A similar provision already exists in relation to the LDA.
273. Section 7 of the 1998 Act requires an RDA to formulate a regional economic strategy and to have regard to it in the exercise of its functions. More detailed provisions exist in relation to the LDA strategy since these involve the Mayor in the formulation process (sections 7A and 7B). *Paragraph 8* provides for the replacement of sections 7A and 7B by a new set of provisions relating to the formulation of a regional economic strategy by both the LDA and an assembly RDA. In the same way that the economic development strategy formulated by the LDA becomes a Mayoral strategy, so an assembly would be responsible for adopting the regional economic strategy prepared by an assembly RDA. When formulating the strategy an assembly RDA would be required by new section 7AA(3) to have regard to its assembly's scheme (see clause 47). There would also be a requirement contained in statutory guidance that an assembly RDA would have to have regard to relevant strategies adopted by

its assembly. Before publishing the regional economic strategy an assembly would have to consult the groups specified in clause 52 (the assembly participants). An assembly would also have to consult the Secretary of State on the draft strategy and have regard to his comments (proposed new section 7AB(4)).

274. *Paragraphs 11 to 16* would disapply the financial provisions in sections 9 to 14 of the 1998 Act (with the exception of the provisions of section 11, which would provide for an assembly RDA to have limited borrowing powers). Part 4 of the Bill would replace the provisions on financial duties determined by the Secretary of State under section 9 of the 1998 Act.
275. *Paragraph 13* provides for the amendment of section 11 of the 1998 Act so as to entitle an assembly RDA to borrow only by way of temporary overdraft and then only with the assembly's consent. An assembly would not be able to give such consent without the approval of Treasury.
276. Section 14 of the 1998 Act requires RDAs to keep accounts and accounting records (subsection 14(1)) and makes various other provisions in relation to such accounts (subsections 14(2) to (6)). Paragraph 16 provides that, with the exception of subsections 14(1) and (6), section 14 would not apply to an assembly RDA. This is because the accounts of an assembly RDA would be subject to regulation by the Audit Commission under the Audit Commission Act 1998 by virtue of clause 155.

Part 7 Regional Fire and Rescue Authorities

Clause 84: Reconstitution of existing combined authorities

277. This clause would deal with the situation where a regional assembly was established in a region where a combined fire and rescue authority already exists for an area co-terminous with the region (*subsection (1)*). Under *subsections (2) and (3)*, the combined fire and rescue authority would be reconstituted as the regional fire and rescue authority for the region on a day appointed by the Secretary of State. The combined authority would continue functioning up to the point at which it was reconstituted as a RFRA, and ceased to exist.

Clause 85: Constitution of new authorities

278. This clause would deal with the situation where a regional assembly was established in a region where there was not already a region-wide combined fire and rescue authority in existence (*subsection (1)*). A new RFRA would be created on a day appointed by the Secretary of State.

Clause 86 and Schedule 5: General provision about authorities and Regional Fire and Rescue Authorities: membership etc.

279. A RFRA would be the fire and rescue authority for the region concerned, and would have the functions conferred on such authorities by the Fire and Rescue Services Act 2004 (currently a Bill). Under *subsections (2) and (3)* the Secretary of State would have order-making powers to deal with the detail of the constitution of a RFRA.
280. *Subsection (4)* refers to Schedule 5, which contains provisions about the membership of RFRA. *Paragraph 2* provides that the number of members of RFRA would be specified by the Secretary of State by order, and that a majority would be appointed by the regional assembly from amongst its members and the remainder

from the local authorities in the relevant region. *Paragraph 3* states that those appointed by the assembly from amongst its members should reflect the balance of political groups prevailing among members of the assembly and paragraph 4 that appointees from local authorities should reflect the balance of political groups prevailing among the members of the relevant local authorities. Members of RFRAs would be appointed for one year and could be disqualified if they attended no meetings of the RFRA during a six-month period (*paragraphs 5 and 11*). Under *paragraph 16* the first meeting of a RFRA would be required to be held as soon as reasonably practicable after it had been constituted.

281. *Subsection (5)* refers to Schedule 6 which would make consequential amendments to legislation to ensure that all relevant enactments which apply to combined fire and rescue authorities and the London Fire and Emergency Planning Authority would also apply to RFRAs.

Clause 87: Transitional etc provisions

282. The Secretary of State would have order-making powers to deal with the detail of the transition to a regional fire and rescue authority.

Part 8 Regional Cultural Consortiums

Establishment and Constitution

Clauses 88 and 89 and Schedules 7 and 8: The establishment and constitution of regional cultural consortiums

283. These clauses concern the establishment of a regional cultural consortium that would happen following the dissolution of one of the eight private companies listed in Schedule 7. The consortiums at present exist in each region as unincorporated bodies carrying out the functions relating to cultural and recreational interests which consortiums are expected to carry out under the Bill. It is envisaged that they will become private companies shortly and the Bill assumes that they are. Those companies are referred to in the Bill as ‘predecessor companies’.
284. Clause 88 provides that if a regional assembly were to be established in a region, the Secretary of State would have to also make an order establishing a regional cultural consortium in that region at such time as he thought appropriate. That order would have to dissolve any existing predecessor company and transfer its staff, property, rights and liabilities to the consortium. Where a company specified in Schedule 7 no longer existed the predecessor company would be taken to be an entity carrying out similar functions. Under clause 88(5) the Secretary of State would be able to make further provision on the continuation of the activities of a predecessor company through a regional cultural consortium.
285. A regional assembly would be required to appoint the chairman and the other members of a regional cultural consortium in its region. Not including the chairman, the minimum number of consortium members would be 11 and the maximum would be 29. The assembly would have to consult the Secretary of State before appointing the chairman and consult the chairman before appointing the other members. In appointing any member of the consortium, the assembly would have to try to ensure that the diversity of cultural and recreational interests in the region would be represented and that the member had relevant experience. Schedule 8 makes further provision on the constitution of a consortium, including on the term of office of members, the remuneration of the chairman and the expenses of other

members, employees, delegation of functions, vacancies in office of members, minutes, and the execution of documents.

Purposes and powers

Clauses 90 and 91: Purposes and powers and charging

286. Clause 90 defines the purposes of a regional cultural consortium as relating to that region and to cultural and recreational interests. Specifically, the purposes of a consortium would be to promote, consider and represent those interests, to promote their economic development and to provide, or support the provision of, cultural and recreational services. A consortium would be granted a range of specific powers (*subsection (3)*) to further any of its purposes. It could exercise those powers if it thought that doing so would be likely to further one or more of its purposes or would be likely to facilitate or would be conducive or incidental to the exercise of any of its functions (*subsection (2)*). Those powers would include the giving of financial assistance or advice to any person, although a consortium would be prohibited from borrowing money (*subsection (4)*). Those powers would also include the provision of staff, goods, services or accommodation to another person, with or without charge, although a consortium would be prohibited from doing anything for a commercial purpose and could not charge for the provision of staff, goods, services or accommodation the consortium was required to make provision by or under any enactment (*subsection (4)*).
287. Additionally, clause 91 provides that if a consortium charged for providing staff, goods services or accommodation, the income from charges for such provision would not be permitted to exceed the cost of providing the relevant staff, goods, services or accommodation, taking one financial year with another (*subsection (3)*) and taking each type of provision separately (*subsection (4)*); the consortium would need the consent of the assembly before making a provision of staff, goods, services or accommodation for which the charge, or the cost (where no charge is made), exceeds limits that the assembly may set (*subsections (1) and (2)*); and the consortium would have to have regard to any guidance issued by the Secretary of State in relation to the charging for staff, goods, services or accommodation by a consortium (*subsection (5)*).
288. Clause 90(5) would enable the Secretary of State to specify by order things which a consortium would not be permitted to do.

Cultural strategic plan

Clauses 92, 93 and 94: Cultural strategic plans

289. Under clause 92 a regional cultural consortium would have to prepare a draft cultural strategic plan and submit the draft to its regional assembly. The regional assembly would be able to give the consortium directions in relation to the preparation of the draft plan with which the consortium would have to comply. In preparing the draft plan, the consortium would also have to have regard to any guidance given to it by the assembly and to the assembly scheme. It would be required also to consult any persons or bodies with an interest in cultural or recreational activities in the region that it considered it appropriate to consult.
290. After a consortium had submitted a draft plan the assembly would have to consider it under clause 93, adopt it with any appropriate changes and publish it (*subsection (1)*). Before adopting a plan the assembly would have to consult the Secretary of

State (*subsection (3)*). The adopted plan would become the regional assembly's 'cultural strategic plan' that the consortium would have to have regard to in exercising its functions (*subsection (2)*).

291. An assembly could revise its cultural strategic plan at any time and the relevant regional cultural consortium would be required to keep the plan under review clause 94 (*subsections (1) and (2)*). The assembly would be able to give the consortium directions in relation to keeping the plan under review with which the consortium would have to comply. In keeping the plan under review the consortium would also have to have regard to any guidance given to it by the assembly (*subsections (3) and (4)*). Before it submitted a proposed revision to the plan to the assembly, the consortium would be required to consult any person or body with an interest in cultural or recreational activities in the region that it considered it appropriate to consult (*subsection (5)*). Revised plans must be considered and, if the assembly thought it appropriate, revised and adopted (*subsection (6)*). The Secretary of State would need to be consulted on revised plans (*subsection (7)*). If an assembly adopted a plan it would have to publish it (*subsection (8)*).

Reporting

Clauses 95 and 96: Reporting

292. Clause 95 makes provision which would require a regional cultural consortium to keep proper accounts and accounting records and to prepare a statement of accounts giving a true and fair view of the state of affairs and the income and expenditure of the consortium. It would have to send a copy of the audited accounts to the assembly. The accounts of a consortium would be subject to regulation by the Audit Commission under the Audit Commission Act 1998 by virtue of clause 155.
293. Under clause 96, a regional cultural consortium would be required to, as soon as reasonably practicable after the end of a financial year, prepare a report on its activities and send a copy to its assembly. That report would have to be in the form and contain the information specified by an assembly and would need to be published.

Change of name

Clause 97: Change of name

294. Under clause 97 a consortium would be able to change its name with the consent of the assembly. Clause 97 sets out the procedure that would be followed in making a decision to change a name and the legal effect of a change.

Part 9 Planning

Regional Spatial Strategy

Clause 98: Regional Spatial Strategy

295. Clause 98 provides that there should be a RSS in every region where an assembly was established. The RSS would have to set out the assembly's policies (however expressed) in relation to the development and use of land in the region. These policies concern the use and development of land, but need not be directly related to the grant or refusal of planning permission. They could include, for example,

congestion charging policies. The RSS could include different policies for different areas within the region.

Clause 99: RSS functions

296. Clause 99 would define the general functions of the assembly with regard to the RSS. In particular, the assembly would have to keep the RSS and matters affecting development in its region under review. It would have to give advice to any body or person if it believed that doing so would help to implement the RSS. The assembly would also have to monitor and report on the implementation of the RSS.

Clause 100: RSS revision

297. Clause 100 makes provision about when a draft revision of the RSS would have to be prepared and what matters the assembly would have to consider when preparing a revision. It sets out the bodies and persons to be consulted during preparation of the draft revision. Along with the draft revision the assembly would have to carry and prepare a sustainability appraisal of the draft revision. It would have to prepare any other documents prescribed in regulations. The assembly would have to adopt and publish the draft revision and publish the other documents and then anyone could make representations about the draft revision.

Clause 101: RSS: participation

298. Clause 101 would require the assembly to prepare, publish and comply with a statement of its policy for involving interested parties in its functions in relation to preparing a draft RSS revision.

Clause 102, 103 and 104: RSS

299. These clauses set out the functions of an assembly in relation to a draft revision of an RSS once it had been published and provide, as part of the consultation process, for an examination in public to be held. Following publication of a draft revision, the assembly must arrange for an examination in public unless the assembly believed it unnecessary to do so and the Secretary of State agreed. Only in exceptional circumstances of a minor revision and subject to the criteria set out in clause 102(3) would there be no examination. The examination would be held before a person appointed by the Secretary of State who would have to report his findings to the assembly. There would be no right to be heard at the examination. The assembly would have to consider the report of the examination, together with any representations made on the draft RSS (to the extent that those had not been considered during the course of an examination). The assembly would have to consider, with regard to Secretary of State guidance, whether to consult on any changes it proposed. The assembly would have to give notice to the Secretary of State of its intention to adopt the revision and then publish the RSS (along with reasons for not consulting on any changes proposed) unless it withdrew it. The Secretary of State would be able to direct an assembly to prepare a draft revision of the RSS and be able to specify which aspects of the RSS should be revised and within what time frame. The Secretary of State would be able to direct the assembly to modify a policy contained in the draft RSS where he believed that it was inconsistent with national policy or of detriment to an area outside the region.

Miscellaneous

Clause 105: Strategic planning applications

300. Clause 105 would make provision about the assembly's role in relation to planning applications by amending section 74 of the Town and Country Planning Act 1990 (c.8). Section 74 enables the Secretary of State to make development orders specifying how planning applications are to be dealt with by the local planning authority. The new provision would allow the Secretary of State to empower an assembly to direct a local planning authority to refuse planning permission for prescribed classes of application and in prescribed circumstances. These classes and circumstances could be prescribed by the Secretary of State in a development order. The Secretary of State's existing order-making powers enable him to specify the assembly as a statutory consultee in such cases and to set deadlines for commenting on applications.

Clause 106: Amendments of planning Acts

301. Clause 106 would make amendments to the Town and Country Planning Act 1990 and the PCPA. These amendments would be consequential upon the provisions of the draft Bill.

Clause 107: National Parks

302. Clause 107 provides that the Secretary of State would be able to order that an area of National Park should fall within the control of one assembly. This would be to ensure that the same regional planning policies applied to the whole area of the National Park. This order could only be made where a similar order was not already in force.

Clause 108: Transitional

303. On this Part of the Bill taking effect, the RSS currently in place for a region would become the assembly's RSS. Any steps taken in preparing a draft revision to an RSS before that date would be treated as steps taken by the assembly.

Clause 109: Regulations

304. Clause 109 would give the Secretary of State the power to make regulations in connection with the exercise by any person of functions under this Part.

Part 10 Other functional responsibilities

Chapter 1

Housing

Clause 110: Local authority housing strategies

305. Section 87 of the Local Government Act 2003 provides that the appropriate person, currently the Secretary of State in relation to England or the National Assembly for Wales in relation to Wales, may require a local housing authority to have a strategy in respect of such matters relating to housing as the person may specify. The appropriate person may also impose requirements with respect to the ends the strategy is designed to achieve, the formulation of policy for the purposes of the strategy, or the review of the strategy. Section 87 also allows the appropriate person to require a local housing authority to prepare and supply him with a statement setting out such material as he may specify, and allows him to impose requirements as to the form, content, supply and timing of supply of the statement.

306. Clause 110 would provide that for the purposes of section 87 of the Local Government Act 2003, the appropriate person would be the assembly or, after consultation with the assembly, the Secretary of State. This would mean that where a local housing authority area fell within a region with an assembly, the assembly could require that authority to have a strategy in respect of such housing matters as the assembly specified and could impose requirements in relation to that strategy. As an appropriate person the assembly could require that a statement be prepared and supplied to it setting out the strategy and any other housing matters that the assembly specified. The Secretary of State could also require a strategy and statement from the local housing authority but only after consultation with the assembly.

Clause 111: Social housing grants: change of landlord

307. Clause 111 would provide that where grant which relates to a particular property is payable to a registered social landlord and that property subsequently becomes vested in another registered social landlord, the grant, or such proportion of it as the assembly would be able to specify or determine, would be payable to the new registered social landlord.

Clause 112: Purchase grant where right to acquire exercised

308. Under section 16 of the Housing Act 1996 (c.52) a tenant of a registered social landlord can accrue the right to acquire property from their landlord at a discount. Under section 20 of that Act the Housing Corporation is required to reimburse, by way of grant, the discount given to the tenant to the registered social landlord. Under clause 112 the assembly would instead be subject to the duty to reimburse, by way of grant, registered social landlords where the tenant was resident in its region at the time they exercise their right to acquire.

309. *Subsection (2)* of clause 112 would restrict the grant that could be given by the assembly under this section in any one year to the total amount of discounts given by a registered social landlord under section 16 of the Housing Act 1996.

Clause 113: Purchase grant in respect of other disposals

310. Clause 113 would apply where a registered social landlord chose to sell to one of its tenants, resident in a region with an assembly, a property at a discounted rate but where the right to acquire under section 16 of the Housing Act 1996 had not been exercised.
311. Under *subsection (2)* of clause 113 the assembly would be required to make an award of grant to the landlord where the tenant had the right under section 16 of the Housing Act 1996 to acquire property elsewhere in the region. However, the award of grant would be limited to the discount that the tenant would have received had he or she exercised their right to acquire that property.

Clause 114: Amendments of 1996 Act

312. Under clause 114 changes to the Housing Act 1996 that are supplemental to matters dealt with in clauses 112 and 113 would be made. Under *subsection (2)* of clause 114 the Housing Corporation would be prevented from giving grant under section 18 of the Housing Act 1996 in relation to a property that was located within an assembly region. Under *subsection (3)* the duty on the Housing Corporation under section 20 of the Housing Act 1996 to pay grant where the right to acquire had been exercised in relation to a property which fell within an assembly region

would be removed. Under *subsection (4)* the duty to pay grant under section 21 of the Housing Act 1996 would fall to the body responsible, either the Housing Corporation or the assembly, for the region within which the property over which the right to acquire was exercisable, fell.

313. Under *subsections (5) and (6)* of this clause a regional assembly would be added to the list of bodies in sections 32 and 33 of the Housing Act 1996. Sections 32 and 33 respectively set out who may disclose information to the Housing Corporation and to whom the Housing Corporation has the power to disclose information.

Chapter 2

Transport

Railways

Clause 115: Prohibited financial assistance in respect of railways

314. A regional assembly would be prohibited from providing anyone with financial assistance where the sole or principal purpose of doing so would be to support the carriage of goods by railway or trains being used for the purpose of carrying goods by railway.
315. The reference to the wider meaning of railway is a reference to the definition of 'railway' in section 81 of the Railways Act 1993 (c.43). By providing that railway does not have its wider meaning, the clause restricts the term 'railway' to its definition in section 67 (1) of the Transport and Works Act 1992 (c.42). It does not extend the meaning of that term so as to cover tramways and other guided transport systems.
316. The reference to terms in this clause having the same meaning as in the Railways Act 1993 applies to the following terms. 'Railway' is defined in section 81. 'Services for the carriage of goods by railway' is a term used, but not defined, in section 82(1). 'Goods', 'network' and 'train' are defined in section 83(1).

Clause 116: Assemblies and functional bodies not to be railway franchisees

317. Under clause 116 section 25(1) of the Railways Act 1993 would be amended so that neither a regional assembly, a functional body of a regional assembly nor a body whose members are appointed by a regional assembly would be permitted to be a franchisee under a franchise agreement. The terms 'franchise agreement', 'franchise operator' and 'franchisee' are defined in section 23(3) of the Railways Act 1993. Franchise agreements are agreements under which a franchise operator provides designated railway passenger services. The franchisee is the counterpart to the franchise agreement, and the franchise operator would either be the franchisee or a wholly owned subsidiary of the franchisee.

Local transport plans

Clause 117: Local transport plans

318. Section 109 of the Transport Act 2000 (c.38) would be amended so that a local transport authority would have to send a copy of a new or updated local transport plan to any regional assembly in whose region the authority's area falls. Local transport authorities are defined in section 108(4) of that Act as being county councils, non-metropolitan district councils and Passenger Transport Authorities. Under section 108(3) they must prepare local transport plans which set out policies

for promoting safe, integrated, efficient and economic transport facilities and services to, from within their area.

Highways

Clause 118: Notification of proposals relating to highways

319. Schedule 1 to the Highways Act 1980 (c.66) would be amended to ensure that a regional assembly would in certain circumstances, along with other specified bodies, notably councils, be served with notice of orders published by a highway authority (including the Secretary of State for Transport in the case of trunk roads) for highway schemes. The obligation to serve notice on a regional assembly would apply where the proposed highway or works to which the orders related was or were to be situated either in the area of two or more councils in the assembly's region or in the area of only one council and the proposal would have a material impact on the transport links or traffic congestion in the area of any other council in the region. The intention behind this is that only proposals of regional significance would need to be notified to an assembly. In such cases the highway authority would be required, in addition to the notice, to send a copy of the draft order and relevant maps to the assembly in accordance with paragraph 3 of Schedule 1 to the 1980 Act. The Secretary of State would also be required to serve on a regional assembly notice of a proposed scheme affecting special roads (motorways) in the area if the same test was satisfied. In either case the assembly would have the right to object to the proposal and, if it did so, a local inquiry would have to be held. Trunk roads are a national system of routes for through traffic.

Chapter 3

Learning and skills

Clauses 119, 120 and 121: Local learning and skills councils

320. These clauses relate to local learning and skills councils and provide for amendments to the Learning and Skills Act 2000 in respect of a regional assembly. *Local learning and skills councils* ('LLSCs') are committees established by the *Learning and Skills Council for England* ('the Council') which is a body established by section 1 of the Learning and Skills Act 2000. The Council has the various powers and duties set out in the 2000 Act. Its duties include securing provision of and encouraging participation in education, training and leisure facilities for people above compulsory school age. These duties do not extend to the provision of Higher Education, which is the responsibility of the Higher Education Funding Council for England (HEFCE).
321. The functions of LLSCs are to perform the duties as are specified by the Council, within or outside their local area. The Council may also issue guidance to them (under sections 20 and 21 of the Learning and Skills Act 2000). Each LLSC has a board made up of between 12-15 individuals, plus an Executive Director appointed by the Council (section 19 and Schedule 2 to the Learning and Skills Act 2000).
322. Under *subsection (1)* of clause 119 section 19 of the Learning and Skills Act 2000 would be amended to remove the requirement for Secretary of State approval for the Councils' appointment of members of a LLSC in assembly areas. It also provides that where a LLSC fell wholly or mainly within the area of a regional assembly, the assembly would have to appoint five of its members following consultation with the chairman. The assembly would have to have regard to guidance to be issued by the Secretary of State in making these appointments. The Council would appoint the

remaining members following consultation with the chairman, the Secretary of State, and the regional assembly. Where a LLSC did not fall wholly or mainly within the area of a regional assembly, the Council would remain responsible for appointing the entirety of an LLSC's membership, subject to the approval of the Secretary of State.

323. Clause 120 provides for the amendment of section 21 of the Learning and Skills Act 2000 so that in issuing guidance to LLSCs the Council would have to consult regional assemblies as well as regional development agencies.
324. Under clause 121 section 22 of the Learning and Skills Act 2000 would be amended. Section 22 imposes a duty on LLSCs to prepare and publish a plan for each financial year for the Council on the education and training needs of employees, employers and the general population in the area, and proposals for meeting those needs. The amendments at *subsection (2) and (3)* would require the LLSC when preparing a plan, to consult any relevant regional assembly, and to have regard to the regional economic strategy prepared under the Regional Development Agencies Act 1998 of any relevant regional assembly. *Subsection (4)* provides for the amendment of the Council's duty to consult a regional development agency when approving a LLSC's plan so that it would have to also consult any regional assembly in the area.

Chapter 4

Environmental

Clause 122 and Schedule 9: Consultation on environmental matters

325. Clause 122 would give effect to Schedule 9, which provides for a number of amendments to existing legislation for the purposes of the consultation and representation of a regional assembly in relation to various environmental matters.
326. *Paragraphs 1 and 2* relate to National Parks. Under paragraph 1 of Schedule 9 amendments would be made to section 7 of the National Parks and Access to the Countryside Act 1949 (c.12, 13 & 14 Geo c.97). This section concerns the arrangements for consultation and publicity in relation to an order designating an area as a National Park or an order varying the area of an existing Park.
327. Under section 7(1) of the National Parks and Access to the Countryside Act 1949, before making an order designating a National Park, the Countryside Agency must consult every joint planning board and local authority whose area includes any land in the area to be designated. Under *subparagraph (2)* this would be amended so that the Agency would have to also consult every regional assembly whose region included any land in the area to be designated.
328. Under section 7(5), before making an order varying the boundary of an existing National Park, the Countryside Agency must consult every joint planning board and local authority whose area, or part of whose area, is within either the current Park boundary or the proposed boundary. Under *subparagraph (3)* this would be amended so that the Agency would have to also consult every regional assembly whose region, or part of whose region, was within either the current Park boundary or the proposed boundary.
329. Section 7(6) places a duty on the Countryside Agency to ensure that copies of any National Park designation order are available for inspection by the public at the offices of those joint planning boards and local authorities who were consulted on

- the order before it was made. Under *subparagraph (4)* this would be amended so that it would include the office of any regional assembly that had been consulted on the order.
330. *Paragraph 2* provides for the amendment of section 66 of the Environment Act 1995. Under this section, National Park authorities (who administer the National Parks) must produce a management plan for their Park. Under subsection (7) of section 66, when a National Park authority is proposing to publish, adopt or review a plan, it must give notice of its proposal to every principal council whose area is wholly or partly within the Park. Under *subparagraph (2)* this would be amended so that a Park authority which made such a proposal would have to also give notice to every regional assembly whose region was wholly or partly within the Park.
331. *Paragraphs 3 to 9* relate to sites of special scientific interest ('SSSIs'). They provide for amendments to sections 28, 28A, 28B, 28C, 28D and 52 of the Wildlife and Countryside Act 1981 (c.69) in order to add any regional assembly to the people or bodies that must be notified in relation to SSSIs. *Paragraph 4* provides for the amendment of section 28 of the 1981 Act so that the conservation agency (English Nature) would have to notify a regional assembly in whose region land was situated if that land was of special interest by reason of any of its flora, fauna, or geological or physiographical features. *Paragraph 5* provides for the amendment of section 28A of the 1981 Act so that where the conservation agency varies the matters specified in the notification after confirmation of the SSSI, it would have to inform the regional assembly. Under *paragraphs 6 and 7*, sections 28B and 28C would be amended so that where the conservation agency extended or enlarged a SSSI, it would have to tell a regional assembly in whose area the additional land was situated. *Paragraph 8* provides for the amendment of section 28D so that where the conservation agency intended to denotify all or part of a SSSI which was no longer of special interest, it would have to notify the relevant regional assembly beforehand.
332. *Paragraphs 10 and 11* relate to long distance routes. They provide for the amendment of section 51 of the National Parks and Access to the Countryside Act 1949. Under this section, the Countryside Agency can prepare a report for the Minister where it considers that the public should be enabled to make extensive journeys on foot, horseback or on a non-mechanically propelled bicycle. Under section 51(4), the Countryside Agency, before preparing such a report, must consult every National Park authority, joint planning board, county council and county district council through whose Park or area the route passes. In turn, these bodies must provide the Agency with any information it might reasonably need for the report. Under *subparagraph (2)* this would be amended so that the Countryside Agency would have to also consult every regional assembly whose region the route passed through and the regional assembly would similarly be required to provide the Agency with any information it would need for the report.
333. *Paragraph 11* provides for the amendment of section 52 of the 1949 Act. This section concerns the approval of any proposals relating to a long-distance route that may have been submitted to the Minister for consideration. Under section 52 (2), when the Minister has determined either to approve any proposals or reject them, he must notify the Countryside Agency and every National Park authority, joint planning board, county council and county district council whose Park or area is traversed by the route to which the report relates. *Paragraph 11* provides for the

amendment of this so that the Minister would have to also notify every regional assembly whose region was traversed by the route.

334. *Paragraphs 12 to 17* relate to areas of outstanding natural beauty ('AONBs'). *Paragraph 13* provides for the amendment of section 83 of the Countryside and Rights of Way Act 2000 (c.37). This section describes the procedure for designating an AONB which are areas of such outstanding natural beauty that they are designated as such by the Countryside Agency (subject to Secretary of State confirmation) for the purposes of conserving and enhancing their natural beauty. Under *paragraph 13(2)*, where the Countryside Agency proposed to make a designation order, in addition to consulting every local authority whose area included any part of the proposed AONB, it would also need to consult any regional assembly whose region, or part of it, fell within the proposed AONB.
335. Section 83(3) states that an order made to designate an AONB cannot come into operation until it has been signed by the Secretary of State, and in submitting the order to the Secretary of State the Agency must forward any representations made by local authorities. The amendment provided for in paragraph 13(4) would mean that any representations from a regional assembly would also have to be forwarded.
336. Under section 83(5), the Secretary of State can refuse to confirm an AONB designation order, or can confirm it with modifications but before doing so must consult the Countryside Agency and affected local authorities. The amendment to subsection (5) provided for by paragraph 13(5) would mean the Secretary of State would also have to consult any relevant regional assembly.
337. Section 83(9) of the 2000 Act gives a list of places where the Countryside Agency must ensure an AONB designation order is made available for public inspection at reasonable times. The amendment provided for by paragraph 13(5) would add the offices of any relevant regional assembly to this list.
338. Under *paragraph 14* section 86(6) of the 2000 Act (Establishment of Conservation Boards) would be amended. This lists stakeholders that the Secretary of State must consult before making a conservation board order. Any relevant regional assembly would be added to the list of consultees.
339. The amendment provided for by *paragraph 15* would mean that a conservation board or local authority which proposed to publish, adopt or review an AONB management plan (under section 89 of the 2000 Act), and which gave notice of this proposal under section 90 (1)(a)(i) of the 2000 Act, would also have to give notice to any relevant regional assembly.
340. *Paragraph 17* provides for the amendment of Schedule 13 to the 2000 Act, which chiefly deals with the constitution and membership of a conservation board. Paragraph 17(2) provides for the addition of a new subsection (d) to paragraph 3(1) of Schedule 13 which would allow for a regional assembly member or members to be appointed in such numbers as to be specified. If any were appointed they would join local authority, parish and Secretary of State appointees.
341. Paragraph 3(2)(a) of Schedule 13 to the 2000 Act deals with the proportional representation of parish and local authority members of a conservation board. *Subparagraph (3)* provides for the amendment of the local authority proportion so

that any regional assembly member of a board would be included with local authority members to make up a minimum of 40% representation.

342. *Subparagraph (4)* provides for the addition of a new paragraph to Schedule 13 of the 2000 Act. This, in similar ways to that for local authority and parish members, would describe how a regional assembly would appoint a member to a conservation board (if vacancies are available), and would explain what would qualify an individual to be appointed as a board member, loss of appointment due to disqualification, and opportunity to be re-appointed.

Clause 123: Biodiversity

343. Clause 123 provides for the amendment of section 74(1) of the Countryside and Rights of Way Act 2000 (conservation of biological diversity). Section 74(1) places a duty on any Minister, any Government Department, and the National Assembly for Wales in the exercise of their functions to have regard to the purpose of conserving biological diversity in accordance with the UN Convention on Biological Diversity 1992. For the purposes of this section, conservation is defined (section 74(7)) as including restoration and enhancement of populations and habitats. The amendment extends those subject to this duty to include a regional assembly.

Part 11 Assembly Employees

General provisions as to employees

Clause 124: Appointment

344. Under its general power, an assembly would be able to appoint the members of staff it needs in order to achieve its general purposes and to carry out its various functions. However, *subsection (1)* places some restrictions on the exercise of the general power, so that a person who was an assembly member, a co-opted member of the RMC or an RMC sub-committee or a special adviser (or had been in the previous 12 months) could not be employed by that assembly (*subsection (2)*).
345. *Subsection (3)* specifies that all appointments of employees would have to be made on merit, subject to certain exceptions (*subsection (3)*). (In respect of the Disability Discrimination Act 1995 *subsection (3)(c)* assumes the coming into effect on 1 October 2004 of the Disability Discrimination Act 1995 (Amendment) Regulations 2003, which will amend that Act.)

Clause 125: Practical arrangements for the separation of certain employees

346. An assembly would have to make arrangements for the separation of employees of the assembly who would report to the executive (or individual executive members) and those who would work for the assembly as a whole (*subsection (1)*). So, for instance, an assembly employee would not be able to assist the executive in developing a policy and then also assist the RMC in scrutinising it. The Secretary of State would have to issue guidance on how this separation could be achieved and consult with assembly representatives before issuing it (*subsections (2) and (3)*).

Clause 126: Secondment of an employee to another assembly

347. An assembly would be able to second one of its employees to a different assembly where the employee agreed (*subsections (1) and (2)*), for instance to allow an exchange of expertise between one assembly and another and to allow assembly employees to gain experience of how another assembly works. This would not affect the employee's pension rights (*subsection (3)(a)*).

Clause 127: Standing orders relating to employment questions

348. The Secretary of State would be able, by regulations, to direct an assembly to include certain provisions on employment in its standing orders. Standing orders in relation to employment questions would be standing orders providing for the appointment, dismissal and disciplining of staff (*subsections (1) and (4)*). Regulations might, for example, require the standing orders to regulate the power of the assembly to make directions about appointment of staff. Regulations might also be made which would require an assembly's monitoring officer to prepare a report to the assembly in respect of politically restricted posts and which would prohibit an assembly from taking disciplinary action against an employee without an independent person making a report on the matter (*subsections (2), (5) and (6)*). The Secretary of State's current intention is to use these powers only where it is apparent that a significant issue is not covered in an assembly's employment standing orders.

Senior officers

Clause 128: Designation of senior officers

349. Under clause 128 an assembly would have to designate employees as chief executive officer, chief finance officer and monitoring officer (*subsection (1)*) and as deputy to each of those officers. A person cannot be appointed as an assembly's chief finance officer unless he is a member of one of the recognised accounting bodies listed in *subsection (4)*. Clause 33 would provide that the appointment of the chief executive officer and his deputy could not be delegated to the assembly's executive and would enable the assembly to decide that other senior appointments could not be delegated.
350. Under *subsection (2)* of this clause an assembly would be prevented from appointing the same person as both its chief finance officer (or deputy chief finance officer) and its monitoring officer (or deputy monitoring officer). This would mean that the persons responsible for investigating any allegations of financial impropriety (the monitoring officer and his deputy) would be different from the persons responsible for the financial administration of the assembly (the chief finance officer and his deputy). This clause does not prohibit the chief executive officer or deputy chief executive officer from also being the chief finance officer or his deputy, or the monitoring officer or his deputy.

Clause 129: Functions etc. of certain senior officers

351. An assembly would have to appoint a chief executive officer to run the affairs of the assembly and manage the staff (*subsection (1)*), and a monitoring officer to ensure that the activities of the assembly are conducted lawfully (*subsection (3)*). An assembly would have to appoint a chief finance officer to ensure the finances of the assembly were properly administered (*subsection (2)*).

Political restriction

Clause 130: Political restriction

352. The terms and conditions of employment of an assembly's employees holding a politically restricted post include restrictions prescribed by the Secretary of State on that employee's political activities (*subsection (1)*), for instance to avoid potential conflicts of interest between an employee's work and political activity.

353. An assembly could require in its standing orders that it confirms appointments to particular politically restricted posts or appointments falling within a general description of politically restricted posts (*subsection (2)*).

Clause 131: Politically restricted positions

354. Politically restricted positions are held by the following employees of the assembly:
- the chief executive officer;
 - the chief finance officer;
 - the monitoring officer;
 - these officers' deputies;
 - political assistants; and
 - Employees other than those listed above, whose positions are on the assembly's political restrictions list. (*subsection (1)*).

An assembly must keep a political restriction list. This must include full-time positions for which there is an annual salary of £32,127 or more (or higher amount if the Secretary of State provides for this in regulations) and part-time positions that are paid at a rate that if they were full-time the pay would be £32,127 or more. This is the same salary scale as that used in local government, under the Local Government and Housing Act 1989 (c.42). The list must also include positions for which the duties appear to the assembly to involve giving regular advice to the assembly or executive, or speaking to journalists or broadcasters. The list does not need to include exempted positions (see clause 132 below), or positions described in regulations made by the Secretary of State (subsections (1) to (4)).

355. The assembly must deposit a copy of this list (and subsequently revised lists) with the proper officer (*subsection (5)*) and in deciding which posts should be politically restricted, must have regard to the advice of the exemptions official appointed by the Secretary of State under clause 132 (*subsection (6)*).
356. The chief executive officer is required to designate certain employees as holding a politically restricted position for a specified period of time or other period, specified by the chief executive officer (*subsections (8) and (11)*). This requirement only arises if the employee does not otherwise hold a politically restricted position. An employee must be designated where he is required to carry out functions that would normally be carried out by employees holding politically restricted positions, for example, functions of the senior officers. Other functions may be specified in regulations by the Secretary of State. This designation enables functions (that are not required to be carried out by the senior officers personally) to be carried out in the senior officers' absence. The types of functions contemplated are the more important functions associated with those holding a politically restricted post and not purely administrative tasks (*subsection (12)*). The designation must be confirmed by the chairman of the assembly, otherwise it is not valid (*subsection (9)*).

357. An employee may refuse to accept designation under subsection (8). This refusal, or his failure to carry out the functions mentioned in subsection (8)(a) and (b) will not constitute a breach of his employment contract. This subsection might be relied upon by an employee who did not wish to give up political activity as would be the case if he were designated.

Clause 132: Exemption from political restriction

358. The Secretary of State would be required to appoint an official (known as the exemptions official) to carry out functions relating to political restriction (*subsection (1)*). An exemptions official would have to consider applications by assembly employees for exemption from political restriction. It could direct an assembly to include a position in the political restriction list, or to remove or refrain from including a position (*subsection (2)*). Before an employee earning above £32,127 (or the equivalent pro rata) made an application to the exemptions official, the assembly would be required to have certified whether or not the post involved advising the executive or speaking to journalists or broadcasters under clause 131(4) (*subsections (3), (4) and (5)*). The exemptions official would also give general advice about questions relating to such posts (*subsections (10 and (11))*).
359. When an election was forthcoming the exemptions official would have to give priority to applications by assembly employees who wish to stand in the election for exemption from political restriction (*subsection (9)*).
360. The assembly would be required to facilitate the exercise of the exemptions official's duties by giving him all the information he reasonably needed, to comply with his directions on the political restriction list, and to notify any employee whose position becomes politically restricted following an application of the terms of the direction given by the exemptions official (*subsection (8)*).
361. The Secretary of State would be able to provide for the appointment of staff to assist the exemptions officer and for the exemptions officer and his staff to be paid (*subsection (13)*).

Political assistants

Clause 133: Political assistants

362. An assembly could appoint up to three political assistants and allocate them to assembly political groups (on which see clause 163) to assist the functions of assembly members (*subsections (1) to (3)*).
363. The appointment of a political assistant would not be subject to clause 124(3) (appointment on merit) nor to any standing order or legislation under which it is unlawful to have regard to a person's political affiliation (*subsection (5)*).
364. Where an assembly's standing orders create the position of political assistant they would have to provide that the appointment was in accordance with the wishes (for the time being) of the political group to which the assistant had been allocated and they must prohibit:
- an appointment until the assembly had allocated a position to each qualifying political group as defined by clause 134;

- the allocation of an assistant to a political group that did not qualify under clause 134; or
- the allocation of more than one position to a political group.

(Subsections (4) and (9)).

365. A political assistant's appointment will terminate on the same day as the term of office of the members of the assembly (*subsection (6)*). A political assistant would only be able to direct an assembly employee for the purpose of providing secretarial or clerical support to the political assistant or his political group (*subsection (7)*).

Clause 134: Qualifying political group

366. Clause 134 sets out how a political group would be designated a 'qualifying political group' for the purpose of being allocated a political assistant.
367. A political group would become a qualifying political group (and therefore eligible to be allocated a political assistant) when it had a membership of at least 10% of the assembly membership and where there were no more than two other groups with a larger membership. Where there were two political groups of equal size who would both otherwise be designated as a qualifying political group but this would result in there being more than three qualifying groups, an assembly would have to designate one of them as a qualifying political group (*subsections (1) to (3)*). It would be a matter for each assembly to stipulate how it would be decided which political group is designated the qualifying group when two or more were of equal size.
368. Where there was only one political group with 10% or more of the assembly membership then the political group with the second largest membership would be designated a qualifying political group and allocated a political assistant. Where there were two or more groups who equally had the second largest assembly membership then the assembly would have to designate one of them as a qualifying political group (*subsections (4) to (7)*).

Reports by certain senior officers

Clause 135: Reports by the chief executive officer of an assembly

369. The assembly's chief executive officer may make a written report to the assembly with respect to co-ordination of the assembly's discharge of its functions or staffing matters. An assembly must provide the chief executive officer with resources sufficient (in his opinion) to do this (*subsection (1), (4) and (5)*). If the chief executive officer does make such a report he would need to send a copy to each member of the assembly and the assembly would have to consider it at a meeting within three months of the report being made (*subsections (2) and (3)*).

Clause 136: Certain reports by the chief finance officer of an assembly

370. This clause sets out the circumstances under which an assembly's chief finance officer must make a written report to the assembly or its executive. These are (1) where the assembly, one of its committees or sub-committees or employees (not acting on behalf of the executive) acts unlawfully (in a manner specified in paragraphs (a) to (g) of *subsection (1)*), in which case the chief finance officer must make a report to the assembly; (2) where the executive or a person acting on its

behalf acts unlawfully (in a manner specified in paragraphs (a) to (c) of *subsection (3)*), in which case the chief finance officer must make a report to the executive; and (3) where the chief finance officer thinks that the assembly's expenditure is likely to exceed its available resources (*subsections (1) to (4)*).

371. In preparing such a report, the chief finance officer would have to consult the assembly's chief executive officer and monitoring officer and send a copy of the report to the assembly's auditor and to each assembly member (*subsections (5) and (6)*). The chief finance officer would be required to carry out the function of making a report personally. However, if he was unable to do so, due to illness or absence then his deputy must make the report. If the deputy chief finance officer is unable to act because of absence or illness, then the chief finance officer's nominee must do so. The nominee is an employee whom the chief finance officer has nominated from among his staff. He must be a member of the accounting bodies listed in clause 128(4), unless no member of staff is a member of one of those bodies. An employee who is nominated must hold a politically restricted position within the meaning of clause 131, or must have been designated to be treated as holding such a position under clause 131(8) (*subsections (7), (8) and (9)*). The assembly must provide the chief finance officer with resources sufficient (in his opinion) to undertake his duties under this clause (*subsection (10)*).

Clause 137: Reports by the monitoring officer of an assembly

372. The assembly's monitoring officer would be under a duty to make a written report to the assembly when it appears to him that (1) the assembly, one of its committees or sub-committees or employees (not acting on behalf of the executive) acts unlawfully, in which case he must make a report to the assembly or (2) the executive or a person acting on its behalf acts unlawfully, in which case he must make a report to the executive (*subsections (1) to (3)*). In doing this the monitoring officer would have to consult with the assembly's chief executive officer and chief finance officer and once he has made his report he would have to send a copy to each assembly member (*subsections (4) and (5)*).
373. The monitoring officer must make his reports personally (*subsection (6)*) but where he cannot due to absence or illness this function must be performed by the deputy monitoring officer or, if the deputy is unable to act due to absence or illness, a nominee of the monitoring officer, who must be a member of the monitoring officer's staff. An employee who is nominated must hold a politically restricted position within the meaning of clause 131, or must have been designated to be treated as holding such a position under clause 131(8) (*subsections (7) and (8)*). The assembly must provide the monitoring officer with staff and resources sufficient (in his opinion) to undertake his duties under this clause (*subsection (9)*).

Clause 138: Duties of an assembly following certain reports by the chief finance officer

374. Where an assembly's chief finance officer made a report to the assembly, as described under clause 136 above, then the assembly would have to consider the report at a meeting within 21 days of the chief finance officer sending copies to assembly members. The assembly should decide at this meeting whether it agreed or disagreed with the views set out in the report and any action it proposed to take. The proper officer must make the assembly's auditor aware of the time and place of the meeting and notify him of any decision made (*subsections (1) to (4)*).

375. During the period which began with the day that the chief finance officer sent his report, and ending on the day after the assembly had completed its consideration of the report, the matter that led to the report being made would be prohibited. If the report had been made on the basis that the assembly's expenditure was likely to exceed its resources then this would mean the assembly would be unable to enter into any new agreement that incurred expenditure without the chief finance officer giving written authority (and reasons) (*subsections (5), (10) to (13)*). If these provisions were not complied with, then the assembly could be taken to not have had the power to carry out that action (*subsections (6) to (9)*). The effect of these provisions then, is to prevent the assembly from carrying out or continuing any unlawful actions or from exacerbating any financial problems until the assembly had had a chance to consider the chief finance officer's report and to decide what to do.

Clause 139: Duties of the executive of an assembly following certain reports by the chief finance officer

376. This provision largely echoes clause 138 but it relates to reports made to the executive of an assembly about actions of the executive. Where the chief finance officer makes a report, the executive must consider it within 21 days and decide whether to take further action. It must make a written report to the assembly stating what action it has taken or proposes to take, or that it does not propose to take any action. It must give reasons. The executive must send a copy of this report to the assembly's auditor, each member of the assembly and the chief finance officer (*subsections (8) and (9)*).

Clause 140: Duties of an assembly following a report by the monitoring officer

377. If the assembly's monitoring officer made a report to the assembly (as set out above under clause 137) then the assembly would have to consider it at a meeting within 21 days of the monitoring officer sending the report to assembly members. The proposal or decision that the report relates to could not be permitted to be implemented, until the day after which the assembly has finished considering the report.

Clause 141: Duties of the executive of an assembly following a report by the monitoring officer

378. This provision largely echoes clause 140. It sets out the actions required of the executive if the monitoring officer had made a report to it instead of to the assembly. In addition to those provisions, once the executive had considered the monitoring officer's report it would have to make a written report to the assembly on what action it had taken (or proposed to take) in response to the report or stating that it did not intend to take any action. In both cases, reasons must be given. The executive should send a copy of this report to the monitoring officer and to each member of the assembly (*subsections (4) and (5)*).

General

Clause 142: Interpretation of Part 11

379. Clause 142 explains a number of the terms used in this part of the Bill, including the meaning of 'auditor', 'business day' and 'political assistant'.

Part 12 Regions

Extent of regions

Clause 143 and Schedule 10: Regions

380. *Subsection (1) and Schedule 10* define what the eight regions are for the purposes of the Bill. These regions are the East Midlands, Eastern Region, North East, North West, South East, South West, West Midlands and Yorkshire and the Humber, each having the extent indicated in Schedule 10. It is in respect of these regions that the Secretary of State could make an order establishing an assembly. The regions are the same as the regions that are to be currently found in Schedule 1 to the Regional Development Agencies Act 1998, excluding Greater London.
381. *Subsection (2)* means that the extent of the eight regions in Schedule 10 would change to reflect any changes to the boundaries of the local authorities listed there. This ensures that the boundaries of the regions follow the boundaries of the local authorities of which they are comprised, should the latter change under Part 2 of the Local Government Act 1992. It repeats a similar provision in section 1 (3) of the Regional Development Agencies Act 1998 (which is repealed by the Bill).

Regional changes involving assemblies

Clause 144: Request for recommendations

382. Clause 144 would provide the Secretary of State with the power to ask the Electoral Commission (but not before 1st January 2012) to look into the question and make recommendations which local authority areas specified in Schedule 10 should make up a region with an assembly (*subsections (1) and (4)*). This, therefore, provides a mechanism by which the boundaries of a region with an assembly can be changed. *Subsection (2)* makes it clear that the recommendations about how a region with an assembly should be altered could affect a region without an assembly. In other words, all the boundaries of a region with an assembly could be looked at irrespective of whether a neighbouring region is without an assembly.
383. The time limit in subsection (4) of 1st January 2012 is designed so that, aside from any change as consequence of local authority boundary change under the Local Government Act 1992, the boundaries of regions that have an assembly would be settled for the near future.
384. Subsection (1) means that the only recommendations which the Electoral Commission could make for altering the boundaries of a region with an assembly are those which would constitute the transfer of one or more of the local authority areas specified in Schedule 10 from one region to another. The policy is that those local authority areas should be the building blocks from which regions are comprised. This means that an assembly's area could not cut across local authority boundaries.

Clause 145: Review by Boundary Committee

385. Clause 145 would provide for the procedure whereby the Electoral Commission arrives at its recommendations for altering the extent of a region, if they decide to respond to a request by the Secretary of State under clause 144 the Commission would have to direct the Boundary Committee for England (*subsection (1)*) to look into the matter, by carrying out a review and reporting to them.

386. *Subsection (2)* sets out three matters that the Boundary Committee for England must take into account in deciding what recommendations to make to the Commission, including the need for it to take into account any guidance given to them by the Secretary of State.
387. Furthermore, the Commission would be given power to give guidance to the Committee about how it conducts any review (*subsection (3)*). However, the basic procedure for a review is set out in *subsections (4) to (7)*. These include requirements about publicising any direction made by the Electoral Commission and the arrangements for when representations should be made and requirements about the publication of draft recommendations and final recommendations.
388. *Subsection (8)* would permit the Electoral Commission to direct the Boundary Committee for England to undertake a further review if it wants the Committee to reconsider any of its recommendations. *Subsection (9)* provides for that the same procedure to be used on such a subsequent review but subject to any changes the Electoral Commission may direct.

Clause 146: Opinion of Audit Commission

389. This clause would enable the Secretary of State or the Electoral Commission to require (by direction) the Audit Commission to give a written opinion about the impact of any recommendations requested under clause 144 on any affected regional assembly and functional body in terms of economy, efficiency and effectiveness (*subsection (1)*).
390. The Audit Commission (which is defined in clause 167 of the Bill as the Audit Commission for Local Authorities and the National Health Service in England and Wales) would be to recover its costs from either the Secretary of State or the Electoral Commission (*subsection (2)*). Subsection (3) provides a tie with the Audit Commission Act 1998 so that, for example, the Audit Commission's Code of Practice under section 4 of that Act would need to cover how it would provide an opinion under this clause.

Clause 147: Recommendations of Electoral Commission

391. This clause would require the Electoral Commission once they had received a report from the Boundary Committee after a review, to make its recommendations to the Secretary of State. In doing so it would be required to have had regard to the same matters as the Boundary Committee was required to take into account when preparing its report, and any report of the Audit Commission (*subsections (1) and (2)*). The clause would allow the Secretary of State to request that the Electoral Commission reconsiders its recommendations or ask it for more information. If the Electoral Commission were asked to reconsider its recommendations, *subsection (4)* would allow them to direct the Boundary Committee for England to carry out a further review.

Clause 148: Implementation of recommendations

392. Clause 148 would allow the Secretary of State to put into effect, by order, any of the recommendations of the Electoral Commission by amending Schedule 10 to the Bill. This would be by moving the names of one or more of the local authority areas in the Schedule from one region to another. Because of clause 171 (3)(j) any such order, before it is made, would require a draft of it to be agreed by both Houses of Parliament. However, no order implementing a change could be made before six

weeks had expired after the Electoral Commission's recommendations were received (*subsection (2)*). This allows time for interested parties to make further representations to the Secretary of State if they wish.

393. *Subsections (3) to (6)* allow for the consequences of implementing a change in an assembly's boundaries to be addressed in any order, by enabling the Secretary of State to make, for example, transfers of staff, property, rights and liabilities to and from a number of public bodies. For example, the property or staff of one assembly might need to be transferred to another assembly where an area that was in the region of the first assembly is moved to the region of the second assembly. The provisions make explicit the breadth of the Secretary of State's powers so that, for example, compensation for loss of office could be provided for and legal proceedings could be continued in another person's name. The power is fairly wide because until a review is undertaken it is difficult to know quite what transfers etc. might need to be made. The text in parenthesis in subsection (3) makes it clear that the order-making power here extends to making different provision for different purposes and incidental, consequential, supplemental and transitional provision, as provided for by clause 171(2).
394. *Subsection (5)*, in applying section 20 of the Local Government Act 1992, would allow the affected public bodies to make agreements between themselves on matters that are incidental to the regional boundary change – for example, on the transfer and custody of property and on how one party is to compensate another for the transfer of any rights.
395. *Subsection (6)* prevents the Secretary of State from altering, by order, the electoral arrangements of the affected regions, as this is for the Electoral Commission under clause 149.

Clause 149: Consequential review of electoral arrangements

396. Clause 149 would allow the Electoral Commission to address the implications that would arise for an assembly's electoral arrangements if there were a change to the extent of its region. It enables it to direct the Boundary Committee for England to review the electoral arrangements of an affected region and to recommend to it what changes to an assembly's electoral arrangements ought to be made (*subsection (1)*). 'Electoral arrangements' is defined in *subsection (2)* as the number of constituency and regional members of an assembly, how its region is divided up into constituencies and what the constituencies are called.
397. The Boundary Committee in formulating any recommendations about how the number of regional or constituency members should change would have to have regard to guidance issued by the Secretary of State after consultation with the Electoral Commission (*subsection (3)*). In arriving at recommendations on other electoral arrangements, it would have to have regard to guidance given by the Electoral Commission, as well as the other matters set out in *subsection (4)*.
398. The Boundary Committee would be allowed to combine the review of electoral arrangements and the overall boundaries of the region – so it could look at both at the same time to reduce the cost and effort and to make sure that all relevant issues are considered together (*subsection (6)*). However, the procedure it would have to follow would, in any event, be the same as for the reviews of a region described above (*subsection (5)*).

Clause 150: Order relating to electoral arrangements

399. This clause would enable the Electoral Commission to give effect to any recommendations about electoral arrangements made by the Boundary Committee for England under clause 149. The changes to the electoral arrangements would be implemented by the Electoral Commission, not by the Secretary of State (*subsection (1)*). The Commission could make modifications to the recommendations and then put them into effect only if the modifications had been agreed with the Boundary Committee for England (*subsection (3)*). *Subsection (2)* prevents the Electoral Commission making an order within six weeks of having received recommendations from the Committee. Again, this six-week period would be to allow representations to be received.
400. *Subsections (4) to (6)* would allow the Electoral Commission to make supplementary changes to give effect to the new electoral arrangements. *Subsection (4)(a)* would give them the power to assign existing members to new or altered constituencies so that the whole of the region would continue to be represented. *Subsection (4)(b)* gives them the power to hold a fresh election for all members of the assembly; for example if the changes are fairly radical and it is therefore difficult to work out which member should be associated with which constituency. There is no provision to hold a by-election for a new seat.
401. *Subsection (6)* limits the Electoral Commission so that it cannot change the number of members of an assembly to fewer than 25 or more than 35 – the overall limit on the number of members for an elected regional assembly that is set out in clause 3 of the Bill. It also makes clear that the Commission cannot by order change the position that there is one constituency member for each constituency.

*Supplementary and general***Clause 151: Regional changes not involving assemblies**

402. Clause 151 would provide a power to the Secretary of State by order to make changes to the extent of a region that does not have an assembly by transferring to or from that region a local authority area specified in Schedule 10 which is in another region without an assembly (*subsection (1)*). These provisions are similar to those in section 25 of the Regional Development Agencies Act 1998 and have been moved here so that all changes to the regions, with or without an assembly, are encompassed within one Act. Section 25 is as a consequence repealed under clause 169. The Electoral Commission and Boundary Committee do not have a role here as these procedures do not affect the boundaries of elected bodies.
403. Again, the Secretary of State would change the regional boundaries by order amending Schedule 10. This is only after having given interested persons an opportunity to make representations (*subsection (2)*) and having consulted certain other persons and bodies (*subsection (3)*).
404. *Subsection (4)* allows the Secretary of State to make provision about certain consequential matters (in addition to the general power for orders under clause 171(2)).
405. *Subsection (5)* allows the Secretary of State to hold a local inquiry before making an order. *Subsection (6)* would apply certain provisions in section 250 of the Local Government Act 1972, which allow for the person appointed to hold an inquiry to

call witnesses and documents, for how the Secretary of State's costs in holding the inquiry are to be paid and for the Secretary of State to be able to make an order for costs.

406. An order altering the extent of regions without assemblies under these provisions would also only be able to be made if a draft of it is agreed to by both Houses of Parliament (clause 171(3)(k)).

Clause 152 and Schedule 11: Consequential and supplementary amendments

407. Clause 152 would give effect to Schedule 11. Significantly, paragraphs 1 to 6 would make amendments to the Local Government Act 1992 to make provision in connection with changes to a region's boundaries following changes to local authority areas under the Act.
408. *Paragraph 2* of the Schedule would amend section 14 of the Local Government Act 1992. In doing so, it would require the Electoral Commission or the Boundary Committee for England in making recommendations for a new local government area to be created which would cross the boundaries of two or more regions to also make recommendations about which region the new local government area should fall into (new subsection (9)). This is to ensure the new authority is placed wholly within a region, and to make provision about how to decide which region that should be. When making such recommendations, the Electoral Commission or Boundary Committee must have regard to the same matters as the Boundary Committee when making recommendations under clause 145 (new subsection (10)).
409. There is no need to make provision here about how the extent of a region should change where a pre-existing local authority boundary is changed. This is since these changes would automatically feed through under clause 143(2). However, new section 14(11) of the Local Government Act 1992 means that in any circumstances where the Commission or the Boundary Committee make recommendations that would result in a change to a region (i.e. whether or not these automatically feed through), they must make recommendations regarding the electoral arrangements for any assembly in the region. 'Electoral arrangements' has the same meaning as in clause 149(2) (see paragraph 6 of Schedule 11).
410. In making recommendations on electoral arrangements in these circumstances, the Boundary Committee for England would have to have regard to the same criteria as when making recommendations on electoral arrangements under clause 147 (new subsection (12)).
411. Since the above amendments would be made to the Local Government Act 1992, the procedures in sections 15 or 15A of that Act would apply to arriving at the new sorts of recommendations under new sections 14(9) and (11). *Paragraph 3* makes amendments to section 15(3) and (4) of the Local Government Act 1992 to augment this by providing for draft and final recommendations to be deposited at the offices of any affected regional assembly or regional development agency, in an affected region without an assembly.
412. *Paragraph 4* would amend section 16 of the Local Government Act 1992 so that the Audit Commission could be directed to provide an opinion about how any recommendations relating to regions under the new provisions would affect

economy, efficiency and effectiveness in the provision of services by certain public bodies. These would include any assembly and its functional bodies.

413. *Paragraph 5* would amend the order making powers in section 17 of the Local Government Act 1992 so that the recommendations under the new provisions relating to changes to the extent of regions and changes to the electoral arrangements of a region with an assembly could be implemented. Changes recommended to the extent of a region would be implemented by order by the Secretary of State (in the same way as changes to local authority boundaries are currently implemented) (paragraph 5(2)). Changes to a region's electoral arrangements would be implemented by order made by the Electoral Commission (in the same way as electoral changes in respect of local authorities are currently implemented (paragraph 5(3)).
414. The changes to subsection (3) augment the powers in section 17 to enable the consequences of changes to a region to be dealt with. New paragraph (j) would allow the Secretary of State to make transfers of property, rights and liabilities by order between any of the assembly and its functional bodies, any other public body and the Secretary of State. Paragraph (k) would allow the Electoral Commission to make provision allocating existing members to altered or new constituencies where minor changes took place outside the ordinary election cycle. However, if substantial changes took place outside the ordinary elections cycle then the Commission would provide for fresh elections to be held for all members. These powers are similar to those in Schedule 10, which provide for the electoral consequences of a region where there have been alterations to a region's constituencies.
415. The addition of subsection (8) to section 17 makes it clear that the Secretary of State must ensure that any new local government area is located within a region.
416. Schedule 11 (*paragraphs 7 to 16*) would make consequential amendments to: the Regional Development Agencies Act 1998, the Political Parties, Elections and Referendums Act 2000, the Regional Assemblies (Preparations) Act 2003, the Planning and Compulsory Purchase Act 2004 and the Civil Contingencies Bill (which it is envisaged will be an Act before this Bill is enacted). For example, these Acts have references to regions, defined by reference to the Regional Development Agencies Act 1998. They will now define regions by reference to this Bill.

Clause 153: Financing reviews

417. This clause would give the Secretary of State the power to pay the Electoral Commission for their work on making recommendations to the Secretary of State on altering the extent of a region, whether or not under Part 12 of the Bill or under the Local Government Act 1992. Work on changes to the electoral arrangements of a region conducted under the 1992 Act would be left to be paid for under the Electoral Commission's normal financing arrangements. This is by making a bid to the Speaker's Committee as set out in paragraph 14 of Schedule 1 to the Political Parties, Elections and Referendums Act 2000. There is a tie in here with one of the consequential amendments in Schedule 11. Paragraph 13(b) there means that the income that the Electoral Commission receive under clause 153 would be taken into account in calculating how the Commission expenditure is to be reimbursed under paragraph 14 of Schedule 1 to the Political Parties, Elections and Referendums Act 2000.

Clause 154: Interpretation of Part 12

418. This clause contains the definitions of several terms as they are used in Part 12.

Part 13 Miscellaneous and General

Chapter 1

Miscellaneous

Audit and best value

Clause 155: Application of the Audit Commission Act 1998

419. Clause 155 would provide that an assembly and its functional bodies would be subject to audit under the Audit Commission Act 1998 by auditors appointed by the Audit Commission. As a result, the clause makes relevant amendments to the 1998 Act. The accounts and statements of account of the assembly and each of its functional bodies would be subject to the full provisions of the 1998 Act, including public inspection, action by the auditor and prevention of unlawful expenditure.
420. The Audit Commission takes responsibility for the audit of accounts of public bodies covered by the 1998 Act, and Schedule 2 to that Act lists the specified authorities and bodies. *Subsection (2)* amends Schedule 2 to the 1998 Act to add an assembly and its functional bodies (and distinguishing these from a functional body of Greater London Authority which are already included in Schedule 2, now termed 'London Functional body').
421. *Subsections (3) to (11)* set out the individual amendments to the 1998 Act to deal with the application of that Act to an assembly and its functional bodies.
422. Under section 8 of the 1998 Act an auditor would be able to make a report on matters coming to his notice where it was in the public interest to do so. Where he did so in respect of a regional functional body he would be required to send a copy to the assembly as well as to the body (*subsection (5)*). *Subsection (9)* introduces a new section 35AA into the 1998 Act in order to provide that an assembly could request the Audit Commission to carry out an audit of one of its functional bodies.

Clause 156: Application of certain 'Best Value' provisions under the Local Government Act 1999 (c.27)

423. A regional assembly would not be designated a best value authority under section 1 of the Local Government Act 1999 ('the 1999 Act') but would be subject to general principles of best value and continuous improvement as set out for authorities already covered by the 1999 Act. (A regional fire and rescue authority is to be a best value authority under the 1999 Act by virtue of separate provisions).
424. Clause 156 contains the individual amendments to the 1999 Act to deal with the application of the relevant sections of that Act to the assembly. In the application of these provisions any reference to a best value authority or to an authority is to be construed as a reference to an assembly (*subsection (2)*).
425. *Subsection (1)* specifies particular provisions of the 1999 Act as they are to apply to an assembly. Section 3 is applied (other than subsection (2)(b)), which describes the general duty of best value. In broad terms, the duty requires best value authorities to make arrangements to secure continuous improvement in the exercise of their functions, judged against named criteria and with regard to a combination of economy, efficiency and effectiveness. For the purposes of fulfilling the general

- duty, the section also imposes upon best value authorities a mandatory duty to consult with representative groups of people falling within specified categories, and in doing so, to have regard to any relevant guidance issued by the Secretary of State. Subsection (2)(b) would not apply to an assembly because the group mentioned there (representatives of persons liable to pay non-domestic rates in respect of any area within which the authority carries out functions) would be irrelevant to it.
426. Subsection (1) also applies section 5 of the 1999 Act, amending subsections (4)(d), and ignoring subsections (4)(g), (h) and (i), (6) and (7).
427. Section 5 is concerned with the manner in which best value authorities conduct reviews of their functions, reviews being one of the key procedural components of best value. *Review* is used here in the sense of requiring best value authorities to carry out an initial assessment of whether functions are to be performed, how, by whom and to what standard.
428. The section provides that best value authorities have to review all of their functions within a time period that is specified by the Secretary of State. In conducting reviews authorities would also have to have regard to the general nature of the duty as described within section 3, and to any relevant guidance issued by the Secretary of State. The section also describes a number of key stages in any review which authorities would be expected to complete. The Secretary of State would have a power to make orders setting out what elements would comprise a review, and to issue guidance on them. The section provides the Secretary of State with a power to issue guidance to best value authorities on the form, content and timing of reviews. The amendment to subsection (4)(d) provides that an assembly's best value review should be required to contain an assessment of its performance by reference to the targets in its most recent annual report. The subsections being ignored deal with performance standards and performance indicators for best value authorities (as defined in section 4 of the 1999 Act). These performance measures are not to apply to a regional assembly.
429. Subsection (1) also applies section 10 of the 1999 Act, amending subsection (4)(a) and adding a new section 10(5); sections 11 and 12, and section 13 ignoring subsections (2)(b) and (4) and amending subsection (5).
430. Section 10 provides the Audit Commission with a power to carry out inspections aimed at assessing the degree to which authorities comply with the requirements of the best value legal framework. In many cases, these inspections would be programmed so as to allow the inspectors to assess the outcome of reviews under section 5 that are considered above. In some cases, however, the Government would wish to provide for *ad hoc* unprogrammed inspections to take place. Section 10 provides the Secretary of State with a power to direct the Audit Commission to carry out an inspection of the authority concerned in respect of those functions. The amendment to subsection (4)(a) refers to a separate free-standing duty under section 10(5) (inserted by *subsection (3)*) on an assembly's auditor to include a recommendation whether the Audit Commission should carry out a best value inspection of the assembly.
431. The Government intends that the Audit Commission's powers of access to documents and information should be broadly similar to those enjoyed by auditors

of accounts, and which are provided under section 6 of the Audit Commission Act 1998. Section 11 provides for this, and also for inspectors to have reasonable rights of access to premises.

432. Section 12 sets out the powers which the Audit Commission would have to set a scale of fees for best value inspections. The Commission would have discretion to charge a fee which departs from any such scale where it judges the amount of work involved in an inspection to be substantially more or less than normal. Before setting a scale of fees, the Commission is required to consult both the Secretary of State and persons who it judges to be representative of best value authorities.
433. Section 13 provides that as with the audit of plans, whenever inspectors scrutinise reviews the Audit Commission would be expected to publish a report outlining their findings. This report would mention any failure to comply with the requirements under the sections of the 1999 Act applied to an assembly. In all cases, the Commission would send a copy of its report to the relevant best value authority. It can also publish a report and any information in respect of a report.
434. Subsections (2)(b) and (4) of Section 13 of the 1999 Act are not to apply to an assembly. In section 13, subsections (2)(b) and (4) relate to the Secretary of State's powers of intervention in a best value authority under section 15, which is not to apply to an assembly. Subsection (5) requires that, where the Audit Commission has carried out an inspection and in its report has stated that it believes that the authority is failing in its best value duties, the authority must record that fact and any action taken as a result in its next performance plan. As the provisions about performance plans (section 6) are not to apply to an assembly, subsection (5) has been amended so that an assembly should have a duty to record any reported finding that it is failing to fulfil best value requirements in its next annual report.
435. Subsection (1) also applies section 23 of the 1999 Act with a number of adaptations (set out in *subsection (7)*) to an assembly. Section 23 provides the Secretary of State with a power to create a statutory accounting framework that would apply to best value authorities. In doing so, it closely, though not exactly, follows the model laid out at section 27 of the Audit Commission Act 1998. Section 23 provides the Secretary of State with powers
- to regulate how best value authorities prepare, keep and certify accounts; and
 - to specify how accounts should be deposited, published and made available for public inspection.
436. Before using section 23 powers, the Secretary of State would be obliged to consult with the Audit Commission, best value authorities or persons appearing to him to represent them, and such bodies of accountants as he deemed appropriate.
437. Subsection (1) would also apply section 25 of the 1999 Act, ignoring subsection (2)(b) to (i). Section 25 provides that the persons and bodies it describes are, when arranging and carrying out best value inspections, to have regard to any guidance which the Secretary of State issues for the purpose of securing their co-ordination. Subsections (2)(b) to (i) are not to apply to an assembly because these deal with bodies which are not relevant to an assembly. Subsection (2)(a) refers to the Audit Commission, and this is the only relevant body; however, section 25 (3) provides

the Secretary of State with a power to amend this list of persons and bodies by order.

438. Subsection (1) would apply section 26, which provides the Secretary of State with a general power of guidance in respect of all the provisions in Part I of the Act, and draws together previous references to guidance powers. It allows the Secretary of State, in issuing guidance to best value authorities about the manner in which they comply with best value, to issue both general guidance, capable of widespread application, as well as guidance aimed specifically at one or more authorities (which could, for instance, be targeted at bodies with a particular range of functions, such as the GLA). It permits the Secretary of State to issue different guidance to different authorities, thus allowing flexibility, for instance, to issue specific guidance to police authorities. Section 26 also provides that the Secretary of State, before issuing any relevant statutory guidance, must consult the authorities concerned or those persons who appear to him to represent them. This general guidance power complements other particular guidance powers set out elsewhere in Part 1, for example in respect of the setting of performance targets and the conduct of best value reviews. The possible issues which it might be used to address would include, for instance, how best value authorities tackle cross-cutting issues such as social exclusion, equality and sustainable development.

Comptroller and Auditor General

Clause 157: Access to documents by Comptroller and Auditor General

439. The National Audit Office is to have reasonable access to documents held or controlled by an assembly and its regional development agency and regional cultural consortium to assist it in carrying out value for money examinations of central government departments. Section 6 of the National Audit Act 1983 ('the 1983 Act') enables the Comptroller and Auditor General to carry out examinations into the economy, efficiency and effectiveness with which public bodies (including government departments) have used their resources in discharging their functions (known as 'value for money' examinations). Section 8 of the 1983 Act provides the Comptroller and Auditor General with a right of access at all reasonable times to all such documents as he may reasonably require for carrying out such examinations. Any person holding or accountable for any such document is required to provide to the Comptroller and Auditor General such information and explanation as are reasonably necessary. However, section 8(2) means that section 8 would only apply to documents in the custody or under the control of the body being examined. Thus clause 157 would extend the right of access in section 8 of the 1983 Act to an assembly and its regional development agency and regional cultural consortium. Access to regional fire and rescue authorities would not be covered as this would remain part of the existing Audit Commission remit for value for money examinations for fire and rescue authorities.

Special advisers

Clause 158: Special advisers

440. Clause 158 would place a duty on the Secretary of State to issue guidance to an assembly on the appointment of people to advise the assembly or its executive ('special advisers'). An assembly (or its executive) would be able to use its power under clause 43 to appoint special advisers who have a relevant interest or experience. Special advisers do not include people providing services as part of a trade, business or profession (*subsection (2)*). Employees of the assembly and its

functional bodies cannot be appointed as special advisers, nor can co-opted members of the RMC or an RMC sub-committee or members of a functional body (*subsection (3)*).

441. An assembly would be able to exercise its discretion in appointing special advisers, but in doing so it would have to have regard to the guidance issued by the Secretary of State, which would have to cover for the functions of special advisers, the circumstances in which it was appropriate to appoint special advisers and the type of people whom it was appropriate to appoint (*subsections (1) and (6)*). The Secretary of State would be required to consult such organisations or people, as he thought fit before issuing guidance under subsection (1).
442. *Subsection (5)* provides that an assembly would have to ensure that it provided in its standing orders for matters relating to special advisers, including the procedure to be followed in making appointments and in paying fees to special advisers.

Contracts etc

Clause 159: Contracts: exclusion of non-commercial considerations

443. Clause 159 would provide for the amendment of Schedule 2 to the Local Government Act 1988 (c.9) so as to apply section 17 of that Act to an assembly. The effect of this would be that an assembly would be prohibited from taking into account 'non-commercial considerations' when entering into contracts for the supply of goods, materials or services, or for the execution of works. Non-commercial considerations are defined in section 17(5) of the Local Government Act 1988 and include such things as trade union membership or political affiliations.

Clause 160: Certified contracts

444. Under clause 160 sections 2 to 8(1) of the Local Government (Contracts) Act 1997 (c.65) would apply to a regional assembly as they currently apply to a local authority. The effect of this would be to create, in effect, a 'safe harbour' for private contractors in relation to contracts entered into with a regional assembly. It would mean that where a contract was certified (in accordance with the requirements set out in section 3 of that Act), then the contracting party would not need to worry about whether or not the assembly had the power to enter into it. A certificate issued by an assembly means that the contract has effect as if the assembly had had power to enter into it. The certificate would specify, among other things, the statutory provision(s) conferring such power. An inaccuracy in a certificate would not invalidate it.

Clause 161: Standing orders for making of contracts

445. *Subsections (1) and (2)* would provide that an assembly would be able to make standing orders in relation to the making of contracts by it. The effect of *subsection (3)* would be that a person entering into a contract with a regional assembly would not be bound to inquire into whether or not the standing orders of an assembly which apply to the contract had been complied with. Further, non-compliance with such standing orders would not invalidate any contract entered into by or on behalf of an assembly. This would give further protection to private sector contractors.

Clause 162: Contracting out

446. Clause 162 could provide for the amendment of sections 70, 72, 73 and 79 of and Schedule 15 to the Deregulation and Contracting Out Act 1994. The effect of these amendments would be that an assembly would have the power to contract out (subject to certain restrictions) similar to the power which a local authority currently has. A decision to contract out would only be able to be taken by an assembly itself (not the executive) and it would only apply where the function was one that was conferred by or under any enactment and was one that could be exercised by the executive. It would provide for the conferring of the power to contract out to be by way of order of the Secretary of State that should only be made after first consulting the assembly. The effect of contracting out would be that where a person was authorised to exercise any function of a regional assembly, anything done (or omitted to be done) by that authorised person (including by an employee of his), in connection with the exercise of the function would be treated as done or omitted to be done by an assembly. This would mean that an assembly would remain legally responsible and liable for the exercise of the function. The exception to this would be that where something was done (or not done) by the authorised person (or an employee of his) which gave rise to criminal liability on the part of that person an assembly would not be legally responsible for that. Nor would the rule make an assembly legally responsible for a breach of the contract terms that govern the relationship between an assembly and the authorised person.

*Political groups***Clause 163: Regulations as to political groups**

447. For the purposes of political balance in RMC sub-committees (clause 75) and the allocation of political assistants (clauses 133 and 134) to assembly members it would be necessary to treat each assembly member as belonging to a political group. This would be the case even if the assembly member was an independent and became part of an 'unaffiliated' political group.
448. Under clause 163 the Secretary of State would be under a duty to make regulations on how this was to be achieved. The regulations should include the identification of political groups, the circumstances in which an assembly member would be considered to have left one political group and joined another, and how a political group could express its wishes with regard to the allocation of political assistants.

*Assembly companies***Clause 164: Assembly companies**

449. This clause provides that the Secretary of State would have to make regulations defining what an assembly company was and which would also set out certain restrictions on the activities of an assembly company or an assembly in relation to an assembly company.

*Boundaries***Clause 165: Prohibition of local government review under 1992 Act**

450. This clause is intended to ensure that the boundaries of a region remain constant once the process for directing a local government review of a region under Part 2 of the Preparations Act has started and, if matters proceed until then, until an assembly is elected for that region. This is, basically, through preventing a local government review being started under the Local Government Act 1992 ('the 1992 Act') that might result in changes to those boundaries of a local authority which are shared

with a region. Because a region is defined both under section 28 of the Preparations Act and under the draft Bill by reference to local government areas, the area of a region would automatically alter in line with how the local authorities concerned contract or expand. That would be undesirable. For example, it is only in respect of the same region that the Secretary of State has directed a local government review under the Preparations Act that he can order a referendum under section 1 of that Act. Similarly, it is only in respect of the same region where there has been a 'yes' vote in a referendum held under section 1, that he can establish an assembly under clause 1 of this draft Bill.

451. So, *subsections (1) and (2)* would prevent the Secretary of State from exercising his power to request the Electoral Commission to carry out a local government review under section 13(1) of the 1992 Act of any area which comprises or includes a 'protected local government area'. This is provided any of a number of conditions are satisfied in relation to a region. *Subsection (7)* defines what a 'protected local government area' consists of and that is, in effect any local government area that shares the boundaries of the region, whether or not it is within the region in question.
452. *Subsection (3)* defines what the various conditions are. So, for example, the prohibition takes effect at any time after the Secretary of State has directed the Electoral Commission to carry out a review of the region under Part 2 of the Preparations Act until either the Boundary Committee reports back with its recommendations (*paragraph (b)*) or from the time when an order is made to hold a referendum on the establishment of an assembly until when the referendum is held (*paragraph (d)*).
453. *Subsection (8)* ensures that none of the prohibitions in subsection (3) operate where a legal step they consist of is undone through legal action resulting in it being quashed or revoked by the Secretary of State. So, for example, in the case of *paragraph (g)*, the prohibition preventing a review taking place once the first ordinary election to an assembly has been ordered would not apply if the order to hold it was quashed or revoked.

Clause 166: Prohibition of local government review under Preparations Act

454. This clause, to some extent, mirrors the previous clause. It prevents the Secretary of State from exercising his power to direct the Boundary Committee for England to carry out a local government review under section 13(1) of the Preparations Act at certain times (*subsections (1) and (2)*) after he has requested a local government review under the 1992 Act. Once again, this is designed to prevent the confusion that would arise were Part 2 of the 1992 Act and the Preparations Act to operate in tandem. For example, part of the way through the procedure under the Preparations Act, local government boundary changes might mean that a region was no longer the same geographical area for different purposes of the Preparations Act. Therefore, the prohibition operates where a request is made by the Secretary of State under section 13 of the 1992 Act for the Electoral Commission to review certain local government areas.
455. The prohibition begins when a request is made and ends when one of the circumstances set out in *subsection (3)* is met. These are, for example, where the Secretary of State withdraws his request, the Electoral commission refuse to carry

out a review or where a review is completed and either it is implemented or the Secretary of State decides not to implement it.

456. Once again, the Secretary of State is only prevented from initiating a review under the Preparations Act if the local authorities being reviewed under the 1992 Act share a boundary with the regional boundary (*subsection (4)*).

Chapter 2

General

Clause 167: Interpretation

457. Clause 167 would provide for the interpretation of certain terms that are used in a number of Parts of the draft Bill.

Clause 168 and Schedule 12: Miscellaneous amendments

458. Clause 168 introduces Schedule 12. This provides for miscellaneous amendments to other primary legislation.
459. *Paragraph 1* of Schedule 12 provides for the amendment of section 6 of the European Communities (Amendment) Act 1993 (c.32). Section 6 lists who may be nominated as a UK member of the European Union's Committee of the Regions. Members of a regional assembly would be added to that list.
460. *Paragraph 2* of Schedule 12 would amend section 17(4) of the Waste and Emissions Trading Act 2003 (c.33). Section 17(4) sets out who the Secretary of State would have to consult before formulating his strategy under that Act for dealing with biodegradable waste in England. Paragraph 2 extends subsection (4) so that, when he considered it appropriate, the Secretary of State would have to consult individuals and groups who represent the interests of a regional assembly.

Clause 169 and Schedule 13: Repeals

461. Clause 169 would give effect to Schedule 13 to the Bill. Schedule 13 in effect provides for the double repeal of provisions in the Regional Development Agencies Act 1998 and the Greater London Authority Act 1999.

Clause 171: Orders and regulations

462. This clause, amongst other things, provides for all regulations and orders made under the Bill to be statutory instruments and for what Parliamentary procedure would apply, if any, before they could be made (*subsections (1) and (3)*). In particular, subsection (3) specifies which orders are to be subject to the affirmative resolution procedure, whilst the remainder are subject to the negative resolution procedure (*subsection (4)*) or to no Parliamentary procedure at all (*subsection (5)*).
463. *Subsection (6)* would ensure that the hybrid procedure for affirmative resolution orders would not apply to any orders under the Bill.

Financial effects of the Bill

464. There would be costs involved in setting up and running a regional assembly that would vary from region to region, mainly as a consequence of the different size of electorates and different numbers of assembly members. It is estimated by the Government that the average cost per region of setting up an assembly and running

it during its first part year, including the cost of initial elections would be around £33 million.

465. Thereafter, the Government estimates that the annual running costs would be between £24 million for the smallest region in terms of the electorate and number of members and £33 million for the largest. Part of the annual running costs would be met by a council tax precept which would initially be around 5p a week for a band D council tax payer. The remainder would be met by Government grant.
466. An assembly would be able to raise further funding through the council tax precept, subject to capping provisions. An assembly would also be able to borrow to fund capital expenditure subject to a prudential borrowing regime.

Effects of the Bill on public service manpower

467. It is estimated that on average a regional assembly would employ around 200 members of staff. Some of these staff, between 60 and 100, would be likely to transfer with the work they currently perform from the Government Office in the region where an assembly is established or from other public bodies.
468. On being transferred, the Government would expect that staff would continue to undertake similar work. There is no reason in principle why an elected regional assembly would need more or less staff to undertake the work it takes over. However, once established an assembly would be able to choose to organise its work differently which could have an impact on the number of staff employed in the longer term.
469. Staff would be needed to service an assembly for example to provide secretarial support to members and deal with finance, communications and other support services. Some of these staff might be employed prior to the formal establishment of an assembly on necessary preparatory work and may formally transfer to the assembly to continue the development of this work. An assembly would not generally be providing services directly to the public and so, in the Government's view, there is unlikely to be a significant impact on public service manpower in this respect.

Summary of the regulatory impact assessment

470. A full Regulatory Impact Assessment has been prepared to accompany this Bill. This section provides a brief summary of key points made in that full assessment.
471. A regional assembly would not have any powers to impose any additional regulations or taxes on businesses. An assembly would be expected to promote economic development in its region and the Regional Development Agency for its region would become a functional body of the assembly. It is also intended that a regional assembly should join up and rationalise the strategies and partnerships that have been developed at the regional level, enabling the regional economic strategy to be more closely integrated with wider objectives and taking account of the specific needs of the region.
472. The majority of funding for a regional assembly would come direct from central government. However, in setting the level of central government grant, the

Government would expect council tax-payers in any region with a regional assembly to contribute the equivalent of around five pence per week for a Band D council tax-payer. An assembly would also be allowed to set a higher precept within the region to fund additional spending if it was considered desirable. The Government would have a power to limit this amount.

473. In regions where an assembly was established existing two-tier local government would be restructured into unitary authorities. This, in the Government's view, ought to generate potential annual savings in local government spending as there is expected to be a significant reduction in the number of local authorities. But there would also be up-front costs of restructuring, which would depend both on which unitary option is implemented, and how effectively any reorganisation was managed.
474. Responsibility for the work that would be carried out by a regional assembly currently lies with other public bodies and agencies active in the region, (with the exception of the proposals on regional fire and rescue services). The carrying out of some this work by an assembly would also mean a transfer of staff, assets and liabilities to that assembly from some of these bodies.

European Convention on Human Rights

475. Section 19 of the Human Rights Act 1998 (c.42) requires the Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the provisions of the Bill with the Convention Rights (as defined by section 1 of that Act). The statement has to be made before second reading.
476. However, a Bill that is published in draft does not require a statement of compatibility with the Convention. Accordingly, it does not contain such a statement.
477. Nevertheless, there is not believed to be anything in the draft Bill which is incompatible with the Convention rights.

Commencement

478. Clause 170 of this Bill would give the Secretary of State the power, by order, to commence the provisions of this Bill on any day he chooses.

REGULATORY IMPACT ASSESSMENT

DRAFT REGIONAL ASSEMBLIES BILL

Purpose and intended effect

The Objective

1. The draft Bill allows the Secretary of State to establish by order a regional assembly in any English region outside Greater London provided that the electorate has voted for one in a referendum held under the Regional Assemblies (Preparations) Act 2003.
2. The draft Bill provides for the system of elections to regional assemblies, and for how assemblies' internal structures will work and the roles and responsibilities of their members. It also makes provision on assemblies' purposes, provides them with a general power and also confers specific functions, or rights to be consulted, on:
 - Economic development
 - Housing
 - Planning
 - Fire and Rescue Service
 - Culture and recreation
 - Transport
 - Learning and Skills
 - Environment

Devolution

3. This draft Bill (although technically extending to both England and Wales) concerns England only and will not affect the functions of the National Assembly for Wales.

The Background

4. The Government's proposals for establishing elected regional assemblies in those English regions that want them, and for improving existing arrangements in all regions, were set out in *Your Region, Your Choice Revitalising the English Regions*, the White Paper on regional governance, published in May 2002. The White Paper arose out of the Government's commitment in its 1997 and 2001 Manifestos that provision should be made for directly elected regional assemblies in regions where people decide in a referendum to support one. Elected assemblies will only be established in regions where the electorate vote for one in a referendum.
5. After holding a "soundings" exercise between December 2002 and May 2003 the Deputy Prime Minister (the First Secretary of State) considered that interest in holding a referendum was either strong or very strong in the North East, the North West, and Yorkshire and the Humber regions. Where an assembly referendum is to

be held in a region, the Regional Assemblies (Preparations) Act 2003 also requires the Secretary of State to hold “local government referendums” in areas with two tiers of local authorities about the Government’s proposed options for single-tier local government in those areas. The Government announced, during the passage of the Regional Assemblies (Preparations) Bill, that it would do its best to publish a draft of the Bill on the establishment of elected assemblies before the first referendum took place.

6. Alongside the Bill, the Government is publishing a policy statement which includes information about the aspects of the policy that are not included in this draft of the Bill but which the Government intends should feature in any version of the Bill subsequently introduced to Parliament. The Bill is a partial draft of the legislation that would need to be introduced in order for elected regional assemblies to be established and should be considered in conjunction with the policy statement. As a draft it will be refined and amended before it is introduced to Parliament.
7. Neither the Bill nor the policy statement are being published for consultation. However, the Bill in its final form would of course be subject to wide-ranging scrutiny and debate during its passage through Parliament. The Select Committee on the Office of the Deputy Prime Minister has also indicated its willingness to examine the draft Bill; the Government welcomes this work, and hopes that the views of the Committee will be useful to members of both Houses of Parliament in considering the full Bill in due course.
8. The draft Bill, Explanatory Notes and Regulatory Impact Assessment set out the Government’s intended affects of elected regional assemblies and associated matters.

Risk Assessment

9. If there is a “yes” vote in a referendum then the Government intends to introduce a full Bill on elected regional assemblies to Parliament. It is the Government’s belief that ultimately assemblies will deliver greater prosperity and opportunity for all and that we will have a stronger nation through stronger regions.
10. The present regional arrangements do not, in the Government’s view, address the problem of regional disparities or deliver democratic accountability for the region. In addition, other Government policy programmes such as the Sustainable Communities Plan, the Rural Delivery Review and the Barker review reflect a need to consider the wider public services and sustainability agenda. The regional agenda has been taken forward through HM Treasury’s *Productivity in the UK: 3 – the Regional Dimension* (HMT/DTI, 2001), the Lyons Review and the strengthening of the regional Government Offices. The next step in the regional agenda is to hold a referendum on 4 November 2004, and following a “yes” vote the introduction of a Bill to Parliament.
11. The main purpose of any final Bill is to allow for the establishment of elected regional assemblies where people vote in a referendum to have them. The principle risk is that, if this legislation is not enacted, the Government will be unable to deliver the elected regional assemblies which (it is assumed) people will have voted for in November 2004. Nor will the Government be able to set up elected regional assemblies in other regions following any further referendums.

Options

12. This Bill represents an important step in the Government's programme to deliver its Manifesto commitments to introduce elected regional assemblies and its policy as set out in the 2002 regional governance White Paper, *Your Region, Your Choice* and the White Paper *Our Fire and Rescue Service* published in June 2003. Primary legislation is required in order to establish elected regional assemblies and to make provision for their constitution, functional responsibilities and other related matters. There is no route to creating elected regional assemblies without primary legislation and the option of doing nothing has not been addressed as that would not deliver the policy.

Benefits

13. Each elected regional assembly is intended to have general purposes which is about sustainable development: that is their purposes will be to promote economic development and social development and to protect and improve the environment in their region, having regard to inter-generational equity and the interests of communities inside and outside of their region. They will have a wide-ranging power to take action in order to further these purposes. Elected assemblies will also be required to produce a scheme for their region, setting out their medium and long term objectives and their priorities for their region and how they intend to exercise their functions to contribute to sustainable development. They will be required to report on their progress on their scheme annually, and to involve stakeholders from the region in their work.

Economic

14. Regional assemblies will not be able to impose any regulations or taxes on business.
15. One of an assembly's purposes will be to promote economic development. To help with this, the region's Regional Development Agency will become a functional body of the assembly and accountable to the assembly rather than central Government. Moreover, an assembly will be able to focus on the region's priorities as well as being able to reflect its region's interests by drawing on regional knowledge and resources. It will be able to help improve regional performance and competitiveness, providing a boost to the regional economy and regional businesses. It should be noted that it is not possible to quantify these benefits.
16. An assembly would be able to achieve this by joining up, and perhaps rationalising, a large number of the strategies that have developed at the regional level, enabling the regional economic strategy to be more closely integrated with wider objectives and taking account of the specific needs of the region. The Government believes that this should have the effect of strengthening a region's economic capacity. Furthermore, assemblies will have the flexibility to decide how to allocate resources at the regional level and a stronger democratic mandate to implement innovative solutions to boost the regional economy.

Environmental

17. It is the Government's aim to protect and improve the environment, and to integrate environmental issues into other policies across all levels of governance within the UK. As a result of this, one of regional assemblies' general purposes will be to

improve and protect the environment in their region and they will have power to take action to further this purpose.

18. To protect and improve the environment assemblies will be able to nominate some members of the regional environmental protection advisory committee of the Environment Agency. They will be able to prepare and implement a regional strategy for biodiversity, in conjunction with other relevant regional strategies. Assemblies will also be responsible for the development and publication of the regional spatial strategy, including a regional transport strategy and a regional waste strategy and will be able to work with, for example, the Environment Agency, Countryside Agency, English Nature or any successor bodies to Countryside Agency and English Nature following implementation of the Government's Rural Strategy 2004.

Social

19. Elected regional assemblies will have a general purpose of promoting social development in the region. Social development is defined in the draft Bill and includes promoting the health, safety and security of the community, reducing health inequalities, improving the availability of good housing and of appropriate training for employment and cultural and recreational activities. They will have power to act to further this purpose.

Issues of equity and fairness

20. Assemblies will have duties in relation to equality of opportunity. In addition, they will be under a duty to seek to involve stakeholders in their work and reaching rural communities would be an important element of doing this. The Government intends to issue guidance under the Bill to assemblies that will explain how the rural dimension should be taken into account in carrying out their powers and responsibilities for the region. Assemblies should value their region's diversity and seek to make it an asset in their pursuit of regional development. The expertise of different stakeholders ought to make a valuable contribution to an assembly's work. By involving different stakeholder groups, an assembly would provide a valuable opportunity to create a stronger sense of common identity and belonging within the region. In the Government's view, the guidance which will be issued to assemblies and the duty to involve stakeholders will ensure that much more stakeholder involvement will take place than at present.

Costs

Economic

21. Regional assemblies will not be able to place any regulations, taxes or burdens on business.
22. The majority of their funding will come direct from central government. In setting the level of central government grant, the Government will expect council tax-payers in any region with an elected assembly to contribute the equivalent of around five pence per week for a Band D council tax-payer. Assemblies will also be able to set a higher precept within the region to fund additional spending if it considered this desirable. Regional assemblies will be accountable to their electorate for the precept levels that they set but there will also be a capping regime, similar to that in local government. As a major precepting authority, an elected regional

assembly will set its budget requirement, be able to set a level of precept, and the money would be collected by local authorities in the region as part of existing arrangements for collection of council tax.

23. In regions where assemblies are established existing two-tier local government will be restructured into unitary authorities. This is expected to generate annual savings in local government spending as there is expected to be a significant reduction in the number of local authorities. But there will also be up-front costs of restructuring, which will depend on which unitary option is implemented. The Government will meet the expected costs of restructuring. Regional fire and rescue authorities in regions with elected assemblies are a key element of the government's modernisation programme for the fire and rescue service and will build on the increased cross regional collaboration that is already taking place. Modernisation is expected to generate both medium term administrative savings and economic and social benefits from fewer fire deaths and reduced damage to property.
24. Work that would be carried out by elected assemblies is currently carried out by central Government and other public bodies active in the region, (this also covers the proposals for a regional fire and rescue authority – fire and rescue services are currently provided by sub-regional brigades with some regional collaboration). The carrying out of some of this work by assemblies will also mean a transfer of staff, assets and liabilities to the assemblies and their functional bodies from some of these bodies.
25. In addition, as elected regional assemblies are new bodies, interim arrangements will need to be put in place to develop organisational, financial and IT structures to enable assemblies to operate effectively from the outset. ODPM will meet the costs associated with transfers from existing bodies and the interim arrangements. It is expected that there will be some costs involved with such transfers and there may also be an effect on public sector workers.
26. Assemblies will have powers to develop coherent strategies across the range of their responsibilities. This will help them to meet the Government's objectives of improved policy co-ordination. This work is currently carried out by a range of bodies operating in the region such as the Regional Development Agency, the Government Office and regional chambers. Functions are generally not being taken over from local government, although assemblies, in some form or other will carry out some activities, currently carried out by the regional chamber for their region.

Environmental

27. Given that one of the purposes of assemblies will be to improve and protect the environment, it is considered unlikely that there will be an environmental cost to establishing elected regional assemblies.

Social

28. Elected regional assemblies will lead to an increase in the levels of democratic accountability in the regions as well as devolving a number of central Government functions to the regions. Given this, and that one of their purposes is to promote social development, it is considered likely that elected regional assemblies will have a positive social effect in the regions.

Consultation with small business: the Small Firms' Impact Test

29. The Small Business Service have confirmed that proposals to set up regional assemblies will not have a significant direct impact on small businesses and, at this stage, it is their view that they will not add any additional burdens or costs to small businesses.

Competition assessment

30. It is considered that the proposals will have little or no effect on competition.

Enforcement and sanctions

31. There are no enforcement or sanctions issues in the Bill.

Monitoring and review

32. The White Paper stated that the Government will monitor and evaluate the effectiveness and impact of the policies it has set out as part of an overall commitment to ensuring that the policies are kept under review and are evidence based.
33. Furthermore, the Office's medium/long term research programme includes provision for an overall evaluation of the impact and effectiveness of the operation of elected regional assemblies established in the future. In the short/medium term, the Office will monitor the activities of regional chambers including evaluation of the regional chambers fund and a review of the chambers scrutiny of the Regional Development Agencies.
34. The three research projects on these aspects of regional government are:
- *Evaluation of the role and impact of Regional Chambers*
 - *Review of the policymaking process: the introduction of elected regional assemblies*
 - *Long-term evaluation of the operation and effectiveness of elected regional assemblies*

Consultation

Within Government

35. The White Paper, and the policy decisions that informed its drafting, were cleared through the Committee on Nations and Regions. Colleagues in departments with an interest in the Bill were also involved in the development of the draft Bill that this Regulatory Impact Assessment accompanies. Any final Bill and further Regulatory Impact Assessment that is introduced to Parliament will need to be cleared through the Legislative Programme Committee.

Public consultation

36. The Government consulted through the White Paper on how stakeholders, including business and the voluntary sector, can be fully involved in the work of elected assemblies. Views were invited by the end of August 2002 on the question of how prescriptive the Government should be about the involvement of stakeholders in elected regional assemblies – whether any requirements or principles should be specified and, if so, whether this should be done through legislation, guidance, or some other means. By November 2002, 207 responses had been received on the involvement of stakeholders, of which most expressed views ranging more widely than these questions. Virtually all respondents welcomed the Government's intention to provide for stakeholder involvement in the activities of elected regional assemblies.
37. The Deputy Prime Minister announced on 24 February 2003 that the Bill would provide for a flexible approach to stakeholder involvement which should ensure that assemblies actively engage stakeholders while giving them discretion about the ways in which they do so. The draft Bill requires that, amongst others, representatives of business and the voluntary sectors should be represented in assemblies' arrangements for stakeholder involvement.
38. The Deputy Prime Minister conducted a "soundings" exercise inviting views, information, and evidence on the level of interest in each English region in holding a referendum about whether to establish an elected regional assembly. This was in order to inform his decision in what regions to direct a local government review, which is a first stage towards holding a regional referendum in a region. The soundings were undertaken between December 2002 and May 2003. There were 8,465 responses to the exercise. The responses showed that there was either a strong or very strong interest in holding a referendum in the North East, the North West and Yorkshire and the Humber regions.

Summary and recommendation

39. The Government is committed to establishing elected regional assemblies in those regions that have voted for them, to provide greater public scrutiny and democratic accountability at the regional level. The draft Bill that this Regulatory Impact Assessment accompanies is a further stage in making good that commitment.
40. Assuming a positive vote in a referendum, and that this Bill reaches the statute book, the Government would expect to move swiftly to set up elected regional assemblies and arrange for the first elections for elected regional assemblies to be held. The Government has judged that interest is less strong in the West Midlands, East Midlands, East of England, South East and South West regions. There could be other chances to hold a referendum in the future in these other regions but, as in the case of the three northern regions, the Government's policy would be to only hold referendums in regions where there is high interest. However there are no plans currently to take any further soundings during this Parliament.

