STATUTORY INSTRUMENTS

2017 No. 612

LOCAL GOVERNMENT, ENGLAND

The Greater Manchester Combined Authority (Functions and Amendment) Order 2017

Made - - - - 26th April 2017

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104(1)(a), 105(1) and (3), 105A(1)(a) and (b), (2)(a) and (b), (3)(a) and (b), (4)(a) and (b), 107D(1) and (7)(c), 114(1) and (3), 115(1) and (2)(a) and 117(5) of the Local Democracy, Economic Development and Construction Act 2009(**1**) ("the 2009 Act").

The Secretary of State, having had regard to a scheme prepared and published under section 112 of the 2009 Act(**2**), considers that—

(a) the making of this Order is likely to improve the exercise of statutory functions in the area to which this Order relates, and

(b) any consultation required by section 113(2) of the 2009 Act(**3**) has been carried out.

In making this Order, the Secretary of State has had regard to the need to reflect the identities and interests of local communities, and to secure effective and convenient local government(**4**).

In accordance with sections 104(10), 105(3A) and 105B(1)(b) and (2) of the 2009 Act(**5**)—

(a) the councils whose local government areas are comprised in the area of the Greater Manchester Combined Authority and the Greater Manchester Combined Authority have consented to the making of this Order(**6**), and

(**1**) 2009 c. 20. Section 104 was amended by sections 8 and 14 of, and Schedule 5 to, the Cities and Local Government Devolution Act 2016 (c. 1) ("the 2016 Act"). Section 105 was amended by sections 6, 9 and 14 of the 2016 Act. Section 105A was inserted by section 7 of the 2016 Act. Section 107D was inserted by section 4 of the 2016 Act. Section 114 was amended by section 23 of, and paragraphs 17 and 26 of Schedule 5 to, the 2016 Act. Section 115 was amended by section 23 of, and paragraphs 17 and 27 of Schedule 5 to, the 2016 Act. Section 117(2), (2A) and (3) was substituted by section 13 of the Localism Act 2011 (c. 20). Section 117 was amended by sections 13 and 23 of, and paragraphs 17 and 29 of Schedule 5 to, the 2016 Act.

(**2**) Section 112 was amended by sections 6 and 23 of, and paragraphs 17 and 23 of Schedule 5 to, the 2016 Act.

(**3**) Section 113 was amended by sections 12, 14 and 23 of, and paragraph 24 of Schedule 5 to the 2016 Act.

(**4**) Section 113(3) of the 2009 Act requires the Secretary of State when making an order under sections 104, 105, 106 or 107 of that Act in relation to an existing combined authority to have regard to the need to reflect the identities and interests of local communities, and to secure effective and convenient local government.

(**5**) Section 105B was inserted by section 7 of the 2016 Act.

(**6**) This Order relates to the area of the Greater Manchester Combined Authority, which was established by the Greater Manchester Combined Authority Order 2011 (S.I. 2011/908) as amended by the Greater Manchester Combined Authority (Amendment) Order 2015 (S.I. 2015/960) and by the Greater Manchester Combined Authority (Functions and Amendment) Order 2016 (S.I. 2016/1267). Article 2 of S.I. 2011/908 defines the "combined area" as the area consisting of the areas of the constituent councils, who are the local government areas of Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford and Wigan.

(b) the Secretary of State considers that the making of this Order is likely to improve the exercise of statutory functions in the area to which this Order relates.

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 117(2) of the 2009 Act.

In accordance with section 105B(9) of the 2009 Act the Secretary of State has laid before Parliament a report explaining the effect of this Order and why the Secretary of State considers it appropriate to make this Order.

PART 1

General

Citation and commencement

1.—(1) This Order may be cited as the Greater Manchester Combined Authority (Functions and Amendment) Order 2017.

(2) Save as provided in paragraphs (3) and (4) this Order comes into force on the day after the day on which it is made.

(3) Parts 2 and 3 and articles 14, 15, and 16(2) and (4) come into force on 8th May 2017.

(4) Part 4 comes into force on 1st April 2018.

Interpretation

2. In this Order—

"the 1989 Act" means the Local Government and Housing Act 1989(**7**);

"the 1999 Act" means the Greater London Authority Act 1999(**8**);

"the 2000 Act" means the Transport Act 2000(**9**);

"the 2003 Act" means the Local Government Act 2003(**10**);

"the 2009 Act" means the Local Democracy, Economic Development and Construction Act 2009;

"the 2011 Act" means the Localism Act 2011(**11**);

"the 2011 Order" means the Greater Manchester Combined Authority Order 2011(**12**);

"the Area" means the area of the GMCA;

"constituent councils" means the district councils for the local government areas of Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford and Wigan;

"Corporation" means a corporation established by the Secretary of State in accordance with the provisions in section 198 of the 2011 Act, as modified by the Schedule to this Order, following the designation of an area of land by the GMCA;

(**7**) 1989 c. 42.
(**8**) 1999 c. 29.
(**9**) 2000 c. 38.
(**10**) 2003 c. 26.
(**11**) 2011 c. 20.
(**12**) S.I. 2011/908.

"GMCA" means the Greater Manchester Combined Authority, a body corporate established by the 2011 Order(**13**);

"GMWDA" means the Greater Manchester Waste Disposal Authority established by the Waste Regulation and Disposal (Authorities) Order 1985(**14**); and

"the Mayor" means the mayor for the Area(**15**), except in the term "the Mayor of London".

PART 2

Mayoral development corporation

Conferral of functions on the GMCA

3.—(1) The GMCA has in relation to the Area functions corresponding to the following functions contained in the following provisions in the 2011 Act, that the Mayor of London has in relation to Greater London—

(a) section 197 (designation of Mayoral development areas);

(b) section 199 (exclusion of land from Mayoral development areas);

(c) section 200 (transfers of property etc to a Mayoral development corporation)(**16**);

(d) section 202 (functions in relation to town and country planning);

(e) section 204 (removal or restriction of planning functions);

(f) section 214 (powers in relation to discretionary relief from non-domestic rates);

(g) section 215 (reviews);

(h) section 216 (transfers of property, rights and liabilities)(**17**);

(i) section 217 (dissolution: final steps);

(j) section 219 (guidance by the Mayor);

(k) section 220 (directions by the Mayor);

(l) section 221 (consents);

(m) paragraph 1 of Schedule 21 (membership);

(n) paragraph 2 of Schedule 21 (terms of appointment of members);

(o) paragraph 3 of Schedule 21(staff);

(p) paragraph 4 of Schedule 21 (remuneration etc: members and staff);

(q) paragraph 6 of Schedule 21 (committees); and

(r) paragraph 8 of Schedule 21 (proceedings and meetings).

(2) Any exercise by the GMCA of the functions corresponding to the functions contained in section 197(1) (designation of Mayoral development areas) of the 2011 Act requires the consent of all members of the GMCA appointed by the constituent councils, or substitute members acting in place of those members, whose local government area contains any part of the area to be designated as a Mayoral development area.

(**13**) Article 3(2) of the 2011 Order provides that "the combined authority is to be a body corporate and to be known as the Greater Manchester Combined Authority ("the GMCA")".
(**14**) S.I. 1985/1884.
(**15**) Article 3 of S.I. 2016/448 provides for there to be a mayor for the area of the GMCA.
(**16**) Section 200(9) was amended by section 151(1) of, and paragraphs 174 and 178 of Part 2 of Schedule 4 to, the Co-operative and Community Benefit Societies Act 2014 (c. 14).
(**17**) Section 216(4) was amended by section 151(1) of, and paragraphs 174 and 179 of Part 2 of Schedule 4 to, the Co-operative and Community Benefit Societies Act 2014.

(3) Any exercise by the GMCA of the functions corresponding to the functions contained in section 199(1) (exclusion of land from Mayoral development areas) of the 2011 Act in respect of any Mayoral development area requires the consent of all members of the GMCA appointed by the constituent councils, or substitute members acting in place of those members, whose local government area contains any part of the area to be excluded from a Mayoral development area.

(4) The exercise by the GMCA of the functions corresponding to the functions contained in section 202(2) to (4) of the 2011 Act (functions in relation to town and country planning) in respect of any Mayoral development area requires the consent of—

(a) the Peak District National Park Authority if the GMCA proposes to exercise the functions in respect of the whole or any part of the area of the Peak District National Park(**18**);

(b) each member of the GMCA appointed by a constituent council, or a substitute member acting in place of that member, whose local government area contains the whole or any part of the area in respect of which the GMCA proposes to exercise the functions.

(5) For the purpose of paragraphs (2), (3) and (4)(b), the consent must be given at a meeting of the GMCA.

Application of provisions in the 2011 Act

4.—(1) Chapter 2 of Part 8 of the 2011 Act (Mayoral development corporations) applies in relation to the GMCA as it applies in relation to the Mayor of London, with the modifications made by the Schedule.

(2) Chapter 2 of Part 8 of the 2011 Act applies in relation to a Corporation as it applies in relation to a Mayoral development corporation, with the modifications made by the Schedule.

(3) Subject to paragraph (6), in any enactment (whenever passed or made)—

(a) any reference to a Mayoral development corporation, or

(b) any reference which falls to be read as a reference to a Mayoral development corporation,

is to be treated as including a reference to a Corporation.

(4) For the purposes of any transfer scheme relating to a Corporation under any provisions of the 2011 Act applied with modifications by this Order, paragraph 9 of Schedule 24 to the 2011 Act (transfers under scheme under section 200(1) or (4) or 216(1)) applies in relation to—

(a) any property, rights or liabilities transferred to or from a Corporation in accordance with a transfer scheme; or

(b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities to or from a Corporation in accordance with such a transfer scheme,

as it applies in relation to a Mayoral development corporation.

(5) For the purposes of establishing a Corporation, giving the Corporation a name, giving effect to any decisions notified to the Secretary of State (under sections 199(4) (exclusion of land from Mayoral development areas), 202(8) (decisions about planning functions), or 214(6) (powers in relation to discretionary relief from non-domestic rates) of the 2011 Act or in relation to the transfer of land to or from a Corporation under any provision of the 2011 Act, applied with modifications by this Order, section 235 of the 2011 Act (orders and regulations) applies in relation to—

(**18**) The Peak District National Park Authority was established by article 3 of the National Park Authorities (England) Order 1996 (S.I. 1996/1243), as amended by S.I. 1996/2546, 1997/633, 1999/416, 2006/3165, 2009/557, 2009/837, 2010/490 and 2014/571. Article 3 of S.I. 1996/1243 was restated in article 3 of the National Park Authorities (England) Order 2015 (S.I. 2015/770).

(a) the power of a Minister of the Crown to make an order under sections 198(2) (mayoral development corporations: establishment) and 200(6) (transfers of property etc to a Mayoral development corporation) of that Act; and

(b) the power of the Treasury to make regulations under paragraph 9(2) of Schedule 24 to that Act,

as it applies in relation to the establishment of a Mayoral development corporation, giving the corporation a name, giving effect to any decisions notified to the Secretary of State (under sections 199(4), 202(8) and 214(6) of the 2011 Act) or in relation to the transfer of land to or from a Mayoral development corporation.

(6) Paragraph (3) does not apply to—

(a) paragraph 9(8)(a) of Schedule 2 to the Channel Tunnel Rail Link Act 1996 (works: further and supplementary provisions)(**19**);

(b) section 31(1A) of the 1999 Act (limits of the general power)(**20**);

(c) section 38 of the 1999 Act (delegation)(**21**);

(d) section 60A(3) of the 1999 Act (confirmation hearings etc for certain appointments by the Mayor)(**22**);

(e) section 68(6) of the 1999 Act (disqualification and political restriction)(**23**);

(f) section 73 of the 1999 Act (monitoring officer)(**24**);

(g) section 424 of the 1999 Act (interpretation)(**25**);

(h) section 24(4) of the Planning and Compulsory Purchase Act 2004 (conformity with spatial development strategy)(**26**); and

(i) paragraph 8(8)(a) of Schedule 2 to the Crossrail Act 2008 (works: further and supplementary provisions)(**27**).

(7) In this article "transfer scheme" means a transfer scheme under section 200(1) or (4) or 216(1) of the 2011 Act.

Incidental provisions

5. The following provisions of the 1989 Act apply in relation to a Corporation as if it were a local authority—

(**19**) 1996 c. 61. Paragraph 9(8) of Schedule 2 was amended by paragraph 43 of Schedule 22 to the 2011 Act.
(**20**) Section 31 was amended by section 186 of, and paragraphs 44 and 45 of Schedule 22 and Parts 31 and 32 of Schedule 25 to, the 2011 Act, section 33 of the Infrastructure Act 2015 (c. 7) and article 2 of S.I. 2012/1530.
(**21**) Section 38 was amended by paragraphs 36 and 37 of Schedule 19, paragraphs 4 and 5 of Schedule 20, paragraphs 44 and 46 of Schedule 22 and Part 32 of Schedule 25 to the 2011 Act, section 28 of the Growth and Infrastructure Act 2013 (c. 27) and article 2 of S.I. 2012/1530.
(**22**) Section 60A was inserted by section 4 of the Greater London Authority Act 2007 (c. 24) and amended by section 224 of the Planning Act 2008 (c. 29), section 20 of the Police Reform and Social Responsibility Act 2011 (c. 13), paragraphs 44 and 47 of Schedule 22 and Part 32 of Schedule 25 to the 2011 Act and articles 1, 2 and 36 of S.I. 2008/2038.
(**23**) Section 68 was amended by paragraphs 44 and 48 of Schedule 22 and Part 32 of Schedule 25 to the 2011 Act.
(**24**) Section 73 was amended by sections 7 and 9 of, and Schedule 2 to, the Greater London Authority Act 2007, paragraph 16 of Part 2 of Schedule 12 to the Local Government and Public Involvement in Health Act 2007 (c. 28), paragraphs 36 and 38 of Schedule 19, paragraphs 44 and 49 of Schedule 22, Part 32 of Schedule 25 to the 2009 Act and paragraphs 1 and 5 of Part 1 to the Schedule to S.I. 2000/1435.
(**25**) Section 424 was amended by section 1159 of the Companies Act 2006 (c. 46), sections 11, 12, 21 and 22 of the Greater London Authority Act 2007, section 3 of the Police Reform and Social Responsibility Act 2011 and paragraphs 44 and 52 of Schedule 22 and Part 32 of Schedule 25 to the 2011 Act.
(**26**) 2004 c. 5. Section 24 was amended by paragraphs 54 and 55 of Schedule 22 to the 2011 Act.
(**27**) 2008 c. 18. Paragraph 8 of Schedule 2 to the Crossrail Act 2008 was amended by paragraph 58 of Schedule 22 to the 2011 Act.