STATUTORY INSTRUMENTS

2017 No. 470

LOCAL GOVERNMENT, ENGLAND
POLICE, ENGLAND AND WALES

The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017

Made - - - - 24th March 2017

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by sections 114(**1**), 115(**2**), 116(**3**) and 117(5)(**4**) of, and Schedule 5C(**5**) to, the Local Democracy, Economic Development and Construction Act 2009(**6**) ("the 2009 Act"), makes the following Order.

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(**7**).

Citation and commencement

1.—(1) This Order may be cited as the Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017.

(2) Subject to paragraph (3), this Order comes into force on 8th May 2017.

(3) Articles 7 and 9 come into force on the day after the day on which this Order is made.

(**1**) 2009 c. 20. Section 114 was amended by paragraph 26(2) to (4) of Schedule 5 to the Cities and Local Government Devolution Act 2016 (c. 1) and by S.I. 2016/997.
(**2**) Section 115 was amended by paragraph 27 of Schedule 5 to the Cities and Local Government Devolution Act 2016.
(**3**) Section 116 was amended by paragraph 28 of Schedule 5 to the Cities and Local Government Devolution Act 2016 and by S.I. 2016/997.
(**4**) Section 117(5) was amended by paragraph 29 of Schedule 5 to the Cities and Local Government Devolution Act 2016.
(**5**) Schedule 5C was inserted by section 4 of, and paragraph 1 of Schedule 2 to, the Cities and Local Government Devolution Act 2016. Schedule 5C applies where an Order is made under section 107F of the 2009 Act providing for the mayor to exercise the powers of a police and crime commissioner. Such an Order has been made in relation to Greater Manchester (S.I. 2016/448).
(**6**) Sections 107A and 107F and Schedule 5B were inserted by sections 2 and 4 of, and paragraph 1 of Schedule 1 to, the Cities and Local Government Devolution Act 2016.
(**7**) Section 117(2), (2A) and (3) were substituted by section 13 of the Localism Act 2011 (c. 20). Section 117 was amended by paragraph 29 of Schedule 5 to the Cities and Local Government Devolution Act 2016.

Interpretation

2. In this Order—

"the 2009 Act" means the Local Democracy, Economic Development and Construction Act 2009(**8**);

"the 2011 Act" means the Police Reform and Social Responsibility Act 2011(**9**);

"the 2016 Order" means the Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016(**10**).

"the area" means the area of the combined authority;

"the combined authority" means the Greater Manchester combined authority;

"the deputy mayor for policing and crime" means the deputy mayor for policing and crime for the area;

"election for the return of the mayor" means an election held pursuant to the 2016 Order;

"the mayor" means the mayor for the area;

"the police and crime commissioner" means the police and crime commissioner for Greater Manchester;

"the PCC component" means the component of the council tax requirement calculated under section 42A of the Local Government Finance Act 1992(**11**) as modified by any Order made under section 107G of the 2009 Act in respect of the mayor's PCC functions.

Transfer of police and crime commissioner functions

3.—(1) Subject to paragraphs (2) and (3), the mayor is to be treated, in relation to the mayor's PCC functions, as a police and crime commissioner for the purposes of all police and crime commissioner enactments (whenever passed or made)(**12**).

(2) In their application to the mayor, the police and crime commissioner enactments set out in Schedule 1 apply with the modifications set out in that Schedule.

(3) Paragraph (1) does not apply to those enactments set out in Schedule 2.

Transitional arrangements and asset transfers

Transfer of property, rights and liabilities

4.—(1) All property, rights and liabilities (including rights and liabilities in relation to contracts of employment) which immediately before 8th May 2017 were property, rights and liabilities of the police and crime commissioner are to transfer to, and by virtue of this paragraph vest in, the combined authority on 8th May 2017.

(2) In relation to the property, rights and liabilities transferred by paragraph (1) and any property, rights and liabilities acquired in relation to the mayor's PCC functions on or after 8th May 2017—

(a) all functions in relation to such property, rights and liabilities are to be exercised by the mayor;

(**8**) 2009 c. 20.
(**9**) 2011 c. 13.
(**10**) S.I. 2016/448.
(**11**) 1992 c. 14. Section 42A was inserted by section 75 of the Localism Act 2011 (c. 20) and amended by article 3 of S.I. 2014/389. Section 107G of the Local Government and Devolution Act 2016 (c.1) provides that, wherever a mayor exercises policing and crime commissioner functions, there must be a separate component of the council tax requirement in respect of the mayor's PCC functions.
(**12**) The definition of "police and crime commissioner enactment" is at paragraph 12(5) of Schedule 5C of the 2009 Act.

(b) all decisions relating to such property, rights and liabilities are to be made by the mayor;

(c) any receipts arising from such property, rights and liabilities (whether arising from their use, sale, disposal or otherwise) are to be paid into the police fund kept by the mayor by virtue of section 21 of the 2011 Act.

(3) All monies held in the police fund kept by the police and crime commissioner under section 21 of the 2011 Act immediately before 8th May 2017 are, on that date, to transfer to the police fund kept by the mayor by virtue of that section (as applied in accordance with article 3 above).

(4) Nothing in paragraph (2) prevents the mayor from making arrangements under section 18(**13**) of the 2011 Act (as applied in accordance with article 3) in relation to the matters mentioned in paragraph (2).

Secondments

5. In the case of a person who, immediately before 8th May 2017 is seconded to the police and crime commissioner, the secondment is to have effect, after that time, as a secondment to the combined authority.

Continuity

6.—(1) The abolition of the police and crime commissioner, the transfer or abolition of the commissioner's functions, and the transfer of the commissioner's property, rights and liabilities, do not affect the validity of anything done before the abolition or transfer.

(2) Paragraphs (3) to (5) apply where any functions, property, rights or liabilities are transferred by or under the 2016 Order or this Order from the commissioner to the combined authority.

(3) There may be continued by or in relation to the combined authority anything (including legal proceedings) which—

(a) relates to any of the functions, property, rights or liabilities transferred; and

(b) is in the process of being done by or in relation to the commissioner immediately before 8th May 2017.

(4) Anything which—

(a) was made or done by or in relation to the commissioner for the purposes of, or otherwise in connection with, any of the functions, property, rights or liabilities transferred; and

(b) is in effect immediately before 8th May 2017;

has effect as if made or done by or in relation to the combined authority.

(5) The combined authority is to be substituted for the commissioner in any instruments, contracts or legal proceedings which—

(a) relate to any of the functions, property, rights or liabilities transferred; and

(b) are made or commenced before 8th May 2017.

(6) In this paragraph a reference to the transfer of a function includes a reference to the abolition of the function and the conferral of a corresponding function on another person.

(**13**) 2011 c. 13. Section 18 makes provision to permit (with certain restrictions) the delegation of functions by a police and crime commissioner to the deputy police and crime commissioner and to other persons. Section 18 has been amended by section 79 of, and paragraph 53 of Schedule 7 to, the Localism Act 2011 (c. 20); and by section 45 of, and paragraph 116 of Schedule 12 to, the Local Audit and Accountability Act 2014 (c. 2).

Foreign property etc, perfection of vesting

7.—(1) Subsections (2) to (8) of section 414 of the Greater London Authority Act 1999(**14**) (foreign property, rights and liabilities: perfection of vesting) apply to the transfer by this Order of any foreign property, rights or liabilities.

(2) In the application of those provisions by virtue of paragraph (1)—

(a) references to a transfer or pension instrument have effect as references to the transfer by or under this Order; and

(b) references to the transferor and the transferee are to be construed accordingly.

Transfers: supplementary provision

8.—(1) All property, rights and liabilities transferred by this Order are to be transferred, notwithstanding that they may be or include—

(a) property, rights and liabilities that would not otherwise be capable of being transferred; or

(b) rights and liabilities under enactments.

(2) No right of reverter, right of pre-emption, right of forfeiture, right of re-entry, right to compensation, option or similar right affecting any land or other property is to operate or become exercisable as a result of any transfer of land or other property by virtue of this Order (whether or not any consent required to the transfer has been obtained).

(3) No right to terminate or vary a contract or instrument is to operate or become exercisable, and no provision of a contract or relevant document, is to operate or become exercisable or be contravened, by reason of the transfer made by this Order.

(4) Paragraphs (1) to (3) above have effect in relation to—

(a) the grant or creation of an estate or interest in, or right over, any land or other property; or

(b) the doing of any other thing in relation to land or other property,

as they have effect in relation to the transfer made by this Order of land or other property.

(5) In this article—

"relevant document" means—

(a) any enactment, other than an enactment contained in the 2009 Act;

(b) any subordinate legislation made otherwise than under that Act; or

(c) any deed or other instrument.

Extension of financial year of Police and Crime Commissioner and Chief Constable for Greater Manchester

9.—(1) The requirement in section 3(3) of the Local Audit and Accountability Act 2014(**15**) for a relevant authority to prepare a statement of accounts for each financial year ending on 31st March is modified in the case of the police and crime commissioner and chief constable for the financial year which began on 1st April 2016 to require—

(a) the police and crime commissioner, or after the transfer made by this Order, the combined authority in respect of the police and crime commissioner's accounts; and

(b) the chief constable;

to prepare a statement of accounts from that date for the period which ends on 7th May 2017.

(**14**) 1999 c. 29.
(**15**) 2014 c. 2.

(2) The requirement in regulation 15(1)(a) of the Accounts and Audit Regulations 2015(**16**) ("the Regulations") concerning the commencement of the period for the exercise of public rights under regulation 9(1)(b) of the Regulations, is modified in the case of the police and crime commissioner and the chief constable for the financial year which began on 1st April 2016 so as to require the relevant responsible financial officer to ensure that the commencement of the period for the exercise of public rights takes place on such a day that ensures that the period referred to in regulation 14(1) of the Regulations includes the 24th July to 4th August 2017.

(3) In this article—

"the chief constable" means the chief constable of the police force for Greater Manchester;

"the relevant responsible financial officer" means—

(a) in relation to the police and crime commissioner, the responsible financial officer for the combined authority; and

(b) in relation to the chief constable, the responsible financial officer for the police force for Greater Manchester;

"responsible financial officer" has the same meaning as in the Regulations (see regulation 2(2)).

Consequential amendments and modifications

Amendments to the Police Reform and Social Responsibility Act 2011

10.—(1) The 2011 Act is amended as follows.

(2) After section 1(9), insert—

"(9A) Subsection (1) does not apply to an area in relation to which an order under section 107F(1) of the Local Democracy, Economic Development and Construction Act 2009(**17**) has effect (order providing for mayor for an area of a combined authority to exercise functions of a police and crime commissioner for the area).".

(3) In section 64—

(a) after subsection (3), insert—

"(3A) A person is disqualified from being elected to the office of police and crime commissioner for a police area at an ordinary election if the person—

(a) has been nominated as a candidate for election as mayor for the area of a combined authority at an election to be held on the same day; and

(b) by virtue of an order under section 107F(1) of the Local Democracy, Economic Development and Construction Act 2009, the mayor would exercise functions of a police and crime commissioner in relation to the area.";

(b) after subsection (4), insert—

"(4A) A person is disqualified from being elected to the office of police and crime commissioner for a police area at an election other than an ordinary election if—

(a) the person is a mayor who, by virtue of an order under section 107F(1) of the Local Democracy, Economic Development and Construction Act 2009, exercises functions of a police and crime commissioner for the area of a combined authority; or

(**16**) S.I. 2015/234.
(**17**) Section 107F was inserted by section 4 of the Cities and Local Government Devolution Act 2016 (c. 1).