STATUTORY INSTRUMENTS

2017 No. 469

LOCAL GOVERNMENT, ENGLAND
FIRE AND RESCUE SERVICES, ENGLAND

The Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017

Made - - - - 24th March 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 105A(1)(a), (3)(a) and (4)(b), 107D(1), (3)(c)(ii), (4), (5)(b), (7)(b) and (c), 114, 115 and 117(5) of the Local Democracy, Economic Development and Construction Act 2009(**1**) (the "LDEDC Act 2009").

A proposal for making this Order has been made to the Secretary of State by the Greater Manchester Combined Authority and the district councils whose areas are comprised in the area of that Combined Authority in accordance with section 105B(1)(a) of the LDEDC Act 2009 by inclusion in a scheme prepared and published under section 112 of that Act(**2**).

In accordance with section 107D(9) of the LDEDC Act 2009 the Greater Manchester Combined Authority and the district councils whose areas are comprised in the area of that Combined Authority have consented to the making of this Order.

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

Citation and commencement

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

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

(**2**) Section 112 was amended by sections 6 and 23 of, and paragraphs 17 and 23 of Schedule 5 to, the CLGD Act 2016. Section 105B was inserted by section 7 of the CLGD Act 2016.

(2) This article, article 2 and article 11 come into force on the day after the day on which the Order is made.

(3) Otherwise this Order comes into force on 8th May 2017.

Interpretation

2. In this Order—

"the FRS Act 2004" means the Fire and Rescue Services Act 2004(**3**);

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

"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;

"fire and rescue authority" means a fire and rescue authority under the FRS Act 2004;

"fire and rescue declaration" means a document which—

(a) is prepared and published by the GMCA in accordance with the Fire and Rescue National Framework; and

(b) contains a statement of the way in which the GMCA has had regard, in the period covered by the document, to the Framework and to any local risk plan prepared by the GMCA for that period;

"fire and rescue functions" means functions conferred on GMCA as a fire and rescue authority by, or by virtue of, any enactment;

"Fire and Rescue National Framework" means the document prepared by the Secretary of State under section 21 of the FRS Act 2004;

"the fire and rescue service" means the personnel, services and equipment secured by the GMCA for the purposes of carrying out the GMCA's functions under—

(a) section 6 of the FRS Act 2004; (fire safety);

(b) section 7 of that Act (fire-fighting);

(c) section 8 of that Act (road traffic accidents);

(d) any order under section 9 of that Act (emergencies) which applies to the GMCA;

(e) section 2 of the Civil Contingencies Act 2004(**4**) and any regulations under that Act applying to a fire and rescue authority;

(f) any other provision of or made under an enactment which confers functions on a fire and rescue authority;

"the GMCA" means the Greater Manchester Combined Authority, a body corporate established by the Greater Manchester Combined Authority Order 2011(**5**);

"the GMFRA" means the Greater Manchester Fire and Rescue Authority(**6**);

"local risk plan" means a document which—

(**3**) 2004 c.21.
(**4**) 2004 c.36.
(**5**) The Greater Manchester Combined Authority was established by S.I. 2011/908 (" the GMCA Order 2011") which has been amended but the amendments are not relevant to this Order. Article 3(2) of the GMCA Order 2011 provides that "the combined authority is to be a body corporate and to be known as the Greater Manchester Combined Authority ("the GMCA").
(**6**) The Greater Manchester Fire and Rescue Authority was established under section 26 of the Local Government Act 1985 (c.51) and the words "fire and rescue authority" were substituted by section 32 of, and paragraph 10 of Schedule 2 to, the Civil Contingencies Act 2004 (c.36).

(a) is prepared and published by the GMCA in accordance with the Fire and Rescue National Framework; and

(b) sets out for the period covered by the document in accordance with the requirements of the Fire and Rescue National Framework—

(i) the GMCA's priorities and objectives; and

(ii) an assessment of all foreseeable fire and rescue related risks that could affect its community;

in connection with the discharge of the GMCA's functions as a fire and rescue authority;

"the Mayor" means the mayor for the Area(**7**).

Transfer of functions of the GMFRA to the GMCA

3.—(1) The functions of the GMFRA that are exercisable in relation to the Area of the GMCA are to be functions of the GMCA.

(2) The GMCA is the fire and rescue authority for the Area for the purposes of the FRS Act 2004, subject to paragraph 6 of the Schedule.

(3) The GMFRA is abolished.

(4) Part 2 of Schedule 10 (number of members of joint authorities: Greater Manchester) to the Local Government Act 1985(**8**) is repealed.

General functions of the GMCA exercisable only by the Mayor

4.—(1) The fire and rescue functions of the GMCA are exercisable only by the Mayor.

(2) For the purposes of the exercise of the fire and rescue functions, the Mayor may do anything that the GMCA may do under section 113A of the LDEDC Act 2009 (general power of EPB or combined authority)(**9**).

(3) Members and officers of the GMCA may assist the Mayor in the exercise of the fire and rescue functions.

Arrangements for exercise of fire and rescue functions

5.—(1) The Mayor may not make arrangements under section 107D(3) of the LDEDC Act (functions of mayors: general) that authorise the exercise of any of the fire and rescue functions to which article 6 applies.

(2) The Mayor may arrange under section 107D(3) of the LDEDC Act 2009 for a committee(**10**) of the GMCA to exercise fire and rescue functions other than any of the functions to which article 6 applies ("fire committee").

(3) One member of the fire committee is to be appointed by the Mayor on the nomination of each constituent council from one of that council's elected members.

(4) The Mayor may appoint 5 or fewer further members of the fire committee from the elected members of one or more of the constituent councils.

(**7**) Article 3 of S.I. 2016/448 provides for there to be a mayor for the area of the Combined Authority.

(**8**) 1985 c.51. Column 2 of the table in Part 2 was repealed by section 93, and Part 1 of Schedule 9 to the Police and Magistrates' Courts Act 1994. The words "Integrated Transport Authority" in the heading of column 4 were substituted by section 77(5) and paragraph 53 of Schedule 4 to the Local Transport Act 2008. The Greater Manchester Integrated Transport Authority was abolished by the GMCA Order 2011.

(**9**) Section 113A was inserted by section 13 of the Localism Act 2011 and amended by section 23 of, and paragraph 25 of Schedule 5 to, the Cities and Local Government Devolution Act 2016.

(**10**) This authorises the Mayor to make arrangements for a committee to exercise fire and rescue functions under section 107D(3)(c)(ii).

(5) Where the Mayor decides not to appoint a person who has been nominated by a constituent council, that council may nominate a further person from that council's elected members.

(6) The Mayor and the constituent councils must, when appointing or nominating members to the fire committee, ensure that the members of the fire committee taken as a whole reflect so far as reasonably practicable the balance of the political parties for the time being prevailing among the constituent councils when taken together.

(7) The Mayor must appoint one of the members of the fire committee to serve as chair of the committee.

(8) A member of the fire committee ceases to be a member of that committee, if that person ceases to be a member of the constituent council of which that person had been a member at the time of appointment to the committee.

(9) A member of the fire committee may resign as a member of the fire committee by written notice served on the proper officer of the constituent council which that person had been a member of at the time of appointment to the committee and the resignation is to take effect on receipt of the notice by the proper officer.

(10) The Mayor may at any time terminate the appointment of a member of the fire committee where that member has not attended meetings of the fire committee throughout a period of six consecutive months from the date of that member's last attendance.

(11) Where a person ceases to be a member of the fire committee by virtue of paragraph (8), (9) or (10) and paragraph (3) had applied to that person, the constituent council that nominated that member must, as soon as practicable, give written notice to the Mayor and nominate another person from that council's elected members.

(12) Where a person ceases to be a member of the fire committee by virtue of paragraph (8), (9), or (10), the Mayor must appoint another person to be a member of the fire committee.

(13) Where an elected member of a constituent council is appointed by the Mayor to be a member of the fire committee, that constituent council may, in accordance with its own scheme of allowances, pay a special responsibility allowance to that member and also a travelling and subsistence allowance.

(14) In this article—

"fire committee" means the committee referred to in paragraph (2) of this article;

"special responsibility allowance" and "travelling and subsistence allowance" have the same meaning as in the Local Authorities (Members' Allowances) (England) Regulations 2003(**11**).

Fire and rescue functions excluded from the power to make arrangements

6.—(1) This article applies to the fire and rescue functions specified in the following paragraphs of this article.

(2) This paragraph applies to the fire and rescue functions which are specified in the following provisions of the FRS Act 2004—

(a) section 13 (reinforcement schemes);

(b) section 15 (arrangements with other employers of fire-fighters); and

(c) section 16 (arrangements for discharge of functions by others).

(3) This paragraph applies to the function of—

(a) appointing, or dismissing, the person responsible for managing the fire and rescue service;

(b) approving the terms of appointment of that person; and

(**11**) S.I. 2003/1021; to which there are amendments not relevant to this Order.

(c) holding that person to account for managing the fire and rescue service.

(4) This paragraph applies to the function of approving—

(a) the local risk plan; and

(b) the fire and rescue declaration.

(5) This paragraph applies to the function of approving plans, modifications to plans and additions to plans for the purpose of ensuring that—

(a) so far as is reasonably practicable, the GMCA is able to continue to perform its fire and rescue functions if an emergency occurs; and

(b) the GMCA is able to perform its functions so far as necessary or desirable for the purpose of preventing an emergency, or reducing, controlling or mitigating the effects of an emergency, or taking other action in connection with it.

(6) This paragraph applies to the function of approving any arrangements for the co-operation of the GMCA in relation to its fire and rescue functions and other general Category 1 responders and general Category 2 responders in respect of the performance of the GMCA's duty as a fire and rescue authority under section 2 of the Civil Contingencies Act 2004(**12**) and any duties under regulations made in exercise of powers under that Act.

(7) In paragraphs (5) and (6) "emergency" has the meaning given in section 1 of the Civil Contingencies Act 2004 for Part 1 of that Act.

Transitional arrangements and asset transfers

Transfer of property, rights and liabilities

7.—(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 GMFRA are to transfer to, and by virtue of this paragraph vest in, the GMCA 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 connection with the GMCA's fire and rescue 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;

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

(3) Subject to article 6, nothing in paragraph (2) prevents the Mayor from making arrangements under section 107D(3) of the LDEDC Act 2009 in relation to the matters mentioned in paragraph (2).

Secondments

8. In the case of a person who, immediately before 8th May 2017 is seconded to the GMFRA, the secondment is to have effect, after that time, as a secondment to the GMCA.

Continuity

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

(**12**) 2004 c.36. Category 1 responders general are listed in Part 1, and category 2 responders general are listed in Part 2 of Schedule 1 to the Civil Contingencies Act 2004. There are amendments to section 2 and Schedule 1 which are not relevant to this Order.