STATUTORY INSTRUMENTS

2017 No. 431

LOCAL GOVERNMENT, ENGLAND
TRANSPORT, ENGLAND

The Tees Valley Combined Authority (Functions and Amendment) Order 2017

Made - - - - 16th 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 104(1)(a), 105(1) and (3), 105A(1)(a), (b), (2) and (3), 107D(1), (7)(a), (b) and (c), 114(1) and (3) 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.

In accordance with sections 104(10), 105(3A) and 105B(2)(**4**) of the 2009 Act the councils whose areas are comprised in the area of the Tees Valley Combined Authority and the Tees Valley Combined Authority have consented to the making of 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 2009 Act.

(**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 Act (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. Sections 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 117(2), (2A) and (3) was substituted by section 13 of the Localism Act 2011 (c. 20). Section 117 was also amended by paragraph 29 of Schedule 5 to the 2016 Act.
(**2**) Section 112 was amended by section 6 of, and paragraphs 17 and 23 of Schedule 5 to, the 2016 Act.
(**3**) Section 113 was amended by sections 12 and 14 of and paragraph 24 of Schedule 5 to the 2016 Act.
(**4**) Section 105B was inserted by section 7 of the 2016 Act.

Citation and commencement

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

(2) Save as provided for in paragraph (3), this Order comes into force on 8th May 2017.

(3) Article 8(3)(d)(ii) comes into force on the day after the day on which the Order is made.

Interpretation

2. In this Order—

"the 2000 Act" means the Transport Act 2000(**5**);

"the 2003 Act" means the Local Government Act 2003(**6**);

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

"the 2016 Order" means the Tees Valley Combined Authority Order 2016(**7**);

"combined area" means the area of the Combined Authority;

"Combined Authority" means the Tees Valley Combined Authority, established by the 2016 Order(**8**);

"constituent councils" means the councils for the local government areas of Darlington, Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees; and

"Mayor" means the mayor for the combined area(**9**).

Power to pay grant

3.—(1) The functions of a Minister of the Crown specified in section 31 of the 2003 Act (power to pay grant) are functions of the Combined Authority that are exercisable in relation to the combined area.

(2) The functions are exercisable by the Combined Authority concurrently with a Minister of the Crown.

(3) Paragraph (4) applies where, in exercising functions under paragraphs (1) and (2), the Combined Authority determines an amount of grant to be paid towards expenditure incurred or to be incurred by a constituent council in relation to the exercise of its highway functions.

(4) In determining that amount, the Combined Authority must have regard to the desirability of ensuring that the council has sufficient funds to facilitate the effective discharge of those functions.

(5) To comply with paragraph (4), the Combined Authority must take into account any other sources of funding available to the council for expenditure incurred or to be incurred in relation to the exercise of its highway functions.

(6) For the purposes of the exercise by the Combined Authority of the functions referred to in paragraphs (1) and (2), section 31 of the 2003 Act has effect as if—

(a) in subsection (1)—

(i) the reference to a Minister of the Crown were a reference to the Combined Authority;

(ii) the reference to a local authority in England were a reference to a constituent council;

(**5**) 2000 c.38.
(**6**) 2003 c.26.
(**7**) S.I. 2016/449.
(**8**) Article 3 of the 2016 Order establishes the Tees Valley Combined Authority, and article 3(2) provides that it is to be a body corporate and is to be known as the Tees Valley Combined Authority.
(**9**) Article 3 to S.I 2016/783 provides for there to be a mayor for the area of the Combined Authority.

(b) subsection (2) were omitted;

(c) in subsections (3) and (4), the references to the person paying it (the grant) were references to the Combined Authority;

(d) subsection (6) were omitted.

(7) In this article "highway functions" means the functions exercisable by a constituent council (in whatever capacity) in relation to the highways for which they are the highway authority.

Local transport

4.—(1) The following are exercisable by the Combined Authority in relation to the combined area—

(a) the functions of the constituent councils contained in Parts 4 (local passenger transport services) and 5 (financial provisions) of the Transport Act 1985(**10**); and

(b) the functions of the constituent councils as local transport authorities contained in Part 2 (local transport) of the 2000 Act.

(2) The functions mentioned in paragraph (1) are exercisable by the Combined Authority instead of by the constituent councils.

(3) Article 6 of the 2016 Order is omitted(**11**).

Housing

5.—(1) The function of the constituent councils under section 8 of the Housing Act 1985 (periodical review of housing needs)(**12**) is exercisable by the Combined Authority in relation to the combined area.

(2) The function is exercisable concurrently with the constituent councils.

General functions of the Combined Authority exercisable only by the Mayor

6.—(1) The following functions of the Combined Authority are general functions(**13**) exercisable only by the Mayor—

(a) section 31 of the 2003 Act (power to pay grant);

(b) sections 108 (local transport plans), 109 (further provision about plans: England) and 112 (plans and strategies: supplementary) of the 2000 Act(**14**).

(2) The Mayor may only exercise functions mentioned in paragraph (1)(b) if—

(a) the Mayor has laid before the Combined Authority, in accordance with standing orders of the Combined Authority—

(i) a draft of the local transport plan;

(ii) a draft of the local transport plan with any alterations; or

(**10**) 1985 c.67.

(**11**) Article 6 of the 2016 Order provides for the delegation of specified transport functions of the constituent councils to the Combined Authority.

(**12**) 1985 c. 68. Section 8 was amended by paragraph 62 of Schedule 11 to the Local Government and Housing Act 1989 (c. c.42) and section 124 of the Housing and Planning Act 2016 (c. 22).

(**13**) Section 107D(2) of the 2009 Act provides that in Part 6 of that Act references to "general functions", in relation to a mayor for the area of a combined authority, are to any functions exercisable by the mayor other than PCC functions.

(**14**) Section 108 was amended by sections 7 to 9 of, paragraph 42 of Schedule 4 and Part 1 of Schedule 7 to, the Local Transport Act 2008 (c.26) and paragraph 96 of Schedule 6 to the Local Democracy, Economic Development and Constructions Act 2009 (c.20). Section 109 was amended by section 9 of the Local Transport Act 2000 and paragraph 97 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c.20). Section 112 was amended by sections 10 and 11 and Part 1 of Schedule 7to the Local Transport Act 2008 and paragraph 48 of Schedule 26 to the Equality Act 2010.

(iii) a replacement of the local transport plan;

stating that the Mayor is proposing to exercise the Mayor's functions under sections 108 or 109 of the 2008 Act; and

(b) the consideration period for the document has expired without the Combined Authority having rejected the proposal.

(3) For the purpose of subsection (2)—

(a) the "consideration period" for a document is the period of 21 days beginning with the day on which the document is laid before the Combined Authority in accordance with standing orders of the Combined Authority; and

(b) the Combined Authority rejects a proposal if it resolves to do so on a motion—

(i) considered at a meeting of the Combined Authority; and

(ii) agreed to by at least three-fifths of the members of the Combined Authority appointed by the constituent councils or substitute members acting in place of those members, present and voting.

(4) Members and officers of the Combined Authority may assist the Mayor in the exercise of the functions mentioned in paragraph (1).

(5) For the purposes of the exercise of the general functions mentioned in paragraph (1) the Mayor may do anything that the Combined Authority may do under section 113A of the 2009 Act (general power of EPB or combined authority)(**15**).

Funding

7.—(1) The constituent councils must ensure that any reasonably incurred costs of the Combined Authority are met to the extent that the Combined Authority has not decided to meet these costs from other resources available to it.

(2) Subject to paragraph (4), the constituent councils must meet the costs of the expenditure reasonably incurred by the Mayor in, or in connection with, the exercise of the functions specified in articles 3 and 4 (in relation only to the functions in sections 108, 109 and 112 of the 2000 Act that relate to plans) to the extent that the Mayor has not decided to meet these costs from other resources available to the Combined Authority.

(3) Any amount payable by each of the constituent councils to ensure that the costs of the Combined Authority referred to in paragraphs (1) and (2) are met is to be determined by apportioning such costs between the constituent councils in such proportions as they may agree or, in default of such agreement, in the following shares between the constituent councils—

Darlington 15.80%

Hartlepool 14.67%

Middlesbrough 20.89%

Redcar and Cleveland 20.97%

Stockton-on-Tees 27.67%.

(4) In relation to the expenditure mentioned in paragraph (2)—

(a) to the extent to which such expenditure is met by amounts payable under arrangements made under paragraph (3)—

(i) the Mayor must agree with the Combined Authority the total expenditure mentioned in paragraph (2) in advance of incurring this expenditure; and

(**15**) 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 2016 Act.