
STATUTORY INSTRUMENTS

2017 No. 250

LOCAL GOVERNMENT, ENGLAND

The Tees Valley Combined Authority (Functions) Order 2017

Made - - - - *2nd 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 105(3), 105A(1)(b) and (2)(a), 107D(1), 114(1) and (3) and 117(5) of the Local Democracy, Economic Development and Construction Act 2009(1) (“the 2009 Act”).

In accordance with section 105B(1)(b) of the 2009 Act(2)—

- (a) the councils whose local government 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(3), and
- (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.

The Secretary of State, having had regard to a scheme prepared and published under section 112 of the 2009 Act(4), 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(5) has been carried out.

In accordance with section 113(3) of the 2009 Act, in making this Order, the Secretary of State has had regard to the need to reflect the identities and interests of local communities, and the need to secure effective and convenient local government.

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.

Accordingly the Secretary of State makes the following Order:

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- (1) 2009 c. 20. Section 105A was inserted by section 7 of the Cities and Local Government Devolution Act 2016 (c. 1) (“the 2016 Act”). Section 114 was amended by section 23 of, and paragraphs 17 and 26 to, the 2016 Act. Section 107D was inserted by section 4 of the 2016 Act. Section 117 was amended by section 13 of the Localism Act 2011 and Schedule 5 to the 2016 Act.
 - (2) Section 105B was inserted by section 7 of the 2016 Act.
 - (3) This Order relates to the area of the Tees Valley Combined Authority, which was established by the Tees Valley Combined Authority Order 2016 (S.I. 2016/449). Article 2 of S.I. 2016/449 defines the “combined area” as the area consisting of the areas of the constituent councils, who are the local government areas of Darlington, Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees.
 - (4) Section 112 was amended by sections 6 and 23 of, and paragraphs 17 and 23 of Schedule 5 to, the 2016 Act.
 - (5) Section 113 was amended by sections 12, 14 and 23 of, and paragraph 24 of Schedule 5 to, the 2016 Act.

Citation and commencement

- 1.—(1) This Order may be cited as the Tees Valley Combined Authority (Functions) Order 2017.
- (2) Save as provided in paragraph (3) this Order comes into force on the day after the day on which it is made.
- (3) Article 5(1) comes into force on 8th May 2017.

Interpretation

2. In this Order—

- “the 1989 Act” means the Local Government and Housing Act 1989⁽⁶⁾;
- “the 1999 Act” means the Greater London Authority Act 1999⁽⁷⁾;
- “the 2003 Act” means the Local Government Act 2003⁽⁸⁾;
- “the 2009 Act” means the Local Democracy, Economic Development and Construction Act 2009;
- “the 2011 Act” means the Localism Act 2011⁽⁹⁾;
- “combined area” means the area of the Combined Authority;
- “Combined Authority” means the Tees Valley Combined Authority;
- “constituent council” means the councils for the local government areas of Darlington, Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-On-Tees.
- “Corporation” means a corporation established by the Secretary of State in accordance with the provisions in section 198 of the 2011 Act following the designation of an area of land by the Combined Authority; and
- “Mayor” means the mayor for the combined area⁽¹⁰⁾ except in the term “the Mayor of London”.

Conferral of functions on the Combined Authority

- 3.—(1) The Combined Authority shall have in relation to the combined area functions corresponding to the following functions contained in the 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);
 - (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);
 - (i) section 217 (dissolution: final steps);

⁽⁶⁾ 1989 c 42.

⁽⁷⁾ 1999 c. 29.

⁽⁸⁾ 2003 c. 26.

⁽⁹⁾ 2011 c. 20.

⁽¹⁰⁾ Article 3 of the Tees Valley Combined Authority (Election of Mayor) Order 2016 (S.I. 2016/783) provides for there to be a mayor for the combined area.

- (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) The exercise by the Combined Authority of the functions corresponding to the functions contained in section 197 (designation of Mayoral development areas) of the 2011 Act requires the consent of all members of the Combined Authority 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.

(3) The exercise by the Combined Authority of the functions corresponding to the functions contained in section 199 (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 Combined Authority 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 Combined Authority 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 North York Moors National Park Authority, if the Combined Authority proposes to exercise the functions in respect of the whole or any part of the area of the North York Moors National Park Authority⁽¹¹⁾;
- (b) each member of the Combined Authority 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 Combined Authority proposes to exercise the functions.

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

Application of provisions in the 2011 Act

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

(3) Subject to paragraph (7), in any enactment passed or made on or before the date on which article 1(2) comes into force—

- (a) any reference to a Mayoral development corporation; or

(11) The North York Moors 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).

(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 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, the provisions in section 235 of the 2011 Act (orders and regulations) apply in relation to—

- (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 they apply 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) or 214(6) of the 2011 Act or in relation to the transfer of land to or from a Mayoral development corporation.

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

(7) 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)(**12**);
- (b) section 31(1A) of the 1999 Act (limits of the general power)(**13**);
- (c) section 38 of the 1999 Act (delegation)(**14**);
- (d) section 60A(3) of the 1999 Act (confirmation hearings etc for certain appointments by the Mayor)(**15**);
- (e) section 68(6) of the 1999 Act (disqualification and political restriction)(**16**);

(12) 1996 c 61. Paragraph 9(8) of Schedule 2 was amended by paragraph 43 of Schedule 22 to the 2011 Act.

(13) 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.

(14) 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.

(15) 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.

(16) Section 68 was amended by paragraphs 44 and 48 of Schedule 22 and Part 32 of Schedule 25 to the 2011 Act.

- (f) section 73 of the 1999 Act (monitoring officer)(17);
- (g) section 424 of the 1999 Act (interpretation)(18);
- (h) section 24(4) of the Planning and Compulsory Purchase Act 2004 (conformity with spatial development strategy)(19); and
- (i) paragraph 8(8)(a) of Schedule 2 to the Crossrail Act 2008 (works: further and supplementary provisions)(20).

Functions exercisable only by the Mayor

5.—(1) The functions conferred by article 3(1) shall be general functions exercisable only by the Mayor(21).

(2) Anything which, immediately before 8th May 2017, is in the process of being done by or in relation to the Combined Authority or by or in relation to a constituent council for the purposes of or in connection with the functions mentioned in article 3(1) is to be treated as having been done by or in relation to the Mayor.

Incidental provisions

6. The following provisions of the 1989 Act(22) shall apply in relation to a Corporation as if it were a local authority—

- (a) section 1 (disqualification and political restriction of certain officers and staff)(23); and
- (b) sections 2 and 3A (politically restricted posts and exemptions from restriction) (24) so far as they have effect for the purposes of that section.

7. Section 5(25) of the 1989 Act (designation and reports of monitoring officer) shall apply in relation to the Combined Authority as if a Corporation were a committee of the Authority.

8. Section 32 of the 2003 Act shall apply in relation to expenditure of a Corporation but as if—

- (a) each reference to a functional body were a reference to a Corporation;
- (b) each reference to the Greater London Authority were a reference to the Combined Authority;
- (c) each reference to the Mayor of London were a reference to the Mayor; and

(17) Section 73 was amended by sections 7 and 9 of, and Schedule 2 to, the Greater London Authority Act 2007 (c. 24), 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 of the Schedule to S.I. 2000/1435.

(18) Section 424 was amended by section 1159 of the Companies Act 2006 (c. 46), sections 11, 12, 21, 22 of the Greater London Authority Act 2007 (c. 24), 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.

(19) 2004 c. 5. Section 24 was amended by paragraphs 54 and 55 of Schedule 22 to the 2011 Act.

(20) 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.

(21) 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 police and crime commissioner functions.

(22) 1989 c 42.

(23) Section 1 was amended by section 80 of the Local Government Act 1972 (c. 70), Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) and paragraphs 199 and 200 of Part 2 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13).

(24) Section 3A was inserted by section 202(2) of the Local Government and Public Involvement in Health Act 2007 (c. 28) and amended by Part 1 of Schedule 7 to the 2009 Act and paragraph 4 of Part 1 of Schedule 25 to the Localism Act 2011.

(25) Section 5 was amended by Part 1 of Schedule 4 to the Police and Magistrates Courts Act 1994 (c. 29), paragraph 1 of Schedule 7 to the Police Act 1996 (c. 16), section 132 of the 1999 Act, paragraph 24 of Schedule 5 to the Local Government Act 2000 (c. 22), paragraph 14 of Part 2 of Schedule 12 and Part 14 of Schedule 18 to the Local Government and Public Involvement in Health Act 2007 (c. 28), paragraphs 12 and 13 of Schedule 14 and Part 4 of Schedule 22 to the Marine and Coastal Access Act 2009 (c. 23), paragraphs 199 and 202 of Part 3 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) and articles 1(2), 2(1) and 23(1)(a) to (f) of S.I. 2001/2237.