STATUTORY INSTRUMENTS

2016 No. 653

LOCAL GOVERNMENT, ENGLAND
TRANSPORT, ENGLAND

The West Midlands Combined Authority Order 2016

Made - - - - 16th June 2016

Coming into force in accordance with article 1

This Order is made in exercise of the powers conferred by section 85 of the Transport Act 1985(**1**) ("the 1985 Act"), sections 84, 91 and 93 of the Local Transport Act 2008(**2**) ("the 2008 Act") and sections 103 to 105 and 114 to 117 of, and paragraph 3 of Schedule 5A to, the Local Democracy, Economic Development and Construction Act 2009(**3**) ("the 2009 Act").

The Secretary of State, having had regard to a scheme prepared and published under section 82 of the 2008 Act considers that the making of this Order is likely to improve—

(a) the exercise of statutory functions relating to transport in the area to which this Order relates, and

(b) the effectiveness and efficiency of transport in that area.

The Secretary of State has consulted—

(a) the councils for the area comprised in the West Midlands integrated transport area,

(b) the West Midlands Integrated Transport Authority,

(c) the West Midlands Passenger Transport Executive,

(d) such other persons as the Secretary of State considered appropriate.

The councils for the metropolitan districts whose areas are comprised in the West Midlands integrated transport area have consented to the making of this order.

The Secretary of State, having regard to a scheme prepared and published under section 109 of the 2009 Act, considers that—

(**1**) 1985 c 67. Section 85 was amended by paragraphs 18 and 30 of Schedule 4 to the Local Transport Act 2008 (c. 26) and by S.I. 2009/107.

(**2**) 2008 c 26. Section 91 was amended by paragraphs 112 and 129 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c. 20).

(**3**) 2009 c. 20. Section 103 was amended by sections 12 and 14 of the Cities and Local Government Devolution Act 2016 (c. 1). Section 104 was amended by sections 8 and 14 of, and Schedule 5 to, the Cities and Local Government Devolution Act 2016. Section 105 was amended by sections 6, 9 and 14 of the Cities and Local Government Devolution Act 2016. Section 114 was amended by Schedule 5 to the Cities and Local Government Devolution Act 2016. Section 116 was amended by Schedule 5 to the Cities and Local Government Devolution Act 2016. Section 117 was amended by section 13 of the Localism Act 2011 (c. 20) and Schedule 5 to the Cities and Local Government Devolution Act 2016. Schedule 5A was inserted by section 8 of and Schedule 3 to the Cities and Local Government Devolution Act 2016.

(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 110(2) of the 2009 Act has been carried out.

The Secretary of State is satisfied that the area to which this Order relates meets the conditions set out in section 103 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 to secure effective and convenient local government.

The councils for the local government areas of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton, whose areas are within the area for which the combined authority is to be established consent 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 85 of the 1985 Act, section 94 of the 2008 Act and section 117(2) of the 2009 Act.

Accordingly, the Secretary of State makes the following Order:

PART 1

General

Citation and commencement

1.—(1) This Order may be cited as the West Midlands Combined Authority Order 2016.

(2) This article and articles 2 and 6 (1) and (2) shall come into force on either—

(a) 1st June 2016, or

(b) if the Order is made on or after 1st June 2016, on the day after the day on which the Order is made,

and the other provisions of this Order shall come into force immediately afterwards.

Interpretation

2. In this Order—

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

"combined area" means the area consisting of the areas of the constituent councils;

"the Combined Authority" means the West Midlands Combined Authority as constituted by article 3;

"the commencement date" means the date on which this Order comes into force;

"constituent councils" means the councils for the local government areas of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton;

"enactment" includes subordinate legislation;

"the Executive" has the meaning given by article 6(1);

"financial year" means the period of 12 months ending with 31st March in any year;

"the ITA" means the West Midlands Integrated Transport Authority;

"Local Enterprise Partnership" means the board of—

(a) the Black Country Local Enterprise Partnership,

(b) Greater Birmingham and Solihull Local Enterprise Partnership, or

(c) Coventry and Warwickshire Local Enterprise Partnership; and

"non-constituent council" means the councils for the local government areas of Cannock Chase, Nuneaton and Bedworth, Redditch, Tamworth and Telford and Wrekin.

PART 2

Establishment of a combined authority for West Midlands

Establishment

3.—(1) There is established a combined authority for the combined area.

(2) The combined authority is to be a body corporate and is to be known as the West Midlands Combined Authority.

(3) The functions of the Combined Authority are those functions conferred or imposed upon it by this Order or by any other enactment (whenever passed or made), or as may be delegated to it by or under this Order or any other enactment (whenever passed or made).

Constitution

4. Schedule 1 (which makes provision about the constitution of the Combined Authority) has effect.

Funding

5.—(1) The constituent councils must meet the costs of the Combined Authority reasonably attributable to the exercise of the functions mentioned in article 10 (economic development and regeneration).

(2) The amount payable by each of the constituent councils is to be determined by apportioning the costs of the Combined Authority referred to in paragraph (1) between the constituent councils in such proportions as they may agree or, in default of such agreement, in proportion to the total resident population at the relevant date of the area of each council concerned as estimated by the Statistics Board(**4**).

(3) For the purposes of paragraph (2) the relevant date in relation to a payment for a financial year is 30th June in the financial year which commenced two years prior to the current financial year.

(**4**) Section 25 of the Statistics and Registration Service Act 2007 provides that the Statistics Board is responsible for the functions in section 19 of the Registration Service Act 1953 (annual abstract of number of births, deaths and marriages).

PART 3

Transport

Passenger Transport Executive

6.—(1) In this Order "the Executive" means the West Midlands Passenger Transport Executive established by the West Midlands Passenger Transport Area (Designation) Order 1969(**5**).

(2) The Executive shall be dissolved and all the functions, property, rights and liabilities of the Executive shall be transferred to the ITA.

(3) Subject to article 8(4) and Schedule 2 and to the following provisions of this article, any reference in any enactment (whenever passed or made) to a passenger transport executive is to be treated, in its application to the combined area, as if it were to the Combined Authority.

(4) Paragraph (3) does not apply to the following enactments—

(a) paragraph 28 of Schedule 1 to the Freedom of Information Act 2000(**6**);

(b) Schedule 2 to the Local Government Act 1988(**7**);

(c) section 33 of the Railways Act 2005(**8**);

(d) sections 95, 96, 97, 104(2) and (3) and 137(5) of the Transport Act 1985; and

(e) section 162(4) of the Transport Act 2000(**9**).

(5) The West Midlands Passenger Transport Area (Designation) Order 1969 is revoked.

Abolition and transfer of functions

7.—(1) The West Midlands integrated transport area is dissolved and the ITA is abolished.

(2) On the abolition of the ITA—

(a) its functions, and

(b) its property, rights and liabilities,

are transferred to the Combined Authority.

Adaptation of enactments

8.—(1) This article has effect in consequence of article 7.

(2) In any enactment (whenever passed or made)—

(a) any reference to an integrated transport area, or

(b) any reference which falls to be read as a reference to such an area,

is to be treated as including a reference to the combined area.

(3) In any enactment (whenever passed or made)—

(a) any reference to an integrated transport authority, or

(b) any reference which falls to be read as a reference to such an authority,

is to be treated as including a reference to the Combined Authority.

(**5**) S.I. 1969/97.
(**6**) 2000 c. 36. Paragraph 8 was substituted by paragraph 64 of Schedule 4 to the Local Transport Act 2008.
(**7**) 1988 c. 9.
(**8**) 2005 c. 14.
(**9**) 2000 c. 38. Section 162 was amended by sections 15(6), 26(9), 27(2), 40(2), 77(5) and 131 of, and paragraphs 41, 46(1), (2)(a) and (2)(c) of Part 3 of Schedule 4 to, and Part 2 of Schedule 7to, the Local Transport Act 2008.

(4) Paragraphs (2) and (3) do not apply to Part 2 of the Transport Act 1968(**10**) which is amended in accordance with Schedule 2.

Continuity

9.—(1) Nothing in article 6, 7 or 8 affects the validity of anything done by or in relation to the ITA or the Executive before the commencement date.

(2) 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 to the Combined Authority; and

(b) is in process of being done by or in relation to the ITA or the Executive immediately before the commencement date.

(3) Anything which—

(a) was made or done by or in relation to the ITA or the Executive 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 the transfer takes effect,

has effect as if made or done by or in relation to the Combined Authority.

(4) The Combined Authority shall be substituted for the ITA or, where appropriate, the Executive, 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 the transfer takes effect.

(5) A reference in this article to anything made or done by or in relation to the ITA or the Executive includes a reference to anything which by virtue of any enactment is to be treated as having been made or done by or in relation to the ITA or the Executive.

(6) Without prejudice to the generality of this article a levy issued by the ITA under section 74 of the Local Government Finance Act 1988(**11**) and in accordance with the Transport Levying Bodies Regulations 1992(**12**) to the constituent councils in respect of the financial year beginning 1st April 2016 is to have effect for that year as if it had been so issued by the Combined Authority.

(**10**) 1968 c. 73.

(**11**) Section 74 was amended by paragraph 72 of Schedule 13 to the Local Government Finance Act 1992 (c. 14); paragraph 21 of Schedule 60 to the Local Government (Wales) Act 1994 (c. 19); Schedule 24 to the Environment Act 1995 (c. 25); section 105 of the Greater London Authority Act 1999 (c. 29); paragraph 305(a) of Schedule 8 to the Courts Act 2003 (c. 39); paragraph 68 of Schedule 1 to the Fire and Rescue Services Act 2004 (c. 21); paragraph 16 of Schedule 1 to the Local Government and Involvement in Public Health Act 2007 (c. 28); paragraphs 74 and 75 of Schedule 6 and Part 4 of Schedule 7 to the Local Democracy, Economic Development and Construction Act 2009 (c. 20); paragraphs 1 and 2 of Schedule 7 to the Police Reform and Social Responsibility Act 2011 (c. 13); paragraph 182(a) of Schedule 16 to the Localism Act 2011(c. 20); section 9(1)(a) , (b) and (2) of, and paragraphs 9 and 10 of Schedule 5 to the Cities and Local Government Devolution Act 2016 (c. 1); and by S.I. 1994/2825.

(**12**) S.I. 1992/2789, amended by S.I. 2012/213 and S.I. 2015/27.