Draft Order laid before Parliament under section 117(2) of the Local Democracy, Economic Development and Construction Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2016 No.

LOCAL GOVERNMENT, ENGLAND

The Greater Manchester Combined Authority (Functions and Amendment) Order 2016

Made - - - -

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) and (b), (2), (3)(b), (6) and (7), 107D(1) and (7)(c), (d) and (e), 107E(1), 114 and 117(5) of the Local Democracy, Economic Development and Construction Act 2009(**1**) ("the 2009 Act").

The Secretary of State, having 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 the need to secure effective and convenient local government(**4**).

In accordance with sections 104(10), 105(3A) and 105B(2)(**5**) of the 2009 Act 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.

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 (c. 1). Section 105 was amended by sections 6, 9 and 14 of the Cities and Local Government Devolution Act 2016. Section 105A was inserted by section 7 of the Cities and Local Government Devolution Act 2016. Sections 107D and 107E were inserted by section 4 of the Cities and Local Government Devolution Act 2016. Section 114 was amended by section 23 of, and paragraphs 17 and 26 of Schedule 5 to, the Cities and Local Government Devolution Act 2016. Section 117(2), (2A) and (3) was substituted by section 13 of the Localism Act 2011 (c. 20). Section 117 was amended by sections 13 and 23 of, and paragraphs 17 and 29 of Schedule 5 to the Cities and Local Government Devolution Act 2016.

(**2**) Section 112 was amended by sections 6 and 23 of and paragraphs 17 and 23 of Schedule 5 to the Cities and Local Government Devolution Act 2016.

(**3**) Section 113 was amended by sections 12, 14 and 23 of, and paragraph 24 of Schedule 5 to, the Cities and Local Government Devolution Act 2016.

(**4**) Section 113(3) of the 2009 Act requires the Secretary of State when making an order under sections 104, 105, 106 or 107 in relation to an existing combined authority to have regard to the need to reflect the identities and interests of local communities, and to secure effective and convenient local government.

(**5**) Section 105B was inserted by section 7 of the Cities and Local Government Devolution Act 2016.

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.

PART 1

General

Citation and commencement

1.—(1) This Order may be cited as the Greater Manchester Combined Authority (Functions and Amendment) Order 2016.

(2) Save as provided in paragraph (3) this Order comes into force on the day after the day on which it is made.

(3) Articles 11, 14(3) and (4), 15, 16 and 17 come into force on 8th May 2017.

Interpretation

2. In this Order—

"the 1980 Act" means the Highways Act 1980(**6**)

"the 1985 Act" means the Housing Act 1985(**7**);

"the 1989 Act" means the Local Government and Housing Act 1989(**8**);

"the 1990 Act" means the Town and Country Planning Act 1990(**9**);

"the 1996 Act" means the Education Act 1996(**10**);

"the 1999 Act" means the Greater London Authority Act 1999(**11**);

"the 2000 Act" means the Transport Act 2000(**12**);

"the 2004 Act" means the Planning and Compulsory Purchase Act 2004(**13**);

"the 2008 Act" means the Housing and Regeneration Act 2008(**14**);

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

"the 2011 Order" means the Greater Manchester Combined Authority Order 2011(**15**);

"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;

"the E&SA 2008" means the Education and Skills Act 2008(**16**);

(**6**) 1980 c. 66.
(**7**) 1985 c. 68.
(**8**) 1989 c. 42.
(**9**) 1990 c. 8.
(**10**) 1996 c. 56.
(**11**) 1999 c. 29.
(**12**) 2000 c. 38.
(**13**) 2004 c. 5.
(**14**) 2008 c. 17.
(**15**) S.I. 2011/908 as amended by the Greater Manchester Combined Authority (Amendment) Order 2015 (S.I. 2015/960).
(**16**) 2008 c. 25.

"the GMCA" means the Greater Manchester Combined Authority, a body corporate established by the 2011 Order(**17**);

"the HCA" means the Homes and Communities Agency(**18**);

"Interim Mayor" has the meaning given by article 2 of the 2011 Order; and

"the Mayor" means the mayor for the Area(**19**) except where the reference is to the Mayor of London.

PART 2

Spatial development strategy

Spatial development strategy

3.—(1) The GMCA shall have, in relation to the Area, functions corresponding to the functions in the 1999 Act that the Mayor of London has in relation to Greater London, which are specified in the following provisions of the 1999 Act—

(a) section 334 (the spatial development strategy);

(b) section 335 (public participation)(**20**);

(c) section 336 (withdrawal);

(d) section 337 (publication)(**21**);

(e) section 338 (examination in public)(**22**);

(f) section 339 (review of matters affecting the strategy);

(g) section 340 (reviews of the strategy);

(h) section 341 (alteration or replacement)(**23**);

(i) section 342 (matters to which the Mayor is to have regard);

(j) section 346 (monitoring and data collection)(**24**); and

(k) section 348 (mayor's functions as to planning around Greater London).

(2) The exercise by the GMCA of the functions corresponding to the functions in sections 335 (public participation), 336 (withdrawal), 337 (publication) and 341 (alteration or replacement) of the 1999 Act requires a unanimous vote in favour by all members of the GMCA appointed by the constituent councils, or substitute members acting in place of those members, to be carried at a meeting of the GMCA.

(**17**) The Greater Manchester Combined Authority was established by the 2011 Order. Article 3(2) provides that "the combined authority is to be a body corporate and to be known as the Greater Manchester Combined Authority ("the GMCA")".
(**18**) The HCA is a body corporate established under section 1 of the 2008 Act.
(**19**) Article 3 to S.I 2016/448 provides for there to be a mayor for the area of the Combined Authority.
(**20**) Section 335 was amended by section 29(1) and (2) of the Greater London Authority Act 2007 (c. 24) and section 228(2)(a), (b) and (c) and 237 of, and Part 33 of Schedule 25 to the Localism Act 2011 (c. 20).
(**21**) Section 337 was amended by section 118(2) of, and paragraph 22(1), and (2)(b) and (c) of Schedule 7 to, the 2004 Act and sections 109(7) and 237 of, and paragraphs 3 and 4 of Schedule 8 and Part 16 of Schedule 25 to, the Localism Act 2011.
(**22**) Section 338 was amended by section 48(1) of, and paragraph 52 of Schedule 8 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15) and article 2(2) of, and paragraph 19 of the Schedule to, S.I. 2013/2042.
(**23**) Section 341 was amended by section 118(2) of and, paragraph 22(1) and (3) of Schedule 7 to, the 2004 Act, Section 85(1) of, and paragraphs 9 and 10 of Schedule 5 to, the 2009 Act (c. 20) and sections 109(7) and 237 of, and paragraphs 3and 5(a) and (b) of Schedule 8 and Part 16 of Schedule 25 to, the Localism Act 2011.
(**24**) Section 446 was amended by section 118(2) of, and paragraph 23(1) and (4) of Schedule 27 to, the 2004 Act.

Adaptation of enactments in consequence of article 3

4.—(1) This article has effect in consequence of article 3(1).

(2) Part 8 of the 1999 Act applies in relation to the preparation and publication of a spatial development strategy by the GMCA as it applies in relation to the preparation and publication of a spatial development strategy by the Mayor of London, with the modifications made by Part 1 of Schedule 1.

(3) Sections 343 (regulations) and 420 of the 1999 Act (orders and regulations) apply in relation to the functions of the Secretary of State to make regulations by statutory instrument under section 343(1) with respect to all or any of the following —

(a) the form and content of the spatial development strategy published by the GMCA;

(b) the documents (if any) the Secretary of State requires to accompany the spatial development strategy published by the GMCA;

(c) the procedure to be followed by the GMCA in connection with the preparation, withdrawal, publication, making, review, alteration or replacement of the spatial development strategy, or in connection with any review under section 339 as modified by Part 1 of Schedule 1; and

(d) the procedure to be followed at an examination in public examining matters affecting the consideration of the spatial development strategy,

as they apply in relation to the functions of the Secretary of State to make such regulations in relation to the spatial development strategy published by the Mayor of London.

(4) Subject to paragraph (6) and to Schedule 1, in any enactment passed or made on or before the day on which article 3 comes into force—

(a) any reference to a spatial development strategy, or

(b) any reference which falls to be read as a reference to a spatial development strategy,

is to be treated as including a reference to a strategy prepared and published in accordance with the function conferred by article 3(1).

(5) Sections 19 (preparation of local development documents), 24 (conformity with regional strategy), 37 (interpretation), 38 (development plan) and 113 (validity of strategies, plans and documents) of the 2004 Act(**25**) apply in relation to the preparation and publication of a spatial development strategy by the GMCA as they apply in relation to the preparation and publication of a spatial development strategy by the Mayor of London, with the modifications made by Part 2 of Schedule 1.

(6) Paragraph (4) does not apply to—

(a) section 41 of the 1999 Act (general duties of the Mayor in relation to his strategies)(**26**);

(b) section 356A of the 1999 Act (London Waste and Recycling Board)(**27**);

(**25**) Section 19 was amended by sections 180 and 182 of the Planning Act 2008 (c. 29); section 85 of, and paragraph 14 of Schedule 5 to, the 2009 Act; and section 100 of the Deregulation Act 2015 (c. 20). Section 24 was amended by sections 85 and 146 of, and paragraph 15 of Schedule 5 and paragraph 1 of Schedule 7 to, the 2009 Act; section 222 of, and paragraph 55 of Schedule 22 to, the Localism Act 2011. Section 37 was amended by section 180 of the Planning Act 2008; section 56 of, and paragraph 81 of Schedule 8 to, the 2008 Act; section 85 of, and paragraph 174 of Schedule 5 to, the 2009 Act; section 222 of, and paragraph 56 of Schedule 22 to, the Localism Act 2011. Section 38 was amended by section 180 of the Planning Act 2008; section 82 of the 2009 Act; sections 109 and 116 of, and paragraph 13 of Schedule 8 and paragraph 6 of Schedule 9 to, the Localism Act 2011. Section 113 was amended by section 185 of the Planning Act 2008; section 85 of, and paragraph 19 of Schedule 5 to, the 2009 Act; and by section 91 of, and paragraph 8 of Schedule 16 to, the Criminal Justice and Courts Act 2015 (c. 2).

(**26**) Section 41 was amended by sections 24, 28 and 41 of the Greater London Authority Act 2007; and sections 192, 225, 227 and 237 of and paragraph 2 of Schedule 23 and paragraph 1 of Schedule 25 to the Localism Act 2011.

(**27**) Section 356A was inserted by section 38 of the Greater London Authority Act 2007 and amended by sections 225 of, and paragraph 6 of Schedule 23 to, the Localism Act 2011.

(c) section 10 of the London Olympic Games and Paralympic Games Act 2006(**28**); and

(d) the Town and Country Planning (London Spatial Development Strategy) Regulations 2000(**29**).

PART 3

Housing and regeneration

Conferral of functions corresponding to functions that the HCA has in relation to the Area

5.—(1) The functions of the HCA which are specified in the following provisions of the 2008 Act are to be functions of the GMCA that are exercisable in relation to the Area—

(a) section 5 (powers to provide housing or other land);

(b) section 6 (powers for regeneration, development or effective use of land);

(c) section 7 (powers in relation to infrastructure);

(d) section 8 (powers to deal with land etc);

(e) section 9 (acquisition of land);

(f) section 10 (restrictions on disposal of land);

(g) section 11 (main powers in relation to acquired land)(**30**);

(h) section 12 (powers in relation to, and for, statutory undertakers);

(i) paragraphs 19 and 20 of Schedule 3 (powers in relation to burial grounds and consecrated land etc.); and

(j) paragraphs 1, 2, 3, 4, 6, 10 and 20 of Schedule 4 (extinguishment or removal powers for the HCA).

(2) The GMCA is to exercise the functions contained in the provisions specified in paragraph (2) for the purposes of or for purposes incidental to the following objects—

(a) to improve the supply and quality of housing in the Area;

(b) to secure the regeneration or development of land or infrastructure in the Area;

(c) to support in other ways the creation, regeneration or development of communities in the Area or their continued well-being; and

(d) to contribute to the achievement of sustainable development and good design in the Area;

with a view to meeting the needs of people living in the Area.

(3) The functions contained in the provisions specified in paragraph (2) are—

(a) exercisable concurrently with the HCA, and

(b) subject to Schedules 2 and 3 to the 2008 Act.

(4) In paragraph (3) "good design" and "needs" have the meanings given by section 2(2) of the 2008 Act and the reference to improving the supply of housing includes a reference to improving the supply of particular kinds of housing.

(**28**) 2006 c. 12. Section 10 was amended by section 195 of, and paragraph 9 of Schedule 20 to, the Localism Act 2011.
(**29**) S.I. 2000/1491.
(**30**) Section 11 was amended by section 32(1) and (2) of the Infrastructure Act 2015 (c. 7).