
STATUTORY INSTRUMENTS

2017 No. 126

The West of England Combined Authority Order 2017

PART 1

General

Citation and commencement

- 1.—(1) This Order may be cited as the West of England Combined Authority Order 2017.
- (2) This Order comes into force as provided for in the following paragraphs.
- (3) Parts 1, 2, 3, 6 and 8 come into force on either—
- (a) 1st February 2017, or
 - (b) if the Order is made on or after 1st February 2017, on the day after the day on which the Order is made.
- (4) Parts 5 and 7 come into force on 8th May 2017.
- (5) Part 4 comes into force on 8th May 2018.

Interpretation

2. In this Order—

- “the 1985 Act” means the Housing Act 1985(1);
- “the 1989 Act” means the Local Government and Housing Act 1989(2);
- “the 1990 Act” means the Town and Country Planning Act 1990(3);
- “the 1999 Act” means the Greater London Authority Act 1999(4);
- “the 2000 Act” means the Transport Act 2000(5);
- “the 2003 Act” means the Local Government Act 2003(6);
- “the 2004 Act” means the Planning and Compulsory Purchase Act 2004(7);
- “the 2008 Act” means the Housing and Regeneration Act 2008(8);
- “the 2009 Act” means the Local Democracy, Economic Development and Construction Act 2009;
- “the 2011 Act” means the Localism Act 2011(9);

(1) 1985 c. 68.
(2) 1989 c. 42.
(3) 1990 c. 8.
(4) 1999 c. 29.
(5) 2000 c. 38.
(6) 2003 c. 26.
(7) 2004 c. 5.
(8) 2008 c. 17.
(9) 2011 c. 20.

“the Area” means the area of the Combined Authority;

“Combined Authority” means the West of England Combined Authority as constituted by article 3;

“constituent councils” means the councils for the local government areas of Bath and North East Somerset, Bristol City and South Gloucestershire;

“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;

“the HCA” means the Homes and Communities Agency⁽¹⁰⁾; and

“Mayor”, except in the term “Mayor of London”, means the mayor for the Combined Authority as provided for by article 5.

PART 2

Establishment of a combined authority for the West of England; election of the Mayor; funding

Establishment

3.—(1) There is established as a body corporate a combined authority for the areas of the constituent councils.

(2) The combined authority is to be known as the West of England 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.

Mayor

5.—(1) There is to be a mayor for the Area.

(2) The first election for the return of a mayor is to take place on 4th May 2017.

(3) Subsequent elections for the return of a mayor for the Area must take place in every fourth year thereafter on the same day as the ordinary day of election.

(4) The term of office of the mayor returned at an election for the return of a mayor for the Area—

(a) begins with the fourth day after the day of the poll at the election for the return of a mayor for the Area; and

(b) ends with the third day after the day of the poll at the next election for the return of a mayor for the Area.

⁽¹⁰⁾ The HCA is a body corporate established under section 1 of the 2008 Act.

(5) In this article, “the ordinary day of election”, in relation to any year, means the day which is the ordinary day of election in that year of councillors for counties in England and districts in accordance with sections 37 and 37A of the Representation of the People Act 1983⁽¹¹⁾.

Funding

6.—(1) The constituent councils must meet any reasonably incurred costs of the Combined Authority, other than the costs mentioned in paragraph (4), to the extent that the Combined Authority has not decided to meet these costs from other resources available to the Combined Authority.

(2) Any amount payable by each of the constituent councils to ensure that the costs of the Combined Authority referred to in paragraph (1) 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 proportion to the total resident population of the Area which resides in that council at the relevant date as estimated by the Statistics Board⁽¹²⁾.

(3) The functions mentioned in articles 8(1), (4) and 9 may be funded out of the levy issued by the Combined Authority to the constituent councils under section 74 of the Local Government Finance Act 1988 (levies)⁽¹³⁾ and in accordance with the Transport Levying Bodies Regulations 1992⁽¹⁴⁾.

(4) Subject to paragraph (5), the constituent councils must meet the costs of the expenditure reasonably incurred in, or in connection with, the exercise of the functions specified in articles 7, 10, 12(1)(a) to (e), 13 and 23, to the extent that the Mayor has not decided to meet these costs from other resources available to the Combined Authority.

(5) In relation to the expenditure mentioned in paragraph (4), to the extent to which such expenditure is met by amounts payable under arrangements made under paragraph (2)—

- (a) the Mayor must agree with the Combined Authority the total expenditure mentioned in paragraph (4) in advance of incurring this expenditure; and
- (b) in the absence of the agreement specified in sub-paragraph (a), no such expenditure may be incurred.

(6) Section 39(1)(ab) of the Local Government Finance Act 1992⁽¹⁵⁾ (precepting and precepting authorities) has effect in relation to the Combined Authority as if after “2009” there were inserted “other than the West of England Combined Authority”.

(7) 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 financial year in which such payment is made.

(11) 1983 c. 2. Section 37 was amended by section 17 of, and Schedule 3 to, the 1999 Act and by section 60(1) of the Local Government and Public Involvement in Health Act 2007 (c. 28). Section 37A was inserted by section 60(2) of the Local Government and Public Involvement in Health Act 2007.

(12) Section 25 of the Statistics and Registration Service Act 2007 (c. 18) provides that the Statistics Board is responsible for the functions in section 19 of the Registration Service Act 1953 (c. 37).

(13) c. 41. Section 74 was amended by section 117 of and paragraph 72 of Schedule 13 to the Local Government Finance Act 1992 (c. 14); section 20 of and paragraph 21 of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19); section 120 of and Schedule 24 to the Environment Act 1995 (c. 25); section 105 of the 1999 Act; section 109 of and paragraph 305(a) of Schedule 8 to the Courts Act 2003 (c. 39); section 53 of and paragraph 68 of Schedule 1 to the Fire and Rescue Services Act 2004 (c. 21); section 22 of and paragraph 16 of Schedule 1 to the Local Government and Involvement in Public Health Act 2007; sections 119 and 146 of and paragraphs 74 and 75 of Schedule 6 and Part 4 of Schedule 7 to the 2009 Act; section 99 of and paragraph 182(a) of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13); section 79 of and paragraphs 1 and 2 of Schedule 7 to the 2011 Act (c. 20); section 9 of the 2016 Act and by S.I. 1994/2825.

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

(15) Section 39 was amended by section 35 of the Local Government (Wales) Act 1994; sections 82 and 43 of and paragraph 1 of Part 1 of Schedule 34 to the 1999 Act; section 83 of the 2003 Act; section 53 of and paragraph 81 of Schedule 1 to the Fire and Rescue Services Act 2004; section 32 of and paragraph 10 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36); section 26 of the Police Reform and Social Responsibility Act 2011; section 5 of the 2016 Act; and by S.I. 1999/3435.

PART 3

Transport

Power to pay grant

7.—(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 Area.

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

(3) Paragraph (4) applies where, in exercising the functions referred to in 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—

- (a) 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; and
- (b) the most recent determination by the Secretary of State of an amount of grant paid to the council for those purposes.

(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;
- (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 functions exercisable by a constituent council (in whatever capacity) in relation to the highways for which it is the highway authority.

(8) The exercise by the Combined Authority of the function specified in paragraph (1) on or before 7th May 2017 requires a unanimous vote in favour by all members of the Combined Authority appointed by the constituent councils, or substitute members acting in place of those members, to be carried at a meeting of the Combined Authority.

Local transport

8.—(1) Subject to paragraph (2), the following are exercisable by the Combined Authority in relation to the Area—

- (a) the functions of the constituent councils specified in Parts 4 (local passenger transport services) and 5 (financial provisions) of the Transport Act 1985(16); and
- (b) the functions of the constituent councils as local transport authorities specified in Part 2 (local transport) of the 2000 Act.

(16) 1985 c. 67.

(2) Functions which are exercisable by the constituent councils and contained in regulations made under section 144 of the 2000 Act (civil penalties for bus lane contraventions) are not exercisable by the Combined Authority.

(3) Subject to paragraph (4), the functions mentioned in paragraph (1) are exercisable by the Combined Authority instead of by the constituent councils.

(4) The functions contained in sections 63 (functions of local councils with respect to passenger transport in areas other than integrated transport areas and passenger transport areas) and 64 (consultation and publicity with respect to policies as to services) of the Transport Act 1985 are exercisable by the Combined Authority jointly with the constituent councils.

(5) The exercise by the Combined Authority of the functions in sections 108 (local transport plans), 109 (further provision about plans: England) and 112 (plans and strategies: supplementary) of the 2000 Act⁽¹⁷⁾ on or before 7th May 2017 requires a unanimous vote in favour by all members of the Combined Authority appointed by the constituent councils, or substitute members acting in place of those members, to be carried at a meeting of the Combined Authority.

Agreements between authorities and strategic highways companies

9.—(1) The functions of the constituent councils specified in section 6 of the 1980 Act⁽¹⁸⁾ (powers to enter into agreements with the Minister or strategic highways companies relating to the exercise of functions with respect to trunk roads etc) are exercisable by the Combined Authority in relation to the Area.

(2) The functions of the constituent councils as local highway authorities specified in section 8⁽¹⁹⁾ of the 1980 Act (power to enter into agreements with local highway authorities and strategic highways companies for the doing of certain works) are exercisable by the Combined Authority in relation to the Area.

(3) The functions referred to in paragraphs (1) and (2) are exercisable by the Combined Authority concurrently with the constituent councils.

(4) In this article—

(a) “the 1980 Act” means the Highways Act 1980⁽²⁰⁾; and

(b) “local highway authority” has the meaning given by section 329(1) of the 1980 Act⁽²¹⁾.

⁽¹⁷⁾ Section 108 was amended by section 3 of and paragraph 2 of the Schedule to the Transport (Wales) Act 2006 (c. 5), sections 7 to 9, and paragraphs 41 and 42 of Schedule 4 and Part 1 of Schedule 7 to the Local Transport Act 2008 (c. 26), and by section 119 of and paragraph 96 of Schedule 6 to the 2009 Act. Section 109 was amended by section 3 of and paragraph 3 of the Schedule to the Transport (Wales) Act 2006, section 9 of the Local Transport Act 2008, and by section 119 of and paragraph 97 of Schedule 6 to the 2009 Act. Section 112 was amended by sections 10 and 11 of and Part 1 of Schedule 7 to the Local Transport Act 2008, and by section 211 of and by paragraph 48 of Schedule 26 to the Equality Act 2010.

⁽¹⁸⁾ Section 6 was amended by section 8 of, and paragraph 4 of Schedule 4 to, the Local Government Act 1985 (c. 51), section 22 of, and paragraph 2 of Schedule 7 to, the Local Government (Wales) Act 1994, section 1 of, and paragraph 7 of Schedule 1 to, the Infrastructure Act 2015 (c. 7), and S.I. 1995/1986.

⁽¹⁹⁾ Section 8 was amended by section 22 of, and paragraph 3 of Schedule 7 to, the Local Government (Wales) Act 1994, section 8 of, and paragraph 5 of Schedule 4 to, the Local Government Act 1985, and section 1 of, and paragraph 8 of Schedule 1 to, the Infrastructure Act 2015.

⁽²⁰⁾ 1980 c. 66.

⁽²¹⁾ This definition in section 329(1) of the 1980 Act was amended by paragraph 60(1) of Schedule 1 to the Infrastructure Act 2015.

PART 4

Planning

Spatial development strategy

10.—(1) The Combined Authority has, in relation to the Area, functions corresponding to the functions in the 1999 Act, specified in paragraph (2), that the Mayor of London has in relation to Greater London.

(2) The functions in the 1999 Act are—

- (a) section 334 (the spatial development strategy);
- (b) section 335 (public participation)(**22**);
- (c) section 336 (withdrawal);
- (d) section 337 (publication)(**23**);
- (e) section 338 (examination in public)(**24**);
- (f) section 339 (review of matters affecting the strategy);
- (g) section 340 (reviews of the strategy);
- (h) section 341 (alteration or replacement)(**25**);
- (i) section 342 (matters to which the Mayor is to have regard);
- (j) section 346 (monitoring and data collection)(**26**); and
- (k) section 348 (Mayor's functions as to planning around Greater London).

(3) The exercise of any 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 by the Combined Authority requires a unanimous vote in favour by all members of the Combined Authority, or substitute members acting in place of those members, to be carried at a meeting of the Combined Authority.

Adaptation of enactments in consequence of article 10

11.—(1) This article has effect in consequence of article 10(1).

(2) Part 8 of the 1999 Act applies in relation to the preparation and publication of a spatial development strategy by the Combined Authority 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 2.

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

- (a) the form and content of the spatial development strategy published by the Combined Authority;

(22) 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 2011 Act.

(23) 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 2011 Act.

(24) 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.

(25) 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 3 and 5(a) and (b) of Schedule 8 and Part 16 of Schedule 25 to, the 2011 Act.

(26) Section 346 was amended by section 118(2) of, and paragraph 23(1) and (4) of Schedule 27 to, the 2004 Act.

- (b) the documents (if any) the Secretary of State requires to accompany the spatial development strategy published by the Combined Authority;
- (c) the procedure to be followed by the Combined Authority 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 2; 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 2, in any enactment (whenever passed or made)—
 - (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 10(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⁽²⁷⁾ apply in relation to the preparation and publication of a spatial development strategy by the Combined Authority 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 2.

- (6) Paragraph (4) does not apply to—
 - (a) section 41 of the 1999 Act (general duties of the Mayor in relation to his strategies)⁽²⁸⁾;
 - (b) section 356A of the 1999 Act (London Waste and Recycling Board)⁽²⁹⁾;
 - (c) section 10 of the London Olympic Games and Paralympic Games Act 2006⁽³⁰⁾; and
 - (d) the Town and Country Planning (London Spatial Development Strategy) Regulations 2000⁽³¹⁾.

Planning applications of potential strategic importance

12.—(1) The Combined Authority has, in relation to the Area, functions corresponding to the following functions that the Mayor of London has in relation to Greater London—

- (a) section 2A of the 1990 Act (the Mayor of London: applications of potential strategic importance);
- (b) section 2B of the 1990 Act (section 2A: supplementary provisions);

⁽²⁷⁾ 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 2011 Act. 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; and by section 222 of, and paragraph 56 of Schedule 22 to, the 2011 Act. 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 2011 Act. 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).

⁽²⁸⁾ 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 2011 Act.

⁽²⁹⁾ 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 2011 Act.

⁽³⁰⁾ 2006 c. 12. Section 10 was amended by section 195 of, and paragraph 9 of Schedule 20 to, the 2011 Act.

⁽³¹⁾ S.I. 2000/1491.

- (c) section 2C of the 1990 Act (matters reserved for subsequent approval);
- (d) section 2E of the 1990 Act (section 2A and planning obligations under section 106);
- (e) section 2F of the 1990 Act (representation hearings);
- (f) section 74 of the 1990 Act (directions etc as to method of dealing with applications); and
- (g) the 2008 Order.

(2) Sections 2A, 2B, 2C, 2D, 2E and 2F of the 1990 Act apply in relation to the consideration of applications of potential strategic importance by the Combined Authority as they apply in relation to the consideration of applications of potential strategic importance by the Mayor of London.

(3) In section 2A(3)(a) of the 1990 Act as applied by paragraph (2) the references to “Greater London” are to be read as references to “the Area”.

(4) The provisions in section 333 of the 1990 Act (orders and regulations) apply in relation to the power of the Secretary of State to make orders under sections 2A and 2F of that Act in relation to the Combined Authority, as it applies in relation to the power of the Secretary of State to make orders under sections 2A and 2F of that Act in relation to the Mayor of London⁽³²⁾.

(5) The provisions in the 2008 Order apply in relation to the Combined Authority’s power to direct that applications for planning permission of potential strategic importance must be determined by the Combined Authority in place of the local planning authority as they apply in relation to the Mayor of London’s power to direct that applications for planning permission of potential strategic importance must be determined by the Mayor of London in place of the local planning authority.

(6) The 2008 Order has effect as if—

- (a) for every reference to “the Mayor” there were substituted “the Combined Authority”;
- (b) article 3 were omitted;
- (c) in article 6—
 - (i) every reference to “Greater London” is to be read as a reference to “the Area”,
 - (ii) in paragraph (2)(a) for “the Greater London Authority” there were substituted “the Combined Authority”; and
 - (iii) paragraphs (2)(c) and (f) were omitted;
- (d) in the Schedule—
 - (i) in paragraph 1(2), for “Parts 1 and 2” there were substituted “Part 1”;
 - (ii) paragraph 4 were omitted;
 - (iii) for Part 1 there were substituted—

“PART 1

Developments which are cross-boundary linear developments
identified in the spatial development strategy for the
area of the West of England Combined Authority as
safeguarded schemes or schemes of strategic importance

1. Development for surface rail.
2. Development for bus ways.

(32) The Secretary of State’s power to make orders under sections 2A and 2F of the 1990 Act, is by statutory instrument, prescribing the circumstances in which, and the conditions subject to which, the Mayor of London may give a direction under section 2F of that Act and provision in relation to public admission to representation hearings and public access to documents, etc at such hearings under section 2F of that Act.

3. Development for rapid transit.
4. Development for public highway infrastructure.
5. Development for bridges.
6. Development of flood defences.”; and

(iv) Parts 2 and 3 were omitted.

(7) In this article “the 2008 Order” means the Town and Country Planning (Mayor of London) Order 2008(33).

PART 5

Mayoral development corporations

Conferral of functions on the Combined Authority

13.—(1) The Combined Authority has in relation to the 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);
- (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, to be provided at a meeting of the Combined Authority.

(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 all members 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), the consent must be given at a meeting of the Combined Authority.

Application of provisions in the 2011 Act

14.—(1) Chapter 2 of Part 8 (Mayoral development corporations) of the 2011 Act applies to the Combined Authority and a Corporation as it applies in relation to the Mayor of London and a Mayoral development corporation respectively, with the modifications made by Schedule 3.

(2) Subject to paragraph (6), in any enactment passed or made on or before the date on which this Part comes into force—

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

(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.

(3) 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.

(4) 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), 214(6) (powers in relation to discretionary relief from non-domestic rates) of the 2011 Act) or making provision for varying the way in which a relevant tax has effect from time to time 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) and 214(6) of the 2011 Act) and making provision for varying the way in which a relevant tax has effect from time to time in relation to a transfer of land to or from a Mayoral development corporation.

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

(6) Paragraph (2) 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)([34](#));
- (b) section 31(1A) of the 1999 Act (limits of the general power)([35](#));
- (c) section 38 of the 1999 Act (delegation)([36](#));
- (d) section 60A(3) of the 1999 Act (confirmation hearings etc for certain appointments by the Mayor)([37](#));
- (e) section 68(6) of the 1999 Act (disqualification and political restriction)([38](#));
- (f) section 73 of the 1999 Act (monitoring officer)([39](#));
- (g) section 424 of the 1999 Act (interpretation)([40](#));
- (h) section 24(4) of the 2004 Act (conformity with spatial development strategy)([41](#)); and
- (i) paragraph 8(8)(a) of Schedule 2 to the Crossrail Act 2008 (works: further and supplementary provisions)([42](#)).

Incidental provisions

15. The following provisions of the 1989 Act 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)([43](#)), and
- (b) sections 2 and 3A (politically restricted posts and exemptions from restriction)([44](#)) so far as they have effect for the purposes of that section.

(34) [1996 c 61](#). Paragraph 9(8) of Schedule 2 was amended by paragraph 43 of Schedule 22 to the 2011 Act.

(35) 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 and article 2 of [S.I. 2012/1530](#).

(36) 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](#).

(37) Section 60A was inserted by section 4 of the Greater London Authority Act 2007 and amended by section 224 of the Planning Act 2008, section 20 of the Police Reform and Social Responsibility Act 2011, , 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](#).

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

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

(40) Section 424 was amended by section 1159 of the Companies Act [2006 \(c. 46\)](#), sections 11, 12, 21 and 22 of the Greater London Authority Act 2007, 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.

(41) [2004 c. 5](#). Section 24 was amended by paragraphs 54 and 55 of Schedule 22 to the 2011 Act.

(42) [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.

(43) 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.

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

16. Section 5 of the 1989 Act (designation and reports of monitoring officer)(45) applies in relation to the Combined Authority as if a Corporation were a committee of the Authority.

17. Section 32 of the 2003 Act applies 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;
- (d) subsection (7) were omitted.

PART 6

Housing and regeneration

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

18.—(1) The functions of the HCA which are specified in the following provisions of the 2008 Act are to be functions of the Combined Authority 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)(46);
- (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 Combined Authority may exercise the functions contained in the provisions specified in paragraph (1) 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 (1) are—

(45) 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, 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 and articles 1(2), 2(1) and 23(1)(a) to (f) of SI 2001/2237.

(46) Section 11 was amended by section 32(1) and (2) of the Infrastructure Act 2015.

- (a) exercisable concurrently with the HCA; and
- (b) subject to Schedules 2 and 3 to the 2008 Act.

(4) In paragraph (2) “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.

(5) Section 23(3) of the Land Compensation Act 1961 (compensation where planning decision made after acquisition)(47) applies in relation to an acquisition by the Combined Authority as it applies to the HCA.

Acquisition and appropriation of land for planning and public purposes

19.—(1) The functions of the constituent councils specified in the following provisions as applied by article 21(2) to (5) are exercisable by the Combined Authority in relation to the Area—

- (a) section 226 of the 1990 Act (compulsory acquisition of land for development and other planning purposes)(48);
 - (b) section 227 of the 1990 Act (acquisition of land by agreement);
 - (c) section 229 of the 1990 Act (appropriation of land forming part of common, etc);
 - (d) section 230(1)(a) of the 1990 Act (acquisition of land for purposes of exchange);
 - (e) section 232 of the 1990 Act (appropriation of land held for planning purposes);
 - (f) section 233 of the 1990 Act (disposal by local authorities of land held for planning purposes)(49);
 - (g) section 235 of the 1990 Act (development of land held for planning purposes);
 - (h) section 236 of the 1990 Act (extinguishment of rights over land compulsorily acquired)(50);
 - (i) section 237 of the 1990 Act (power to override easements and other rights)(51);
 - (j) section 238 of the 1990 Act (use and development of consecrated land);
 - (k) section 239 of the 1990 Act (use and development of burial grounds);
 - (l) section 241 of the 1990 Act (use and development of open spaces);
 - (m) section 17 of the 1985 Act (acquisition of land for housing purposes)(52); and
 - (n) section 18 of the 1985 Act (duties with respect to buildings acquired for housing purposes).
- (2) The functions are exercisable concurrently with the constituent councils.

Condition on the exercise of the functions conferred by articles 18 and 19

20.—(1) The exercise by the Combined Authority of the functions specified in articles 18 and 19 on or before 7th May 2017 require a unanimous vote in favour by all members of the Combined Authority appointed by the constituent councils, or substitute members acting in place of those members, to be carried at a meeting of the Combined Authority.

(47) 1961 c. 33. Section 23 was amended by section 66 of, and paragraph 1 of Schedule 14 to, the Planning and Compensation Act 1991 (c. 34), sections 181 and 187 of, and paragraph 1 of Schedule 22 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) and by section 56 of, and paragraph 2 of Schedule 8 to, the 2008 Act.

(48) Section 226 was amended by sections 79, 99 and 120 of, and paragraph 3 of Schedule 3 and paragraph 1 of Schedule 9 to, the 2004 Act.

(49) Section 233 was amended by section 8 of the Growth and Infrastructure Act 2013.

(50) Section 236 was amended by section 406 of, and paragraph 103 of Schedule 17 to, the Communications Act 2003 (c. 21).

(51) Section 237 was amended by section 406 of, and paragraph 103 of Schedule 17 to, the Communications Act 2003 and by section 194 of, and paragraph 4 of Schedule 9 to, the Planning Act 2008.

(52) Section 17 was amended by section 222 of, and paragraph 24 of Schedule 18 to, the Housing Act 1996 (c. 52).

(2) The exercise by the Combined Authority of the functions in section 17 of the 1985 Act (acquisition of land for housing purposes) (insofar as this function is exercised for the compulsory purchase of land), section 9(2) of the 2008 Act (acquisition of land) and section 226 of the 1990 Act (compulsory acquisition of land for development and other planning purposes) requires the consent of—

- (a) all members of the Combined Authority appointed by the constituent councils whose area contains any part of the land subject to the proposed compulsory acquisition, or
- (b) substitute members acting in place of those members,

to be provided at a meeting of the Combined Authority.

Application of provisions of the 1985 Act, the 1990 Act and the 2008 Act

21.—(1) This article has effect in consequence of articles 18 and 19.

(2) The provisions set out in section 17 of the 1985 Act (acquisition of land for housing purposes) apply to the Combined Authority as they apply to a constituent council.

(3) For the purposes of article 19(1)(m) and (n), the Combined Authority is to be treated as a local housing authority for the Area⁽⁵³⁾.

(4) Part 9 of the 1990 Act (acquisition and appropriation of land for planning purposes, etc) applies in relation to the Combined Authority and land which has been vested in or acquired by the Combined Authority for planning and public purposes as it applies to a constituent council and land vested in or acquired by a constituent council for planning and public purposes.

(5) Chapters 1 and 2 of Part 1 of the 2008 Act apply in relation to the powers of the Combined Authority to acquire land for housing and infrastructure under the functions specified in article 19(1) and land acquired by the Combined Authority under those functions as they apply to the HCA and land acquired by the HCA with the modifications made by Parts 1 and 2 of Schedule 4.

PART 7

Functions of the Combined Authority exercisable only by the Mayor; political advisers

General functions of the Combined Authority exercisable only by the Mayor

22.—(1) The following functions⁽⁵⁴⁾ are general functions exercisable only by the Mayor—

- (a) the functions of the Combined Authority in sections 108 (local transport plans), 109 (further provision about plans: England) and 112 (plans and strategies: supplementary) of the 2000 Act; and
- (b) the functions of the Combined Authority corresponding to—
 - (i) section 31 of the 2003 Act (power to pay grant);
 - (ii) sections 334 to 342 and 346 of the 1999 Act;
 - (iii) sections 2A to 2C, 2E and 2F of the 1990 Act; and
 - (iv) the functions specified in article 13(1).

(2) For the purposes of the exercise of the general functions mentioned in paragraph (1)—

⁽⁵³⁾ In section 1 of the 1985 Act “local housing authority” means a district council, a London borough council, the Common Council of the City of London, a Welsh county council or county borough council or the Council of the Isles of Scilly.

⁽⁵⁴⁾ 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.

- (a) the Mayor must consult the Combined Authority before exercising these functions;
- (b) members and officers may assist the Mayor in the exercise of these functions; and
- (c) the Mayor may do anything that the Combined Authority may do under Chapter 1 of Part 1 of the 2011 Act.

(3) The following decisions by the Mayor require the consent of the Combined Authority member, or substitute member acting in that member's place, appointed by the constituent council in whose area the decision will apply—

- (a) the designation of any area of land as a mayoral development area leading to the establishment, by order, of a Corporation;
- (b) the compulsory purchase of land or buildings by the Mayor;
- (c) any decision that could lead to a financial liability falling directly upon that constituent council;
- (d) the designation of any area as a Clean Air Zone; and
- (e) such other matters as may be contained in the Combined Authority constitution and agreed with the Mayor.

Political advisers

23.—(1) The Mayor may appoint one person as the Mayor's political adviser.

(2) Any appointment under paragraph (1) is an appointment as an employee of the Combined Authority.

(3) No appointment under paragraph (1) may extend beyond—

- (a) the term of office for which the Mayor who made the appointment was elected; or
- (b) where the Mayor who appointed the political adviser ceases to be the Mayor before the end of the term of office for which the Mayor was elected, the date on which the Mayor ceases to hold that office.

(4) A person appointed under paragraph (1) is to be regarded for the purposes of Part 1 of the 1989 Act (political restriction of officers and staff) as holding a politically restricted post under a local authority.

(5) Subject to paragraph (6), section 9(1), (8), (9) and (11) of the 1989 Act (assistants for political groups)⁽⁵⁵⁾, applies in relation to an appointment under paragraph (1) as if—

- (a) any appointment to that post were the appointment of a person in pursuance of that section; and
- (b) the Combined Authority were a relevant authority for the purposes of that section.

(6) Subsection (3) of section 9 of the 1989 Act applies in relation to an appointment under paragraph (1) as if the words “and that the appointment terminates” to the end of that subsection were omitted.

⁽⁵⁵⁾ Section 9 was amended by sections 61 and 204 of, and paragraph 2 of Schedule 2 to, the Local Government and Public Involvement in Health Act 2007 and by [S.I. 2001/2237](#).

PART 8

Additional functions

General power of competence

24. Chapter 1 of Part 1 of the 2011 Act (general powers of authorities) has effect in relation to the Combined Authority as it has effect in relation to a local authority⁽⁵⁶⁾.

Economic development and regeneration functions

25.—(1) The functions of the constituent councils set out in Schedule 5 are exercisable by the Combined Authority in relation to the Area.

(2) The functions are exercisable concurrently with the constituent councils.

(3) Any requirement in any enactment for a constituent council to exercise such a function may be fulfilled by the exercise of that function by the Combined Authority.

Incidental provisions

26. The following provisions have effect as if the Combined Authority were a local authority for the purposes of those provisions—

- (a) section 113 of the Local Government Act 1972 (power to place staff at the disposal of other local authorities)⁽⁵⁷⁾;
- (b) section 142(2) of the Local Government Act 1972 (power to arrange for publication of information etc relating to the functions of the authority)⁽⁵⁸⁾; and
- (c) section 222 of the Local Government Act 1972 (power to prosecute and defend legal proceedings)⁽⁵⁹⁾.

27.—(1) The Combined Authority has the power to exercise any of the functions described in subsection (1)(a) and (b) of section 88 of the Local Government Act 1985 (research and collection of information)⁽⁶⁰⁾ whether or not a scheme is made under that section.

(2) For the purposes of paragraph (1) of this article, paragraphs (a) and (b) of section 88(1) of the Local Government Act 1985 have effect as if a reference to “that area” were a reference to the Area.

28. Section 13 of the 1989 Act (voting rights of members of certain committees)⁽⁶¹⁾ has effect in relation to the Combined Authority as if—

⁽⁵⁶⁾ Section 113D of the 2009 Act as inserted by section 10 of the 2016 Act enables the Secretary of State by order to confer the general power of competence, found in Chapter 1 of Part 1 of the 2011 Act, on a combined authority.

⁽⁵⁷⁾ 1972 c. 70. Section 113 was amended by paragraph 151 of Schedule 4 to the National Health Service Reorganisation Act 1973 (c. 32); by section 66(1) of and paragraph 13 of Schedule 9 to the National Health Service and Community Care Act 1990 (c. 19); by paragraph 18 of Schedule 4 to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43); by paragraph 51(a) of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c. 43); by paragraph 17 of Schedule 5, paragraph 3 of Schedule 7, and paragraph 3 of Schedule 17 to the Health and Social Care Act 2012 (c. 7); by S.I. 2000/90; by S.I. 2002/2469; and by S.I. 2007/961.

⁽⁵⁸⁾ Section 142 was amended by section 3(1)(a) of the Local Government Act 1986 (c. 10); there are other amendments which are not relevant to this instrument.

⁽⁵⁹⁾ To which there are amendments not relevant to this instrument.

⁽⁶⁰⁾ 1985 c. 51.

⁽⁶¹⁾ Section 13 was amended by paragraph 1 of Schedule 21(II) and paragraph 96 of Schedule 37(I) to the Education Act 1993 (c. 35); by paragraph 36 of Schedule 4(I) and by paragraph 1 of Schedule 9(I) to the Police and Magistrates' Courts Act 1994; by paragraph 1 of Schedule 24 to the Environment Act 1995 (c. 25); by paragraph 96 of Schedule 37(I) and by paragraph 1 of Schedule 38(I) to the Education Act 1996 (c. 56); by paragraph 22 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31); by paragraph 1 of Schedule 5(4) to the Children Act 2004 (c. 31); by paragraph 81 of Schedule 6 to the 2009 Act; by paragraph 14 of Schedule 14 and by paragraph 1 of Schedule 22(4) to the Marine and Coastal Access Act 2009 (c. 23); by paragraph 15 of Schedule 8 to the Public Service Pensions Act 2013 (c. 25); by S.I. 2001/1517; and by S.I. 2010/1158.

(a) in subsection (4) after paragraph (h) there were inserted—

“(i) subject to subsection (4A), a committee appointed by the West of England Combined Authority.”; and

(b) after subsection (4) there were inserted—

“(4A) A person who is a member of a committee falling within paragraph (i) of subsection (4) or a sub-committee appointed by such a committee shall for all purposes be treated as a non-voting member of that committee or sub-committee unless that person is a member of one of the constituent councils as defined by article 2 of the West of England Combined Authority Order 2017.”.

29. In Part 2 of Schedule 3 (pension funds) to the Local Government Pension Scheme Regulations 2013(**62**) in the table insert at the end—

“An employee of the West of England Bath and North East Somerset Council”
Combined Authority established by the West of
England Combined Authority Order 2017

Signed by authority of the Secretary of State for Communities and Local Government

Andrew Percy
Parliamentary Under Secretary of State
Department for Communities and Local
Government

8th February 2017

(62) [S.I. 2013/2356](#). Schedule 3 was amended by regulations 31 and 32 of the Local Government Pension Scheme (Amendment) Regulations 2015/755.