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.

D R A F T S T A T U T O R Y I N S T R U M E N T S

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(**a**) ("the 2009 Act").

The Secretary of State, having regard to a scheme prepared and published under section 112 of the 2009 Act(**b**), 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(**c**) 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(**d**).

In accordance with sections 104(10), 105(3A) and 105B(2)(**e**) 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**) 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.

(**b**) 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.

(**c**) 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.

(**d**) 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.

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

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.

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(**a**)

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

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

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

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

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

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

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

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

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

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

"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(**k**);

(**a**) 1980 c. 66.
(**b**) 1985 c. 68.
(**c**) 1989 c. 42.
(**d**) 1990 c. 8.
(**e**) 1996 c. 56.
(**f**) 1999 c. 29.
(**g**) 2000 c. 38.
(**h**) 2004 c. 5.
(**i**) 2008 c. 17.
(**j**) S.I. 2011/908 as amended by the Greater Manchester Combined Authority (Amendment) Order 2015 (S.I. 2015/960).
(**k**) 2008 c. 25.

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

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

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

"the Mayor" means the mayor for the Area(**c**) 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)(**d**);

(c) section 336 (withdrawal);

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

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

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

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

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

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

(j) section 346 (monitoring and data collection)(**h**); 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.

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

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(**a**) 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")".

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

(**c**) Article 3 to S.I 2016/448 provides for there to be a mayor for the area of the Combined Authority.

(**d**) 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).

(**e**) 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.

(**f**) 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.

(**g**) 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.

(**h**) Section 446 was amended by section 118(2) of, and paragraph 23(1) and (4) of Schedule 27 to, the 2004 Act.

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(**a**) 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)(**b**);

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

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

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

(**a**) 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).

(**b**) 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.

(**c**) 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.

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

(**e**) S.I. 2000/1491.

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)(**a**);

(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.

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

Acquisition and appropriation of land for planning and public purposes —

6.—(1) The functions of the constituent councils specified in the following provisions as applied by article 8(2) to (6) are exercisable by the GMCA in relation to the Area—

(**a**) Section 11 was amended by section 32(1) and (2) of the Infrastructure Act 2015 (c. 7).

(**b**) 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 (c. 17).

(a) section 226 of the 1990 Act (compulsory acquisition of land for development and other planning purposes)(**a**);

(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)(**b**);

(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)(**c**);

(i) section 237 of the 1990 Act (power to override easements and other rights)(**d**);

(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)(**e**); 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 5 and 6

7. The exercise of the functions in section 17 of the 1985 Act (insofar as this function is exercised for the compulsory purchase of land), section 9(2) of the 2008 Act and section 226 of the 1990 Act by the GMCA requires the consent of —

(a) all members of the GMCA 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 GMCA.

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

8.—(1) This article has effect in consequence of articles 5 and 6.

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

(3) For the purposes of article 6(1)(m) and (n) the GMCA is to be treated as a local housing authority for the Area(**f**).

(4) Part 9 of the 1990 Act (acquisition and appropriation of land for planning purposes, etc) applies in relation to the GMCA and land which has been vested in or acquired by the GMCA 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.

(**a**) 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.

(**b**) Section 233 was amended by section 8 of the Growth and Infrastructure Act 2013 (c. 27).

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

(**d**) 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.

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

(**f**) 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.

(5) Chapters 1 and 2 of Part 1 of the 2008 Act apply in relation to the powers of the GMCA to acquire land for housing and infrastructure under the functions specified in article 5(2) and land acquired by the GMCA 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 2.

(6) Schedule 2 sets out how the provisions in the 2008 Act as modified by paragraph (5) apply.

PART 4

Transport

Highways functions

9.—(1) The functions of the constituent councils under the following provisions of the 1980 Act are exercisable by the GMCA in relation to the Area—

(a) section 6(**a**)(powers to enter into agreements with the Minister or strategic highways companies relating to the exercise of functions with respect to trunk roads etc); and

(b) section 8(**b**)(power to enter into agreements with local highway authorities and strategic highways companies for the doing of certain works).

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

(3) For the purposes of paragraph (1)(b), section 8(3) of the 1980 Act has effect as if the words "another highway authority" and "that other highway authority" were replaced with "the GMCA".

Road Safety

10.—(1) The functions of the constituent councils under section 39(2) and (3) of the Road Traffic Act 1988(**c**) (duties of local authorities to prepare and carry out a programme of measures designed to promote road safety, and carry out studies into accidents arising out of the use of vehicles on certain roads within their areas) are exercisable by the GMCA in relation to the Area.

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

Grants to bus service operators

11.—(1) Subject to paragraphs (2) to (4), the GMCA shall have in relation to the Area a function corresponding to the function in section 154(1) of the 2000 Act (grants to bus service operators) which the Secretary of State has in relation to England.

(2) For the purpose of paragraph (1), section 154(1) of the 2000 Act shall have effect as if "with the approval of the Treasury" were omitted.

(3) Grants made under paragraph (1) must be—

(a) calculated in accordance with such method as may be provided by any regulations made by the Secretary of State by virtue of section 154(2) of the 2000 Act; and

(b) subject to sub-paragraph (a), of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as may be determined by the Secretary of State by virtue of section 154(3) of the 2000 Act and notified to the GMCA.

(**a**) 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 (c. 19), section 1 of, and paragraph 7 of Schedule 1to, the Infrastructure Act 2015, and S.I. 1995/1986.

(**b**) 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 1to, the Infrastructure Act 2015.

(**c**) 1988 c.52. Section 39 was amended by section 168 of, and paragraph 121(3) of Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22), and by section 279 of the 1999 Act.

(4) Grants must not be made under paragraph (1) to the extent that eligible bus services operate outside the Area.

(5) In this article, "eligible bus services" has the meaning given by section 154(5) of the 2000 Act.

PART 5

Additional functions

Education, skills and training functions

12.—(1) The functions of the constituent councils contained in the following provisions are exercisable by the GMCA in relation to the Area—

(a) section 51A of the Further and Higher Education Act 1992 (duty to provide for named individuals: England)(**a**);

(b) section 13A of the 1996 Act (duty to promote high standards and fulfilment of potential)(**b**);

(c) section 15A of the 1996 Act (powers in respect of education and training for 16 to 18 year olds)(**c**);

(d) section 15B of the 1996 Act (functions in respect of education for persons over 19)(**d**);

(e) section 10 of the E&SA 2008(local authority to promote fulfilment of duty imposed by section 2)(**e**);

(f) section 12 of the E&SA 2008 (duty to make arrangements to identify persons not fulfilling duty imposed by section 2)(**f**);

(g) section 68 of the E&SA 2008 (support services: provision by local authorities)(**g**);

(h) section 70 of the E&SA 2008 (local authorities: supplementary powers)(**h**); and

(i) section 71 of the E&SA 2008 (provision of support on conditional basis: learning and support agreements)(**i**).

(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 GMCA.

Culture

13.—(1) The functions of the constituent councils under section 145 of the Local Government Act 1972 (provision of entertainments)(**j**) are exercisable by the GMCA in relation to the Area.

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

(**a**) Section 51A was inserted by section 44 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) and was amended by S.I. 2010/1158.

(**b**) c. 56. Section 13A was inserted by section 59 of, and paragraph 3 of Schedule 2 to, the Apprenticeships, Skills, Children and Learning Act 2009 and amended by section 82 of, and paragraph 4 of Schedule 3 to, the Children and Families Act 2014 (c. 6) and by S.I. 2010/1158.

(**c**) Section 15A was inserted by section 140 of, and paragraph 63 of Schedule 30 to, the School Standards and Framework Act 1998 (c. 31) and was amended by section 149 of, and paragraph 54 of Schedule 9 to, the Learning and Skills Act 2000 (c. 21); section 59 of, and paragraph 4 of Schedule 2 to, the Apprenticeships, Skills, Children and Learning Act 2009; section 82 of, and paragraph 6 of Schedule 3 to, the Children and Families Act 2014 and by S.I. 2010/1158.

(**d**) Section 15B was inserted by section 149 of, and paragraph 55 of Schedule 9 to, the Learning and Skills Act 2000 and was amended by section 82 of, and paragraph 7 of Schedule 3 to, the Children and Families Act 2014 and by S.I. 2010/1158.

(**e**) Section 10 was amended by S.I. 2010/1158.

(**f**) Section 12 was amended by S.I. 2010/1158.

(**g**) Section 68 was amended by section 28 of the Education Act 2011 (c. 21) and by S.I. 2010/1158.

(**h**) Section 70 was amended by section 28 of the Education Act 2011 and by S.I. 2010/1158.

(**i**) Section 71 was amended by section 28 of the Education Act 2011.

(**j**) 1972 c. 70. Section 145 was amended by section 198 of, and paragraph 59 of Schedule 6 to, the Licensing Act 2003 (c. 17).

(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 GMCA.

PART 6

Funding

Funding

14.—(1) The constituent councils must ensure that the costs of the GMCA reasonably attributable to the exercise of the functions mentioned in articles 5 (save for the function in section 9(2) of the 2008 Act), 6(1)(b) to (l) and (n), 12 and 13 are met.

(2) Subject to paragraph (4), the constituent councils must meet the costs of the expenditure reasonably incurred by the Mayor in, or in connection with, the exercise of the functions specified in articles 3, 5 (in relation only to the function in section 9(2) of the 2008 Act), 6(1)(a) and (m), and 11, to the extent that the Mayor has not decided to meet these costs from other resources available to the GMCA.

(3) Any amount payable by each of the constituent councils to ensure that the costs of the GMCA referred to in paragraphs (1) and (2) are met is to be determined by apportioning such costs between the constituent councils in such proportions as they may agree or, in default of such agreement, in proportion to the total resident population of the GMCA which resides in that council at the relevant date as estimated by the Statistics Board(**a**).

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

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

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

(ii) in the absence of the agreement specified in paragraph (i), no such expenditure may be incurred.

(b) any precept issued in relation to such expenditure under section 40 of the Local Government Finance Act 1992(**b**) is to be disregarded from any calculation of the costs of the expenditure.

(5) The functions mentioned in articles 9 and 10 are to be funded out of the levy issued by the GMCA to the constituent councils under section 74 of the Local Government Finance Act 1988(**c**) and in accordance with the Transport Levying Bodies Regulations 1992(**d**).

(6) For the purposes of this article 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.

(**a**) 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).

(**b**) c. 14. Section 40 was amended by section 83 of the 1999 Act, section 79 of, and paragraph 7 of Schedule 17 to, the Localism Act 2011 and section 5 of the Cities and Local Government Devolution Act 2016.

(**c**) c. 41. 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.

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

PART 7

Functions of the GMCA exercisable only by the Mayor; political advisers

General functions of the GMCA exercisable only by the Mayor

15.—(1) The following functions(**a**) are general functions exercisable only by the Mayor(**b**)—

(a) the functions of the GMCA in the following enactments—

(i) section 17 of the 1985 Act (acquisition of land for housing purposes) insofar as this function is exercised for the compulsory purchase of land;

(ii) section 226 of the 1990 Act (compulsory acquisition of land for development and other planning purposes);

(iii) section 9(2) of the 2008 Act (acquisition of land);

(b) the functions of the GMCA corresponding to the functions specified in—

(i) sections 334 to 342 ((the spatial development strategy); (public participation); (withdrawal); (publication); (examination in public); (review of matters affecting the strategy); (reviews of the strategy); (alteration or replacement); (matters to which the Mayor is to have regard)) and 346 (monitoring and data collection) of the 1999 Act; and

(ii) section 154(1) of the 2000 Act (grants to bus service operators).

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

(3) The exercise by the Mayor of the functions mentioned in paragraph (1)(a) requires the consent of —

(a) all members of the GMCA 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 GMCA.

(4) The exercise by the Mayor of the functions corresponding to the functions specified 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.

(5) In respect of arrangements made under section 107D(3)(b) of the 2009 Act (functions of mayors: general) in relation to the functions specified in paragraph (1)—

(a) the Greater Manchester Passenger Transport Executive(**d**) is to be treated as if it were an officer of the GMCA; and

(b) the mayor must not make such arrangements in relation to a political adviser appointed under article 16(1).

(6) Anything which, immediately before 8th May 2017, is in the process of being done by or in relation to the GMCA or by or in relation to a constituent council for the purposes of or in

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(**a**) 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.

(**b**) The Mayor for the area of the Greater Manchester Combined Authority was established by the Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016 (S.I. 2016/448).

(**c**) Section 113A was inserted by section 13 of the Localism Act 2011 and amended by section 23 of, and paragraph 25 of Schedule 5 to, the Cities and Local Government Devolution Act 2016.

(**d**) The Greater Manchester Passenger Transport Executive was established by the South East Lancashire and North East Cheshire Passenger Transport Area (Designation) Order 1969 (S.I. 1969/95).

connection with the functions mentioned in paragraph (1), is to be treated as having been done by or in relation to the Mayor.

Political advisers

16.—(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 GMCA.

(3) No appointment under paragraph (1) shall 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(**a**)(assistants for political groups), shall apply in relation to an appointment under paragraph (1) as if—

(i) any appointment to that post were the appointment of a person in pursuance of that section; and

(ii) the GMCA were a relevant authority for the purposes of that section.

(6) Subsection (3) of section 9 of the 1989 Act shall apply 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.

PART 8

Amendment of the Greater Manchester Combined Authority Order 2011

Amendments of the Greater Manchester Combined Authority Order 2011

17.—(1) The 2011 Order is amended as follows—

(2) In article 2 (interpretation)—

(a) omit the definition "acting Interim Mayor";

(b) omit the definition "Interim Mayor" ;

(c) after the definition of "ITA" insert —

""Mayor" means the mayor for the area of the GMCA".

(3) In paragraph (3) of article 3 (establishment), after "or as may be delegated to it by", insert "or under".

(4) Schedule 1 (constitution) is amended as follows—

(a) paragraph 1A (interim mayor) is omitted;

(b) in paragraph 2 (chair and vice-chair(s)) for sub-paragraph (1) substitute —

"(1) The GMCA may appoint one or more vice-chairs from among its members and any appointments are to be the first business transacted at the annual meeting of the GMCA.";

(c) paragraph 2A (chair and vice chair(s) – Interim Mayor) is omitted;

(d) in paragraph 3 (proceedings)—

(**a**) 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 (c. 28) and by S.I. 2001/2237.

(i) in sub-paragraph (1), after "sub-paragraphs" insert "(2A), (2B),";

(ii) after sub-paragraph (2) insert—

"(2A) Questions relating to functions exercised pursuant to sections 335, 336, 337, and 341 of the Greater London Authority Act 1999 as applied by the Greater Manchester Combined Authority (Functions and Amendment) Order 2016 require a unanimous vote in favour by all members, or substitute members acting in place of those members, appointed by the constituent councils to be carried.

(2B) Questions relating to expenditure in respect of amounts payable under arrangements made under article 14(4)(a) of the Greater Manchester Combined Authority (Functions and Amendment) Order 2016 require at least 7 votes in favour by members, or substitute members acting in place of those members, appointed by the constituent councils to be carried."

(iii) in sub-paragraph (3), for "7" substitute "8";

(iv) in sub-paragraph (4), for "10" substitute "11";

(v) omit sub-paragraphs (6) to (9); and

(e) the final paragraph (remuneration) of Schedule 1 is renumbered as paragraph 6, and in sub-paragraph (3) of that paragraph omit "Interim".

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

Name
Parliamentary Under Secretary of State
Date Department for Communities and Local Government

SCHEDULE 1

Article 4

Spatial development strategy

PART 1

Modification of the application of Part 8 of the 1999 Act

1.—(1) Part 8 of the 1999 Act is modified in accordance with the following provisions.

(2) Part 8 of the 1999 Act shall have effect as if—

(a) sections 344 (amendments of the Town and Country Planning Act 1990), 345 (Town and Country Planning Act 1990: costs of appeals) and 349 (abolition of joint planning committee for Greater London) were omitted;

(b) for every reference to—

(i) "Greater London" there were a reference to "Greater Manchester";

(ii) "the Mayor" there were a reference to "the GMCA";

(iii) "he" there were a reference to "the GMCA", save for section 337(6) (publication);

(iv) "under section 343" there were substituted "relating to the GMCA under section 343".

(3) Section 334 of the 1999 Act (the spatial development strategy) shall have effect as if—

(a) in subsection (3) for "his" there were substituted "its";

(b) for subsection (4) there were substituted—

"(4) The spatial development strategy must include statements dealing with the general spatial development aspects of such of the GMCA's other policies or proposals as involve considerations of spatial development.".

(4) Section 335 of the 1999 Act (public participation) shall have effect as if—

(a) in subsection (2)(a) for "his" there were substituted "its";

(b) subsection (3)(aa) were omitted;

(c) in subsection (3)(b), for "London borough council" there were substituted "constituent council";

(d) in subsection (4), for the words after "include" to the end of the subsection there were substituted—

"—

(a) voluntary bodies some or all of whose activities benefit the whole or part of Greater Manchester;

(b) bodies which represent the interests of different racial, ethnic or national groups in Greater Manchester;

(c) bodies which represent the interests of different religious groups in Greater Manchester; and

(d) bodies which represent the interests of different persons carrying on business in Greater Manchester.";

(e) for subsection (8) there were substituted—

"(8) In this section "the prescribed period" means such period as may be prescribed by, or determined in accordance with, regulations relating to the GMCA made under section 343 below.".

(5) Section 336 of the 1999 Act (withdrawal) shall have effect as if in subsection (3)—

(a) paragraph (a) were omitted; and

(b) paragraph (b) were omitted.

(6) Section 338 of the 1999 Act (examination in public) shall have effect as if for "Authority" there were substituted "the Mayor of Greater Manchester".

(7) Section 339 (review of matters affecting the strategy) of the 1999 Act shall have effect as if in subsection (2) for "his" there were substituted "its".

(8) Section 342 of the 1999 Act (matters to which the Mayor is to have regard) shall have effect as if—

(a) for subsection (1) there were substituted—

"(1) In exercising its functions under the preceding provisions of this Part, the GMCA shall have regard to—

(a) the National Planning Policy Framework;

(b) any strategy relating to the health, well being, environment or economy of Greater Manchester published by the Association of Greater Manchester Authorities;

(c) the effect that the proposed spatial development strategy or revision would have on—

(i) the health of persons in Greater Manchester;

(ii) health inequalities between persons living in Greater Manchester;

(iii) the achievement of sustainable development in the United Kingdom;

(iv) climate change and the consequences of climate change;

(v) the need to ensure that the strategy is consistent with national policies and the EU obligations of the United Kingdom; and

(d) such other matters as the Secretary of State may prescribe.".

(b) subsection (2) were omitted.

(9) Section 347 of the 1999 Act (functional bodies to have regard to the strategy), shall have effect as if there were substituted—

"Constituent councils to have regard to the strategy

347. In exercising any function, each of the constituent councils and the GMCA shall have regard to the spatial development strategy, but this is without prejudice to section 24 of the Planning and Compulsory Purchase Act 2004 as modified by Part 2 of Schedule 1 to the Greater Manchester Combined Authority (Functions and Amendment) Order 2016 (which requires certain documents of a constituent council to be in general conformity with the strategy).".

(10) Section 348 of the 1999 Act (Mayor's functions as to planning around Greater London) shall have effect as if—

(a) in subsections (1), (2) and (3) for "his" there were substituted "its";

(b) in subsection (3), for "London borough councils" there were substituted "constituent councils"; and

(c) in subsection (4), for "Authority" there were substituted "GMCA".

(11) Section 350 of the 1999 Act (interpretation of Part VIII) shall have effect as if —

(a) the following definitions were inserted, in the appropriate places—

"the Association of Greater Manchester Authorities" means the joint committee of the constituent councils established under section 101(5)(a) of the Local Government Act 1972;

"constituent councils" means the metropolitan district councils for the local government areas of Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford, and Wigan;

"the GMCA" means the Greater Manchester Combined Authority;

"Greater Manchester" means the area of the GMCA;

"Mayor of Greater Manchester" is the person elected to the position established by article 3 of the Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016(**a**); and

(b) subsection (2) were omitted.

PART 2

Modification of the application of the 2004 Act

2.—(1) Sections 19, 24, 37, 38 and 113 of the 2004 Act are modified in accordance with the following provisions.

(2) Section 19 of the 2004 Act (preparation of local development documents), shall have effect as if for subsection (2)(c) there were substituted—

"(c) the spatial development strategy if the authority is a constituent council of the GMCA or if any of the authority's area adjoins Greater Manchester;".

(3) In section 24 of the 2004 Act (conformity with regional strategy) shall have effect as if—

(a) for subsection (1)(b) there were substituted—

"(b) the spatial development strategy if the authority is a constituent council of the GMCA.";

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

"(4A) A local planning authority which is a constituent council of the GMCA—

(a) must request the opinion in writing of the GMCA as to the general conformity of a development plan document with the spatial development strategy;

(**a**) S.I. 2016/TBC.

(b) may request the opinion in writing of the GMCA as to the general conformity of any other local development document with the spatial development strategy.";

(c) after subsection (5) there were inserted—

"(5A) The GMCA may give an opinion as to the general conformity of a local development document with the spatial development strategy irrespective of whether a request is made under subsection (4A).."; and

(d) in subsection (7) for "Mayor" there were substituted "Mayor of Greater Manchester".

(4) Section 37 of the 2004 Act (interpretation) shall have effect as if after subsection (6A)(**a**), there were inserted—

"(6B) In relation to the GMCA, in this section—

"constituent council" means one of the metropolitan district councils for the local government areas of Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford and Wigan;

"GMCA" is the Greater Manchester Combined Authority established by the Greater Manchester Combined Authority Order 2011;

"Greater Manchester" is the area of the GMCA as specified in article 3 of the Greater Manchester Combined Authority Order 2011;

"Mayor of Greater Manchester" is the person elected to the position established by article 3 of the Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016; and

"spatial development strategy", in relation to the GMCA, means a strategy established by the GMCA in exercise of powers under article 3 of the Greater Manchester Combined Authority (Functions and Amendment) Order 2016.".

(5) Section 38 of the 2004 Act (development plan) shall have effect as if—

(a) after subsection (2) there were inserted—

"(2A) For the purposes of any area in Greater Manchester the development plan is–

(a) the spatial development strategy;

(b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area; and

(c) the neighbourhood development plans which have been made in relation to that area.";

(b) after subsection (10) there were inserted—

"(11) In this section—

"GMCA" is the Greater Manchester Combined Authority established by the Greater Manchester Combined Authority Order 2011;

"Greater Manchester" is the area of the GMCA as specified in article 3 of the Greater Manchester Combined Authority Order 2011; and

"spatial development strategy", in relation to the GMCA, means a strategy established by the GMCA in exercise of powers under article 3 of the Greater Manchester Combined Authority (Functions and Amendment) Order 2016.".

(6) Section 113 of the 2004 Act (validity of strategies, plans and documents) shall have effect as if—

(a) in subsection (1), after "the Mayor of London's", there were inserted "or the GMCA's";

(b) in subsection (11)(e), after "the Mayor of London", there were inserted "or the GMCA";

(c) after subsection (12), there were inserted—

(**a**) Section 37(6A) was inserted by section 85 of, and paragraph 17 of Schedule 5 to, the 2009 Act.

"(13) In this section "GMCA" is the Greater Manchester Combined Authority established by the Greater Manchester Combined Authority Order 2011." .

SCHEDULE 2

Article 8

Modification of the application of Chapters 1 and 2 of Part 1 of the 2008 Act

1.—(1) Chapters 1 and 2 of Part 1 of the 2008 Act are modified in accordance with the following provisions.

(2) Sections 5 (powers to provide housing or other land), 6 (powers for regeneration, development or effective use of land), 7 (powers in relation to infrastructure), 8 (powers to deal with land etc.), 9 (acquisition of land), 10 (restrictions on disposal of land), 11 (main powers in relation to acquired land) of, and Schedules 2 to 4 to, the 2008 Act, as applied by article 8, shall have effect as if for every reference to—

(a) "the HCA" there were substituted a reference to "the Greater Manchester Combined Authority";

(b) "Part 1" of that Act there were substituted a reference to "Part 3 of the Greater Manchester Combined Authority (Functions and Amendment) Order 2016"; and

(c) "the HCA's land" or land acquired or held by the HCA there were substituted a reference to "the Greater Manchester Combined Authority's land" or land acquired or held by the Greater Manchester Combined Authority.

(3) Sections 5, 6, 8, 9 and 10 of the 2008 Act shall have effect as if for every reference to "land" there were substituted a reference to "land in the area of the Greater Manchester Combined Authority".

(4) Section 57(1) of the 2008 Act shall have effect as if the following definition were inserted at the appropriate place—

> ""Greater Manchester Combined Authority" means the body corporate established by the Greater Manchester Combined Authority Order 2011;"

(5) Part 1 of Schedule 2 to the 2008 Act (compulsory acquisition of land) shall have effect as if for every reference to "section 9" of that Act there were substituted a reference to "article 5" of this Order;

(6) Schedule 3 to the 2008 Act (main powers in relation to land acquired by the HCA) shall have effect as if for references to land which has been vested in or acquired by the HCA there were substituted references to land which has been vested in or acquired by the Greater Manchester Combined Authority.

(7) Schedule 4 to the 2008 Act (powers in relation to, and for, statutory undertakers) shall have effect as if for every reference to the HCA under Part 1 of that Act there were substituted a reference to the functions conferred on the Greater Manchester Combined Authority under article 5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the conferral of functions of local authorities and other public authorities on the Greater Manchester Combined Authority ("the GMCA"). This Order has been made following the publication on 18 March 2016 of a scheme for the conferral of functions on the GMCA. The scheme is available at: https://www.greatermanchester-ca.gov.uk/new_devo_powers.

Part 6 of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act") provides for the establishment of combined authorities for the areas of two or more local authorities in England. Combined authorities are bodies corporate which may be given power to

exercise specified functions of a local authority under sections 104, 105 and 105A of the 2009 Act, and power to exercise specified functions of any other public authority under section 16 of the Cities and Local Government Devolution Act 2016 ("the 2016 Act").

The Secretary of State may provide for there to be a mayor for the area of a combined authority where the constituent councils of the combined authority (each district council or county council whose area is within the area of the combined authority) and any existing combined authority consent under section 107B(3) of the 2009 Act.

Part 2 of and Schedule 1 to the Order confers on the GMCA functions corresponding to the spatial development strategy function that the Mayor of London has in relation to Greater London under section 334(1) of the Greater London Authority Act 1999.

Part 3 of and Schedule 2 to the Order confer on the GMCA functions in relation to housing and regeneration which are exercised concurrently with the Homes and Communities Agency. Part 4 of the Order confers further transport functions on the GMCA in relation to its area, to be exercised concurrently with its constituent councils. *Article 9* confers functions to enter into agreements in respect of highways functions, *article 10* confers functions in respect of road safety, and *article 11* confers on the GMCA functions to give grants to bus service operators.

Part 5 of the Order confers additional functions on the GMCA which are to be exercised concurrently with the constituent councils. *Article 12* confers functions regarding education and skills, and *article 13* provides the GMCA with a functional power of culture.

Part 6 makes provision for the funding of the functions conferred on the GMCA. *Article 14* provides that most of the functions are to be funded by contributions from the GMCA's constituent councils.

Part 7 of the Order makes additional provision for the Mayor for the area of the GMCA. *Article 15* sets out the functions of the GMCA which are to be only exercisable by the Mayor, and *article 16* provides for the appointment of a political adviser to the Mayor.

Part 8 of the Order provides for amendments to the order establishing the GMCA. *Article 17* makes some general, incidental provisions relating to the GMCA to enable it to carry out its functions effectively.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector.

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