

Draft Order laid before Parliament under section 85 of the Transport Act 1985, section 94 of the Local Transport Act 2008 and section 117(2) of the Local Democracy, Economic Development and Construction Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2016 No.

LOCAL GOVERNMENT, ENGLAND

TRANSPORT, ENGLAND

The West Midlands Combined Authority Order 2016

Made - - - - *****
Coming into force - - *1st June 2016*

This Order is made in exercise of the powers conferred by section 85 of the Transport Act 1985(a) (“the 1985 Act”), sections 84, 91 and 93 of the Local Transport Act 2008(b) (“the 2008 Act”) and sections 103 to 105 and 114 to 116 of, and paragraph 3 of Schedule 5A to, the Local Democracy, Economic Development and Construction Act 2009(c) (“the 2009 Act”).

The Secretary of State, having regard to a scheme prepared and published under section 109 of the 2009 Act, considers that the making of this Order is likely to improve the exercise of statutory functions in the area or areas to which this Order relates.

The Secretary of State is satisfied that the area to which this Order relates meets the conditions set out in section 103 of the 2009 Act.

The councils for the local government areas of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton, whose areas are within the area for which the combined authority is to be established consent to the making of this order.

The Secretary of State has consulted—

- (a) the councils for the area comprised in the West Midlands integrated transport area,
- (b) the West Midlands Integrated Transport Authority,

(a) 1985 c 67. Section 85 was amended by the Local Transport Act 2008 (c. 26) Schedule 4, paragraphs 18 and 30 and by S.I. 2009/107.
(b) 2008 c 26. [Section 91 was amended by the Local Democracy, Economic Development and Construction Act 2009 (c 20) Schedule 6, paragraphs 112 and 129.]
(c) 2009 c.20. Section 103 was amended by sections 12 and 14 of the Cities and Local Government Devolution Act 2016 (c. 1). Section 104 was amended by sections 8 and 14 of, and Schedule 5 to, the Cities and Local Government Devolution Act 2016. Section 105 was amended by sections 6, 9 and 14 of the Cities and Local Government Devolution Act 2016. Section 114 was amended by Schedule 5 to the Cities and Local Government Devolution Act 2016. Section 116 was amended by Schedule 5 to the Cities and Local Government Devolution Act 2016. Section 117 was amended by section 13 of the Localism Act 2011 (c. 20) and Schedule 5 to the Cities and Local Government Devolution Act 2016.

- (c) the West Midlands Passenger Transport Executive,
- (d) such other persons as the Secretary of State considered appropriate.

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

The Secretary of State considers that consultation required by section 110(2) of the 2009 Act 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 to secure effective and convenient local government.

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 85 of the 1985 Act, section 94 of the 2008 Act and section 117(2) of the 2009 Act(a).

Accordingly, the Secretary of State makes the following Order:

PART 1

General

Citation and commencement

1. This Order may be cited as the West Midlands Combined Authority Order 2016 and shall come into force on 1st June 2016.

Interpretation

2. In this Order—

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

“combined area” means the area consisting of the areas of the constituent councils;

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

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

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

“the ITA” means the West Midlands Integrated Transport Authority;

“Local Enterprise Partnership” means the board of—

- (a) the Black Country Local Enterprise Partnership;
- (b) Greater Birmingham and Solihull Local Enterprise Partnership; and
- (c) Coventry and Warwickshire Local Enterprise Partnership ;

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

(a) Section 117 was amended by section 13 of the Localism Act 2011 (c. 20).

PART 2

Establishment of a combined authority for West Midlands

Establishment

- 3.—(1) There is established a combined authority for the combined area.
- (2) The combined authority is to be a body corporate and is to be known as the West Midlands Combined Authority.
- (3) The functions of the Combined Authority are those functions conferred or imposed upon it by this Order or by any other enactment (whenever passed or made), or as may be delegated to it by or under this Order or any other enactment (whenever passed or made).

Constitution

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

Funding

- 5.—(1) The constituent councils must meet the costs of the Combined Authority reasonably attributable to the exercise of the functions mentioned in article 10 (economic development and regeneration).
- (2) The amount payable by each of the constituent councils is to be determined by apportioning the costs of the Combined Authority referred to in paragraph (1) between the constituent councils in such proportions as they may agree or, in default of such agreement, in proportion to the total resident population at the relevant date of the area of each council concerned as estimated by the Registrar General.
- (3) For the purposes of paragraph (2) the relevant date in relation to a payment for a financial year is 30th June in the financial year which commenced two years prior to the current financial year.

PART 3

Transport

Passenger Transport Executive

- 6.—(1) In this order “the Executive” means the West Midlands Passenger Transport Executive established by the West Midlands Passenger Transport Area (Designation) Order 1969(a)
- (2) The Executive shall be dissolved and all the functions, property, rights and liabilities of the Executive shall be transferred to the ITA.
- (3) Subject to article 8(4) and Schedule 2 and to the following provisions of this article, any reference in any enactment (whenever passed or made) to a passenger transport executive or to passenger transport executives is to be treated, in its application to the combined area, as if it were to the West Midlands Combined Authority.
- (4) Paragraph (3) does not apply to the following enactments—
- (a) In the Audit Commission Act 1998(b)—
- (i) sections 11(2)(g);

(a) S.I. 1969/97.

(b) 1998 c. 18.

- (ii) section 30(1), (3) and
 - (iii) in Schedule 2, paragraph 4.
 - (b) paragraph 28 of Schedule 1 to the Freedom of Information Act 2000(a)
 - (c) Schedule 2 to the Local Government Act 1988(b)
 - (d) section 33 of the Railways Act 2005(c)
 - (e) sections 95, 96, 97, 104(2) and (3) and 137(5) of the Transport Act 1985; and
 - (f) section 162(4) of the Transport Act 2000(d).
- (5) The West Midlands Passenger Transport Area (Designation) Order 1969 is revoked

Abolition and transfer of functions

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

(2) On the abolition of the ITA—

- (a) its functions; and
- (b) its property, rights and liabilities

are transferred to the Combined Authority.

Adaption of enactments

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

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

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

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

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

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

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

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

Continuity

9.—(1) Nothing in article 6, 7 or 8 affects the validity of anything done by or in relation to the ITA or the Executive before 1st June 2016.

(2) There may be continued by or in relation to the West Midland Combined Authority anything (including legal proceedings) which—

- (a) relates to any of the functions, property, rights or liabilities transferred to the West Midlands Combined Authority; and
- (b) is in process of being done by or in relation to the ITA or the Executive immediately before 1st June 2016.

(3) Anything which—

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

- (a) was made or done by or in relation to the ITA or the Executive for the purposes of or otherwise in connection with any of the functions, property rights or liabilities transferred and
- (b) is in effect immediately before the transfer takes effect,

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

(4) The West Midlands Combined Authority shall be substituted for the ITA or, where appropriate, the Executive in any instruments, contracts or legal proceedings which—

- (a) relate to any of the functions, property, rights or liabilities transferred; and
- (b) are made or commenced before the transfer takes effect.

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

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

PART 4

Additional functions

Economic development and regeneration functions

10.—(1) The functions of the constituent councils set out in Schedule 3 are exercisable by the Combined Authority in relation to its 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

11. The following provisions shall have effect as if the Combined Authority were a local authority for the purposes of these provisions—

- (a) section 142(2) of the Local Government Act 1972(b) (power to arrange for publication of information etc. relating to the functions of the authority); and
- (b) section 222 of the Local Government Act 1972(c) (power to prosecute and defend legal proceedings).

12.—(1) The Combined Authority shall have the power to exercise any of the functions described in subsection (1)(a) and (b) of section 88 of the Local Government Act 1985(d) (research and collection of information) 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 shall have effect as if a reference to “that area” were a reference to the combined area.

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

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

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

(d) 1985 c. 51.

13. Section 13 of the Local Government and Housing Act 1989(a) (voting rights of members of certain committees) has effect as if—

- (a) in subsection (4) after paragraph (h) there were inserted—
 - “(i) subject to subsection (4A), a committee appointed by the West Midlands Combined Authority;”;
- (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—
 - (a) is a member of one of the constituent councils as defined by article 2 of the West Midlands Combined Authority Order 2016; or
 - (b) is given voting rights by resolution of the Combined Authority in accordance with paragraph 4(4) of Schedule 1 to that Order.”.

14. Regulation 64 of the Local Government Pension Scheme Regulations 2013(b) (special circumstances where revised actuarial valuations and certificates must be obtained) shall have effect as if after paragraph (8) there were inserted—

“(8A) Paragraph (8B) applies where the existing employer is the West Midlands Integrated transport Authority (“the ITA”) and the liabilities of the fund in respect of benefits due to the ITA’s current and former employees (or those of any predecessor authority) have been or are to be transferred to the West Midlands Combined Authority as a result of the establishment of the combined authority by article 3(1) of the West Midlands Combined Authority Order 2016.

(8B) Where this paragraph applies, no exit payment is due under paragraph (1) and paragraph (2) does not apply.”

15.—(1) The Local Government Pension Scheme Regulations 2013 are amended as follows.

- (2) In Part 2 of Schedule 3 (appropriate administering authority)—
 - (a) in column 1 of the table insert at the end—
 - “an employee of the West Midlands Combined Authority established by the West Midlands Combined Authority Order 2016.”;
 - (b) in column 2 of the table insert at the end—
 - “[Wolverhampton City Council.”.]

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

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

Date

(a) 1989 c. 42. Section 13 was amended by was amended by the Education Act 1993 (c. 35) Schedule 21(II) paragraph 1 and by Schedule 37(I) paragraph 96; by the Police and Magistrates' Courts Act 1994 (c. 29) Schedule 9(I) paragraph 1 and by Schedule 4(I) paragraph 36; by the Environment Act 1995 (c. 25) Schedule 24 paragraph 1; by the Education Act 1996 (c. 56) Schedule 37(I) paragraph 96 and by Schedule 38(I) paragraph 1; by the School Standards and Framework Act 1998 (c. 31) Schedule 30 paragraph 22; by the Children Act 2004 (c. 31) Schedule 5(4) paragraph 1; by the Local Democracy, Economic Development and Construction Act 2009 Schedule 6 paragraph 81; by the Marine and Coastal Access Act 2009 (c. 23) Schedule 14 paragraph 14 and by Schedule 22(4) paragraph 1; by the Public Service Pensions Act 2013 (c. 25) Schedule 8 paragraph 15; by S.I. 2001/1517; and by S.I. 2010/1158.

(b) S.I.2013/235, amended by S.I. 2014/1146 and S.I. 2014/1146.

SCHEDULE 1

Article 4

Constitution

Membership

1.—(1) The Combined Authority shall comprise of twenty two members as provided for in the following sub-paragraphs.

(2) Each constituent council must appoint two of its elected members to be members of the Combined Authority.

(3) Each non-constituent council shall appoint one of its elected members to be a member of the Combined Authority.

(4) Each constituent council must appoint another two of its elected members to act as members of the Combined Authority in the absence of the members appointed under sub-paragraph (2) (“the substitute member”).

(5) Each non-constituent council must appoint another one of its elected members to act as a member of the Combined Authority in the absence of the member appointed under sub-paragraph (3) (“the substitute member”).

(6) Each Local Enterprise Partnership must nominate one of its members to be a member of the Combined Authority (“the Local Enterprise Partnership Members”).

(7) Each Local Enterprise Partnership must nominate one of its members to act as a member of the Combined Authority in the absence of the member appointed under sub-paragraph (5) (“the substitute member”).

(8) The Combined Authority must appoint the members nominated by the Local Enterprise Partnerships as members of the Combined Authority (“Local Enterprise Partnership Members”).

(9) The Combined Authority must appoint the other member nominated by each Local Enterprise Partnership to act as a member of the Combined Authority in the absence of the member appointed under sub-paragraph (6).

(10) A person ceases to be a member or substitute member of the Combined Authority if they cease to be a member of—

- (a) the constituent council or non-constituent council that appointed them; or
- (b) the Local Enterprise Partnership that nominated them.

(11) A person may resign as a member or substitute member of the Combined Authority by written notice served on the proper officer of the council that appointed them or, as the case may be, the chair or vice-chair of the Local Enterprise Partnership that nominated them, and the resignation takes effect on receipt of the notice by the proper officer of the council or chair or vice-chair of the Local Enterprise Partnership (as the case may be).

(12) Where a member or substitute member’s appointment ceases by virtue of sub-paragraph (10) or (11)—

- (a) the constituent council or the non-constituent council that made the appointment must, as soon as practicable, give written notice of that fact to the Combined Authority and appoint another of its elected members in that person’s place;
- (b) the Local Enterprise Partnership that made the nomination must, as soon as practicable, give written notice of that fact to the Combined Authority and nominate another of its members in that person’s place.

(13) The combined authority shall appoint a member nominated under sub-paragraph (12)(b) at the next ordinary meeting of the Combined Authority.

(14) A constituent council or non-constituent council may at any time terminate the appointment of a member or substitute member appointed by it to the Combined Authority and appoint another one of its elected members in that person’s place.

(15) Where a constituent council or non-constituent council exercises its power under sub-paragraph (14), it must give written notice of the new appointment and the termination of the previous appointment to the Combined Authority and the new appointment shall take effect and the previous appointment terminate at the end of one week from the date on which the notice is given or such longer period not exceeding one month as is specified in the notice.

(16) A Local Enterprise Partnership may at any time terminate the appointment of a member or substitute member nominated by it to the Combined Authority and nominate another of its members in that person's place.

(17) Where a Local Enterprise Partnership exercises its power under sub-paragraph (16), it must give written notice of the new nomination and the termination of the previous appointment to the Combined Authority.

(18) The Combined Authority must appoint a member nominated under sub-paragraph (17) and the new appointment shall take effect and the previous appointment terminate at the end of one week from the date on which the notice is given or such longer period not exceeding one month as is specified in the notice.

(19) For the purposes of this paragraph, an elected mayor of a constituent council or non-constituent council is to be treated as a member of the constituent council or non-constituent council.

Chairman and vice-chairmen

2.—(1) The Combined Authority must in each year appoint a chairman and one or more vice-chairmen from among its members and the appointments are to be the first business transacted after the appointment of members of the Combined Authority, at the first meeting of the Combined Authority, and in subsequent years at the annual meeting of the Combined Authority.

(2) A person ceases to be chairman or vice-chairman of the Combined Authority if they cease to be a member of the Combined Authority.

(3) If a vacancy arises in the office of chairman or vice-chairman, an appointment to fill the vacancy is to be made at the next ordinary meeting of the Combined Authority, or, if that meeting is to be held within 14 days of the vacancy arising, at the meeting following that meeting.

Proceedings

3.—(1) Subject to the following sub-paragraphs, any questions that are to be decided by the Combined Authority are to be decided by a two-thirds majority of the constituent members and substitute members, acting in place of constituent members, present and voting on that question at a meeting of the Combined Authority.

(2) No business is to be transacted at a meeting of the Combined Authority unless at least five members, or substitute members, appointed by at least five of the constituent councils are present at the meeting.

(3) Each member, or substitute member acting in that member's place, is to have one vote and no member or substitute member is to have a casting vote.

(4) If a vote is tied on any matter it is deemed not to have been carried.

(5) Members appointed by the non-constituent councils or appointed from the Local Enterprise Partnerships shall be non-voting members of the Combined Authority but may be given voting rights by resolution of the Combined Authority.

(6) Questions relating to the following matters require a unanimous vote in favour by all constituent council members, or substitute members, acting in place of those members, present and voting on that question to be carried—

- (a) approval of borrowing limits, treasury management strategy including reserves, investment strategy and capital budget of the Combined Authority;
- (b) the conferral of further functions on the Combined Authority;

- (c) voting rights for members of the Combined Authority appointed otherwise than from among the elected members of the constituent councils;
- (d) the exercise of its functions in accordance with section 113A of the 2009 Act;
- (e) amendments to the standing orders of the Combined Authority; and
- (f) such other plans and strategies as may be determined by the Combined Authority and set out in its standing orders.

(7) The proceedings of the Combined Authority are not invalidated by any vacancy among its members or substitute members or by any defect in the appointment or qualifications of any member or substitute member.

Committees

4.—(1) The Combined Authority must appoint at least one member of each of the constituent councils and the non-constituent councils to the overview and scrutiny committee appointed by the Combined Authority.

(2) No business is to be transacted at a meeting of the overview and scrutiny committee unless at least five constituent council members, or substitute members acting in place of those members, from at least five of the constituent councils are present at the meeting.

(3) Each member of the overview and scrutiny committee appointed from the constituent councils is to have one vote and no member is to have a casting vote.

(4) Members appointed from the non-constituent councils and the Local Enterprise Partnerships to the overview and scrutiny committee, or to any other committee or sub-committee of the Combined Authority, shall be non-voting members of that committee or sub-committee but may be given voting rights by resolution of the Combined Authority.

(5) An The Combined Authority must appoint an appropriate person^(a) to be the chair of the overview and scrutiny committee appointed by the Combined Authority

(6) If a vote is tied on any matter it is deemed not to have been carried.

(7) Where an overview and scrutiny committee appointed by the Combined Authority makes a report or recommendation under paragraph (1)(2)(b) of Schedule 5A the committee may—

- (a) publish the report or recommendations;
- (b) by notice in writing require the Combined Authority to—
 - (i) consider the report or recommendations;
 - (ii) respond to the overview and scrutiny committee indicating what (if any) action the Combined Authority proposes to take; and
 - (iii) if the overview and scrutiny committee has published the report or recommendations under paragraph (a), publish the response.

(8) A notice served under sub-paragraph (7)(b) must require the Combined Authority to comply with it within two months beginning with the date on which the Combined Authority received the reports or recommendations or (if later) the notice.

(9) The Combined Authority must comply with a notice given under sub-paragraph (7)(b).

(10) Sub-paragraphs (7)(a) and (9) are subject to section 9FG of the Local Government Act 2000^(b) and to any provision made under section 9GA(8) and the Combined Authority is to be treated as a local authority for these purposes.

(a) See paragraph 3(5) of Schedule 5A to the 2009 Act.

(b) 2000 c. 22. Sections 9FG and 9GA were inserted by the Localism Act 2011 (c. 20), section 21 and Schedule 2.

Records

5.—(1) The Combined Authority must make arrangements for the names of members and substitute members present at any meeting to be recorded.

(2) Minutes of the proceedings of a meeting of the Combined Authority, or any committee or sub-committee of the Combined Authority, are to be kept in such form as the Combined Authority may determine.

(3) Any such minutes are to be signed at the same or next suitable meeting of the Combined Authority, committee or sub-committee as the case may be, by the person presiding at that meeting.

(4) Any minute purporting to be signed as mentioned in sub-paragraph (3) is to be received in evidence without further proof.

(5) Until the contrary is proved, a meeting of the Combined Authority, committee or sub-committee, a minute of whose proceedings has been signed in accordance with this paragraph, is deemed to have been duly convened and held, and all the members and substitute members present at the meeting are deemed to have been duly qualified.

(6) For the purposes of sub-paragraph (3) the next suitable meeting is the next following meeting or, where standing orders made by the Combined Authority provide for another meeting of the authority, committee or sub-committee, to be regarded as suitable, either the next following meeting or that other meeting.

Standing orders

6. The Combined Authority may make standing orders for the regulation of its proceedings and business and may vary or revoke any such orders.

Remuneration

7. No remuneration is payable by the Combined Authority to its members, other than allowances for travel and subsistence paid in accordance with a scheme drawn up by the Combined Authority.

SCHEDULE 2

Article 8(4)

Modification of Part 2 of the Transport Act 1968

1. The Transport Act 1968(a) is amended as follows.

2.—(1) Section 9 (areas, authorities and executives) is amended as follows.

(2) In subsection (1)(c)—

(a) in sub-paragraph (i), after “England and Wales” there is inserted “(except as mentioned in sub-paragraph (ia))”;

(b) after sub-paragraph (i) there is inserted—

“(ia) in relation to the area of the West Midlands Combined Authority, that Authority”.

(3) After subsection (6) there is inserted—

“(6A) This section applies in relation to the West Midlands Combined Authority as if—

(a) subsections (2) to (4) were omitted; and

(a) 1968 c. 73; section 9 was amended by the Local Government (Scotland) Act 1973 (c. 65) Schedule 18, paragraph 1; by the Transport Act 1985 (c. 67) sections 57(1), 58(2), Schedule 3, paragraph 3, Schedule 8; by the Local Government (Scotland) Act 1994 (c. 39) Schedule 13, paragraph 80(2); and in relation to England and Wales only by the Local Transport Act 2008 (c. 26) section 98(4), Schedule 4, paragraph 2 and Schedule 7, Part 4 and by S.I. 2011/908.

- (b) in subsection (5), the words “the Executive and any subsidiary of the Executive” were omitted.”

3. In section 9A (general functions of Authorities and Executives), after subsection (11) there is inserted—

“(12) This section applies to the West Midlands Combined Authority as if—

- (a) the duty under subsection (3) were a duty for the Authority to secure the provision of such public passenger transport services as it considers appropriate for meeting any public transport requirements within its area which in view of the Authority would not be met apart from any action taken by it for that purpose;
- (b) subsection (3A) were omitted;
- (c) in subsection (5)—
 - (i) the words “for the Executive of that area” were omitted;
 - (ii) for the words “by the Executive for that area, and the Executive” there were substituted “and”;
- (d) in subsections (6) and (7), the references to “the Executive” were omitted.”

4. In section 10 (general powers of the Executive), after subsection (9) there is inserted—

“(10) This section applies to the West Midlands Combined Authority as if—

- (a) in subsection (1)—
 - (i) in paragraph (xxiii), the words “subject, in the case of a disposal of land, to the approval of the Authority” were omitted, and
 - (ii) an other reference to the approval of the Authority were omitted;
- (b) in subsection (7), the words “the approval of the Authority or” were omitted.”

5. In section 11 (financial duty of Executive), after subsection (3A) there is inserted—

“(3B) Subsection (3A) applies to the West Midlands Combined Authority as if the words from “and the Authority” to “the application thereof” were omitted.”

6. In section 12 (borrowing powers of Executive), after subsection (7) there is inserted—

“(8) This section does not apply to the West Midlands Combined Authority.”

7. In section 13 (power to make grants)—

- (a) The existing text is renumbered as subsection (1);
- (b) After that subsection there is inserted—

“(2) This section does not apply to the West Midlands Combined Authority.”

8. In section 14 (accounts of Executive), after subsection (3) there is inserted—

“(4) This section does not apply to the West Midlands Combined authority.”

9. In section 15 (further functions of Authority), after subsection (7) there is inserted—

“(8) This section does not apply to the West Midlands Combined Authority.”

10. In section 15A (additional provisions as to control of Executive by Authority), after subsection (3) there is inserted—

“(4) This section does not apply to the West Midlands Combined authority.”

11. In section 16 (publication of annual report by Authority and Executive and prevention of improper conduct of subsidiary activities), after subsection (2) there is inserted—

“(2A) In its application to the West Midlands Combined Authority, subsection (2) has effect as if—

- (a) the words “jointly by the Authority and the Executive” were omitted;
- (b) “and the Executive” (in the second place) were omitted; and

(c) for “their respective” there were substituted “its”.

SCHEDULE 3

Article 10

Economic development and regeneration functions

1. Such functions of the constituent authorities as are exercisable for the purpose of economic development and regeneration in reliance on the general power of competence under section 1 of the Localism Act 2011(a).

2. The power under section 144 of the Local Government Act 1972(b) (the power to encourage visitors and provide conference and other facilities).

3. The duties under sections 15ZA, 15ZB, 15ZC, 17A and 18A(1)(b) of the Education Act 1996(c) and the power under sections 514A and 560A of that Act (duties and powers related to the provision of education and training for persons over compulsory school age).

4. The duty under section 69 of the 2009 Act (duty to prepare an assessment of economic conditions).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order establishes the West Midlands Combined Authority.

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 functions relating to transport and to economic development and regeneration in their area.

The Secretary of State may only establish a combined authority for an area where a scheme for such an authority has been published under section 109 of the 2009 Act. This Order has been made following the publication of such a scheme on 26 October 2015 by the constituent councils whose areas together make up the combined area of the new authority. The scheme is available at: <https://westmidlandscombinedauthority.org.uk/media/1047/26-october-2015-appendix-1-west-midlands-combined-authority-scheme.pdf>.

Part 2 of the Order establishes the new authority, to be known as the West Midlands Combined Authority, and makes provision for its constitution and funding.

Article 4 of and Schedule 1 to the Order make provision for the constitution of the West Midlands Combined Authority. This is supplemental to the provision that is made by Part 1A of Schedule 12 to the Local Government Act 1972 (see paragraph (6A) of that Schedule, as amended by the 2009 Act).

(a) 2011 c.20.

(b) Section 144 was amended by the Local Government (Miscellaneous Provisions) Act 1976 (c.57), section 81, Schedule 2; by the Local Government, Planning and Land Act 1980 (c.65), section 194, Schedule 34; and by the Local Government Act 1985 (c.51), sections 1 and 102 and Schedule 17. There are other amendments which are not relevant to this instrument.

(c) 1996 c.56. Sections 15ZA, 15ZB, 15ZC, 18A, 514A and 560A were inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), sections 41, 42, 45 to 48 and by S.I. 2010/1158. Section 15ZA was amended by the Children and Families Act 2014 (c. 6) Schedule 3(1) paragraph 5, by the Deregulation Act (c. 20) Schedule 14(2) paragraph 44 and by S.I. 2015/1852. Section 15ZC was amended by S.I. 2015/1852. Section 18A was also amended by the Education Act 2011 (c. 21), sections 30 and 82 and by the Children and Families Act 2014 Schedule 3(1) paragraph 8. Section 514A was amended by the Children and Families Act 2014 Schedule 3(1) paragraph 50. Section 560A was amended by the Children and Families Act 2014 Schedule 3(1) paragraph 54.

Article 5 makes provision for the funding, by the constituent councils, of the costs of the Combined Authority.

Part 4 confers additional functions on the West Midlands Combined Authority.

Article 10 confers functions of the constituent councils relating to economic development and regeneration. These are set out in Schedule 2 to the Order and are to be exercised concurrently with the constituent councils.

Articles 11 to 15 make some general, incidental provisions relating to the West Midlands Combined Authority 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 or the voluntary sector.