

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

DRAFT STATUTORY INSTRUMENTS

2019 No. 0000

LOCAL GOVERNMENT, ENGLAND

FIRE AND RESCUE, ENGLAND

**The West Midlands Combined Authority (Fire and Rescue
Functions) Order 2019**

Made - - - -

[2019]

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 105A(1)(a), (3)(a) and (4), 107D(1), (3)(c)(ii), (4), (5), (7)(b) and (c), and (8), 114, 115 and 117(5) of the Local Democracy, Economic Development and Construction Act 2009^(a) (the “LDEDC Act 2009”).

A proposal for making this Order has been made to the Secretary of State by the West Midlands Combined Authority and the district councils whose areas are comprised in the area of that Combined Authority in accordance with section 105B(1)(a) of the LDEDC Act 2009 by inclusion in a scheme prepared and published under section 112 of the LDEDC Act 2009^(b).

In accordance with section 107D(9) of the LDEDC Act 2009 the West Midlands Combined Authority, the mayor of that 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.

In accordance with section 105B(9) of the LDEDC Act 2009, the Secretary of State has laid before Parliament a report explaining the effect of this Order and explaining why the Secretary of State considers it appropriate to make this Order.

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- (a) 2009 c. 20. Section 105A was inserted by section 7 of the Cities and Local Government Devolution Act 2016 (c. 1) (“the CLGD Act 2016”). Section 107D was inserted by section 4 of the CLGD Act 2016 and amended by section 8(3) of the Policing and Crime Act 2017 (c. 3). Section 114 was amended by section 23 of, and paragraphs 17 and 26 of Schedule 5 to, the CLGD Act 2016 and by S.I. 2016/997. Section 115 was amended by section 23(1) of, and paragraphs 17 and 27 of Schedule 5 to, the CLGD Act 2016. Section 117(2), (2A) and (3) were substituted by section 13 of the Localism Act 2011 (c. 20) and section 117(5) was inserted by section 23(1), and paragraphs 17 and 29 of Schedule 5 to, the CLGD Act 2016.
- (b) Section 112 was amended by sections 6 and 23 of, and paragraphs 17 and 23 of Schedule 5 to, the CLGD Act 2016. Section 105B was inserted by section 7 of the CLGD 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 LDEDC Act 2009.

PART 1

Introduction

Citation and commencement

1. This Order may be cited as the West Midlands Combined Authority (Fire and Rescue Functions) Order 2019 and comes into force on 1st April 2019.

Interpretation

2. In this Order—

“the FRS Act 2004” means the Fire and Rescue Services Act 2004(a);

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

“the Area” means the area of the WMCA;

“Chief Fire Officer” means the officer of the WMCA who is responsible for managing the fire and rescue service;

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

“excluded function” has the meaning given in article 6(1);

“fire and rescue declaration” means a document which—

(a) is prepared and published by the Chief Fire Officer, and approved by the Mayor, in accordance with the Fire and Rescue National Framework, and

(b) contains a statement of the way in which the Mayor and the WMCA have had regard, in the period covered by the document, to the Fire and Rescue National Framework and to any integrated risk management plan prepared by the Chief Fire Officer for that period;

“fire and rescue functions” means functions conferred on the WMCA as a fire and rescue authority(b) by, or by virtue of, any enactment;

“Fire and Rescue National Framework” means the document prepared by the Secretary of State under section 21 of the FRS Act 2004(c);

“the fire and rescue service” means the personnel, assets, finances, reserves and services secured by the WMCA for the purposes of carrying out the WMCA’s functions under—

(a) section 6 of the FRS Act 2004 (fire safety),

(b) section 7 of that Act (fire-fighting),

(c) section 8 of that Act (road traffic accidents),

(d) any order under section 9 of that Act (emergencies) which applies to the WMCA,

(e) section 2 of the Civil Contingencies Act 2004(d) and any regulations under that Act applying to a fire and rescue authority,

(f) any other provision of or made under an enactment which confers functions on a fire and rescue authority;

(a) 2004 c. 21.

(b) By virtue of section 120 of the Local Democracy, Economic Development and Construction Act 2009, “fire and rescue authority” means a fire and rescue authority under the Fire and Rescue Services Act 2004.

(c) Section 21 was amended by paragraph 9 of Schedule 1 to the Policing and Crime Act 2017.

(d) 2004 c. 36.

“integrated risk management plan” means a document which—

- (a) is prepared and published by the Chief Fire Officer, in accordance with the Fire and Rescue National Framework, and
- (b) sets out for the period covered by the document in accordance with the requirements of the Fire and Rescue National Framework—
 - (i) the fire and rescue service’s priorities and objectives, and
 - (ii) an assessment of all foreseeable fire and rescue related risks that could affect its community,

in connection with the discharge of the WMCA’s functions as a fire and rescue authority;

“the Mayor” means the mayor for the Area;

“the Mayoral Fire Committee” has the meaning given in article 4(3);

“the transfer date” means 1st April 2019;

“the WMCA” means the West Midlands Combined Authority, a body corporate established by the West Midlands Combined Authority Order 2016(a);

“the WMFRA” means the West Midlands Fire and Rescue Authority(b).

PART 2

Transfer of functions

Transfer of functions of the WMFRA to the WMCA

3.—(1) The functions of the WMFRA that were exercisable in relation to the Area immediately before the transfer date are functions of the WMCA.

(2) The WMCA is the fire and rescue authority for the Area for the purposes of the FRS Act 2004, subject to paragraph 5 of the Schedule.

(3) The WMFRA is abolished.

Exercise of fire and rescue functions

4.—(1) Subject to paragraph (4), and article 7(1), the fire and rescue functions are exercisable only by the Mayor.

(2) For the purposes of the exercise of the fire and rescue functions, the Mayor may do anything that the WMCA may do under section 113A of the LDEDC Act 2009 (general power of economic prosperity board or combined authority)(c).

(3) The Mayor may arrange for a committee of the WMCA (“the Mayoral Fire Committee”) to advise the Mayor on the exercise of fire and rescue functions.

(4) The Mayor may not make any arrangement under section 107D(3) of the LDEDC Act 2009 (functions of mayors: general) that authorises the exercise of any excluded function.

(5) Members and officers of the WMCA may assist the Mayor in the exercise of the fire and rescue functions.

(a) S.I. 2016/653, as amended by S.I. 2017/510.

(b) The body corporate known as the West Midlands Fire and Rescue Authority was established by section 26 of the Local Government Act 1985 (c. 51). Section 26 was amended by paragraph 10 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36) and by section 7(6) of the Policing and Crime Act 2017.

(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.

The Mayoral Fire Committee

5.—(1) The Mayoral Fire Committee must consist of no more than 18 members, appointed by the Mayor as follows—

- (a) no more than 15 members on the nomination of the constituent councils, provided that—
 - (i) each member must be nominated by a constituent council from that council's elected members,
 - (ii) at least one member must be appointed on the nomination of each of the constituent councils,
 - (iii) the Mayor and the constituent councils must, when appointing or nominating members, ensure so far as is reasonably practicable that the number of members appointed on the nomination of each constituent council is proportionate to the number of electors of each of the constituent councils, and
 - (iv) where the Mayor decides not to appoint a person who has been nominated by a constituent council—
 - (aa) the Mayor must notify that constituent council, giving reasons, and
 - (bb) that constituent council may nominate a further person from that council's elected members who must be appointed by the Mayor,
- (b) the police and crime commissioner for the Area,
- (c) two co-opted members to be determined by the Mayor in consultation with the chair of the Mayoral Fire Committee.

(2) The Mayor and the constituent councils must, when appointing or nominating members in accordance with paragraph (1)(a), ensure that the members taken as a whole reflect so far as reasonably practicable the balance of the political parties for the time being prevailing among the constituent councils when taken together.

(3) The Mayor must ensure that the majority of the members are members appointed in accordance with paragraph (1)(a).

(4) The Mayor must, after consultation with the leaders of the constituent councils, appoint one of the members of the Mayoral Fire Committee to serve as chair of the Mayoral Fire Committee.

(5) On a vote at a meeting of the Mayoral Fire Committee, each member appointed under paragraph (1)(a) or (b) has one vote.

(6) The WMCA may pay allowances to members of the Mayoral Fire Committee in accordance with its scheme of allowances.

(7) A member of the Mayoral Fire Committee appointed in accordance with paragraph (1)(a) ceases to be a member if they cease to be an elected member of the relevant constituent council.

(8) A member appointed in accordance with paragraph (1)(a) may resign by written notice served on the proper officer of the constituent council of which they were a member at the time of their appointment to the Mayoral Fire Committee, and the resignation is to take effect on receipt of the notice by the proper officer.

(9) A member serving written notice in accordance with paragraph (8) must also serve copies of that notice on the Mayor and the chair of the Mayoral Fire Committee.

(10) A member appointed in accordance with paragraph (1)(c) may resign by written notice served on the Mayor and the chair of the Mayoral Fire Committee, and the resignation is to take effect on receipt of the notice by the Mayor and the chair of the Mayoral Fire Committee.

(11) The Mayor may at any time terminate the appointment of a member appointed in accordance with paragraph (1)(a) or (c) where they have not attended scheduled meetings of the Mayoral Fire Committee throughout a period of six consecutive months from the date of that member's last attendance.

(12) Where a person appointed in accordance with paragraph (1)(a) ceases to be a member by virtue of paragraph (7), (8) or (11), the constituent council that nominated that member must, as

soon as practicable, give written notice to the Mayor and nominate another person from that council's elected members.

(13) Where a person appointed in accordance with paragraph (1)(b) or (c) ceases to be a member, the Mayor must appoint another person to be a member in accordance with paragraph (1)(b) or (c) (as the case may be).

(14) In paragraph (8), "proper officer" has the meaning given in section 270(3) of the Local Government Act 1972^(a).

Excluded fire and rescue functions

6.—(1) The following fire and rescue functions are "excluded functions"—

- (a) the fire and rescue functions specified in the following provisions of the FRS Act 2004—
 - (i) section 13 (reinforcement schemes), other than subsection (5),
 - (ii) section 15 (arrangements with other employers of fire-fighters), and
 - (iii) section 16 (arrangements for discharge of functions by others),
- (b) the functions of—
 - (i) appointing, or dismissing, the Chief Fire Officer,
 - (ii) approving the terms of appointment of the Chief Fire Officer, and
 - (iii) holding the Chief Fire Officer to account for managing the fire and rescue service in accordance with article 7(3),
- (c) the functions of approving—
 - (i) the integrated risk management plan, and
 - (ii) the fire and rescue declaration,
- (d) the function of approving plans, modifications to plans and additions to plans for the purpose of ensuring that—
 - (i) so far as is reasonably practicable, the WMCA is able to continue to perform its fire and rescue functions if an emergency occurs,
 - (ii) the WMCA is able to perform its functions so far as necessary or desirable for the purpose of preventing an emergency, or reducing, controlling or mitigating the effects of an emergency, or taking other action in connection with it, and
- (e) the function of approving any arrangements for the co-operation of the WMCA in relation to its fire and rescue functions and other general Category 1 responders and general Category 2 responders in respect of the performance of the WMCA's duty as a fire and rescue authority under section 2 of the Civil Contingencies Act 2004^(b) and any duties under regulations made in exercise of powers under that Act.

(2) In paragraph (1)(d), "emergency" has the meaning given in section 1 of the Civil Contingencies Act 2004 for Part 1 of that Act.

Delegation of functions to the Chief Fire Officer

7.—(1) The **only arrangements the mayor may make under section 107D(3)(b) of the LDEDC Act 2009 in relation to fire and rescue functions are to authorise the exercise of the** following functions by the Chief Fire Officer—

- (a) the operational and technical leadership of the fire and rescue service,
- (b) the provision of operational and technical advice to the Mayor,
- (c) the preparation and publication of the integrated risk management plan,

(a) 1972 c. 70.

(b) 2004 c.36. Category 1 responders are listed in Part 1, and category 2 responders general are listed in Part 3 of Schedule 1 to the Civil Contingencies Act 2004. There are amendments to section 2 and Schedule 1 which are not relevant to this Order.

- (d) together with the officer responsible for the proper administration of financial affairs of the WMCA under section 151 Local Government Act 1972, the proposal of an annual budget for the fire and rescue service,
 - (e) the preparation and delivery of the fire and rescue service priorities and objectives,
 - (f) the functions of the WMCA under—
 - (i) sections 6, 7, 8 and 13(5) of the FRS Act 2004, and any order under section 9 of that Act which applies to the WMCA,
 - (ii) section 2 of the Civil Contingencies Act 2004, and any regulations under that Act applying to a fire and rescue authority,
 - (iii) the Regulatory Reform (Fire Safety) Order 2005(a),
 - (iv) any other provision of, or made under, an enactment which confers functions on a fire and rescue authority,
 - (g) the leadership, appointment and development of all fire and rescue service staff, and the staffing structure,
 - (h) the dismissal of fire and rescue service staff,
 - (i) the management and allocation of assets, finances and reserves,
 - (j) the management and negotiation of trade union relations.
- (2) If the Mayor makes arrangements described in paragraph (1) —
- (a) the Chief Fire Officer must have regard to the Fire and Rescue National Framework in carrying out their functions, and
 - (b) the Mayor must hold the Chief Fire Officer to account for the exercise of—
 - (i) the functions of the Chief Fire Officer, and
 - (ii) the functions of persons under the direction and control of the Chief Fire Officer.

PART 3

Transitional arrangements and asset transfers

Transfer of property, rights and liabilities

8.—(1) All property, rights and liabilities (including rights and liabilities in relation to contracts of employment) which immediately before the transfer date were property, rights and liabilities of the WMFRA are transferred to, and by virtue of this paragraph vest in, the WMCA on the transfer date.

(2) In relation to the property, rights and liabilities transferred by paragraph (1) and any property, rights and liabilities acquired in connection with the WMCA's fire and rescue functions on or after the transfer date—

- (a) all functions in relation to such property, rights and liabilities are to be exercised by the Mayor,
- (b) all decisions relating to such property, rights and liabilities are to be made by the Mayor.

(3) Subject to article 6, nothing in paragraph (2) prevents the Mayor from making arrangements under section 107D(3) of the LDEDC Act 2009 in relation to the matters mentioned in paragraph (2).

(a) S.I. 2005/1541.

Secondments

9. In the case of a person who, immediately before the transfer date is seconded to the WMFRA, the secondment is to have effect, after that time, as a secondment to the WMCA.

Continuity

10.—(1) The abolition of the WMFRA, the transfer or abolition of the WMFRA's functions, and the transfer of the WMFRA's property, rights and liabilities, do not affect the validity of anything done before the abolition or transfer.

(2) Paragraphs (3) to (5) apply where any functions, property, rights or liabilities are transferred by this Order from the WMFRA to the WMCA.

(3) There may be continued by or in relation to the WMCA anything (including legal proceedings) which—

- (a) relates to any of the functions, property, rights or liabilities transferred, and
- (b) is in the process of being done by or in relation to the WMFRA immediately before the transfer date.

(4) Anything which—

- (a) was made or done by or in relation to the WMFRA 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 date,

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

(5) The WMCA is to be substituted for the WMFRA 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 date.

(6) In this article a reference to the transfer of a function includes a reference to the abolition of the function and the conferral of a corresponding function on another person.

Transfers: supplementary provision

11.—(1) All property, rights and liabilities transferred by this Order are to be transferred by that transfer, notwithstanding that they may be or include—

- (a) property, rights and liabilities that would not otherwise be capable of being transferred, or
- (b) rights and liabilities under enactments.

(2) No right of reverter, right of pre-emption, right of forfeiture, right of re-entry, right to compensation, option or similar right affecting any land or other property is to operate or become exercisable as a result of any transfer of land or other property by virtue of this Order (whether or not any consent required to the transfer has been obtained).

(3) No right to terminate or vary a contract or instrument is to operate or become exercisable, and no provision of a contract or relevant document, is to operate or become exercisable or be contravened, by reason of the transfer made by this Order.

(4) Paragraphs (1) to (3) above have effect in relation to—

- (a) the grant or creation of an estate or interest in, or right over, any land or other property, or
- (b) the doing of any other thing in relation to land or other property,

as they have effect in relation to the transfer made by this Order of land or other property.

(5) In this article, "relevant document" means—

- (a) any enactment, other than an enactment contained in the LDEDC Act 2009,
- (b) any subordinate legislation made otherwise than under that Act, or
- (c) any deed or other instrument.

PART 4

Modification of enactments and consequential repeal

Modification of enactments and consequential repeal

12. The modification of enactments in their application to the WMCA as a fire and rescue authority and the consequential repeal set out in the Schedule have effect.

Address	<i>Name</i>
Date	Minister of State Home Office

SCHEDULE

Article 12

Modification of enactments in their application to the WMCA as a fire and rescue authority and consequential repeal

PART 1

Modification of primary legislation

Local Government Act 1972

1. In section 138(5) of the Local Government Act 1972 (powers of principal councils with respect to emergencies or disasters)(a), the reference to “metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Local Government and Housing Act 1989

2.—(1) The Local Government and Housing Act 1989(b) is modified as follows.

(2) In section 67 (application of provisions about companies in which local authorities have interests), subsection (3)(k) applies as if the reference to “joint authority established by Part IV of that Act” included a reference to the WMCA as a fire and rescue authority.

(3) In section 155 (emergency financial assistance to local authorities) subsection (4)(g) applies as if the reference to a “joint authority established by Part IV of the Local Government Act 1985” included a reference to the WMCA as a fire and rescue authority.

Crime and Disorder Act 1998

3.—(1) The Crime and Disorder Act 1998(c) is modified as follows.

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- (a) 1972 c. 70. Subsection (5) was inserted by section 156(3) of the Local Government and Housing Act 1989 (c. 42) and the words “metropolitan county fire and rescue authority” were substituted by paragraph 10(2) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36). Other amendments have been made to section 138 which are not relevant to this Order.
- (b) 1989 c. 42. Section 67 has been repealed by sections 216(1) and 241 of, and Part 16 of Schedule 18 to, the Local Government and Public Involvement in Health Act 2007. The repeal has not yet been brought into force. Section 155(4)(g) has been amended by the substitution of the words “an Integrated Transport Authority” by section 77(5) of, and Part 4 of Schedule 4 to, the Local Transport Act 2008. There are other amendments to section 155 which are not relevant to this Order.
- (c) 1998 c. 37. In section 5(5) the definition of “fire and rescue authority” was substituted by section 53(1) of, and paragraph 89(1), (2)(b) of, Schedule 1 to, the Fire and Rescue Services Act 2004. In paragraph (b) of subsection (5) the words “metropolitan county fire and rescue authority” were substituted by virtue of paragraph 10(1), (2) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004. There are other amendments to section 5 which are not relevant to this Order. Paragraph (j) of section 115(2) was inserted by section 22 of, and paragraphs 1 and 7(1), (2) of Schedule 9 to, the Police and Criminal Justice Act 2006 (c. 48). Other amendments have been made to section 115 which are not relevant to this Order.

(2) In the definition of “fire and rescue authority” in section 5(5) (authorities responsible for strategies), the reference in paragraph (b) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

(3) In the definition of “relevant authority” in section 115(2), the reference in paragraph (j) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Local Government Act 2003

4. In section 23 of the Local Government Act 2003 (meaning of “local authority” for purposes of Part 1)(a) the reference in paragraph (1)(k) to “a joint authority established by Part 4 of that Act” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Fire and Rescue Services Act 2004

5.—(1) The FRS Act 2004(b) is modified as follows.

(2) Section 4A (power to provide for police and crime commissioner to be fire and rescue authority) has effect as if at the end of subsection (3)(b) there were inserted—

“; and

(c) outside the area of the West Midlands Combined Authority.”.

(3) Section 4B(1)(changes to existing fire and rescue authorities) has effect as if the reference to fire and rescue authorities in England outside Greater London did not include the WMCA.

PART 2

Modification of secondary legislation

Pipelines Safety Regulations 1996

6. In paragraph (a) of the definition of “local authority” in regulation 2(1) of the Pipelines Safety Regulations 1996 (interpretation)(c) the reference to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Local Government (Best Value Authorities)(Power to Trade)(England) Order 2009

7. In article 1(2) of the Local Government (Best Value Authorities)(Power to Trade)(England) Order 2009 (application of order to best value authorities)(d) the reference in paragraph (c) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012

8. In regulation 3 of the Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012 (relevant authorities)(e) the reference in paragraph (a) to a “metropolitan county fire and rescue authority established under

(a) 2003 c. 26. In section 23(1)(k), the words “(fire and rescue services and transport)” were substituted by section 32 of, and paragraph 10 of Schedule 2 to, the Civil Contingencies Act 2004.

(b) 2004 c. 21. Sections 4A and 4B were inserted by paragraph 5 of Part 1 of Schedule 1 to the Policing and Crime Act 2017.

(c) S.I. 1996/825, the words “metropolitan county fire and rescue authority” were substituted by virtue of paragraph 10(1), (2) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36).

(d) S.I. 2009/2393.

(e) S.I. 2012/1647.

section 26 of the Local Government Act 1985” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Local Government Pension Scheme Regulations 2013

9.—(1) Regulation 64 of the Local Government Pension Scheme Regulations 2013(a) is to be read as if, after paragraph (8), there were inserted—

“(8A) Paragraph (8B) applies where the exiting employer is the West Midlands Fire and Rescue Authority and the liabilities of the fund in respect of benefits due to the West Midlands Fire and Rescue Authority’s current and former employees (or those of any predecessor authority) have been or are to be transferred to the West Midlands Combined Authority by virtue of the West Midlands Combined Authority (Fire and Rescue Functions) Order 2019(b).

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

Explosives Regulations 2014

10. In regulation 2(1) of the Explosives Regulations 2014 (interpretation)(c) in the definition of “local authority”, the reference in paragraph (c) to “a metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Control of Major Accident Hazards Regulations 2015

11. In regulation 2(1) of the Control of Major Accident Hazards Regulations 2015(d) in paragraph (b) of the definition of “local authority”, sub-paragraph (ii) is to apply as if there were substituted for that sub-paragraph—

“(ii) the area of the West Midlands Combined Authority, that authority as a fire and rescue authority;”.

PART 3

Consequential repeal

Local Government Act 1985

12. Part 6 of Schedule 10 to the Local Government Act 1985 (number of members of joint authorities: West Midlands)(e) is repealed.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the conferral of the functions of the West Midlands Fire and Rescue Authority (“the WMFRA”) on the West Midlands Combined Authority (“the WMCA”). It has been made following the publication, on 8th September 2017, of a scheme for the conferral of those functions on the WMCA. The scheme is available from the WMCA at [to be competed] or at [web address].

(a) S.I. 2013/2356; regulation 64(1) is substituted by regulation 22 of S.I. 2015/755.

(b) S.I. 2019/[tba].

(c) S.I. 2014/1638; to which there are amendments not relevant to this Order.

(d) S.I. 2015/483; to which there are amendments not relevant to this Order.

(e) 1985 c. 51. The table in Part 6 was amended by Part 1 of Schedule 9 to the Police and Magistrates’ Courts Act 1994 (c. 29), by section 77(5) of, and paragraph 53(6) of Schedule 4 to, the Local Transport Act 2008 (c. 26), and by S.I. 2014/1180 and 2017/1165. The West Midlands Integrated Transport Authority was abolished by the West Midlands Combined Authority Order 2016.

Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (“the LDEDC Act 2009”) 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 or public authority under sections 104, 105 and 105A of the LDEDC Act 2009, 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 the 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 LDEDC Act 2009.

Article 3 of this Order transfers the functions of the WMFRA to the WMCA on 1st April 2019, and provides that the WMCA is the fire and rescue authority for the area of the combined authority for the purposes of the Fire and Rescue Services Act 2004. The article also abolishes the WMFRA.

Article 4 provides that the fire and rescue functions of the WMCA are to be exercised by the Mayor of the WMCA, and for this purpose the Mayor may exercise similar powers to the WMCA’s powers under section 113A of the LDEDC Act 2009. It provides for the Mayor to establish a committee to advise the Mayor in the exercise of those functions, and also provides that members and officers of the WMCA may assist the Mayor in the exercise of those functions.

Article 5 makes provision about the membership and meetings of the committee.

Article 6 sets out certain fire and rescue functions which may not be delegated by the Mayor.

Article 7 sets out the fire and rescue functions that must be delegated to the Chief Fire Officer which include, in particular, the operational management of the fire and rescue service.

Articles 8, 9, 10 and 11 make transitional arrangements and supplementary provisions in relation to the transfer of functions, property, rights and liabilities from the WMFRA to the WMCA.

Article 12 and the Schedule make consequential modifications to primary and secondary legislation.

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.