
STATUTORY INSTRUMENTS

2017 No. 510

The West Midlands Combined Authority
(Functions and Amendment) Order 2017

PART 2

Transport

Power to pay grant

3.—(1) The functions of a Minister of the Crown⁽¹⁾ specified in section 31 of the 2003 Act (power to pay grant) are functions of the Combined Authority that are exercisable in relation to the combined area.

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

(3) Paragraph (4) applies where, in exercising functions referred to in paragraphs (1) and (2), the Combined Authority determines an amount of grant to be paid towards expenditure incurred or to be incurred by a constituent council in relation to the exercise of its highway functions.

(4) In determining that amount, the Combined Authority must have regard to the desirability of ensuring that the constituent council has sufficient funds to facilitate the effective discharge of those functions.

(5) To comply with paragraph (4), the Combined Authority must take into account any other sources of funding available to the constituent council for expenditure incurred or to be incurred in relation to the exercise of its highway functions.

(6) For the purposes of the exercise by the Combined Authority of the functions referred to in paragraphs (1) and (2), section 31 of the 2003 Act has effect as if—

- (a) in subsection (1)—
 - (i) the reference to a Minister of the Crown were a reference to the Combined Authority;
 - (ii) the reference to a local authority in England were a reference to a constituent council;
- (b) subsection (2) were omitted;
- (c) in subsections (3) and (4), the references to the person paying it (the grant) were references to the Combined Authority;
- (d) subsection (6) were omitted.

(7) In this article “highway functions” means the functions which are exercisable by a constituent council (in whatever capacity) in relation to the highways for which it is the highway authority.

(1) See section 105A(9) of the 2009 Act for the definition of “Minister of the Crown”.

Agreements between authorities and strategic highways companies

4.—(1) The functions of the constituent councils specified in section 6 of the 1980 Act (powers to enter into agreements with the Minister or strategic highways companies relating to the exercise of functions with respect to trunk roads etc)(2) are exercisable by the Combined Authority in relation to the combined area.

(2) The functions of the constituent councils as local highway authorities specified in section 8 of the 1980 Act (power to enter into agreements with local highway authorities and strategic highways companies for the doing of certain works)(3) are exercisable by the Combined Authority in relation to Combined Authority roads.

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

(4) In this article “local highway authority” has the meaning given by section 329(1) of the 1980 Act(4).

Promoting road safety

5.—(1) The functions of the constituent councils specified in section 39(2) and (3) of the 1988 Act (duties of local authorities in relation to measures designed to promote road safety and studies into vehicular accidents arising, etc)(5) are exercisable by the Combined Authority in relation to the combined area.

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

Bus lane contraventions

6.—(1) The functions of the constituent councils in relation to each of their civil enforcement areas are exercisable by the Combined Authority in relation to the Enforcement Area.

(2) The functions are exercisable by the Combined Authority (in relation to the Enforcement Area) concurrently with each constituent council (in relation to its civil enforcement area).

(3) For the purposes of this article, the Combined Authority is to be treated as an approved local authority(6) for the Enforcement Area, and references in the 2005 Regulations to an approved local authority or to the combined area of such an authority are to be construed accordingly.

(4) In this article—

- (a) “the 2005 Regulations” means the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005(7);
- (b) “civil enforcement area” means an area falling within Schedule 8 to the Traffic Management Act 2004 (civil enforcement areas and enforcement authorities)(8) and which falls within a constituent council’s area;

(2) Section 6 was amended by sections 8 and 102 of, and Schedules 4 and 17 to, the Local Government Act 1985 (c. 51), section 22 of, and Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19), section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7), and S.I. 1995/1986.

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

(4) This definition in section 329(1) of the 1980 Act was amended by section 1 of, and Schedule 1 to the Infrastructure Act 2015.

(5) Section 39 was amended by section 168 of, and Schedule 8 to, the 1991 Act, and by section 279 of the 1999 Act.

(6) Under section 144(3) of the 2000 Act an authority is an approved local authority if an order has been made designating the whole or any part of its area as a civil enforcement area for parking contraventions, and the Secretary of State has made an order specifying it as an approved local authority.

(7) S.I. 2005/2757.

(8) 2004 c. 18.

- (c) “Enforcement Area” means the area comprising the civil enforcement areas of the constituent councils.

Road traffic reduction

7.—(1) The functions of the constituent councils as principal councils specified in section 2 of the 1997 Act (duty of principal councils to make reports) are exercisable by the Combined Authority in relation to Combined Authority roads.

(2) Subject to paragraph (3), the functions are exercisable by the Combined Authority instead of by the constituent councils.

(3) The Combined Authority must consult the constituent councils before exercising the functions mentioned in paragraph (1).

(4) In this article “principal council” has the meaning given by section 1 of the 1997 Act⁽⁹⁾.

Permit schemes

8.—(1) The functions of the constituent councils as local highway authorities specified in the following provisions of the 2004 Act are exercisable by the Combined Authority in relation to Combined Authority roads—

- (a) section 33 (preparation of permit schemes)⁽¹⁰⁾;
- (b) section 33A (implementation of permit schemes of strategic highways companies and local highway authorities in England)⁽¹¹⁾; and
- (c) section 36 (variation and revocation of permit schemes)⁽¹²⁾.

(2) The functions of the constituent councils as permit authorities specified in the 2007 Regulations are exercisable by the Combined Authority in relation to Combined Authority roads.

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

(4) Part 3 of the 2004 Act (permit schemes) applies in relation to the preparation, implementation, variation and revocation of permit schemes by the Combined Authority as it applies in relation to the preparation, implementation, variation and revocation of permit schemes by a constituent council, subject to the modifications in Schedule 2.

(5) The 2007 Regulations apply in relation to the content, preparation, operation, variation and revocation of permit schemes by the Combined Authority as they apply in relation to the content, preparation, operation, variation and revocation of permit schemes by a constituent council.

(6) For the purposes of paragraph (5), references in the 2007 Regulations to a Permit Authority are to be read as including references to the Combined Authority.

(7) In this article—

- (a) “permit scheme” is to be construed in accordance with section 32 of the 2004 Act; and
- (b) “the 2007 Regulations” means the Traffic Management Permit Scheme (England) Regulations 2007⁽¹³⁾;

⁽⁹⁾ Section 1 was amended by section 280(1) of the 1999 Act.

⁽¹⁰⁾ Section 33 was amended by section 51 of, and Schedule 10 to, the Deregulation Act 2015 (c. 20).

⁽¹¹⁾ Section 33A was inserted by section 51 of, and Schedule 10 to, the Deregulation Act 2015.

⁽¹²⁾ Section 36 was substituted by section 51 of, and Schedule 10 to, the Deregulation Act 2015.

⁽¹³⁾ S.I. 2007/3372, amended by S.I. 2015/958.

Apparatus affected by highway, bridge or transport works

9.—(1) The functions of the constituent councils as highway authorities specified in the following enactments are exercisable by the Combined Authority in relation to Combined Authority roads—

(a) sections 83 (works for road purposes likely to affect apparatus in the street), 84 (measures necessary where apparatus affected by major works)(**14**) and 85 (sharing of cost of necessary measures) of the 1991 Act; and

(b) the 2000 Regulations.

(2) The functions mentioned in paragraph (1) are exercisable by the Combined Authority concurrently with the constituent councils.

(3) The 2000 Regulations apply in relation to the sharing of costs of diversionary works between the Combined Authority and undertakers as they apply in relation to the sharing of costs of diversionary works between a constituent council and undertakers.

(4) For the purposes of paragraph (3), references in the 2000 Regulations to an authority are to be read as including references to the Combined Authority.

(5) In this article—

(a) “the 2000 Regulations” means the Street Works (Sharing of Costs of Works) (England) Regulations 2000(**15**);

(b) “undertaker” has the same meaning as in sections 48(4) and (5) (streets, street works and undertakers) and 89(4) (public sewers, sewer authorities and related matters) of the 1991 Act(**16**); and

(c) “diversionary works” has the meaning given by regulation 2(1) of the 2000 Regulations.

(14) Section 83 was amended by section 40 of, and Schedule 1 to the Traffic Management Act 2004 (c. 18).

(15) S.I. 2000/3314.

(16) Section 48 was amended by section 124 of the Local Transport Act 2008 (c. 26) and section 89 was amended by Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60) and section 57 of the Traffic Management Act 2004 (c. 18).