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STATUTORY INSTRUMENTS

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**2017 No. 510**

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

PART 5

Air quality; smoke-free premises, places and  
vehicles; culture and anti-social behaviour

**Air quality**

17.—(1) The functions of the constituent councils specified in the following provisions in the Environment Act 1995<sup>(1)</sup> are exercisable by the Combined Authority in relation to the combined area—

- (a) section 82 (local authority reviews);
- (b) section 83 (duty to designate air quality management areas);
- (c) section 84 (duties in relation to designated area)<sup>(2)</sup>; and
- (d) section 113 (disclosure of information)<sup>(3)</sup>.

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

**Smoke-free premises, places and vehicles**

18.—(1) The functions of the constituent councils specified in the following provisions are exercisable by the Combined Authority in relation to the combined area—

- (a) section 10(3) (duty to enforce) and (5) (power to authorise officers) of the Health Act 2006<sup>(4)</sup>;
- (b) paragraphs 13 and 16 (functions relating to fixed penalty notices) of Schedule 1 to the Health Act 2006<sup>(5)</sup>;
- (c) regulation 3(5) of the Smoke-free (Premises and Enforcement) Regulations 2006 (power to transfer enforcement functions to another enforcement authority)<sup>(6)</sup>; and
- (d) regulation 3(4) of the Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 (form of fixed penalty notice)<sup>(7)</sup>.

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

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(1) 1995 c. 25.

(2) Section 84 was amended in relation to England and Wales by section 59 of, and Schedule 13 to, the Deregulation Act 2015.

(3) Section 113 was amended in relation to England and Wales by paragraphs 14 and 18 of Schedule 2 and Schedule 3 to the Pollution Prevention and Control Act 1999 (c. 24) and paragraphs 361 and 384 of Part 1 of Schedule 2 to S.I. 2013/755.

(4) 2006 c. 28. Section 10 was amended by section 95 of the Children and Families Act 2014 (c. 6).

(5) Schedule 1 was amended by section 95 of the Children and Families Act 2014 (c. 6).

(6) S.I. 2006/3368. Regulation 3 was amended by S.I. 2015/286.

(7) S.I. 2007/760. Regulation 3 was amended by S.I. 2015/939.

(3) For the purposes of paragraph (1) the Combined Authority is to be treated as an enforcement authority<sup>(8)</sup>.

## Culture

**19.**—(1) The functions of the constituent councils specified in section 145 of the Local Government Act 1972 (provision of entertainments)<sup>(9)</sup> are exercisable by the Combined Authority in relation to the combined area.

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

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

## Anti-social behaviour

**20.**—(1) The functions of the constituent councils specified in the following provisions in the 2014 Act are exercisable by the Combined Authority in relation to the combined area—

- (a) section 5 (applications for injunctions); and
- (b) section 104 (review of response to complaints).

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

(3) Part 1 of the 2014 Act (injunctions) applies in relation to an application for an injunction by a Combined Authority as it applies in relation to an application for an injunction by a constituent council, but as if the following provisions were omitted—

- (a) in section 2 (meaning of anti-social behaviour), subsections (1)(b) and (c), (2), (3) and (4); and
- (b) section 13 (power to exclude person from home in cases of violence or risk of harm).

(4) Section 101 of the 2014 Act (the community remedy document) has effect in relation to the Combined Authority as if it were a local authority.

(5) The Combined Authority shall be a relevant authority for the purposes of section 115 of the Crime and Disorder Act 1998 (disclosure of information)<sup>(10)</sup>.

(6) In this article “the 2014 Act” means the Anti-Social Behaviour, Crime and Policing Act 2014<sup>(11)</sup>.

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<sup>(8)</sup> Section 10(1) (enforcement) of the 2006 Act permits regulations to be made designating persons who are to be enforcement authorities for the purposes of Chapter 1 of that Act. Regulation 3(1)(a) and (b) of the Smoke-free (Premises and Enforcement) Regulations (S.I. 2006/3368) provide that a unitary authority and a district council insofar as it is not a unitary authority is designated as an enforcement authority for the purposes of Chapter 1 of Part 1 of the 2006 Act.

<sup>(9)</sup> 1972 c. 70. Section 145 was amended by section 198 of, and Schedule 6 to, the Licensing Act 2003 (c. 17).

<sup>(10)</sup> 1998 c. 37. Section 115 was amended by S.I. 2000/90, section 74 of, and Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c. 43), section 97 of the Police Reform Act 2002 (c. 30), S.I. 2469/2002, S.I. 2003/602, section 219 of the Housing Act 2004 (c. 34), section 22 of, and Schedule 9 to the Police and Justice Act 2006 (c. 48), section 29 of the Transport Act 2008 (c. 26), S.I. 2008/912, the Police Reform and Social Responsibility Act 2011 (c. 13), section 55 of, and Schedule 5 to, the Health and Social Care Act 2012 (c. 7), and S.I. 2010/886.

<sup>(11)</sup> 2014 c. 12.