



# Levelling-up and Regeneration Act 2023

## 2023 CHAPTER 55

### PART 2

#### LOCAL DEMOCRACY AND DEVOLUTION

### CHAPTER 1

#### COMBINED COUNTY AUTHORITIES

##### *Police and crime and fire and rescue functions*

### **33 Functions of mayors: policing**

- (1) The Secretary of State may by regulations provide for the mayor for the area of a CCA to exercise functions of a police and crime commissioner in relation to that area.
- (2) The reference in subsection (1) to functions of a police and crime commissioner is to any functions conferred on police and crime commissioners by or under—
  - (a) Part 1 of the Police Reform and Social Responsibility Act 2011, or
  - (b) any other Act (whenever passed).
- (3) In this Chapter references to “PCC functions”, in relation to a mayor for the area of a CCA, are to the functions of a police and crime commissioner that are exercisable by the mayor by virtue of subsection (1).
- (4) Regulations under subsection (1) may be made in relation to an existing mayoral CCA only with the consent of the mayor of the CCA.
- (5) If regulations are made under subsection (1) in relation to a CCA’s area—
  - (a) the Secretary of State must by regulations provide that there is to be no police and crime commissioner for that area as from a specified date;
  - (b) the Secretary of State may by regulations provide that any election of a police and crime commissioner for that area that would otherwise take place

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(whether before or after the specified date) by virtue of section 50(1)(b) of the Police Reform and Social Responsibility Act 2011 is not to take place.

- (6) Regulations under subsection (5) may include provision—
- (a) for the term of office of a police and crime commissioner to continue until the date specified in regulations under subsection (5)(a) (in spite of section 50(7)(b) of the Police Reform and Social Responsibility Act 2011);
  - (b) for an election to fill a vacancy in the office of a police and crime commissioner, which otherwise would take place under section 51 of that Act, not to take place if the vacancy occurs within a period of six months ending with the specified date.
- (7) Schedule 3 contains further provision in connection with regulations under this section.
- (8) Any PCC function exercisable by the mayor for the area of a CCA by virtue of this Act is to be taken to be a function of the CCA exercisable—
- (a) by the mayor acting individually, or
  - (b) by a person acting under arrangements with the mayor made in accordance with provision made under Schedule 3.

### **34 Exercise of fire and rescue functions**

- (1) This section applies to a mayor for the area of a CCA who—
- (a) by virtue of section 30(1), may exercise functions which are conferred on a fire and rescue authority in that name (“fire and rescue functions”), and
  - (b) by virtue of section 33(1), may exercise functions of a police and crime commissioner.
- (2) The Secretary of State may by regulations make provision—
- (a) authorising the mayor to arrange for the chief constable of the police force for the police area which corresponds to the area of the CCA to exercise fire and rescue functions exercisable by the mayor;
  - (b) authorising that chief constable to arrange for a person within subsection (4) to exercise the chief constable’s fire and rescue functions.
- (3) Regulations under subsection (2) may provide that arrangements made under the regulations—
- (a) may authorise the exercise of any functions mentioned in that subsection;
  - (b) may authorise the exercise of any functions mentioned in that subsection other than those specified or described in the regulations;
  - (c) may authorise the exercise of such of the functions mentioned in that subsection as are specified or described in the regulations.
- (4) The persons mentioned in subsection (2)(b) are—
- (a) members of the chief constable’s police force;
  - (b) the civilian staff of that police force, as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011;
  - (c) members of staff transferred to the chief constable under a scheme made by virtue of section 36(1);
  - (d) members of staff appointed by the chief constable under section 36(2).

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- (5) Provision in regulations under section 30(1) for a function to be exercisable only by the mayor for the area of a CCA is subject to provision made by virtue of subsection (2).
- (6) This section is subject to—
  - (a) section 35 (section 34 regulations: procedure), and
  - (b) section 37 of the Fire and Rescue Services Act 2004 (prohibition on employment of police in fire-fighting).
- (7) In this section “fire and rescue functions”, in relation to a chief constable, means—
  - (a) functions which are exercisable by the chief constable by virtue of provision made under subsection (2)(a), and
  - (b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment.

### **35 Section 34 regulations: procedure**

- (1) Regulations under section 34(2) may be made in relation to the mayor for the area of a CCA only if the mayor has requested the Secretary of State to make the regulations.
- (2) A request under subsection (1) must be accompanied by a report which contains—
  - (a) an assessment of why—
    - (i) it is in the interests of economy, efficiency and effectiveness for the regulations to be made, or
    - (ii) it is in the interests of public safety for the regulations to be made,
  - (b) a description of any public consultation which the mayor has carried out on the proposal for the regulations to be made,
  - (c) a summary of the responses to any such consultation, and
  - (d) a summary of the representations (if any) which the mayor has received about that proposal from the constituent members of the CCA.
- (3) Before making the request the mayor must publish, in such manner as the mayor thinks appropriate, the mayor’s response to the representations made or views expressed in response to any consultations on the proposal.
- (4) Subsections (5) to (7) apply if—
  - (a) the mayor for the area of a CCA makes a request under subsection (1) for the Secretary of State to make regulations under section 34(2), and
  - (b) at least two thirds of the constituent members of the CCA have indicated that they disagree with the proposal for the regulations to be made.
- (5) The mayor must, in providing the report under subsection (2), provide the Secretary of State with—
  - (a) copies of the representations (if any) made by the constituent members of the CCA about that proposal, and
  - (b) the mayor’s response to those representations and to the responses to any public consultation which the mayor has carried out on that proposal.
- (6) The Secretary of State must—
  - (a) obtain an independent assessment of that proposal, and
  - (b) in deciding whether to make the regulations, have regard to that assessment and to the material provided under subsection (5) (as well as the material provided under subsection (2)).

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- (7) The Secretary of State must publish the independent assessment—
  - (a) as soon as is reasonably practicable after making a determination in response to the proposal, and
  - (b) in such manner as the Secretary of State thinks appropriate.
- (8) Regulations under section 34(2) may be made only if it appears to the Secretary of State that—
  - (a) it is in the interests of economy, efficiency and effectiveness for the regulations to be made, or
  - (b) it is in the interests of public safety for the regulations to be made.
- (9) The Secretary of State may not make regulations under section 34(2) in a case within subsection (8)(a) of this section if the Secretary of State thinks that the regulations would have an adverse effect on public safety.
- (10) The Secretary of State may, in making regulations under section 34(2) in relation to the mayor for the area of a CCA, give effect to the mayor’s proposal for the regulations with such modifications as the Secretary of State thinks appropriate.
- (11) Before making regulations which give effect to such a proposal with modifications, the Secretary of State must consult the mayor and the CCA on the modifications.
- (12) In this section “constituent member”, in relation to a CCA, means a member of the CCA appointed by a constituent council (but does not include the mayor for the area of the CCA).

### **36 Section 34 regulations: further provision**

- (1) Regulations under section 34(2) may make provision for the making of a scheme to transfer property, rights and liabilities (including criminal liabilities)—
  - (a) from a fire and rescue authority or the CCA to the chief constable, or
  - (b) from the chief constable to the CCA,
 (including provision corresponding to any provision made by section 17(4) to (6) of the Localism Act 2011).
- (2) A chief constable to whom regulations under section 34(2) apply may appoint staff for the purpose of the exercise of the chief constable’s fire and rescue functions.
- (3) A chief constable to whom regulations under section 34(2) apply may—
  - (a) pay remuneration, allowances and gratuities to members of the chief constable’s fire and rescue staff;
  - (b) pay pensions to, or in respect of, persons who are or have been such members of staff;
  - (c) pay amounts for or towards the provision of pensions to, or in respect of, persons who are or have been such members of staff.
- (4) In subsection (3) “allowances”, in relation to a member of staff, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff.
- (5) Subject to subsections (6) to (8), a person who is employed pursuant to a transfer by virtue of subsection (1) or an appointment under subsection (2) may not at the same time be employed pursuant to an appointment by a chief constable of the police force

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for a police area under Schedule 2 to the Police Reform and Social Responsibility Act 2011.

- (6) Where regulations under section 34(2) are in force in relation to the chief constable of the police force for a police area, the person who is for the time being the police force's chief finance officer is to be responsible for the proper administration of financial affairs relating to the exercise of the chief constable's fire and rescue functions.
- (7) Subsection (5) does not prevent a person who is employed as a finance officer for fire functions from being at the same time employed as a finance officer for police functions.
- (8) In subsection (7)—
  - “finance officer for fire functions” means a member of a chief constable's fire and rescue staff who—
    - (a) is not a chief finance officer of the kind mentioned in subsection (6), and
    - (b) is employed to carry out duties relating to the proper administration of financial affairs relating to the exercise of the chief constable's fire and rescue functions;
  - “finance officer for police functions” means a member of a chief constable's civilian staff within the meaning of the Police Reform and Social Responsibility Act 2011 who—
    - (a) is not a chief finance officer of the kind mentioned in subsection (6), and
    - (b) is employed to carry out duties relating to the proper administration of a police force's financial affairs.
- (9) Where regulations under section 34(2) are in force, the CCA to which the regulations apply must pay—
  - (a) any damages or costs awarded against the chief constable to whom the regulations apply in any proceedings brought against the chief constable in respect of the acts or omissions of a member of the chief constable's fire and rescue staff;
  - (b) any costs incurred by the chief constable in any such proceedings so far as not recovered by the chief constable in the proceedings;
  - (c) any sum required in connection with the settlement of any claim made against the chief constable in respect of the acts or omissions of a member of the chief constable's fire and rescue staff, if the settlement is approved by the CCA.
- (10) Where regulations under section 34(2) are in force, the CCA to which the regulations apply may, in such cases and to such extent as appears to the CCA to be appropriate, pay—
  - (a) any damages or costs awarded against a member of the fire and rescue staff of the chief constable to whom the regulations apply in proceedings for any unlawful conduct of that member of staff;
  - (b) costs incurred and not recovered by such a member of staff in such proceedings;
  - (c) sums required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (11) In this section—
  - “fire and rescue functions” has the same meaning as in section 34;

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“fire and rescue staff”, in relation to a chief constable to whom regulations under section 34(2) apply, means—

- (a) staff transferred to the chief constable under a scheme made by virtue of subsection (1);
- (b) staff appointed by the chief constable under subsection (2).

### **37 Section 34 regulations: exercise of fire and rescue functions**

- (1) This section applies if—
  - (a) regulations under section 34(2) make provision in relation to the area of a CCA, and
  - (b) by virtue of the regulations, fire and rescue functions exercisable by the mayor for the area of the CCA are exercisable by the chief constable of the police force for the police area which corresponds to that area.
- (2) The chief constable must secure that good value for money is obtained in exercising—
  - (a) functions which are exercisable by the chief constable by virtue of the regulations, and
  - (b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment.
- (3) The chief constable must secure that other persons exercising functions by virtue of the regulations obtain good value for money in exercising those functions.
- (4) The mayor must—
  - (a) secure the exercise of the duties which are exercisable by the chief constable or another person by virtue of the regulations,
  - (b) secure the exercise of the duties relating to fire and rescue services which are imposed on the chief constable by or by virtue of any enactment,
  - (c) secure that functions which are exercisable by the chief constable or another person by virtue of the regulations are exercised efficiently and effectively, and
  - (d) secure that functions relating to fire and rescue services which are conferred or imposed on the chief constable by or by virtue of any enactment are exercised efficiently and effectively.
- (5) The mayor must hold the chief constable to account for the exercise of such functions.

### **38 Section 34 regulations: complaints and conduct matters etc**

- (1) If regulations are made under section 34(2) that enable arrangements to be made for the exercise of functions by members of a police force or the civilian staff of a police force, the Secretary of State may by regulations amend Part 2 of the Police Reform Act 2002 (persons serving with the police: complaints and conduct matters etc) in consequence of that provision.
- (2) If regulations are made under section 34(2) that enable arrangements to be made for the exercise of functions by members of staff transferred to a chief constable under a scheme made by virtue of section 36(1) or appointed by a chief constable under section 36(2), the Secretary of State may by regulations make provision of the type described in subsection (3) in relation to those members of staff.
- (3) The provision referred to in subsection (2) is—

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- (a) provision corresponding or similar to any provision made by or under Part 2 of the Police Reform Act 2002;
  - (b) provision applying (with or without modifications) any provision made by or under Part 2 of that Act.
- (4) The Secretary of State may by regulations, in consequence of any provision made under subsection (2), amend Part 2 of the Police Reform Act 2002.
- (5) Before making regulations under this section the Secretary of State must consult—
- (a) the Police Advisory Board for England and Wales,
  - (b) the Director General of the Independent Office for Police Conduct,
  - (c) such persons as appear to the Secretary of State to represent the views of police and crime commissioners,
  - (d) such persons as appear to the Secretary of State to represent the views of fire and rescue authorities, and
  - (e) such other persons as the Secretary of State considers appropriate.

### **39 Section 34 regulations: application of fire and rescue provisions**

- (1) The Secretary of State may by regulations—
- (a) apply (with or without modifications) any provision of a fire and rescue enactment in relation to a person within subsection (2);
  - (b) make, in relation to a person within subsection (2), provision corresponding or similar to any provision of a fire and rescue enactment.
- (2) Those persons are—
- (a) a chief constable of a police force for a police area to whom regulations under section 34(2) apply,
  - (b) a member of staff transferred to such a chief constable under a scheme made by virtue of section 36(1),
  - (c) a member of staff appointed by such a chief constable under section 36(2),
  - (d) a member of such a chief constable’s police force by whom functions are exercisable by virtue of section 34(2)(b), and
  - (e) a member of the civilian staff of such a police force (as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011) by whom functions are exercisable by virtue of section 34(2)(b).
- (3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made under a fire and rescue enactment or make provision corresponding or similar to any such provision.
- (4) The Secretary of State may by regulations amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (1).
- (5) In this section “fire and rescue enactment” means an enactment relating to a fire and rescue authority (including, in particular, an enactment relating to an employee of such an authority or property of such an authority).
- (6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made.



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#### **40 Section 34 regulations: application of local policing provisions**

- (1) The Secretary of State may by regulations—
  - (a) apply (with or without modifications) any provision of a local policing enactment in relation to a person within subsection (2);
  - (b) make, in relation to such a person, provision corresponding or similar to any provision of a local policing enactment.
- (2) Those persons are—
  - (a) a mayor for the area of a CCA to whom regulations under section 34(2) apply,
  - (b) a chief constable to whom such regulations apply, and
  - (c) a panel established by virtue of regulations under paragraph 4 of Schedule 3 for such an area.
- (3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made under a local policing enactment or make provision corresponding or similar to any such provision.
- (4) The Secretary of State may by regulations amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (1).
- (5) In this section “local policing enactment” means an enactment relating to a police and crime commissioner.
- (6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made.