

**EXPLANATORY MEMORANDUM TO**  
**THE LOCAL AUTHORITIES (ELECTED MAYORS) (ENGLAND) REGULATIONS**  
**2008**

**2008 No. 3112**

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 Under sections 28 and 29 of the Local Government Act 1985, read with section 39 of the Local Government Act 2000 (“the 2000 Act”), only an elected member or councillor of a local authority in the area of an Integrated Transport Authority can be appointed by the local authority as a member of that Integrated Transport Authority. (“Integrated Transport Authority“ (“ITA”) is the name given to the former Passenger Transport Authorities by section 77 of the Local Transport Act 2008.) These Regulations provide that where there is an elected mayor of a local authority in the area of an ITA, that elected mayor may be appointed by the local authority as a member of the ITA.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 Sections 28 and 29 of, and Schedule 10 to, the Local Government Act 1985 provide for the appointment to an ITA of members or councillors of a local authority. Sections 79(1) and 84(2) of the Local Transport Act 2008 enable further provision to be made regarding the appointment of members of an ITA, subject to the restrictions in sections 79(2)] and 85(1).

4.2 Section 39(5A) of the 2000 Act (section 39 was amended by section 66 of the Local Government and Public Involvement in Health Act 2007) provides that a reference in any enactment to a member or councillor of a local authority does not include a reference to an elected mayor of the authority. Section 39(5B) of the 2000 Act enables the Secretary of State to make regulations which provide that an elected mayor is to be treated as a member or councillor of a local authority for the purposes of such enactments as are specified in the regulations.

4.3 These Regulations, made under section 39(5B) of the 2000 Act, provide that an elected mayor is to be treated as a member of a local authority for the purpose of appointments made by that local authority to an ITA. The Regulations have effect in relation to appointments made under the Local Government Act 1985 or the Local Transport Act 2008.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England.

5.2 Section 9 of the Transport Act 1968 established a passenger transport area and Passenger Transport Authority in Scotland, to which these Regulations do not apply.

5.3 The Transport Act 1968 and Part 5 of the Local Transport Act 2008 extend to Wales, but no integrated transport areas or Integrated Transport Authorities have been established in Wales and there are no powers to establish new integrated transport areas and Authorities in Wales.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The intention of making these Regulations is to give added flexibility to individual local authorities as to who can be appointed by them to an ITA. The Regulations would enable a local authority to appoint an elected mayor of the authority to be a member of an ITA if the authority so chooses; they do not compel local authorities to do so.

7.2 There are 6 existing ITAs in England, covering the metropolitan counties of Greater Manchester, Merseyside, South Yorkshire, Tyne & Wear, West Midlands and West Yorkshire.

7.3 At present there are only two local authorities which have elected mayors and which are within the area of an ITA - North Tyneside and Doncaster – and so are immediately affected by these Regulations. However, the Regulations could have wider effect in future if:

7.3.1 a new ITA is established in an area in which one or more local authorities which will be constituent councils of the ITA already have elected mayors; or

7.3.2 a position of elected mayor is established in a local authority which is a constituent council of an ITA.

## **8. Consultation outcome**

8.1 Given the narrow application of these Regulations and the fact that they enable local authorities to act rather than compel them, a wide formal consultation has not been held. However, the individual local authorities and ITAs directly affected – as well as representatives of local authorities as a whole - were consulted during October 2008 on what is proposed. No objections have been received.

## **9. Guidance**

9.1 Ministers do not intend issuing separate guidance to support these Regulations. However, guidance will be issued under Part 5 of the Local Transport Act 2008. This guidance will cover the membership of ITAs, including the appointment of elected mayors.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **11. Regulating Small Business**

11.1 The legislation has no impact on small businesses.

## **12. Monitoring & review**

12.1 The Regulations will be kept under periodic review.

## **13. Contact**

13.1 Tim Barrow at the Department for Transport, tel: 020 7944 8891 or e-mail: [tim.barrow@dft.gsi.gov.uk](mailto:tim.barrow@dft.gsi.gov.uk) can answer any queries regarding the instrument.