

EXPLANATORY MEMORANDUM TO
THE COMBINED AUTHORITIES (MAYORS) (FILLING OF VACANCIES) ORDER
2017

2017 No. 69

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument makes essential provision in preparation for the introduction of directly elected mayors for combined authorities. The order provides the rules by which vacancies are to be declared in the office of Mayor, and the procedure by which these are to be filled through by-elections.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 These entire instruments apply only to England.
- 3.3 The instruments apply only to England as they are entirely concerned with the filling of vacancies in the office of a mayor for the area of a combined authority. Section 103(2) of the Local Democracy, Economic Development and Construction Act 2009 (the 2009 Act) provides that a combined authority may be established in relation to local government areas in England. The instrument does not give rise to minor or consequential effects outside England.
- 3.4 In the view of the Department, for the purposes of House of Commons Standing Order 83P, the subject-matter of this instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter; or the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament; or the National Assembly for Wales if equivalent provision in relation to Wales were included in an Act of the National Assembly for Wales.
- 3.5 The Department has reached this view because it considers that the primary purpose of the provisions in the instrument relate to local government, which is within the devolved legislative competence of the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales. The primary purpose of the subject-matter of the instrument is not within Schedule 5 to the Scotland Act 1998 and is not otherwise outside the legislative competence of the Scottish Parliament (see section 29 of that Act); the primary purpose of the subject matter of the instrument is not within Schedules 2 or 3 to the Northern Ireland Act 1998 and is not otherwise outside

the legislative competence of the Northern Ireland Assembly (see section 6 of that Act); the primary purpose of the subject-matter of the instrument is not within Schedule 7 to the Government of Wales Act 2006 and is not otherwise outside the legislative competence of the National Assembly for Wales (see section 108 of that Act).

4. Legislative Context

- 4.1 The Combined Authorities (Mayors) (Filling of Vacancies) Order 2017 is made under section 114 (1) of and paragraph 3 of Schedule 5B to, and paragraphs 7 and 9 of Schedule 5C to the Local Democracy, Economic Development and Construction Act 2009 (the 2009 Act).
- 4.2 Paragraph 3 of Schedule 5B to the 2009 Act allows the Secretary of State or the Chancellor of the Duchy of Lancaster to by Order make provision as to the filling of vacancies in the office of Mayor. section 114 (1) of the 2009 Act further allows incidental, consequential, transitional or supplementary provision(s) to be made to give full effect to this Order.
- 4.3 This Order is necessary to establish the rules by which vacancies are declared in the office of Mayor, and the procedure for filling these vacancies through by-elections. These provisions are required in advance of the election of Combined Authority Mayors in May 2017 to ensure that any subsequent vacancies can be dealt with.
- 4.4 This includes the Mayoral elections established under the Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016 (SI 2016/448) and The Tees Valley Combined Authority Order 2016 (SI 2016/449). This is in addition to future orders establishing further Combined Authority Mayoral elections in other areas.

5. Extent and Territorial Application

- 5.1 These instruments extend to England and Wales as the relevant powers being exercised extend to England and Wales.
- 5.2 The territorial application of this instrument is set out in Section 3 under “Other matters of interest to the House of Commons”.

6. European Convention on Human Rights

- 6.1 Andrew Percy Parliamentary under Secretary of State at the Department for Communities and Local Government, has made the following statement regarding Human Rights:

“In my view the provisions of the Combined Authorities (Mayors) (Filling of Vacancies) Order 2017 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 The Government committed in its manifesto to “devolve far-reaching powers over economic development, transport and social care to large cities which choose to have elected mayors” and to “legislate to deliver the historic deal for Greater Manchester, which will devolve powers and budgets and lead to the creation of a directly elected Mayor for Greater Manchester”.

- 7.2 Subsequently, agreements were reached with a number of further areas to devolve powers and budgets, and to provide for directly elected combined authority mayors.
- 7.3 This Order establishes the rules by which vacancies are declared in the office of Mayor, and the procedure for filling these vacancies through by-elections. These provisions are required in advance of the election of Combined Authority Mayors in May 2017 to ensure that any subsequent vacancies can be dealt with.

8. Consultation outcome

- 8.1 This Order replicates existing provisions, carrying across best-practice from other elections, including local mayoral elections and Police and Crime Commissioners. As there are no substantively new provisions within this Order, it was not necessary or appropriate to consult.

9. Guidance

- 9.1 No guidance is necessary to accompany this Order. The Department for Communities and Local Government continue to work with colleagues in mayoral combined authorities.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies, or the wider public sector.
- 10.2 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 This legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The legislation does not apply to activities that are undertaken by small businesses.

13. Contact

- 13.1 Rosemary Fletcher at the Department for Communities and Local Government
Telephone: 0303 444 1831 or email: rosemary.fletcher@communities.gov.uk can answer any queries regarding the instrument.