



# Local Democracy, Economic Development and Construction Act 2009

## 2009 CHAPTER 20

### PART 6

#### ECONOMIC PROSPERITY BOARDS AND COMBINED AUTHORITIES

##### *EPBs and their areas*

#### **88 EPBs and their areas**

- (1) The Secretary of State may by order establish as a body corporate an economic prosperity board (an “EPB”) for an area that meets the following conditions.
- (2) Condition A is that the area consists of the whole of two or more local government areas in England.
- (3) Condition B is that no part of the area is separated from the rest of it by one or more local government areas that are not within the area.
- (4) Condition C is that there is no local government area that is surrounded by local government areas that are within the area but that is not itself within the area.
- (5) Condition D is that no part of the area forms part of—
  - (a) the area of another EPB, or
  - (b) the area of a combined authority.
- (6) Condition E is that each local government area that forms part of the area was included in a scheme prepared and published under section 98.
- (7) In this Part “local government area” means the area of—
  - (a) a county council, or
  - (b) a district council.
- (8) An order under this section must specify the name by which the EPB is to be known.

*Status: Point in time view as at 18/02/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Part 6. (See end of Document for details)*

**Commencement Information**

**II** S. 88 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

*Constitution and functions of EPBs*

**89 Constitution**

- (1) The Secretary of State may by order make provision in relation to an EPB about—
  - (a) the membership of the EPB;
  - (b) the voting powers of members of the EPB;
  - (c) the executive arrangements of the EPB.
- (2) The provision that may be made about membership includes provision about—
  - (a) the number and appointment of members of the EPB;
  - (b) the remuneration of, and pensions or allowances payable to or in respect of, any member of the EPB.
- (3) The provision that may be made about voting powers includes provision for different weight to be given to the vote of different descriptions of member.
- (4) The provision that may be made about executive arrangements includes provision about—
  - (a) the appointment of an executive;
  - (b) the functions of the EPB that are the responsibility of an executive;
  - (c) the functions of the EPB that are the responsibility of an executive and that may be discharged by a committee of the EPB or by a body other than the EPB;
  - (d) arrangements relating to the review and scrutiny of the discharge of functions;
  - (e) access to information on the proceedings of an executive of the EPB;
  - (f) the disapplication of section 15 of the Local Government and Housing Act 1989 (c. 42) (duty to allocate seats to political groups) in relation to an executive of the EPB or a committee of such an executive;
  - (g) the keeping of a record of any arrangements relating to the EPB and falling within paragraphs (a) to (f).
- (5) An order under this section may not provide for the budget of an EPB to be agreed otherwise than by the EPB.

**Commencement Information**

**I2** S. 89 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

**90 Constitution: membership and voting**

- (1) An order under section 89 that includes provision about the number and appointment of members of an EPB must provide—
  - (a) for a majority of the members of the EPB to be appointed by the EPB's constituent councils,

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- (b) for those members to be appointed from among the elected members of the constituent councils, and
  - (c) for each constituent council that is a representative council to appoint at least one of its elected members as a member of the EPB.
- (2) For the purposes of this section—
- (a) a county council is a constituent council of an EPB if the area of the county council, or part of that area, is within the EPB's area;
  - (b) a district council is a constituent council of an EPB if the area of the district council is within the EPB's area.
- (3) For the purposes of this section, the following are representative councils in relation to an EPB—
- (a) if the EPB's area coincides with or includes the whole of the area of a county council, the county council;
  - (b) if the EPB's area includes part of the area of a county council—
    - (i) the county council, or
    - (ii) each district council for an area within that part, as determined by or in accordance with the order;
  - (c) if the EPB's area includes the area of a unitary district council, the district council.
- (4) In this Part “unitary district council” means a district council whose area is not part of the area of a county council.
- (5) If an order under section 89 provides for members of an EPB to be appointed otherwise than from among the elected members of its constituent councils, the order must provide for those members to be non-voting members.
- (6) The voting members of an EPB may resolve that provision made in accordance with subsection (5) is not to apply in the case of the EPB.

#### **Commencement Information**

**I3** S. 90 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

## **91 Exercise of local authority functions**

- (1) The Secretary of State may by order provide for a function of a local authority that is exercisable in relation to an area within an EPB's area to be exercisable by the EPB in relation to the EPB's area.
- (2) The Secretary of State may make an order under this section only if the Secretary of State considers that the function can appropriately be exercised by the EPB.
- (3) An order under this section may make provision for the function to be exercisable by the EPB either generally or subject to such conditions or limitations as may be specified in the order.
- (4) An order under this section may make provision—
  - (a) for the function to be exercisable by the EPB instead of by the local authority, or

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- (b) for the function to be exercisable by the EPB concurrently with the local authority.
- (5) An EPB must perform the functions that are exercisable by the EPB by virtue of this section with a view to promoting the economic development and regeneration of its area.
- (6) In this section “local authority” means—
  - (a) a county council, or
  - (b) a district council.

#### Commencement Information

**I4** S. 91 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

## 92 Funding

- (1) The Secretary of State may by order make provision—
  - (a) for the costs of an EPB to be met by its constituent councils, and
  - (b) about the basis on which the amount payable by each constituent council is to be determined.
- (2) For the purposes of this section—
  - (a) a county council is a constituent council of an EPB if the area of the county council, or part of that area, is within the EPB's area;
  - (b) a district council is a constituent council of an EPB if the area of the district council is within the EPB's area.

#### Commencement Information

**I5** S. 92 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

## 93 Accounts

- (1) Each EPB must keep a fund to be known as the general fund.
- (2) All receipts of the EPB must be carried to that fund.
- (3) All liabilities falling to be discharged by the EPB must be discharged out of that fund.
- (4) Accounts must be kept of—
  - (a) receipts carried to the general fund, and
  - (b) payments made out of the general fund.

#### Commencement Information

**I6** S. 93 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

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## 94 Change of name

- (1) An EPB may change its name by a resolution in accordance with this section.
- (2) The resolution must be considered at a meeting of the EPB that is specially convened for the purpose.
- (3) Particulars of the resolution must have been included in the notice of the meeting.
- (4) The resolution must be passed at the meeting by not less than two-thirds of the members of the EPB who vote on it.
- (5) An EPB that changes its name under this section must—
  - (a) send notice of the change to the Secretary of State, and
  - (b) publish the notice in such manner as the Secretary of State may direct.
- (6) A change of name under this section does not affect the rights or obligations of the EPB or any other person, or render defective any legal proceedings.
- (7) Any legal proceedings may be commenced or continued as if there had been no change of name.

### Commencement Information

**I7** S. 94 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

## *Changes to and dissolution of an EPB's area*

## 95 Changes to boundaries of an EPB's area

- (1) The Secretary of State may by order change the boundaries of an EPB's area by—
  - (a) adding a local government area to an existing area of an EPB, or
  - (b) removing a local government area from an existing area of an EPB.
- (2) An order may be made under this section only if—
  - (a) the area to be created by the order meets conditions A to D in section 88, and
  - (b) each council to whom this section applies consents to the making of the order.
- (3) This section applies to—
  - (a) a county council whose area, or part of whose area, is to be added to or removed from the existing area of the EPB;
  - (b) a district council whose area is to be added to or removed from the existing area of the EPB.

### Commencement Information

**I8** S. 95 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

## 96 Dissolution of an EPB's area

- (1) The Secretary of State may by order—
  - (a) dissolve an EPB's area, and

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- (b) abolish the EPB for the area.
- (2) An order may be made under this section only if a majority of the councils to whom this section applies consent to the making of the order.
- (3) This section applies to—
  - (a) a county council whose area, or part of whose area, is within the EPB's area;
  - (b) a unitary district council whose area is within the EPB's area.

**Commencement Information**

**I9** S. 96 in force at 17.12.2009 by [S.I. 2009/3318](#), **art. 2(a)**

*Requirements in connection with orders about EPBs*

**97 Review by authorities: new EPB**

- (1) Any two or more of the authorities to whom this section applies may undertake a review of the effectiveness and efficiency of arrangements to promote economic development and regeneration within the area covered by the review (“the review area”).
- (2) This section applies to—
  - (a) a county council in England;
  - (b) a district council in England.
- (3) Where the review is being undertaken by a county council, the review area must include—
  - (a) the areas of one or more district councils that are within the area of the county council, or
  - (b) if there are no such areas, the area of the county council.
- (4) Where the review is being undertaken by a district council, the review area must include the area of the district council.
- (5) The review area may also include the area of any county council or district council in England not undertaking the review.

**Commencement Information**

**I10** S. 97 in force at 17.12.2009 by [S.I. 2009/3318](#), **art. 2(a)**

**98 Preparation and publication of scheme: new EPB**

- (1) This section applies where two or more of the authorities that have undertaken a review under section 97 conclude that the establishment of an EPB for an area would be likely to improve—
  - (a) the exercise of statutory functions relating to economic development and regeneration in the area, and
  - (b) economic conditions in the area.

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- (2) The authorities may prepare and publish a scheme for the establishment of an EPB for the area (“the scheme area”).
- (3) Subject as follows, the scheme area—
  - (a) must consist of or include the whole or any part of the review area,
  - (b) may include one or more other local government areas, and
  - (c) must meet conditions A to C in section 88.
- (4) The scheme area may not include a local government area unless each appropriate authority for that area—
  - (a) participates in the preparation of the scheme, or
  - (b) consents to its inclusion in the scheme area.
- (5) For this purpose—
  - (a) a county council is an appropriate authority for a local government area that is or forms part of the area of that county council;
  - (b) a district council is an appropriate authority for a local government area that is the area of that district council.

**Commencement Information**

**I11** S. 98 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

**99 Requirements in connection with establishment of EPB**

- (1) The Secretary of State may make an order establishing an EPB for an area only if, having regard to a scheme prepared and published under section 98, the Secretary of State considers that to do so is likely to improve—
  - (a) the exercise of statutory functions relating to economic development and regeneration in the area, and
  - (b) economic conditions in the area.
- (2) Before making the order, the Secretary of State must consult—
  - (a) each appropriate authority, and
  - (b) such other persons (if any) as the Secretary of State considers appropriate.
- (3) For the purposes of this section—
  - (a) a county council is an appropriate authority if the area of the county council, or part of that area, is within the area for which the EPB is to be established;
  - (b) a district council is an appropriate authority if the area of the district council is within the area for which the EPB is to be established.
- (4) In making the order, the Secretary of State must have regard to the need—
  - (a) to reflect the identities and interests of local communities, and
  - (b) to secure effective and convenient local government.

**Commencement Information**

**I12** S. 99 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

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## **100 Review by authorities: existing EPB**

- (1) Any one or more of the authorities to whom this section applies may undertake, in relation to an existing EPB, a review of one or more EPB matters.
- (2) This section applies to—
  - (a) an EPB;
  - (b) a county council whose area, or part of whose area, is within an area of an EPB or could be within a proposed area of an EPB;
  - (c) a district council whose area is within an area of an EPB or could be within a proposed area of an EPB.
- (3) For the purposes of this section an “EPB matter” is—
  - (a) a matter in relation to which an order may be made under any of sections 89, 91, 92, 95 and 96;
  - (b) a matter concerning the EPB that the EPB has power to determine.
- (4) The review must relate to one or more areas of an EPB or proposed areas of an EPB.
- (5) In this section and section 101 a “proposed area of an EPB” means an area of an EPB that may be created by an order under section 95 (changes to boundaries of an EPB's area).

### **Commencement Information**

**I13** S. 100 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

## **101 Preparation and publication of scheme: existing EPB**

- (1) This section applies where one or more of the authorities that have undertaken a review under section 100 conclude that the exercise of the power to make an order under any one or more of sections 89, 91, 92, 95 and 96 would be likely to improve—
  - (a) the exercise of statutory functions relating to economic development and regeneration in an area of an EPB or a proposed area of an EPB, or
  - (b) economic conditions in such an area.
- (2) The authorities may prepare and publish a scheme relating to the power or powers in question.
- (3) The reference in subsection (1) to an area of an EPB includes an area that would cease to be an area of an EPB if an order were made in relation to that area under section 96 (dissolution of an EPB's area).

### **Commencement Information**

**I14** S. 101 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

## **102 Requirements in connection with changes to existing EPB arrangements**

- (1) The Secretary of State may make an order under any of sections 89, 91, 92, 95 and 96 in relation to an existing EPB only if, having regard to a scheme prepared and



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published under section 101, the Secretary of State considers that the making of the order is likely to improve—

- (a) the exercise of statutory functions relating to economic development and regeneration in the area or areas to which the order relates, or
  - (b) economic conditions in that area or those areas.
- (2) Before making the order, the Secretary of State must consult—
- (a) such of the authorities mentioned in section 100(2), and
  - (b) such other persons (if any),
- as the Secretary of State considers appropriate.
- (3) In making the order, the Secretary of State must have regard to the need—
- (a) to reflect the identities and interests of local communities, and
  - (b) to secure effective and convenient local government.

#### **Commencement Information**

**I15** S. 102 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

### *Combined authorities and their areas*

#### **103 Combined authorities and their areas**

- (1) The Secretary of State may by order establish as a body corporate a combined authority for an area that meets the following conditions.
- (2) Condition A is that the area consists of the whole of two or more local government areas in England.
- (3) Condition B is that no part of the area is separated from the rest of it by one or more local government areas that are not within the area.
- (4) Condition C is that there is no local government area that is surrounded by local government areas that are within the area but that is not itself within the area.
- (5) Condition D is that no part of the area forms part of—
  - (a) the area of another combined authority,
  - (b) the area of an EPB, or
  - (c) an integrated transport area.
- (6) Condition E is that each local government area that forms part of the area was included in a scheme prepared and published under section 109.
- (7) An order under this section must specify the name by which the combined authority is to be known.

#### **Modifications etc. (not altering text)**

**C1** S. 103 power to transfer functions conferred by 2008 c. 26, s. 89A (as inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), s. 148(6), [Sch. 6 para. 127](#); [S.I. 2009/3318](#), [art. 2\(c\)](#))

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**Commencement Information**

**I16** S. 103 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

**104 Constitution and functions: transport**

- (1) The Secretary of State may by order make in relation to a combined authority any provision that may be made in relation to an Integrated Transport Authority (an “ITA”) under the following provisions of the Local Transport Act 2008 (c. 26)—
  - (a) section 84 (constitutional arrangements);
  - (b) section 86 (delegation of functions of the Secretary of State);
  - (c) section 87 (delegation of local authority functions);
  - (d) section 88 (conferral of a power to direct).
- (2) Section 85 of that Act (provision about membership of an ITA) applies to—
  - (a) an order under subsection (1)(a) of this section, and
  - (b) the combined authority to whom that order applies,
 as it applies to an order under section 84 of that Act and the ITA to whom that order applies.
- (3) The following provisions of that Act apply in relation to a combined authority on whom functions of a kind described in section 88 of that Act are conferred as they apply in relation to an ITA on whom such functions are conferred—
  - (a) section 88(10) (provisions about directions);
  - (b) section 89(2) and (3) (power to remedy contravention of direction).
- (4) Section 97 of that Act (change of name of ITA) applies to a combined authority as it applies to an ITA.
- (5) The Secretary of State may by order transfer functions of an ITA to a combined authority.
- (6) An order under subsection (5) may only be made in relation to functions exercisable by the ITA in relation to an area that becomes, or becomes part of, the combined authority's area by virtue of an order under this Part.
- (7) The Secretary of State may by order provide for any function that is conferred or imposed on a Passenger Transport Executive by any enactment (whenever passed or made) to be exercisable by a combined authority or the executive body of a combined authority in relation to the combined authority's area.
- (8) An order under subsection (7) may make provision for any function that—
  - (a) is conferred or imposed on an ITA by any enactment (whenever passed or made), and
  - (b) relates to the functions of a Passenger Transport Executive,
 to be exercisable by a combined authority in relation to the combined authority's area.

**Commencement Information**

**I17** S. 104 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Part 6. (See end of Document for details)*

## **105 Constitution and functions: economic development and regeneration**

- (1) The Secretary of State may by order make in relation to a combined authority any provision that may be made in relation to an EPB under section 91 (exercise of local authority functions).
- (2) Subsection (5) of section 91 (duty to perform functions with a view to promoting economic development and regeneration) applies to the exercise of functions by a combined authority by virtue of subsection (1) of this section as it applies to the exercise of functions by an EPB by virtue of that section.
- (3) The Secretary of State may by order make in relation to a combined authority any provision that may be made in relation to an EPB under section 92 (funding).
- (4) An order under subsection (3) may make such provision only in relation to the costs of a combined authority that are reasonably attributable to the exercise of its functions relating to economic development and regeneration.

### **Commencement Information**

**I18** S. 105 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

## **106 Changes to boundaries of a combined authority's area**

- (1) The Secretary of State may by order change the boundaries of a combined authority's area by—
  - (a) adding a local government area to an existing area of a combined authority, or
  - (b) removing a local government area from an existing area of a combined authority.
- (2) An order may be made under this section only if—
  - (a) the area to be created by the order meets conditions A to D in section 103, and
  - (b) each council to whom this subsection applies consents to the making of the order.
- (3) Subsection (2) applies to—
  - (a) a county council whose area, or part of whose area, is to be added to or removed from the existing area of the combined authority;
  - (b) a district council whose area is to be added to or removed from the existing area of the combined authority.
- (4) Where by virtue of an order an area ceases to be part of the area of a combined authority, the order—
  - (a) must make provision for designating an authority to be a local transport authority for the area for the purposes of section 108(4) of the Transport Act 2000 (c. 38), and
  - (b) may transfer functions to that authority from the combined authority that was formerly the local transport authority.
- (5) Provision made by virtue of subsection (4) may designate different authorities for different parts of the area.
- (6) The reference in subsection (4)(a) to an authority does not include an ITA.

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- (7) Subsection (4) does not apply if the area becomes part of the integrated transport area of an ITA by virtue of an order under section 78 or 90 of the Local Transport Act 2008 (c. 26).

**Commencement Information**

**I19** S. 106 in force at 17.12.2009 by [S.I. 2009/3318](#), **art. 2(a)**

**107 Dissolution of a combined authority's area**

- (1) The Secretary of State may by order—
- (a) dissolve a combined authority's area, and
  - (b) abolish the combined authority for that area.
- (2) An order may be made under this section only if a majority of the councils to whom this subsection applies consent to the making of the order.
- (3) Subsection (2) applies to—
- (a) a county council whose area, or part of whose area, is within the combined authority's area;
  - (b) a unitary district council whose area is within the combined authority's area.
- (4) The order—
- (a) must make provision for designating an authority to be a local transport authority for the area that was previously the combined authority's area for the purposes of section 108(4) of the Transport Act 2000 (c. 38), and
  - (b) may transfer functions to that authority from the combined authority that was formerly the local transport authority.
- (5) Provision made by virtue of subsection (4) may designate different authorities for different parts of the area.
- (6) The reference in subsection (4)(a) to an authority does not include an ITA.
- (7) Subsection (4) does not apply to a territory or part of a territory that becomes the integrated transport area or part of the integrated transport area of an ITA by virtue of an order under section 78 or 90 of the Local Transport Act 2008.

**Commencement Information**

**I20** S. 107 in force at 17.12.2009 by [S.I. 2009/3318](#), **art. 2(a)**

*Requirements in connection with orders about combined authorities*

**108 Review by authorities: new combined authority**

- (1) Any two or more of the authorities to whom this section applies may undertake a review of—
- (a) the effectiveness and efficiency of transport within the area covered by the review (“the review area”), and

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- (b) the effectiveness and efficiency of arrangements to promote economic development and regeneration within the review area.
- (2) This section applies to—
- (a) a county council in England;
  - (b) a district council in England;
  - (c) an EPB;
  - (d) an ITA.
- (3) Where the review is being undertaken by a county council, the review area must include—
- (a) the areas of one or more district councils that are within the area of the county council, or
  - (b) if there are no such areas, the area of the county council.
- (4) Where the review is being undertaken by a district council, the review area must include the area of the district council.
- (5) Where the review is being undertaken by an EPB, the review area must include one or more local government areas within the EPB's area.
- (6) Where the review is being undertaken by an ITA, the review area must include one or more local government areas within the ITA's integrated transport area.
- (7) The review area may also include the area of any county council or district council in England that does not constitute or fall within the area of an authority undertaking the review.

**Commencement Information**

**I21** S. 108 in force at 17.12.2009 by S.I. 2009/3318, art. 2(a)

**109 Preparation and publication of scheme: new combined authority**

- (1) This section applies where two or more of the authorities that have undertaken a review under section 108 conclude that the establishment of a combined authority for an area would be likely to improve—
- (a) the exercise of statutory functions relating to transport in the area,
  - (b) the effectiveness and efficiency of transport in the area,
  - (c) the exercise of statutory functions relating to economic development and regeneration in the area, and
  - (d) economic conditions in the area.
- (2) The authorities may prepare and publish a scheme for the establishment of a combined authority for the area (“the scheme area”).
- (3) Subject as follows, the scheme area—
- (a) must consist of or include the whole or any part of the review area,
  - (b) may include one or more other local government areas, and
  - (c) must meet conditions A to C in section 103.

*Status: Point in time view as at 18/02/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Part 6. (See end of Document for details)*

- (4) The scheme area may not include a local government area unless each appropriate authority for that area—
- (a) participates in the preparation of the scheme, or
  - (b) consents to its inclusion in the scheme area.
- (5) For this purpose—
- (a) a county council is an appropriate authority for a local government area that is or forms part of the area of that county council;
  - (b) a district council is an appropriate authority for a local government area that is the area of that district council.

**Commencement Information**

**I22** S. 109 in force at 17.12.2009 by S.I. 2009/3318, art. 2(a)

**110 Requirements in connection with establishment of combined authority**

- (1) The Secretary of State may make an order establishing a combined authority for an area only if, having regard to a scheme prepared and published under section 109, the Secretary of State considers that to do so is likely to improve—
- (a) the exercise of statutory functions relating to transport in the area,
  - (b) the effectiveness and efficiency of transport in the area,
  - (c) the exercise of statutory functions relating to economic development and regeneration in the area, and
  - (d) economic conditions in the area.
- (2) Before making the order, the Secretary of State must consult—
- (a) each appropriate authority, and
  - (b) such other persons (if any) as the Secretary of State considers appropriate.
- (3) For the purposes of this section—
- (a) a county council is an appropriate authority if the area of the county council, or part of that area, is within the area for which the combined authority is to be established;
  - (b) a district council is an appropriate authority if the area of the district council is within the area for which the combined authority is to be established;
  - (c) an EPB is an appropriate authority if the EPB's area, or part of its area, is within the area for which the combined authority is to be established;
  - (d) an ITA is an appropriate authority if the ITA's integrated transport area, or part of that area, is within the area for which the combined authority is to be established.
- (4) In making the order, the Secretary of State must have regard to the need—
- (a) to reflect the identities and interests of local communities, and
  - (b) to secure effective and convenient local government.

**Commencement Information**

**I23** S. 110 in force at 17.12.2009 by S.I. 2009/3318, art. 2(a)

*Status: Point in time view as at 18/02/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Part 6. (See end of Document for details)*

## **111 Review by authorities: existing combined authority**

- (1) Any one or more of the authorities to whom this section applies may undertake, in relation to an existing combined authority, a review of one or more combined matters.
- (2) This section applies to—
  - (a) a combined authority;
  - (b) a county council whose area, or part of whose area, is within an area of a combined authority or could be within a proposed area of a combined authority;
  - (c) a district council whose area is within an area of a combined authority or could be within a proposed area of a combined authority.
- (3) For the purposes of this section a “combined matter” is—
  - (a) a matter in relation to which an order may be made under any of sections 104 to 107;
  - (b) in relation to the combined authority or any executive body of the combined authority, where that body exists at the time of the review, a matter concerning the combined authority or the executive body that the combined authority has power to determine.
- (4) The review must relate to one or more areas of a combined authority or proposed areas of a combined authority.
- (5) In this section and section 112 a “proposed area of a combined authority” means an area of a combined authority that may be created by an order under section 106 (changes to boundaries of a combined authority's area).

### **Commencement Information**

**I24** S. 111 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

## **112 Preparation and publication of scheme: existing combined authority**

- (1) This section applies where one or more of the authorities that have undertaken a review under section 111 conclude that the exercise of the power to make an order under any one or more of sections 104 to 107 would be likely to improve—
  - (a) the exercise of statutory functions relating to transport in an area of a combined authority or a proposed area of a combined authority,
  - (b) the effectiveness and efficiency of transport in such an area,
  - (c) the exercise of statutory functions relating to economic development and regeneration in such an area, or
  - (d) economic conditions in such an area.
- (2) The authorities may prepare and publish a scheme relating to the exercise of the power or powers in question.
- (3) The reference in subsection (1) to an area of a combined authority includes an area that would cease to be an area of a combined authority if an order were made in relation to that area under section 107 (dissolution of a combined authority's area).

*Status: Point in time view as at 18/02/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Part 6. (See end of Document for details)*

**Commencement Information**

**I25** S. 112 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

**113 Requirements in connection with changes to existing combined arrangements**

- (1) The Secretary of State may make an order under any of sections 104 to 107 in relation to an existing combined authority only if, having regard to a scheme prepared and published under section 112, the Secretary of State considers that the making of the order is likely to improve—
  - (a) the exercise of statutory functions relating to transport in the area or areas to which the order relates,
  - (b) the effectiveness and efficiency of transport in that area or those areas,
  - (c) the exercise of statutory functions relating to economic development and regeneration in that area or those areas, or
  - (d) economic conditions in that area or those areas.
- (2) Before making the order, the Secretary of State must consult—
  - (a) such of the authorities mentioned in section 111(2), and
  - (b) such other persons (if any),
 as the Secretary of State considers appropriate.
- (3) In making the order, the Secretary of State must have regard to the need—
  - (a) to reflect the identities and interests of local communities, and
  - (b) to secure effective and convenient local government.

**Commencement Information**

**I26** S. 113 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

*[<sup>F1</sup>General powers of EPBs and combined authorities*

**Textual Amendments**

**F1** Ss. 113A-113C and cross-heading inserted (18.2.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 13\(1\)](#), [240\(2\)](#); [S.I. 2012/411](#), [art. 2\(e\)](#)

**113A General power of EPB or combined authority**

- (1) An EPB or combined authority may do—
  - (a) anything it considers appropriate for the purposes of the carrying-out of any of its functions (its “functional purposes”),
  - (b) anything it considers appropriate for purposes incidental to its functional purposes,
  - (c) anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes,
  - (d) anything it considers to be connected with—



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- (i) any of its functions, or
  - (ii) anything it may do under paragraph (a), (b) or (c), and
  - (e) for a commercial purpose anything which it may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) Where subsection (1) confers power on an EPB or combined authority to do something, it confers power (subject to section 113B) to do it anywhere in the United Kingdom or elsewhere.
- (3) Power conferred on an EPB or combined authority by subsection (1) is in addition to, and is not limited by, its other powers.

### **113B Boundaries of power under section 113A**

- (1) Section 113A(1) does not enable an EPB or combined authority to do—
- (a) anything which it is unable to do by virtue of a pre-commencement limitation, or
  - (b) anything which it is unable to do by virtue of a post-commencement limitation which is expressed to apply—
    - (i) to its power under section 113A(1),
    - (ii) to all of its powers, or
    - (iii) to all of its powers but with exceptions that do not include its power under section 113A(1).
- (2) If exercise of a pre-commencement power of an EPB or combined authority is subject to restrictions, those restrictions apply also to exercise of the power conferred on it by section 113A(1) so far as that power is overlapped by the pre-commencement power.
- (3) Section 113A(1) does not authorise an EPB or combined authority to borrow money.
- (4) Section 113A(1)(a) to (d) do not authorise an EPB or combined authority to charge a person for anything done by it otherwise than for a commercial purpose (but see section 93 of the Local Government Act 2003 (power of EPBs, combined authorities and other best value authorities to charge for discretionary services)).
- (5) Section 113A(1)(e) does not authorise an EPB or combined authority to do things for a commercial purpose in relation to a person if a statutory provision requires it to do those things in relation to the person.
- (6) Where under section 113A(1)(e) an EPB or combined authority does things for a commercial purpose, it must do them through—
- (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
  - (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.
- (7) In this section—
- “post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
    - (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or

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- (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 13(1) of that Act;  
“pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
  - (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
  - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 13(1) of that Act;
“pre-commencement power” means power conferred by a statutory provision that—
  - (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
  - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 13(1) of that Act;
“statutory provision” means a provision of an Act or of an instrument made under an Act.

### **113C Power to make provision supplemental to section 113A**

- (1) The Secretary of State may by order make provision preventing EPBs or combined authorities from doing under section 113A(1) anything which is specified, or is of a description specified, in the order.
- (2) The Secretary of State may by order provide for the exercise by EPBs or combined authorities of power conferred by section 113A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.
- (3) The power under subsection (1) or (2) may be exercised in relation to—
  - (a) all EPBs,
  - (b) all combined authorities,
  - (c) particular EPBs,
  - (d) particular combined authorities,
  - (e) particular descriptions of EPBs, or
  - (f) particular descriptions of combined authorities.
- (4) Before making an order under subsection (1) or (2) the Secretary of State must consult—
  - (a) such representatives of EPBs or combined authorities,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),
as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—
  - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular EPB or combined authority or to EPBs or combined authorities of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular EPB or combined authority or to EPBs or combined authorities of a particular description.

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*Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Part 6. (See end of Document for details)*

- (6) Power to make an order under this section includes—
- (a) power to make different provision for different cases, circumstances or areas, and
  - (b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.]

### *Supplementary*

#### **114 Incidental etc provision**

- (1) The Secretary of State may by order make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, an order under this Part or for giving full effect to such an order.
- (2) An order under this section may include provision amending, applying (with or without modifications), disapplying, repealing or revoking any enactment, whenever passed or made.
- (3) The provision that may be included by virtue of subsection (2) includes provision applying, with modifications, or disapplying any enactment amended by Schedule 6.
- (4) An order under this section may not include provision amending or disapplying sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (c. 42) (political balance on local authority committees etc).

#### **Commencement Information**

**I27** S. 114 in force at 12.1.2010 by [S.I. 2009/3318](#), [art. 3](#)

#### **115 Transfer of property, rights and liabilities**

- (1) The Secretary of State may by order make provision for the transfer of property, rights and liabilities for the purposes of, or in consequence of, an order under this Part or for giving full effect to such an order.
- (2) Property, rights and liabilities may be transferred by—
  - (a) the order,
  - (b) a scheme made by the Secretary of State under the order, or
  - (c) a scheme required to be made under the order by a person other than the Secretary of State.
- (3) A transfer by virtue of this section may have effect—
  - (a) whether or not the property, rights and liabilities would otherwise be capable of being transferred;
  - (b) without any instrument or formality being required.
- (4) The rights and liabilities which may be transferred by virtue of this section include rights and liabilities in relation to a contract of employment.
- (5) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to the transfer by virtue of this section (whether or not the transfer is a relevant transfer for the purposes of those regulations).

*Status: Point in time view as at 18/02/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Part 6. (See end of Document for details)*

- (6) An order under this section or a scheme made under it may define the property, rights and liabilities to be transferred by specifying or describing them.
- (7) Provision for the transfer of property, rights and liabilities made by virtue of this section may include provision—
- (a) for the creation or imposition by the Secretary of State of new rights or liabilities in respect of anything transferred;
  - (b) for the shared ownership or use of any property or facilities;
  - (c) for the management or custody of transferred property;
  - (d) for bodies to make agreements with respect to any property, income, rights, liabilities and expenses of, and any financial relations between, the parties to the agreement.
- (8) Provision for the transfer of property, rights and liabilities made by virtue of this section may include provision—
- (a) for the continuing effect of things done by the transferor in relation to anything transferred;
  - (b) for the continuation of things (including legal proceedings) in the process of being done, by or on behalf of or in relation to the transferor in relation to anything transferred;
  - (c) for references to the transferor in any agreement (whether written or not), instrument or other document in relation to anything transferred to be treated (so far as necessary for the purposes of or in consequence of the transfer) as references to the transferee.

#### Commencement Information

**I28** S. 115 in force at 12.1.2010 by [S.I. 2009/3318](#), [art. 3](#)

## 116 Consequential amendments

- (1) The Secretary of State may by order make such provision as the Secretary of State considers appropriate in consequence of any provision made by this Part.
- (2) The power conferred in subsection (1) includes power to amend, repeal or revoke provision contained in an enactment passed or made before the day on which this Act is passed.

#### Commencement Information

**I29** S. 116 in force at 12.1.2010 by [S.I. 2009/3318](#), [art. 3](#)

## 117 Orders

- (1) Orders under this Part must be made by statutory instrument.
- <sup>[F2]</sup>(2) An order to which subsection (2A) applies may not be made unless a draft of the statutory instrument containing the order (whether alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.
- (2A) This subsection applies to an order under this Part other than—

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*Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Part 6. (See end of Document for details)*

- (a) an order under section 113C(1) that is made only for the purpose mentioned in section 113C(5)(b),
  - (b) an order under section 113C(2) that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose, or
  - (c) an order under section 116 that amends or revokes provision contained in an instrument subject to annulment by resolution of either House of Parliament.
- (3) A statutory instrument that—
- (a) contains an order under this Part, and
  - (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,
- is subject to annulment by resolution of either House of Parliament.]
- (4) If a draft of an order under this Part would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

#### Textual Amendments

**F2** S. 117(2)-(3) substituted for s. 117(2)(3) (18.2.2012) by [Localism Act 2011 \(c. 20\), ss. 13\(2\), 240\(2\); S.I. 2012/411, art. 2\(e\)](#)

#### Commencement Information

**I30** S. 117 in force at 12.1.2010 by [S.I. 2009/3318, art. 3](#)

## 118 Guidance

- (1) The Secretary of State may give guidance about anything that could be done by an authority to whom this section applies under or by virtue of this Part.
- (2) An authority to whom this section applies must have regard to any guidance given under this section in exercising any function conferred or imposed by or by virtue of this Part.
- (3) Any guidance under this section must be given in writing and may be varied or revoked by further guidance in writing.
- (4) Any such guidance may make different provision for different cases and different provision for different areas.
- (5) This section applies to—
  - (a) a county council;
  - (b) a district council;
  - (c) an EPB;
  - (d) an ITA;
  - (e) a combined authority.

#### Commencement Information

**I31** S. 118 in force at 17.12.2009 by [S.I. 2009/3318, art. 2\(b\)](#)

*Status: Point in time view as at 18/02/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Part 6. (See end of Document for details)*

## 119 Amendments relating to EPBs and combined authorities

Schedule 6 (amendments relating to EPBs and combined authorities) is part of this Part.

### Commencement Information

**I32** S. 119 in force at 17.12.2009 by [S.I. 2009/3318](#), **art. 2(b)**

## 120 Interpretation

In this Part—

“combined authority” means an authority established under section 103(1);

“EPB” has the meaning given by section 88(1);

“ITA” has the meaning given by section 104(1);

“local government area” has the meaning given by section 88(7);

“unitary district council” has the meaning given by section 90(4).

### Commencement Information

**I33** S. 120 in force at 17.12.2009 by [S.I. 2009/3318](#), **art. 2(b)**

**Status:**

Point in time view as at 18/02/2012.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Part 6.