



# 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.
- <sup>F1</sup>(3) .....
- <sup>F1</sup>(4) .....
- (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*Status: Point in time view as at 18/03/2022.*

*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)*

#### Textual Amendments

- F1** S. 88(3)(4) omitted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 11(2), 25(2)**

#### Commencement Information

- I1** 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)**

*Status: Point in time view as at 18/03/2022.*

*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)*

## **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,
  - (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 [<sup>F2</sup>all or part of which is] 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.

*Status: Point in time view as at 18/03/2022.*

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- (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,  
<sup>F3</sup>  
 ...
  - (b) for the function to be exercisable by the EPB concurrently with the local authority.
  - <sup>F4</sup>(c) for the function to be exercisable by the EPB and the local authority jointly, or
  - (d) for the function to be exercisable by the EPB jointly with the local authority but also continue to be exercisable by the local authority alone.]
- (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.

#### Textual Amendments

- F2** Words in s. 91(1) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\)](#), [Sch. 5 para. 18\(2\)](#)
- F3** Word in s. 91(4)(a) omitted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\)](#), [Sch. 5 para. 18\(3\)\(a\)](#)
- F4** S. 91(4)(c)(d) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\)](#), [Sch. 5 para. 18\(3\)\(b\)](#)

#### 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\(a\)](#)

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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)*

### 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\(a\)](#)

### 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 [<sup>F5</sup>conditions A and D] in section 88, and

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- (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.

#### **Textual Amendments**

**F5** Words in s. 95(2)(a) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 11(3), 25(2)**

#### **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
  - (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

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- (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.
- (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 [<sup>F6</sup>condition A] 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.

#### Textual Amendments

**F6** Words in s. 98(3)(c) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), [ss. 11\(4\), 25\(2\)](#)

#### Commencement Information

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

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## 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.
- [<sup>F7</sup>(3A) Subsection (3B) applies where the Secretary of State is considering whether to make an order establishing an EPB for an area and—
- (a) part of the area is separated from the rest of it by one or more local government areas that are not within the area, or
  - (b) a local government area that is not within the area is surrounded by local government areas that are within the area.
- (3B) In deciding whether to make the order, the Secretary of State must have regard to the likely effect of the creation of the proposed EPB on economic development or regeneration in each local government area that is next to any part of the proposed EPB area.]
- (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.

### Textual Amendments

**F7** S. 99(3A)(3B) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), ss. **11(5)**, **25(2)**

### Commencement Information

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

## 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, [<sup>F8</sup>a review of—
  - (a) a matter in relation to which an order may be made under section 95 or 96;
  - (b) a matter concerning the EPB that the EPB has power to determine.]
- (2) This section applies to—
  - (a) an EPB;



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- (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.

<sup>F9</sup>(3) . . . . .

(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).

**Textual Amendments**

**F8** Words in s. 100(1) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 13\(2\)\(a\), 25\(2\)](#)

**F9** S. 100(3) omitted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 13\(2\)\(b\), 25\(2\)](#)

**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 [<sup>F10</sup>section 95 or 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 <sup>F11</sup>... 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).

**Textual Amendments**

**F10** Words in s. 101(1) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 13\(3\)\(a\), 25\(2\)](#)

**F11** Words in s. 101(2) omitted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 13\(3\)\(b\), 25\(2\)](#)

**Commencement Information**

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

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**[<sup>F12</sup>101A Application in respect of change to constitution, functions or funding: existing EPB**

- (1) Any one or more of the authorities to whom this section applies may, in relation to an existing EPB, apply to the Secretary of State in respect of one or more EPB matters.
- (2) This section applies to—
  - (a) the EPB;
  - (b) a county council whose area, or part of whose area, is within the area of the EPB;
  - (c) a district council whose area is within the area of the EPB.
- (3) For the purposes of this section an “EPB matter” is a matter in relation to which an order may be made under any of sections 89, 91 and 92.
- (4) An application to the Secretary of State under subsection (1) must—
  - (a) be made in writing;
  - (b) specify how the exercise of the power to make an order under any one or more of sections 89, 91 and 92 would be likely to improve—
    - (i) the exercise of statutory functions relating to economic development and regeneration in the area of the EPB, or
    - (ii) economic conditions in the area of the EPB.
- (5) An application may be made under this section only if every authority to whom this section applies consents to the making of the application.]

**Textual Amendments**

**F12** [S. 101A](#) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), [ss. 13\(4\), 25\(2\)](#)

**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 published under section 101 [<sup>F13</sup>or to an application made under section 101A], 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) [<sup>F14</sup>or section 101A(2)], and
    - (b) such other persons (if any),
 as the Secretary of State considers appropriate.
- [<sup>F15</sup>(2A) Subsection (2B) applies where the Secretary of State is considering whether to make an order under section 95 and—
- (a) part of the area to be created is separated from the rest of it by one or more local government areas that are not within the area, or

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- (b) a local government area that is not within the area to be created is surrounded by local government areas that are within the area.
- (2B) In deciding whether to make the order under section 95, the Secretary of State must have regard to the likely effect of the proposed change to the EPB's area on economic development or regeneration in each local government area that is next to any part of the area to be created by the order.]
- (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.

**Textual Amendments**

- F13** Words in s. 102(1) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 13(5)(a)**, 25(2)
- F14** Words in s. 102(2)(a) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 13(5)(b)**, 25(2)
- F15** S. 102(2A)(2B) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 11(6)**, 25(2)

**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.
- <sup>F16</sup>(3) .....
- <sup>F16</sup>(4) .....
- (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.
- <sup>F17</sup>(6) .....
- (7) An order under this section must specify the name by which the combined authority is to be known.

**Textual Amendments**

- F16** S. 103(3)(4) omitted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 12(2)**, 25(2)

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**F17** S. 103(6) omitted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 14(2), 25(2)**

**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))

**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.
- [<sup>F18</sup>(2A) But section 85 of that Act, in its application to a combined authority by virtue of subsection (2), is subject to subsections (2B) and (2C).
- (2B) If the area of the combined authority includes the area of the whole of a county that comprises the areas of one or more district councils, the representative councils for the purposes of section 85(1)(c) of that Act (as applied to a combined authority) are either the county council or the council for each of the districts (as determined by or in accordance with the order).
- (2C) In relation to a mayoral combined authority, section 85(4) of that Act is not to be taken as preventing the mayor from being a voting member of the authority.
- (2D) An order under subsection (1)(c) may include provision for a function exercisable by a local authority in relation to an area all or part of which is comprised in the combined authority's area to be exercisable by the combined authority in relation to the combined authority's area.]
- (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.

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- (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.
- [<sup>F19</sup>(9) Schedule 5A makes provision for combined authorities to have overview and scrutiny committees and audit committees; and provision made in an order under subsection (1) is subject to that Schedule.]
- [<sup>F20</sup>(10) An order under this section may be made in relation to a combined authority only with the consent of—
- (a) the constituent councils, and
  - (b) in the case of an order in relation to an existing combined authority, the combined authority.
- (11) In subsection (10) “constituent council” means—
- (a) a county council the whole or any part of whose area is within the area or proposed area of the combined authority, or
  - (b) a district council whose area is within the area or proposed area of the combined authority.
- (12) Subsection (10) is subject to section 106A.]

#### Textual Amendments

- F18** S. 104(2A)-(2D) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\)](#), [Sch. 5 para. 19](#)
- F19** S. 104(9) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 8\(1\), 25\(2\)](#)
- F20** S. 104(10)-(12) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 14\(3\), 25\(2\)](#)

#### Commencement Information

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

*Status: Point in time view as at 18/03/2022.*

*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: [F21]local authority functions generally]**

(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).

[F22](2) Section 91(5) does not apply in relation to functions exercisable by a combined authority by virtue of subsection (1).]

(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).

[F23](3A) An order under this section may be made in relation to a combined authority only with the consent of—

- (a) the constituent councils (as defined by section 104(11)), and
- (b) in the case of an order in relation to an existing combined authority, the combined authority.

(3B) Subsection (3A) is subject to section 106A.]

[F24](4) . . . . .

**Textual Amendments**

- F21** Words in s. 105 heading substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 6\(2\)\(b\), 25\(2\)](#)
- F22** S. 105(2) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 6\(2\)\(a\), 25\(2\)](#)
- F23** S. 105(3A)(3B) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 14\(4\), 25\(2\)](#)
- F24** S. 105(4) omitted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 9\(5\), 25\(2\)](#)

**Commencement Information**

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

**[F25]105A Other public authority functions**

(1) The Secretary of State may by order—

- (a) make provision for a function of a public authority that is exercisable in relation to a combined authority's area to be a function of the combined authority;
- (b) make provision for conferring on a combined authority in relation to its area a function corresponding to a function that a public authority has in relation to another area.

(2) An order under subsection (1) may include further provision about the exercise of the function including—

- (a) provision for the function to be exercisable by the public authority or combined authority subject to conditions or limitations specified in the order;
- (b) provision as to joint working arrangements between the combined authority and public authority in connection with the function (for example, provision for the function to be exercised by a joint committee).

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- (3) The provision that may be included in an order under subsection (1)(a) includes, in particular, provision—
- (a) for the combined authority to have the function instead of the public authority,
  - (b) for the function to be exercisable by the combined authority concurrently with the public authority,
  - (c) for the function to be exercisable by the combined authority and the public authority jointly, or
  - (d) for the function to be exercisable by the combined authority jointly with the public authority but also continue to be exercisable by the public authority alone.
- (4) An order under subsection (1)(a) may, in particular, include—
- (a) provision for the making of a scheme to transfer property, rights and liabilities (including criminal liabilities) from the public authority to the combined authority (including provision corresponding to any provision made by section 17(4) to (7) of the Localism Act 2011);
  - (b) provision to abolish the public authority in a case where, as a result of the order, it will no longer have any functions.
- (5) An order under this section may not provide for a regulatory function that is exercisable by a public authority in relation to the whole of England to be exercisable by a combined authority in relation to its area if the regulated function is itself exercisable by the combined authority by virtue of an order under this section.
- (6) Subsection (7) applies where an order under subsection (1) contains a reference to a document specified or described in the order (for example, in imposing a condition by virtue of subsection (2)(a) for an authority to have regard to, or to comply with, a statement of policy or standards set out in the document).
- (7) If it appears to the Secretary of State necessary or expedient for the reference to the document to be construed—
- (a) as a reference to that document as amended from time to time, or
  - (b) as including a reference to a subsequent document that replaces that document,
- the order may make express provision to that effect.
- (8) See also section 18 of the Cities and Local Government Devolution Act 2016 (devolving health service functions) which contains further limitations.
- (9) In this section—
- “function” (except in subsection (4)(b)) does not include a power to make regulations or other instruments of a legislative character;
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
- “public authority”—
- (a) includes a Minister of the Crown or a government department;
  - (b) does not include a county council or district council;
- “regulated function” means the function of carrying out an activity to which a regulatory function relates;
- “regulatory function” has the meaning given by section 32 of the Legislative and Regulatory Reform Act 2006.

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### **Textual Amendments**

**F25** Ss. 105A, 105B inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 7, 25\(2\)](#)

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

**C2** S. 105A modified (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 18, 25\(2\)](#)

## **105B Section 105A orders: procedure**

- (1) The Secretary of State may make an order under section 105A only if—
  - (a) a proposal for the making of the order in relation to the combined authority has been made to the Secretary of State by the appropriate authorities, or
  - (b) the appropriate consent is given and the Secretary of State considers that the making of the order is likely to improve the exercise of statutory functions in the area or areas to which the order relates.
- (2) For the purposes of subsection (1)(b), the appropriate consent is given to the making of an order under section 105A only if—
  - (a) in the case of an order in relation to an existing combined authority, each appropriate authority consents;
  - (b) in any other case, each constituent council consents.

Paragraph (a) is subject to subsections (3) and (4).
- (3) Subsection (4) applies where—
  - (a) an order under section 105A in relation to an existing combined authority is the first such order to be made in relation to that authority,
  - (b) the authority is not a mayoral combined authority, and
  - (c) there are one or more constituent councils who do not consent to the making of the order.
- (4) For the purposes of subsection (1)(b), the appropriate consent is given to the making of the order if the combined authority and at least two constituent councils consent to the making of the order.
- (5) Where an order under section 105A is made by virtue of subsection (4) of this section, the Secretary of State must make an order under section 106 to remove the area of each non-consenting constituent council from the existing area of the combined authority.
- (6) The requirement in subsection (1)(b) for the appropriate consent to be given to the making of an order under section 105A does not apply where—
  - (a) the order revokes (in whole or in part), or otherwise amends, a previous order under that section, and
  - (b) the only purpose of the order is to provide for a health service function of a combined authority to cease to be exercisable by the authority.
- (7) In subsection (6)(b), “health service function of a combined authority” means a function which—
  - (a) relates to the health service, as defined by section 275(1) of the National Health Service Act 2006, and



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- (b) is exercisable by the combined authority by virtue of an order under section 105A.
- (8) The requirement in subsection (1)(b) for the appropriate consent to be given is subject to section 106A.
- (9) At the same time as laying a draft of a statutory instrument containing an order under this section before Parliament, the Secretary of State must lay before Parliament a report explaining the effect of the order and why the Secretary of State considers it appropriate to make the order.
- (10) The report must include—
  - (a) a description of any consultation taken into account by the Secretary of State,
  - (b) information about any representations considered by the Secretary of State in connection with the order, and
  - (c) any other evidence or contextual information that the Secretary of State considers it appropriate to include.
- (11) A proposal under subsection (1)(a) may be included in a scheme prepared and published under section 109 or 112.
- (12) For the purposes of this section “the appropriate authorities” are—
  - (a) each county council the whole or any part of whose area is within the area for which the combined authority is, or is to be, established,
  - (b) each district council whose area is within the area for which the combined authority is, or is to be, established, and
  - (c) in the case of an order in relation to an existing combined authority, the combined authority,and a “constituent council” is a council within paragraph (a) or (b).]

**Textual Amendments**

**F25** Ss. 105A, 105B inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), [ss. 7, 25\(2\)](#)

**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 [<sup>F26</sup>conditions A and D] in section 103, <sup>F27</sup> ...
  - <sup>F28</sup>(b) .....
- <sup>F29</sup>(3) .....
- [<sup>F30</sup>(3A) An order under this section adding or removing a local government area to or from an existing area of a combined authority may be made only if—

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- (a) the relevant council in relation to the local government area consents,
  - (b) the combined authority consents, and
  - (c) the mayor for the area of the combined authority (if it is a mayoral combined authority) also consents.
- (3B) For the purposes of subsection (3A)(a), the “relevant council” in relation to a local government area is—
- (a) if the local government area is the area of a county council, the county council;
  - (b) if the local government area is the area of a district council whose area does not form part of the area of a county council, the district council;
  - (c) if the local government area is the area of a district council whose area forms part of the area of a county council, the district council or the county council.
- (3C) If there are two relevant councils in relation to a local government area by virtue of subsection (3B)(c), the condition in subsection (3A)(a) for the relevant council to consent is met if—
- (a) in the case of an order under subsection (1)(a), either or both of the relevant councils consent;
  - (b) in the case of an order under subsection (1)(b), both of the relevant councils consent.
- (3D) Subsections (2) and (3A) do not apply to an order under subsection (1)(b) that is made as a result of the duty in section 105B(5) or 107B(4).]
- (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.
- (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).

#### **Textual Amendments**

- F26** Words in s. 106(2)(a) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 12(3)**, 25(2)
- F27** Word in s. 106(2)(a) omitted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), s. 25(2), **Sch. 5 para. 20**
- F28** S. 106(2)(b) omitted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 14(5)(a)**, 25(2)
- F29** S. 106(3) omitted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 14(5)(b)**, 25(2)
- F30** S. 106(3A)-(3D) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 14(5)(c)**, 25(2)

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#### Commencement Information

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

#### [<sup>F31</sup>106A Section 106(1)(a) orders: consent requirements under other powers

- (1) Subsection (2) applies where—
  - (a) the area of a district council is added to the area of a combined authority by an order under section 106(1)(a),
  - (b) the area of the district council forms part of the area of a county council,
  - (c) the Secretary of State proposes to exercise a relevant power as a result of, or otherwise in connection with, the making of the order, and
  - (d) (apart from subsection (2)) the relevant power is exercisable only with the consent of (among other authorities) the county council mentioned in paragraph (b).
- (2) The relevant power is exercisable whether or not the county council consents.
- (3) Subsection (4) applies where—
  - (a) the area of a county council is added to the area of a combined authority by an order under section 106(1)(a),
  - (b) the area of the county council includes the areas of district councils,
  - (c) the Secretary of State proposes to exercise a relevant power as a result of, or otherwise in connection with, the making of the order, and
  - (d) (apart from subsection (4)) the relevant power is exercisable only with the consent of (among other authorities) a district council within paragraph (b).
- (4) The relevant power is exercisable whether or not the district council consents.
- (5) In this section, “relevant power” means a power—
  - (a) to make an order under section 104, 105 or 105A, or
  - (b) to make regulations under—
    - (i) section 74 of the Local Government Finance Act 1988 (by virtue of subsection (8) of that section), or
    - (ii) section 23(5) of the Local Government Act 2003.]

#### Textual Amendments

**F31** S. 106A inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), [ss. 14\(6\), 25\(2\)](#)

#### 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 [<sup>F32</sup>only if—
  - (a) a majority] of the councils to whom this subsection applies consent to the making of the order [<sup>F33</sup>, and

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- (b) in the case of an order made in respect of a mayoral combined authority, the mayor for the area of the authority also consents 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.
- [<sup>F34</sup>(4A) The order—
- (a) may transfer functions from the combined authority to any other public authority;
- (b) may provide for any function of the combined authority to no longer be exercisable in relation to the combined authority's area.]
- (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.

#### Textual Amendments

- F32** Words in s. 107(2) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\)](#), **Sch. 5 para. 21(2)(a)**
- F33** S. 107(2)(b) and preceding word inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\)](#), **Sch. 5 para. 21(2)(b)**
- F34** S. 107(4A) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\)](#), **Sch. 5 para. 21(3)**

#### Commencement Information

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

*[<sup>F35</sup>Mayors for combined authority areas*

#### Textual Amendments

- F35** Ss. 107A, 107B and cross-heading inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 2(1), 25(2)**

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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)*

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### **107A Power to provide for election of mayor**

- (1) The Secretary of State may by order provide for there to be a mayor for the area of a combined authority.
- (2) A mayor for the area of a combined authority is to be elected by the local government electors for that area in accordance with provision made by or under this Part.
- (3) In subsection (2) “local government elector” has the meaning given by section 270(1) of the Local Government Act 1972.
- (4) Schedule 5B makes further provision about the election of mayors for areas of combined authorities.
- (5) A mayor for the area of a combined authority is entitled to the style of “mayor”.
- (6) A mayor for the area of a combined authority is by virtue of that office a member of, and the chair of, the combined authority.
- (7) An order under this section providing for there to be a mayor for the area of a combined authority may not be revoked by making a further order under this section; but this does not prevent the making of an order under section 107 abolishing the authority (together with the office of mayor).
- (8) In this Part “mayoral combined authority” means a combined authority for an area for which provision is made in an order under this section for there to be a mayor.

### **107B Requirements in connection with orders under section 107A**

- (1) The Secretary of State may make an order under section 107A in relation to a combined authority's area if a proposal for there to be a mayor for the authority's area has been made to the Secretary of State by the appropriate authorities.
- (2) A proposal under subsection (1) may be included in a scheme prepared and published under section 109 or 112.
- (3) An order under section 107A may also be made without any such proposal having been made if—
  - (a) the appropriate authorities consent, or
  - (b) in the case of an existing combined authority, there are one or more non-consenting constituent councils but the combined authority and at least two constituent councils consent.
- (4) Where an order under section 107A is made by virtue of subsection (3)(b) of this section, the Secretary of State must make an order under section 106 to remove the area of each non-consenting constituent council from the existing area of the combined authority.
- (5) For the purposes of this section “the appropriate authorities” are—
  - (a) each county council the whole or any part of whose area is within the area for which the combined authority is, or is to be, established,
  - (b) each district council whose area is within the area for which the combined authority is, or is to be, established, and
  - (c) in the case of an order in relation to an existing combined authority, the combined authority,and a “constituent council” is a council within paragraph (a) or (b).]

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### [<sup>F36</sup>107C Deputy mayors etc

- (1) The mayor for the area of a combined authority must appoint one of the members of the authority to be the mayor's deputy.
- (2) The deputy mayor holds office until the end of the term of office of the mayor, subject to subsection (3).
- (3) A person ceases to be the deputy mayor if at any time—
  - (a) the mayor removes the person from office;
  - (b) the person resigns as deputy mayor;
  - (c) the person ceases to be a member of the combined authority.
- (4) If a vacancy occurs in the office of deputy mayor, the mayor must appoint another member of the combined authority to be deputy mayor.
- (5) The deputy mayor must act in place of the mayor if for any reason—
  - (a) the mayor is unable to act, or
  - (b) the office of mayor is vacant.
- (6) If for any reason—
  - (a) the mayor is unable to act or the office of mayor is vacant, and
  - (b) the deputy mayor is unable to act or the office of deputy mayor is vacant,
 the other members of the combined authority must act together in place of the mayor, taking decisions by a simple majority.
- (7) In this Part “deputy mayor”, in relation to a mayoral combined authority, means the person appointed under this section by the mayor for the authority's area.]

#### **Textual Amendments**

**F36** S. 107C inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), ss. 3, 25(2)

### [<sup>F37</sup>107D Functions of mayors: general

- (1) The Secretary of State may by order make provision for any function of a mayoral combined authority to be a function exercisable only by the mayor.
- (2) In this Part references to “general functions”, in relation to a mayor for the area of a combined authority, are to any functions exercisable by the mayor other than PCC functions.
- (3) The mayor may arrange—
  - (a) for the deputy mayor to exercise any general function of the mayor,
  - (b) for another member or officer of the combined authority to exercise any such function, or
  - (c) so far as authorised by an order made by the Secretary of State—
    - (i) for a person appointed as the deputy mayor for policing and crime by virtue of an order under paragraph 3(1) of Schedule 5C, or
    - (ii) for a committee of the combined authority, consisting of members appointed by the mayor (whether or not members of the authority),

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to exercise any such function.

- (4) An order under subsection (3)(c)(ii) may include provision—
  - (a) about the membership of the committee;
  - (b) about the member of the committee who is to be its chair;
  - (c) about the appointment of members;
  - (d) about the voting powers of members (including provision for different weight to be given to the vote of different descriptions of member);
  - (e) about information held by the combined authority that must, or must not, be disclosed to the committee for purposes connected to the exercise of the committee's functions;
  - (f) applying (with or without modifications) sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (political balance on local authority committees etc).
- (5) Provision in an order under subsection (1) for a function to be exercisable only by the mayor is subject to subsection (3); but the Secretary of State may by order provide that arrangements under subsection (3)—
  - (a) may authorise the exercise of general functions only of a description specified in the order, or
  - (b) may not authorise the exercise of general functions of a description so specified.
- (6) Any general function exercisable by the mayor for the area of a combined authority by virtue of this Act is to be taken to be a function of the combined authority exercisable—
  - (a) by the mayor individually, or
  - (b) in accordance with arrangements made by virtue of this section or section 107E [<sup>F38</sup>or 107EA].
- (7) An order under this section may—
  - (a) include provision for general functions to be exercisable by the mayor subject to conditions or limitations specified in the order (including, for example, a condition for general functions to be exercisable only with the consent of the appropriate authorities (as defined by section 107B (5)));
  - (b) provide for members or officers of a mayoral combined authority to assist the mayor in the exercise of general functions;
  - (c) confer ancillary powers on the mayor for the purposes of the exercise of general functions;
  - (d) authorise the mayor to appoint one person as the mayor's political adviser;
  - (e) provide for the terms and conditions of any such appointment;
  - (f) provide that functions that the mayoral combined authority discharges in accordance with arrangements under section 101(1)(b) of the Local Government Act 1972 (discharge of local authority functions by another authority) are to be treated as general functions exercisable by the mayor (so far as authorised by the arrangements).
- (8) Provision under subsection (7)(c) may include provision conferring power on the mayor that is similar to any power exercisable by the mayoral combined authority—
  - (a) under section 113A, or
  - (b) under an order made under section 113D,but the power conferred on the mayor may not include a power to borrow money.

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- (9) An order under this section may be made only with the consent of—
- (a) the appropriate authorities (as defined by section 107B(5)), and
  - (b) in the case of an order made in relation to an existing mayoral combined authority, the mayor of the authority.
- (10) Where an order under this section is contained in the same instrument as an order made by virtue of section 107B(3)(b), a non-consenting constituent council is not to be treated as an appropriate authority for the purposes of subsection (9) above.

#### **Textual Amendments**

**F37** Ss. 107D-107F inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 4(1), 25(2)**

**F38** Words in s. 107D(6)(b) inserted (31.1.2017 for specified purposes, 17.7.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 8(3), 183(1)(5)(e)**; S.I. 2017/726, reg. 2(a)

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

**C3** [S. 107D\(3\)](#) applied (with modifications) (8.5.2017) by [The Greater Manchester Combined Authority \(Fire and Rescue Functions\) Order 2017 \(S.I. 2017/469\)](#), arts. 1(3), **5(2)**

### **107E Joint exercise of general functions**

- (1) The Secretary of State may by order make provision for, or in connection with, permitting arrangements under section 101(5) of the Local Government Act 1972 to be entered into in relation to general functions of a mayor for the area of a combined authority.
- (2) Provision under subsection (1) may include provision—
- (a) for the mayor for the area of a combined authority to be a party to the arrangements in place of, or jointly with, the authority;
  - (b) about the membership of any joint committee;
  - (c) about the member of the joint committee who is to be its chair;
  - (d) about the appointment of members to a joint committee;
  - (e) about the voting powers of members of a joint committee (including provision for different weight to be given to the vote of different descriptions of member).
- (3) Provision under subsection (2)(b) to (d) may include provision for the mayor or other persons—
- (a) to determine the number of members;
  - (b) to have the power to appoint members (whether or not members of the combined authority or a local authority that is a party to the arrangements).
- (4) Provision under subsection (2)(d) may include provision as to the circumstances in which appointments to a joint committee need not be made in accordance with sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (political balance on local authority committees etc).
- (5) In this section references to a joint committee are to a joint committee falling within section 101(5)(a) of the Local Government Act 1972 that is authorised to discharge,



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by virtue of an order under this section, general functions of a mayor for the area of a combined authority.

#### Textual Amendments

**F37** Ss. 107D-107F inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 4(1), 25(2)**

### <sup>F39</sup>**107E** Exercise of fire and rescue functions

- (1) This section applies to a mayor for the area of a combined authority who—
  - (a) by virtue of section 107D(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 107F(1), may exercise functions of a police and crime commissioner.
- (2) The Secretary of State may by order 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 combined authority 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) An order under subsection (2) may provide that arrangements made under the order—
  - (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 order;
  - (c) may authorise the exercise of such of the functions mentioned in that subsection as are specified or described in the order.
- (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 107EC(1);
  - (d) members of staff appointed by the chief constable under section 107EC(2).
- (5) Provision in an order under section 107D(1) for a function to be exercisable only by the mayor for the area of a combined authority is subject to provision made by virtue of subsection (2).
- (6) This section is subject to—
  - (a) section 107EB (section 107EA orders: 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

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- (b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment.

#### **Textual Amendments**

**F39** Ss. 107EA-107EG inserted (31.1.2017 for specified purposes, 17.7.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 8\(2\)](#), [183\(1\)\(5\)\(e\)](#); [S.I. 2017/726](#), [reg. 2\(a\)](#)

#### **107EB Section 107EA orders: procedure**

- (1) An order under section 107EA(2) may be made in relation to the mayor for the area of a combined authority only if the mayor has requested the Secretary of State to make the order.
- (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 order to be made, or
    - (ii) it is in the interests of public safety for the order to be made,
  - (b) a description of any public consultation which the mayor has carried out on the proposal for the order 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 combined authority.
- (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 combined authority makes a request under subsection (1) for the Secretary of State to make an order under section 107EA(2), and
  - (b) at least two thirds of the constituent members of the combined authority have indicated that they disagree with the proposal for the order 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 combined authority 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 order, have regard to that assessment and to the material provided under subsection (5) (as well as the material provided under subsection (2)).
- (7) The Secretary of State must publish the independent assessment—

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- (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) An order under section 107EA(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 order to be made, or
  - (b) it is in the interests of public safety for the order to be made.
- (9) The Secretary of State may not make an order under section 107EA(2) in a case within subsection (8)(a) of this section if the Secretary of State thinks that the order would have an adverse effect on public safety.
- (10) The Secretary of State may, in making an order under section 107EA(2) in relation to the mayor for the area of a combined authority, give effect to the mayor's proposal for the order with such modifications as the Secretary of State thinks appropriate.
- (11) Before making an order which gives effect to such a proposal with modifications, the Secretary of State must consult the mayor and the combined authority on the modifications.
- (12) In this section—
- “constituent council”, in relation to a combined authority, means—
    - (a) a county council the whole or any part of whose area is within the area of the combined authority, or
    - (b) a district council whose area is within the area of the combined authority;
  - “constituent member”, in relation to a combined authority, means a member of the authority appointed by a constituent council (but does not include the mayor for the area of the combined authority).

#### **Textual Amendments**

**F39** Ss. 107EA-107EG inserted (31.1.2017 for specified purposes, 17.7.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 8(2)**, 183(1)(5)(e); S.I. 2017/726, reg. 2(a)

### **107EC Section 107EA orders: further provision**

- (1) An order under section 107EA(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 combined authority to the chief constable, or
  - (b) from the chief constable to the combined authority,
- (including provision corresponding to any provision made by section 17(4) to (6) of the Localism Act 2011).
- (2) A chief constable to whom an order under section 107EA(2) applies may appoint staff for the purpose of the exercise of the chief constable's fire and rescue functions.
- (3) A chief constable to whom an order under section 107EA(2) applies may—
- (a) pay remuneration, allowances and gratuities to members of the chief constable's fire and rescue staff;

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- (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 for a police area under Schedule 2 to the Police Reform and Social Responsibility Act 2011.
- (6) Where an order under section 107EA(2) is 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 an order under section 107EA(2) is in force, the combined authority to which the order applies must pay—
- (a) any damages or costs awarded against the chief constable to whom the order applies 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 authority.
- (10) Where an order under section 107EA(2) is in force, the combined authority to which the order applies may, in such cases and to such extent as appears to the authority to be appropriate, pay—

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- (a) any damages or costs awarded against a member of the fire and rescue staff of the chief constable to whom the order applies 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 107EA;

“fire and rescue staff”, in relation to a chief constable to whom an order under section 107EA(2) applies, 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).

#### **Textual Amendments**

**F39** Ss. 107EA-107EG inserted (31.1.2017 for specified purposes, 17.7.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 8\(2\)](#), [183\(1\)\(5\)\(e\)](#); [S.I. 2017/726](#), [reg. 2\(a\)](#)

### **107ED Section 107EA orders: exercise of fire and rescue functions**

- (1) This section applies if—
  - (a) an order under section 107EA(2) makes provision in relation to the area of a combined authority, and
  - (b) by virtue of the order, fire and rescue functions exercisable by the mayor for the area of the combined authority 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 order, 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 order 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 order,
  - (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 order 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.

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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)*

#### Textual Amendments

**F39** Ss. 107EA-107EG inserted (31.1.2017 for specified purposes, 17.7.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 8(2)**, 183(1)(5)(e); S.I. 2017/726, reg. 2(a)

### 107EE Section 107EA orders: complaints and conduct matters etc

- (1) If an order is made under section 107EA(2) that enables 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 order 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 an order is made under section 107EA(2) that enables 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 107EC(1) or appointed by a chief constable under section 107EC(2), the Secretary of State may by order 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—
  - (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 order, in consequence of any provision made under subsection (2), amend Part 2 of the Police Reform Act 2002.
- (5) Before making an order under this section the Secretary of State must consult—
  - (a) the Police Advisory Board for England and Wales,
  - (b) the [<sup>F40</sup>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.

#### Textual Amendments

**F39** Ss. 107EA-107EG inserted (31.1.2017 for specified purposes, 17.7.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 8(2)**, 183(1)(5)(e); S.I. 2017/726, reg. 2(a)

**F40** Words in s. 107EE(5)(b) substituted (31.1.2017 for specified purposes, 8.1.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 9 para. 70**; S.I. 2017/1249, reg. 2 (with reg. 3)

### 107EF Section 107EA orders: application of fire and rescue provisions

- (1) The Secretary of State may by order—
  - (a) apply (with or without modifications) any provision of a fire and rescue enactment in relation to a person within subsection (2);

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- (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 an order under section 107EA(2) applies,
  - (b) a member of staff transferred to such a chief constable under a scheme made by virtue of section 107EC(1),
  - (c) a member of staff appointed by such a chief constable under section 107EC(2),
  - (d) a member of such a chief constable's police force by whom functions are exercisable by virtue of section 107EA(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 107EA(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 order 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.

#### **Textual Amendments**

**F39** Ss. 107EA-107EG inserted (31.1.2017 for specified purposes, 17.7.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 8\(2\)](#), [183\(1\)\(5\)\(e\)](#); [S.I. 2017/726](#), [reg. 2\(a\)](#)

### **107EG Section 107EA orders: application of local policing provisions**

- (1) The Secretary of State may by order—
- (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 combined authority to whom an order under section 107EA(2) applies,
  - (b) a chief constable to whom such an order applies, and
  - (c) a panel established by virtue of an order under paragraph 4 of Schedule 5C for such an area.

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- (3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made by or under a local policing enactment or make provision corresponding or similar to any such provision.
- (4) The Secretary of State may by order 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.]

#### **Textual Amendments**

**F39** Ss. 107EA-107EG inserted (31.1.2017 for specified purposes, 17.7.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 8(2)**, [183\(1\)\(5\)\(e\)](#); [S.I. 2017/726](#), [reg. 2\(a\)](#)

#### **107F Functions of mayors: policing**

- (1) The Secretary of State may by order provide for the mayor for the area of a combined authority 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 Part references to “PCC functions”, in relation to a mayor for the area of a combined authority, are to the functions of a police and crime commissioner that are exercisable by the mayor by virtue of subsection (1).
- (4) An order under subsection (1) may be made only with the consent of—
  - (a) the appropriate authorities (as defined by section 107B(5)), and
  - (b) in the case of an order made in relation to an existing mayoral combined authority, the mayor of the authority.
- (5) If an order is made under subsection (1) in relation to a combined authority's area—
  - (a) the Secretary of State must by order 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 order provide that any election of a police and crime commissioner for that area that would otherwise take place (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) An order under subsection (5) may include provision—
  - (a) for the term of office of a police and crime commissioner to continue until the date specified under subsection (5) (a) (in spite of section 50(7)(b) of the Police Reform and Social Responsibility Act 2011);



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- (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 5C contains further provision in connection with orders under this section.
- (8) Any PCC function exercisable by the mayor for the area of a combined authority by virtue of this Act is to be taken to be a function of the combined authority 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 5C.
- (9) Where an order under subsection (1) is contained in the same instrument as an order made by virtue of section 107B(3)(b), a non-consenting constituent council is not to be treated as an appropriate authority for the purposes of subsection (4) above.]

#### **Textual Amendments**

**F37** Ss. 107D-107F inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), [ss. 4\(1\)](#), 25(2)

#### **[<sup>F41</sup>107G] Mayors for combined authority areas: financial matters**

- (1) The Secretary of State may by order make provision for the costs of a mayor for the area of a combined authority that are incurred in, or in connection with, the exercise of mayoral functions to be met from precepts issued by the authority under section 40 of the Local Government Finance Act 1992.
- (2) The function of issuing precepts under Chapter 4 of Part 1 of the Local Government Finance Act 1992 in respect of mayoral functions is to be a function exercisable only by the mayor acting on behalf of the combined authority.
- (3) The Secretary of State may by order modify the application of Chapter 4 or 4ZA of Part 1 of the Local Government Finance Act 1992 so far as applying to cases where the precepting authority in question under that Chapter is a mayoral combined authority.
- (4) Where the mayoral functions of a mayor include PCC functions—
  - (a) the provision made by virtue of subsection (3) must include provision to ensure that the council tax requirement calculated under section 42A of the Local Government Finance Act 1992 consists of separate components in respect of the mayor's PCC functions and the mayor's general functions, and
  - (b) the function of calculating the component in respect of the mayor's PCC functions is itself to be treated as a PCC function for the purposes of this Part.
- (5) The Secretary of State may by order make provision—
  - (a) requiring the mayor to maintain a fund in relation to receipts arising, and liabilities incurred, in the exercise of general functions;
  - (b) about the preparation of an annual budget in relation to the exercise of general functions.

(For power to make corresponding provision in relation to PCC functions, see paragraph 6 of Schedule 5C.)

*Status: Point in time view as at 18/03/2022.*

*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) Provision under subsection (5)(b) may in particular include provision for—
- (a) the mayor to prepare a draft budget;
  - (b) the draft to be scrutinised by—
    - (i) the other members of the combined authority, and
    - (ii) a committee of the authority appointed in accordance with paragraph 1(1) of Schedule 5A;
  - (c) the making of changes to the draft as a result of such scrutiny;
  - (d) the approval of the draft by the combined authority (including a power to veto the draft in circumstances specified in the order and the consequences of any such veto);
  - (e) the basis on which such approval is to be given.
- (7) In this section “mayoral functions”, in relation to a mayor, means—
- (a) the mayor's general functions, and
  - (b) if the mayor exercises PCC functions, the mayor's PCC functions.]

#### **Textual Amendments**

**F41** S. 107G inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 5\(3\), 25\(2\)](#)

#### *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 [<sup>F42</sup>the exercise of statutory functions in relation to an area (“the review area”) with a view to deciding whether to prepare and publish a scheme under section 109.]
- (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.

*Status: Point in time view as at 18/03/2022.*

*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)*

- (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.

#### Textual Amendments

**F42** Words in s. 108(1) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 6(3)**, 25(2)

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

**C4** [S. 108](#): functions made exercisable (E.) (18.3.2022) by [The North Yorkshire \(Structural Changes\) Order 2022 \(S.I. 2022/328\)](#), **arts. 1(1)**, **7(3)(a)**

**C5** [S. 108](#) applied (E.) (18.3.2022) by [The Cumbria \(Structural Changes\) Order 2022 \(S.I. 2022/331\)](#), **arts. 1(1)**, **17(a)**

#### 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 [<sup>F43</sup>the exercise of statutory functions in relation to 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—
- must consist of or include the whole or any part of the review area,
  - may include one or more other local government areas, and
  - must meet [<sup>F44</sup>condition A] in section 103.
- (4) The scheme area may not include a local government area unless each appropriate authority for that area—
- participates in the preparation of the scheme, or
  - consents to its inclusion in the scheme area.
- (5) For this purpose—
- a county council is an appropriate authority for a local government area that is or forms part of the area of that county council;
  - a district council is an appropriate authority for a local government area that is the area of that district council.

#### Textual Amendments

**F43** Words in s. 109(1) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 6(4)**, 25(2)

**F44** Words in s. 109(3)(c) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 12(4)**, 25(2)

*Status: Point in time view as at 18/03/2022.*

*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)*

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

- C6** S. 109: functions made exercisable (E.) (18.3.2022) by [The North Yorkshire \(Structural Changes\) Order 2022 \(S.I. 2022/328\)](#), arts. 1(1), 7(3)(b)
- C7** S. 109 applied (E.) (18.3.2022) by [The Cumbria \(Structural Changes\) Order 2022 \(S.I. 2022/331\)](#), arts. 1(1), 17(a)

**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**

[<sup>F45</sup>(1) The Secretary of State may make an order establishing a combined authority for an area only if—

- (a) the Secretary of State considers that to do so is likely to improve the exercise of statutory functions in the area or areas to which the order relates,
- (b) the constituent councils consent, and
- (c) any consultation required by subsection (2) has been carried out.

(1A) If a scheme for the establishment of the combined authority has been prepared and published under section 109 the Secretary of State must have regard to that scheme in making the order.

(2) The Secretary of State must carry out a public consultation unless—

- (a) a scheme has been prepared and published under section 109,
- (b) the constituent councils carried out a public consultation in connection with the proposals contained in the scheme and provided the Secretary of State with a summary of the consultation responses, and
- (c) the Secretary of State considers that no further consultation is necessary.

(3) In this section “constituent council” means—

- (a) a county council the whole or any part of whose area is within the area for which the combined authority is to be established, or
- (b) a district council whose area is within the area for which the combined authority is to be established.]

[<sup>F46</sup>(3A) Subsection (3B) applies where the Secretary of State is considering whether to make an order establishing a combined authority for an area and—

- (a) part of the area is separated from the rest of it by one or more local government areas that are not within the area, or
- (b) a local government area that is not within the area is surrounded by local government areas that are within the area.

(3B) In deciding whether to make the order, the Secretary of State must have regard to the likely effect of the creation of the proposed combined authority on the exercise of functions equivalent to those of the proposed combined authority's functions in each local government area that is next to any part of the proposed combined authority area.]

(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.

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#### Textual Amendments

- F45** S. 110(1)-(3) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 14\(7\), 25\(2\)](#)
- F46** S. 110(3A)(3B) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 12\(5\), 25\(2\)](#)

#### Commencement Information

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

### 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 [<sup>F47</sup>section 104, 105, 106 or 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).

#### Textual Amendments

- F47** Words in s. 111(3)(a) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\), Sch. 5 para. 22](#)

#### 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 [<sup>F48</sup>sections 104, 105, 106 and 107] would be likely to improve

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[<sup>F49</sup>the exercise of statutory functions in relation to an area of a combined authority or a proposed area of a combined authority.]

- (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).

#### Textual Amendments

- F48** Words in s. 112(1) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\), Sch. 5 para. 23](#)
- F49** Words in s. 112(1) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 6\(5\), 25\(2\)](#)

#### 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

[<sup>F50</sup>(1) The Secretary of State may make an order under section 104, 105, 106 or 107 in relation to an existing combined authority only if—

- (a) the Secretary of State considers that to do so is likely to improve the exercise of statutory functions in the area or areas to which the order relates, and
- (b) any consultation required by subsection (2) has been carried out.

(1A) If a scheme has been prepared and published under section 112 the Secretary of State must have regard to that scheme in making the order.

- (2) The Secretary of State must carry out a public consultation unless—
  - (a) a scheme has been prepared and published under section 112,
  - (b) the authorities that prepared and published the scheme carried out a public consultation in connection with the proposals contained in the scheme and provided the Secretary of State with a summary of the consultation responses, and
  - (c) the Secretary of State considers that no further consultation is necessary.]

[<sup>F51</sup>(2A) Subsection (2B) applies where the Secretary of State is considering whether to make an order under section 106 and—

- (a) part of the area to be created is separated from the rest of it by one or more local government areas that are not within the area, or
- (b) a local government area that is not within the area to be created is surrounded by local government areas that are within the area.

(2B) In deciding whether to make the order under section 106, the Secretary of State must have regard to the likely effect of the change to the combined authority's area on the exercise of functions equivalent to those of the combined authority's functions in each local government area that is next to any part of the area to be created by the order.]

- (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

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(b) to secure effective and convenient local government.

[<sup>F52</sup>(4) This section does not apply to an order under section 106(1)(b) that is made as a result of the duty in section 105B(5) or 107B(4).]

#### Textual Amendments

**F50** S. 113(1)-(2) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 14(8), 25(2)**

**F51** S. 113(2A)(2B) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), **ss. 12(6), 25(2)**

**F52** S. 113(4) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), s. 25(2), **Sch. 5 para. 24**

#### Commencement Information

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

*[<sup>F53</sup>General powers of EPBs and combined authorities*

#### Textual Amendments

**F53** 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—
- anything it considers appropriate for the purposes of the carrying-out of any of its functions (its “functional purposes”),
  - anything it considers appropriate for purposes incidental to its functional purposes,
  - anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes,
  - anything it considers to be connected with—
    - any of its functions, or
    - anything it may do under paragraph (a), (b) or (c), and
  - 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.

[ This section does not apply in relation to a combined authority in respect of which an <sup>F54</sup>(4) order under section 113D has effect.]

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### Textual Amendments

**F54** S. 113A(4) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\), Sch. 5 para. 25](#)

### Modifications etc. (not altering text)

**C8** S. 113A modified (8.5.2017) by [The Greater Manchester Combined Authority \(Fire and Rescue Functions\) Order 2017 \(S.I. 2017/469\), arts. 1\(3\), 4\(2\)](#)

## 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,<sup>F55</sup>...
  - <sup>F56</sup>(b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
  - (c) a society registered or deemed to be registered under 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
  - (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;



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“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.

#### Textual Amendments

- F55** Word in s. 113B(6)(a) omitted (1.8.2014) by virtue of [Co-operative and Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 154\(a\)](#) (with [Sch. 5](#))
- F56** S. 113B(6)(b)(c) substituted for s. 113B(6)(b) (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 154\(b\)](#) (with [Sch. 5](#))

### 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—

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- (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.
- (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.]

[<sup>F57</sup> **113D General power of competence**

- (1) The Secretary of State may by order provide for Chapter 1 of Part 1 of the Localism Act 2011 (which confers a general power of competence on local authorities) to have effect in relation to a combined authority specified in the order as it has effect in relation to a local authority.
- (2) An order under this section may be made only with the consent of the appropriate authorities (as defined by section 107B(5)).
- (3) Where an order under subsection (1) is contained in the same instrument as an order made by virtue of section 107B(3)(b), a non-consenting constituent council is not to be treated as an appropriate authority for the purposes of subsection (2) above.]

**Textual Amendments**

**F57** S. 113D inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 10, 25\(2\)](#)

*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.

<sup>F58</sup>(1A) .....

<sup>F59</sup>(2) .....

- (3) The provision that may be included [<sup>F60</sup>in an order under this section by virtue of section 117(5)] 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).

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#### Textual Amendments

- F58** S. 114(1A) omitted (8.12.2021) by virtue of [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), art. 1(2), **Sch. 2 para. 21(2)** (with art. 12)
- F59** S. 114(2) omitted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by virtue of [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), s. 25(2), **Sch. 5 para. 26(3)**
- F60** Words in s. 114(3) substituted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), s. 25(2), **Sch. 5 para. 26(4)**

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

- C9** S. 114(1) functions transferred (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), arts. 1(2), 3(1), **Sch. 1(p)** (with arts. 3(2), 6, 12)
- C10** S. 114(1): functions cease to be exercisable concurrently (8.12.2021) by [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), arts. 1(2), 9, **Sch. 1(f)** (with arts. 11, 12)

#### 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 [<sup>F61</sup>(including criminal 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).
- (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—

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- (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.

#### Textual Amendments

**F61** Words in [s. 115\(1\)](#) inserted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), [s. 25\(2\)](#), [Sch. 5 para. 27](#)

#### 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.

<sup>F62</sup>(1A) . . . . .

- (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.

#### Textual Amendments

**F62** [S. 116\(1A\)](#) omitted (8.12.2021) by virtue of [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), [art. 1\(2\)](#), [Sch. 2 para. 21\(3\)](#) (with [art. 12](#))

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

**C11** [S. 116\(1\)](#) functions transferred (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), [arts. 1\(2\), 3\(1\)](#), [Sch. 1\(p\)](#) (with [arts. 3\(2\), 6, 12](#))

*Status: Point in time view as at 18/03/2022.*

*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)*

**C12** S. 116(1): functions cease to be exercisable concurrently (8.12.2021) by [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), arts. 1(2), 9, [Sch. 1\(I\)](#) (with arts. 11, 12)

#### 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>F63</sup>(1A) An order under this Part may make different provision for different authorities or descriptions of authority or otherwise for different purposes.]

[<sup>F64</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—

- (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.

[<sup>F65</sup>(5) An order under any provision of this Part, other than an order under section 116 or an order mentioned in subsection (2A)(a) or (b), may include provision amending, applying (with or without modifications), disapplying, repealing or revoking any enactment whenever passed or made.]

#### Textual Amendments

**F63** S. 117(1A) inserted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), s. 25(2), [Sch. 5 para. 29\(2\)](#)

**F64** 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\(e\)](#)

**F65** S. 117(5) inserted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), s. 25(2), [Sch. 5 para. 29\(3\)](#)

#### Commencement Information

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

*Status: Point in time view as at 18/03/2022.*

*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)*

## 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)**

## 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);
- [<sup>F66</sup>“deputy mayor” has the meaning given by section 107C(7);]
- [<sup>F66</sup>“general functions” has the meaning given by section 107D(2);]
- “EPB” has the meaning given by section 88(1);
- [<sup>F67</sup>“fire and rescue authority” means a fire and rescue authority under the Fire and Rescue Services Act 2004;]
- “ITA” has the meaning given by section 104(1);
- “local government area” has the meaning given by section 88(7);
- [<sup>F68</sup>“mayor”, in relation to the area of a combined authority, means the mayor for the area of the authority by virtue of an order under section 107A(1);]
- [<sup>F68</sup>“mayoral combined authority” has the meaning given by section 107A(8);]

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*Status: Point in time view as at 18/03/2022.*

**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)*

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[<sup>F68</sup>“PCC functions” has the meaning given by section 107F(3);]  
“unitary district council” has the meaning given by section 90(4).

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**Textual Amendments**

- F66** Words in s. 120 inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), s. 25(2), **Sch. 5 para. 30(1)(a)**
- F67** Words in s. 120 inserted (31.1.2017 for specified purposes, 17.7.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 8(4)**, 183(1)(5)(e); S.I. 2017/726, reg. 2(a)
- F68** Words in s. 120 inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), s. 25(2), **Sch. 5 para. 30(1)(b)**
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**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 18/03/2022.

**Changes to legislation:**

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