



# Local Democracy, Economic Development and Construction Act 2009

## 2009 CHAPTER 20

### PART 6

#### ECONOMIC PROSPERITY BOARDS AND COMBINED AUTHORITIES

##### *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>F1</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.

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- (6) Where the review is being undertaken by an ITA, the review area must include one or more local government areas within the ITA's integrated transport area.
- (7) The review area may also include the area of any county council or district council in England that does not constitute or fall within the area of an authority undertaking the review.

#### Textual Amendments

**F1** 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)

**C1** 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)**

**C2** 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

**I1** 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>F2</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>F3</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

**F2** 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)**

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**F3** 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)**

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

**C3** [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)**

**C4** [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**

**I2** [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>F4</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>F5</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

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- (b) to secure effective and convenient local government.

#### Textual Amendments

- F4** 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\(2\)](#)
- F5** 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

- I3** 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 combined authority;
  - 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;
  - 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 matter in relation to which an order may be made under [<sup>F6</sup>section 104, 105, 106 or 107];
  - 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

- F6** 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

- I4** S. 111 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

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## 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>F7</sup>sections 104, 105, 106 and 107] would be likely to improve [<sup>F8</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

- F7** 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](#)
- F8** 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

- I5** 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>F9</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>F10</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

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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
- (b) to secure effective and convenient local government.

[<sup>F11</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

- F9** 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\(2\)](#)
- F10** 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\(2\)](#)
- F11** 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

- I6** S. 113 in force at 17.12.2009 by [S.I. 2009/3318, art. 2\(a\)](#)

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