



# Localism Act 2011

## 2011 CHAPTER 20

### PART 1

#### LOCAL GOVERNMENT

### CHAPTER 3

#### OTHER AUTHORITIES

## 11 Integrated Transport Authorities

In Part 5 of the Local Transport Act 2008 (integrated transport authorities etc) after section 102A insert—

### “CHAPTER 4

#### GENERAL POWERS

### **102B Powers of Integrated Transport Authorities**

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

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- (ii) anything the ITA may do under paragraph (a), (b) or (c), and
  - (e) for a commercial purpose anything which the ITA may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) Where subsection (1) confers power on an ITA to do something, it confers power (subject to section 102C) to do it anywhere in the United Kingdom or elsewhere.
  - (3) An ITA's power under subsection (1) is in addition to, and is not limited by, the other powers of the ITA.
  - (4) Subsection (5) applies if there is, in relation to an ITA—
    - (a) a Passenger Transport Executive established under section 9 of the TA 1968 for the integrated transport area of the ITA, or
    - (b) an executive body established by virtue of section 79(1)(a) or 84(2)(d).
  - (5) The ITA may delegate to the Executive or body the ITA's function of taking action under subsection (1) (but not the function of determining what action to take).

### **102C Boundaries of power under section 102B**

- (1) Section 102B(1) does not enable an ITA to do—
  - (a) anything which the ITA is unable to do by virtue of a pre-commencement limitation, or
  - (b) anything which the ITA is unable to do by virtue of a post-commencement limitation which is expressed to apply—
    - (i) to the ITA's power under section 102B(1),
    - (ii) to all of the ITA's powers, or
    - (iii) to all of the ITA's powers but with exceptions that do not include the ITA's power under section 102B(1).
- (2) If exercise of a pre-commencement power of an ITA is subject to restrictions, those restrictions apply also to exercise of the power conferred on the ITA by section 102B(1) so far as it is overlapped by the pre-commencement power.
- (3) Section 102B(1) does not authorise an ITA to borrow money.
- (4) Section 102B(1)(a) to (d) do not authorise an ITA to charge a person for anything done by the ITA otherwise than for a commercial purpose (but see section 93 of the Local Government Act 2003 (power of ITAs and other best value authorities to charge for discretionary services)).
- (5) Section 102B(1)(e) does not authorise an ITA to do things for a commercial purpose in relation to a person if a statutory provision requires the ITA to do those things in relation to the person.
- (6) Where under section 102B(1)(e) an ITA does things for a commercial purpose, it must do them through—
  - (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
  - (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.

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(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 11 of that Act;

“pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—

- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
- (b) is contained in an instrument made under an Act and comes into force before the commencement of section 11 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 11 of that Act;

“statutory provision” means a provision of an Act or of an instrument made under an Act.

### **102D Power to make provision supplemental to section 102B**

- (1) The Secretary of State may by order made by statutory instrument make provision preventing ITAs from doing under section 102B(1) anything which is specified, or is of a description specified, in the order.
- (2) The Secretary of State may by order made by statutory instrument provide for the exercise by ITAs of power conferred by section 102B(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 ITAs,
  - (b) particular ITAs, or
  - (c) particular descriptions of ITAs.
- (4) Before making an order under subsection (1) or (2) the Secretary of State must consult—
  - (a) such representatives of ITAs,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—
  - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular ITA or to ITAs of a particular description, or

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- (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular ITA or to ITAs 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.
- (7) The Secretary of State may not make an order to which subsection (8) applies 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.
- (8) This subsection applies to—
  - (a) an order under subsection (1), other than one that is made only for the purpose mentioned in subsection (5)(b);
  - (b) an order under subsection (2), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose.
- (9) A statutory instrument that—
  - (a) contains an order made under this section, 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 in pursuance of a resolution of either House of Parliament.”

#### Commencement Information

**II** S. 11 in force at 18.2.2012 by S.I. 2012/411, art. 2(e)

## 12 Passenger Transport Executives

- (1) In Part 2 of the Transport Act 1968 (integrated transport authorities etc) after section 10 insert—

### “10A Further powers of Executives

- (1) The Executive of an integrated transport area in England may do—
- (a) anything the Executive considers appropriate for the purposes of the carrying-out of any of the Executive's functions (the Executive's “functional purposes”),
  - (b) anything the Executive considers appropriate for purposes incidental to the Executive's functional purposes,
  - (c) anything the Executive considers appropriate for purposes indirectly incidental to the Executive's functional purposes through any number of removes,
  - (d) anything the Executive considers to be connected with—
    - (i) any of the Executive's functions, or

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- (ii) anything the Executive may do under paragraph (a), (b) or (c), and
  - (e) for a commercial purpose anything which the Executive may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) Where subsection (1) confers power on the Executive to do something, it confers power (subject to section 10B) to do it anywhere in the United Kingdom or elsewhere.
- (3) The Executive's power under subsection (1) is in addition to, and is not limited by, the other powers of the Executive.

### **10B Boundaries of power under section 10A**

- (1) Section 10A(1) does not enable the Executive to do—
  - (a) anything which the Executive is unable to do by virtue of a pre-commencement limitation, or
  - (b) anything which the Executive is unable to do by virtue of a post-commencement limitation which is expressed to apply—
    - (i) to the Executive's power under section 10A(1),
    - (ii) to all of the Executive's powers, or
    - (iii) to all of the Executive's powers but with exceptions that do not include the Executive's power under section 10A(1).
- (2) If exercise of a pre-commencement power of the Executive is subject to restrictions, those restrictions apply also to exercise of the power conferred on the Executive by section 10A(1) so far as it is overlapped by the pre-commencement power.
- (3) Section 10A(1) does not authorise the Executive to borrow money.
- (4) Section 10A(1)(a) to (d) do not authorise the Executive to charge a person for anything done by the Executive otherwise than for a commercial purpose, but this does not limit any power to charge that the Executive has otherwise than under section 10A(1)(a) to (d).
- (5) Section 10A(1)(e) does not authorise the Executive to do things for a commercial purpose in relation to a person if a statutory provision requires the Executive to do those things in relation to the person.
- (6) Where under section 10A(1)(e) the Executive does things for a commercial purpose, it must do them through—
  - (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
  - (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.
- (7) In this section—
  - “post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
    - (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or

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- (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 12(1) of that Act;
  - “pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
    - (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
    - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 12(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 12(1) of that Act;
  - “statutory provision” means a provision of an Act or of an instrument made under an Act.

### **10C Power to make provision supplemental to section 10A**

- (1) The Secretary of State may by order make provision preventing the Executive from doing under section 10A(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 the Executive of power conferred by section 10A(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 Executives,
  - (b) particular Executives, or
  - (c) particular descriptions of Executives.
- (4) Before making an order under subsection (1) or (2) the Secretary of State must consult—
  - (a) such representatives of Executives,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),
 as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—
  - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular Executive or to Executives of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular Executive or to Executives 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

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- (b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.
- (7) A statutory instrument containing an order to which subsection (8) applies (whether alone or with other provisions) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (8) This subsection applies to—
  - (a) an order under subsection (1), other than one that is made only for the purpose mentioned in subsection (5)(b);
  - (b) an order under subsection (2), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose.
- (9) A statutory instrument that—
  - (a) contains an order made under this section, 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 in pursuance of a resolution of either House of Parliament.”
- (2) In section 10(1) of the Transport Act 1968 (powers of a Passenger Transport Executive)—
  - (a) in paragraph (xxvii) (power to invest sums not immediately needed) for “any sums which are not immediately required by them for the purposes of their business” substitute “their money”, and
  - (b) in paragraph (xxviii) (power to turn unneeded resources to account) omit “so far as not required for the purposes of their business”.
- (3) In section 22 of the Transport Act 1968 (orders under Part 2 of that Act to be subject to annulment) after subsection (2) insert—

“(2A) Subsections (1) and (2) of this section do not apply in relation to orders under section 10C of this Act (but see subsections (7) to (9) of that section).”
- (4) In section 93(9) of the Local Government Act 2003 (authorities with power under section 93 to charge for discretionary services) before paragraph (b) insert—

“(ab) the Passenger Transport Executive of an integrated transport area in England;”.
- (5) In section 95(7) of the Local Government Act 2003 (power to authorise certain authorities to do for commercial purposes things that they can do for non-commercial purposes) in the definition of “relevant authority” before paragraph (b) insert—

“(ab) the Passenger Transport Executive of an integrated transport area in England;”.

#### Commencement Information

**I2** S. 12 in force at 18.2.2012 by S.I. 2012/411, art. 2(e)

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### **13 Economic prosperity boards and combined authorities**

- (1) In Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities) after section 113 insert—

*“General powers of EPBs and combined authorities*

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

- (1) An EPB or combined authority may do—
- (a) anything it considers appropriate for the purposes of the carrying-out of any of its functions (its “functional purposes”),
  - (b) anything it considers appropriate for purposes incidental to its functional purposes,
  - (c) anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes,
  - (d) anything it considers to be connected with—
    - (i) any of its functions, or
    - (ii) anything it may do under paragraph (a), (b) or (c), and
  - (e) for a commercial purpose anything which it may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) Where subsection (1) confers power on an EPB or combined authority to do something, it confers power (subject to section 113B) to do it anywhere in the United Kingdom or elsewhere.
- (3) Power conferred on an EPB or combined authority by subsection (1) is in addition to, and is not limited by, its other powers.

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

- (1) Section 113A(1) does not enable an EPB or combined authority to do—
- (a) anything which it is unable to do by virtue of a pre-commencement limitation, or
  - (b) anything which it is unable to do by virtue of a post-commencement limitation which is expressed to apply—
    - (i) to its power under section 113A(1),
    - (ii) to all of its powers, or
    - (iii) to all of its powers but with exceptions that do not include its power under section 113A(1).
- (2) If exercise of a pre-commencement power of an EPB or combined authority is subject to restrictions, those restrictions apply also to exercise of the power conferred on it by section 113A(1) so far as that power is overlapped by the pre-commencement power.
- (3) Section 113A(1) does not authorise an EPB or combined authority to borrow money.
- (4) Section 113A(1)(a) to (d) do not authorise an EPB or combined authority to charge a person for anything done by it otherwise than for a commercial purpose (but see section 93 of the Local Government Act 2003 (power of



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EPBs, combined authorities and other best value authorities to charge for discretionary services)).

- (5) Section 113A(1)(e) does not authorise an EPB or combined authority to do things for a commercial purpose in relation to a person if a statutory provision requires it to do those things in relation to the person.
- (6) Where under section 113A(1)(e) an EPB or combined authority does things for a commercial purpose, it must do them through—
- (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
  - (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.
- (7) In this section—
- “post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
- (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or
  - (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 13(1) of that Act;
- “pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
  - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 13(1) of that Act;
- “pre-commencement power” means power conferred by a statutory provision that—
- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
  - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 13(1) of that Act;
- “statutory provision” means a provision of an Act or of an instrument made under an Act.

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

- (1) The Secretary of State may by order make provision preventing EPBs or combined authorities from doing under section 113A(1) anything which is specified, or is of a description specified, in the order.
- (2) The Secretary of State may by order provide for the exercise by EPBs or combined authorities of power conferred by section 113A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.
- (3) The power under subsection (1) or (2) may be exercised in relation to—
- (a) all EPBs,
  - (b) all combined authorities,
  - (c) particular EPBs,

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- (d) particular combined authorities,
  - (e) particular descriptions of EPBs, or
  - (f) particular descriptions of combined authorities.
- (4) Before making an order under subsection (1) or (2) the Secretary of State must consult—
- (a) such representatives of EPBs or combined authorities,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),
- as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular EPB or combined authority or to EPBs or combined authorities of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular EPB or combined authority or to EPBs or combined authorities of a particular description.
- (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.”
- (2) For section 117(2) and (3) of the Local Democracy, Economic Development and Construction Act 2009 (affirmative procedure applies to orders under Part 6 other than certain orders under section 116) substitute—
- “(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.”

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#### Commencement Information

**I3** S. 13 in force at 18.2.2012 by S.I. 2012/411, art. 2(e)

## 14 Further amendments

(1) In section 146A of the Local Government Act 1972 (application of provisions to certain joint and other authorities)—

- (a) in subsection (1) for “or (1A)” substitute “, (1ZD) or (1ZE) ”, and
- (b) after subsection (1ZC) (which is inserted by section 9 of this Act) insert—

“(1ZD) An Integrated Transport Authority is not to be treated as a local authority for the purposes of section 111 above (but see section 102B of the Local Transport Act 2008).

(1ZE) Neither an economic prosperity board, nor a combined authority, is to be treated as a local authority for the purposes of section 111 above (but see section 113A of the Local Democracy, Economic Development and Construction Act 2009).”

(2) In section 93(7) of the Local Government Act 2003 (provisions that do not count as prohibitions on charging for the purposes of section 93(2)(b)) after paragraph (c) insert—

- “(d) section 100(2) of the Local Transport Act 2008 (well-being powers of Integrated Transport Authorities and combined authorities),
- (e) section 102C(4) of that Act (Integrated Transport Authorities),
- (f) section 10B(4) of the Transport Act 1968 (Passenger Transport Executives), and
- (g) section 113B(4) of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities).”

#### Commencement Information

**I4** S. 14 in force at 18.2.2012 by S.I. 2012/411, art. 2(e)

**Status:**

Point in time view as at 01/11/2021.

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