



Local Democracy, Economic Development and Construction Act 2009

2009 CHAPTER 20

PART 6

ECONOMIC PROSPERITY BOARDS AND COMBINED AUTHORITIES

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.

^{F1}(1A)

^{F2}(2)

- (3) The provision that may be included [^{F3}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).

Textual Amendments

F1 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)

F2 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\(3\)](#)

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

F3 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)

- C1** 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)
- C2** 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(I)** (with arts. 11, 12)

Commencement Information

- II** 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 [^{F4}(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—
 - (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.

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

- (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

- F4** 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

- I2** 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.

^{F5}(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

- F5** [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)

- C3** [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](#))
- C4** [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\(f\)](#) (with [arts. 11](#), [12](#))

Commencement Information

- I3** S. 116 in force at 12.1.2010 by [S.I. 2009/3318](#), [art. 3](#)

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

117 Orders ^[F6] and regulations]

(1) Orders ^[F7] and regulations] under this Part must be made by statutory instrument.

^[F8](1A) An order ^[F9] or regulations] under this Part may make different provision for different authorities or descriptions of authority or otherwise for different purposes.]

^[F10](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.]

^[F11](3A) A statutory instrument that contains (whether alone or with any other provisions) regulations under section 104C(1), 104C(4), or 107K(1) may not be made unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(3B) A statutory instrument that—

- (a) contains regulations under section 109A(8) or 112A(10), and
- (b) is not by virtue of subsection (3A) subject to a 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 ^[F12] or of regulations under section 104C(1) or (4) 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.

^[F13](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

F6 Words in s. 117 heading inserted (26.12.2023) by *Levelling-up and Regeneration Act 2023 (c. 55)*, ss. 68(2), 255(2)(j) (with s. 247)

F7 Words in s. 117(1) inserted (26.12.2023) by *Levelling-up and Regeneration Act 2023 (c. 55)*, ss. 68(3), 255(2)(j) (with s. 247)

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

- F8** 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)**
- F9** Words in s. 117(1A) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 68(4), 255(2)(j)** (with s. 247)
- F10** 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)
- F11** S. 117(3A)(3B) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 68(5), 255(2)(j)** (with s. 247)
- F12** Words in s. 117(4) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 68(6), 255(2)(j)** (with s. 247)
- F13** 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

- I4** S. 117 in force at 12.1.2010 by [S.I. 2009/3318](#), **art. 3**

118 Guidance

- (1) The Secretary of State may give guidance about anything that could be done by an authority to whom this section applies under or by virtue of this Part.
- (2) An authority to whom this section applies must have regard to any guidance given under this section in exercising any function conferred or imposed by or by virtue of this Part.
- (3) Any guidance under this section must be given in writing and may be varied or revoked by further guidance in writing.
- (4) Any such guidance may make different provision for different cases and different provision for different areas.
- (5) This section applies to—
 - (a) a county council;
 - (b) a district council;
 - (c) an EPB;
 - (d) an ITA;
 - (e) a combined authority.
 - ^{F14}(f) a combined county authority.]

Textual Amendments

- F14** S. 118(5)(f) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), s. 255(2)(c), **Sch. 4 para. 192** (with s. 247)

Commencement Information

- I5** 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.

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

Commencement Information

I6 S. 119 in force at 17.12.2009 by S.I. 2009/3318, **art. 2(b)**

120 Interpretation

In this Part—

- [^{F15}“associate member” has the meaning given by section 104B(1);]
- “combined authority” means an authority established under section 103(1);
- [^{F16}“combined county authority” means a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023;]
- [^{F17}“deputy mayor” has the meaning given by section 107C(7);]
- [^{F17}“general functions” has the meaning given by section 107D(2);]
- “EPB” has the meaning given by section 88(1);
- [^{F18}“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);
- [^{F19}“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);]
- [^{F19}“mayoral combined authority” has the meaning given by section 107A(8);]
- [^{F15}“nominating body” means a body designated under section 104A(1);]
- “non-constituent member” has the meaning given by section 104A(3);]
- [^{F19}“PCC functions” has the meaning given by section 107F(3);]
- “unitary district council” has the meaning given by section 90(4).

Textual Amendments

- F15** Words in s. 120 inserted (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), **ss. 64(13), 255(2)(h)** (with s. 247)
- F16** Words in s. 120 inserted (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 193** (with s. 247)
- F17** 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)**
- F18** 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)
- F19** 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)**

Commencement Information

I7 S. 120 in force at 17.12.2009 by S.I. 2009/3318, **art. 2(b)**

Changes to legislation:

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