



# Local Democracy, Economic Development and Construction Act 2009

## 2009 CHAPTER 20

### PART 6

#### ECONOMIC PROSPERITY BOARDS AND COMBINED AUTHORITIES

##### *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>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 combined authority,
  - (b) the area of an EPB, or
  - (c) an integrated transport area.
- <sup>F2</sup>(6) .....
- (7) An order under this section must specify the name by which the combined authority is to be known.

*Status: Point in time view as at 28/03/2016.*

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

#### **Textual Amendments**

- F1** 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\(2\)](#)
- F2** 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**

- I1** 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>F3</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);

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- (b) section 89(2) and (3) (power to remedy contravention of direction).
- (4) Section 97 of that Act (change of name of ITA) applies to a combined authority as it applies to an ITA.
- (5) The Secretary of State may by order transfer functions of an ITA to a combined authority.
- (6) An order under subsection (5) may only be made in relation to functions exercisable by the ITA in relation to an area that becomes, or becomes part of, the combined authority's area by virtue of an order under this Part.
- (7) The Secretary of State may by order provide for any function that is conferred or imposed on a Passenger Transport Executive by any enactment (whenever passed or made) to be exercisable by a combined authority or the executive body of a combined authority in relation to the combined authority's area.
- (8) An order under subsection (7) may make provision for any function that—
- (a) is conferred or imposed on an ITA by any enactment (whenever passed or made), and
  - (b) relates to the functions of a Passenger Transport Executive, to be exercisable by a combined authority in relation to the combined authority's area.
- [<sup>F4</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>F5</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

- F3** 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](#)
- F4** 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\(2\)](#)
- F5** 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

- I2** S. 104 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

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

## 105 Constitution and functions: [<sup>F6</sup>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).
- [<sup>F7</sup>(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).
- [<sup>F8</sup>(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.]
- [<sup>F9</sup>(4) . . . . .]

### Textual Amendments

- F6** 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\(2\)](#)
- F7** 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\(2\)](#)
- F8** 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\(2\)](#)
- F9** 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

- I3** S. 105 in force at 17.12.2009 by [S.I. 2009/3318, art. 2\(a\)](#)

## [<sup>F10</sup>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

**F10** 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

**F10** 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>F11</sup>conditions A and D] in section 103,  
<sub>F12</sub> ...
  - <sup>F13</sup>(b) .....
- <sup>F14</sup>(3) .....
- [<sup>F15</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**

- F11** 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)
- F12** 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**
- F13** 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)
- F14** 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)
- F15** 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

**I4** S. 106 in force at 17.12.2009 by [S.I. 2009/3318](#), [art. 2\(a\)](#)

#### [<sup>F16</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

**F16** 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>F17</sup>only if—
  - (a) a majority] of the councils to whom this subsection applies consent to the making of the order [<sup>F18</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>F19</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**

- F17** 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)**
- F18** 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)**
- F19** 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**

- I5** S. 107 in force at 17.12.2009 by [S.I. 2009/3318](#), **art. 2(a)**

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Cross Heading: Combined authorities and their areas.