



Cities and Local Government Devolution Act 2016

2016 CHAPTER 1

Combined authorities and EPBs: areas and procedure

11 Removal of geographical restrictions in relation to EPBs

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- (2) Omit subsections (3) and (4) of section 88 (EPBs and their areas).
- (3) In section 95(2)(a) (changes to boundaries of an EPB's area: conditions), for “conditions A to D” substitute “ conditions A and D ”.
- (4) In section 98(3)(c) (preparation and publication of scheme for new EPB: conditions), for “conditions A to C” substitute “ condition A ”.
- (5) In section 99 (requirements in connection with establishment of EPB), after subsection (3) insert—
 - “(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.”
- (6) In section 102 (requirements in connection with changes to existing EPB arrangements), after subsection (2) insert—

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“(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
- (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.”

12 Removal of geographical restrictions in relation to combined authorities

(1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.

(2) Omit subsections (3) and (4) of section 103 (combined authorities and their areas).

(3) In section 106(2)(a) (changes to boundaries of a combined authority's area: conditions), for “conditions A to D” substitute “ conditions A and D ”.

(4) In section 109(3)(c) (preparation and publication of scheme for new combined authority: conditions), for “conditions A to C” substitute “ condition A ”.

(5) In section 110 (requirements in connection with establishment of combined authority), before subsection (4) insert—

“(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.”

(6) In section 113 (requirements in connection with changes to existing combined authorities), after subsection (2) insert—

“(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

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combined authority's functions in each local government area that is next to any part of the area to be created by the order.”

13 Changes to existing EPB

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- (2) In section 100 (review by authorities: existing EPB)—
 - (a) in subsection (1), for “a review of one or more EPB matters.” substitute “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.”;
 - (b) omit subsection (3).
- (3) In section 101 (preparation and publication of scheme: existing EPB)—
 - (a) in subsection (1), for “any one or more of sections 89, 91, 92, 95 and 96” substitute “section 95 or 96”;
 - (b) in subsection (2), omit “or powers”.
- (4) After section 101, insert—

“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.”
- (5) In section 102 (requirements in connection with changes to existing EPB arrangements)—

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- (a) in subsection (1), after “section 101” insert “ or to an application made under section 101A ”;
- (b) in subsection (2)(a), after “section 100(2)” insert “ or section 101A(2) ”.

14 Requirements in connection with establishment etc of combined authority

(1) The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.

(2) In section 103, omit subsection (6) (combined authorities: area must have been included in a scheme under section 109).

(3) In section 104 (constitution and functions of combined authorities: transport), after subsection (9) (inserted by section 8(1) above) insert—

“(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.”

(4) In section 105 (constitution and functions of combined authorities: economic development and regeneration), after subsection (3) insert—

“(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.”

(5) In section 106 (changes to boundaries of a combined authority's area)—

- (a) in subsection (2), omit paragraph (b);
- (b) omit subsection (3);
- (c) after subsection (3) insert—

“(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—

- (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.

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- (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).”
- (6) After section 106 insert—

“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.

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- (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.”
- (7) In section 110 (requirements in connection with establishment of combined authority), for subsections (1) to (3) substitute—
- “(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.”
- (8) In section 113 (requirements in connection with changes to existing combined arrangements), for subsections (1) and (2) substitute—
- “(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,

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- (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.”

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