

LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009

EXPLANATORY NOTES

COMMENTARY

Part 7: Multi-Area Agreements

Introduction

269. This Part makes certain arrangements for multi-area agreements (“MAAs”) which are agreements between two or more local authorities and certain partner authorities, approved by the Secretary of State. It gives the Secretary of State the power to direct a nominated local authority (the “responsible authority”) to prepare an MAA in consultation with partner authorities and others specified in guidance (which might include persons from the voluntary and community sector and local businesses). The local authority and partner authorities are placed under a duty to co-operate with each other in determining local improvement targets for the area to be included in the MAA, and a duty to have regard to the targets.

Section 121 - Multi-area agreements

270. This section defines a multi-area agreement.
271. *Subsection (2)* explains that a multi-area agreement is a document specifying improvement targets for a geographic area for which there are two or more local authorities. *Subsection (3)* provides that this area can be non-contiguous so that it may, for example, cover the area of two local authorities which are separated by the area of a third local authority which is not to be part of the multi-area agreement.
272. *Subsection (4)* defines an improvement target as a target for improvement in the economic, social or environmental well-being of the area or part of the area covered by the multi-area agreement. For example, an improvement target might specify an improvement to be achieved in the whole of the area covered by the agreement, or it might apply only to specific ward(s) in the area. The target must also ‘relate’ to a local authority for the area, a partner authority, or another person acting, or having functions exercisable, in the area.
273. *Subsection (5)* provides that for an improvement target to relate to an individual or body, that individual or body must be able to contribute to the target being achieved through its actions and they must have agreed that the target should apply to them. Where an individual or body can have no impact on the achievement of a target through its actions and/or has not agreed to the target it will not relate to them and they will not be required to have regard to it.

These notes refer to the Local Democracy, Economic Development and Construction Act 2009 (c.20) which received Royal Assent on 12 November 2009

274. *Subsection (6)* stipulates that an individual or body is taken to have consented to a target applying to it if it has agreed to the target (or any subsequent change to it) being specified in the multi-area agreement. The authority preparing the multi-area agreement (“the responsible authority”) will therefore have consented to all targets as in drawing up the agreement it will have agreed to the inclusion of those targets.

Section 122 - Local authorities

275. This section defines “local authority” for the purpose of this Part.

Section 123 - Partner authorities

276. This section sets out a list of public bodies and persons that will be “partner authorities” for the purpose of a multi-area agreement. This largely follows the list of bodies named for the purpose of agreeing a Local Area Agreement as set out in section 104 of the Local Government and Public Involvement in Health Act 2007. The Government intends that the list of named partner authorities for the purposes of multi-area agreements and local area agreements should be consistent unless there is a good reason for there to be a difference.
277. The English Sports Council (referred to in subsection (4)(b)) is the official name of Sports England. The Historic Buildings and Monuments Commission (which is referred to in subsection (4)(e)) is the official name of English Heritage. The Secretary of State, in relation to the Secretary of State’s functions under section 2 of the Employment and Training Act 1973 (referred to in paragraph 4)(j)(i) is a reference to functions are exercised by Jobcentre Plus. The functions described in *subsection (4)(j)(ii) and (iii)* are exercised by the Highways Agency.
278. *Subsection (5)* allows the Secretary of State to amend the list of partner authorities, by order, by adding any person with functions of a public nature, deleting any person, or by adding or deleting references to the Secretary of State’s functions. The Secretary of State cannot exercise this power without first consulting appropriately (*subsection (6)*).

Section 124 - Proposal for multi-area agreement

279. This section provides that any group of two or more local authorities may approach the Secretary of State and request that the Secretary of State direct a multi-area agreement to be prepared for their area and submitted to the Secretary of State. It is the Secretary of State’s agreement to such a request (section 125) that is the trigger for duties being applied to local and partner authorities, as set out in section 126.
280. *Subsections (2) and (3)* stipulate that all local authorities covered by the area of the proposed multi-area agreement, other than district councils in a county council area, must be party to any request for the Secretary of State to make a direction, whilst also expressly allowing such district councils to be part of the request if they want to join it.
281. *Subsections (4) and (5)* specify that a request under this section must be made in writing and set out the information the request must include together with the requirement that it should be prepared having regard to any guidance that the Secretary of State has issued. The request must name a local authority that will be responsible for preparing and submitting the draft multi-area agreement (the “responsible authority”). The area covered by the multi-area agreement does not have to include the whole area of a local authority that is party to the agreement – it may include part of a local authority area.

Section 125 - Direction to prepare and submit draft multi-area agreement

282. This section provides for the Secretary of State, in response to a request made under section 124, to direct the responsible authority to prepare and submit a draft multi-area agreement. The Secretary of State may specify the period of time within which the draft

multi-area agreement must be prepared. The Secretary of State can vary or revoke a direction (*subsection (4)*).

283. *Subsections (2) and (3)* specify the information that the draft multi-area agreement must include: the period of time for which the agreement has effect and in respect of each improvement target, who it relates to (see section 121(5)) and the geographic area covered by it if it does not apply to the whole area of the multi-area agreement.

Section 126 - Preparation of draft multi-area agreement

284. This section places duties on the responsible authority and other local and partner authorities where a direction has been issued under section 125, following a request under section 124. Local and partner authorities will not be subject to duties under this section where they are developing a multi-area agreement without first obtaining a direction.
285. *Subsections (1) to (3)* place duties on the responsible authority to consult key stakeholders, to co-operate with local and partner authorities in determining the targets which are to relate to them and to have regard to guidance issued by the Secretary of State.
286. *Subsection (4)* places similar duties on local and partner authorities: a duty to co-operate with the responsible authority in determining the improvement targets that are to relate to them and a duty to have regard to guidance issued by the Secretary of State.

Section 127 - Approval of draft multi-area agreement

287. This section provides for the Secretary of State to approve, require modifications to or reject a draft multi-area agreement that is submitted in accordance with a direction issued under section 125. The approval brings the multi-area agreement into effect for the period specified in the agreement.
288. *Subsection (3)* provides that where the Secretary of State requires modifications to a draft multi-area agreement, this acts as a new direction under section 125 and therefore the duties on the responsible authority and local and partner authorities in connection with preparation of the agreement will continue to apply.
289. *Subsection (4)* stipulates that where the Secretary of State rejects a draft multi-area agreement then all directions and duties applicable to that agreement cease. If the local authorities concerned want to continue to pursue a multi-area agreement then they may do so without the benefit of a direction (and associated duties) or would need to submit a new request to the Secretary of State under section 124.

Section 128 - Submission of existing multi-area agreement

290. This section provides for a multi-area agreement that is prepared through procedures other than following a direction from the Secretary of State under section 125 to be submitted with a request that the Secretary of State approve it. This section allows local authorities to submit a multi-area agreement agreed prior to section 125 coming into force, or one that has been prepared without first seeking a direction.
291. *Subsection (3)* stipulates that all local authorities covered by the area of the multi-area agreement, other than district councils in a county council area, must be party to any request for the Secretary of State to approve the agreement whilst also expressly allowing district councils to be party to the request if they want to join it. This is consistent with who may request a direction to prepare and submit a multi-area agreement (see section 124).
292. *Subsection (4)* requires local authorities making the request to consult any other local authority, as well as partner authorities, for the area covered by the multi-area

These notes refer to the Local Democracy, Economic Development and Construction Act 2009 (c.20) which received Royal Assent on 12 November 2009

agreement, prior to making the request. *Subsection (7)(d)* requires the local authorities making the request to report the outcome of their consultation under this subsection.

293. *Subsections (5) to (7)* stipulate the information that must accompany the request. These information requirements are consistent with the requirements for a proposal for a direction under section 124 together with the requirements for a draft multi-area agreement in section 125.

Section 129 - Approval of an existing multi-area agreement

294. This section provides for the Secretary of State to be able to approve a multi-area agreement submitted under section 128. Once approved, the multi-area agreement takes effect in the same way as one prepared following a direction, and for the period specified in it.

Section 130 - Duty to have regard to improvement targets

295. This section places a duty on all local and partner authorities for the area covered by a multi-area agreement approved by the Secretary of State under section 127 or 129 to have regard, when exercising their functions, to each improvement target in the agreement that relates to them. This duty does not apply where the agreement concerned has not been approved in accordance with section 127 or 129. Signatories to a multi-area agreement agreed with Government prior to the commencement of these provisions will not, therefore, be subject to this duty unless that agreement has been subsequently approved by the Secretary of State under section 129.

Section 131 - Responsible authorities

296. This section defines who the responsible authority is and provides a mechanism for this to be changed by the local authorities to whom improvement targets in a multi-area agreement relate, with the agreement of the Secretary of State.

Section 132 - Revision proposals

297. This section provides a mechanism for a multi-area agreement that has been approved by the Secretary of State to be amended.
298. *Subsection (1)* provides that a proposal to modify an approved multi-area agreement can be prepared and submitted to the Secretary of State by the responsible authority at any time while the agreement is in force, but must be prepared and submitted if the Secretary of State directs the authority to do so. A direction under this subsection may stipulate the time period within which the revision proposal must be submitted and can be varied or revoked (*subsection (5)*).
299. *Subsection (2)* sets out the types of changes to an approved multi-area agreement that will require a revision proposal. Enlarging the area covered by the multi-area agreement may mean extending it to cover more of the area of a local authority that is already a signatory to the agreement, or, it may entail adding a local authority to the agreement whose area was previously outside the boundaries covered by the agreement. A revision proposal will not be required where a district council, in an area where there is also a county council, whose area was covered by the multi-area agreement but did not originally agree to it, subsequently decides that it does want to be party to the agreement.
300. *Subsections (3) and (4)* stipulate that where changes to an improvement target or the addition of an improvement target is proposed, the revision proposal must specify who it relates to (see section 121(5)) and the geographic area covered by it if it does not apply to the whole area of the multi-area agreement. This is consistent with the information requirement for a draft multi-area agreement set out in section 125.

Section 133 - Preparation of revision proposal

301. This section places equivalent duties on the responsible authority to consult and co-operate and have regard to guidance, and on other local and partner authorities to co-operate and have regard to guidance, when preparing a revision proposal as is placed on them when they are preparing a draft multi-area agreement by section 126.
302. Where the proposal is to enlarge the area covered by the agreement, the definition of the “agreement area” in *subsection (1)(a)* and the reference to the agreement area in *subsections (2) and (4)* make it clear that it is all local authorities in the enlarged area that must be consulted and co-operated with by the responsible authority and who must, in turn, co-operate with the responsible authority.

Section 134 - Approval of the revision proposal

303. *Subsection (1)* provides that the Secretary of State may approve or reject a revision proposal that is submitted by the responsible authority. Where the revision proposal is submitted following a direction, the section provides that the Secretary of State will also be able to request that the proposal be modified.
304. *Subsection (2)* specifies that the changes will have effect in the multi-area agreement at the point the Secretary of State approves the revision proposal.
305. *Subsection (3)* provides that where the Secretary of State requires a modification to a revision proposal, this takes effect as a further direction to prepare a revision proposal, and so the duties on the responsible authority and local and partner authorities in relation to preparation of a revision proposal will still apply.

Section 135 - Duty to publish information about multi-area agreements

306. This section places a duty on the responsible authority to publish information about the multi-area agreement and any subsequent changes that are made to it through a revision proposal but leaves the decision as to what information is to be published and the manner of publication to the responsible authority.

Section 136 - Consultation on guidance

307. This section requires the Secretary of State to consult representatives of local government and, if appropriate, other people with an interest in multi-area agreements before issuing the guidance that responsible, local and partner authorities will have to have regard to in preparing agreements and revision proposals.