



# Local Democracy, Economic Development and Construction Act 2009

## 2009 CHAPTER 20

### PART 6

#### ECONOMIC PROSPERITY BOARDS AND COMBINED AUTHORITIES

#### *[<sup>F1</sup>General powers of EPBs and combined authorities*

#### Textual Amendments

- F1** Ss. 113A-113C and cross-heading inserted (18.2.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 13(1)**, 240(2); [S.I. 2012/411](#), art. 2(e)

#### **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.

*Status: Point in time view as at 28/03/2016.*

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- (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.

[ This section does not apply in relation to a combined authority in respect of which an <sup>F2</sup>(4) order under section 113D has effect.]

#### Textual Amendments

**F2** S. 113A(4) 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. 25](#)

### 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 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, <sup>F3</sup>...
  - <sup>F4</sup>(b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014, or
  - (c) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969.]
- (7) In this section—

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“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.

#### Textual Amendments

- F3** Word in s. 113B(6)(a) omitted (1.8.2014) by virtue of [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 154\(a\)](#) (with [Sch. 5](#))
- F4** S. 113B(6)(b)(c) substituted for s. 113B(6)(b) (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 154\(b\)](#) (with [Sch. 5](#))

### 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,
  - (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,

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- (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.]

### [<sup>F5</sup>113D General power of competence

- (1) The Secretary of State may by order provide for Chapter 1 of Part 1 of the Localism Act 2011 (which confers a general power of competence on local authorities) to have effect in relation to a combined authority specified in the order as it has effect in relation to a local authority.
- (2) An order under this section may be made only with the consent of the appropriate authorities (as defined by section 107B(5)).
- (3) Where an order under subsection (1) is contained in the same instrument as an order made by virtue of section 107B(3)(b), a non-consenting constituent council is not to be treated as an appropriate authority for the purposes of subsection (2) above.]

#### Textual Amendments

- F5** S. 113D 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. 10**, 25(2)

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