

LOCALISM ACT 2011

EXPLANATORY NOTES

COMMENTARY

Part 1: Local Government

Chapter 3: Other Authorities

31. This chapter provides Integrated Transport Authorities, Passenger Transport Executives, economic prosperity boards and combined authorities with broad general powers to do things related to their functions, similar to the powers provided to Fire and Rescue Authorities by Chapter 2 of this Part. The general powers replace their existing incidental powers (except in the case of Passenger Transport Authorities) and allow them to do things beyond their geographic boundaries.

Section 11: Integrated Transport Authorities

32. [Section 11](#) inserts a new Chapter 4 into Part 5 of the Local Transport Act 2008 comprising new sections 102B, 102C and 102D.
33. New section 102B contains the new broader general power for Integrated Transport Authorities, specifically it gives powers to an authority to do (a) anything it considers appropriate to its functions, (b) anything incidental to those functions, (c) anything indirectly incidental (however indirectly incidental that might be) and (d) anything it considers to be connected with its functions or anything it may do under (a), (b) or (c). It also confirms in paragraph (e) that anything that it now has the power to do for a non-commercial purpose, it may also do for a commercial purpose. It also provides that the new powers are not limited by geography or by the other powers of Integrated Transport Authorities. New section 102B(4) and (5) provide that the Integrated Transport Authority may delegate the taking of action under new section 102B(1) to a Passenger Transport Executive, but not the function of determining what action to take.
34. New section 102C sets the boundaries to the new power. As with the new powers of local authorities and fire and rescue authorities provided by this Part of the Localism Act, the new power is subject to pre-existing limitations and express post commencement limitations. Similarly restrictions that apply to existing powers that are overlapped by the new power are applied to the new power. New section 102C (3) and (4) provide that the new power does not authorise Integrated Transport Authorities to borrow money or to charge (other than for a commercial purpose). This does not affect the Integrated Transport Authorities' powers to charge under section 93 of the Local Government Act 2003. New section 102C(5) states that the new power does not allow an Integrated Transport Authority to do things for a commercial purpose that it is obliged by statute to do, and new section 102C(6) requires that the Integrated Transport Authority must conduct commercial activities through a company or co-operative society.
35. New section 102D gives the Secretary of State power to by order to prevent Integrated Transport Authorities from doing something under the new power, or to make its

use subject to conditions. Subsection (4) of the new section sets out the consultation requirements that the Secretary of State must comply with prior to making an order under section 102D. New section 102D(5) states that the Secretary of State need not consult if the order in question is simply to extend or disapply provisions contained in an existing order. Subsections (7), (8) and (9) of the new section provide that orders under section 102D are subject to an “affirmative” parliamentary procedure, except orders that disapply provisions contained in existing orders or orders that impose conditions on doing things for a commercial purpose, which are subject to the “negative” parliamentary procedure.

Section 12: Passenger Transport Executives

36. *Subsection (1)* inserts in Part 2 of the Transport Act 1968 new sections 10A, 10B and 10C.
37. New section 10A contains the new broader general power for Passenger Transport Executives. It follows the drafting of new section 102B(1) to (3) of the Local Transport Act 2008, inserted by section 11 of the Localism Act.
38. New section 10B sets boundaries limiting the further powers given to Passenger Transport Executives. It follows the drafting of new section 102C of the Local Transport Act 2008, inserted by section 11 of the Localism Act. New section 10B(4) provides that the restriction on charging (other than for a commercial purpose) does not apply to the Passenger Transport Executives’ other powers to charge.
39. New section 10C gives the Secretary of State power by order to prevent Passenger Transport Executive(s) from doing something under the new power or to place conditions on its use. This section follows the drafting of new section 102D inserted by section 11 of the Localism Act, with appropriate modification. The new section also provides for the parliamentary procedure to be followed for the making of such orders – again this is in line with section 102D. Existing procedural rules are disapplied by section 12(3).
40. *Subsection (2)* amends section 10(1) of the Transport Act 1968 (powers of a Passenger Transport Executive) allowing Passenger Transport Executives to invest “their money” rather than the existing wording that limits Passenger Transport Executives’ power to invest only sums not immediately needed.
41. *Subsection (4)* amends section 93(9) of the Local Government Act 2003 to provide Passenger Transport Executives power to charge for discretionary services. Section 12(5) amends the definition of “relevant authority” in section 95(7) of the Local Government Act 2003, to include Passenger Transport Executives in the list of bodies that can be given (where they do not already have it) power to do for commercial purposes things that they can do for non-commercial purposes.

Section 13: Economic prosperity boards and combined authorities

42. Economic prosperity boards and combined authorities are statutory bodies that may be established by order under Part 6 of the Local Democracy, Economic Development and Construction Act 2009. *Subsection (1)* inserts new sections 113A, 113B, 113C into the 2009 Act.
43. New section 113A provides new broader powers for economic prosperity boards and combined authorities, in line with those provided for Integrated Transport Authorities by section 11 of the Localism Act (see above).
44. New section 113B sets out the boundaries to the new powers. These are the same as those set out in section 11 of the Localism Act in relation to Integrated Transport Authorities.

*These notes refer to the Localism Act 2011 (c.20)
which received Royal Assent on 15 November 2011*

45. New section 113C gives the Secretary of State power by order to prevent economic prosperity boards or combined authorities from doing something under the new section 113A powers, or to impose conditions on the exercise of those powers. Again these provisions mirror the provisions of section 11 of the Localism Act in relation to Integrated Transport Authorities, with appropriate modifications.
46. *Subsection (2)* amends section 117 of the 2009 Act, to provide orders that under new section 113C are to be subject to an affirmative procedure in Parliament, except orders made in order to disapply provisions contained in existing orders and orders made only in order to impose conditions on doing things for a commercial purpose.

Section 14: Further Amendments

47. *Subsection (1)* amends the Local Government Act 1972 to disapply section 111 (subsidiary powers of local authorities) of that Act to Integrated Transport Authorities, economic prosperity boards and combined authorities, as the incidental powers provided by that section are replaced by the new general powers.
48. *Subsection (2)* amends section 93 of the Local Government Act 2003 to provide that the restrictions on charging under the new powers (and under section 100(2) of the Local Transport Act 2008) do not amount to prohibitions on charging for the purposes of section 93. This ensures that the power to charge for discretionary services extends to discretionary services provided under the new powers.