
STATUTORY INSTRUMENTS

2005 No. 157

**The Local Authorities' Plans and Strategies
(Disapplication) (England) Order 2005**

Disapplication of duty to prepare action plans in relation to air quality

8.—(1) Section 84(2)(b) of the Environment Act 1995⁽¹⁾ (duty to prepare an action plan) shall not apply to local authorities⁽²⁾ which are excellent authorities.

(2) Notwithstanding paragraph (1)—

- (a) an excellent authority may prepare an action plan and, if they do so, the provisions of Part 4 of the Environment Act 1995 shall apply in relation to the authority as though unmodified by this Order; and
- (b) an excellent authority who do not prepare an action plan shall remain under a duty to exercise their powers in pursuit of the achievement of air quality standards and objectives in the designated area.

(3) In consequence of paragraph (1), section 85 of the Environment Act 1995 shall apply in relation to excellent authorities with the modifications shown in paragraph (4).

(4) In section 85 (reserve powers)—

(a) in subsection (4)—

(i) after the word “above” in the first place in which it occurs, insert “and subject to subsection (5B) below”;

(ii) for the words “that subsection” substitute the words “subsection (3) above”;

(b) in subsection (5), at the beginning insert “Subject to subsection (5B) below,”;

(c) after subsection (5A)⁽³⁾, insert—

“(5B) The powers to give directions under subsections (3), (5) and (5A) above may not be exercised so as to require a local authority which is an excellent authority to prepare an action plan for a designated area.

(5C) But directions given to an excellent authority by the Secretary of State under subsections (5) or (5A) above may require the authority to exercise its powers in pursuit of the achievement of air quality standards and objectives in a designated area.

(5D) In subsections (5B) and (5C) above, “excellent authority” has the meaning given to that term by the Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005.”.

(5) Paragraph (6) applies where a local authority cease, by reason of an order made by the Secretary of State under section 99(4) of the Local Government Act 2003, to be categorised as excellent.

(1) 1995 c. 25.

(2) For the relevant definition of “local authority”, see section 91(1) of the Environment Act 1995.

(3) Subsection (5A) was inserted by [SI 2001/3719](#), article 2 and Schedule, paragraph 6(1), (3).

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(6) Where this paragraph applies the authority shall be treated as an excellent authority for the purposes of paragraph (1), for a period of one year beginning with the date on which the order mentioned in paragraph (5) comes into force.