
STATUTORY INSTRUMENTS

2008 No. 2867

**The Local Government (Structural Changes)
(Transitional Arrangements) (No.2) Regulations 2008**

PART 4

STATUTORY PLANS, REVIEWS, SCHEMES, STATEMENTS AND STRATEGIES

Interpretation of Part 4

10. For the purposes of this Part—

- (a) a single tier council is related to a preparing council or a shadow council if it succeeds the preparing council or the shadow council on the reorganisation date.
- (b) a preparing council is related to a single tier council if it is succeeded by the single tier council on the reorganisation date; and
- (c) a shadow council is related to a single tier council if it is succeeded by the single tier council on the reorganisation date.

Plans required before reorganisation date

11.—(1) Subject to paragraphs (3) and (4), each preparing council which is a county council shall, not later than 31st March 2009, prepare for the whole of its area plans of the descriptions referred to in paragraph (2).

(2) The plans are—

- (a) plans of the descriptions mentioned in section 2(1)(c) and (d) of the Civil Contingencies Act 2004⁽¹⁾;
- (b) off-site emergency plans under regulation 10 of the Control of Major Accident Hazards Regulations 1999⁽²⁾ (“the COMAH Regulations”); and
- (c) off-site emergency plans under regulation 9 of the Radiation (Emergency Preparedness and Public Information) Regulations 2001⁽³⁾ (“the 2001 Regulations”).

(3) A preparing council need not prepare plans of the description referred to in paragraph (2)(b)—

- (a) if there are in its area no establishments within the meaning of the COMAH Regulations⁽⁴⁾; or
- (b) in respect of such establishments in its area as are for the time being exempt by virtue of paragraph (7) of regulation 10 of the COMAH Regulations.

(4) A preparing council need not prepare plans of the description referred to in paragraph (2)(c) if—

(1) 2004 c.36.

(2) S.I. 1999/743.

(3) S.I. 2001/2975.

(4) See the definition of “establishment” in regulation 2(1) of the COMAH Regulations.

- (a) there are in its area no premises at which there is carried out work with ionising radiation to which the 2001 Regulations apply⁽⁵⁾; or
- (b) in respect of premises in its area at which such work is carried out, if an assessment made by the operator pursuant to regulation 4(1) or regulation 5 of those Regulations shows that it is not reasonably foreseeable that a radiation emergency might arise (having regard to the steps taken by the operator under regulation 4(2) of those Regulations).

(5) In paragraph (4), the expressions “premises”, “work with ionising radiation”, and “radiation emergency” have the same meanings as in the 2001 Regulations⁽⁶⁾.

(6) Paragraph (1) (and the exceptions in paragraphs (3) and (4)) shall apply to a shadow council as they apply to a preparing council which is a county council as if, for the purposes of the Acts and instruments mentioned in paragraph (2), the shadow council were a preparing council which is a county council.

(7) As soon as any plan of the description referred to in paragraph (2)(a) has been prepared, the preparing or shadow council which prepared it shall publish it or such part of it as the council considers necessary or desirable for the purpose of—

- (a) preventing an emergency,
- (b) reducing, controlling or mitigating the effects of an emergency, or
- (c) enabling other action to be taken in connection with an emergency.

(8) Subject to paragraph (9), a plan prepared in accordance with paragraph (1) by a preparing or shadow council shall be treated, on and after the reorganisation date, as if it had been prepared by that council’s related single tier council.

(9) A single tier council may, but need not, prepare a plan of the same description as that prepared in accordance with paragraph (1) by its related preparing or shadow council but, where it does so, and the plan—

- (a) extends to the whole of its area; and
- (b) is a substitute for the plan prepared by its related preparing or shadow council (whether the substitution is made expressly or by necessary implication),

the preparing or shadow council’s plan shall cease to have effect on the date on which the single tier council’s plan is published.

(10) Nothing in paragraph (9) shall affect the continued validity of a plan after the date referred to in that paragraph for any transitional purpose specified in the single tier council’s plan.

(11) Paragraph (7) shall apply in relation to any plan of the description referred to in paragraph (2) (a) prepared by a single tier council as it applies in relation to a plan of that description prepared by a preparing council which is a county council.

Plans, reviews, schemes, statements and strategies required not later than 12 months after the reorganisation date

12.—(1) Where it is practicable to do so in the period beginning on the date on which these Regulations come into force and ending on the reorganisation date—

- (a) each preparing council which is a county council and each shadow council shall prepare for the whole of its area, and if required by the enactment concerned publish, a document of each of the following descriptions—
 - (i) an allocation scheme under section 167 of the Housing Act 1996⁽⁷⁾;

⁽⁵⁾ As to the application of the 2001 Regulations, see regulation 3 of those Regulations.

⁽⁶⁾ Definitions of these expressions are to be found in regulation 2(1) of the 2001 Regulations.

⁽⁷⁾ 1996 c.52, amended by the Homelessness Act 2002 (c.7), section 16.

- (ii) a licensing statement (statement of licensing policy) under section 5 of the Licensing Act 2003⁽⁸⁾;
 - (iii) a statement of principles under section 349 (three-year licensing policy) of the Gambling Act 2005⁽⁹⁾; and
 - (iv) a statement of the policy for the provision of assistance under article 3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002⁽¹⁰⁾;
- (b) each shadow council and each preparing council which is a district council shall prepare for the whole of its area and publish—
 - (i) an accessibility strategy and plan under section 28D of the Disability Discrimination Act 1995⁽¹¹⁾; and
 - (ii) a children’s and young people’s plan under regulation 3 of the Children and Young People’s Plan (England) Regulations 2005⁽¹²⁾; and
- (c) each shadow council and each preparing council which is a county council shall—
 - (i) carry out for the whole of its area a homelessness review within the meaning of the Homelessness Act 2002⁽¹³⁾; and
 - (ii) based on the results of that review, formulate and publish a homelessness strategy within the meaning of that Act.
- (2) For the purposes of paragraph (1)(a)—
 - (a) the Acts and Order referred to in paragraphs (i) to (iv) shall have effect in relation to a shadow council as if the shadow council were a preparing council; and
 - (b) the statement referred to in paragraph (iii) shall be prepared in accordance with the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006⁽¹⁴⁾.
- (3) For the purposes of paragraph (1)(b)—
 - (a) section 28D of the Disability Discrimination Act 1995 shall have effect in relation to a shadow council as if the shadow council were a county council; and
 - (b) the Children and Young People’s Plan (England) Regulations 2005 shall have effect as if references to an authority included references to a shadow council and to a preparing council which is a district council⁽¹⁵⁾.
- (4) For the purposes of paragraph (1)(c)—
 - (a) section 1(3) of the Homelessness Act 2002 shall not have effect; and
 - (b) section 1 of that Act (except subsection (3)) and sections 2 to 4 of that Act shall have effect as if—
 - (i) references to a local housing authority included references to a preparing council which is a county council and to a shadow council, and

⁽⁸⁾ 2003 c.17.

⁽⁹⁾ 2005 c.19.

⁽¹⁰⁾ S.I. 2002/1860. As to the requirement for the policy, see article 4 of the 2002 Order.

⁽¹¹⁾ 1995 c.50. Section 28D was inserted by section 14(1) of the Special Educational Needs and Disability Act 2001 (c.10) and amended by paragraph 26 of Schedule 21 to the Education Act 2002 (c.32). Subsection (6) was repealed by the Children Act 2004 (c.31), Schedule 5, Part 3. Subsection (13) was amended by the Education Act 2005 (c.18), Schedule 9, para 8.

⁽¹²⁾ S.I. 2005/2149, amended by S.I. 2007/57.

⁽¹³⁾ 2002 c.7. Section 3 was amended by the Local Government Act 2003 (c.26), Sch. 7, para 81. For the meaning of “homelessness review” see section 2. For the meaning of “homelessness strategy” see section 3. Section 4 contains other relevant definitions.

⁽¹⁴⁾ S.I. 2006/636.

⁽¹⁵⁾ See the definition of “authority” in regulation 2(1) of S.I. 2005/2149.

- (ii) references to a local housing authority's district (in whatever terms) included references to the area of a preparing council which is a county council and to a shadow council's area.

(5) Where a plan, review, scheme, statement or strategy of a description in paragraph (1) has not been completed, formulated or prepared (as the case may be) and, where required by or under the enactment concerned, published, before the reorganisation date, the single tier council that is related to the council authorised by that paragraph to take that action shall take such steps as are necessary to secure that the plan, review, scheme, statement or strategy is completed, formulated or prepared (as the case may be) and, where required by or under the enactment concerned, published, not later than the date that falls 12 months after the reorganisation date.

(6) In the period beginning on the reorganisation date and ending on the date on which the single tier council complies with paragraph (5), reviews and strategies of the description specified in paragraph (1)(c) and plans, schemes, statements and strategies of the descriptions specified in paragraph (1)(a) and (b) that have been carried out, formulated or prepared (as the case may be) and, where required by or under the enactment concerned, published—

- (a) before the reorganisation date, by any council that is a predecessor council in relation to the single tier council; or
- (b) before the date on which the section 7 order came into force, by the related preparing or shadow council,

shall be treated as if they had been carried out, formulated, prepared, and (where required) published by the single tier council for the whole or such part of its area as corresponds to the area to which the particular plan, review, scheme, statement or strategy relates.

(7) Nothing in paragraph (6) shall affect the continued validity, after the date on which the single tier council complies with paragraph (5), of a plan, review, scheme, statement or strategy prepared and published as mentioned in paragraph (6)(a) or (b), for any transitional purpose specified in the plan, review, scheme, statement or strategy prepared by the single tier council.

(8) The requirements of section 5(1) of the Licensing Act 2003 shall be treated as satisfied, as regards the three year period beginning with 7th January 2011⁽¹⁶⁾, and a single tier council, by a statement published in accordance with regulations under subsection (7) of that Act—

- (a) by that council's related preparing or shadow council by virtue of paragraph (1)(a) above; or
- (b) by the single tier council under paragraph (5) above.

(9) The requirements of section 349(1) of the Gambling Act 2005 shall be treated as satisfied, as regards the three year period beginning with 31st January 2010⁽¹⁷⁾, and a single tier council, by a statement published in accordance with regulations under subsection (4) of that Act—

- (a) by that council's related preparing or shadow council by virtue of paragraph (1)(a) above; or
- (b) by the single tier council under paragraph (5) above.

Sustainable community strategy required not later than 24 months after the reorganisation date

13.—(1) Where it is practicable to do so in the period beginning on the date on which these Regulations come into force and ending on the reorganisation date, each preparing council and each

⁽¹⁶⁾ *S.I. 2004/2362* appointed 7th January 2005 as the start of the first three year period for the purposes of section 5 of the Licensing Act 2003.

⁽¹⁷⁾ *S.I. 2006/637* appointed 31st January 2007 as the start of the first three year period for the purposes of section 349 of the Gambling Act 2005.

shadow council shall prepare for the whole of its area, a sustainable community strategy under section 4 of the Local Government Act 2000(18).

(2) Where a preparing or shadow council has been unable to prepare a sustainable community strategy before the reorganisation date, its related single tier council shall prepare that strategy not later than the date that falls 24 months after the reorganisation date.

(3) In the period beginning on the reorganisation date and ending on the date on which the single tier council complies with paragraph (2), the sustainable community strategy prepared—

- (a) before the reorganisation date, by any council that is a predecessor council in relation to the single tier council; or
- (b) before the date on which the section 7 order came into force, by the related preparing council,

shall be treated as if it had been prepared by the single tier council for the whole or such part of its area as corresponds to the area to which the strategy relates.

(4) Nothing in paragraph (3) shall affect the continued validity, after the date on which the single tier council complies with paragraph (2), of a sustainable community strategy prepared as mentioned in paragraph (3)(a) or (b), for any transitional purpose specified in the strategy prepared by the single tier council.

Continuity in relation to other plans, schemes, statements and strategies

14.—(1) Subject to paragraph (2) where, pursuant to a requirement imposed by or under any enactment (whether the requirement has direct effect in relation to the council concerned or because the enactment or provision that imposes the requirement applies to the council by virtue of an order or resolution), a plan, scheme, statement or strategy is prepared and, where required by the enactment or provision, published—

- (a) before the reorganisation date, by any council that is a predecessor council of its related single tier council; or
- (b) before the date on which the section 7 order came into force, by the preparing council of its related single tier council,

the plan, scheme, statement or strategy shall be treated, for the period specified in paragraph (3), as if it had been prepared and, if so required, published by the single tier council for the whole or such part of its area as corresponds to the area to which the particular plan, scheme, statement or strategy relates.

(2) Paragraph (1) does not apply—

- (a) in relation to a plan, scheme, statement or strategy of a description referred to in regulation 12(1) or 13(1); or
- (b) where different provision is made in regulations under section 14 of the 2007 Act.

(3) The period referred to in paragraph (1) begins on the reorganisation date and ends on the date on which the single tier council concerned publishes a plan, scheme, statement or strategy which—

- (a) extends to the whole of its area; and
- (b) is prepared in substitution for the plan, scheme, statement or strategy prepared by its related predecessor or preparing council (whether that substitution is made expressly or by necessary implication).

(18) Section 4 is amended by section 7 of the Sustainable Communities Act 2007 (c.23) and section 114 of the Local Government and Public Involvement in Health Act 2007 (c.28).

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(4) Nothing in paragraph (1) shall affect the continued validity of a plan, scheme, statement or strategy after the end of the period specified in paragraph (3) for any transitional purpose specified in the plan, scheme, statement or strategy prepared by the single tier council.