

2009 No. 714

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities' Plans and Strategies (Disapplication)
(England) (Amendment) Order 2009**

<i>Made</i> - - - -	<i>16th March 2009</i>
<i>Laid before Parliament</i>	<i>20th March 2009</i>
<i>Coming into force</i> - -	<i>13th April 2009</i>

The Secretary of State makes the following Order in exercise of the powers conferred by sections 6(1) and 105 of the Local Government Act 2000(a), and by section 100(1) and (2) of the Local Government Act 2003(b).

The Secretary of State considers that it is not appropriate for certain enactments (which require local authorities to prepare plans and strategies) to apply to particular descriptions of local authority.

The Secretary of State further considers it expedient to make supplemental provision in relation to the application of such enactments to local authorities which cease to be of a particular description.

Citation and commencement

1. This Order may be cited as the Local Authorities' Plans and Strategies (Disapplication) (England) (Amendment) Order 2009 and shall come into force on 13th April 2009.

Amendment of the Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005

2. The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005(c) is amended as follows.

Additional categories of authority

3. In article 2 (interpretation)—

(a) before the definition of "English local authority" insert—

““2006 Order” means the Local Authorities (Categorisation) (England) Order 2006(d);

(a) 2000 c.22.
(b) 2003 c.26.
(c) S.I. 2005/157.
(d) S.I. 2006/3096.

“2009 Order” means the Local Authorities’ Plans and Strategies (Disapplication) (England) (Amendment) Order 2009(a);

“3 stars authority” means an English local authority categorised as 3 stars by reason of an order made by the Secretary of State under section 99(4) of the Local Government Act 2003;

“4 stars authority” means an English local authority categorised as 4 stars by reason of an order made by the Secretary of State under section 99(4) of the Local Government Act 2003;”.

Amendment of article 3

4. In article 3 (disapplication of duty to publish new homelessness strategies)—

(a) in paragraph (1), after “excellent” insert “, 4 stars or 3 stars”;

(b) for paragraph 3(2) substitute—

“(2) Paragraph (3) applies where—

(a) a local housing authority cease to fall, or to be treated as falling, within paragraph (1), and

(b) the cessation is not by reason only of the expiration of a period previously specified under paragraph (3).”;

(c) for paragraph (3) substitute—

“(3) Where this paragraph applies, the authority shall be treated for the purposes of paragraph (1) as continuing to be an authority falling within that paragraph for a period—

(a) of such length, no shorter than one year and not exceeding two years, as the Secretary of State may specify in writing to the authority, and

(b) beginning with the date of the cessation mentioned in paragraph (2).”.

Amendment of article 4

5. In article 4 (disapplication of duty to submit home energy conservation reports)—

(a) in paragraph (1), after “excellent” insert “, 4 stars or 3 stars”;

(b) after paragraph (2) insert—

“(2A) Where at the date that the 2009 Order comes into force a 3 stars or 4 stars authority have prepared a report and published and sent it to the Secretary of State in accordance with section 2(6) of the Act, section 3(2) of the Act shall not apply in relation to that authority.”;

(c) for paragraph (3) substitute—

“(3) Paragraph (4) applies where—

(a) an energy conservation authority cease to fall, or to be treated as falling, within paragraph (1), and

(b) the cessation is not by reason only of the expiration of a period previously specified under paragraph (4).”;

(d) for paragraph (4) substitute—

“(4) Where this paragraph applies, the authority shall be treated for the purposes of paragraph (1) as continuing to be an authority falling within that paragraph for a period of one year beginning with the date of the cessation mentioned in paragraph (3).”.

(a) S.I. 2009/714.

Amendment of article 6

6. In article 6 (disapplication of duties to prepare and publish rights of way improvement plans and amendment of provisions relating to such plans)—

- (a) in paragraph (1) for “excellent” substitute “4 stars”;
- (b) in paragraph (2) for “An excellent” substitute “A 4 stars”;
- (c) in paragraph (3) for “Where at the date on which this Order comes into force an excellent authority” substitute “Where, at the date on which the 2009 Order comes into force, a 4 stars authority”;
- (d) in paragraph (4) for “Where at the date on which this Order comes into force an excellent authority” substitute “Where, at the date on which the 2009 Order comes into force, a 4 stars authority”;
- (e) in paragraph (5) for “an excellent” substitute “a local highway”;
- (f) for paragraph (7) substitute—

“(7) Paragraph (7A) applies where, on or after the coming into force of the 2009 Order, a local highway authority—

- (a) cease to fall within paragraph (1), or
- (b) cease to be treated as falling within that paragraph,

and the cessation is not by reason only of the expiration of a period previously specified under paragraph (7A).”;

- (g) after paragraph (7) insert—

“(7A) Where this paragraph applies, the authority shall be treated for the purposes of paragraph (1) as continuing to fall within that paragraph for a period—

- (a) of such length, not exceeding two years, as the Secretary of State may specify in writing to the authority, and
- (b) beginning with the cessation mentioned in paragraph (7).”.

Amendment of article 7 and Schedule 2

7.—(1) In article 7 (disapplication of duties to prepare local transport plans and bus strategies and amendment of provisions relating to such plans)—

- (a) in paragraph (1), for “excellent” substitute “4 stars”;
- (b) in paragraph (2)(a) and (b), for “excellent” substitute “4 stars”;
- (c) in paragraph (3)—
 - (i) for “An excellent authority, who at the date on which this Order comes into force” substitute “An authority who is a 4 stars authority and who, on 1st February 2005”;
 - (ii) in sub-paragraph (a) for “have” substitute “had”;
 - (iii) in sub-paragraph (b) for “are” substitute “were”;
- (d) in paragraph (4) for “an excellent” substitute “a 4 stars”;
- (e) for paragraph (6) substitute—

“(6) Paragraph (7) applies where, on or after the coming into force of the 2009 Order, a local transport authority—

- (a) cease to fall within paragraph (1), or
- (b) cease to be treated as falling within that paragraph,

and the cessation is not by reason only of the expiration of a period previously specified under paragraph (7).”;

- (f) after paragraph (6) add—

“(7) Where this paragraph applies, the authority shall be treated for the purposes of paragraph (1) as continuing to fall within that paragraph for a period—

- (a) of such length, no shorter than one year and not exceeding two years, as the Secretary of State may specify in writing to the authority, and
- (b) beginning with the date of the cessation mentioned in paragraph (6).”.

(2) In paragraph 1(b) of Part 1 of Schedule 2 (modification of the Transport Act 2000(a)) for the definition of “excepted authority” in section 108(4) as modified by that sub-paragraph, substitute—

““excepted authority” means a local transport authority in England who—

- (a) are a 4 stars authority within the meaning given to that term by the Local Authorities’ Plans and Strategies (Disapplication) (England) Order 2005; or
- (b) are treated by virtue of article 7(7) of that Order as such an authority for the purposes of article 7(1).”.

Amendment of article 8

8. In article 8 (disapplication of duties to prepare action plans in relation to air quality)—

- (a) in paragraph (1), after “excellent” insert “or 4 stars”;
- (b) in paragraph (2), for “an excellent authority may” substitute “an excellent or 4 stars authority may” and for “an excellent authority who” substitute “an excellent or 4 stars authority who”;
- (c) in paragraph (3), after “excellent” insert “or 4 stars”;
- (d) in paragraph 4(c), in subsection (5B) of section 85 of the Environment Act 1995(b), as inserted by that sub-paragraph, after “excellent” insert “or 4 stars”;
- (e) in paragraph 4(c), in subsection (5C) of section 85 of the Environment Act 1995, as inserted by that sub-paragraph, after “excellent” insert “or 4 stars”;
- (f) in paragraph 4(c), in subsection (5D) of section 85 of the Environment Act 1995, as inserted by that sub-paragraph, for ““excellent authority” has the meaning given to that term by” substitute ““excellent or 4 stars authority” means an excellent authority or a 4 stars authority within the meaning of”;
- (g) for paragraph (5) substitute—

“(5) Paragraph (6) applies where—

 - (a) a local authority cease to fall, or to be treated as falling, within paragraph (1), and
 - (b) the cessation is not by reason only of the expiration of a period previously specified under paragraph (6).”;
- (h) for paragraph (6) substitute—

“(6) Where this paragraph applies, the authority shall be treated for the purposes of paragraph (1) as continuing to be an authority falling within that paragraph for a period one year beginning with the date of the cessation mentioned in paragraph (5).”.

Signed by authority of the Secretary of State for Communities and Local Government

16th March 2009

Sadiq Khan
Parliamentary Under Secretary of State
Department for Communities and Local Government

(a) 2000 c.38.
(b) 1995 c.25.

EXPLANATORY NOTE

(This note is not part of the Order)

The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157) ("the principal Order") disapplies seven separate obligations to prepare, produce or (as the case may be) publish particular plans and strategies where authorities are categorised as excellent, by an order made under section 99(4) of the Local Government Act 2003.

This amending Order alters the scope of five of the disapplications in the principal Order.

Article 3 inserts new definitions of "3 stars authority" and "4 stars authority" which relate to categorisations made by the Local Authorities (Categorisation) (England) Order 2006 (S.I. 2006/3096) by the Secretary of State under the power provided in section 99 of the Local Government Act 2003.

Article 4 extends the exemption from the requirement to prepare homelessness strategies to 3 and 4 stars authorities as well as excellent authorities.

Article 5 extends the exemption from the requirement to prepare home energy conservation reports to 3 and 4 stars authorities as well as excellent authorities.

Article 6 amends the exemption from the requirement to prepare and publish rights of way improvement plans by applying the exemption to 4 stars authorities in place of excellent authorities.

Article 7 amends the exemption from requirements to prepare local transport plans by applying the exemption to 4 stars authorities in place of excellent authorities and makes a consequential change to a modification made to the Transport Act 2000 by Schedule 2 to the principal Order.

Article 8 extends the exemption from the requirement to prepare action plans in relation to air quality by applying the exemption to 4 stars as well as excellent authorities and makes consequential changes to modifications made to section 85 of the Environment Act 1995 by the principal Order.

A full impact assessment has not been produced for this instrument as no impact on business or the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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£4.00