

EXPLANATORY NOTE

(This note is not part of the Order)

Section 6 of the Local Government Act 2000 (“the 2000 Act”) provides for the Secretary of State by order to amend, repeal, revoke or disapply any enactment which requires a local authority to prepare, produce or publish any plan or strategy relating to any particular matter, if he considers that it is not appropriate for such an enactment to apply to the authority, or that such an enactment should be amended so that it operates more effectively in relation to the authority. This power may be exercised in relation to particular descriptions of local authority. By section 105 of the 2000 Act, any order under that Act may make such incidental, consequential, transitional or supplemental provision or savings as the Secretary of State considers necessary or expedient, including provision modifying any enactment.

Section 100 of the Local Government Act 2003 (“the 2003 Act”) provides for the order-making power conferred by section 6 of the 2000 Act (among other powers) to be exercised in relation to a description of authority framed by reference to English local authorities that are, by reason of an order under section 99(4) of the 2003 Act, of a particular category. This Order applies to local authorities in England which have been categorised as “excellent” by an order made under section 99(4) of the 2003 Act. Section 99(4) gives the Secretary of State power to categorise local authorities by order, following reports made from time to time by the Audit Commission categorising such authorities in relation to their performance in exercising their functions.

For “excellent” authorities, this Order disapplies seven separate obligations to prepare, produce or (as the case may be) publish particular plans and strategies. It makes consequential modifications to the primary legislation in which certain of those obligations are enshrined. In relation to each obligation which is disapplied, this Order makes supplemental provision for the case where an authority loses its categorisation as “excellent” as a result of a further order under section 99(4) of the 2003 Act.

Article 3 disapplies the requirement under section 1(4) of the Homelessness Act 2002 to publish new homelessness strategies.

Article 4 disapplies requirements under sections 2 and 5 of the Home Energy Conservation Act 1995 to prepare home energy conservation reports and, where such reports may already have been prepared, the requirement under section 3(2) of that Act to submit them to the Secretary of State.

Article 5 disapplies the duty under section 40 of the Crime and Disorder Act 1998 to prepare youth justice plans, and brings into force the modifications made to that Act by Schedule 1 to this Order.

Article 6 disapplies the duties under section 60 of the Countryside and Rights of Way Act 2000 to prepare and publish rights of way improvement plans, and makes further supplemental provision for cases where authorities have already prepared such plans, or have prepared and published, but not implemented, them.

Article 7 disapplies the duty under section 108(3) of the Transport Act 2000 to prepare a local transport plan, and the duty under section 110(1) of that Act to prepare a bus strategy, and brings into force the modifications made to those Acts by Schedule 2 to this Order. *Article 8* also makes further supplemental provision for the cases where authorities have already made local transport plans, or where they wish (notwithstanding the disapplication of the duty to do so) to make such plans.

Article 8 disapplies the duty under section 84(2) of the Environment Act 1995 to prepare action plans in relation to air quality, and makes consequential modifications to section 85 of that Act.

Draft Legislation: *This is a draft item of legislation and has not yet been made as a UK Statutory Instrument.*

There is no identifiable cost from these measures to the public or the Exchequer. No regulatory impact assessment has been prepared in relation to this Order, as it does not impose any additional costs on local government, the charitable sector, or business.