

**EXPLANATORY MEMORANDUM TO**  
**THE JOINT MUNICIPAL WASTE MANAGEMENT STRATEGIES**  
**(DISAPPLICATION OF DUTIES) (ENGLAND) REGULATIONS 2007**

**2007 No. 63**

1. This explanatory memorandum has been prepared by the Department For Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 These Regulations provide for the disapplication for high-performing local authorities of the duty under section 32 of the Waste and Emissions Trading Act 2003 to have in place a joint municipal waste management strategy in two-tier areas.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Background**

4.1 The provisions on joint municipal waste management strategies in section 32(1) to (7) of the Waste and Emissions Trading Act 2003, which received Royal Assent on 13 November 2003, require local authorities in two-tier areas, subject to any disapplications provided for under section 33, to do the following:

- have had in place by April 2005 a joint strategy for their municipal waste. In preparing a strategy authorities must carry out appropriate consultation and take into consideration any guidance given by the Secretary of State;
- review and keep any strategy up to date;
- send a statement of the joint strategy to the Secretary of State and the Environment Agency. This statement should also be publicised in the authorities' area and be available free of charge for inspection by the public. Authorities in Greater London should also send their statement of strategy to the Mayor of London; and
- authorities in Greater London should have regard to the Mayor's Municipal Waste Management Strategy when preparing their strategy.

4.2 In exercise of the powers conferred on the Secretary of State by section 33 of the Waste and Emissions Trading Act 2003, Statutory Instrument 2004 No 3242 provided for disapplications from the duties under section 32(1)

to (7). This regulation revokes S.I 2004 No 3242 and remakes the regulation so as to include new local authority categorisations as cited in S.I 2006 No. 3096.

In December 2001 Local Government White paper '*Strong Local Leadership – Quality Public Services*' announced a new Comprehensive Performance Assessment (CPA) framework to assess local authorities' delivery of national and local priorities. CPA provides local people with more information about performance of their council, and enables Government to apply measures appropriate to councils' performance – including more support for weaker authorities and less regulation for high performers. The Audit Commission has been independently carrying out these assessments, which have been rolled out to all English local authorities since December 2002. The Audit Commission placed councils into one of five categories – excellent, good, fair, weak and poor – and published these results on their website.

In December 2005 The Audit Commission published a revised CPA framework (CPA – The Harder Test) for England's 150 single tier (i.e unitary, district, unitary county and London borough) councils and county councils. Under CPA – The Harder Test Framework councils receive an overall performance category ranging from 0-4 stars, with 4 stars being the highest. District councils (in areas where there are also County Councils) continue to be assessed according to the ratings of excellent – poor. The freedom currently given to excellent authorities will be transferred directly across to 4\* authorities.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 In recognition of the fact that the division of responsibilities between waste disposal and collection authorities in areas with two-tiers of local government (i.e. those with a County/District structure and six areas in London, Greater Manchester and Merseyside) can make sustainable waste management more difficult, the Government set out in its statement *Waste Strategy 2000* (made under section 44A of the Environmental Protection Act 1990) the need for local authorities in two-tier areas to work closely together.

*Waste Strategy 2000* encouraged all authorities to produce comprehensive municipal waste management strategies and included a commitment to make this a statutory requirement.

7.2 Section 32 of the Waste and Emissions Trading Act 2003 imposes a statutory duty on authorities in two-tier areas to draw up joint municipal waste management strategies. Section 33 provides that these duties may be disapplied for authorities performing to a standard required by the Secretary of State.

7.3 These Regulations provide (in regulation 2) disapplications for:

- waste disposal authorities meeting their statutory performance standards for recycling and composting and their obligations under the Landfill Allowance Trading Scheme;
- waste collection authorities meeting their statutory performance standards for recycling and composting;
- whole two-tier areas where the waste disposal authority and half, or more, of the waste collection authorities are exempt and the remaining authorities apply to the Secretary of State; and
- whole two-tier areas where the waste disposal authority is exempt and all the authorities apply to the Secretary of State.

7.4 Regulation 3 makes provision for the duration of the different classes of disapplication.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is to remove a duty from some local authorities that are performing to a required standard.

## **9. Contact**

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