



Local Government Act 1992

1992 CHAPTER 19

PART I

CITIZEN'S CHARTER PROVISIONS

Competition

9 Power to define conduct as competitive or anti-competitive

- (1) The Secretary of State may by regulations make provision, for the purposes of one or more of the conditions mentioned in subsection (2) below, for conduct described in the regulations to be regarded, in accordance with the regulations and in such circumstances as may be so described—
 - (a) as conduct which has the effect of restricting, preventing or distorting competition or is likely to have that effect; or
 - (b) as conduct which does not have that effect and is not likely to have that effect.
- (2) The conditions referred to in subsection (1) above are—
 - (a) the condition specified in section 7(1A) of the 1980 Act (competition condition in the case of certain works contracts);
 - (b) the condition specified in section 9(4)(aaaa) of the 1980 Act (competition condition applying in the case of prescribed construction or maintenance work);
 - (c) the condition set out in section 4(5) of the 1988 Act (competition condition in the case of works contracts relating to work falling within a defined activity);
 - (d) the condition set out in section 7(7) of the 1988 Act (competition condition in the case of functional work falling within such an activity).
- (3) Without prejudice to the generality of subsection (1) above or to any power conferred by section 8 of the 1988 Act (regulations with respect to fulfilment of conditions), regulations under this section may—

Status: This is the original version (as it was originally enacted).

- (a) prescribe the matters which are to be taken into account, or disregarded, in the course of any evaluation made for the purpose of deciding who should undertake or carry out particular work;
 - (b) prescribe the manner in which, or extent to which, any matter described in the regulations is to be so taken into account or disregarded;
 - (c) prescribe maximum and minimum periods for the periods which are required, by virtue of paragraphs (b) and (d) of subsection (2) of section 7 of the 1988 Act, to be specified in a notice published for the purposes of subsection (1) of that section (periods for inspection of specification and for notifying an authority of a wish to tender);
 - (d) prescribe a maximum and a minimum period for the period which is to elapse, in a case where a notice has been so published, between—
 - (i) the announcement of the decision as to who should carry out the work in question; and
 - (ii) the beginning of the period during which the work is to be carried out;
 - (e) make provision for the issue by the Secretary of State of guidance as to how conduct restricting, distorting or preventing competition is to be avoided in the doing of anything under or for the purposes of Part III of the 1980 Act or Part I of the 1988 Act; and
 - (f) require the extent (if any) to which there has been a contravention of guidance issued by the Secretary of State under the regulations to be taken into account in any determination of whether or not a condition mentioned in subsection (2) above has been fulfilled.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and that power shall include power—
- (a) to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient; and
 - (b) to make different provision for different cases, including different provision for different localities and for different bodies.