
 STATUTORY INSTRUMENTS

1984 No. 159 (S.11)
LOCAL GOVERNMENT, SCOTLAND
**The Local Government (Direct Labour Organisations)
(Competition) (Scotland) Regulations 1984**

Made - - - 10th February 1984

Laid before Parliament 22nd February 1984

Coming into Operation 1st April 1984

In exercise of the powers conferred on me by sections 7 and 9(3) of the Local Government, Planning and Land Act 1980(a) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Title, commencement and extent

1. These regulations may be cited as the Local Government (Direct Labour Organisations) (Competition) (Scotland) Regulations 1984, shall come into operation on 1st April 1984 and shall extend to Scotland only.

Interpretation

2.—(1) In these regulations —

“the Act” means the Local Government, Planning and Land Act 1980;

“contractual construction work”, “contractual highway work” and “contractual maintenance work” mean respectively works of new construction, general highway works and works of maintenance carried out by a local authority or development body by placing a contract for the doing of the work by another person (either directly or, in whole or in part, through subcontractors) the value of which, if it provides, or provides principally, for the carrying out of —

- (a) general highway works, does not exceed £50,000, or
- (b) works of new construction, does not exceed £50,000, or
- (c) works of maintenance, does not exceed £10,000;

“emergency work” means work of any description whose necessity could not reasonably have been foreseen by a local authority or development body and which is required to avert, alleviate or eradicate in their area, or any part of it, the effects or potential effects of any emergency or disaster involving or likely to involve risk of serious damage to or destruction of property or risk of injury or danger to health or life;

(a) 1980 c.65.

“estimated cost” in relation to a job, means the aggregate of the amounts which a local authority or development body will credit to their DLO revenue account in respect of the carrying out of all the items of construction or maintenance work comprised in a job —

- (a) so far as such amounts will fall to be determined in accordance with a written statement prepared in compliance with section 9(2)(a) of the Act, as so determined; and
- (b) so far as such amounts will fall to be determined in accordance with a method specified in a written statement prepared in accordance with section 9(2)(b) of the Act, as reasonably estimated in accordance with that method;

“general highway works” means —

- (a) construction and maintenance work for the purpose of the laying out, construction, improvement, maintenance or repair of highways, other than work for the purpose of the construction of highways which is connected with the carrying out of other works of new construction; and
- (b) the gritting of or clearing of snow from highways;

“job” means all the functional work which can reasonably be carried out most economically and efficiently under one arrangement;

“works of maintenance” means works of maintenance within the meaning of the Local Authorities (Goods and Services) Act 1970(a) not being general highway works or works of maintenance in connection with water and sewerage works;

“works of new construction” means building or civil engineering works of any description not being general highway works, general water and sewerage works or works of maintenance.

(2) Subject to paragraph (3) below, in ascertaining for the purposes of these regulations the description of work for which a contract principally provides, or of which a job principally consists, regard shall be had only to —

- (a) the value of the contract so far as it is attributable to works of each description mentioned in Part I of Schedule 1 to these regulations and comprised in the contract, or
- (b) the estimated cost of the job so far as it is attributable to works of each description comprised in the job,

and if the value of the contract or the estimated cost of the job so far as attributable to works of more than one description is the same, the contract or job shall be treated as providing principally for works of each of those descriptions.

(3) In ascertaining for the purposes of paragraph (2) above or regulation 5 or 7 below the description of work for which a contract principally provides, or of

(a) 1970 c.39.

which a job principally consists, no regard shall be had to the value of the contract or the estimated cost of the job so far as in either case it is attributable to general water and sewerage work.

Prescribed amounts for works contracts

3. For the purposes of section 7(1) of the Act (prescribed amounts for certain works contracts) the amounts specified in Part I of Schedule 1 to these regulations are the prescribed amounts.

Treatment of certain works contracts as a single contract

4. For the purposes of determining whether the value of a works contract exceeds the prescribed amount for a contract of that description it shall be treated together with one or more other contracts as a single works contract if each contract is made within a period of six months and relates to work of a similar description to be performed on a single site or surface or on adjacent sites or surfaces.

Requirement to tender for certain works contracts

5.—(1) The following conditions are prescribed for the purposes of section 7(1)(b) of the Act (local authority not to enter into works contract except in compliance with conditions) in relation to a works contract to which this regulation applies, namely —

- (a) that the contract was made by acceptance of an offer on the part of the authority to carry out the work in question;
- (b) that the authority made the offer in response to an invitation to submit such offers; and
- (c) that the invitation was extended to at least three other persons.

(2) Subject to regulation 6 below, this regulation applies to works contracts providing for, or principally for, the descriptions of work mentioned in Column 1 of Part II and of Part III of Schedule 1 to these regulations to the extent specified in Column 2 of the said Parts.

(3) Part II of the said Schedule 1 applies to works contracts entered into in the period from 1st April 1984 to 31st March 1985 and Part III to works contracts entered into after 31st March 1985.

Exempted works contracts

6.—(1) Section 7(1) of the Act shall not apply to works contracts of any of the following descriptions, namely —

- (a) a contract for the carrying out of emergency work;
- (b) a contract for the gritting of or the clearing of snow from highways;
- (c) a contract which satisfies the following conditions:—
 - (i) it is a contract the value of which does not exceed by more than 10% the value of a contract of a similar description awarded to the local authority at any time in the immediately preceding period of twelve months (hereinafter referred to as “the former contract”), and in relation to which the value of each of the separate items of work

comprised and priced in the contract does not exceed by more than 10% the value of each corresponding separate item of work (if any) comprised and priced in the former contract;

- (ii) except in the case of a contract for works of maintenance the work comprised in the contract is to be carried out on the same site or surface as the work comprised in a former contract or on sites or surfaces adjacent to those on which the work comprised in a former contract has been or is to be carried out.

(2) For the purposes of this regulation a contract is a former contract if, and only if,—

- (a) it was made as the result of an invitation to tender which was extended to at least three other persons;
- (b) the local authority submitted the lowest tender for the former contract following that invitation;
- (c) it has not been renewed (either by extension or the making of a new contract for work of a similar description), unless the invitation to tender, as a result of which it was awarded, specifically referred to the award to the successful contractor of one or more further contracts.

Functional work

7.—(1) Subject to regulation 8 below, a local authority or development body may not undertake a job consisting of, or principally of, functional work of the descriptions specified in Schedule 2 to these regulations unless they have first complied with the conditions mentioned in section 9(3)(a) of the Act as well as with those in section 9(2).

(2) Part I of the said Schedule 2 applies to functional work undertaken in the year from 1st April 1984 to 31st March 1985 and Part II to functional work undertaken after 31st March 1985.

8.—(1) Regulation 7 above shall not apply to functional work of the following descriptions, namely —

- (a) emergency work;
- (b) the gritting of or the clearing of snow from highways;
- (c) a job which satisfies the following conditions —
 - (i) it is a job the estimated cost of which does not exceed by more than 10% the estimated cost of a job of similar description undertaken by the local authority or development body in the immediately preceding period of twelve months (hereinafter referred to as “the former job”) and in relation to which the estimated cost of each of the separate items of work comprised and priced in the job does not exceed by more than 10% the estimated cost of each corresponding item of work (if any) comprised and priced in the former job;
 - (ii) except in the case of a job of works of maintenance the work comprised in the job is to be carried out on the same site or surface as the work comprised in the former job or on sites or surfaces adjacent to those on which the work comprised in the former job has been or is to be carried out.

(2) For the purposes of this regulation a job is a former job if, and only if—

- (a) it was undertaken following an invitation to tender which was extended to at least three other persons;
- (b) the estimated cost of the job submitted by the authority or development body was lower than the lowest tender submitted following that invitation; and
- (c) the job has not been renewed (either by extension of time or the undertaking of a new job of a similar description) unless the invitation to tender following which it was undertaken specifically referred to the award to the successful tenderer of one or more further contracts.

Revocation

9. The Local Government (Direct Labour Organisations) (Competition) (Scotland) Regulations 1982(a) are hereby revoked.

New St Andrew's House,
Edinburgh.
10th February 1984.

George Younger,
One of Her Majesty's
Principal Secretaries of State.

(a) S.I. 1982/318.

*Regulations 3 and 5***SCHEDULE 1****PART I****PRESCRIBED AMOUNTS FOR WORKS CONTRACTS**

Description of contract	Prescribed amount
A contract which provides, or provides principally, for the carrying out of—	
general highway works	£50,000
general water and sewerage works	£50,000
works of new construction	£50,000
works of maintenance	£10,000

PART II

WORKS CONTRACTS ENTERED INTO IN THE YEAR FROM 1ST APRIL 1984 TO 31ST MARCH 1985 SUBJECT TO THE CONDITIONS PRESCRIBED IN REGULATION 5(1)

Column 1	Column 2
General highway works where the value of the contract does not exceed £50,000.	<p>Where the value of the contract together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, general highway works with an estimated cost or value not exceeding £50,000 previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act exceeds —</p> <p>(a) 70% of the aggregate value of all such jobs and works contracts and all contractual highway work undertaken by the authority in the year from 1st April 1983 to 31st March 1984, or</p> <p>(b) 90% of the aggregate value of all such jobs and works contracts undertaken by the authority in the year from 1st April 1983 to 31st March 1984, whichever is the greater.</p>
Works of new construction where the value of the contract does not exceed £50,000.	<p>Where the value of the contract together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, works of new construction with an estimated cost or value not exceeding £50,000 previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act exceeds 40% of the aggregate value of all such jobs and works contracts and all contractual construction work undertaken by the authority in the year from 1st April 1983 to 31st March 1984.</p>
Works of maintenance where the value of the contract does not exceed £10,000.	<p>Where the value of the contract together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, works maintenance with an estimated cost or value not exceeding £10,000 previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act exceeds —</p> <p>(a) 40% of the aggregate value of all such jobs and works contracts and all contractual maintenance work undertaken by the authority in the year from 1st April 1983 to 31st March 1984, or</p> <p>(b) 80% of the aggregate value of all such jobs and works contracts undertaken by the authority in the year from 1st April 1983 to 31st March 1984, or</p> <p>(c) £300,000, whichever is the greater.</p>

PART III

WORKS CONTRACTS ENTERED INTO AFTER 31ST MARCH 1985 SUBJECT TO THE
CONDITIONS PRESCRIBED IN REGULATION 5(1)

Column 1	Column 2
General highway works where the value of the contract does not exceed £50,000	Where the value of the contract together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, general highway works with an estimated cost or value not exceeding £50,000 previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act in the same financial year exceeds 70% of the aggregate value of all such jobs and works contracts and all contractual highway work undertaken by the authority in the immediately preceding financial year.
Works of new construction where the value of the contract does not exceed £50,000	Where the value of the contract together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, works of new construction with an estimated cost or value not exceeding £50,000 previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act in the same financial year exceeds 40% of the aggregate value of all such jobs and works contracts and all contractual construction work undertaken by the authority in the immediately preceding financial year.
Works of maintenance where the value of the contract does not exceed £10,000	Where the value of the contract together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, works of maintenance with an estimated cost or value not exceeding £10,000 previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act in the same financial year exceeds 40% of the aggregate value of all such jobs and works contracts and all contractual maintenance work undertaken by the authority in the immediately preceding financial year or £300,000 whichever is the greater.

SCHEDULE 2

Regulation 7

DESCRIPTIONS OF FUNCTIONAL WORK SUBJECT TO THE CONDITIONS IN
SECTION 9(3)(a) OF THE ACT

PART I

FUNCTIONAL WORK UNDERTAKEN IN THE YEAR FROM 1ST APRIL 1984 TO
31ST MARCH 1985

General highway works.	<p>(1) Where the estimated cost of the job exceeds £50,000; or (2) Where the estimated cost of the job does not exceed £50,000, and the estimated cost of the job together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, general highway works with an estimated cost or value not exceeding £50,000 previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act exceeds —</p> <p>(a) 70% of the aggregate value of all such jobs and works contracts and all contractual highway work undertaken by the authority or body in the year from 1st April 1983 to 31st March 1984, or</p> <p>(b) 90% of the aggregate value of all such jobs and works contracts undertaken by the authority or body in the year from 1st April 1983 to 31st March 1984,</p> <p>whichever is the greater.</p>
General water and sewerage works.	Where the estimated cost of the job exceeds £50,000.
Works of new construction.	<p>(1) Where the estimated cost of the job exceeds £50,000; or (2) Where the estimated cost of the job does not exceed £50,000 and the estimated cost of the job together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, works of new construction with an estimated cost or value not exceeding £50,000 previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act exceeds 40% of the aggregate value of all such jobs and works contracts and all contractual construction work undertaken by the authority or body in the year from 1st April 1983 to 31st March 1984.</p>
Works of maintenance.	<p>(1) Where the estimated cost of the job exceeds £10,000; or (2) Where the estimated cost of the job does not exceed £10,000, and the estimated cost of the job together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, works of maintenance with an estimated cost or value not exceeding £10,000 previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act exceeds —</p> <p>(a) 40% of the aggregate value of all such jobs and works contracts and all contractual maintenance work undertaken by the authority or body in the year from 1st April 1983 to 31st March 1984, or</p> <p>(b) 80% of the aggregate value of all such jobs and works contracts undertaken by the authority or body in the year from 1st April 1983 to 31st March 1984, or</p> <p>(c) £300,000,</p> <p>whichever is the greater.</p>

PART II

FUNCTIONAL WORK UNDERTAKEN AFTER 31ST MARCH 1985

General highway works.	(1) Where the estimated cost of the job exceeds £50,000; or (2) Where the estimated cost of the job does not exceed £50,000 and the estimated cost of the job together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, general highway works with an estimated cost or value not exceeding £50,000 previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act in the same financial year exceeds 70% of the aggregate value of all such jobs and works contracts and all contractual highway work undertaken by the authority or body in the immediately preceding financial year.
General water and sewerage works.	Where the estimated cost of the job exceeds £50,000.
Works of new construction.	(1) Where the estimated cost of the job exceeds £50,000; or (2) Where the estimated cost of the job does not exceed £50,000 and the estimated cost of the job together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, works of new construction with an estimated cost or value not exceeding £50,000 previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act in the same financial year exceeds 40% of the aggregate value of all such jobs and works contracts and all contractual construction work undertaken by the authority or body in the immediately preceding financial year.
Works of maintenance.	(1) Where the estimated cost of the job exceeds £10,000; or (2) Where the estimated cost of the job does not exceed £10,000 and the estimated cost of the job together with the aggregate value of all jobs of, or principally of, and works contracts which provide for, or provide principally for, works of maintenance with an estimated cost or value not exceeding £10,000 previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act in the same financial year exceeds 40% of the aggregate value of all such jobs and works contracts and all contractual maintenance work undertaken by the authority or body in the immediately preceding financial year or £300,000 whichever is the greater.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations replace the Local Government (Direct Labour Organisations) (Competition) (Scotland) Regulations 1982. They extend to Scotland only.

The effect of the regulations is to increase, from 1st April 1984, the amount of building and civil engineering work for which local authorities and development bodies have to invite tenders before awarding the work to their direct labour organisation. They extend to both works contracts, i.e. works undertaken by local authorities using direct labour for other public bodies, and functional work, i.e. works undertaken by local authorities and development bodies in connection with the discharge of their functions.

The new requirements are that local authorities and development bodies must seek tenders for a proportion of general highway works with an individual value of £50,000 or less and other works of maintenance with an individual value of £10,000 or less. In addition, the threshold above which all general highway works must go to tender has been lowered from £100,000 to £50,000 and the proportion of other works of new construction costing £50,000 or less which an authority or body may reserve without competition for their direct labour organisation has been changed to 40%.

The descriptions of work subject to competition from 1st April 1984 are set out in Schedule 1 for works contracts and in Schedule 2 for functional work. Parts I and II of Schedule 1 and Part I of Schedule 2 prescribe the requirements for the year from 1st April 1984 to 31st March 1985. These include transitional arrangements under which local authorities and development bodies may, in certain circumstances, award to their direct labour organisations in that year a greater amount of work without competition than would otherwise be the case. Parts I and III of Schedule 1 and Part II of Schedule 2 prescribe the requirements from 1st April 1985.

In addition, the regulations make provision for works contracts and jobs which relate to work of more than one description (regulations 2 and 3). In such cases, the contract or job will be treated as being one for the description of work to which the greatest part of the value or estimated cost is attributable and, where the value or estimated cost attributable to more than one description of work is the same, the contract or job will be treated as one for each of such descriptions (regulation 2(2)). For the purposes of regulations 5 and 7, the value or estimated cost of work consisting of general water and sewerage works will be disregarded in ascertaining the description of work to which the greater part of the value or estimated cost is attributable, as there is no tendering requirement for such works where the value of the contract or the estimated cost of the job does not exceed £50,000 (regulation 2(3)).

Other minor changes consist of alterations to the definition of estimated cost in regulation 2(1) and to the definition of a former contract in regulation 6 and corresponding alterations to the definition of a former job in regulation 8.

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