

1988 No. 1469

LOCAL GOVERNMENT ENGLAND AND WALES

**The Local Government Act 1988 (Defined Activities)
(Exemptions) (Wales) Order 1988**

Made - - - - 12th August 1988

Laid before Parliament 19th August 1988

Coming into force 9th September 1988

The Secretary of State for Wales, in exercise of the powers conferred upon him by sections 2(9) and 15(5) of the Local Government Act 1988(a) and of all other powers enabling him in that behalf, hereby makes the following Order:—

1. This Order may be cited as the Local Government Act 1988 (Defined Activities) (Exemptions) (Wales) Order 1988 and shall come into force on 9th September 1988.

2.—(1) In this Order “the Act” means the Local Government Act 1988.

(2) This Order applies to an activity if carried out by a defined authority mentioned in section 1(1) of the Act which has functions in Wales or if carried out in Wales by a joint committee which falls to be treated as a defined authority by section 1(4) and of which at least one of the members is such an authority.

3.—(1) None of the activities mentioned in section 2(2) of the Act shall be treated as a defined activity so long as the condition mentioned in paragraph (2) is observed.

(2) The condition mentioned in paragraph (1) is that so long as the amount estimated by the authority as the gross cost of carrying out the activity in question through their direct labour organisation or a similar organisation in the immediately preceding financial year does not exceed £100,000.

(3) For the purposes of this article, the cost of carrying out any activity will—

- (a) include such proportion of the authority’s administrative expenses, other than expenses that would be incurred by the authority whether the activity were carried out by it or by another person, as is properly attributable to the carrying out of the activity;
- (b) exclude the cost of any work which is treated as carried out by the authority by virtue of section 3(4) of the Act; and
- (c) exclude the cost of any work which, by virtue of article 4, 5 or 6 does not fall within a defined activity.

4. None of the activities mentioned in section 2(2) of the Act shall be treated as a defined activity so long as it constitutes work carried out through an employee who is required as a condition of his employment to live in particular accommodation for the better performance of his duties and the work forms part of his duties.

5. The repair or maintenance of a motor vehicle or trailer shall not be treated as a defined activity where the motor vehicle or trailer is one which is used only for the discharge of a fire service function of a defined authority(a) .

6. None of the activities mentioned in section 2(2) of the act shall be treated as a defined activity so long as it constitutes work carried out pursuant to an agreement made with the Training Commission or the Secretary of State which is an agreement made by virtue of any provision of the Employment and Training Act 1973(b) , which specifies the work to be carried out by the authority and under which the Commission or the Secretary of State has agreed to pay the whole or part of the cost of the work so specified.

12th August 1988

Peter Walker
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Order)

Section 4 of the Local Government Act 1988 precludes an authority mentioned in section 1 of the Act (a defined authority) from entering into a works contract (defined in section 3(2) and (3)) on or after 1 April 1989 under which they are to carry out work falling within an activity listed in section 2(2) of the Act (a defined activity) unless they have competed for the contract. Section 5 of the Act frustrates the further performance on or after 1 April 1989 of works contracts entered into before that date unless the contract was competed for.

Section 6(3) of the Act empowers the Secretary of State to require that, after a date to be specified in regulations, a defined authority must not carry out functional work (defined in section 3(4)) falling within a defined activity without subjecting the work to competition. Dates are specified for this purpose in the Local Government Act 1988 (Defined Activities) (Competition) (Wales) Regulations 1988 (S.I. 1988/1468).

This Order specifies four situations in which, in the case of Welsh authorities work will be treated as not falling within a defined activity for the purposes of the Act.

The first exemption applies where the estimated gross cost to a particular authority of carrying out the activity in the preceding financial year does not exceed £100,000 (article 3) as calculated in accordance with the article. The second applies where work is carried out by an employee of a defined authority who is required to live in particular accommodation for the better performance of his duties (article 4). The third relates to the repair and maintenance of fire service vehicles (article 5). The fourth applies where work is carried out pursuant to an agreement between a defined authority and the Training Commission or the Secretary of State under the Employment and Training Act 1973 (article 6).

(a) For "defined authority" see section 1 of the Act.

(b) 1973 c.50; by virtue of section 24(3) of the Employment Act 1988 (c.19), references to the Training Commission are substituted for references to the Manpower Services Commission.

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