
STATUTORY INSTRUMENTS

1994 No. 339

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government Act 1988 (Defined Activities) (Exemptions) (Wales) Order 1994

<i>Made</i>	- - - -	<i>14th February 1994</i>
<i>Laid before Parliament</i>		<i>21st February 1994</i>
<i>Coming into force</i>	- -	<i>1st April 1994</i>

The Secretary of State for Wales, in exercise of the powers conferred by sections 2(9) and 15(5) and (7) of the Local Government Act 1988⁽¹⁾ and all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Local Government Act 1988 (Defined Activities) (Exemptions) (Wales) Order 1994 and shall come into force on 1st April 1994.

Interpretation

2. In this Order—

“the Act” means the Local Government Act 1988;

“defined authority” has the meaning given to it by section 1(1) of the Act;

“functional work” has the meaning given to it by section 3(4) of the Act;

“works contract” has the meaning given to it by section 3(2) and (3) of the Act.

Application

3. This Order applies to the following defined authorities—

(a) a local authority in Wales other than a community council;

(b) a fire authority in Wales constituted by a combination scheme under the Fire Services Act 1947⁽²⁾;

(1) 1988 c. 9.

(2) 1947 10 & 11 Geo. 6 c. 41.

- (c) a joint committee which falls to be treated as a defined authority by virtue of section 1(4) of the Act and of which at least one of the constituent local authorities is a local authority within the terms of paragraph (a) above.

Defined activity exemption conditions

4.—(1) During the period of three years beginning with 1st April 1994 none of the activities mentioned in section 2(2) of the Act shall be treated as a defined activity if carried out during that period by a defined authority to which this Order applies, so long as any one of the conditions specified in paragraph (2) is fulfilled.

(2) The conditions mentioned in paragraph (1) are—

- (a) that the work to be carried out is not work in respect of which the Secretary of State has, prior to 1st April 1994, served a notice under section 13(2) of the Act or given a direction under section 14(2) of the Act;
- (b) that notwithstanding a failure to meet the condition specified in the preceding sub-paragraph (a) by reason of the service of a notice under section 13(2) of the Act, the Secretary of State has consented to the defined authority entering into a works contract, or carrying out functional work, in respect of the work in question;
- (c) that in any case where a direction under section 14(2) of the Act has been given in respect of the work to be carried out within the terms of sub-paragraph (a) above, the Secretary of State has given a further direction under section 14(3)(a) or (c) of the Act, with the effect that the work to be carried out is no longer subject to any prohibition.

(3) In the case of a joint committee to which this Order applies, an activity is only to be treated as within the exemption conferred by paragraph (1) above if, in addition to compliance with any of the conditions specified in paragraph (2), it is to be carried out wholly within Wales.

14th February 1994

John Redwood
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Order)

Section 4 of the Local Government Act 1988 (the Act) 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)) in respect of work falling within an activity listed in section 2(2) of the Act (a defined activity) unless they have subjected the work to a competition procedure.

Under section 6 of the Act a defined authority may not carry out certain functional work (defined in section 3(4)) falling within a defined activity without subjecting the work to competition.

This Order specifies circumstances in which, in relation to Welsh local authorities (other than community councils) and any combined fire authority, work will not be treated as falling within a defined activity for the purposes of the Act.

The general effect of the exemption is to relieve local authorities in Wales (other than community councils), and combined fire authorities, from the requirements imposed by sections 4 and 6 of the Act for 3 years beginning with 1st April 1994. This is qualified to the extent that if there has been any notice given by the Secretary of State under section 13(2) of the Act his consent must be obtained before the local authority concerned can enter into a works contract, or carry out functional work, in respect of the work in question. If any direction has been given by the Secretary of State under section 14(2) of the Act, the local authority concerned will only be exempt from the requirements imposed by sections 4 and 6 of the Act in respect of the work in question if a further direction under section 14(3)(a) or (c) of the Act has been given which has removed any prohibition imposed by the original direction in respect of that work.

The exemption relieves local authorities from the work involved in compliance with the statutory competition procedures at a time when they will be involved with work in connection with the reorganisation of local government in Wales and the consequent transfer of functions from outgoing to incoming councils.