
STATUTORY INSTRUMENTS

1997 No. 127

LOCAL GOVERNMENT, ENGLAND AND WALES
WALES

**The Local Government Act 1988 (Competition) (Construction
and Property Services) (Wales) Regulations 1997**

Made - - - - 28th January 1997
Laid before Parliament 31st January 1997
Coming into force - - 21st February 1997

The Secretary of State for Wales, in exercise of the powers conferred on him by sections 6(3) and 15(6) of the Local Government Act 1988⁽¹⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Government Act 1988 (Competition) (Construction and Property Services) (Wales) Regulations 1997 and shall come into force on 21st February 1997.

- (2) These Regulations apply only in relation to the following defined authorities⁽²⁾ in Wales—
- (a) a local authority⁽³⁾;
 - (b) a combined fire authority;
 - (c) a National Park authority⁽⁴⁾; and
 - (d) a joint committee which falls to be treated as a defined authority by section 1(4) of the Act and which is appointed only by two or more defined authorities within paragraph (a), (b) or (c) above.

Interpretation

2. In these Regulations—

(1) 1988 c. 9. Section 6(3) is amended by paragraph 12 of Schedule 1 to the Local Government Act 1992 (c. 19).
(2) For the meaning of “defined authority”, see section 1 of the Act.
(3) For the meaning of “local authority”, see section 1(2A) of the Act which was inserted by the Local Government Reorganisation (Wales) (Consequential Amendments) Order 1995 (S.I.1995/115).
(4) See section 1(1)(aa) of the Act which was inserted by paragraph 8(2) of Schedule 8 to the Environment Act 1995 (c. 25).

“the Act” means the Local Government Act 1988;

“the cost” means the estimated total annual cost including overheads provided that those overheads are not treated by a defined authority as forming part of the cost of—

- (a) another defined activity; or
- (b) work to which Part III of the Local Government, Planning and Land Act 1980 (direct labour organisations)⁽⁵⁾ applies;

“the specified proportion” means an amount equal to the product of the following formula—

$$(T - (A + B)) - (C + D + E + F + G + H)$$

where

- T = an amount equal to the cost to a defined authority of the specified work;
- A = an amount equal to the cost of specified work which is being carried out by a person other than a defined authority in connection with work falling within any other defined activity or in connection with work to which Part III of the Local Government, Planning and Land Act 1980 applies where that work is being carried out by another person on behalf of a defined authority;
- B = an amount equal to any amount included in T in respect of goods or services which are provided by a person other than a defined authority;
- C = an amount equal to 35% of (T-(A+B)) or £300,000, whichever is greater;
- D = for the period ending on 31st March 1999 or five years after work was awarded, whichever is shorter, an amount equal to the cost of specified work which is being carried out following voluntary competitive tendering;
- E = an amount equal to the cost of any specified work being carried out following a competitive tendering process in respect of that work conducted in accordance with the provisions of the Act;
- F = an amount equal to the cost of any specified work being carried out by a person other than a defined authority following a competitive tendering process where—
 - (a) no defined authority submitted a bid to carry out that work; and
 - (b) that work had previously been carried out by the defined authority conducting that process or by its predecessor;
- G = an amount equal to the cost of specified work carried out by a defined authority which is funded from a school’s delegated budget provided under a scheme prepared in accordance with section 103 of the Education Act 1996⁽⁶⁾; and
- H = until 1st April 1999, an amount equal to the cost of specified work which is being carried out by a defined authority in connection with functional work falling within the defined activity mentioned in section 2(2)(h) of the Act (housing management)⁽⁷⁾ where that functional work is not subject to section 6 of the Act (functional work: restrictions),

Provided that—

- (a) any amount taken into account in applying any element in the formula (other than T) shall not also be taken into account in applying any other element in the formula; and
- (b) any such amount shall not be taken into account in applying any element in the formula used for calculating the specified proportion of any other defined activity;

⁽⁵⁾ 1980 c. 65.

⁽⁶⁾ 1996 c. 56.

⁽⁷⁾ Section 2(2)(h) was inserted by the Local Government Act 1988 (Competition) (Defined Activities) (Housing Management) Order 1994 (S.I. 1994/1671).

“specified work”, in relation to a defined authority, means work of any description falling within the defined activity mentioned in section 2(2)(k) of the Act (construction and property services)⁽⁸⁾ other than work carried out under a works contract in relation to which that authority were a bidding authority to which section 4 of the Act (works contracts: restrictions) applies;

“voluntary competitive tendering” means the awarding of work before 1st April 1994 following a competitive process in the course of which at least three persons other than defined authorities were invited to tender for that work.

Application of section 6

3. Section 6 of the Act shall apply to the specified proportion of any specified work if it is proposed to be carried out on or after 1st July 1998 by a defined authority.

Signed by authority of the Secretary of State for Wales

28th January 1997

Gwilym Jones
Parliamentary Under Secretary of State, Welsh
Office

⁽⁸⁾ Section 2(2)(k) was inserted by the Local Government Act 1988 (Competition) (Defined Activities) (Construction and Property Services) Order 1994 (S.I. 1994/2888).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations make provision under the competitive tendering requirements in Part I of the Local Government Act 1988 (“the Act”) in respect of the defined activity of construction and property services.

Regulation 3 applies section 6 of the Act (functional work: restrictions) to a specified proportion of this activity from 1st July 1998, being the date specified in the Regulations for certain defined authorities in Wales, so that those defined authorities must compete for such work in accordance with the Act’s requirements if they wish to carry it out themselves.

The defined authorities in Wales to which the Regulations apply are local authorities (namely, county councils, county borough councils and community councils), combined fire authorities, National Park authorities and joint committees of such authorities.