
STATUTORY INSTRUMENTS

1998 No. 1806

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Government Act 1988(Defined Activities)
(Exemption) (Insolvency) (England and Wales) Order 1998**

<i>Made</i>	- - - -	<i>22nd July 1998</i>
<i>Laid before Parliament</i>		<i>30th July 1998</i>
<i>Coming into force</i>	- -	<i>20th August 1998</i>

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

Citation, commencement, application and interpretation

1.—(1) This Order may be cited as the Local Government Act 1988 (Defined Activities) (Exemption) (Insolvency) (England and Wales) Order 1998 and shall come into force on 20th August 1998.

(2) This Order applies to defined authorities in England and Wales only.

(3) In this Order—

“the 1985 Act” means the Bankruptcy (Scotland) Act 1985(2);

“the 1986 Act” means the Insolvency Act 1986(3);

“the 1989 Order” means the Insolvency (Northern Ireland) Order 1989(4);

“the 1994 Order” means the Insolvent Partnerships Order 1994(5);

“the 1995 Order” means the Insolvent Partnerships Order (Northern Ireland) 1995(6);

“relevant work” means work falling within any of the activities mentioned in section 2(2) of the Local Government Act 1988(7).

(1) 1988 c. 9.

(2) 1985 c. 66.

(3) 1986 c. 45.

(4) S.I.1989/2405 (N.I. 19).

(5) S.I. 1994/2421.

(6) S.R. 1995 No. 225.

(7) Section 2(2) has been amended by S.I. 1989/2488, S.I. 1994/1671, S.I. 1994/2884, S.I. 1994/2888 and S.I. 1995/1915.

Exemption

2.—(1) Relevant work carried out by a defined authority (“the authority in question”) shall not be treated as a defined activity so long as the conditions mentioned in paragraph (2) are fulfilled.

(2) The conditions referred to paragraph (1) are—

(a) the relevant work is so much of the defined activity as was comprised in the authority’s contract with a contractor who has been, but is no longer, carrying out relevant work for the authority in question;

(b) the contractor has stopped carrying out the work by reason of being—

(i) a company—

(a) in relation to which a voluntary arrangement proposed for the purpose of Part I of the 1986 Act is approved under that Part;

(b) in respect of which an administration order under Part II of the 1986 Act is made;

(c) in respect of whose property an administrative receiver within the meaning of section 251 of the 1986 Act is appointed;

(d) in respect of whose property a receiver or manager within the meaning of section 251 of the 1986 Act is appointed;

(e) which passes a resolution for voluntary winding up, within the meaning of section 84(2) of the 1986 Act;

(f) in relation to which a winding-up order is made under section 125 of the 1986 Act;

(g) in relation to which a voluntary arrangement proposed for the purpose of Part II of the 1989 Order is approved under that Part;

(h) in respect of which an administration order under Part III of the 1989 Order is made;

(i) in respect of whose property an administrative receiver within the meaning of article 5(1) of the 1989 Order is appointed;

(j) in respect of whose property a receiver or manager within the meaning of article 12 of the 1989 Order is appointed;

(k) which passes a resolution for voluntary winding up, within the meaning of article 5(1) of the 1989 Order; or

(l) in relation to which a winding-up order is made under article 105 of the 1989 Order;

(ii) a partnership—

(a) in respect of which an administration order is made by virtue of article 6 of the 1994 Order;

(b) in relation to which a winding-up order is made by virtue of article 7, 8, 9 or 10 of the 1994 Order;

(c) which has granted a trust deed within the meaning of section 5(4A) of the 1985 Act⁽⁸⁾;

(d) where an award of sequestration is made with respect to the estate belonging to or held for or jointly by the members of that partnership, under section 12 of the 1985 Act;

⁽⁸⁾ Section 5(4A) was inserted by section 3(4) of the Bankruptcy (Scotland) Act 1993 (c. 6).

- (e) in respect of which an administration order is made by virtue of article 6 of the 1995 Order; or
 - (f) in relation to which a winding-up order is made by virtue of article 7, 8, 9 or 10 of the 1995 Order;
- (iii) an individual—
- (a) in relation to whom an interim order is made under section 252 of the 1986 Act;
 - (b) in relation to whom a voluntary arrangement proposed for the purpose of Part VIII of the 1986 Act is approved under that Part;
 - (c) in relation to whom a bankruptcy order is made under section 264 of the 1986 Act;
 - (d) who has granted a trust deed within the meaning of section 5(4A) of the 1985 Act;
 - (e) in relation to whose estate an award of sequestration is made under section 12 of the 1985 Act;
 - (f) in relation to whom an interim order is made under article 226 of the 1989 Order;
 - (g) in relation to whom a voluntary arrangement proposed for the purpose of Part VIII of the 1989 Order is approved under that Part; or
 - (h) in relation to whom a bankruptcy order is made under article 238 of the 1989 Order; or
- (iv) a body corporate, an unincorporated company, a partnership or an individual in relation to which or to whom in any country or territory outside the United Kingdom an order, act or procedure corresponding to any order, act or procedure referred to in paragraph (i), (ii) or (iii) above is made or carried out; and
- (c) not more than 12 months has elapsed since the day on which the contractor ceased to carry out relevant work for the authority in question.

Signed by authority of the Secretary of State

Hilary Armstrong
Minister of State,
Department of the Environment, Transport and
the Regions

22nd July 1998

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 Order)

Under Part I of the Local Government Act 1988 (competition), work falling within certain defined activities may be carried out by local authorities only if particular conditions are fulfilled.

This Order exempts from the requirements of Part I work falling within any of the defined activities listed in section 2(2) of the 1988 Act which was being carried out by a contractor in relation to whom any of a number of specified procedures under insolvency legislation has been initiated.