
STATUTORY INSTRUMENTS

2009 No. 3244

The Quality Contracts Schemes (Tendering Requirements) (England) Regulations 2009

Agreements to which section 91(3) and (4) of the 1985 Act does not apply

4.—(1) Section 91(3) (duty to invite tenders following making of emergency service subsidy agreement) and section 91(4) of the 1985 Act (limit on duration of emergency service subsidy agreement) do not apply to an emergency service subsidy agreement made by an authority in the circumstances described in paragraph (2).

(2) The circumstances are that—

- (a) a scheme has been made, under which local services the same as or similar to those specified in the emergency service subsidy agreement would, on the coming into force of the relevant part of the scheme, be required to be provided under a quality contract;
- (b) the scheme or (in the case of a scheme which provides for different provisions to come into operation on different dates) the provision of the scheme which would require the services described in sub-paragraph (a) to be provided under a quality contract is due to come into force not later than twelve months after the date on which services are first provided under the emergency service subsidy agreement; and
- (c) the authority is of the opinion that, in the particular circumstances of the case, making an emergency service subsidy agreement without satisfying the requirements specified in section 91(3) and (4) of the 1985 Act is the most economic, efficient and effective way to secure the services to be provided under that agreement.

(3) For the purposes of this regulation “emergency service subsidy agreement” means an agreement under which a person undertakes to provide a local service on terms which include provision for the making of payments to that person by the authority and to which, by virtue of section 91(2) of the 1985 Act (exceptions from section 89(1)), section 89(1) of that Act does not apply⁽¹⁾.

(1) Section 91(2) of the Transport Act 1985 provides that the prohibition on an authority from making a subsidised service agreement for the provision of local services other than by accepting a tender invited under section 89(1) of that Act does not apply in certain circumstances where action is needed urgently so as to maintain existing services, replace services which have ceased to be provided, or to provide services to meet unexpected public transport requirements.