



# Local Government in Scotland Act 2003

## 2003 asp 1

### PART 1

#### BEST VALUE AND ACCOUNTABILITY

##### *Relaxation of rules about contracts and supply of goods and services*

#### **7 Local authority contracts: relaxation of exclusion of non-commercial considerations**

(1) The following provisions of section 17(5) of the Local Government Act 1988 (c. 9) (the “1988 Act”) do not operate in relation to a local authority in any of the cases specified in subsection (2) below—

paragraph (a) (which provides that the terms and conditions of employment of, and certain other arrangements affecting, contractors' workers are to be disregarded by authorities when exercising certain functions relating to public supply or works contracts);

paragraph (b) (which provides that the question whether contractors subcontract to self-employed individuals on a services-only basis is to be likewise disregarded); and

paragraph (d) so far as relating to the conduct of contractors or their workers in industrial disputes between them (which paragraph provides that such conduct is to be likewise disregarded).

(2) Those cases are—

- (a) where the local authority reasonably seeks to ensure that a contractor with the authority will comply with the contractor's obligations under the contract;
- (b) where the local authority reasonably seeks to ensure that a contractor with the authority will perform the contractor's obligations under the contract in a way which will not prevent the authority from securing best value or hinder it in doing so; and
- (c) where the local authority has reasonable grounds for believing that the trade contractor's implementation of the contract with the authority would entail a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794) or any regulations replacing those regulations, as from time to time amended.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Section 17(5)(h) of the 1988 Act (which provides that the use or non-use by contractors of services provided under the Building (Scotland) Act 1959 (c. 24) is to be disregarded by authorities when exercising certain functions relating to public supply or works' contracts) ceases to have effect in relation to local authorities.
- (4) In this section, “contractor” has the same meaning as in section 17 of the 1988 Act.