
STATUTORY INSTRUMENTS

1994 No. 1671

**LOCAL GOVERNMENT, ENGLAND AND WALES
LOCAL GOVERNMENT, SCOTLAND**

**The Local Government Act 1988 (Competition)
(Defined Activities) (Housing Management) Order 1994**

Made - - - - 22nd June 1994
Coming into force - - 23rd June 1994

The Secretary of State for the Environment, in relation to England, the Secretary of State for Scotland, in relation to Scotland, and the Secretary of State for Wales, in relation to Wales, in exercise of the powers conferred on them by sections 2(3), 15(7) and (8) of the Local Government Act 1988(1), and of all other powers enabling them in that behalf, after consultation with such representatives of local government as appear to them to be appropriate, hereby make the following Order, a draft of which has been laid before, and has been approved by resolution of, each House of Parliament:

Citation and commencement

1. This Order may be cited as the Local Government Act 1988 (Competition) (Defined Activities) (Housing Management) Order 1994 and shall come into force on the day after the day on which it is made.

Defined activities

- 2.—(1) Section 2(2) of the Local Government Act 1988 (“the Act”) is amended by—
- (a) the omission of “and” after paragraph (f); and
 - (b) the insertion after paragraph (g) of the following—
“, and
(h) housing management”.
- (2) Schedule 1 to the Act is amended by the addition at the end of the following:

(1) 1988 c. 9.

“Housing management

9.—(1) Subject to paragraph (2), the following (and only the following) fall within section 2(2)(h) above—

- (a) dealing with applications for local authority housing once a property has been allocated to the applicant until immediately after the tenancy agreement has been entered into, and dealing with assignments under section 92 of the 1985 Act (assignments by way of exchange) or with assignments to another secure tenant by way of exchange under section 55 of the 1987 Act (assignment of secure tenancy) after the landlord has given his consent;
- (b) informing local authority housing tenants of the terms of their tenancies and taking steps to enforce any such terms;
- (c) collecting local authority housing rent and service charges, and service charge loan payments arising from such service charges, keeping a suitable record of the sums collected, collecting any arrears, negotiating an agreement for the payment of any arrears, and monitoring compliance with such an agreement;
- (d) arranging for the vacating of local authority housing once a tenancy or licence has terminated;
- (e) inspecting vacant property, assessing whether works are needed prior to the next letting, ensuring that any such works are carried out and reporting on progress to the landlord;
- (f) taking steps to prevent vandalism and unlawful occupation of vacant property, including ensuring that any necessary works are carried out and reporting on progress to the landlord;
- (g) taking steps to remove unlawful occupants from local authority housing;
- (h) assessing the condition of the common parts of local authority housing, assessing the maintenance, repair, cleaning (including disinfection) and clearance of such parts that is necessary, ensuring that any necessary works are carried out and reporting on progress to the landlord;
- (i) assessing requests for repairs to local authority housing, ensuring that any necessary works are carried out and reporting on progress to the landlord;
- (j) carrying out inspections and surveys of local authority housing for the purposes of ascertaining—
 - (i) its physical condition or state of repair, or
 - (ii) whether or not such housing is occupied;
- (k) assessing claims for compensation under regulations made under section 96 of the 1985 Act⁽²⁾ or section 60 of the 1987 Act⁽²⁾ (right to carry out repairs) and making recommendations to the landlord;
- (l) assessing applications for payment—
 - (i) under regulations made under section 99A of the 1985 Act or section 58A of the 1987 Act (right to compensation for improvements)⁽³⁾, or

(2) Section 96 was substituted by section 121 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28).

(2) Section 96 was substituted by section 121 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28).

(3) Section 99A was inserted by section 122 of the Leasehold Reform, Housing and Urban Development Act 1993; section 58A was inserted by section 147 of that Act; section 100 was amended by paragraph 16(1) and (2) of Schedule 3 to the Housing and Planning Act 1986 (c. 63) and paragraph 66 of Schedule 11 to the Local Government and Housing Act 1989 (c. 42).

- (ii) under section 100 of the 1985 Act or section 58 of the 1987 Act (power to reimburse cost of work adding to value of property), and making recommendations to the landlord;
 - (m) operating reception and security services provided at the entrance to local authority housing; and
 - (n) taking action to control any disturbance in local authority housing or to resolve disputes between occupants, including dealing with such bodies (including appropriate dispute resolution agencies) as may be appropriate.
- (2) The activities described in sub-paragraphs (1)(a), (d), (g) and (j)(ii) do not fall within section 2(2)(h) above where they relate to a tenancy or prospective tenancy if—
- (a) the tenant is not an individual or, as the case may be, all the tenants are not individuals; or
 - (b) the tenancy is—
 - (i) a long tenancy within the meaning of section 115 of the 1985 Act,
 - (ii) a lease granted in pursuance of the right to acquire on rent to mortgage terms conferred by Part V of the 1985 Act,
 - (iii) a lease granted on payment of a premium calculated by reference to a percentage of the value of the demised premises or the cost of providing them, or
 - (iv) a lease under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference, direct or indirect, to the value of the demised premises.
- (3) In this paragraph—
- “the 1985 Act” means the Housing Act 1985(4);
- “the 1987 Act” means the Housing (Scotland) Act 1987(5);
- “local authority housing” means housing accommodation provided by a local authority under Part II of the 1985 Act, or, as regards Scotland, under Part I of the 1987 Act, including—
- (i) garages, parking spaces and outhouses provided in connection with such housing accommodation and usually enjoyed with it, and
 - (ii) common parts of buildings containing two or more dwelling-houses,
- but excluding hostels as defined in section 622 of the 1985 Act or section 2(5) of the 1987 Act;
- “secure tenancy” has the same meaning as in section 79 of the 1985 Act or section 44 of the 1987 Act (secure tenancies);
- “service charge” means an amount payable by a tenant of premises which is payable, directly or indirectly, for services, repairs, maintenance or insurance or the landlord’s costs of management;
- “tenancy” has the same meaning as in section 621 of the 1985 Act or section 82 of the 1987 Act, and also includes a secure tenancy, and “tenant” shall be construed accordingly; and
- “vacant property” means housing accommodation provided by a local authority (including garages, parking spaces and outhouses provided in connection with such

(4) 1985 c. 68.

(5) 1987 c. 26.

housing accommodation and usually enjoyed with it) which is unoccupied, whether by reason of the termination of a secure tenancy or otherwise.”

3. For the purpose of interpreting subsection (2)(h) of section 2 of the Act (as inserted by article 2(1) above), section 2 shall be read with the substitution for subsection (6) of the following—

“(6) Work which is carried out by a defined authority through an employee and which would (apart from this subsection) fall within a defined activity shall not do so if the total amount of such work performed by that employee occupies—

- (a) in the case of an employee who is normally employed for more than 30 hours per week, less than 25% of his working time, or
- (b) in the case of any other employee, less than 50% of his working time.”

Works contracts: transitional provision

4. Sections 4 and 5 of the Act shall have effect in respect of works contracts for work falling within section 2(2)(h) of the Act as if for the date 1st April 1989, wherever occurring in those sections, there were substituted the date specified in the following Table in relation to the area in which it is to be carried out:

Area in which services are to be provided	Date to be substituted
England	1st April 1996
Wales	1st October 1997
Scotland	1st April 1998

Signed by authority of the Secretary of State.

21st June 1994

G. S. K. Young
Minister of State,
Department of the Environment

22nd June 1994

Ian Lang
Secretary of State for Scotland

22nd June 1994

John Redwood
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Order)

Under Part I of the Local Government Act 1988, work falling within certain defined activities may only be carried out by defined authorities if it has previously been put out to tender in accordance with the provisions of the Act.

Article 2 of the Order, which extends to England, Wales and Scotland, amends the Act to add housing management to the existing defined activities.

Articles 3 and 4 make amendments to other provisions of the Act for the purposes of the new defined activity.