
STATUTORY INSTRUMENTS

1993 No. 2810

The Education and Libraries (Northern Ireland) Order 1993

PART II
COMPETITION

Works contracts: restrictions

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5.—(1) If a board proposes to enter into a works contract with another person (the other party) and under the contract the board is to carry out work falling within a defined activity, the board may not enter into the contract unless—

- (a) the first or second alternative of the first condition is fulfilled; and
 - (b) the second condition is fulfilled.
- (2) The first alternative of the first condition is that—
- (a) the contract is made by acceptance of the board's offer to carry out the work;
 - (b) the board made the offer in response to an invitation by the other party to submit such offers; and
 - (c) the invitation was made to at least 3 other persons who are willing to carry out work of the kind concerned, and who are not boards or include at least 3 persons who are not boards.
- (3) Regulations may vary—
- (a) the number of persons to whom an invitation must be made under paragraph (2)(c); and
 - (b) the minimum number of those persons who are not to be boards.
- (4) The second alternative of the first condition is that before entering into the contract the other party published, in at least 2 newspapers circulating in the locality in which the work is to be carried out and at least one publication circulating among persons who carry out work of the kind concerned, a notice inviting persons to submit offers to carry out the work.
- (5) The second condition is that the other party, in entering into the contract and in doing anything else (whether or not required by this Part) in connection with the contract before entering into it, did not act in a manner having the effect or intended or likely to have the effect of restricting, distorting or preventing competition.
- (6) Anything which (apart from this paragraph) would amount to a failure to fulfil the first or second alternative of the first condition, or the second condition, shall not do so unless the board has become aware of the failure before entering into the contract.
- (7) This Article applies where it is proposed to enter into the works contract at any time after the expiration of 5 months from the day on which this Order is made.

Status: This is the original version (as it was originally made).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

(8) Without prejudice to section 19(1)(a)(ii) of the Interpretation Act (Northern Ireland) 1954⁽¹⁾, a person entering into a works contract with a board shall not be bound to inquire whether this Article applies to the contract and, if so, whether this Article has been complied with, and any works contract entered into by a board, if otherwise valid, shall, notwithstanding that this Article applies to the contract and has not been complied with, have full force and effect.

⁽¹⁾ 1954 c. 33 (N.I.)