



Local Government Act 1988

1988 CHAPTER 9

PART II

PUBLIC SUPPLY OR WORKS CONTRACTS

19 Provisions supplementary to or consequential on section 17.

- (1) The Secretary of State may, by order made by statutory instrument, specify as a non-commercial matter for the purposes of section 17 above, any other matter which appears to him to be irrelevant to the commercial purposes of public supply or works contracts of any description.
- (2) The power conferred by subsection (1) above includes power to apply section 17(6) and (7) above to any matter specified in the order and to amend any definition in section 17(8) above of an expression used in any paragraph of section 17(5) above without making any other provision.
- (3) An order under subsection (1) above may include such consequential and transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (4) No order under subsection (1) above shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (5) Section 17 above applies to a public authority where, in exercising functions regulated by that section, the authority is, as well as where it is not, acting on behalf of a Minister of the Crown.
- (6) Where a public authority makes arrangements under section 101 of the ^{M1}Local Government Act 1972 [^{F1}, regulations under section 19 of the Local Government Act 2000 (discharge of functions of and by another local authority)] or in relation to Scotland section 56 of the ^{M2}Local Government (Scotland) Act 1973 for the exercise by another public authority of any function regulated by section 17 above, section 17 shall apply to that other public authority in exercising that function as if it were exercising the function in relation to its own public supply or works contracts, any proposed or any subsisting such contract, as the case may be.

Status: Point in time view as at 05/04/2011.

Changes to legislation: There are currently no known outstanding effects for the Local Government Act 1988, Section 19. (See end of Document for details)

- (7) The duty imposed by section 17(1) above does not create a criminal offence but—
 - (a) in proceedings for judicial review, the persons who have a sufficient interest or, in Scotland, title and interest in the matter shall include any potential contractor or, in the case of a contract which has been made, former potential contractor (or, in any case, any body representing contractors), as such; and
 - (b) a failure to comply with it is actionable by any person who, in consequence, suffers loss or damage.
- (8) In any action under section 17(1) above by a person who has submitted a tender for a proposed public supply or works contract arising out of the exercise of functions in relation to the proposed contract the damages shall be limited to damages in respect of expenditure reasonably incurred by him for the purpose of submitting the tender.
- (9) Nothing in section 17 above or subsection (1) above implies that the exercise of any function regulated by that section may not be impugned, in proceedings for judicial review, on the ground that it was exercised by reference to other matters than those which are non-commercial matters for the purposes of that section.
- ^{F2}(10)
- (11) In consequence of section 17 above, the following provisions (which require local authorities to secure the insertion of fair wages clauses in all housing contracts), namely—
 - (a) section 52(a) of the ^{M3}Housing Act 1985, and
 - (b) section 337 of the ^{M4}Housing (Scotland) Act 1987,
 shall cease to have effect.
- (12) Expressions used in this section and section 17 above have the same meaning in this section as in that section.

Textual Amendments	
F1	Words in s. 19(6) inserted (11.7.2001 for E., 1.4.2002 for W.) by The Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001 (S.I. 2001/2237) , art. 18(1) and The Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (Wales) Order 2002 (S.I. 2002/808) , art. 17(1)
F2	S. 19(10) repealed (5.4.2011) by Equality Act 2010 (c. 15) , s. 216(3), Sch. 26 para. 12, Sch. 27 Pt. 1 (with ss. 6(4), 205); S.I. 2011/1066, art. 2(g)(i)
Marginal Citations	
M1	1972 c. 70.
M2	1973 c. 65.
M3	1985 c. 68.
M4	1987 c. 26.

Status:

Point in time view as at 05/04/2011.

Changes to legislation:

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