
STATUTORY INSTRUMENTS

1995 No. 677 (S.54)

LOCAL GOVERNMENT, SCOTLAND

**The Local Government, Planning and Land Act
1980 (Competition) (Scotland) Regulations 1995**

<i>Made</i>	- - - -	<i>8th March 1995</i>
<i>Laid before Parliament</i>		<i>10th March 1995</i>
<i>Coming into force</i>	- -	<i>31st March 1995</i>

The Secretary of State, in exercise of the powers conferred on him by sections 7(1), (2), (4)(a) and (b), (5) and (6), 9(3) and 23(1) of the Local Government, Planning and Land Act 1980⁽¹⁾, and all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Government, Planning and Land Act 1980 (Competition) (Scotland) Regulations 1995 and shall come into force on 31st March 1995.

(2) These Regulations apply only to local authorities and development bodies in Scotland.

Interpretation

2. In these Regulations—

“the Act” means the Local Government, Planning and Land Act 1980;

“emergency work” means work of any description the necessity for which could not reasonably have been foreseen by the local authority or development body concerned and which is—

- (a) required to avert, alleviate or eradicate in their area, or any part of it, the effects or potential effects of any emergency or disaster which involves or is likely to involve risk of serious damage to or destruction of property or risk of injury or danger to health or life; and
- (b) required to be put in hand as a matter of urgency within 48 hours of the emergency or disaster occurring; and
- (c) not work on a scale or of a nature normally undertaken by that authority or development body;

(1) 1980 c. 65; section 7(1) was amended by the Local Government Act 1988 (c. 9), Schedule 6, paragraph 2; section 23(1) was amended by the Local Government Act 1992 (c. 19), Schedule 1, paragraph 9.

“estimated cost” in relation to a job, means the aggregate of the amounts which a local authority or development body will credit to their DLO revenue account in respect of the carrying out of all the items of construction or maintenance comprised in that job—

- (a) so far as such amounts will fall to be determined in accordance with a written statement prepared in compliance with section 9(2)(a)(2) of the Act, as so determined; and
- (b) so far as such amounts will fall to be determined in accordance with a method specified in a written statement prepared in accordance with section 9(2)(b) of the Act, as estimated in accordance with that method;

“job” means all the functional work which can reasonably be carried out most economically and efficiently under one arrangement;

“local authority” has the meaning assigned to it in Part III of the Act;

“relevant highway work” means maintenance work for the purpose of improvement, maintenance or repair of highways;

“works of construction” means building or engineering works (other than works of maintenance) involved in the construction of buildings and other structures or in the laying out or construction of highways and other land;

“works of maintenance” includes minor renewals, minor improvements and minor extensions.

Prescribed amount for works contracts

3. For the purposes of section 7(1) of the Act (prescribed amounts of certain works contracts) the amount of £500,000 is hereby specified as being the prescribed amount in respect of a works contract.

Determination of amount for works contracts

4. In ascertaining (for the purposes of these Regulations) whether the value of a works contract exceeds the prescribed amount regard shall be had only to so much of the value of the contract as is attributable to works of construction.

Treatment of certain works contracts as a single contract

5. For the purposes of determining whether the value of a works contract exceeds the amount prescribed by regulation 3 above for a contract of that description, the value of any other contract made within the preceding 6 months for work of similar description on the same site or surface or on an adjacent site or surface shall be treated as forming part of the value of that contract.

Exempted works contracts

6. Section 7(1) of the Act shall not apply to a works contract where, notwithstanding that the value of the contract exceeds £500,000, it is a contract for the carrying out of emergency work.

Functional work

7. Subject to regulation 8 below, a local authority or development body may not unless they have first complied with the conditions specified in section 9(4) of the Act, as well as with the terms of section 9(2), undertake functional work which is a job involving works of construction where the estimated cost of that job, which is attributable to works of construction, exceeds £500,000.

8. Regulation 7 above shall not apply to emergency work.

(2) Section 9 was amended by the Local Government Act 1992, Schedule 1, paragraph 2.

9.—(1) A local authority or a development body shall not, unless they have first complied with the conditions specified in paragraph (2) below, as well as with the terms of section 9(2) of the Act, undertake functional work other than functional work of the description specified in paragraph (3) below.

(2) The conditions mentioned in paragraph (1) above are—

- (a) that the authority shall draw up such a detailed specification in respect of the work to which this regulation applies as would have been required if section 9(4)(a) of the Act had applied to that work; and
- (b) that the authority shall ensure that the statement which they are required to prepare under section 9(2) of the Act is a statement consistent with the specification drawn up in accordance with sub-paragraph (a) above.

(3) The functional work mentioned in paragraph (1) above to which the conditions mentioned in paragraph (2) above shall not apply is—

- (a) functional work which is a job involving works of construction where the estimated cost of that job, which is attributable to works of construction, exceeds £500,000;
- (b) emergency work;
- (c) functional work which is a job consisting or consisting principally of general highway works where the estimated cost of the job does not exceed £25,000, unless the estimated cost of the job together with the aggregate value of all relevant highway work previously undertaken by the authority or body otherwise than in accordance with section 7 of the Act or the conditions mentioned in section 9(3)(a) of the Act in the same financial year exceeds the relevant limit (ascertained in accordance with paragraph (4) below);
- (d) functional work which is a job consisting or consisting principally of general water and sewerage works where the estimated cost of the job does not exceed £50,000;
- (e) the gritting of or the clearing of snow from highways; and
- (f) until the expiry of the relevant contract or arrangement, functional work which immediately prior to 31st March 1995 complied with the conditions specified in section 9(4) of the Act.

(4) For the purpose of paragraph (3)(c) above, the relevant limit is 40% of the aggregate value of all relevant highway work carried out by that authority or body in the immediately preceding financial year.

Revocations

10. The Local Government (Direct Labour Organisations) (Competition) (Scotland) Regulations 1990(3) and the Local Government (Direct Labour Organisations) (Competition) (Scotland) Amendment Regulations 1991(4) are hereby revoked.

St Andrew's House,
Edinburgh
8th March 1995

George Kynoch
Parliamentary Under Secretary of State, Scottish
Office

(3) S.I. 1990/1782; amended by S.I. 1991/243.

(4) S.I. 1991/243.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace on 31st March 1995 the Local Government (Direct Labour Organisations) (Competition) (Scotland) Regulations 1990 (S.I.1990/1782) as amended, by raising the level above which certain services provided by local authorities and development corporations require to be exposed to competitive tender. This is in recognition of the additional administrative work which local government reorganisation will place upon local authorities and in recognition of the winding-up of development corporations in Scotland.

Under these Regulations the requirements imposed by the Local Government, Planning and Land Act 1980 will continue to apply to any works contract where the value of any work attributable to works of construction exceeds £500,000 (regulations 3 and 4), and to any functional work, where the estimated cost of that job, which is attributable to works of construction, exceeds £500,000 (regulation 7). Conditions are imposed in respect of certain functional work which is not exposed to competition (regulation 9). Emergency work (as defined in regulation 2) is exempted from the effect of the Regulations (regulations 6, 8 and 9(3)(b)).