



# Local Government Act 1988

## 1988 CHAPTER 9

### [<sup>F1</sup>PART I]

#### COMPETITION

##### *Sanctions*

#### [<sup>F1</sup>13 Notice for purpose of getting information.

- (1) If it appears to the Secretary of State that in the financial year beginning in 1989 or in a subsequent financial year a defined authority—
- (a) have (as a bidding authority) entered into a contract to carry out work and have done so in contravention of section 4 above,
  - [ have carried out work as regards which the conditions set out in section 7
  - <sup>F2</sup>(b) above have to be but, in the circumstances, have not been fulfilled,
  - (ba) have decided to carry out work as regards which (if the work is carried out in accordance with the decision) those conditions will have to be but, in the circumstances in which it is proposed to carry it out, will not be fulfilled,]
  - (c) have carried out work in circumstances where section 9 above has not been complied with for the year concerned in relation to the defined activity within which the work falls or in relation to an account required by that section to be kept for the year concerned as regards the activity,
  - (d) have carried out work in circumstances where section 10 above has not been complied with for the year concerned in relation to the defined activity within which the work falls, or
  - (e) have carried out work in circumstances where section 11 above has not been complied with for the year concerned in relation to the defined activity within which the work falls or in relation to a report required by that section to be prepared for the year concerned as regards the activity,

he may serve on the authority a written notice falling within subsection (2) below.

- (2) The notice is one which—

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- (a) informs the authority that it appears to him that in a financial year identified in the notice they have acted as mentioned in one of the paragraphs (so identified) of subsection (1) above,
  - (b) identifies the work concerned and states why it so appears, and
  - (c) contains the requirement mentioned in subsection (3) below.
- (3) The requirement is that the authority submit to him within such time as is specified in the notice a written response which—
- (a) states that they have not acted as mentioned in the paragraph concerned of subsection (1) above and justifies the statement, or
  - (b) states that they have acted as so mentioned and gives reasons why he should not give a direction under section 14 below.
- (4) Where work is specified under section 6(3) above as a proportion of particular work, the reference in subsection (2)(b) above to work is to the work of which the proportion forms a part.
- (5) The Secretary of State may serve on an authority different notices under this section identifying the same financial year and the same work, whether they identify the same paragraph or different paragraphs of subsection (1) above.]

#### Textual Amendments

- F1** S. 13 repealed (E.W.) (27.7.1999 with effect in accordance with ss. 21, 27) by [1999 c. 27, ss. 21\(1\)\(b\), 34, Sch. 2\(1\)](#), Note
- F2** S. 13(1)(b)(ba) substituted for s. 13(1)(b) (4.1.1993) by [Local Government Act 1992 \(c. 19\), s. 11, Sch. 1, para. 13; S.I. 1992/3241, art. 2](#)

#### Modifications etc. (not altering text)

- C1** S. 13 applied (9.1.1995) by [S.I. 1994/3167, reg. 13](#)  
S. 13 applied (with modification) (15.8.1994) by [1994 c. 19, s. 52](#) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); [S.I. 1994/2109, art. 2](#)
- C2** S. 13(1)(b) applied (9.1.1995) by [S.I. 1994/3167, reg. 14\(5\)\(c\)](#)
- C3** S. 13(4)(5) applied (9.1.1995) by [S.I. 1994/3167, reg. 17\(3\)](#)

### [<sup>F3</sup>14 Power to give directions.

- (1) Subsection (2) below applies where—
- (a) the Secretary of State has served a notice on an authority under section 13 above,
  - (b) the time specified in the notice has expired (whether or not he has received a written response to the notice), and
  - (c) it still appears to him that the authority have acted as mentioned in the paragraph concerned of section 13(1) above.
- (2) The Secretary of State may direct that with effect from such date as is specified in the direction the authority—
- (a) shall cease to have power to carry out any work falling within the appropriate activity,
  - (b) shall cease to have power to carry out such work falling within that activity as is identified in the direction,

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- (c) shall only have power to carry out work falling within that activity if such conditions as are specified in the direction are fulfilled, or
  - (d) shall, as regards such work falling within that activity as is identified in the direction, only have power to carry it out if such conditions as are specified in the direction are fulfilled.
- (3) Where the Secretary of State has given a direction under subsection (2) above or this subsection (the previous direction) he may give a direction (a new direction) that with effect from such date as is specified in the new direction—
- (a) any prohibition applying by virtue of the previous direction (whether the prohibition applies outright or if conditions are not fulfilled) shall cease to apply,
  - (b) any outright prohibition applying by virtue of the previous direction is replaced by a prohibition applying (as regards the same work) if conditions specified in the new direction are not fulfilled, or
  - (c) any prohibition applying as regards work by virtue of the previous direction (whether the prohibition applies outright or if conditions are not fulfilled) is replaced by a prohibition which applies only to such of that work as is identified in the new direction but which is otherwise in the same terms as the prohibition in the previous direction.
- (4) If the Secretary of State directs under this section that an authority shall cease to have power to carry out work, or shall only have power to carry out work if certain conditions are fulfilled, the direction shall have effect notwithstanding any enactment by virtue of which they are required or authorised to do the work or (as the case may be) to do it without the need for the conditions to be fulfilled.
- [ The conditions that may be imposed by a direction given under this section in relation
- <sup>F4</sup>(4A) to the carrying out of any work include a condition restricting the carrying out of the work to cases where—
- (a) the Secretary of State has been satisfied as to any matter specified or described in the direction, or
  - (b) the work is carried out under and in accordance with an authorisation or consent given for the purposes of the direction by the Secretary of State.
- (4B) Where a direction under this section imposes any condition in relation to the carrying out of any work, that direction may provide that the requirement that the condition is fulfilled is to have effect, in relation to that work, instead of any requirement which (apart from the direction) would have effect in relation to that work by virtue of this Part.
- (4C) Without prejudice to subsection (3) above, the power to give a direction under this section shall include power, at any time, to make such variations of a direction under this section as may be agreed with the authority to which the direction relates.]
- (5) In this section “the appropriate activity” means the defined activity within which the work identified in the notice concerned falls.]

#### Textual Amendments

- F3** S. 14 repealed (E.W.) (27.7.1999 with effect in accordance with ss. 21, 27 of the amending Act) by 1999 c. 27, ss. 21(1)(b), 34, **Sch. 2(1)**, Note

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- F4** S. 14(4A)(4B)(4C) inserted (4.1.1993) by Local Government Act 1992 (c. 19), s. 11, **Sch. 1**, para. 14; S.I. 1992/3241, **art. 2**

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**Modifications etc. (not altering text)**

- C4** S. 14 applied (9.1.1995) by S.I. 1994/3167, **regs. 13**, 18  
S. 14 applied (with modification) (15.8.1994) by 1994 c. 19, **s. 52** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1994/2109, **art. 2**
- C5** S. 14(1)(c) applied (9.1.1995) by S.I. 1994/3167, **reg. 14(5)(c)**

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