

---

STATUTORY INSTRUMENTS

---

**1994 No. 2888**

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

**The Local Government Act 1988 (Competition) (Defined Activities) (Construction and Property Services) Order 1994**

*Made - - - - 10th November 1994*

*Coming into force - - 11th November 1994*

The Secretary of State for the Environment, as respects England, the Secretary of State for Wales, as respects Wales and the Secretary of State for Scotland, as respects Scotland, 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) (Construction and Property Services) Order 1994 and shall come into force on the day after the day on which it is made.

**Defined Activities**

**2.—(1)** In section 2(2) of the Local Government Act 1988 (“the Act”) after paragraph (j) there shall be inserted the following paragraph—

“(k) construction and property services;”

(2) In Schedule 1 to the Act the following paragraph shall be inserted at the end—

**“Construction and property services**

**12.—(1)** The provision of construction and property services in connection with the development, maintenance or management of relevant land falls within section 2(2)(k) above.

---

(1) 1988 c. 9; Section 2 is amended by paragraph 10 of Schedule 1 to the Local Government Act 1992 (c. 19), S.I.1989/2488, S.I. 1994/1671 and S.I. 1994/2884.

(2) For the purposes of sub-paragraph (1) above, “construction and property services” means services in any of the following fields, namely–

- (a) architecture (including landscape architecture);
- (b) engineering;
- (c) valuation;
- (d) property management; and
- (e) surveying (including quantity and building surveying), being services which fall within sub-paragraph (3) below and are not excluded by sub-paragraph (4) below.

(3) Services fall within this sub-paragraph if they consist of or are provided for the purposes of, or in connection with, any of the following, namely–

- (a) the giving of advice to any of the following–
  - (i) a defined authority or its elected members;
  - (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
  - (iii) any officer or department of a defined authority;
- (b) the giving of advice to any other person in relation to the discharge of any functions of a defined authority;
- (c) the establishment and management of capital and revenue programmes for the development and maintenance of relevant land;
- (d) the design and planning of development projects and maintenance work, including feasibility studies, investigatory work and the preparation of plans, costings and reports;
- (e) the management of such projects and such work, including finance and contract management;
- (f) the management of relevant land, excluding the management of local authority housing (as defined in paragraph 9 above); and
- (g) the procuring, monitoring or supervision of, or the arranging of payment for, any services which fall within paragraphs (a) to (f) above and are provided for a defined authority by any person.

(4) The following services are excluded by this sub-paragraph–

- (a) any services provided in pursuance of section 6 of the Highways Act 1980<sup>(2)</sup> (delegation etc of functions with respect to trunk roads) or in pursuance of section 4 of the Roads (Scotland) Act 1984<sup>(3)</sup> (agreements between authorities); and
- (b) any services provided for the purposes of, or in connection with, sewerage functions carried out on behalf of sewerage undertakers in pursuance of arrangements entered into for the purposes of section 97 of the Water Industry Act 1991<sup>(4)</sup>.

(5) The following are “relevant land” for the purposes of this paragraph–

- (a) land which is occupied by a defined authority;
- (b) land in which such an authority has or is seeking to acquire an interest;
- (c) land for the maintenance or management of which such an authority assumes responsibility by agreement;

---

(2) 1980 c. 66

(3) 1984 c. 54

(4) 1991 c. 56

- (d) highways for which such an authority is the highway authority and which are maintainable at the public expense; and
- (e) public roads within the meaning of the Roads (Scotland) Act 1984 in relation to which such an authority is the local roads authority.”

### **Supplementary provisions**

3.—(1) For the purpose of interpreting paragraph (k) (as inserted by Article 2(1) above) of subsection (2) of section 2 of the Act, that section shall have effect as if for subsection (6) there were substituted the following subsection—

“(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 less than 50 per cent of his working time.”

(2) For the purpose of determining whether any work falling within section 2(2)(k) of the Act is functional work, subsection (4) of section 3 of the Act (other definitions) shall have effect as if the words from “and”, in the first place where it occurs, to the end were omitted.

(3) In relation to any work falling within section 2(2)(k) of the Act, paragraph (a) of subsection (4) of section 7 of the Act (the conditions) shall have effect as if the words from “and” to the end were omitted.

### **Works contracts: transitional provision**

4. Sections 4 and 5 of the Act shall have effect in respect of works contracts for work falling within paragraph (k) of section 2(2) 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 the work is to be carried out:

<i>Area</i>	<i>Date</i>
England	1st April 1996
Scotland	1st October 1997
Wales	1st April 1998

Signed by the authority of the Secretary of State

8th November 1994

*David Curry*  
Minister of State,  
Department of the Environment

10th November 1994

*John Redwood*  
Secretary of State for Wales

---

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

---

10th November 1994

*Allan Stewart*  
Parliamentary Under-Secretary of State, Scottish  
Office

## **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 this Order amends the Act to add construction and property services to the existing defined activities.

Article 3 makes supplementary provision and article 4 makes transitional provision for works contracts.