
STATUTORY INSTRUMENTS

1992 No. 810

The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992

PART III

PUBLIC SUPPLY OR WORKS CONTRACTS

Provisions supplementary to or consequential on Article 19

21.—(1) The Department, for the purposes of Article 19, may by order—

- (a) specify as a non-commercial matter any other matter which appears to the Department to be irrelevant to the commercial purposes of public supply or works contracts of any description;
- (b) specify the criteria to be applied by a council in drawing up an approved list;
- (c) specify questions relating to non-commercial matters which may be included in questionnaires circulated by councils to potential contractors in such cases as may be specified in the order.

(2) The power conferred by paragraph (1) includes power to apply Article 19(5) and (6) to any matter specified in the order and to amend any definition in Article 18 of an expression used in any sub-paragraph of Article 19(4) without making any other provision.

(3) An order under paragraph (1) may include such consequential and transitional provisions as appear to the Department to be necessary or expedient.

(4) No order under paragraph (1) shall be made unless a draft of it has been laid before and approved by a resolution of the Assembly.

(5) Article 19 applies to a council where, in exercising functions regulated by that Article, the council is, as well as where it is not, acting on behalf of a government department.

(6) The duty imposed by Article 19(1) does not create a criminal offence but—

- (a) in proceedings for judicial review, the persons who have a sufficient 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.

(7) In any action under Article 19(1) 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.

(8) Nothing in paragraph (1) or Article 19 implies that the exercise of any function regulated by that Article may not be impugned, in proceedings for judicial review, on the ground that it was

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exercised by reference to other matters than those which are non-commercial matters for the purposes of that Article.

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