
STATUTORY INSTRUMENTS

1994 No. 3166

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government Act 1988 (Competition) (Construction and Property Services) (England) Regulations 1994

Made - - - - *12th December 1994*
Laid before Parliament *19th December 1994*
Coming into force - - *9th January 1995*

The Secretary of State, in exercise of the powers conferred on him by sections 6(3) and 15(6) of the Local Government Act 1988(1), and of 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 Act 1988 (Competition) (Construction and Property Services) (England) Regulations 1994 and shall come into force on 9th January 1995.

(2) These Regulations apply to defined authorities in England only.

Interpretation

2. In these Regulations—

“allowable period” means the period commencing on the date when section 6 of the Act first applies to the defined authority in question in respect of specified work and ending—

- (a) as respects work falling within paragraph 12(3)(d)(2) of Schedule 1 to the Act, on the date when that work is completed; or
- (b) as respects work falling within paragraph 12(3)(e)(3) of Schedule 1 to the Act, on the date when the document certifying completion of the work is issued;

“the Act” means the Local Government Act 1988;

“the cost” means the estimated total annual cost including overheads;

“the specified proportion” means an amount equal to the product of the following formula—

(1) 1988 c. 9. Section 6 is amended by paragraph 12 of Schedule 1 to the Local Government Act 1992 (c. 19).
(2) Paragraphs 12(3)(d) and (e) of Schedule 1 were inserted by S.I. 1994/2888.
(3) Paragraphs 12(3)(d) and (e) of Schedule 1 were inserted by S.I. 1994/2888.

$$T - (A + B + C + D + E + F + G)$$

where

- T = an amount equal to the cost to a defined authority of the specified work;
 A = an amount equal to 35% of T or £450,000, whichever is greater;
 B = for the period ending on 31st March 1999 or five years after work was awarded, whichever is shorter, an amount equal to the cost of specified work which is being carried out by a defined authority following voluntary competitive tendering;
 C = an amount equal to the cost of specified work carried out by a defined authority on behalf of a school with a delegated budget provided under a scheme prepared in accordance with section 33 of the Education Reform Act 1988⁽⁴⁾;
 D = until 1st April 1999, an amount equal to the cost of specified work which is being carried out in support of functional work falling within the defined activity mentioned in section 2(2)(h) of the Act (housing management)⁽⁵⁾ where that functional work is not subject to section 6 of the Act;
 E = an amount equal to the cost of specified work carried out by a defined authority in connection with functional work falling within any other defined activity where that functional work is being carried out by a defined authority in accordance with the provisions of the Act;
 F = an amount equal to the cost of specified work carried out by a defined authority in connection with functional work to which Part III of the Local Government, Planning and Land Act 1980⁽⁶⁾ applies where that functional work is being carried out by a defined authority in accordance with the provisions of that Act; and
 G = for the allowable period, an amount equal to the cost (including overheads) of work falling within paragraphs 12(3)(d) and (e) of Schedule 1 to the Act, where that work has been started by a defined authority before the commencement of the allowable period;

“specified work” means work of any description falling within the defined activity mentioned in section 2(2)(k) of the Act (construction and property services)⁽⁷⁾ other than work carried out by a bidding authority to which section 4 of the Act (works contracts: restrictions) applies;

“voluntary competitive tendering” means the award of work before 1st April 1994 following a competitive process in the course of which at least three persons who are not defined authorities are invited to tender for that work.

Application of section 6

3. Section 6 of the Act shall apply to the specified proportion of any specified work if it is proposed to be carried out—

- (a) on or after 1st April 1997 by a local authority which is subject to, or created by, a structural change or substantial boundary change effected by an order made under section 17 of the Local Government Act 1992⁽⁸⁾ (“a structural change”) where that structural change takes effect from 1st April 1995; or
- (b) on or after 1st April 1998 by a local authority which is subject to, or created by, a structural change where that structural change takes effect from 1st April 1996; or

(4) 1988 c. 40.

(5) Section 2(2)(h) was inserted by S.I. 1994/1671.

(6) 1980 c. 65.

(7) Section 2(2)(k) was inserted by S.I. 1994/2888.

(8) 1992 c. 19.

- (c) on or after 1st April 1999 by a local authority which is subject to, or created by, a structural change where that structural change takes effect from 1st April 1997; or
- (d) on or after 1st April 1996 by any other defined authority, other than—
 - (i) those mentioned in section 1(1)(b), 1(1)(c) and 1(1)(d) of the Act;
 - (ii) county councils or non-metropolitan district councils which are not subject to a structural change; and
 - (iii) a police authority.

Signed by authority of the Secretary of State for the Environment

12th December 1994

Robert Jones
Parliamentary Under-Secretary of State,
Department of the Environment

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 make provision under Part I of the Local Government Act 1988 (“the Act”) in respect of the defined activity of construction and property services.

Regulation 3 applies section 6 of the Act to a specified proportion of this activity from the dates specified in that regulation for different types of defined authority, so that those defined authorities must compete for such work in accordance with the Act’s requirements if they wish to carry it out themselves.