Draft Order laid before the Assembly under Article 2(4) of the Local Government (Best Value) Act (Northern Ireland) 2002 for approval

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2012 No.

LOCAL GOVERNMENT

Local Government Best Value (Exclusion of Non-commercial Considerations) Order (Northern Ireland) 2012

Made - - - - 2012

Coming into operation in accordance with Article 1(1)

The Department of the Environment makes the following Order in exercise of the powers conferred by sections 2(1) and (2) of the Local Government (Best Value) Act (Northern Ireland) 2002(**a**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Local Government Best Value (Exclusion of Non-commercial Considerations) Order (Northern Ireland) 2012 and shall come into operation on the day following the date on which this Order is approved by a resolution of the Assembly.

(2) In this Order—

"the 1992 Order" means the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992(**b**);

"the 2002 Act" means the Local Government (Best Value) Act (Northern Ireland) 2002; and

"public supply or works contract" means a contract for the supply of goods or materials, for the supply of services or for the execution of works.

Matters not to be non-commercial matters

2. The matters specified in Article 19(4)(a) (district council contracts: exclusion of non-commercial considerations) and the conduct of contractors or workers in industrial disputes between them as specified in Article 19(4)(d) of the 1992 Order shall cease to be non-commercial matters for the purposes of Article 19 of that Order(**c**)—

(a) to the extent that a district council considers it necessary or expedient, in order to permit or facilitate compliance with the requirements of the 2002 Act, to exercise the functions regulated by that Act in relation to its public supply or works contracts with reference to those matters; or

(**a**) 2002 c. 4 (NI)
(**b**) SI 1992/810 (N.I. 6)
(**c**) Section 19 was amended by paragraph 6 of Schedule 2 to the Race Relations (Northern Ireland) Order 1997 (SI 1997/869 (N.I. 6)).

(b) for the purposes of any functions regulated by that Article in relation to a public supply or works contract which involves a transfer of staff to which the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006(**a**) or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006(**b**) may apply.

Sealed with the Official Seal of the Department of the Environment on March 2012.

(L.S.)

Linda MacHugh
A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Order)

Article 19(1) of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (the 1992 Order) provides that, in exercising any of the functions mentioned in paragraph (3) of that Article in relation to public supply or works contracts, district councils must exercise these functions without reference to certain non-commercial matters listed in paragraph (4) of that Article.

This Order provides that two of the matters listed in paragraph (4) shall cease to be non-commercial matters for the purpose of Article 19 of the 1992 Order. The matters concerned relate to the terms and conditions of employment etc. of a contractor's workforce and the conduct of contractors or their workers in industrial disputes. But, under the Order, those matters cease to be non-commercial matters only so far as necessary or expedient to permit or facilitate compliance with the best value requirements of the Local Government (Best Value) Act (Northern Ireland) 2002; or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006 may apply.

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(**a**) SI 2006/246
(**b**) S.R. 2006 No. 177

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