STATUTORY INSTRUMENTS

1988 No. 1415 (S.132)

LOCAL GOVERNMENT, SCOTLAND

The Local Government Act 1988 (Defined Activities) (Exemptions) (Scotland) Order 1988

Made - - - -	*8th August 1988*
Laid before Parliament	*11th August 1988*
Coming into force - -	*1st September 1988*

The Secretary of State, in exercise of the powers conferred upon him by sections 2(9) and 15(5) of the Local Government Act 1988(**a**) and of all other powers enabling him in that behalf, hereby makes the following Order:

1. This Order may be cited as the Local Government Act 1988 (Defined Activities) (Exemptions) (Scotland) Order 1988 and shall come into force on 1st September 1988.

2.—(1) In this Order "the Act" means the Local Government Act 1988.

(2) This Order applies to an activity if carried out by a defined authority specified in section 1(1) of the Act which has functions in Scotland.

3.—(1) None of the activities listed in section 2(2) of the Act shall be treated as a defined activity so long as the condition mentioned in paragraph (2) below is fulfilled.

(2) The condition is that the amount estimated by the authority as the gross cost of carrying out the activity in question through their direct labour organisation or a similar organisation in the immediately preceding financial year does not exceed £100,000.

(3) For the purposes of this article, the cost of carrying out any activity shall–

(a) include such proportion of the authority's administrative expenses, other than expenses that would be incurred by the authority whether the activity were carried out by it or by another person, as is properly attributable to the carrying out of the activity;

(b) exclude the cost of any work which is treated as carried out by the authority by virtue of section 3(4) of the Act; and

(c) exclude the cost of any work which, by virtue of article 4, 5 or 6 of this Order, does not fall within a defined activity.

4. None of the activities mentioned in section 2(2) of the Act shall be treated as a defined activity so long as it constitutes work carried out through an employee who is required as a condition of his employment to live in particular accommodation for the better performance of his duties and the work forms part of his duties.

5. The repair or maintenance of a motor vehicle or trailer shall not be treated as a defined activity where the motor vehicle or trailer is one which is used only for the discharge of a fire service function of a defined authority.

(**a**) 1988 c.9.

6. None of the activities mentioned in section 2(2) of the Act shall be treated as a defined activity so long as it constitutes work carried out pursuant to an agreement made with the Training Commission or the Secretary of State which is an agreement made by virtue of any provision of the Employment and Training Act 1973(**a**), which specifies the work to be carried out by the authority and under which the Commission or the Secretary of State has agreed to pay the whole or part of the cost of the work so specified.

Ian Lang
Minister of State,
Scottish Office

St. Andrew's House, Edinburgh
8th August 1988

EXPLANATORY NOTE

(This note is not part of the Order)

Section 4 of the Local Government Act 1988 precludes an authority mentioned in section 1 of the Act (a defined authority) from entering into a works contract on or after 1st April 1989 under which they are to carry out work falling within an activity listed in section 2(2) of the Act (a defined activity) unless they have competed for the contract. Section 5 of the Act imposes a similar prohibition in respect of works contracts entered into before 1st April 1989 under which work is to be carried out on or after that date.

Section 6(3) of the Act empowers the Secretary of State to require that, after a date to be specified in regulations, a defined authority must not carry out functional work falling within a defined activity without subjecting the work to competition. Dates are specified for this purpose in the Local Government Act 1988 (Defined Activities) (Competition) (Scotland) Regulations 1988 (S.I. 1988/1413).

"Works contract" and "functional work" are defined in section 3 of the Act.

This Order specifies four situations in which, in Scotland, work will not be treated as falling within a defined activity for the purposes of the Act.

The first exemption applies where the estimated gross cost to a particular authority of carrying out the activity in the preceding financial year does not exceed £100,000 (article 3). The second applies where work is carried out by an employee of the defined authority who is required to live in particular accommodation for the better performance of his duties (article 4). The third relates to the repair and maintenance of fire service vehicles (article 5). The fourth applies where work is carried out pursuant to an agreement between the defined authority and the Training Commission or the Secretary of State under the Employment and Training Act 1973 (article 6).

(**a**) 1973 c.50.

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