# 1992 No. 520

## LOCAL GOVERNMENT

## The Local Government (Defined Activities) (Exemptions) Order (Northern Ireland) 1992

*Made* . . . . . *4th December 1992*

*Coming into operation* . . *1st February 1993*

The Department of the Environment, in exercise of the powers conferred on it by Articles 2(2), 4(8) and 16(3) of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992(**a**) and of all other powers enabling it in that behalf, hereby makes the following Order:

*Title, commencement and interpretation*

**1.**—(1) This Order may be cited as the Local Government (Defined Activities) (Exemptions) Order (Northern Ireland) 1992 and shall come into operation on 1st February 1993.

(2) In this Order "the Order" means the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992.

*Activities not to be treated as defined activities*

**2.**—(1) None of the activities mentioned in Article 4(1) of the Order shall, if carried out by a council, be treated as a defined activity so long as the condition mentioned in paragraph (2) is fulfilled.

(2) The condition mentioned in paragraph (1) is that the amount estimated by the council as the gross cost of carrying out the activity in question through its direct labour organisation or a similar organisation in the immediately preceding financial year, does not exceed £100,000.

(3) For the purposes of paragraph (2) the cost of carrying out any activity shall—

(*a*) include such proportion of the council's administrative expenses, other than expenses that would be incurred by the council 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 council by virtue of Article 3(1) of the Order; and

(*c*) exclude the cost of any work which by virtue of Article 3 does not fall within a defined activity.

(**a**) S.I. 1992/810 (N.I. 6). Article 2(2) is cited because it contains a definition of "the Department"

**3.** None of the activities mentioned in Article 4(1) of the Order 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.

Sealed with the Official Seal of the Department of the Environment on 4th December 1992.

(L.S.) *J. McCormick*
Assistant Secretary

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## EXPLANATORY NOTE

*(This note is not part of the Order.)*

Article 5 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 ("the Order") precludes a council from entering into a works contract on or after 1st July 1992 under which they are to carry out work falling within an activity listed in Article 4(1) of the Order (a defined activity) unless they have competed for the contract. Article 6 of the Order frustrates the further performance on or after 1st July 1992 of works contracts entered into before that date unless the contract was the subject of competition.

Article 7(3) of the Order empowers the Department of the Environment to specify in regulations a date on or after which, by virtue of Article 7(1) a council must not carry out functional work falling within a defined activity so specified without subjecting the work to competition. Dates are specified for this purpose in the Local Government (Competition in Functional Work) Regulations (Northern Ireland) 1992 (S.R. 1992/518).

"Works contract" and "functional work" are defined in Article 3 of the Order.

This Order specifies 2 situations in which work will not be treated as falling within a defined activity for the purposes of Article 4(8) of the Order.

The first exemption applies where the estimated gross cost to a particular council carrying out the activity in the preceding financial year does not exceed £100,000 (Article 2). The second applies where work is carried out by an employee of a council who is required to live in particular accommodation for the better performance of his duties and the work forms part of his duties (Article 3).