STATUTORY INSTRUMENTS

1982 No. 318 (S.41)

LOCAL GOVERNMENT, SCOTLAND

The Local Government (Direct Labour Organisations) (Competition) (Scotland) Regulations 1982

Made - - - -	*8th March* 1982
Laid before Parliament	*11th March* 1982
Coming into Operation	*1st April* 1982

In exercise of the powers conferred on me by sections 7 and 9(3) of the Local Government, Planning and Land Act 1980 (**a**) and of all other powers enabling me in that behalf and as respects Scotland, I hereby make the following regulations:—

Citation, commencement and extent

1. These regulations may be cited as the Local Government (Direct Labour Organisations) (Competition) (Scotland) Regulations 1982 and shall come into operation on 1st April 1982.

Interpretation

2. In these regulations—

"the Act" means the Local Government, Planning and Land Act 1980;

"the 1970 Act" means the Local Authorities (Goods and Services) Act 1970 (**b**);

"emergency work" means work of any description whose necessity could not reasonably have been foreseen by a local authority or development body and which is required to avert, alleviate or eradicate in their area, or any part of it, the effects or potential effects of any emergency or disaster involving or likely to involve risk of serious damage to or destruction of property or risk of injury or danger to health or life;

"estimated cost" means the aggregate of the amounts which a local authority or development body will credit to their DLO revenue account in respect of the carrying out of all the items of construction or maintenance work comprised in the job—

(a) insofar as such amounts will fall to be determined in accordance with a written statement prepared in compliance with section 9(2)(a) of the Act, as so determined; and

(b) insofar as such amounts will fall to be determined in accordance with a method specified in a written statement prepared in accordance with section 9(2)(b) of the Act, as reasonably estimated in accordance with that method;

"general highway works" has the meaning ascribed to it in section 10(3) of the Act;

"job" means all the functional work which can reasonably be carried out most economically and efficiently under one arrangement;

(**a**) 1980 c.65. (**b**) 1970 c.39.

"works of maintenance" means works of maintenance within the meaning of the 1970 Act not being general highway works or works of maintenance in connection with water or sewerage works; and

"works of new construction" means building or civil engineering works of any description not being general highway works, general water and sewerage works or works of maintenance.

Prescribed amounts for works contracts

3. For the purposes of section 7(1) of the Act (prescribed amounts for certain works contracts) the following amounts are specified as the prescribed amounts for works contracts of the following descriptions, namely:—

(a) a contract for general highway works, £100,000;

(b) a contract for general water and sewerage works, £50,000;

(c) a contract for works of new construction, £50,000; and

(d) a contract for works of maintenance, £10,000.

Requirement to tender for certain works contracts

4.—(1) The following conditions are prescribed for the purposes of section 7(1)(b) of the Act (local authority not to enter into works contract except in compliance with conditions) in relation to a works contract to which this regulation applies:—

(a) that the contract was made by acceptance of an offer on the part of the authority to carry out the work in question;

(b) that the authority made the offer in response to an invitation to submit such offers; and

(c) that the invitation was extended to at least three other persons.

(2) Subject to regulation 5 below, this regulation applies to a works contract for the carrying out of works of new construction whose value does not exceed £50,000, if the value of the contract together with the aggregate value of all relevant work previously undertaken by the authority in the same financial year exceeds two thirds of the aggregate value of all relevant work undertaken by the authority in the immediately preceding financial year.

(3) In this regulation "relevant work" means any works of new construction undertaken by entering into a works contract or by undertaking a job where the value of the contract or the estimated cost of the job does not exceed £50,000.

Exempted works contracts

5. Section 7(1) of the Act shall not apply to works contracts of any of the following descriptions, namely:—

(a) a contract for the carrying out of emergency work;

(b) a contract for the gritting of or the clearing of snow from highways;

(c) a contract which satisfies the following conditions—

(i) it is a contract in relation to which the value does not exceed by more than 10% the value of a contract of a similar description awarded to the local authority at any time in the immediately preceding twelve months (hereinafter referred to as "the former contract"), and in relation to which the value of each of the separate items of work comprised and priced in the contract do not respectively exceed by more than 10% the value of each such corresponding separate items of work as are comprised in and priced in the former contract;

(ii) the former contract was made as the result of an invitation to tender which was extended to at least three other persons;

(iii) the local authority submitted the lowest tender for the former contract following that invitation;

(iv) the former contract has not been renewed (either by extension or the making of a new contract for work of a similar description) unless the invitation to tender, as a result of which the former contract was awarded, specifically referred to the award to the successful contractor of one or more further contracts; and

(v) in the case of a contract for general highway works, the work comprised in the contract shall be on the same site or surface as the work comprised in the former contract or on sites or surfaces adjacent to those on which the work comprised in the former contract has been or is to be carried out.

Treatment of certain works contracts as a single contract

6. For the purposes of determining whether the value of a works contract exceeds the prescribed amount for a contract of that description it shall be treated together with one or more other contracts as a single works contract if each contract is made within a period of six months and relates to work of a similar description to be performed on a single site or surface or on adjacent sites or surfaces.

Functional work

7.—(1) Subject to paragraph (3) below, the following descriptions of functional work are hereby specified as descriptions of functional work which a local authority or development body may not undertake unless they have first complied with the conditions in section 9(4) of the Act as well as with those in section 9(2), namely—

(a) general highway works where the estimated cost of the job exceeds £100,000;

(b) general water and sewerage works where the estimated cost of the job exceeds £50,000;

(c) works of new construction where the estimated cost of the job exceeds £50,000;

(d) works of maintenance where the estimated cost of the job exceeds £10,000; and

(e) works of new construction undertaken in a financial year where the estimated cost of the job does not exceed £50,000, if the estimated cost of the job together with the aggregate value of all relevant work previously undertaken by the authority or body in the same financial year, exceeds two thirds of the aggregate value of all relevant work undertaken by that authority or body in the immediately preceding financial year.

(2) In this regulation "relevant work" means any works of new construction undertaken by a local authority or development body by entering into a works contract or by undertaking a job where the value of the contract or the estimated cost of the job does not exceed £50,000.

(3) Paragraph (1) above shall not apply to functional work of the following descriptions, namely:—

(a) emergency work;

(b) the gritting of or the clearing of snow from highways;

(c) a job which satisfies the following conditions—

(i) it is a job in relation to which the estimated cost does not exceed by more than 10% the estimated cost of a job of a similar description undertaken by the local authority or development body in the immediately preceding twelve months (hereinafter referred to as "the former job") and in relation to which the estimated cost of each of the separate items of work comprised and priced in the job do not respectively exceed by more than 10% the estimated cost of each of such corresponding separate items of work as are comprised and priced in the former job;

(ii) the former job was undertaken following an invitation to tender which was extended to at least three other persons;

(iii) the estimated cost of the former job submitted by the authority or development body was lower than the lowest tender submitted following that invitation;

(iv) the former job has not been renewed (either by extension of time or the undertaking of a new job of a similar description) unless the invitation to tender following which the former job was undertaken specifically referred to the award to the successful tenderer of one or more further contracts; and

(v) in the case of a job for general highway works, the work comprised in the job shall be on the same site or surface as the work comprised in the former job or on sites or surfaces adjacent to those on which the work comprised in the former job has been or is to be carried out.

George Younger,
One of Her Majesty's Principal Secretaries of State.

New St. Andrew's House,
Edinburgh.
8th March 1982.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Section 7(1) of the Local Government, Planning and Land Act 1980 provides that a local authority may not enter into a works contract whose value exceeds the prescribed amount unless they do so as the result of acceptance of a tender, or enter into a works contract whose value is equal to or less than the prescribed amount unless they have complied with conditions to be prescribed by regulations. These regulations prescribe different amounts in relation to different descriptions of contract and, in relation to certain descriptions of works contracts whose value is equal to or less than the prescribed amounts, they prescribe conditions to be complied with. The regulations also provide for the treatment of certain works contracts as a single contract. In relation to functional work they specify descriptions of work which a local authority or development body may not undertake unless they have first complied with the conditions specified in section 9(4) of the Act. The regulations also specify certain descriptions of works contracts to which the restrictions in section 7(1) of the Act do not apply and corresponding descriptions of functional work which may be undertaken by a local authority or development body without having first complied with the conditions specified in section 9(4) of the Act.

SI 1982/318
ISBN 0-11-026318-9

