
STATUTORY INSTRUMENTS

1991 No. 719

The Litter Etc. (Transitional Provisions) Regulations 1991

Duty to keep land and highways clear of litter etc.

3.—(1) A local authority shall be taken to be complying, as respects any highway, with its duty under section 89(1)(a) of the 1990 Act if—

- (a) there is in force a contract entered into before 1st April 1991 between that authority and an independent contractor under which that contractor is required to remove litter from that highway, and
- (b) the condition specified in paragraph (5) is fulfilled.

(2) A local authority shall be taken to be complying, as respects any land, with its duty under section 89(1)(c) of the 1990 Act if—

- (a) there is in force a contract entered into before 1st April 1991 between that authority and an independent contractor under which that contractor is required to remove litter from that land, and
- (b) the condition specified in paragraph (5) is fulfilled.

(3) An educational body which is a local authority (in Scotland), or is the governing body of an educational institution maintained by a local authority (in England and Wales), shall be taken to be complying, as respects any land, with its duty under section 89(1)(f) of the 1990 Act if—

- (a) there is in force a contract entered into before 1st April 1991 between that authority and an independent contractor under which that contractor is required to remove litter from that land, and
- (b) the condition specified in paragraph (5) is fulfilled.

(4) A local authority shall be taken to be complying, as respects any highway, with its duty under section 89(2) of the 1990 Act if—

- (a) there is in force a contract entered into before 1st April 1991 between that authority and an independent contractor under which that contractor is required to clean that highway,
- (b) that contract is not a relevant contract within the meaning of regulation 6, and
- (c) the condition specified in paragraph (5) is fulfilled.

(5) The condition referred to above is that the authority can demonstrate—

- (a) that the contractor is fully discharging his obligations under the contract;
- (b) that, but for this regulation, the discharge of those obligations would be insufficient to enable the authority or, as the case may be, the educational body, to comply with the relevant duty under section 89 of the 1990 Act;
- (c) that the authority has used its best endeavours to negotiate such variations to the contract as would be required to ensure that the performance of the contractor's obligations would be sufficient to enable the authority or, as the case may be, the educational body, to comply with that duty;
- (d) that the contractor is not prepared to agree to such variations or is only prepared to do so on unreasonable terms; and

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(e) that the authority has no right to terminate the contract.