
STATUTORY INSTRUMENTS

1994 No. 2884

**LOCAL GOVERNMENT, ENGLAND AND WALES
LOCAL GOVERNMENT, SCOTLAND**

**The Local Government Act 1988
(Competition) (Defined Activities) Order 1994**

Made - - - - *9th November 1994*

Coming into force - - *10th November 1994*

The Secretary of State for the Environment as respects England, the Secretary of State for Scotland as respects Scotland and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 2(3) and 15(7) and (8) of the Local Government Act 1988⁽¹⁾, and of all other powers enabling them in that behalf, after consultation with such representatives of local government as appear to them to be appropriate, hereby make the following Order, a draft of which has been laid before, and has been approved by resolution of, each House of Parliament:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Local Government Act 1988 (Competition) (Defined Activities) Order 1994 and shall come into force on the day after the day on which it is made.

(2) In this Order “the Act” means the Local Government Act 1988.

Defined activities

2.—(1) In section 2(2) of the Act (defined activities)—

(a) for paragraph (g) there shall be substituted the following paragraphs—

- “(ff) supervision of parking,
- (g) repair and maintenance of vehicles,
- (gg) management of vehicles;”;

(b) after paragraph (h) there shall be inserted the following paragraphs—

- “(i) security work,
- (j) legal services;”.

(1) 1988 c. 9; section 2 is amended by paragraph 10 of Schedule 1 to the Local Government Act 1992 (c. 19), S.I.1989/2488.

(2) After paragraph 6 of Schedule 1 to the Act (competition) there shall be inserted the following paragraph—

“Supervision of parking

6A.—(1) The following (and only the following) fall within section 2(2)(ff) above—

- (a) the fixing or giving of penalty charge notices under section 66 of the 1991 Act;
- (b) the fixing or removal, or authorising the fixing or removal, of immobilisation devices under section 69 of the 1991 Act;
- (c) the removal, or the making of arrangements for the removal, of vehicles in pursuance of regulations under section 99 of the 1984 Act, where the removal is effected or arranged by parking attendants; and
- (d) the making of arrangements for the custody, release or disposal of vehicles whose removal is effected or arranged as mentioned in paragraph (c) above.

(2) In this paragraph—

“the 1984 Act” means the Road Traffic Regulation Act 1984⁽²⁾;

“the 1991 Act” means the Road Traffic Act 1991⁽³⁾;

“parking attendant” has the same meaning as in section 63A of the 1984 Act⁽⁴⁾.”

(3) After paragraph 7 of that Schedule there shall be inserted the following paragraph—

“Management of vehicles

7A.—(1) The following (and only the following) fall within section 2(2)(gg) above—

- (a) arranging for motor vehicles to be available to meet the requirements from time to time of a defined authority;
- (b) securing that the statutory provisions relating to registration, licensing, safety and insurance are complied with as respects motor vehicles so made available and that the drivers of such vehicles are duly licensed; and
- (c) arranging for the provision of fuel for, and the cleaning, repair and maintenance of, such vehicles.

(2) In sub-paragraph (1) above references to motor vehicles do not include references to any which are to be used exclusively for the purposes of a defined authority’s functions as a police or fire authority.

(3) In this paragraph references to motor vehicles include references to trailers; and “motor vehicle” and “trailer” have the same meanings as in paragraph 7 above.”

(4) After paragraph 9 of that Schedule there shall be inserted the following paragraphs—

“Security work

10.—(1) The following (and only the following) fall within section 2(2)(i) above—

- (a) operating security controls in relation to persons entering or leaving land which is occupied by a defined authority or in which such an authority has an interest, or moving between different parts of such land; and
- (b) operating security patrols in respect of such land.

(2) 1984 c. 27.

(3) 1991 c. 40.

(4) Section 63A is inserted by section 44(1) of the Road Traffic Act 1991.

(2) In sub-paragraph (1) above the references to land which is occupied by a defined authority or in which such an authority has an interest do not include references to—

- (a) any library, museum or art gallery;
- (b) any police establishment; or
- (c) in the case of the references in paragraph (a), any dwelling or residential establishment.

(3) In sub-paragraph (2) above the reference to a library, museum or art gallery is a reference to—

- (a) one maintained under the Public Libraries and Museums Act 1964⁽⁵⁾; or
- (b) one established under the Public Libraries Consolidation (Scotland) Act 1887⁽⁶⁾, or one to which that Act applies.

(4) In sub-paragraph (2) above “police establishment”, “dwelling” and, subject to sub-paragraph (5) below, “residential establishment” have the same meanings as in paragraph 2(2) above.

(5) In sub-paragraph (2) above “residential establishment” includes, in relation to Scotland, a hostel provided under section 13 of the Education (Scotland) Act 1980⁽⁷⁾.

Legal services

11.—(1) The provision of legal services by legal staff falls within section 2(2)(j) above.

(2) For the purposes of sub-paragraph (1) above, without prejudice to the generality of the term, “legal services” includes—

- (a) legal advice to any of the following, namely—
 - (i) a defined authority or its elected members;
 - (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
 - (iii) any officer or department of a defined authority;
- (b) legal advice to any other person in relation to the discharge of any functions of a defined authority;
- (c) legal work in or in connection with any criminal or civil proceedings before any court or tribunal or at any inquiry;
- (d) conveyancing work in relation to property of any kind;
- (e) legal work in connection with any of the following, namely—
 - (i) contracts or agreements of any kind;
 - (ii) matters relating to property of any kind;
 - (iii) a defined authority’s insurance arrangements;
 - (iv) statutory orders, notices and byelaws and, in Scotland, management rules under sections 112 to 118 of the Civic Government (Scotland) Act 1982⁽⁸⁾; and
 - (v) local or personal Bills or, in Scotland, private legislation within the meaning of section 82 of the Local Government (Scotland) Act 1973⁽⁹⁾; and

(5) 1964 c. 75.
(6) 1887 c. 42.
(7) 1980 c. 44.
(8) 1982 c. 45.
(9) 1973 c. 65.

- (f) legal work in connection with the provision of a legal service for a defined authority otherwise than by a member of its own staff.
- (3) In sub-paragraph (1) above “legal staff” means any of the following, or any person under their management or control, namely—
- (a) solicitors, legal executives, barristers and advocates;
 - (b) licensed conveyancers within the meaning of the Administration of Justice Act 1985⁽¹⁰⁾; and
 - (c) qualified conveyancers within the meaning of section 23 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990⁽¹¹⁾.”

Legal services: supplementary provisions

3.—(1) For the purpose of interpreting paragraph (j) (as inserted by Article 2(1) above) of subsection (2) of section 2 of the Act, that section shall have effect as if for subsection (6) there were substituted the following subsection—

“(6) Work which is carried out by a defined authority through an employee and which would (apart from this subsection) fall within a defined activity shall not do so if the total amount of such work performed by that employee occupies less than 50 per cent. of his working time.”

(2) For the purpose of determining whether any work falling within section 2(2)(j) of the Act is functional work, subsection (4) of section 3 of the Act (other definitions) shall have effect as if the words from “and”, in the first place where it occurs, to the end were omitted.

(3) In relation to any work falling within section 2(2)(j) of the Act, paragraph (a) of subsection (4) of section 7 of the Act (the conditions) shall have effect as if the words from “and” to the end were omitted.

Works contracts: transitional provisions

4.—(1) Sections 4 and 5 of the Act (works contracts) shall have effect in respect of works contracts for work falling within paragraph (ff) of section 2(2) of the Act as if for the date 1st April 1989, wherever occurring in those sections, there were substituted the date specified in the following Table in relation to the area in which the work is to be carried out:

<i>Area</i>	<i>Date</i>
England	1st October 1995
Wales	1st October 1997

(2) Sections 4 and 5 of the Act shall have effect in respect of works contracts for work falling within paragraph (gg) or (i) of section 2(2) of the Act as if for the date 1st April 1989, wherever occurring in those sections, there were substituted the date specified in the following Table in relation to the area in which the work is to be carried out:

<i>Area</i>	<i>Date</i>
England	1st October 1995
Scotland	1st October 1997

⁽¹⁰⁾ 1985 c. 61.

⁽¹¹⁾ 1990 c. 40.

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<i>Area</i>	<i>Date</i>
Wales	1st October 1997

(3) Sections 4 and 5 of the Act shall have effect in respect of works contracts for work falling within paragraph (j) of section 2(2) of the Act as if for the date 1st April 1989, wherever occurring in those sections, there were substituted the date specified in the following Table in relation to the area in which the work is to be carried out:

<i>Area</i>	<i>Date</i>
England	1st April 1996
Scotland	1st October 1997
Wales	1st April 1998

Signed by authority of the Secretary of State

Department of the Environment
7th November 1994

David Curry
Minister of State,

9th November 1994

John Redwood
Secretary of State for Wales

Scottish Office
9th November 1994

Allan Stewart
Parliamentary Under-Secretary of State,

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EXPLANATORY NOTE

(This note is not part of the Order)

Under Part I of the Local Government Act 1988, work falling within certain defined activities may (as provided in regulations made by the Secretary of State under section 6 of the Act) be carried out by defined authorities only if it has previously been put out to tender.

Article 2 of this Order amends the Act to add to the existing defined activities—

- (a) supervision of parking;
- (b) management of vehicles;
- (c) security work;
- (d) legal services.

Article 3 makes supplementary provision and article 4 makes transitional provision in relation to works contracts.