
STATUTORY INSTRUMENTS

1994 No. 3167

The Local Government Changes for England (Direct Labour and Service Organisations) Regulations 1994

PART II

DIRECT LABOUR ORGANISATIONS

Interpretation

3. In this Part—

- (a) “the Act” means the Local Government, Planning and Land Act 1980(1);
- (b) expressions used which are also used in the Act have the meanings assigned by section 20 of the Act, and
- (c) “the reorganisation period” means the period beginning with the order date and ending with the expiry of 18 months beginning on the reorganisation date.

Works contracts: transitional provision

4. Subject to regulations 7 to 9 below, where rights and liabilities under a works contract become vested in a successor authority, sections 10 to 19B of the Act shall apply on and after the reorganisation date in relation to the successor authority in respect of that contract as they applied before that date in relation to the transferor authority.

Functional work: disapplication of tendering requirements

5.—(1) This regulation applies to functional work of a relevant authority undertaken in the reorganisation period, other than work to be undertaken under a single arrangement—

- (a) in relation to which the response date falls on or before the order date, or
- (b) which is to be completed in a period of less than a year, or
- (c) which has an annual cost in any relevant year of less than £200,000.

(2) In paragraph (1) above “response date” in relation to any work means the date specified by the authority as the date by which persons invited in pursuance of section 9(4) of the Act to offer to undertake that work must respond to that invitation.

(3) Subject to the following provisions of this regulation, nothing in section 9 of the Act shall require a relevant authority to have complied with the conditions in subsection (4) of that section in relation to work to which this regulation applies.

(4) But a relevant authority shall, in relation to work to which this regulation applies, draw up the conditions which would have been specified by them for the purposes of section 9(4)(a) of the Act but for paragraph (3) above.

(1) 1980 c. 65. Part III is amended by Schedule 6 to the Local Government Act 1988 and Schedule 1 to the Local Government Act 1992.

(5) Nothing in this regulation shall be construed as preventing the Secretary of State from serving a notice under section 19A(1)(b) of the Act informing the authority that it appears to him—

- (a) that they have estimated the annual cost of work to amount to £200,000 or more, but that the work is functional work which could most economically and efficiently be undertaken in more than one arrangement at least one of which would have an estimated annual cost of less than £200,000; or
- (b) that the work is to be or was undertaken in a period of a year or more, but that it appears to him that it could most economically and efficiently be or have been undertaken in a period of less than a year;

and that it therefore appears to him that the provisions of section 9(4)(aaaa) of the Act have not been complied with as regards that work.

(6) In this regulation—

“annual cost” in relation to any work and any relevant year, means the amount estimated by the authority as the amount which, if the authority were to undertake the work, would fall to be credited in pursuance of section 12 of the Act to the account kept in respect of that work and that year, and

“relevant year”, in relation to any work, means any financial year during which the work is to be undertaken.

Functional work: transitional provision

6.—(1) Subject to the following provisions of this Part, sections 9 to 19B of the Act shall apply on and after the order date in respect of functional work in relation to a successor authority as they would, but for the order, have applied to the transferor authority; and, in particular, as if the successor authority had prepared the written statement required by section 9(2).

(2) Where in relation to any functional work there is more than one successor authority, the provisions applied by paragraph (1) above shall have effect in relation to that work as if the amount stated in that written statement (“the stated amount”) had been the amount which each successor authority estimate to bear the same relation to the stated amount as the value of the work falling to be carried out by them bears to the value of the whole of the work.

Abolished authorities: annual reports, accounts etc.

7.—(1) Subject to the following provisions of this Part, in relation to an abolished authority and any financial year ending before the reorganisation date, the functions conferred on that authority by sections 10 to 14 and 18 shall be exercisable on and after that date by the designated authority.

(2) But section 18(2A) of the Act shall not apply in respect of a report required by virtue of this regulation to be prepared in relation to a financial year by a designated authority; and the designated authority shall, not later than 31st October in the financial year following that to which the report relates, send a copy of each such report to—

- (a) the Secretary of State;
- (b) the auditor of the transferor authority, and
- (c) any other successor authority in relation to the transferor authority.

Enforcement: notices

8.—(1) Where it appears to the Secretary of State that construction or maintenance work has been undertaken in circumstances where the transferor authority has failed to comply with any of paragraphs (a) to (g) of section 19A(1) of the Act, he may serve on such successor authority or authorities as he sees fit a written notice falling within paragraph (2) below.

- (2) The notice is one which—
- (a) informs the successor authority that it appears to him that the transferor authority have acted as mentioned in one of the paragraphs (identified in the notice) of section 19A(1),
 - (b) identifies the work and states why it so appears, and
 - (c) contains the requirement mentioned in paragraph (3) below.
- (3) The requirement is that the authority submit to him within such time as is specified in the notice a written response which—
- (a) states that the transferor authority have not acted as mentioned in the paragraph concerned of section 19A(1)(a) and justifies the statement, or
 - (b) states that the transferor authority have so acted and gives reasons why he should not give a direction under section 19B of the Act;
- and section 19A(4) of the Act shall apply in relation to notices under this regulation as it applies in relation to notices under that section.

Enforcement: directions

9. Where the Secretary of State—
- (a) has served a notice on a transferor authority under section 19A of the Act, or on a successor authority under regulation 8 above, and
 - (b) the time specified in the notice has expired (whether or not he has received a written response to the notice), and
 - (c) it still appears to him that the authority specified in the notice have acted as mentioned in the paragraph concerned of section 19A(1),
- section 19B(2) to (7) of the Act shall apply in relation to that notice as if references to the authority or body were references to the successor authority.

Joint committees

10. Where, by virtue of an order, a joint committee to which section 19 of the Act applies ceases to exist, or to exercise functions over the whole of the area in respect of which it was established, for the purposes of these Regulations the committee shall, on and after the reorganisation date, be treated as a transferor authority.

Small workforces: transitional provision

- 11.—(1) Where during the reorganisation period a successor authority undertake work comprised in an arrangement in relation to which Part III of the Act did not, by reason of section 21 of the Act, apply in relation to the transferor authority in the year ending immediately before the reorganisation date, nothing in that section shall require the authority to comply with the requirements of that Part in respect of that work.
- (2) In relation to a new authority, Part III of the Act shall not apply during the reorganisation period if before the reorganisation date the shadow authority estimate that during that period the new authority will not at any one time employ more than fifteen persons (other than persons excluded by section 21(2) of the Act from the application of section 21 (1)) to be engaged (whether wholly or partly) in carrying out or undertaking construction and maintenance work.