
STATUTORY INSTRUMENTS

2009 No. 3244

The Quality Contracts Schemes (Tendering Requirements) (England) Regulations 2009

Agreements to which section 89(1) of the 1985 Act does not apply

3.—(1) Section 89(1) of the 1985 Act⁽¹⁾ (obligation to invite tenders for subsidised services) does not apply to an agreement providing for service subsidies made by an authority in the circumstances described in paragraph (2).

(2) The circumstances are that—

- (a) a scheme has been made, under which local services⁽²⁾ the same as or similar to those specified in an agreement providing for service subsidies would, on the coming into force of the relevant part of the scheme, be required to be provided under a quality contract;
- (b) a local service provided under an agreement described in sub-paragraph (a) is due, in accordance with the terms of the agreement, to cease to operate no more than twelve months before the coming into force of the relevant quality contract;
- (c) the authority is of the opinion that it is necessary to enter into a further agreement providing for service subsidies in order to secure the provision of a local service to replace the service described in sub-paragraph (b);
- (d) section 89(1) of the 1985 Act would, but for this regulation, apply to the agreement providing for service subsidies described in sub-paragraph (c); and
- (e) the authority is of the opinion that, in the particular circumstances of the case, making an agreement providing for service subsidies without satisfying the requirement specified in section 89(1) of the 1985 Act is the most economic, efficient and effective way to secure the service to be provided under the agreement.

(3) For the purposes of this regulation an agreement providing for service subsidies is an agreement under which a person undertakes to provide a local service on terms which include provision for the making of payments to that person by the authority.

(1) Section 89(1) of the Transport Act 1985 prohibits an authority from making a subsidised service agreement for the provision of local services other than by accepting a tender invited under that section.

(2) By virtue of section 162(3) of the Transport Act 2000, the term “local service” has the meaning given in section 2 of the Transport Act 1985.