This memorandum relates to the Scottish Local Authorities (Tendering) Bill (SP Bill 28) as introduced in the Scottish Parliament on 5 April 2001

SCOTTISH LOCAL AUTHORITIES (TENDERING) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Scottish Local Authorities (Tendering) Bill introduced in the Scottish Parliament on 5 April 2001. It has been prepared by the Scottish Executive to satisfy Rule 9.3.3(c) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Scottish Executive and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 28–EN.

POLICY OBJECTIVES OF THE BILL

2. The Local Government Act 1988 (‘the 1988 Act’) sets a number of requirements for work undertaken within the scope of defined activities, including a requirement for local authorities to seek tenders for such work.

3. The policy objective of the Scottish Ministers in this Bill is to support the maintenance of the present ‘moratorium’ on compulsory competitive tendering (CCT) in respect of some of the ‘defined activities’ set out in section 2 of the Act. These are: the collection of refuse, the cleaning of buildings and other cleaning, catering for purposes of schools and welfare and other catering, the management of sports and leisure facilities, maintenance of ground and the repair and maintenance of vehicles. The moratorium for these defined activities is achieved by an order made under section 2(10) of the 1988 Act.

4. The moratorium on the other defined activities in section 2 of the 1988 Act is maintained by orders made under section 6(3) of the 1988 Act (the most recent being the Local Government Act 1988 (Competition) (Scotland) Amendment Regulations 2000 (SSI 208/2000)). These have the effect of postponing the date on which these activities come within the requirements of Part I of the 1988 Act. It is not possible to use this section to maintain the moratorium on the activities dealt with in this Bill, because they have previously been brought within the requirements of Part I.
5. Orders made under section 2(10) may not have effect after 31 December 2001. The Scottish Ministers now wish this part of the moratorium on tendering to continue after this date, without affecting the other requirements imposed by the Act. Accordingly, they propose (through this Bill) to remove this date reference.

6. The reason for continuing the moratorium is the undertaking by local authorities to continue to implement Best Value in all their activities. Best Value is a new approach to improving public services. It encourages authorities to review their performance through consultation with stakeholders, comparison with similar services and the analysis of performance information. Best Value has no prejudice as to the most effective means of service delivery; what matters is what delivers quality services at an acceptable cost.

7. Best Value has been developed in partnership with local authorities and the Accounts Commission for Scotland. Local Authorities have been implementing Best Value on a voluntary basis since 1997. The present moratorium has been part of this new regime and the Scottish Ministers wish to support its maintenance until the commencement of legislation to support Best Value.

8. In doing so the Scottish Ministers do not wish to remove the present requirements on local authorities under the Act to keep accounts, meet financial objectives and submit financial reports in respect of work undertaken in defined activities. Ministers also wish to maintain the sanctions in sections 13 and 14 of the 1988 Act. Ministers regard these elements of the 1988 Act as a useful and important discipline for local authority operations. They do not wish to make any changes to the 1988 Act which would diminish these requirements and powers.

**ALTERNATIVE APPROACHES**

9. One alternative approach would be to modify various sections of Part I of the 1988 Act to remove the requirement on local authorities to seek tenders for all of the defined activities. The Scottish Ministers are of the view that such legislation would be unnecessarily complicated, and that their policy objectives can be achieved by the more straightforward measure proposed in this Bill. They hold this view particularly in view of their stated intention to repeal CCT when a new statutory regime for Best Value can be put in place.

10. Another alternative approach would be to substitute a later date in section 2(10), rather than simply deleting the date reference altogether. The Scottish Ministers have decided against this option as they would, in future, have to bring forward another Bill if they wished to extend the moratorium beyond whatever future date was chosen. As noted, Ministers wish to allow scope for the further development of Best Value. They think this will be best achieved by removing the time limit in section 2(10) altogether.
CONSULTATION

11. The Scottish Ministers have conducted a number of consultation exercises on the development of their Best Value policies by themselves and also in joint exercises with the Convention of Scottish Local Authorities and the Accounts Commission for Scotland. All of the consultations undertaken on the development of Best Value revealed substantial majorities against the reimplementation or continuation of CCT.

12. The most recent consultation document was published in June 2000. *Best Value in Local Government: The Next Steps* sought views on the development of a statutory framework for Best Value. The Department received 69 responses to this consultation, including 30 from local authorities, the others being from trade unions, private sector representatives and other interested partners. The responses to the consultation reflected broad support for the Executive’s approach to developing Best Value, and specific support for a new duty of Best Value on local authorities.

13. The Bill contains no new policy proposals. As a consequence of this, and the very short and technical nature of its provision, the Executive does not propose any further public consultation on the draft Bill.

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT, ETC.

14. The impact of this Bill on local authorities is dealt with in the body of this Policy Memorandum. There is no impact on equal opportunities, human rights, island communities or sustainable development.
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