STATUTORY INSTRUMENTS

2016 No. 275

PUBLIC PROCUREMENT

The Public Procurement (Amendments, Repeals and Revocations) Regulations 2016

Made - - - -	*11th March 2016*
Laid before Parliament	*17th March 2016*
Coming into force - -	*18th April 2016*

The Minister for the Cabinet Office is designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to public procurement(**2**) and in relation to the combating of late payment in commercial transactions(**3**).

The Minister for the Cabinet Office makes these Regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A(**4**) of Schedule 2 to, that Act.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Minister for the Cabinet Office that it is expedient for certain references to EU instruments to be construed as references to those instruments as amended from time to time.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 and come into force on 18th April 2016.

(2) The amendments, repeals and revocations made by these Regulations have the same extent as the provisions to which they relate.

Amendments to Acts of Parliament

2. Schedule 1 (which contains amendments to Acts of Parliament) has effect.

Amendments to statutory instruments

3. Schedule 2 (which contains amendments to statutory instruments) has effect.

(**1**) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a), and by the European Union (Amendment) Act 2008 (c.7), Part 1 of the Schedule.
(**2**) S.I. 2010/2473.
(**3**) S.I. 2014/2705.
(**4**) Paragraph 1A was inserted by the Legislative and Regulatory Reform Act 2006, section 28, and was amended by the European Union (Amendment) Act 2008, Part 1 of the Schedule and by S.I. 2007/1388.

Repeals and revocations

4. Schedule 3 (which contains repeals and revocations) has effect.

Transitional provisions

5.—(1) Nothing in these Regulations affects any contract award procedure or design contest commenced before 18th April 2016.

(2) For that purpose, a contract award procedure or design contest has been commenced before 18th April 2016 if, before that date—

(a) a contract notice has been sent to the Official Journal in accordance with the Public Contracts Regulations 2015(**5**) in order to invite offers or requests to be selected to tender for, or to negotiate in respect of, a proposed public contract, framework agreement or dynamic purchasing system;

(b) the contracting authority has had published any form of advertisement seeking offers or expressions of interest in a proposed public contract, framework agreement or dynamic purchasing system;

(c) the contracting authority has contacted any economic operator in order to—

(i) seek expressions of interest or offers in respect of a proposed public contract, framework agreement or dynamic purchasing system; or

(ii) respond to an unsolicited expression of interest or offer received from that economic operator in relation to a proposed public contract, framework agreement or dynamic purchasing system; or

(d) a contest notice has been sent to the Official Journal in accordance with the Public Contracts Regulations 2015 for the purpose of regulation 79 of those Regulations.

(3) Nothing in these Regulations affects the award of a specific contract based on a framework agreement where the framework agreement was concluded—

(a) before 18th April 2016; or

(b) on or after that date following a contract award procedure which, by virtue of paragraph (1), was not affected by these Regulations.

(4) Nothing in these Regulations affects the award of a specific contract under a dynamic purchasing system where the system was established—

(a) before 18th April 2016; or

(b) on or after that date following a contract award procedure which, by virtue of paragraph (1), was not affected by these Regulations.

(5) Nothing in these Regulations affects a contract awarded—

(a) before 18th April 2016; or

(b) on or after that date but where the award itself was not, by virtue of paragraphs (1) to (4), affected by these Regulations.

(6) In this regulation, "contracting authority", "design contests", "dynamic purchasing system", "economic operator", "framework agreement", "Official Journal" and "public contract" have the same meanings as in the Public Contracts Regulations 2015.

(7) In so far as this regulation relates to contracts affected by the amendments and modifications made by paragraphs 48 to 50 of Schedule 2—

(**5**) S.I. 2015/102.

(a) the reference in regulation 5(2)(a) to the "Public Contracts Regulations 2015" is a reference to the Utilities Contracts Regulations 2006(**6**);

(b) the references in regulation 5(2)(b) and (c) to the "contracting authority" are references to a "licenced infrastructure provider" or an "incumbent undertaker" (as the case may be) within the meaning of the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013(**7**);

(c) the references in regulation 5(2) to a "proposed public contract" are references to a "proposed contract".

Matthew Hancock
11th March 2016 Minister for the Cabinet Office

(**6**) S.I. 2006/6, amended by S.I. 2007/2157, 3542, 2008/2256, 2848, 2009/3100, 2011/1043, 1441, 1848, 2053, 2012/1659, 2013/610 and 2015/102.
(**7**) S.I. 2013/1582, amended by S.I. 2015/102.

SCHEDULE 1 Regulation 2

Amendments to Acts of Parliament

Greater London Authority Act 1999

1. The Greater London Authority Act 1999(**8**) is amended as follows.

2.—(1) Section 355(**9**) (duties of waste collection authorities etc.) is amended as follows.

(2) Omit subsection (7).

(3) In subsection (8)—

(a) in paragraph (a) for "Public Contracts Regulations 2015" substitute "Public Procurement Regulations";

(b) in paragraph (b) after "notice" insert "or the concession notice (as the case may require)".

3.—(1) Section 356(**10**)(directions by the Mayor) is amended as follows.

(2) Omit subsection (3).

(3) In subsection (3A)—

(a) in paragraph (a) for "Public Contracts Regulations 2015" substitute "Public Procurement Regulations";

(b) in paragraph (b) after "notice" insert "or the concession notice (as the case may require)".

4.—(1) Section 358(**11**) (information about new waste contracts) is amended as follows.

(2) Omit subsection (1).

(3) In subsection (1ZA)—

(a) after "Public Contracts Regulations 2015" insert "or the Utilities Contracts Regulations 2016";

(b) in paragraph (a) after "notice" insert ", a periodic indicative notice or a qualification system notice (as the case may require)".

(4) Omit subsection (1B).

(5) In subsection (1BA)—

(a) for "Public Contracts Regulations 2015" substitute "Public Procurement Regulations";

(b) in paragraph (a) after "notice" insert ", a periodic indicative notice or a qualification system notice (as the case may require)";

(c) in paragraph (b) after "notice" insert "or a concession notice (as the case may require)".

(6) In subsection (2) for "Utilities Contracts Regulations 2006 or the Public Contracts Regulations 2015" substitute "Public Procurement Regulations".

(**8**) 1999 c.29.

(**9**) Section 355 was amended by the Greater London Authority Act 2007 (c.24), section 37; the Localism Act 2011 (c.20), Schedule 23, paragraphs 1, 6(a) and 7 and Schedule 25, Part 33 and by S.I. 2015/102, Schedule 6, paragraphs 2 and 3.

(**10**) Section 356 was amended by the Greater London Authority Act 2007, section 39(5); the Localism Act 2011, Schedule 23, paragraphs 1 and 6(b) and by S.I. 2015/102, Schedule 6, paragraphs 2 and 4.

(**11**) Section 358 was amended by the Greater London Authority Act 2007, section 39(1) to (4); the Localism Act 2011, Schedule 23, paragraphs 1 and 6(e) and by S.I. 2015/102, Schedule 6, paragraphs 2 and 5.

5. In section 359(1)(c)(**12**) (confidential information about waste contracts) for "Utilities Contracts Regulations 2006 or the Public Contracts Regulations 2015" substitute "Public Procurement Regulations".

6.—(1) Section 360(**13**) (interpretation) is amended as follows.

(2) In subsection (2)—

(a) in the definition of "buyer profile" for "Utilities Contracts Regulations 2006 or the Public Contracts Regulations 2015" substitute "Public Contracts Regulations 2015 or the Utilities Contracts Regulations 2016 (as the case may require)";

(b) after the definition of "buyer profile" insert—

""concession notice" has the same meaning as in regulation 31 of the Concession Contracts Regulations 2016,";

(c) at the end of the definition of "contract notice" insert "or regulation 69 of the Utilities Contracts Regulations 2016 (as the case may require)";

(d) after the definition of "the national waste management plan" insert—

""periodic indicative notice" has the same meaning as in regulation 67 of the Utilities Contracts Regulations 2016,";

(e) after the definition of "prior information notice" insert—

""the Public Procurement Regulations" means the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 or the Concession Contracts Regulations 2016 (as the case may require),

"qualification system notice" means a notice under regulation 68 of the Utilities Contracts Regulations 2016,".

(3) Omit subsections (3) and (4).

Equality Act 2010

7. In section 155(3) of the Equality Act 2010(**14**) (power to impose specific duties: supplementary), for the definition of "the Public Sector Directive" substitute—

""the Public Sector Directive" means Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, as amended from time to time.".

Public Services (Social Value) Act 2012

8.—(1) Section 1 of the Public Services (Social Value) Act 2012(**15**) (contracts of relevant authorities) is amended as follows.

(2) In subsection (15), at the appropriate place, insert—

""central government authority" has the same meaning as in the Regulations (even though the Regulations do not apply);";

""sub-central contracting authority" has the same meaning as in the Regulations (even though the Regulations do not apply).".

(**12**) Section 359 was amended by the Greater London Authority Act 2007, section 11(1) and (4) and by S.I. 2015/102, Schedule 6, paragraphs 2 and 6.
(**13**) Section 360 was amended by the Greater London Authority Act 2007, section 39(6) to (8); the Localism Act 2011, Schedule 25, Part 33; S.I. 2006/5, Schedule 7, paragraph 1; S.I. 2011/988, Schedule 4, paragraphs 5(1) and (4); and by S.I. 2015/102, Schedule 6, paragraphs 2 and 7.
(**14**) 2010 c.15.
(**15**) 2012 c.3; section 1 was amended by S.I. 2015/102, Schedule 6, paragraph 8.