Changes to legislation: *The Public Contracts Regulations 2015 is up to date with all changes known to be in force on or before 10 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 102

PUBLIC PROCUREMENT

The Public Contracts Regulations 2015

Made - - - - 4th February 2015

Laid before Parliament 5th February 2015
Coming into force in accordance with regulation 1(2) to (6)

The Minister for the Cabinet Office is designated for the purposes of section 2(2) of the European Communities Act 1972 [F1] in relation to public procurement [F2] and in relation to the combating of late payment in commercial transactions [F3].

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 [F4] 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 provisions of EU instruments to be construed as references to those provisions as amended from time to time.

F1 1972 c.68; section 2(2) was amended by the European Union (Amendment) Act 2008 (c.7), **Part 1** of the Schedule.
F2 S.I. 2010/2473.
F3 S.I. 2014/2705.
F4 Paragraph 1A was inserted by the Legislative and Regulatory Reform Act 2006 (c.51), **section 28**, and was amended by the European Union (Amendment) Act 2008, Part 1 of the Schedule.

PART 1

GENERAL

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Public Contracts Regulations 2015.

Commencement

(2) Except for the provisions mentioned in paragraphs (3) to (6), these Regulations come into force on 26th February 2015.

(3) Paragraphs (1) to (7) of Regulation 22 come into force—

(a) for the purposes of regulations 27(6), 28(9), 34(13), 36(4), 53(3) and 121(2)(a), on 26th February 2015;

[F5(aa) for the purposes of regulation 29(9), on 18th April 2016;**]**

(b) for the purposes of regulation 37(7), on 18th April 2017;

(c) for all other purposes, on 18th October 2018.

(4) Regulations 37(7) and 59(7) come into force on 18th April 2017.

(5) Regulation 61 comes into force on 18th October 2018.

(6) Regulations 106, 108, 110 and 112 come into force—

(a) in relation to contracting authorities which perform their functions on behalf of the Crown, on 26th February 2015;

(b) in relation to other contracting authorities, on 1st April 2015.

Extent and application

(7) Except for **[**F6Part 4 and**]** paragraph 19 of Schedule 6, these Regulations do not extend to Scotland.

(8) **[**F7Subject to paragraph (8A),**]** Part 4 does not apply to a contracting authority if its functions are wholly or mainly—

(a) Northern Ireland devolved functions, that is to say functions which could be conferred by provision included in an Act of the Northern Ireland Assembly made without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998 F8);F9...

(b) Welsh devolved functions, that is to say functions which could be conferred by provision falling within the legislative competence of the National Assembly for Wales (as defined in section 108 of the Government of Wales Act 2006 F10).**[**F11; or

(c) Scottish devolved functions, that is to say functions the exercise of which would be within devolved competence (within the meaning of section 54 of the Scotland Act 1998)**]**

[F12(8A) The following provisions of Part 4 apply to a contracting authority with functions that are wholly or mainly Northern Ireland devolved functions or Welsh devolved functions—

(a) regulation 113A;

(b) regulation 113B;

(c) regulation 114.**]**

[F13(9) **[**F14Except for regulations 113A, 113B and 114,**]** Part 4 does not apply to the National Assembly for Wales Commission.**]**

F5 Reg. 1(3)(aa) inserted (18.4.2016) by The Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 (S.I. 2016/275), reg. 1(1), **Sch. 2 para. 2(2)** (with reg. 5)

F6 Words in reg. 1(7) inserted (18.4.2016) by The Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 (S.I. 2016/275), reg. 1(1), **Sch. 2 para. 2(3)** (with reg. 5)

F7 Words in reg. 1(8) inserted (18.4.2019) by The Public Procurement (Electronic Invoices etc.) Regulations 2019 (S.I. 2019/624), regs. 1(2), **3(2)(a)**

F8 1998 c.47; section 6 was amended by S.I. 2011/1053, **article 6(2)(a)**; section 7 was amended by the Justice (Northern Ireland) Act 2002 (c.26), **section 84(1)** and Schedule 13 and by the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33), **Schedule 4**, paragraph 10; section 7A was inserted by the Northern Ireland (Miscellaneous Provisions) Act 2014, section 6(1) and (3).

F9 Word in reg. 1(8)(a) omitted (18.4.2016) by virtue of The Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 (S.I. 2016/275), reg. 1(1), **Sch. 2 para. 2(4)(a)** (with reg. 5)

F10 2006 c.32; section 108 was amended by S.I. 2011/1053, **article 6(2)(a)**.

F11 Reg. 1(8)(c) and word inserted (18.4.2016) by The Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 (S.I. 2016/275), reg. 1(1), **Sch. 2 para. 2(4)(b)** (with reg. 5)

F12 Reg. 1(8A) inserted (18.4.2019) by The Public Procurement (Electronic Invoices etc.) Regulations 2019 (S.I. 2019/624), regs. 1(2), **3(2)(b)**

F13 Reg. 1(9) inserted (18.4.2016) by The Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 (S.I. 2016/275), reg. 1(1), **Sch. 2 para. 2(5)** (with reg. 5)

F14 Words in reg. 1(9) inserted (18.4.2019) by The Public Procurement (Electronic Invoices etc.) Regulations 2019 (S.I. 2019/624), regs. 1(2), **3(2)(c)**

Definitions

2.—(1) In these Regulations, except where the context otherwise requires,—

"Academy" means a person who is the proprietor, within the meaning of section 579(1) of the Education Act 1996 [F15], of an Academy within the meaning of that section;

"accelerated procedure" means any of the following:—

(a) an open procedure in which the contracting authority has exercised the power conferred by regulation 27(5) to fix a time limit for the receipt of tenders that is shorter than the minimum specified in regulation 27(2);

(b) a restricted procedure in which the contracting authority has exercised the power conferred by regulation 28(10) to fix a time limit—

(i) for the receipt of requests to participate that is shorter than the minimum specified in regulation 28(2), or

(ii) for the receipt of tenders that is shorter than the minimum specified in regulation 28(5);

(c) a competitive procedure with negotiation in which the contracting authority has exercised the power conferred by regulation 29(10) to fix a time limit—

(i) for the receipt of requests to participate that is shorter than the minimum specified in regulation 29(4); or

(ii) for the receipt of initial tenders that is shorter than the minimum specified in regulation 29(5).

"ancillary purchasing activities" means activities consisting of the provision of support to purchasing activities, in particular in the following forms:—

(a) technical infrastructure enabling contracting authorities to award public contracts or to conclude framework agreements for works, supplies or services;

(b) advice on the conduct or design of public procurement procedures;

(c) preparation and management of procurement procedures on behalf and for the account of the contracting authority concerned;

"bodies governed by public law" means bodies that have all of the following characteristics:—

(a) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;

(b) they have legal personality; and

(c) they have any of the following characteristics:—

(i) they are financed, for the most part, by the State, regional or local authorities, or by other bodies governed by public law;

(ii) they are subject to management supervision by those authorities or bodies; or

(iii) they have an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law;

"call for competition" means a call for competition made in a manner required or permitted by regulation 26(8) to (9) or, where relevant, one of the notices referred to in regulation 75(1) or a contest notice;

"candidate" means an economic operator that has sought an invitation or has been invited to take part in a restricted procedure, a competitive procedure with negotiation, a negotiated procedure without prior publication, a competitive dialogue or an innovation partnership;

"central government authorities" means the Crown and all the bodies listed in Schedule 1 (whether or not they perform their functions on behalf of the Crown), but does not include Her Majesty in her private capacity;

"central purchasing body" means a contracting authority which provides centralised purchasing activities and which may also provide ancillary purchasing activities;

"centralised purchasing activities" has the meaning given by regulation 37(10);

F16 . . . . . .

"common technical specification" means a technical specification in the field of information and communication technology laid down in accordance with Articles 13 and 14 of Regulation (EU) No 1025/2012 of the European Parliament and of the Council F17**[**F18as it has effect in EU law**]** as amended from time to time;

"contest notice" means the notice referred to in regulation 79(1);

"contract notice" means the notice referred to in regulation 49 or, where relevant, 75(1)(a);

"contracting authorities" means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity;

"Contracts Finder" means a web-based portal provided for the purposes of Part 4 by or on behalf of the Cabinet Office;

[F19"covered by regulation 3(2)", in relation to an element, a part of a contract, or procurement, means that regulation 3(2)—

(a) applies to that element, part or procurement; or

(b) would do so if this Part applied;**]**

"CPV" means the Common Procurement Vocabulary as adopted by Regulation (EC) No 2195/2002 of the European Parliament and of the Council F20 as amended from time to time;

"Defence and Security Regulations" means the Defence and Security Public Contracts Regulations 2011 F21;

"design contests" means those procedures which enable a contracting authority to acquire, mainly in the fields of town and country planning, architecture and engineering or data processing, a plan or design selected by a jury after being put out to competition with or without the award of prizes;

[F22"devolved Northern Ireland authority" means a contracting authority whose functions are wholly or mainly functions which could be conferred by provision included in an Act of the Northern Ireland Assembly made without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998);

"devolved Welsh authority" has the meaning given by section 157A of the Government of Wales Act 2006;**]**

"disabled", in relation to a person, means a disabled person within the meaning of the Equality Act 2010 **F23** and, in relation to a worker, means a disabled person who is a worker;

"dynamic purchasing system" means the system referred to in regulation 34;

"economic operator" means any person or public entity or group of such persons and entities, including any temporary association of undertakings, which offers the execution of works or a work, the supply of products or the provision of services on the market;

[F24"electronic document" has the meaning given in Article 3(35) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market;**]**

"electronic means" means electronic equipment for the processing (including digital compression) and storage of data which is transmitted, conveyed and received by wire, by radio, by optical means or by any other electromagnetic means;

[F25"electronic signature" has the meaning given in Article 3(10) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market;**]**

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F26 . . . . . .

"European standard" means a standard adopted by a European standardisation organisation and made available to the general public;

"European Technical Assessment" means the documented assessment of the performance of a construction product, in relation to its essential characteristics, in accordance with the relevant European Assessment Document as defined in point 12 of Article 2 of Regulation (EU) No 305/2011 of the European Parliament and of the Council **F27** as amended from time to time;

"framework agreement" has the meaning given by regulation 33(2);

"GPA" means the Agreement on Government Procurement **[F28**signed at Marrakesh on 15th April 1994, as amended on or before**][F29**16th May 2021**]**;

[F30"GPA party" means any country, state or separate customs territory that is—

(a) listed in Schedule 1A; or

(b) a member State of the EU;**]**

"innovation" means the implementation of a new or significantly improved product, service or process, including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations, including with the purpose of helping to solve societal challenges or to support **F31**... sustainable and inclusive growth;

"international standard" means a standard adopted by an international standardisation organisation and made available to the general public;

"invitation to confirm interest" means, except in regulation 31(18) **[F32**and (19)**]**, an invitation which a contracting authority sends in order to comply with regulation 54(2);

"label" means any document, certificate or attestation confirming that the works, products, services, processes or procedures in question meet certain requirements;

"label requirements" means the requirements to be met by the works, products, services, processes or procedures in order to obtain the label concerned;