

SCHEDULE

TRANSITIONAL AND SAVINGS PROVISIONS

PART 4

PROVISIONS COMMENCED 12 MONTHS AFTER IP COMPLETION DAY

Saving in relation to procurements commenced before regulations 5, 7 and 9 come into force

10. The amendments made by regulations 5, 7 and 9 do not affect any procurement commenced before the date on which those amendments come into force (“the second commencement date”).

11. For the purposes of this Part, a procurement has been commenced before the second commencement date if, before that date—

- (a) a notice has been submitted to the UK e-notification service in accordance with applicable Procurement Regulations in order to—
 - (i) invite offers or requests to be selected to tender for or to negotiate in respect of a proposed contract, framework agreement or dynamic purchasing system, or
 - (ii) publicise an intention to hold a design contest,
- (b) the contracting authority or utility has had published any form of advertisement seeking offers or expressions of interest in a proposed contract, framework agreement or dynamic purchasing system, or
- (c) the contracting authority or utility has contacted any economic operator in order to—
 - (i) seek expressions of interest or offers in respect of a proposed 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 contract, framework agreement or dynamic purchasing system.

12. For the purposes of this Part, a procurement covers the whole of the procedures which stem from that commencement.

13. Accordingly, for example, if a contract notice in relation to a proposed framework agreement under the Public Contracts (Scotland) Regulations 2015 has, before the second commencement date, been submitted as described in paragraph 11(a), paragraph 10 applies to the award of any contracts based on that framework agreement regardless of whether the relevant specific procedure for the award of any such contract under regulation 34(6) to (10) of the Public Contracts (Scotland) Regulations 2015 had itself been commenced before the second commencement date.

14. Procedures taken for the purpose of modifying a contract or framework agreement are not to be regarded, for the purposes of paragraph 12, as stemming from the commencement of the procurement from which the award of that contract or framework agreement had itself stemmed.

15. A procedure commenced as described in paragraph 11(a)(i), (b) or (c) is not to be regarded, for the purposes of paragraph 12, as stemming from the commencement of any design contest that had previously been held in relation to the subject-matter of the procurement.