
STATUTORY INSTRUMENTS

2016 No. 273

The Concession Contracts Regulations 2016

PART 1 **E+W+N.I.**

General

Interpretation **E+W+N.I.**

2.—(1) In these Regulations—

“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;

“candidate” means an economic operator that has sought an invitation or has been invited to take part in a concession contract award procedure;

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...

“concessionaire” means an economic operator that has been awarded a concession contract;

“concession award notice” means the notice referred to in regulation 32;

“concession contract” has the meaning given by regulation 3;

“concession document” means any document produced or referred to by the contracting authority or utility to describe or determine elements of the concession contract or the concession contract award procedure, including the concession notice, the technical and functional requirements, proposed conditions of concession contract, formats for the presentation of documents by candidates and tenderers, information on generally applicable obligations and any additional documents;

“concession notice” has the meaning given by regulation 6;

“Concessions Directive” means Directive 2014/23/EU of the European Parliament and of the Council ^{M1};

“contracting authorities” has the meaning given by regulation 4;

[^{F2}“covered by regulation 7(3)”, in relation to an activity, an element, a part of a contract, or procurement, means that regulation 7(3)—

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- (a) applies to that activity, element, part or procurement, or
- (b) would do so if these Regulations applied;]

“CPV” means the Common Procurement Vocabulary as adopted by Regulation (EC) No 2195/2002 of the European Parliament and of the Council ^{M2} as amended from time to time;

[^{F3}“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;]

“Defence and Security Regulations” means the Defence and Security Public Contracts Regulations 2011 ^{M3};

“disabled”, in relation to a person, means a disabled person within the meaning of the Equality Act 2010 ^{M4} and, in relation to a worker, means a disabled person who is a worker;

“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;

“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;

“exclusive right” means a right granted by a competent authority by means of any law, regulation or published administrative provision ^{F4} ..., the effect of which is to limit the exercise of an activity to a single economic operator and which substantially affects the ability of other economic operators to carry out such an activity;

“execution of works” means any of the following—

- (a) the execution, or both the design and execution, of works related to one of the activities listed in Schedule 1;
- (b) the execution, or both the design and execution, of a work;
- (c) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority or utility exercising a decisive influence on the type or design of the work;

[^{F5}“GPA” means the Agreement on Government Procurement [^{F6}signed at Marrakesh on 15th April 1994, as amended on or before [^{F7}30th October 2023]];]

[^{F8}“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;]

“legal person” means a person, whether governed by private or public law, other than a natural person;

“Official Journal” means the Official Journal of the European Union;

“prior information notice” means the notice referred to in regulation 31(3);

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...

“services concession contract” has the meaning given by regulation 3(3);

“tenderer” means an economic operator that has submitted a tender;

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“TFEU” means the Treaty on the Functioning of the European Union ^{M5};

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...

“utilities” has the meaning given by regulation 5;

[^{F11}the UK e-notification service” has the meaning mentioned in regulation 33(5), and references (in whatever terms) to the submission of notices to that service are to be construed in accordance with the provisions applied (and adapted) by regulation 33(5);]

“a work” means the outcome of building or civil engineering works taken as a whole which is sufficient in itself to fulfil an economic or technical function; but “works” is to be interpreted in accordance with paragraph (2);

“working day” means a day other than a Saturday, Sunday, Christmas Day, Good Friday or bank holiday within the meaning of the Banking and Financial Dealings Act 1971 ^{M6};

“works concession contract” has the meaning given by regulation 3(2); and

“in writing” means any expression consisting of words or figures which can be read, reproduced and subsequently communicated, including information which is transmitted and stored by electronic means.

(2) Any other expression used both in these Regulations (other than in Part 5) and in the Concessions Directive has the meaning that it bears in that Directive.

(3) In these Regulations (except regulation 33(3)), any reference to a period of time, however expressed, is to be interpreted subject to the requirement that where the period—

- (a) is to be calculated by counting forwards in time from a given date or event, and
- (b) would (but for this paragraph) have ended on a day which is not a working day,

the period is to end at the end of the next working day.

(4) Any reference in Part 3 to a period of time, however expressed, is to be interpreted subject to the following additional requirements—

- (a) the period must include at least 2 working days;
- (b) where the period is to be calculated from the moment at which an action takes place or other event occurs, the day during which that action takes place or that event occurs is not to be counted in the calculation of that period.

Textual Amendments

- F1** Words in [reg. 2\(1\)](#) omitted (31.12.2020) by virtue of [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(2\)\(a\)](#) (with [Sch. paras. 3-5](#))
- F2** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(2\)\(b\)](#) (with [Sch. paras. 3-5](#))
- F3** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(2\)\(c\)](#) (with [Sch. paras. 3-5](#))
- F4** Words in [reg. 2\(1\)](#) omitted (1.3.2024) by virtue of [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Provision\) Regulations 2024 \(S.I. 2024/80\)](#), [reg. 1\(2\), Sch. para. 3\(2\)\(a\)](#)
- F5** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(2\)\(e\)](#) (with [Sch. paras. 3-5](#))
- F6** Words in [reg. 2\(1\)](#) substituted (11.6.2021) by [The Public Procurement \(Agreement on Government Procurement\) \(Amendment\) Regulations 2021 \(S.I. 2021/573\)](#), [regs. 1\(1\), 3\(2\)\(a\)](#)
- F7** Words in [reg. 2\(1\)](#) substituted (28.11.2023) by [The Public Procurement \(Agreement on Government Procurement\) \(Amendment\) Regulations 2023 \(S.I. 2023/1169\)](#), [regs. 1\(1\), 3\(2\)](#)
- F8** Words in [reg. 2\(1\)](#) inserted (11.6.2021) by [The Public Procurement \(Agreement on Government Procurement\) \(Amendment\) Regulations 2021 \(S.I. 2021/573\)](#), [regs. 1\(1\), 3\(2\)\(b\)](#)

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- F9** Words in reg. 2(1) omitted (1.3.2024) by virtue of [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Provision\) Regulations 2024 \(S.I. 2024/80\)](#), reg. 1(2), **Sch. para. 3(2)(b)**
- F10** Words in reg. 2(1) omitted (31.12.2020) by virtue of [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **8(2)(g)** (with Sch. paras. 3-5)
- F11** Words in reg. 2(1) inserted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **8(2)(h)** (with Sch. paras. 3-5)

Marginal Citations

- M1** OJ No L 94, 28.3.2014, p1, last amended by [Commission Delegated Regulation \(EU\) 2015/2172](#) (OJ No L 307, 25.11.2015, p9).
- M2** OJ No L 340, 16.12.2002, p1, last amended by [Regulation \(EC\) No 596/2009](#) of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p14).
- M3** [S.I. 2011/1848](#), amended by [S.I. 2011/2053](#), [2013/1431](#) and [2015/102](#).
- M4** [2010 c.15](#).
- M5** OJ No C 115, 9.5.2008, p47.
- M6** [1971 c.80](#).

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 54 Sch. 11 para. 6](#)
- reg. 2(1) word inserted by [S.I. 2019/560 reg. 7\(2\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 2(1) words inserted by [S.I. 2019/560 reg. 7\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 2(1) words inserted by [S.I. 2019/560 reg. 7\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 2(1) words inserted by [S.I. 2019/560 reg. 7\(2\)\(e\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 2(1) words inserted by [S.I. 2019/560 reg. 7\(2\)\(f\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 2(1) words inserted by [S.I. 2019/560 reg. 7\(2\)\(h\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 2(1) words omitted by [S.I. 2019/560 reg. 7\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 2(1) words omitted by [S.I. 2019/560 reg. 7\(2\)\(g\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 8(5) words omitted by [S.I. 2023/506 reg. 3\(2\)](#) (This amendment not applied to legislation.gov.uk. S.I. 2023/506 revoked before coming into force by The Public Procurement (International Trade Agreements) (Amendment) (Wales) (No. 2) Regulations 2023 (S.I. 2023/567), regs. 1(2), 6)
- reg. 9(9A) words omitted by [S.I. 2023/506 reg. 3\(3\)](#) (This amendment not applied to legislation.gov.uk. S.I. 2023/506 revoked before coming into force by The Public Procurement (International Trade Agreements) (Amendment) (Wales) (No. 2) Regulations 2023 (S.I. 2023/567), regs. 1(2), 6)
- reg. 10(11)(d)(i)(aa) words substituted by [S.I. 2019/560 reg. 7\(7\)\(e\)\(i\)\(aa\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 10(11)(d)(i)(bb) words substituted by [S.I. 2019/560 reg. 7\(7\)\(e\)\(i\)\(bb\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))