

SCOTTISH STATUTORY INSTRUMENTS

**2016 No. 49**

**The Utilities Contracts (Scotland) Regulations 2016**

**PART 2**

**RULES APPLICABLE TO CONTRACTS**

**CHAPTER 1**

**PROCEDURES**

**Negotiated procedure with prior call for competition**

**45.**—(1) In a negotiated procedure with a prior call for competition, a utility must permit any economic operator to submit a request to participate in response to a call for competition within the time period set by the utility in accordance with this regulation.

(2) A request by an economic operator referred to in paragraph (1) must be accompanied by the information for qualitative selection that is requested by the utility.

(3) The minimum time period for receipt of requests to participate, other than in exceptional circumstances, shall be 30 days from the date on which—

(a) the contract notice was [<sup>F1</sup>submitted] for publication; <sup>F2</sup>...

<sup>F2</sup>(b) .....

and shall, in any event, not be less than 15 days from such date.

(4) Only those economic operators invited to do so by the utility following its assessment of the information provided may participate in the negotiations.

(5) A utility may limit the number of suitable candidates to be invited to participate in the procedure in accordance with regulation 76(2) (criteria for qualitative selection).

(6) The minimum time limit for the receipt of tenders may be set by agreement between the utility and the economic operators invited to tender, provided that all such economic operators have the same time to prepare and submit their tenders.

(7) If there is no agreement made further to paragraph (6), the minimum time period for the receipt of tenders shall be 10 days from the date on which the invitation to tender is sent.

**Textual Amendments**

**F1** Word in reg. 45(3)(a) substituted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **6(30)** (with sch. paras. 1-5)

**F2** [Reg. 45\(3\)\(b\)](#) and word omitted (30.5.2023) by virtue of [The Public Procurement \(Miscellaneous Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/124\)](#), regs. 2, **5(9)** (with reg. 3)

**Commencement Information**

**I1** [Reg. 45](#) in force at 18.4.2016, see [reg. 1\(2\)](#)

**Changes to legislation:**

There are outstanding changes not yet made by the [legislation.gov.uk](http://legislation.gov.uk) editorial team to The Utilities Contracts (Scotland) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- Regulations applied by [2023 c. 54 s. 119\(2\)\(b\)](#)
- Regulations power to amend conferred by [2023 c. 54 s. 115\(3\)\(4\)](#)
- [reg. 45\(3\)\(a\)](#) word substituted by [S.S.I. 2019/112 reg. 5\(30\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(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):

- Pt. 5A inserted by [S.S.I. 2019/112 reg. 5\(61\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- [reg. 3\(2\)-\(2C\)](#) substituted for [reg. 3\(2\)](#) by [S.S.I. 2019/112 reg. 5\(3\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- [reg. 15A](#) inserted by [S.S.I. 2019/112 reg. 5\(7\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- [reg. 20\(1\)\(d\)\(i\)\(aa\)](#) words substituted by [S.S.I. 2019/112 reg. 5\(11\)\(a\)\(i\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- [reg. 20\(1\)\(d\)\(i\)\(bb\)](#) words substituted by [S.S.I. 2019/112 reg. 5\(11\)\(a\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- [reg. 38A](#) inserted by [S.S.I. 2019/112 reg. 5\(26\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- [reg. 41\(1\) reg. 41](#) renumbered as [reg. 41\(1\)](#) by [S.S.I. 2019/112 reg. 5\(27\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- [reg. 41\(1\)](#) words omitted by [S.S.I. 2019/112 reg. 5\(27\)\(b\)\(i\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). [Reg. 5\(27\)\(b\)\(i\)](#) substituted by S.S.I. 2019/114, [reg. 2\(5\)\(a\)\(ii\)\(aa\)](#) and then S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- [reg. 41\(1\)](#) words substituted by [S.S.I. 2019/112 reg. 5\(27\)\(b\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). [Reg. 5\(27\)\(b\)\(ii\)](#) omitted by virtue of S.S.I. 2019/114, [reg. 2\(5\)\(a\)\(ii\)\(bb\)](#))
- [reg. 41\(1\)](#) words substituted by [S.S.I. 2019/112 reg. 5\(27\)\(b\)\(iii\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). [Reg. 5\(27\)\(b\)\(iii\)](#) substituted by S.S.I. 2019/114, [reg. 2\(5\)\(a\)\(ii\)\(cc\)](#) and then S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- [reg. 41\(1\)](#) words substituted by S.S.I. 2019/112, [reg. 5\(27\)\(b\)\(i\)](#) (as substituted) by [S.S.I. 2019/114 reg. 2\(5\)\(a\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). S.S.I. 2019/114 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(b))
- [reg. 41\(1\)](#) words substituted by S.S.I. 2019/112, [reg. 5\(27\)\(b\)\(iii\)](#) (as substituted) by [S.S.I. 2019/114 reg. 2\(5\)\(a\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk).

S.S.I. 2019/114 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(b))

- reg. 41(2) inserted by [S.S.I. 2019/112 reg. 5\(27\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 50(25)(25A) substituted for reg. 50(25) by [S.S.I. 2019/112 reg. 5\(33\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 66(2A) inserted by [S.S.I. 2019/112 reg. 5\(38\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 69(5)(6) inserted by [S.S.I. 2019/112 reg. 5\(41\)\(f\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 74(6A)-(6C) inserted by [S.S.I. 2019/112 reg. 5\(44\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 100(3)(3A) substituted for reg. 100(3) by [S.S.I. 2019/112 reg. 5\(58\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 100(4A) inserted by S.S.I. 2019/112, reg. 5(58)(da) (as substituted) by [S.S.I. 2019/114 reg. 2\(5\)\(c\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/114 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(b))