

TRANSPOSITION NOTE

The Concession Contracts (Scotland) Regulations 2016 (“the Regulations”) bring into force provisions to comply with the obligations of the relevant Articles of Directive 2014/23/EU of the European Parliament and of the Council on procurement for the award of concession contracts in Scotland.

The table below sets out how the Regulations transpose the relevant Articles of the Directive.

Article	Requirement	Provision
TITLE I: Subject Matter, Scope, Principles and Definitions Chapter I: Scope, general principles and definitions <i>Section I: Subject-matter, Scope, General Principles, Definitions and Thresholds</i>		
Article 1	Subject matter and scope	Regulation 7
Article 2	Principle of free administration by public authorities	No transposition required
Article 3	Principle of equal treatment, non-discrimination and transparency	Regulation 28
Article 4	Freedom to define services of general economic interest	No transposition required
Article 5	Definitions	Regulations 2-6
Article 6	Contracting authorities	Regulation 2 and 4
Article 7	Contracting entities	Regulation 2 and 5
Article 8	Threshold and methods for calculating the estimated value of concessions	Regulation 8
Article 9	Revision of the threshold	No transposition required
<i>Section II: Exclusions</i>		
Article 10	Exclusions applicable to concessions awarded by contracting authorities and contracting entities	Regulation 9 Regulation 10 Regulation 11 Regulation 12
Article 11	Specific exclusions in the field of electronic communications	Regulation 13
Article 12	Specific exclusions in the field of water	Regulation 14

Article 13	Concessions awarded to an affiliated undertaking	Regulation 15
Article 14	Concessions awarded to a joint venture or to a contracting entity forming part of a joint venture	Regulation 16
Article 15	Notification of information by contracting entities	Regulation 17
Article 16	Exclusion of activities which are directly exposed to competition	Regulation 18
Article 17	Concessions between entities within the public sector	Regulation 19
<i>Section III: General Provisions</i>		
Article 18	Duration of the concession contract	Regulation 20
Article 19	Social and other specific services	Regulation 21
Article 20	Mixed procurement	Regulation 22
Article 21	Mixed procurement involving defence or security aspects	Regulation 23
Article 22	Contracts covering both activities referred to in Annex II and other activities	Regulation 24
Article 23	Concessions covering both activities referred to in Annex II and activities involving defence or security	Regulation 25
<i>Section IV: Specific Situations</i>		
Article 24	Reserved concessions	Regulation 26
Article 25	Research and development services	Regulation 27
Chapter II: Principles		
Article 26	Economic operators	Regulation 29
Article 27	Nomenclatures	Regulation 30
Article 28	Confidentiality	Regulation 31
Article 29	Rules applicable to communication	Regulation 32

**TITLE II: Rules on the Award of Concessions:
General Principles and Procedural Guarantees**

Chapter I: General Principles

Article 30	General Principles	Regulation 28 Regulation 40(10)(a)
Article 31	Concession notices	Regulation 33
Article 32	Concession award notices	Regulation 34
Article 33	Form and manner of publication of notices	Regulation 35
Article 34	Electronic availability of concession documents	Regulation 36
Article 35	Combating corruption and preventing conflicts of interest	Regulation 37

Chapter II: Procedural Guarantees

Article 36	Technical and functional requirements	Regulation 39
Article 37	Procedural guarantees	Regulation 40
Article 38	Selection of and qualitative assessment of candidates	Regulation 41
Article 39	Time limits for receipt of applications and tenders for the concession	Regulation 42
Article 40	Provision of information to candidates and tenderers	Regulation 43
Article 41	Award criteria	Regulation 44

TITLE III: Rules on Performance of Concessions

Article 42	Subcontracting	Regulation 45
Article 43	Modification of contracts during their term	Regulation 46
Article 44	Termination of concessions	Regulation 47
Article 45	Monitoring and reporting	Regulation 60 Regulation 61

TITLE IV: Amendments of Directives 89/665/EEC and 92/13/EEC

Article 46	Amendments to Directive 89/665/EEC	Regulations 48-59
Article 47	Amendments to Directive 92/13/EEC	Regulations 48-59
TITLE V: Delegated Powers, Implementing Powers and Final Provisions		
Article 48	Exercise of the delegation	No transposition required.
Article 49	Urgency procedure	No transposition required.
Article 50	Committee procedure	No transposition required.
Article 51	Transposition provisions	Regulation 1
Article 52	Transitional provisions	No transposition required
Article 53	Monitoring and reporting by the Committee	No transposition required
Article 54	Entry into force	No transposition required.
Article 55	Addresses	No transposition required.
Annexes		
Annex I	List of the activities referred to in point (7) of Article 5	Schedule 2
Annex II	Activities exercised by contracting entities as referred to in Article 7	Schedule 3
Annex III	List of legal acts of the Union referred to in point (B) of article 7 (2)	Cross reference to the Concession Contracts Directive in- -regulation 5(3)(b)
Annex IV	Services referred to in Article 19	Schedule 4
Annex V	Information to be included in concession notices referred to in Article 31	Cross reference to Concession Contracts Directive in- regulation 33(2)
Annex VI	Information to be included in prior information notices concerning concessions for social and other specific services, as referred to in Article 31(3)	Cross reference to Concession Contracts Directive in -regulation 33(4)

Annex VII	Information to be included in concession award notices, as referred to in Article 32	Cross reference to Concession Contracts Directive in - regulation 34(3)
Annex VIII	Information to be included in concession award notices concerning concessions for social and other specific services, as referred to in Article 32	Cross reference to the Concession Contracts Directive in -regulation 34(3)
Annex IX	Features concerning publication	Regulation 35
Annex X	List of international social and environmental conventions referred to in article 30 (3)	Regulation 41 and Schedule 4
Annex XI	Information to be included in notices of modifications of a concession during its term according to article 43	Cross reference to the Concession Contracts Directive in- regulation 46(4)