
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 65

The Concession Contracts (Scotland) Regulations 2016

PART 2

SCOPE AND PRINCIPLES

CHAPTER 2

EXCLUSIONS

Exclusions: Specific service contracts

12.—(1) These Regulations do not apply to procurement for the award of a concession contract—

- (a) for the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or of any estate, right, servitude or other interest in or over such land, buildings or property;
- (b) by an audio-visual or radio media services provider, for the acquisition, development production or co-production of programme material intended for audio-visual media services or radio media services;
- (c) to an audio-visual or radio media services provider, for broadcasting time or programme provision;
- (d) for arbitration or conciliation services;
- (e) for any of the following legal services—
 - (i) legal representation of a client by a lawyer ^{F1}... in—
 - (aa) an arbitration or conciliation proceedings held in [^{F2}the United Kingdom, another] country or before an international arbitration or conciliation instance;
 - (bb) judicial proceedings before the courts, tribunals or public authorities of [^{F3}the United Kingdom or another] country or before international courts, tribunals or institutions;
 - (ii) legal advice given by a lawyer ^{F4}...—
 - (aa) in preparation of any proceedings referred to in paragraph (i), or
 - (bb) if there is a tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings;
 - (iii) document certification or authentication services which must be provided by a notary public;
 - (iv) legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court or tribunal ^{F5}... or are designated by law to carry out specific tasks under the supervision of such tribunals or courts; or

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- (v) other legal services which ^{F6}... are connected, even occasionally, with the exercise of official authority;
 - (f) for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of [Directive 2004/39/EC](#) of the European Parliament and of the Council on markets in financial instruments amending Council Directives [85/611/EEC](#) and [93/6/EEC](#) and [Directive 2000/12/EC](#) of the European Parliament and of the Council and repealing Council [Directive 93/22/EEC](#)(1) ;
 - (g) for central bank services;
 - (h) for operations conducted with the European Financial Stability Facility and the European Stability Mechanism;
 - (i) for loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments;
 - (j) for civil defence, civil protection or danger prevention services that are provided by non-profit organisations or associations, and which are specified under CPV Codes 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and 85143000-3 except patient transport ambulance services;
 - (k) air transport services based on the [^{F7}economic operator’s status as a qualifying air carrier] within the meaning of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community(2);
 - (l) public passenger transport services within the meaning of [^{F8}the Public Service Obligations in Transport Regulations 2023, except where such services are provided by means of a motor vehicle, other than a tram, which is adapted to carry not more than sixteen passengers];
 - (m) for political campaign services which are specified under CPV Codes 79341400-0, 92111230-3 and 92111240-6, when awarded by a political party in the context of an election campaign;
 - (n) lottery services which are covered by CPV Code 92351100-7 and awarded to an economic operator on the basis of an exclusive right granted otherwise than as described in regulation 5(2) (meaning of “utility”); or
 - (o) by a utility for the pursuit of activities in a [^{F9}country other than the United Kingdom], in conditions not involving the physical use of a network or geographical area within the [^{F10}United Kingdom].
- (2) In this regulation—
- (a) “audio-visual media services” has the meaning given by Article 1(1)(a) of [Directive 2010/13/EU](#) of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in member States concerning the provision of audio-visual media services(3);
 - ^{F11}(aa) “lawyer” means a person acting as an advocate, barrister or solicitor in any part of the United Kingdom or Gibraltar,]
 - (b) “media services providers” has the meaning given by Article 1(1)(d) of that Directive;
 - (c) “programme” and “programme material” have the meaning given by Article 1(1)(b) of that Directive but also include radio programmes and radio programme material.

(1) OJ L 145,30.4.2004, p.1.

(2) OJ L 293, 31.10.2008, p. 3.

(3) OJ L 95, 15.4.2010, p.1.

Textual Amendments

- F1** Words in [reg. 12\(1\)\(e\)\(i\)](#) omitted (31.12.2020) by virtue of [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **8(10)(a)(i)(aa)** (with sch. paras. 1-5)
- F2** Words in [reg. 12\(1\)\(e\)\(i\)\(aa\)](#) substituted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **8(10)(a)(i)(bb)** (with sch. paras. 1-5)
- F3** Words in [reg. 12\(1\)\(e\)\(i\)\(bb\)](#) substituted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **8(10)(a)(i)(cc)** (with sch. paras. 1-5)
- F4** Words in [reg. 12\(1\)\(e\)\(ii\)](#) omitted (31.12.2020) by virtue of [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **8(10)(a)(ii)** (with sch. paras. 1-5)
- F5** Words in [reg. 12\(1\)\(e\)\(iv\)](#) omitted (31.12.2020) by virtue of [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **8(10)(a)(iii)** (with sch. paras. 1-5)
- F6** Words in [reg. 12\(1\)\(e\)\(v\)](#) omitted (31.12.2020) by virtue of [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **8(10)(a)(iv)** (with sch. paras. 1-5)
- F7** Words in [reg. 12\(1\)\(k\)](#) substituted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **8(10)(b)** (with sch. paras. 1-5)
- F8** Words in [reg. 12\(1\)\(l\)](#) substituted (25.12.2023) by [The Public Service Obligations in Transport Regulations 2023 \(S.I. 2023/1369\)](#), reg. 1(1), **Sch. 3 para. 6(2)** (with reg. 28)
- F9** Words in [reg. 12\(1\)\(o\)](#) substituted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **8(10)(c)(i)** (with sch. paras. 1-5)
- F10** Words in [reg. 12\(1\)\(o\)](#) substituted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **8(10)(c)(ii)** (with sch. paras. 1-5)
- F11** [Reg. 12\(2\)\(aa\)](#) inserted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **8(10)(d)** (with sch. paras. 1-5)

Commencement Information

- I1** [Reg. 12](#) in force at 18.4.2016, see [reg. 1\(2\)](#)

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Changes and effects yet to be applied to :

- Regulations applied by [2023 c. 54 s. 119\(2\)\(c\)](#)
- Regulations power to amend conferred by [2023 c. 54 s. 115\(3\)\(4\)](#)
- reg. 12(1)(e)(v) words substituted by [S.S.I. 2019/112 reg. 7\(10\)\(a\)\(iii\)](#) (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. 12(1)(e)(iv) words substituted by [S.S.I. 2019/112 reg. 7\(10\)\(a\)\(iii\)](#) (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. 12(1)(o) words substituted by [S.S.I. 2019/112 reg. 7\(10\)\(b\)\(i\)](#) (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. 12(1)(o) words substituted by [S.S.I. 2019/112 reg. 7\(10\)\(b\)\(ii\)](#) (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))

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. 7(2)-(5) substituted for reg. 7(2) by [S.S.I. 2019/112 reg. 7\(4\)](#) (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. 8A inserted by [S.S.I. 2019/112 reg. 7\(6\)](#) (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. 12(1)(e)(i)(aa) words substituted by [S.S.I. 2019/112 reg. 7\(10\)\(a\)\(i\)](#) (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. 12(1)(e)(i)(bb) words substituted by [S.S.I. 2019/112 reg. 7\(10\)\(a\)\(ii\)](#) (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. 33(2)(a)(i)-(iii) and words inserted by [S.S.I. 2019/112 reg. 7\(19\)\(a\)](#) (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. 34(4) inserted by [S.S.I. 2019/112 reg. 7\(20\)\(c\)](#) (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. 35(5)(6) inserted by [S.S.I. 2019/112 reg. 7\(21\)\(e\)](#) (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. 40(19)-(21) inserted by [S.S.I. 2019/112 reg. 7\(23\)\(c\)](#) (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. 46(4)(a)-(c) and words inserted by [S.S.I. 2019/112 reg. 7\(26\)\(b\)](#) (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. 51(3)(3A) substituted for reg. 51(3) by [S.S.I. 2019/112 reg. 7\(28\)\(c\)](#) (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. 51(4A) inserted by S.S.I. 2019/112, reg. 7(28)(da) (as substituted) by [S.S.I. 2019/114 reg. 2\(7\)\(b\)](#) (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))
- reg. 60ZA inserted by [S.S.I. 2019/112 reg. 7\(31\)](#) (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))