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SCOTTISH STATUTORY INSTRUMENTS

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**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 within the meaning of Article 1 of Council [Directive 77/249/EEC](#) to facilitate the effective exercise by lawyers of freedom to provide services<sup>(1)</sup> in—
    - (aa) an arbitration or conciliation proceedings held in a member State, a third country or before an international arbitration or conciliation instance;
    - (bb) judicial proceedings before the courts, tribunals or public authorities of a member State or a third country or before international courts, tribunals or institutions;
  - (ii) legal advice given by a lawyer within the meaning of Article 1 of Council [Directive 77/249/EEC](#)—
    - (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;

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<sup>(1)</sup> OJ L 78, 26.3.1977, p.17, last amended by Council [Directive 2013/25/EU](#) (OJ L 158, 10.6.2013, p.368).

- (iv) legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court or tribunal in the member State concerned or are designated by law to carry out specific tasks under the supervision of such tribunals or courts; or
  - (v) other legal services which, in the member State concerned, 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](#)(2) ;
  - (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 granting of an operating licence 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(3);
  - (l) public passenger transport services within the meaning of Regulation (EC) No 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road(4);
  - (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 third country, in conditions not involving the physical use of a network or geographical area within the European Union.
- (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(5);
  - (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.

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

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

(4) OJ L 315, 3.12.2007, p. 1.

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

