
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 65

The Concession Contracts (Scotland) Regulations 2016

PART 2

SCOPE AND PRINCIPLES

CHAPTER 5

PRINCIPLES

Principles of equal treatment, non-discrimination and transparency

28.—(1) A contracting entity must, in carrying out a procurement for the award of a concession contract which is subject to the application of these Regulations—

- (a) treat economic operators equally and without discrimination; and
- (b) act in a transparent and proportionate manner.

(2) A contracting entity must not design a procurement for the award of a concession contract, including the estimate of the value of such contract with the intention of excluding it from the application of these Regulations or of unduly favouring or disadvantaging a particular economic operator or certain works, supplies or services.

(3) A contracting entity must aim to ensure the transparency of the award procedure and of the performance of the contract while complying with regulation 31 (confidentiality).

(4) During the procurement for the award of a concession contract, a contracting entity must not provide information in a discriminatory manner which may give a candidate or tenderer an advantage over others.

(5) A contracting entity must include within each concession contract such conditions relating to the performance of the concession contract as meet the requirements mentioned in paragraph (6) and are reasonably necessary to ensure the economic operator complies with environmental, social and employment law including any relative collective agreements or international law measures referred to in Schedule 4.

(6) The requirements referred to in paragraph (5) are that the conditions are—

- (a) linked to the subject matter of the contract within the meaning of regulation 44(2) (concession contract award criteria);
- (b) indicated in the concession documents.