
DRAFT STATUTORY INSTRUMENTS

2023 No.

The Public Service Obligations in Transport Regulations 2023

PART 6

Miscellaneous

Certain pre-existing contracts

27. The application of regulation 9 (duration of public service contracts) to certain pre-existing contracts is limited as follows—

- (a) a public service contract awarded before 26th July 2000 on the basis of a fair competitive tendering procedure may continue until it expires;
- (b) a public service contract awarded before 26th July 2000 on the basis of a procedure other than a fair competitive tendering procedure may continue until it expires, but not beyond 2nd December 2039;
- (c) a public service contract awarded on or after 26th July 2000 and before 3rd December 2009 on the basis of a fair competitive tendering procedure may continue until it expires, but not beyond 2nd December 2039;
- (d) a public service contract awarded on or after 26th July 2000 and before 24th December 2017 on the basis of a procedure other than a fair competitive tendering procedure may continue until it expires, provided it is of limited duration comparable to the durations specified in regulation 9;
- (e) a public service contract for public passenger transport services by rail directly awarded on the basis of a procedure other than a fair competitive procedure on or after 24th December 2017 and before 3rd December 2019 may continue until it expires, but may not have a duration longer than 10 years except where regulation 9(2) or (3) applies, and
- (f) notwithstanding paragraphs (a) to (e), any public service contract referred to in this regulation may continue until it expires where its earlier termination would entail undue legal or economic consequences.

Consequential amendments, revocations, savings and supplementary provision

28.—(1) Schedule 3 (consequential amendments and revocations) has effect.

(2) Notwithstanding paragraph (1) and the amendments and revocations provided for by Schedule 3, in relation to any procedure for the award of a public service contract that has commenced before 25th December 2023, the enactments amended and revoked by that Schedule are to continue to apply as they were in force immediately before 25th December 2023, except that in Regulation (EC) No 1370/2007, in Article 8 (transition), in the first subparagraph of paragraph 2, point (iii) is not to apply.

(3) For the purposes of paragraph (2), a procedure for the award of a public service contract has commenced before 25th December 2023 if, before that date—

- (a) an information notice has been published on a competent authority's website under Article 7(2) of Regulation (EC) No 1370/2007,
- (b) the competent authority has published any form of advertisement seeking offers or expressions of interest in respect of a proposed public service contract, or
- (c) the competent authority has contacted any supplier in order to—
 - (i) seek expressions of interest or offers in respect of a proposed public service contract,
or
 - (ii) discuss taking emergency measures under regulation 16.