



# Procurement Act 2023

## 2023 CHAPTER 54

### PART 3

#### AWARD OF PUBLIC CONTRACTS AND PROCEDURES

### CHAPTER 6

#### GENERAL PROVISION ABOUT AWARD AND PROCEDURES

#### *Debarment*

#### **59 Notification of exclusion of supplier**

- (1) This section applies where—
- (a) a contracting authority—
    - (i) has disregarded a tender from an excluded or excludable supplier under section 26 or 28,
    - (ii) has excluded an excluded or excludable supplier from participating in, or progressing as part of, a competitive tendering procedure under section 27 or 28,
    - (iii) is aware of an associated person or sub-contractor having been replaced under section 26(3), 27(4) or 28(5) (replacing an excluded or excludable associated person or sub-contractor),
    - (iv) has rejected an application from a supplier for membership of a dynamic market on the basis that the supplier is an excluded or excludable supplier (see section 36), or
    - (v) has removed an excluded or excludable supplier from a dynamic market under section 37, and
  - (b) the supplier was an excluded or excludable supplier—
    - (i) under section 57(1)(a) or (2)(a) by virtue of a relevant exclusion ground, or

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*Status: This is the original version (as it was originally enacted).*

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- (ii) on the basis of being on the debarment list by virtue of paragraph 35 of Schedule 6 (threat to national security).
- (2) The contracting authority must, before the end of the period of 30 days beginning with the day on which the tender was disregarded or the supplier excluded, replaced or removed, give notice of that fact to the relevant appropriate authority.
- (3) A notice under subsection (2) must set out—
- (a) any relevant exclusion ground that the authority considers applies to the supplier, and
  - (b) any other information specified in regulations under section 95.
- (4) If any proceedings under Part 9 are brought in respect of the disregard, exclusion, replacement or removal, the contracting authority must give notice to the relevant appropriate authority of—
- (a) the commencement of those proceedings or any appeal proceedings;
  - (b) the outcome of any proceedings within paragraph (a).
- (5) Notice under subsection (4)(a) or (b) must be given before the end of the period of 30 days beginning with the day the proceedings concerned are commenced or determined.
- (6) In this section—
- “exclusion ground” means a mandatory exclusion ground or a discretionary exclusion ground;
  - “relevant exclusion ground” means any exclusion ground except the one listed in paragraph 43 of Schedule 6 (failure to cooperate with investigation);
  - “relevant appropriate authority” means—
- (a) if the contracting authority is a devolved Welsh authority, the Welsh Ministers;
  - (b) if the contracting authority is a transferred Northern Ireland authority, the Northern Ireland department that the contracting authority considers it most appropriate to notify;
  - (c) in any other case, a Minister of the Crown.