



# Procurement Act 2023

## 2023 CHAPTER 54

### PART 5

#### CONFLICTS OF INTEREST

#### **83 Conflicts assessments**

- (1) Before publishing a tender or transparency notice in relation to a covered procurement, a contracting authority must prepare a conflicts assessment in relation to the procurement.
- (2) Before publishing a dynamic market notice in relation to the establishment of a dynamic market, a contracting authority must prepare a conflicts assessment in relation to the establishment.
- (3) A conflicts assessment must include details of—
  - (a) conflicts or potential conflicts of interest identified in accordance with section 81 (duty to identify), and
  - (b) any steps the contracting authority has taken or will take for the purposes of section 82 (duty to mitigate).
- (4) If a contracting authority is aware of circumstances that it considers are likely to cause a reasonable person to wrongly believe there to be a conflict or potential conflict of interest, a conflicts assessment must also include details of any steps the contracting authority has taken or will take to demonstrate that no such conflict or potential conflict exists.
- (5) A contracting authority must—
  - (a) keep any conflicts assessment under review,
  - (b) revise the assessment as necessary, and
  - (c) when publishing any relevant notice, confirm that a conflicts assessment has been prepared and revised in accordance with this section.
- (6) Subsection (5) does not apply after—

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*Status: This is the original version (as it was originally enacted).*

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- (a) a contracting authority has given notice of its decision not to award the contract (under section 55),
  - (b) a contract termination notice is published in relation to the procurement, or
  - (c) a dynamic market notice is published in relation to the market ceasing to operate.
- (7) In the case of a contracting authority that is a private utility—
- (a) the reference in this section to notice of a decision not to award a contract is a reference to the decision;
  - (b) the reference in this section to a contract termination notice being published in relation to a procurement is a reference to the contract being terminated;
  - (c) the reference in this section to a dynamic market notice being published in relation to a market ceasing to operate is a reference to the market ceasing to operate.
- (8) In this section—
- “conflict of interest” has the meaning given in section 81;
  - “relevant notice” means—
    - (a) a tender notice,
    - (b) a transparency notice,
    - (c) a dynamic market notice in relation to the establishment of a dynamic market,
    - (d) a contract details notice relating to a public contract, or
    - (e) a contract change notice;
  - “terminated” is to be understood by reference to section 80(3).