
STATUTORY INSTRUMENTS

2000 No. 2009

PUBLIC PROCUREMENT

**The Public Contracts (Works, Services and
Supply) (Amendment) Regulations 2000**

<i>Made</i>	- - - -	<i>25th July 2000</i>
<i>Laid before Parliament</i>		<i>26th July 2000</i>
<i>Coming into force</i>	- -	<i>16th August 2000</i>

The Treasury, being designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to public procurement, in exercise of the powers conferred upon them by the said section 2(2)(3) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Public Contracts (Works, Services and Supply) (Amendment) Regulations 2000 and shall come into force on 16th August 2000.

Interpretation

2. In these Regulations—

- (a) the “Public Works Regulations” shall mean the Public Works Contracts Regulations 1991(4),
- (b) the “Public Services Regulations” shall mean the Public Services Contracts Regulations 1993(5), and
- (c) the “Public Supply Regulations” shall mean the Public Supply Contracts Regulations 1995(6).

(1) S.I. 1991/755.

(2) 1972 c. 68.

(3) The powers remain exercisable by the Treasury as regards Scotland by virtue of section 57(i) of the Scotland Act 1998 c. 46.

(4) S.I. 1991/2680 which is amended by S.I. 1992/3279, S.I. 1995/201, S.I. 1996/2911, S.I. 1999/1042 and S.I. 1999/1820.

(5) S.I. 1993/3228 which is amended by S.I. 1995/201, S.I. 1996/2911, S.I. 1999/1042 and S.I. 1999/1820.

(6) S.I. 1995/201 which is amended by S.I. 1996/2911, S.I. 1999/1042, S.I. 1999/1820 and section 1 of the Employment Rights (Dispute Resolution) Act 1998 c. 8.

Amendment of the Public Works Regulations

3.—(1) Regulation 2 of the Public Works Regulations (interpretation) shall be amended—

(a) in regulation 2(1),

(i) by inserting the following definitions—

““Government Procurement Agreement” means the Agreement on Government Procurement between certain parties to the World Trade Organisation (WTO) Agreement signed in Marrakesh on 15 April 1994(7),

“GPA” means the Government Procurement Agreement;”;

(ii) by omitting the definition of “ECU”;

(iii) by substituting the following definition for the definition of “relevant State”—

““relevant State” means a member State or a State for the time being specified in Schedule 3 to these Regulations;”;

(b) by omitting regulation 2(2).

(2) Regulation 3 of the Public Works Regulations (contracting authorities) shall be replaced by—

“Contracting authorities

3.—(1) For the purposes of these Regulations each of the following is a “contracting authority”—

- (a) a Minister of the Crown,
- (b) a government department,
- (c) the House of Commons,
- (d) the House of Lords,
- (e) the Northern Ireland Assembly Commission,
- (f) the Scottish Parliamentary Body Corporate,
- (g) the National Assembly for Wales,
- (h) a local authority,
- (i) a fire authority constituted by a combination scheme under the Fire Services Act 1947(8),
- (j) the Fire Authority for Northern Ireland,
- (k) a police authority established under section 3 of the Police Act 1996(9),
- (l) a police authority established under section 2 of the Police (Scotland) Act 1967(10),
- (m) the Police Authority for Northern Ireland,
- (n) an authority established under section 10 of the Local Government Act 1985(11),
- (o) a joint authority established by Part IV of that Act,
- (p) any body established pursuant to an order under section 67 of that Act,
- (q) the Broads Authority,

(7) Cm 2575. As at 1st January 2000, parties to the Government Procurement Agreement other than relevant States were Aruba, Canada, Hong Kong Special Administrative Region, Israel, Japan, Republic of Korea, Singapore, Switzerland and the United States of America.

(8) 1947 c. 41.

(9) 1996 c. 16.

(10) 1967 c. 77.

(11) 1985 c. 51.

- (r) any joint board the constituent members of which consist of any of the bodies specified in paragraphs (h), (i), (k), (l), (n), (o) and (p) and (q), above,
 - (s) a National Park authority established by an Order under section 63 of the Environment Act 1995⁽¹²⁾,
 - (t) the Receiver for the Metropolitan Police District⁽¹³⁾,
 - (u) a corporation established, or a group of individuals appointed to act together, for the specific purposes of meeting needs in the general interest, not having an industrial or commercial character, and—
 - (i) financed wholly or mainly by another contracting authority, or
 - (ii) subject to management supervision by another contracting authority, or
 - (iii) more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, being appointed by another contracting authority,
 - (v) an association of or formed by one or more of the above, and
 - (w) to the extent not specified in sub-paragraphs (a) to (t) above, an entity specified in Schedule 1 to the Public Supply Contracts Regulations 1995⁽¹⁴⁾.
- (2) In the application of these Regulations to England, “local authority” in paragraph (1) above means—
- (a) a county council, a district council, a London borough council, a parish council, a community council or the Council of the Isles of Scilly;
 - (b) the Common Council of the City of London in its capacity as local authority or police authority.
- (3) In the application of these Regulations to Wales, “local authority” in paragraph (1) above means a county council, county borough council or community council.
- (4) In the application of these Regulations to Scotland, “local authority” in paragraph (1) above has the same meaning as in section 235(1) of the Local Government (Scotland) Act 1973⁽¹⁵⁾ and also includes joint board or joint committee within the meaning of section 235(1).
- (5) In the application of these Regulations to Northern Ireland, “local authority” in paragraph (1) above means a district council within the meaning of the Local Government Act (Northern Ireland) 1972⁽¹⁶⁾.
- (6) Where an entity specified in paragraph (1) above does not have the capacity to enter into a contract, the contracting authority in relation to that entity is a person whose function it is to enter into contracts for that entity.”
- (3) Regulation 4(1)(b) of the Public Works Regulations (contractors) shall be replaced by—
- “(b) who is a national of and established in a relevant State.”
- (4) Regulation 7(1) of the Public Works Regulations (thresholds) shall be replaced by—
- “(1) These Regulations shall not apply to the seeking of offers in relation to-

⁽¹²⁾ 1995 c. 25.

⁽¹³⁾ Created by section 1 of the Metropolitan Police (Receiver) Act 1861 c. 124.

⁽¹⁴⁾ S.I. 1995/201 which is amended by S.I. 1996/2911, S.I. 1999/1042, S.I. 1999/1820 and section 1 of the Employment Rights (Dispute Resolution) Act 1998 c. 8.

⁽¹⁵⁾ 1973 c. 65; section 253(1), as substituted by section 180(1) of, and paragraph 92(66)(c) of Schedule 13 to, the Local Government etc (Scotland) Act 1994 c. 39, now provides that a local authority means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994 c. 39.

⁽¹⁶⁾ 1972 c. 9 (N.I.).

- (a) a proposed public works contract where the estimated value of the contract (net of value added tax) at the relevant time is less than the euro equivalent of 5,000,000 special drawing rights;
- (b) a proposed public works concession contract or a proposed subsidised works contract under regulation 23 where the estimated value of the contract (net of value added tax) at the relevant time is less than 5,000,000 euro.”.

(5) In regulation 7 of the Public Works Regulations (thresholds) the following paragraph shall be inserted after paragraph (1)—

“(1A) The value in pounds sterling of any amount expressed in this regulation in euro or in the euro equivalent of special drawing rights shall be calculated by reference to the rate for the time being applying for the purposes of Council Directive 93/37/EEC(17) as published from time to time in the Official Journal(18).”.

(6) Regulation 11(4) of the Public Works Regulations (the open procedure) shall be replaced by—

“(4) Where—

- (a) the contracting authority has published a prior information notice in accordance with regulation 9 above;
- (b) the prior information notice contained as much of the information referred to in Part B of Schedule 2 as was available at the time of publication; and
- (c) the prior information notice was sent to the Official Journal at least 52 days and no more than 12 months before the date on which the contract notice provided for in regulation 11(2) is despatched;

the contracting authority may substitute for the period of not less than 52 days specified in paragraph (3) above a shorter period of generally no less than 36 days and in any event no less than 22 days, provided in each case that the period is sufficient to allow for effective tendering.”.

(7) The following paragraphs shall be added to regulation 11 of the Public Works Regulations (the open procedure)—

“(8) Tenders shall be submitted in writing either in person or by post, except that a contracting authority may authorise another means of submission provided that the chosen means enables—

- (a) each tender to contain all the information necessary for its evaluation;
- (b) the confidentiality of tenders to be maintained pending their evaluation; and
- (c) tenders to be opened only after the time limit for their submission has expired.

(9) Where a contracting authority has authorised another means of submission in accordance with paragraph (8) above, it may require either that the submission of the tender is confirmed in writing or that a copy of the tender is delivered to it in person or by post in either case as soon as possible after the submission of the tender by another means.”.

(8) Regulation 12(12) of the Public Works Regulations (the restricted procedure) shall be replaced by—

“(12) Subject to paragraph (14) below, where—

- (a) the contracting authority has published a prior information notice in accordance with regulation 9 above;

(17) OJ L 199, 9.8.1993, p. 54.

(18) The rates are determined every two years in principle and published in the Official Journal. The calculation is based upon the average of the daily exchange rates between special drawing rights and the euro and between the euro and sterling over a period of 24 months preceding the determination.

- (b) the prior information notice contained as much of the information referred to in Part C (or, if appropriate, Part D) of Schedule 2 as was available at the time of publication; and
- (c) the prior information notice was sent to the Official Journal at least 52 days and no more than 12 months before the date on which the contract notice provided for in regulation 12(2) is despatched;

the contracting authority may substitute for the period of not less than 40 days in paragraph (11) above, a period of not less than 26 days.”.

(9) The following paragraphs shall be added to regulation 12 of the Public Works Regulations (the restricted procedure)—

“(16) Tenders shall be submitted in writing either in person or by post, except that a contracting authority may authorise another means of submission provided that the chosen means enables—

- (a) each tender to contain all the information necessary for its evaluation;
- (b) the confidentiality of tenders to be maintained pending their evaluation; and
- (c) tenders to be opened only after the time limit for their submission has expired.

(17) Where a contracting authority has authorised another means of submission in accordance with paragraph (16) above, it may require either that the submission of the tender is confirmed in writing or that a copy of the tender is delivered to it in person or by post, in either case as soon as possible after the submission of the tender by another means.”.

(10) Regulation 22 of the Public Works Regulations (information about contract award procedures) shall be replaced by—

“Information about contract award procedures

22.—(1) Where a contracting authority decides either to abandon or to recommence an award procedure in respect of which a contract notice has been published it shall inform the Office for Official Publications of the European Communities⁽¹⁹⁾ and shall inform promptly any contractor who submitted an offer or who applied to be included amongst the persons to be selected to tender for or to negotiate the contract of the reasons for its decision and shall do so in writing if so requested.

(2) Subject to paragraph (3) below, a contracting authority shall, within 15 days of the date on which it receives a request in writing from any contractor who was unsuccessful (whether pursuant to regulation 11(7), 12(4), 12(5), 13(7), 13(8) or 20), inform that contractor of the reasons why he was unsuccessful and, if the contractor submitted an admissible tender, the contracting authority shall inform him of the characteristics and relative advantages of the successful tender as well as the name of the person awarded the contract.

(3) A contracting authority may withhold any information to be provided in accordance with paragraph (2) above where the disclosure of such information would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of any person or might prejudice fair competition between contractors.

(4) A contracting authority shall prepare a record in relation to each public works contract awarded by it specifying—

- (a) the name and address of the contracting authority;
- (b) the work or works to be carried out under the contract and the value of the consideration to be given under it;

⁽¹⁹⁾ The address for the Office for Official Publications of the European Communities is 2 Rue Mercier, L-2985, Luxembourg (tel: 29 291; telex: 1324 PUBOF LU; fax: 29 29 42 670/ 29 29 44 623/ 29 29 44 619).

- (c) the names of the persons whose offers were evaluated in accordance with regulation 20 and, where the contracting authority has used the restricted or negotiated procedure, the reasons why those persons were selected;
- (d) the names of the persons who were unsuccessful pursuant to regulation 11(7), 12(4), 12(5), 13(7) or 13(8) and the reasons why they were unsuccessful;
- (e) the name of the person to whom the public works contract was awarded and the reasons for having awarded the contract to him;
- (f) if known to the contracting authority, the works under the contract which the person to whom the contract has been awarded intends to sub-contract to another person; and
- (g) in the case of a contracting authority which used the negotiated procedure, which of the circumstances specified in regulation 10(2) constituted grounds for using that procedure.

(5) If the Commission requests a report containing the information specified in paragraph (4) above, the contracting authority shall send a written report containing that information, or the main features of it, to the Treasury for onward transmission to the Commission.”.

(11) Regulation 28 of the Public Works Regulations (statistical and other reports) shall be replaced by—

“Statistical and other reports

28.—(1) A contracting authority shall, no later than 31st July in each year, send to the Treasury a report specifying, in relation to each public works contract awarded by it during the reporting period—

- (a) the value (estimated if necessary) of the consideration payable under the contract;
- (b) whether the open, restricted or negotiated procedure was used;
- (c) if the negotiated procedure was used, pursuant to which provision of regulation 10(2) that procedure was used;
- (d) the principal category of work carried out or to be carried out under the contract according to the nomenclature used in Schedule 1; and
- (e) the nationality of the person to whom the contract was awarded.

(2) Entities specified in Schedule 1 to the Public Supply Contracts Regulations 1995⁽²⁰⁾ or any body which is a successor to such an entity and which is a contracting authority shall include in the report referred to in paragraph (1) above the aggregate value (estimated if necessary) of all public works contracts awarded by it during the reporting period which were below the relevant threshold specified in regulation 7.

(3) A contracting authority shall send to the Treasury a report containing such other information as the Treasury may from time to time require in respect of a particular public works contract (including public works contracts excluded from the application of these Regulations by regulations 6 and 7) for the purposes of informing the Commission.

(4) In this regulation “the reporting period” means the year preceding the year in which the report referred to in paragraph (1) above is to be made.”.

(12) Regulation 31 of the Public Works Regulations (enforcement of obligations relating to a public works contract) shall be amended—

⁽²⁰⁾ S.I. 1995/201; relevant amending instruments are S.I. 1999/1042, S.I. 1999/1820 and section 1 of the Employment Rights (Dispute Resolution) Act 1998 c. 8.

- (a) by inserting the following paragraphs after paragraph (1)—
- “(1A) The duty owed to a contractor pursuant to paragraph (1) above, except in relation to regulations 23, 25 and 26 (1) and(2), shall be a duty owed also to a GPA provider.
- (1B) References to a “contractor” in paragraphs (3), (5) and (6) below shall be construed as including a reference to a GPA provider.”;
- (b) by inserting the following words after the words “pursuant to paragraph (1)” in paragraphs (3), (5), (6) and (7),—
- “or paragraph (1A)”;
- (c) by adding the following paragraph—
- “(9) In this regulation—
- (a) a “GPA provider” shall mean a person from a GPA State who sought, or who seeks, or would have wished, to be the person to whom the contract is awarded;
- (b) a “GPA State” shall mean any country other than a relevant State which, at the relevant time is a signatory to the GPA and has agreed with the European Community that the GPA shall apply to a contract of the type to be awarded(21); and
- (c) “relevant time” shall mean the date on which the contracting authority would have sent a contract notice in respect of the contract to the Official Journal if it had been required by these Regulations to do so.”.
- (13) Schedule 1 to these Regulations (which substitutes a new Schedule 2 to the Public Works Regulations) shall have effect.
- (14) Schedule 2 to these Regulations (which adds Schedule 3 to the Public Works Regulations) shall have effect.

Amendment of the Public Services Regulations

- 4.—(1) Regulation 2 of the Public Services Regulations (interpretation) shall be amended—
- (a) in regulation 2(1),
- (i) by inserting the following definitions—
- ““Government Procurement Agreement” means the Agreement on Government Procurement between certain parties to the World Trade Organisation (WTO) Agreement signed in Marrakesh on 15 April 1994(22);
- “GPA” means the Government Procurement Agreement,
- “Schedule 3 entity” means an entity specified in Schedule 3 pursuant to its inclusion in the list of central government bodies in Annex I of the GPA, and for which these Regulations make particular provision;”;
- (ii) by omitting the definition of “ECU”;
- (iii) by substituting the following definition for the definition of “relevant State”—
- ““relevant State” means a member State or a State for the time being specified in Schedule 4 to these Regulations;”;
- (b) by omitting regulation 2(3).

(21) Information on the detailed application of the GPA under bilateral agreements between the EU and other signatories is maintained in the annexes and general notes in Appendix I to the GPA. Access to this information is available through the WTO website at www.wto.org.

(22) Cm 2575. As at 1st January 2000, parties to the Government Procurement Agreement other than relevant States were Aruba, Canada, Hong Kong Special Administrative Region, Israel, Japan, Republic of Korea, Singapore, Switzerland and the United States of America.

(2) Regulation 3 of the Public Services Regulations (contracting authorities) shall be replaced by—

“Contracting authorities

3.—(1) For the purposes of these Regulations each of the following is a “contracting authority”—

- (a) a Minister of the Crown,
- (b) a government department,
- (c) the House of Commons,
- (d) the House of Lords,
- (e) the Northern Ireland Assembly Commission,
- (f) the Scottish Parliamentary Body Corporate,
- (g) the National Assembly for Wales,
- (h) a local authority,
- (i) a fire authority constituted by a combination scheme under the Fire Services Act 1947⁽²³⁾,
- (j) the Fire Authority for Northern Ireland,
- (k) a police authority established under section 3 of the Police Act 1996⁽²⁴⁾,
- (l) a police authority established under section 2 of the Police (Scotland) Act 1967⁽²⁵⁾,
- (m) the Police Authority for Northern Ireland,
- (n) an authority established under section 10 of the Local Government Act 1985,
- (o) a joint authority established by Part IV of that Act,
- (p) any body established pursuant to an order under section 67 of that Act,
- (q) the Broads Authority,
- (r) any joint board the constituent members of which consist of any of the bodies specified in paragraphs (h), (i), (k), (l), (n), (o), (p) and (q), above,
- (s) a National Park authority established by an Order under section 63 of the Environment Act 1995⁽²⁶⁾,
- (t) the Receiver for the Metropolitan Police District⁽²⁷⁾,
- (u) a corporation established, or a group of individuals appointed to act together, for the specific purposes of meeting needs in the general interest, not having an industrial or commercial character, and—
 - (i) financed wholly or mainly by another contracting authority, or
 - (ii) subject to management supervision by another contracting authority, or
 - (iii) more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, being appointed by another contracting authority,
- (v) an association of or formed by one or more of the above, and

⁽²³⁾ 1947 c. 41.

⁽²⁴⁾ 1996 c. 16.

⁽²⁵⁾ 1967 c. 77.

⁽²⁶⁾ 1995 c. 25.

⁽²⁷⁾ Created by section 1 of the Metropolitan Police (Receiver) Act 1861 c. 124.

- (w) to the extent not specified in sub-paragraphs (a) to (t) above, an entity specified in Schedule 3.
- (2) In the application of these Regulations to England, “local authority” in paragraph (1) above means—
- (a) a county council, a district council, a London borough council, a parish council, a community council or the Council of the Isles of Scilly;
 - (b) the Common Council of the City of London in its capacity as local authority or police authority.
- (3) In the application of these Regulations to Wales, “local authority” in paragraph (1) above means a county council, county borough council or community council.
- (4) In the application of these Regulations to Scotland, “local authority” in paragraph (1) above has the same meaning as in section 235(1) of the Local Government (Scotland) Act 1973⁽²⁸⁾ and also includes joint board or joint committee within the meaning of section 235(1).
- (5) In the application of these Regulations to Northern Ireland, “local authority” in paragraph (1) above means a district council within the meaning of the Local Government Act (Northern Ireland) 1972⁽²⁹⁾.
- (6) Where an entity specified in paragraph (1) above does not have the capacity to enter into a contract, the contracting authority in relation to that entity is a person whose function it is to enter into contracts for that entity.”.
- (3) Regulation 4(1)(b) of the Public Services Regulations (service providers) shall be replaced by—
- “(b) who is a national of and established in a relevant State.”.
- (4) Regulation 7(1) of the Public Services Regulations (thresholds) shall be replaced by—
- “(1) These Regulations shall not apply to the seeking of offers in relation to a proposed public services contract where the estimated value of the contract (net of value added tax) at the relevant time is less than the relevant threshold, which, in relation to a Part A services contract, other than
- (a) a subsidised services contract under regulation 25,
 - (b) a contract for research and development services specified in category 8 of Schedule 1, or
 - (c) a contract for telecommunication services specified under CPC⁽³⁰⁾ references 7524, 7525 and 7526 within category 5 of Schedule 1, Part A,
- shall be—
- (i) in the case of offers sought by Schedule 3 entities the euro equivalent of 130,000 special drawing rights; and
 - (ii) in the case of offers sought by any other contracting authority the euro equivalent of 200,000 special drawing rights;
- and in relation to any other public services contract shall be 200,000 euro.”.
- (5) In regulation 7 of the Public Services Regulations (thresholds) the following paragraph shall be inserted—

(28) 1973 c. 65; section 253(1), as substituted by section 180(1) of, and paragraph 92(66)(c) of Schedule 13 to, the Local Government etc (Scotland) Act 1994 c. 39, now provides that a local authority means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994 c. 39.

(29) 1972 c. 9 (N.I.).

(30) CPC stands for the Central Product Classification of the United Nations, published in the United Kingdom by The Stationery Office; ISBN 9211613981.

“(1A) The value in pounds sterling of any amount expressed in these Regulations in euro or in the euro equivalent of special drawing rights shall be calculated by reference to the rate for the time being applying for the purposes of Council Directive 92/50/EEC(31) as published from time to time in the Official Journal(32).”.

(6) Regulation 11(4) of the Public Services Regulations (the open procedure) shall be replaced by—

“(4) Where—

- (a) the contracting authority has published a prior information notice in accordance with regulation 9 above;
- (b) the prior information notice contained as much of the information referred to in Part B of Schedule 2 as was available at the time of publication; and
- (c) the prior information notice was sent to the Official Journal at least 52 days and no more than 12 months before the date on which the contract notice provided for in regulation 11(2) is despatched—

the contracting authority may substitute for the period of not less than 52 days specified in paragraph (3) above, a shorter period of generally no less than 36 days and in any event no less than 22 days, provided in each case that the period is sufficient to allow for effective tendering.”.

(7) The following paragraphs shall be added to regulation 11 of the Public Services Regulations (the open procedure)—

“(9) Tenders shall be submitted in writing either in person or by post, except that a contracting authority may authorise another means of submission provided that the chosen means enables—

- (a) each tender to contain all the information necessary for its evaluation;
- (b) the confidentiality of tenders to be maintained pending their evaluation; and
- (c) tenders to be opened only after the time limit for their submission has expired.

(10) Where a contracting authority has authorised another means of submission in accordance with paragraph (9) above, it may require either that the submission of the tender is confirmed in writing or that a copy of the tender is delivered to it in person or by post, in either case as soon as possible after the submission of the tender by another means.”.

(8) Regulation 12(12) of the Public Services Regulations (the restricted procedure) shall be replaced by—

“(12) Subject to paragraph (15) below, where—

- (a) the contracting authority has published a prior information notice in accordance with regulation 9 above;
- (b) the prior information notice contained as much of the information referred to in Part C (or, if appropriate, Part D) of Schedule 2 as was available at the time of publication; and
- (c) the prior information notice was sent to the Official Journal at least 52 days and no more than 12 months before the date on which the contract notice provided for in regulation 12(2) is despatched;

the contracting authority may substitute for the period of not less than 40 days in paragraph (11) above, a period of not less than 26 days.”.

(31) OJ L 20, 24.7.1992, p.1.

(32) The rates are determined every two years in principle and published in the Official Journal. The calculation is based upon the average of the daily exchange rates between special drawing rights and the euro and between the euro and sterling over a period of 24 months preceding the determination.

(9) The following paragraphs shall be added to regulation 12 of the Public Services Regulations (the restricted procedure)—

“(17) Tenders shall be submitted in writing either in person or by post, except that a contracting authority may authorise another means of submission provided that the chosen means enables—

- (a) each tender to contain all the information necessary for its evaluation;
- (b) the confidentiality of tenders to be maintained pending their evaluation; and
- (c) tenders to be opened only after the time limit for their submission has expired.

(18) Where a contracting authority has authorised another means of submission in accordance with paragraph (17) above, it may require either that the submission of the tender is confirmed in writing or that a copy of the tender is delivered to it in person or by post, in either case as soon as possible after the submission of the tender by another means.”

(10) Regulation 23 of the Public Services Regulations (information about contract award procedures) shall be replaced by—

“Information about contract award procedures

23.—(1) Where a contracting authority decides either to abandon or to recommence an award procedure in respect of which a contract notice has been published it shall inform the Office for Official Publications of the European Communities⁽³³⁾ and shall inform promptly any service provider who submitted an offer or who applied to be included amongst the persons to be selected to tender for or to negotiate the contract of the reasons for its decision and shall do so in writing if so requested.

(2) Subject to paragraph (3) below, a contracting authority shall, within 15 days of the date on which it receives a request in writing from any service provider who was unsuccessful (whether pursuant to regulation 11(8), 12(4), 12(5), 13(7), 13(8) or 21), inform that service provider of the reasons why he was unsuccessful and, if the service provider submitted an admissible tender, the contracting authority shall inform him of the characteristics and relative advantages of the successful tender as well as the name of the person awarded the contract.

(3) A contracting authority may withhold any information to be provided in accordance with paragraph (2) above where the disclosure of such information would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of any person or might prejudice fair competition between service providers.

(4) A contracting authority shall prepare a record in relation to each public services contract awarded by it specifying—

- (a) the name and address of the contracting authority;
- (b) the services to be provided under the contract and the value of the consideration to be given under it;
- (c) the names of the persons whose offers were evaluated in accordance with regulation 21 and, where the contracting authority has used the restricted or negotiated procedure, the reasons why those persons were selected;
- (d) the names of the persons who were unsuccessful pursuant to regulation 11(8), 12(4), 12(5), 13(7) or 13(8) and the reasons why they were unsuccessful;
- (e) the name of the person to whom the contract was awarded and the reasons for having awarded the contract to him;

(33) The address for the Office for Official Publications of the European Communities is 2 Rue Mercier, L-2985, Luxembourg (tel: 29 291; telex: 1324 PUBOF LU; fax: 29 29 42 670/ 29 29 44 623/ 29 29 44 619).

- (f) if known to the contracting authority, the services under the contract which the person to whom the contract has been awarded intends to sub-contract to another person; and
- (g) in the case of a contracting authority which used the negotiated procedure, which of the circumstances specified in regulation 10(2) constituted grounds for using that procedure.

(5) If the Commission requests a report containing the information specified in paragraph (4) above, the contracting authority shall send a written report containing that information, or the main features of it, to the Treasury for onward transmission to the Commission.”.

(11) Regulation 24(1) (design contests) shall be replaced by—

“(1) This regulation shall apply to a design contest if it is organised as part of a procedure intended to lead to the award of a public services contract whose estimated value (net of value added tax) is not less than the relevant threshold, which, in relation to a Part A services contract other than—

- (a) a contract for research and development specified in category 8 of Schedule 1, Part A; or
- (b) a contract for telecommunications services specified under CPC(34) references 7524, 7525 and 7526 within category 5 of Schedule 1, Part A,

shall be—

- (i) in the case of offers sought by Schedule 3 entities the euro equivalent of 130,000 special drawing rights;
- (ii) in the case of offers sought by any other contracting authority the euro equivalent of 200,000 special drawing rights;

and in relation to any other public services contract shall be 200,000 euro.

(1A) This regulation shall apply to a design contest whether or not it is organised as part of a procedure leading to the award of a public services contract, if the aggregate value of the prizes or payments for the contest is not less than 200,000 euro.”.

(12) Regulation 27 of the Public Services Regulations (statistical and other reports) shall be replaced by—

“Statistical and other reports

27.—(1) A contracting authority shall, no later than 31st July in each year, send to the Treasury a report specifying, in relation to each public services contract awarded by it during the reporting period—

- (a) the value (estimated if necessary) of the consideration payable under the contract;
- (b) whether the open, restricted or negotiated procedure was used;
- (c) if the negotiated procedure was used, pursuant to which provision of regulation 10(2) that procedure was used;
- (d) the principal category of service carried out or to be carried out under the contract according to the nomenclature used in Schedule 1; and
- (e) the nationality of the person to whom the contract was awarded.

(34) CPC stands for the Central Product Classification of the United Nations, published in the United Kingdom by The Stationery Office; ISBN 9211613981.

(2) A Schedule 3 entity shall include in the report referred to in paragraph (1) above the aggregate value (estimated if necessary) of all public services contracts awarded by it during the reporting period which were below the relevant threshold specified in regulation 7.

(3) A contracting authority shall send to the Treasury a report containing such other information as the Treasury may from time to time require in respect of a particular public services contract (including public services contracts excluded from the application of these Regulations by regulations 6 and 7) for the purposes of informing the Commission.

(4) In this regulation “the reporting period” means the year preceding the year in which the report referred to in paragraph (1) above is to be made.”.

(13) Regulation 32 of the Public Services Regulations (enforcement of obligations relating to a public services contract) shall be amended—

(a) by inserting the following paragraphs after paragraph (1)—

“(1A) The duty owed to a service provider pursuant to paragraph (1) above, except in relation to—

- (a) regulation 25;
- (b) a Part B services contract; and
- (c) a contract for the services referred to in paragraphs (a) to (c) of regulation 7(1) above,

shall be a duty owed also to a GPA provider.

(1B) References to a “service provider” in paragraphs (2), (4) and (5) below shall be construed as including a reference to a GPA provider.”;

(b) by inserting the following words after the words “pursuant to paragraph (1)” in paragraphs (2), (4), (5) and (6)— “or paragraph (1A)”;

(c) by adding the following paragraph—

“(8) In this regulation—

- (a) a “GPA provider” shall mean a person from a GPA State who sought, or who seeks, or would have wished, to be the person to whom the contract is awarded;
- (b) a “GPA State” shall mean any country other than a relevant State which, at the relevant time is a signatory to the GPA and has agreed with the European Community that the GPA shall apply to a contract of the type to be awarded~~(35)~~; and
- (c) “relevant time” shall mean the date on which the contracting authority would have sent a contract notice in respect of the contract to the Official Journal if it had been required by these Regulations to do so.”

(14) Schedule 3 to these Regulations (which substitutes a new Schedule 2 to the Public Services Regulations) shall have effect.

(15) Schedules 4 and 5 to these Regulations (which add Schedules 3 and 4 to the Public Services Regulations) shall have effect.

Amendment of the Public Supply Regulations

5.—(1) Regulation 2 of the Public Supply Regulations (interpretation) shall be amended—

(a) in regulation 2(1),

(35) Information on the detailed application of the GPA under bilateral agreements between the EU and other signatories is maintained in the annexes and general notes in Appendix I to the GPA. Access to this information is available through the WTO website at www.wto.org.

- (i) by inserting the following definitions—
- “Government Procurement Agreement” means the Agreement on Government Procurement between certain parties to the World Trade Organisation (WTO) Agreement signed in Marrakesh on 15 April 1994⁽³⁶⁾,
- “GPA” means the Government Procurement Agreement;
- “Schedule 1 entity” means an entity specified in Schedule 1 pursuant to its inclusion in the list of central government bodies in Annex I of the GPA, and for which these Regulations make particular provisions;”;
- (ii) by omitting the definition of “ECU”;
- (iii) by substituting the following definition for the definition of “relevant State”—
- “relevant State” means a member State or a State for the time being specified in Schedule 4 to these Regulations;”;
- (iv) by omitting the definition of a “GATT contracting authority”;
- (b) by omitting regulation 2(2).
- (2) Regulation 3 of the Public Supply Regulations (contracting authorities) shall be replaced by—

“Contracting Authorities

3.—(1) For the purposes of these Regulations each of the following is a “contracting authority”—

- (a) a Minister of the Crown,
- (b) a government department,
- (c) the House of Commons,
- (d) the House of Lords,
- (e) the Northern Ireland Assembly Commission,
- (f) the Scottish Parliamentary Body Corporate,
- (g) the National Assembly for Wales,
- (h) a local authority,
- (i) a fire authority constituted by a combination scheme under the Fire Services Act 1947⁽³⁷⁾,
- (j) the Fire Authority for Northern Ireland,
- (k) a police authority established under section 3 of the Police Act 1996⁽³⁸⁾,
- (l) a police authority established under section 2 of the Police (Scotland) Act 1967⁽³⁹⁾,
- (m) the Police Authority for Northern Ireland,
- (n) an authority established under section 10 of the Local Government Act 1985⁽⁴⁰⁾,
- (o) a joint authority established by Part IV of that Act,
- (p) any body established pursuant to an order under section 67 of that Act,

⁽³⁶⁾ Cm 2575. As at 1st January 2000, parties to the Government Procurement Agreement other than relevant States were Aruba, Canada, Hong Kong Special Administrative Region, Israel, Japan, Republic of Korea, Singapore, Switzerland and the United States of America.

⁽³⁷⁾ 1947 c. 41.

⁽³⁸⁾ 1996 c. 16.

⁽³⁹⁾ 1967 c. 77.

⁽⁴⁰⁾ 1985 c. 51.

- (q) the Broads Authority,
 - (r) any joint board the constituent members of which consist of any of the bodies specified in paragraphs (f), (g), (i), (k), (l), (m) and (n), above,
 - (s) a National Park authority established by an Order under section 63 of the Environment Act 1995⁽⁴¹⁾,
 - (t) the Receiver for the Metropolitan Police District⁽⁴²⁾,
 - (u) a corporation established, or a group of individuals appointed to act together, for the specific purposes of meeting needs in the general interest, not having an industrial or commercial character, and—
 - (i) financed wholly or mainly by another contracting authority, or
 - (ii) subject to management supervision by another contracting authority, or
 - (iii) more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, being appointed by another contracting authority,
 - (v) an association of or formed by one or more of the above, and
 - (w) to the extent not specified in sub-paragraphs (a) to (q) above, an entity specified in Schedule 1.
- (2) In the application of the Regulations to England, “local authority” in paragraph (1) above means—
- (a) a county council, a district council, a London borough council, a parish council, a community council or the Council of the Isles of Scilly;
 - (b) the Common Council of the City of London in its capacity as local authority or police authority.
- (3) In the application of these Regulations to Wales, “local authority” in paragraph (1) above means a county council, county borough council or community council.
- (4) In the application of these Regulations to Scotland, “local authority” in paragraph (1) above has the same meaning as in section 235(1) of the Local Government (Scotland) Act 1973⁽⁴³⁾ and also includes joint board or joint committee within the meaning of section 235(1).
- (5) In the application of these Regulations to Northern Ireland, “local authority” in paragraph (1) above means a district council within the meaning of the Local Government Act (Northern Ireland) 1972⁽⁴⁴⁾.
- (6) Where an entity specified in paragraph (1) above does not have the capacity to enter into a contract, the contracting authority in relation to that entity is a person whose function it is to enter into contracts for that entity.”
- (3) Regulation 4(1)(b) of the Public Supply Regulations (suppliers) shall be replaced by—
- “(b) who is a national of and established in a relevant State.”
- (4) Regulation 7(2) of the Public Supply Regulations (thresholds) shall be replaced by
- “(2) The relevant threshold for the purposes of paragraph (1) above—
- (a) is the euro equivalent of 130,000 special drawing rights where a Schedule 1 entity seeks offers for a public supply contract, but in the case of such a contract in

(41) 1995 c. 25.

(42) Created by section 1 of the Metropolitan Police (Receiver) Act 1861 c. 124.

(43) 1973 c. 65; section 253(1), as substituted by section 180(1) of, and paragraph 92(66)(c) of Schedule 13 to, the Local Government etc (Scotland) Act 1994 (c. 39), now provides that a local authority means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994 (c. 39).

(44) 1972 c. 9 (N.I.).

relation to which offers are sought by the Secretary of State for Defence, only if it is for the purchase or hire of goods specified in Schedule 2; and

- (b) is the euro equivalent of 200,000 special drawing rights in relation to all other public supply contracts.”

(5) In regulation 7 of the Public Supply Regulations (thresholds) the following paragraph shall be inserted after paragraph (2)—

“(2A) The value in pounds sterling of any amount expressed in these Regulations in euro or in the euro equivalent of special drawing rights shall be calculated by reference to the rate for the time being applying for the purposes of Council Directive 93/36/EEC(45) as published from time to time in the Official Journal(46).”

(6) Regulation 11 of the Public Supply Regulations (the open procedure) shall be amended as follows—

- (a) Regulation 11(3) shall be replaced by-

“(3) Subject to paragraphs (3A) and (6) below, the date which the contracting authority shall fix as the last date for the receipt by it of tenders made in response to the contract notice shall be specified in the notice and shall be not less than 52 days from the date of despatch of the notice;”.

- (b) The following paragraph shall be inserted after paragraph 3—

“(3A) Where—

- (a) the contracting authority has published a prior information notice in accordance with regulation 9 above;
- (b) the prior information notice contained as much of the information referred to in Part B of Schedule 3 as was available at the time of publication; and
- (c) the prior information notice was sent to the Official Journal at least 52 days and no more than 12 months before the date on which the contract notice provided for in regulation 11(2) is despatched,

the contracting authority may substitute for the period of not less than 52 days specified in paragraph (3) above a shorter period of generally no less than 36 days and in any event no less than 22 days, provided in each case that the period is sufficient to allow for effective tendering.”.

(7) The following paragraph shall be added to regulation 11 of the Public Supply Regulations (the open procedure)—

“(8) Tenders shall be submitted in writing either in person or by post, except that a contracting authority may authorise another means of submission provided that the chosen means enables—

- (a) each tender to contain all the information necessary for its evaluation;
- (b) the confidentiality of tenders to be maintained pending their evaluation; and
- (c) tenders to be opened only after the time limit for their submission has expired;

(9) Where a contracting authority has authorised another means of submission in accordance with paragraph (8) above, it may require either that the submission of the tender is confirmed in writing or that a copy of the tender is delivered to it in person or by post, in either case as soon as possible thereafter.”

(45) OJ L 199, 9.8.1993, p. 1.

(46) The rates are determined every two years in principle and published in the Official Journal. The calculation is based upon the average of the daily exchange rates between special drawing rights and the euro and between the euro and sterling over a period of 24 months preceding the determination.

(8) Regulation 12 of the Public Supply Regulations (the restricted procedure) shall be amended as follows—

(a) Regulation 12(11) shall be replaced by—

“(11) Subject to paragraphs (11A) and (14) below, the date which the contracting authority shall fix as the last date for the receipt by it of tenders made in response to the invitation to tender which shall be specified in the invitation to tender in accordance with paragraph 10(b) above shall be not less than 40 days from the despatch of the invitation.”;

(b) The following paragraph shall be inserted after paragraph (11)—

“(11A) Where—

- (a) the contracting authority has published a prior information notice in accordance with regulation 9 above;
- (b) the prior information notice contained as much of the information referred to in Part B of Schedule 3 as was available at the time of publication; and
- (c) the prior information notice was sent to the Official Journal at least 52 days and no more than 12 months before the date on which the contract notice provided for in regulation 12(2) is despatched,

the contracting authority may substitute for the period of not less than 40 days specified in paragraph (11) above, a period of no less than 26 days.”.

(9) The following paragraph shall be added to regulation 12 of the Public Supplies Regulations (the restricted procedure)—

“(16) Tenders shall be submitted in writing either in person or by post, except that a contracting authority may authorise another means of submission provided that the chosen means enables—

- (a) each tender to contain all the information necessary for its evaluation;
- (b) the confidentiality of tenders to be maintained pending their evaluation; and
- (c) tenders to be opened only after the time limit for their submission has expired.

(17) Where a contracting authority has authorised another means of submission in accordance with paragraph (16) above, it may require either that the submission of the tender is confirmed in writing or that a copy of the tender is delivered to it in person or by post, in either case as soon as possible thereafter.”.

(10) Regulation 23 of the Public Supply Regulations (information about contract award procedures) shall be replaced by—

“Information about contract award procedures

23.—(1) Where a contracting authority decides either to abandon or to recommence an award procedure in respect of which a contract notice has been published it shall inform the Office for Official Publications of the European Communities⁽⁴⁷⁾ and shall inform promptly any supplier who submitted an offer or who applied to be included amongst the persons to be selected to tender for or negotiate the contract of the reasons for its decision and shall do so in writing if so requested.

(2) Subject to paragraph (3) below, a contracting authority shall, within 15 days of the date on which it receives a request in writing from any supplier who was unsuccessful (whether pursuant to regulation 11(7), 12(4), 12(5), 13(7), 13(8) or 21), inform that supplier of the reasons why he was unsuccessful and, if the supplier submitted an admissible tender, the

⁽⁴⁷⁾ The address for the Office for Official Publications of the European Communities is 2 Rue Mercier, L-2985, Luxembourg (tel: 29 291; telex: 1324 PUBOF LU; fax: 29 29 42 670/ 29 29 44 623/ 29 29 44 619).

contracting authority shall inform him of the characteristics and relative advantages of the successful tender as well as the name of the person awarded the contract.

(3) A contracting authority may withhold any information to be provided in accordance with paragraph (2) above where the disclosure of such information would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of any person or might prejudice fair competition between suppliers.

(4) A contracting authority shall prepare a record in relation to each public supply contract awarded by it specifying—

- (a) the name and address of the contracting authority;
- (b) the type of goods purchased or hired or to be purchased or hired under the contract and the value of the consideration to be given under it;
- (c) the names of the persons whose offers were evaluated in accordance with regulation 21 and, where the contracting authority has used the restricted or negotiated procedure, the reasons why those persons were selected;
- (d) the names of the persons who were unsuccessful pursuant to regulation 11(7), 12(4), 12(5), 13(7) or 13(8) and the reasons why they were unsuccessful;
- (e) the name of the person to whom the public supply contract was awarded and the reasons for having awarded the contract to him;
- (f) if known to the contracting authority, which parts of the contract the person to whom the contract has been awarded intends to sub-contract to another person; and
- (g) in the case of a contracting authority which used the negotiated procedure, which of the circumstances specified in regulation 10(2) constituted grounds for using that procedure.

(5) If the Commission requests a report containing the information specified in paragraph (4) above, the contracting authority shall send a written report containing that information, or the main features of it, to the Treasury for onward transmission to the Commission”.

(11) Regulation 24 of the Public Supply Regulations (public service bodies) shall be amended by substituting “Schedule 1 entity” for “GATT contracting authority”.

(12) Regulation 25 of the Public Supply Regulations (statistical and other reports) shall be replaced by—

“Statistical and other reports

25.—(1) A contracting authority shall, no later than 31st July in each year, send to the Treasury a report specifying, in relation to each public supply contract awarded by it during the reporting period—

- (a) the value (estimated if necessary) of the consideration payable under the contract;
- (b) whether the open, restricted or negotiated procedure was used;
- (c) if the negotiated procedure was used, pursuant to which provision of regulation 10(2) that procedure was used;
- (d) the type of goods purchased or hired or to be purchased or hired under the contract; and
- (e) the nationality of the person to whom the contract was awarded.

(2) A Schedule 1 entity shall include in the report referred to in paragraph (1) above the aggregate value (estimated if necessary) of all public supply contracts awarded by it during the reporting period which were below the relevant threshold specified in regulation 7.

(3) A contracting authority shall send to the Treasury a report containing such other information as the Treasury may from time to time require in respect of a particular public supply contract (including public supply contracts excluded from the application of these Regulations by regulations 6 and 7) for the purposes of informing the Commission.

(4) In this regulation “the reporting period” means the year preceding the year in which the reports referred to in paragraph (1) are to be made.”

(13) In regulation 29 of the Public Supply Regulations (enforcement of obligations relating to a public supply contract) shall be amended—

(a) by inserting the following paragraphs after paragraph (1)—

“(1A) The duty owed to a supplier pursuant to paragraph (1) above shall be a duty owed also to a GPA provider, but such a duty to a GPA provider shall only be owed by the Secretary of State for Defence in relation to public supply contracts for the purchase or hire of goods specified in Schedule 2.

(1B) References to a “supplier” in paragraphs (2), (4) and (5) below shall be construed as including a reference to a GPA provider.”;

(b) by inserting the following words after the words “pursuant to paragraph (1)” in paragraphs (2), (4), (5) and (6)— “or paragraph (1A)”;

(c) by adding the following paragraph—

“(8) In this regulation—

(a) a “GPA provider” shall mean a person from a GPA State who sought, or who seeks, or would have wished, to be the person to whom the contract is awarded;

(b) a “GPA State” shall mean any country other than a relevant State which, at the relevant time is a signatory to the GPA and has agreed with the European Community that the GPA shall apply to a contract of the type to be awarded⁽⁴⁸⁾; and

(c) “relevant time” shall mean the date on which the contracting authority would have sent a contract notice in respect of the contract to the Official Journal if it had been required by these Regulations to do so.”

(14) Schedule 6 to these Regulations (which substitutes a new Schedule 1 to the Public Supply Regulations) shall have effect.

(15) Schedule 7 to these Regulations (which substitutes a new Schedule 3 to the Public Supply Regulations) shall have effect.

(16) Schedule 8 to these Regulations (which adds Schedule 4 to the Public Supply Regulations) shall have effect.

25th July 2000

Bob Ainsworth
David Jamieson
Two of the Lords Commissioners of Her
Majesty’s Treasury

⁽⁴⁸⁾ Information on the detailed application of the GPA under bilateral agreements between the EU and other signatories is maintained in the annexes and general notes in Appendix I to the GPA. Access to this information is available through the WTO website at www.wto.org.

SCHEDULE 1

Regulation 3(13)

Schedule 2 to the Public Works Regulations shall be replaced by—

“SCHEDULE 2 Regulations 9, 11(2),(8) 12(2),(16), 13(2),
25(2), 26(3)

FORMS OF NOTICES FOR PUBLICATION IN THE OFFICIAL JOURNAL

PART A

PRIOR INFORMATION NOTICE

1. Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
 - (a) The site;
 - (b) Nature and extent of the work(s) to be provided and, where relevant, the main characteristics of any lots by reference to the work;
 - (c) If available, an estimate of the cost range of the proposed work(s).
- (a) Estimated date for initiating the award procedures in respect of the contract or contracts;
 - (b) If known, estimated date for the start of the work;
 - (c) If known, estimated timetable for completion of the work.
4. If known, terms of financing of the work and of price revision and/or references to the relevant provisions.
5. Other information.
6. Date of despatch of the notice.
7. Indication of whether the procurement is covered by the GPA.

PART B

OPEN PROCEDURE NOTICE

1. Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
 - (a) Award procedure chosen.
 - (b) Nature of the contract for which tenders are being requested.
- (a) The site;
 - (b) Nature and extent of the work(s) to be provided and general nature of the work; including any options for further works and if known, an estimate of the timing when such options may be exercised;
 - (c) If the work or the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots;
 - (d) Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.

4. Time limit for completion of the works or duration of the works contract and, as far as possible, time limit for starting the works.
 - (a) Name and address from which the contract documents and additional documents may be requested;
 - (b) Where applicable, the amount and terms of payment of the sum to be paid to obtain such documents.
 - (a) Final date for receipt of tenders;
 - (b) Address to which tenders must be sent;
 - (c) Language(s) in which tenders must be drawn up.
 - (a) Where applicable, the persons authorized to be present at the opening of tenders;
 - (b) Date, hour and place of opening of tenders.
8. Any deposit and guarantees required.
9. Main terms concerning financing and payment and/or references to the relevant provisions.
10. Where applicable, the legal form to be taken by the grouping of contractors to whom the contract is awarded.
11. Information concerning the contractor's personal position and minimum standards of economic and financial standing and technical capacity required of him.
12. Period during which the tenderer is bound to keep open his tender.
13. Criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned where they do not appear in the contract documents.
14. Where applicable, prohibition on variants.
15. Other information.
16. Date of publication of the prior information notice in the Official Journal or references to its non-publication.
17. Date of despatch of the notice.
18. Indication of whether the procurement is covered by the GPA.

PART C

RESTRICTED PROCEDURE NOTICE

1. Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
 - (a) Award procedure chosen;
 - (b) Where applicable, justification for the use of shorter time limits⁽⁴⁹⁾;
 - (c) Nature of the contract for which tenders are being requested.
 - (a) The site;
 - (b) Nature and extent of the work(s) to be provided and general nature of the work; including any options for further works and if known, an estimate of the timing when such options may be exercised;

⁽⁴⁹⁾ In accordance with regulation 12.

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

- (c) If the work or the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots;
 - (d) Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.
4. Time limit for completion of the works or duration of the works contract and, as far as possible, time limit for starting the works.
 5. Where applicable, the legal form to be taken by the grouping of contractors to whom the contract is awarded.
 - (a) Final date for receipt of requests to participate;
 - (b) Address to which requests must be sent;
 - (c) Language(s) in which requests must be drawn up.
 7. Final date for despatch of invitations to tender.
 8. Any deposit and guarantees required.
 9. Main terms concerning financing and payment and/or references to the relevant provisions.
 10. Information concerning the contractor's personal position and minimum standards of economic and financial standing and technical capacity required of him.
 11. Criteria for the award of the contract where they are not mentioned in the invitation to tender.
 12. Where applicable, prohibition on variants.
 13. Other information.
 14. Date of publication of the prior information notice in the Official Journal or references to its non-publication.
 15. Date of despatch of the notice.
 16. Indication of whether the procurement is covered by the GPA.

PART D

NEGOTIATED PROCEDURE NOTICE

1. Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
 - (a) Award procedure chosen;
 - (b) Where applicable, justification for the use of shorter time limits(50);
 - (c) Nature of the contract for which tenders are being requested.
 - (a) The site;
 - (b) Nature and extent of the work(s) to be provided and general nature of the work; including any options for further works and, if known, an estimate of the timing when such options may be exercised;
 - (c) If the work or the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots;
 - (d) Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.

(50) In accordance with regulation 13.

4. Time limit for completion of the works or duration of the works contract and, as far as possible, time limit for starting the works.
5. Where applicable, the legal form to be taken by the grouping of contractors to whom the contract is awarded.
 - (a) Final date for receipt of requests to participate;
 - (b) Address to which they must be sent;
 - (c) Language(s) in which they must be drawn up.
7. Any deposit and guarantees required.
8. Main terms concerning financing and payment and/or the relevant provisions.
9. Information concerning the contractor's personal position and information and formalities necessary in order to evaluate the minimum standards of economic and financial standing and technical capacity required of him.
10. Where applicable, prohibition on variants.
11. Where applicable, name and address of contractors already selected by the awarding authority.
12. Date(s) of previous publications in the Official Journal.
13. Other information.
14. Date of publication of the prior information notice in the Official Journal.
15. Date of despatch of the notice.
16. Indication of whether the procurement is covered by the GPA.

PART E

CONTRACT AWARD NOTICE

1. Name and address of the contracting authority.
 - (a) Award procedure chosen;
 - (b) Where appropriate, justification for use of the negotiated procedure without a prior call for competition⁽⁵¹⁾.
3. Date of award of contract.
4. Criteria for award of contract.
5. Number of offers received.
6. Name and address of successful contractor(s).
7. Nature and extent/quantity of the works provided, general characteristics of the finished structure.
8. Price or range of prices (minimum/maximum) paid or to be paid.
9. Value of winning award(s) or the highest and lowest offer taken into account in the award of the contract.
10. Where appropriate, value and proportion of contract likely to be subcontracted to third parties.

⁽⁵¹⁾ In accordance with regulation 13(1).

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

11. Other information.
12. Date of publication of the contract notice in the Official Journal.
13. Date of despatch of the notice.

PART F

PUBLIC WORKS CONCESSION CONTRACT NOTICE

1. The name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
 - (a) The site;
 - (b) The subject of the concession and extent of the services to be provided.
 - (a) Final date for receipt of candidatures;
 - (b) The address to which they must be sent;
 - (c) The language(s) in which they must be drawn up.
4. Personal, technical and financial conditions to be fulfilled by the candidates.
5. The criteria for the award of the contract.
6. Where applicable, the minimum percentage of the works contracts awarded to third parties.
7. Other information.
8. Date of despatch of the notice.

PART G

NOTICE OF WORKS CONTRACTS AWARDED BY CONCESSIONAIRES

- (a) The site;
- (b) The nature and extent of the service to be provided and the general nature of the work.
2. Any time limit for completion of the works.
3. Name and address from which the contract documents and additional documents may be requested.
 - (a) The final date for receipt of requests to participate and/or receipt of tenders;
 - (b) The address to which they must be sent;
 - (c) The language(s) in which they must be drawn up.
5. Any deposit and guarantees required.
6. The minimum standards of economic and financial standing and technical capacity required of the contractor.
7. The criteria for the award of the contract.
8. Other information.
9. Date of despatch of the notice.”

SCHEDULE 2

Regulation 3(14)

The following Schedule shall be added to the Public Works Regulations—

“SCHEDULE 3

Regulations 2(1) and 4

EXTENSION TO NON MEMBER STATES

<i>Relevant State</i>	<i>Agreement with the European Union which extend the provisions relating to the relevant State</i>	<i>Statutory provisions designating the agreements as European Treaties</i>
1. Bulgaria	Europe Agreement (OJ No., L358, 31.12.94, p.2)	S.I. 1994/758
2. The Czech Republic	Europe Agreement (OJ No. L360, 31.12.94, p.2)	S.I. 1994/759
3. Estonia	Europe Agreement (OJ No. L689.03.98, p. 3)	S.I. 1997/269
4. Hungary	Europe Agreement (OJ No. L347, 31.12.93, p.2)	S.I. 1992/2871
5. Iceland	European Economic Area Agreement ^(a)	European Economic Area Act 1993 ^(b) , section 1.
6. Latvia	Europe Agreement (OJ No. L26, 2.02.98, p.2)	S.I. 1997/270
7. Lichtenstein	European Economic Area Agreement ^(a)	European Economic Area Act 1993 ^(b) , section 1
8. Lithuania	Europe Agreement (OJ No. L5120.02.98 p.3)	S.I.1997/271
9. Norway	European Economic Area Agreement ^(a)	European Economic Area Act 1993 ^(b) , section 1.
10. Poland	Europe Agreement (OJ No. L348, 31.12.94, p.2)	S.I. 1992/2872
11. Romania	Europe Agreement (OJ No. L357, 31.12.94, p.2)	S.I. 1994/760
12. Slovakia	Europe Agreement (OJ No. L359, 31.12.94, p.2)	S.I. 1994/761
13. Slovenia	Europe Agreement (OJ No. L51, 26.02.99, p.3)	S.I. 1998/1062” .

(a) Cmnd 2073 as adjusted by the Protocol signed in Brussels on 17th March 1993 (Cmnd 2183).

(b) [1993 c. 51](#).

SCHEDULE 3

Regulation 4(14)

Schedule 2 to the Public Services Regulations shall be replaced by—

“SCHEDULE 2 Regulations 9, 11(2),(9) 12(2),(17), 13(2),
22(1), 24(2),(10)

FORMS OF NOTICES FOR PUBLICATION IN THE OFFICIAL JOURNAL

PART A

PRIOR INFORMATION NOTICE

1. Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority and of the office from which additional information may be obtained.
2. For each category of services in Part A of Schedule 1, the intended total quantity or value to be provided.
3. For each category of services in (2), the estimated date of the commencement of the procedures leading to the award of the contract(s) (if known).
4. Other information.
5. Date of despatch of the notice.
6. Indication of whether the procurement is covered by the GPA.

PART B

OPEN PROCEDURE NOTICE

1. Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
2. Category of service and description. CPC reference number(52). Quantity or value including, where applicable, any options for further services and, if known, an estimate of the timing when such options may be exercised. In the case of regular or recurring contracts, if known, the expected dates of the subsequent calls for tender.
3. Place of delivery.
 - (a) Indication of whether the provision of the service is reserved by law, regulation or administrative provision to a particular profession;
 - (b) Reference to the law, regulation or administrative provision;
 - (c) Indication of whether legal persons should indicate the names and professional qualifications of the staff to be responsible for the provision of the services.
5. Indication of whether service providers can tender for some or all of the services required.
6. Where applicable, prohibition on variants.
7. Time limits for completion of the service or duration of the service contract and, as far as possible, time limit for starting to provide the service.

(52) CPC stands for the Central Product Classification of the United Nations, published in the United Kingdom by The Stationery Office; ISBN 9211613981.

- (a) Name and address of the office from which the contract and additional documents may be requested;
 - (b) Final date for making such requests;
 - (c) Where applicable, the amount and terms of payment of any sum payable for such documents.
 - (a) Final date for receipt of tenders;
 - (b) Address to which they must be sent;
 - (c) Language(s) in which they must be drawn up.
 - (a) Where applicable, persons authorised to be present at the opening of tenders;
 - (b) Date, time and place of such opening.
11. Where applicable, any deposits and guarantees required.
12. Main terms concerning financing and payment and/or references to the relevant provisions.
13. Where applicable, the legal form to be taken by the grouping of service providers to whom the contract is awarded.
14. Information concerning the service provider's own position, and information and formalities necessary for an appraisal of the minimum standards of economic and financial standing, ability and technical capacity required of him.
15. Period during which the tenderer is bound to keep open his tender.
16. Criteria for the award of the contract and, if possible, their order of importance. Criteria other than the lowest price shall be mentioned if they do not appear in the contract documents.
17. Other Information.
18. Date(s) of publication of the prior information notice in the Official Journal or reference to its non-publication.
19. Date of despatch of the notice.
20. Indication of whether the procurement is covered by the GPA.

PART C

RESTRICTED PROCEDURE NOTICE

1. Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
2. Category of service and description. CPC reference number(53). Quantity or value including, where applicable, any options for further services and, if known, an estimate of the timing when such options may be exercised. In the case of regular or recurring contracts, if known, the estimated date(s) of the subsequent calls for tender.
3. Place of delivery.
 - (a) Indication of whether the provision of the service is reserved by law, regulation or administrative provision to a particular profession;
 - (b) Reference to the law, regulation or administrative provision;

(53) CPC stands for the Central Product Classification of the United Nations, published in the United Kingdom by The Stationery Office; ISBN 9211613981.

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

- (c) Indication of whether legal persons should indicate the names and professional qualifications of the staff to be responsible for the provision of the services.
- 5. Indication of whether service providers can tender for some or all of the services.
- 6. If known, number of service providers which will be invited to tender or the range within which that number is expected to fall.
- 7. Where applicable, prohibition on variants.
- 8. Time limits for completion of the service or duration of the service contract and, as far as possible, time limit for starting to provide the service.
- 9. Where applicable, the legal form to be taken by the grouping of service providers to whom the contract is awarded.
 - (a) Where applicable, justification for use of shorter time limits(54);
 - (b) Final date for receipt of requests to participate;
 - (c) Address to which requests must be sent;
 - (d) Language(s) in which they must be drawn up.
- 11. Final date for despatch of invitations to tender.
- 12. Where applicable, any deposits and guarantees required.
- 13. Information concerning the service provider's own position, and the information and formalities necessary for an appraisal of the minimum standards of economic and financial standing, ability and technical capacity required of him.
- 14. Criteria for the award of the contract and, if possible, their order of importance. Criteria other than the lowest price shall be mentioned if they do not appear in the contract documents.
- 15. Other Information.
- 16. Date(s) of publication of the prior information notice in the Official Journal or reference to its non-publication.
- 17. Date of despatch of the notice.
- 18. Indication of whether the procurement is covered by the GPA.

PART D

NEGOTIATED PROCEDURE NOTICE

- 1. Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
- 2. Category of service and description. CPC reference number(55). Quantity or value including, where applicable, any options for further services and, if known, an estimate of the timing when such options may be exercised. In the case of regular or recurring contracts, if known, the estimated date(s) of the subsequent calls for tender.
- 3. Place of delivery.
 - (a) Indication of whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession;

(54) In accordance with regulation 12.

(55) CPC stands for the Central Product Classification of the United Nations, published in the United Kingdom by The Stationery Office; ISBN 9211613981.

- (b) Reference of the law, regulation or administrative provision;
 - (c) Indication of whether legal persons should indicate the names and professional qualifications of the staff to be responsible for the execution of the service.
5. Indication of whether the service providers can offer some or all of the services required.
 6. If known, the number of service providers which will be invited to tender or the range within which that number is expected to fall.
 7. Where applicable, prohibition of variants.
 8. Time limit for completion of the service or duration of the service contract and, as far as possible, time limit for starting to provide the service.
 9. Where applicable, the legal form to be taken by the grouping of service providers to whom the contract is awarded.
 - (a) Where applicable, justification for the use of shorter time limits⁽⁵⁶⁾;
 - (b) Final date for the receipt of requests to participate;
 - (c) Address to which they must be sent;
 - (d) Language(s) in which they must be drawn up.
 11. Where applicable, any deposits and guarantees required.
 12. Information concerning the service provider's own position, and the information and formalities necessary for an appraisal of the minimum economic and technical standards required of him.
 13. Where applicable, the names and addresses of service providers already selected by the contracting authority.
 14. Other information.
 15. Date of despatch of the notice.
 16. Date(s) of previous publications in the Official Journal.
 17. Indication of whether the procurement is covered by the GPA.

PART E

CONTRACT AWARD NOTICE

1. Name and address of the contracting authority.
 - (a) Award procedure chosen.
 - (b) Where applicable, justification for use of the negotiated procedure without a call for competition⁽⁵⁷⁾.
3. Category of service and description. CPC reference number⁽⁵⁸⁾. Quantity of services procured.
4. Date of award of the contract.
5. Criteria for award of the contract.

⁽⁵⁶⁾ In accordance with regulation 13.

⁽⁵⁷⁾ In accordance with regulation 13(1).

⁽⁵⁸⁾ CPC stands for the Central Product Classification of the United Nations, published in the United Kingdom by The Stationery Office; ISBN 9211613981.

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

6. Number of offers received.
7. Name and address of service provider(s).
8. Price or range of prices (minimum/ maximum) paid or to be paid.
9. Value of winning award(s) or the highest and lowest offer taken into account in the award of the contract.
10. Where appropriate, value and proportion of the contract which may be subcontracted to third parties.
11. Other information.
12. Date of publication of the contract notice in the Official Journal.
13. Date of despatch of the notice.
14. In the case of contracts for services specified in Part B of Schedule 1, agreement by the contracting authority to publication of the notice.

PART F

DESIGN CONTEST NOTICE

1. Name, address and telegraphic address, telephone,, telex and facsimile numbers of the contracting authority and of the office from which additional information may be obtained.
2. Project description.
3. Nature of the contest: open or restricted.
4. In the case of open contests: final date for receipt of plans and designs.
5. In the case of restricted contests:
 - (a) the number of participants envisaged;
 - (b) where applicable, names of the participants already selected;
 - (c) criteria for the selection of participants;
 - (d) final date for receipt of requests to participate.
6. Where applicable, an indication of whether participation is reserved to a particular profession.
7. Criteria to be applied in the evaluation of projects.
8. Where applicable, names of the persons selected to be members of the jury.
9. Indication of whether the decision of the jury is binding on the contracting authority.
10. Where applicable, number and value of prizes.
11. Where applicable, details of payments to all participants.
12. Indication of whether follow-up contracts will be awarded to one of the winners.
13. Other information.
14. Date of despatch of the notice.

PART G

DESIGN CONTEST RESULT NOTICE

1. Name, address and telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
2. Project description.
3. Number of participants.
4. Number of participants established outside the United Kingdom.
5. Winner(s) of the contest.
6. Where applicable, the prize(s) awarded.
7. Other information.
8. Reference to publication of the design contest notice in the Official Journal.
9. Date of despatch of the notice.”

SCHEDULE 4

Regulation 4(15)

The following Schedule shall be added to the Public Services Regulations—

“SCHEDULE 3

Regulations 2(1), 7(1), 24(1), 27(3)

GPA ANNEX I CONTRACTING AUTHORITIES

Where an entity listed in this Schedule is succeeded by another entity, which is itself a contracting authority, the successor entity shall be deemed to be included in this Schedule.

Cabinet Office

Central Commuter and Telecommunications Agency (CCTA)

Civil Service College

Office of the Parliamentary Counsel

The Buying Agency

Central Office of Information

Charity Commission

Crown Prosecution Service

Crown Estate Commissioners (Vote Expenditure Only)

HM Customs and Excise

Department for Culture, Media and Sport

British Library

British Museum

Historic Buildings and Monuments Commission for England (English Heritage)

Imperial War Museum

Museums and Galleries Commission

National Gallery

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

National Maritime Museum
National Portrait Gallery
Natural History Museum
Royal Commission on Historical Manuscripts
Royal Commission on Historical Monuments of England
Royal Fine Art Commission (England)
Science Museum
Tate Gallery
Victoria and Albert Museum
Wallace Collection
Department for Education and Employment
 Higher Education Funding Council for England
Department of the Environment, Transport and the Regions
 Building Research Establishment Agency
 Commons Commission
 Countryside Agency
 Maritime and Coastguard Agency
 Rent Assessment Panels
 Royal Commission on Environmental Pollution
 Valuation Tribunal
Department of Health
 Central Council for Education and Training in Social Work
 Dental Practice Board
 National Board for Nursing, Midwifery and Health Visiting for England
 National Health Service Authorities and Trusts
 Prescription Pricing Authority
 Public Health Service Laboratory Board
 UK Central Council for Nursing, Midwifery and Health Visiting
Department for International Development
Department for National Savings
Department of Social Security
 Disability Living Allowance Advisory Board
 Independent Tribunal Service
 Medical Boards and Examining Medical Officers (War Pensions)
 Occupational Pensions Regulatory Authority
 Regional Medical Service
 Social Security Advisory Committee
Department of the Procurator General and Treasury Solicitor
 Legal Secretariat to the Law Officers

Department of Trade and Industry

Central Transport Consultative Committees

Competition Commission

Electricity Committees

Employment Appeal Tribunal

Employment Tribunals

Gas Consumers' Council

National Weights and Measures Laboratory

Office of Manpower Economics

Patent Office

Export Credits Guarantee Department

Foreign and Commonwealth Office

Wilton Park Conference Centre

Government Actuary's Department

Government Communications Headquarters

Home Office

Boundary Commission for England

Gaming Board for Great Britain

Inspectors of Constabulary

Parole Board and Local Review Committees

House of Commons

House of Lords

Inland Revenue, Board of

Intervention Board for Agricultural Produce

Lord Chancellor's Department

Circuit Offices and Crown, County and Combined Courts (England and Wales)

Combined Tax Tribunal

Council on Tribunals

Court of Appeal—Criminal

Immigration Appellate Authorities

Immigration Adjudicators

Immigration Appeals Tribunal

Lands Tribunal

Law Commission

Legal Aid Fund (England and Wales)

Office of the Social Security Commissioners

Pensions Appeal Tribunals

Public Trust Office

Supreme Court Group (England and Wales)

Transport Tribunal

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

Ministry of Agriculture, Fisheries and Food
Agricultural Dwelling House Advisory Committees
Agricultural Land Tribunals
Agricultural Wages Board and Committees
Cattle Breeding Centre
Plant Variety Rights Office
Royal Botanic Gardens, Kew

Ministry of Defence⁽⁵⁹⁾
Meteorological Office
Defence Procurement Agency

National Assembly for Wales
Higher Education Funding Council for Wales
Local Government Boundary Commission for Wales
Royal Commission for Ancient and Historical Monuments in Wales
Valuation Tribunals (Wales)
Welsh National Health Service Authorities and Trusts
Welsh Rent Assessment Panels
Welsh National Board for Nursing, Midwifery and Health Visiting

National Audit Office

National Investment and Loans Office

Northern Ireland Assembly Commission

Northern Ireland Court Service
Coroners Courts
County Courts
Court of Appeal and High Court of Justice in Northern Ireland
Crown Court
Enforcement of Judgements Office
Legal Aid Fund
Magistrates Courts
Pensions Appeals Tribunals

Northern Ireland, Department of Agriculture and Rural Development

Northern Ireland, Department of Culture, Arts and Leisure

Northern Ireland, Department of Education

Northern Ireland, Department of Enterprise, Trade and Investment

Northern Ireland, Department of the Environment

Northern Ireland, Department of Finance and Personnel

Northern Ireland, Department of Health, Social Services and Public Safety

Northern Ireland, Department of Higher and Further Education, Training and Employment

(59) Only in respect of public supply contracts for the purchase or hire of non-warlike materials specified in Schedule 2.

Northern Ireland, Department of Regional Development
Northern Ireland, Office of the First Minister and deputy First Minister
Northern Ireland, Crown Solicitor's Office
 Department of the Director of Public Prosecutions for Northern Ireland
 Northern Ireland Forensic Science Laboratory
 Office of Chief Electoral Officer for Northern Ireland
 Police Authority for Northern Ireland
 Probation Board for Northern Ireland
 State Pathologist Service
Office of Fair Trading
Office for National Statistics
 National Health Service Central Register
Office of the Parliamentary Commissioner for Administration and Health Service
Commissioners
Paymaster General's Office
Postal Business of the Post Office
Privy Council Office
Public Record Office
Registry of Friendly Societies
Royal Commission on Historical Manuscripts
Royal Hospital, Chelsea
Royal Mint
Scotland, Auditor-General
Scotland, Crown Office and Procurator Fiscal Service
Scotland, General Register Office
Scotland, Queen's and Lord Treasurer's Remembrancer
Scotland, Registers of Scotland
The Scotland Office
The Scottish Executive Corporate Services
The Scottish Executive Education Department
 National Galleries of Scotland
 National Library of Scotland
 National Museums of Scotland
 Scottish Higher Education Funding Council
The Scottish Executive Development Department
The Scottish Executive Enterprise and Lifelong Learning Department
The Scottish Executive Finance
The Scottish Executive Health Department
 Local Health Councils
 National Board for Nursing, Midwifery and Health Visiting for Scotland

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

Scottish Council for Postgraduate Medical Education
Scottish National Health Service Authorities and Trusts
The Scottish Executive Justice Department
Accountant of Court's Office
High Court of Justiciary
Court of Session
HM Inspectorate of Constabulary
Lands Tribunal for Scotland
Parole Board for Scotland and Local Review Committees
Pensions Appeal Tribunals
Scottish Land Court
Scottish Law Commission
Sheriff Courts
Scottish Criminal Record Office
Scottish Crime Squad
Scottish Fire Service Training Squad
Scottish Police College
Social Security Commissioners' Office
The Scottish Executive Rural Affairs Department
Crofters Commission
Red Deer Commission
Rent Assessment Panel and Committees
Royal Botanic Garden, Edinburgh
Royal Commission on the Ancient and Historical Monuments of Scotland
Royal Fine Art Commission for Scotland
The Scottish Executive Secretariat
The Scottish Parliamentary Body Corporate
Scottish Record Office
HM Treasury
The Wales Office (Office of the Secretary of State for Wales)''

SCHEDULE 5

Regulation 4(15)

The following Schedule shall be added to the Public Services Regulations—

“SCHEDULE 4

Regulations 2(1) and 4

EXTENSION TO NON MEMBER STATES

<i>Relevant States</i>	<i>Agreement with the European Union which extend the provisions relating to public procurement to the relevant State</i>	<i>Statutory provisions designating the agreements as European Treaties</i>
1. Bulgaria	Europe Agreement (OJ No., L358, 31.12.94, p.2)	S.I. 1994/758
2. The Czech Republic	Europe Agreement (OJ No. L360, 31.12.94, p.2)	S.I. 1994/759
3. Estonia	Europe Agreement (OJ No. L689.03.98, p.3)	S.I.1997/269
4. Hungary	Europe Agreement (OJ No. L347, 31.12.93, p.2)	S.I. 1992/2871
5. Iceland	European Economic Area Agreement ^(a)	European Economic Area Act 1993 ^(b) , section 1.
6. Latvia	Europe Agreement (OJ No.L26,2.02.98,p.3)	S.I.1997/270
7. Lichtenstein	European Economic Area Agreement ^(a)	European Economic Area Act 1993 ^(b) , section 1
8. Lithuania	Europe Agreement (OJ No. L5120.02.98 p.3)	S.I. 1997/271
9. Norway	European Economic Area Agreement ^(a)	European Economic Area Act 1993 ^(b) , section 1.
10. Poland	Europe Agreement (OJ No. L348, 31.12.94, p.2)	S.I. 1992/2872
11. Romania	Europe Agreement (OJ No. L357, 31.12.94, p.2)	S.I. 1994/760
12. Slovakia	Europe Agreement (OJ No. L359, 31.12.94, p.2)	S.I. 1994/761
13. Slovenia	Europe Agreement (OJ No.L5126.02.99, p.3)	S.I. 1998/1062”

(a) Cmnd 2073 as adjusted by the Protocol signed in Brussels on 17th March 1993 (Cmnd 2183).

(b) [1993 c. 51.](#)

SCHEDULE 6

Regulation 5(14)

Schedule 1 to the Public Supply Regulations shall be replaced by—

“SCHEDULE 1

Regulations 2(1), 7(1), 24, 25(3)

GPA ANNEX I CONTRACTING AUTHORITIES

Cabinet Office

Central Commuter and Telecommunications Agency (CCTA)

Civil Service College

Office of the Parliamentary Counsel

The Buying Agency

Central Office of Information

Charity Commission

Crown Prosecution Service

Crown Estate Commissioners (Vote Expenditure Only)

HM Customs and Excise

Department for Culture, Media and Sport

British Library

British Museum

Historic Buildings and Monuments Commission for England (English Heritage)

Imperial War Museum

Museums and Galleries Commission

National Gallery

National Maritime Museum

National Portrait Gallery

Natural History Museum

Royal Commission on Historical Manuscripts

Royal Commission on Historical Monuments of England

Royal Fine Art Commission (England)

Science Museum

Tate Gallery

Victoria and Albert Museum

Wallace Collection

Department for Education and Employment

Higher Education Funding Council for England

Department of the Environment, Transport and the Regions

Building Research Establishment Agency

Commons Commission

Countryside Agency

Maritime and Coastguard Agency

Rent Assessment Panels

Royal Commission on Environmental Pollution

Valuation Tribunal

Department of Health

Central Council for Education and Training in Social Work

Dental Practice Board

National Board for Nursing, Midwifery and Health Visiting for England

National Health Service Authorities and Trusts

Prescription Pricing Authority

Public Health Service Laboratory Board

UK Central Council for Nursing, Midwifery and Health Visiting

Department for International Development

Department for National Savings

Department of Social Security

Disability Living Allowance Advisory Board

Independent Tribunal Service

Medical Boards and Examining Medical Officers (War Pensions)

Occupational Pensions Regulatory Authority

Regional Medical Service

Social Security Advisory Committee

Department of the Procurator General and Treasury Solicitor

Legal Secretariat to the Law Officers

Department of Trade and Industry

Central Transport Consultative Committees

Competition Commission

Electricity Committees

Employment Appeal Tribunal

Employment Tribunals

Gas Consumers' Council

National Weights and Measures Laboratory

Office of Manpower Economics

Patent Office

Export Credits Guarantee Department

Foreign and Commonwealth Office

Wilton Park Conference Centre

Government Actuary's Department

Government Communications Headquarters

Home Office

Boundary Commission for England

Gaming Board for Great Britain

Inspectors of Constabulary

Parole Board and Local Review Committees

House of Commons

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

House of Lords
Inland Revenue, Board of
Intervention Board for Agricultural Produce
Lord Chancellor's Department
 Circuit Offices and Crown, County and Combined Courts (England and Wales)
 Combined Tax Tribunal
 Council on Tribunals
 Court of Appeal—Criminal
 Immigration Appellate Authorities
 Immigration Adjudicators
 Immigration Appeals Tribunal
 Lands Tribunal
 Law Commission
 Legal Aid Fund (England and Wales)
 Office of the Social Security Commissioners
 Pensions Appeal Tribunals
 Public Trust Office
 Supreme Court Group (England and Wales)
 Transport Tribunal
Ministry of Agriculture, Fisheries and Food
 Agricultural Dwelling House Advisory Committees
 Agricultural Land Tribunals
 Agricultural Wages Board and Committees
 Cattle Breeding Centre
 Plant Variety Rights Office
 Royal Botanic Gardens, Kew
Ministry of Defence(60)
 Meteorological Office
 Defence Procurement Agency
National Assembly for Wales
 Higher Education Funding Council for Wales
 Local Government Boundary Commission for Wales
 Royal Commission for Ancient and Historical Monuments in Wales
 Valuation Tribunals (Wales)
 Welsh National Health Service Authorities and Trusts
 Welsh Rent Assessment Panels
 Welsh National Board for Nursing, Midwifery and Health Visiting
National Audit Office

(60) Only in respect of public supply contracts for the purchase or hire of non-warlike materials specified in Schedule 2.

National Investment and Loans Office
Northern Ireland Assembly Commission
Northern Ireland Court Service
 Coroners Courts
 County Courts
 Court of Appeal and High Court of Justice in Northern Ireland
 Crown Court
 Enforcement of Judgements Office
 Legal Aid Fund
 Magistrates Courts
 Pensions Appeals Tribunals
Northern Ireland, Department of Agriculture and Rural Development
Northern Ireland, Department of Culture, Arts and Leisure
Northern Ireland, Department of Education
Northern Ireland, Department of Enterprise, Trade and Investment
Northern Ireland, Department of the Environment
Northern Ireland, Department of Finance and Personnel
Northern Ireland, Department of Health, Social Services and Public Safety
Northern Ireland, Department of Higher and Further Education, Training and Employment
Northern Ireland, Department of Regional Development
Northern Ireland, Office of the First Minister and deputy First Minister
Northern Ireland, Crown Solicitor's Office
 Department of the Director of Public Prosecutions for Northern Ireland
 Northern Ireland Forensic Science Laboratory
 Office of Chief Electoral Officer for Northern Ireland
 Police Authority for Northern Ireland
 Probation Board for Northern Ireland
 State Pathologist Service
Office of Fair Trading
Office for National Statistics
 National Health Service Central Register
Office of the Parliamentary Commissioner for Administration and Health Service Commissioners
Paymaster General's Office
Postal Business of the Post Office
Privy Council Office
Public Record Office
Registry of Friendly Societies
Royal Commission on Historical Manuscripts
Royal Hospital, Chelsea

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

Royal Mint
Scotland, Auditor-General
Scotland, Crown Office and Procurator Fiscal Service
Scotland, General Register Office
Scotland, Queen's and Lord Treasurer's Remembrancer
Scotland, Registers of Scotland
The Scotland Office
The Scottish Executive Corporate Services
The Scottish Executive Education Department
 National Galleries of Scotland
 National Library of Scotland
 National Museums of Scotland
 Scottish Higher Education Funding Council
The Scottish Executive Development Department
The Scottish Executive Enterprise and Lifelong Learning Department
The Scottish Executive Finance
The Scottish Executive Health Department
 Local Health Councils
 National Board for Nursing, Midwifery and Health Visiting for Scotland
 Scottish Council for Postgraduate Medical Education
 Scottish National Health Service Authorities and Trusts
The Scottish Executive Justice Department
 Accountant of Court's Office
 High Court of Justiciary
 Court of Session
 HM Inspectorate of Constabulary
 Lands Tribunal for Scotland
 Parole Board for Scotland and Local Review Committees
 Pensions Appeal Tribunals
 Scottish Land Court
 Scottish Law Commission
 Sheriff Courts
 Scottish Criminal Record Office
 Scottish Crime Squad
 Scottish Fire Service Training Squad
 Scottish Police College
 Social Security Commissioners' Office
The Scottish Executive Rural Affairs Department
 Crofters Commission
 Red Deer Commission

Rent Assessment Panel and Committees
Royal Botanic Garden, Edinburgh
Royal Commission on the Ancient and Historical Monuments of Scotland
Royal Fine Art Commission for Scotland
The Scottish Executive Secretariat
The Scottish Parliamentary Body Corporate
Scottish Record Office
HM Treasury
The Wales Office (Office of the Secretary of State for Wales)”

SCHEDULE 7

Regulation 5(15)

Schedule 3 to the Public Supply Regulations shall be replaced by—

“SCHEDULE 3

Regulations 9(1), 11(2),(8), 12(2),
(16),13(2) and 22(1)

FORMS OF NOTICES FOR PUBLICATION IN THE OFFICIAL JOURNAL

PART A

PRIOR INFORMATION NOTICE

1. Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority or the office from which additional information may be obtained.
2. Nature and quantity or value of the goods to be supplied. CPA reference number⁽⁶¹⁾.
3. Estimated date of the commencement of the procedures leading to the award of the contract(s) (if known).
4. Other information.
5. Date of despatch of the notice.
6. Indication of whether the procurement is covered by the GPA.

PART B

OPEN PROCEDURE NOTICE

1. Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
 - (a) Award procedure chosen;
 - (b) Form of contract for which offers are invited.

⁽⁶¹⁾ CPA stands for the Classification of Products by Activity as referred to in Council Regulation 3669/93 of 29 October 1993, OJ No. L 342 p. 1, 31.12.93.

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

- (a) Place of delivery.
 - (b) Nature and quantity of the goods to be supplied, including CPA reference number and where applicable any options for further supplies and, if known, the expected date(s) when such options may be exercised. In the case of regular or recurring contracts, an estimate of the timing of the subsequent calls for tenders;
 - (c) Indication of whether the suppliers can tender for some and/or all of the goods required.
 - (d) Whether offers are invited for purchase, lease, rental, hire purchase or a combination of these.
- 4.** Time limit for delivery or duration of the contract and, as far as possible, the date on which delivery should commence.
- (a) Name and address from which the contract documents and additional documents may be requested;
 - (b) Final date for making such requests;
 - (c) Where applicable, the amount and terms of payment of any sum payable for such documents.
- (a) Final date for receipt of tenders;
 - (b) Address to which they must be sent;
 - (c) Language(s) in which they must be drawn up.
- (a) Person(s) authorised to be present at the opening of tenders;
 - (b) Date, time and place of opening.
- 8.** Where applicable, any deposits and guarantees required.
- 9.** The main terms concerning financing and payment and/or references to the relevant provisions.
- 10.** Where applicable, the legal form to be taken by a grouping of suppliers to whom the contract is awarded.
- 11.** Information concerning the supplier's own position, and information and formalities necessary for an appraisal of the minimum standards of economic and financial standing and technical capacity required of him.
- 12.** Period during which the tenderer is bound to keep open his tender.
- 13.** Criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned if they do not appear in the contract document.
- 14.** Where applicable, prohibition on variations.
- 15.** Other information.
- 16.** Date of publication of the prior information notice in the Official Journal or references to its non-publication.
- 17.** Date of despatch of the notice.
- 18.** Indication of whether the procurement is covered by the GPA.

PART C

RESTRICTED PROCEDURE NOTICE

- 1.** Name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.

- (a) Award procedure chosen;
 - (b) Where applicable, justification for use of the shorter time limits(62);
 - (c) Form of contract for which offers are invited.
 - (a) Place of delivery;
 - (b) Nature and quantity of goods to be delivered, including CPA reference number; and, where applicable, any options for further supplies and, if known, an estimate of the timing when such options may be exercised. In the case of regular or recurring contracts, the estimated date(s) of the subsequent calls for tender;
 - (c) Indication of whether the supplier can tender for some and/or all of the goods required;
 - (d) Whether offers are invited for purchase, lease, rental, hire purchase or a combination of these.
4. Time limit for delivery, or duration of the contract and as far as possible, the date on which delivery should commence.
5. Where applicable, the legal form to be assumed by a grouping of suppliers to whom the contract is awarded.
- (a) Final date for the receipt of requests to participate;
 - (b) Address to which they must be sent;
 - (c) Language(s) in which they must be drawn up.
7. Final date for the dispatch of invitations to tender.
8. Any deposits and guarantees required.
9. Information concerning the supplier's own position, and the information and formalities necessary for an appraisal of the minimum standards of economic and financial standing and technical capacity required of him.
10. Criteria for the award of the contract if these are not stated in the invitation to tender.
11. If known, the number of suppliers which will be invited to tender or the range within which that number is expected to fall.
12. Where applicable, prohibition on variations.
13. Other information.
14. Date of publication of the prior information notice in the Official Journal or references to its non-publication.
15. Date of despatch of the notice.
16. Indication of whether the procurement is covered by the GPA.

PART D

NEGOTIATED PROCEDURE NOTICE

1. Name, address, telegraphic address, telephone, telex and facsimile number of the contracting authority.
- (a) Award procedure chosen;

(62) In accordance with regulation 12.

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

- (b) Where applicable, justification for use of shorter time limits⁽⁶³⁾;
 - (c) Where applicable, form of contract for which offers are invited.
 - (a) Place of delivery.
 - (b) Nature and quantity of goods to be delivered, including CPA reference number; and, where applicable, any options for further supplies and, if known, the estimated date(s) when such options may be exercised. In the case of regular or recurring contracts, the estimated date(s) of the subsequent calls for tender.
 - (c) Indication of whether the supplier can tender for some and/or all of the goods required;
 - (d) Whether offers are invited for purchase, lease, rental, hire purchase or a combination of these.
4. Where applicable, the legal form to be taken by a grouping of suppliers to whom the contract is awarded.
- (a) Final date for the receipt of request to participate;
 - (b) Address to which they must be sent;
 - (c) Language(s) in which they must be drawn up.
6. Any deposits or guarantee required.
7. Information concerning the supplier's own position, and the information and formalities necessary for an appraisal of the minimum standards of economic and financial standing and technical capacity required of him.
8. If known, the number of suppliers which will be invited to tender or the range within which that number is expected to fall.
9. Where applicable, prohibition on variations.
10. Where applicable, the names and addresses of suppliers already selected by the awarding authority.
11. Date(s) of previous publications in the Official Journal.
12. Other information.
13. Date of despatch of the notice.
14. Indication of whether the procurement is covered by the GPA.

PART E

CONTRACT AWARD NOTICE

1. Name and address of contracting authority.
 - (a) Award procedure chosen;
 - (b) where appropriate, justification for the use of the negotiated procedure without a call for competition⁽⁶⁴⁾.
3. Date of award of contract.
4. Criteria for award of contract.
5. Number of offers received.

⁽⁶³⁾ In accordance with regulation 13.

⁽⁶⁴⁾ In accordance with regulation 13(1).

6. Name(s) and address(es) of supplier(s).
7. Nature and quantity of goods supplied, where applicable, by supplier: CPA reference number.
8. Price or range of prices paid or to be paid.
9. Value of winning award(s) or the highest and lowest offer taken into account in the award of the contract.
10. Where appropriate, value and proportion of the contract which may be subcontracted to third parties.
11. Other information.
12. Date of publication of the tender notice in the Official Journal.
13. Date of despatch of the notice.”

SCHEDULE 8

Regulation 5(16)

The following Schedule shall be added to the Public Supply Regulations-

“SCHEDULE 4

Regulations 2(1) and 4

EXTENSION TO NON MEMBER STATES

<i>Relevant States</i>	<i>Agreement with the European Union which extend the provisions relating to public procurement to the relevant State</i>	<i>Statutory provisions designating the agreements as European Treaties</i>
1. Bulgaria	Europe Agreement (OJ No., L358, 31.12.94, p.2)	S.I. 1994/758
2. The Czech Republic	Europe Agreement (OJ No. L360, 31.12.94, p.2)	S.I. 1994/759
3. Estonia	Europe Agreement (OJ No. L689.03.98, p.3)	S.I.1997/269
4. Hungary	Europe Agreement (OJ No. L347, 31.12.93, p.2)	S.I. 1992/2871
5. Iceland	European Economic Area Agreement ^(a)	European Economic Area Act 1993 ^(b) , section 1.
6. Latvia	Europe Agreement (OJ No. 226,2.02.98,p.3)	S.I. 1997/270
7. Lichtenstein	European Economic Area Agreement ^(a)	European Economic Area Act 1993 ^(b) , section 1
8. Lithuania	Europe Agreement (OJ No. L5120.02.98 p.3)	S.I. 1997/271

(a) Cmnd 2073 as adjusted by the Protocol signed in Brussels on 17th March 1993 (Cmnd 2183).

(b) [1993 c. 51.](#)

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

<i>Relevant States</i>	<i>Agreement with the European Union which extend the provisions relating to public procurement to the relevant State</i>	<i>Statutory provisions designating the agreements as European Treaties</i>
9. Norway	European Economic Area Agreement ^(a)	European Economic Area Act 1993 ^(b) , section 1.
10. Poland	Europe Agreement (OJ No. L348, 31.12.94, p.2)	S.I. 1992/2872
11. Romania	Europe Agreement (OJ No. L357, 31.12.94, p.2)	S.I. 1994/760
12. Slovakia	Europe Agreement (OJ No. L359, 31.12.94, p.2)	S.I. 1994/761
13. Slovenia	Europe Agreement (OJ No. L5126.02.99,p.3)	S.I. 1998/1062”

(a) Cmnd 2073 as adjusted by the Protocol signed in Brussels on 17th March 1993 (Cmnd 2183).
(b) [1993 c. 51.](#)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement European Parliament and Council Directive [97/52/EC](#) (OJ No. L328, 28.11.97, p.1) in its entirety and for England, Wales, Scotland and Northern Ireland. Directive [97/52/EC](#) amends Council Directives [92/50/EEC](#) (OJ No. L209, 24.7.92, p.1), [93/36/EEC](#) (OJ No. L199, 9.8.93, p.1), and [93/37/EEC](#) (OJ No. L199, 9.8.93, p. 54) concerning the co-ordination of procedures for the award of public services contracts, public supply contracts and public works contracts respectively. Those directives have been implemented for the United Kingdom by the Public Services Regulations 1993 ([S.I. 1993/3228](#)) (“the Services Regulations”); the Public Supply Contracts Regulations 1995 ([S.I. 1995/201](#)) (“the Supply Regulations”) and the Public Works Contracts Regulations 1991 ([S.I. 1991/2680](#)) (“the Works Regulations”), respectively.

The Works Regulations, the Services Regulations and the Supply Regulations specify the procedures to be followed by public bodies, called “contracting authorities”, when they seek offers for certain contracts for the provision of works, services or supplies. The principal purpose of Directive [97/52/EC](#) is to ensure that contractors, service-providers and suppliers in the European Union are treated no less favourably under the Council Directives on public procurement than third country contractors, service-providers and suppliers are treated under the WTO Government Procurement Agreement (GPA) where it applies. These Regulations amend the requirements of the Works Regulations, the Services Regulations and the Supply Regulations accordingly. Information on the GPA (Cm 2572) and where it applies may be found on the WTO web-site (www.wto.org).

In the interest of transparency, these Regulations bring up to date the descriptions of the contracting authorities to whom the Works Regulations, Services Regulations and Supply Regulations apply and modify the lists of relevant States in Europe whose contractors, service-providers and suppliers

are owed duties of compliance under those Regulations, in the same way as contractors, service-providers and suppliers who are nationals of or established in a Member State.

Where the GPA applies, these Regulations extend the benefit of the duty of compliance with the Works Regulations, Services Regulations and Supply Regulations to contractors, service-providers and suppliers who are nationals of or established in third country signatories to the GPA.

Thus these Regulations make the following amendments to the Works Regulations, the Services Regulations and the Supply Regulations respectively:

- (a) The definition of “contracting authority” is revised and up-dated (regulations 3(2), 4(2) and 5(2)), as is the definition of a “relevant state” (regulations 3(1), (3), 4(1), (3), 5(1), (3) and Schedules 2, 5 and 8);
- (b) The financial thresholds, for the purpose of defining contracts to which the Works Regulations, Services Regulations and Supply Regulations apply are modified to align these with the thresholds of the GPA (regulations 3(4), 4(4), 4(11) and 5(4));
- (c) Contracting authorities are permitted to reduce the time limit for the receipt of tenders when using the open and restricted procedures provided certain conditions are met (regulations 3(6), 3(8), 4(6), 4(8), 5(6) and 5(8));
- (d) Contracting authorities are permitted to authorise the submission of tenders by electronic means and other alternative methods to submission in person or by post, provided certain conditions are met (regulations 3(7), 3(9), 4(7), 4(9), 5(7) and 5(9));
- (e) Additional requirements about the information to be given by contracting authorities when de-briefing unsuccessful candidates and tenderers are specified (regulations 3(10), 4(10) and 5(10));
- (f) Contracting authorities are required to comply with amended statistical reporting obligations (regulations 3(11), 4(12) and 5(12));
- (g) The benefit of a contracting authority’s duty of compliance with the Works Regulations, Services Regulations and Supply Regulations is extended to contractors, service-providers and suppliers respectively who are nationals of or established in GPA states, where the GPA applies (regulations 3(12), 4(13) and 5(13)); and
- (h) Revised forms of model notices for publication in the Official Journal are provided (Schedules 1, 3 and 7).