

**2008 No. 2256**

**PUBLIC PROCUREMENT, ENGLAND AND WALES**

**PUBLIC PROCUREMENT, NORTHERN IRELAND**

**The Public Contracts and Utilities Contracts (CPV Code  
Amendments) Regulations 2008**

<i>Made</i> - - - -	22nd August 2008
<i>Laid before Parliament</i>	22nd August 2008
<i>Coming into force</i> - -	15th September 2008

The Treasury are designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to public procurement.

The Treasury make these Regulations in exercise of the powers conferred by section 2(2) of that Act.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Public Contracts and Utilities (CPV Code Amendments) Regulations 2008 and come into force on 15<sup>th</sup> September 2008..

(2) In these Regulations “the Public Contracts Regulations” means the Public Contracts Regulations 2006(c) and “the Utilities Contracts Regulations” means the Utilities Contracts Regulations 2006(d).

**Amendment of the Public Contracts Regulations**

2.—(1) The Public Contracts Regulations are amended as follows.

(2) In regulation 2(1), in the definition of “Common Procurement Vocabulary”, after “the Common Procurement Vocabulary” insert “as amended by Regulation (EC) No 213/2008 of the Commission of the European Communities(e);”.

(3) For Schedule 2 to the Public Contracts Regulations substitute the Schedule contained in Schedule 1 to these Regulations.

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(a) S.I. 1991/755.

(b) 1972 c.68.

(c) S.I. 2006/5, to which there are amendments not relevant to these Regulations.

(d) S.I. 2006/6, to which there are amendments not relevant to these Regulations.

(e) OJ L 74, 15.3.2008, p.1.

(4) For Schedule 3 to the Public Contracts Regulations substitute the Schedule contained in Schedule 2 to these Regulations.

### **Amendment of the Utilities Contracts Regulations**

3.—(1) The Utilities Contracts Regulations are amended as follows.

(2) In regulation 2(1), in the definition of “Common Procurement Vocabulary”, after “the Common Procurement Vocabulary” insert “as amended by Regulation (EC) No 213/2008 of the Commission of the European Communities;”.

(3) For regulation 38(4)(b) of the Utilities Contracts Regulations substitute—

“(b) telecommunications services specified under CPV references 64221000-1, 64227000-3, 64228000-0, 64228100-1, 64228200-2 within category 5 of Part A of Schedule 3;”.

(4) For Schedule 2 to the Utilities Contracts Regulations substitute the Schedule contained in Schedule 1 to these Regulations.

(5) For Schedule 3 to the Utilities Contracts Regulations substitute the Schedule contained in Schedule 2 to these Regulations, but as adapted for this purpose by the substitution of the words “a utility” for the words “a contracting authority” in both places where they appear in the second column of the entry for category 8.

### **Transitional provision**

4.—(1) A contracting authority, or as the case may be a utility, in relation to any contract awarded by it or framework agreement concluded by it prior to the coming into force of these Regulations, may treat the references to Schedules 2 and 3 in the regulations specified in paragraph (2) as references to those Schedules before their amendment by these Regulations.

(2) The specified regulations in paragraph (1) are—

- (a) regulation 40(1)(f) of the Public Contracts Regulations;
- (b) regulation 38(3) of the Utilities Contracts Regulations; and
- (c) regulation 38(4) of the Utilities Contracts Regulations.

*Dave Watts*  
*Alan Campbell*

22nd August 2008

Two of the Lords Commissioners of Her Majesty’s Treasury

## **SCHEDULE 1**

Regulations 2(3) and 3(4)

## **“SCHEDULE 2**

Regulation 2(1)

### **ACTIVITIES CONSTITUTING WORKS**

<i>Section F</i>		<i>Construction</i>			
<i>Division</i>	<i>Group</i>	<i>Class</i>	<i>Subject</i>	<i>Notes</i>	<i>CPV Code</i>
45			Construction	Construction of new buildings and works, restoring and common repairs	45000000

45.1	Site preparation		45100000
45.11	Demolition and wrecking of buildings; earth moving	Demolition of buildings and other structures Clearing of building sites Earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc. Site preparation for mining: overburden removal and other development and preparation of mineral properties and sites Building site drainage Drainage of agricultural or forestry land	45110000
45.12	Test drilling and boring	Test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes	45120000
45.2	Building of complete constructions or parts thereof; civil engineering		45200000
45.21	General construction of buildings and civil engineering works	Construction of all types of buildings Construction of civil engineering constructions Bridges, including those for elevated highways, viaducts, tunnels and subways Long-distance pipelines, communication and power lines Urban pipelines, urban communication and power lines	45210000 Except: 45213316 45220000 45231000 45232000

		Ancillary urban works	
		Assembly and erection of prefabricated constructions on the site	
45.22	Erection of roof covering and frames	Erection of roofs	45261000
		Roof covering	
		Waterproofing	
45.23	Construction of highways, roads, airfields and sport facilities	Construction of highways, streets, roads, other vehicular and pedestrian ways	45212212 and DA03 45230000
		Construction of railways	Except: 45231000 45232000
		Construction of airfield runways	45234115
		Construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations	
		Painting of markings on road surfaces and car parks	
45.24	Construction of water projects	Construction of:	45240000
		waterways, harbour and river works, pleasure ports (marinas), locks, etc.	
		dams and dykes	
		dredging	
		subsurface work	
45.25	Other construction work involving special trades	Construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment	45250000 45262000
		Construction of foundations, including pile driving	
		Water well drilling and construction, shaft sinking	

		Erection of non-self-manufactured steel elements	
		Steel bending	
		Bricklaying and stone setting	
		Scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms	
		Erection of chimneys and industrial ovens	
45.3	Building installation		45300000
	45.31	Installation of electrical wiring and fittings	
		Installation in buildings or other construction projects of:	45213316
		electrical wiring and fittings	45310000
		telecommunications systems	Except: 45316000
		electrical heating systems	
		residential antennas and aerials	
		fire alarms	
		burglar alarm systems	
		lifts and escalators	
		lightning conductors, etc.	
	45.32	Insulation work activities	45320000
		Installation in buildings or other construction projects of thermal, sound or vibration insulation	
	45.33	Plumbing	45330000
		Installation in buildings or other construction projects of:	
		plumbing and sanitary equipment	
		gas fittings	

		heating, ventilation, refrigeration or air- conditioning equipment and ducts	
		sprinkler systems	
	45.34	Other building installation	45234115 45316000 45340000
		Installation of illumination and signalling systems for roads, railways, airports and harbours	
		Installation in buildings or other construction projects of fittings and fixtures n.e.c.	
45.4		Building completion	45400000
	45.41	Plastering	45410000
		Application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials	
	45.42	Joinery installation	45420000
		Installation of non-self- manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials	
		Interior completion such as ceilings, wooden wall coverings, movable partitions, etc.	
	45.43	Floor and wall covering	45430000
		Laying, tiling, hanging or fitting in buildings or other construction projects of:	
		ceramic, concrete or cut stone wall or floor tiles	
		parquet and other wood floor coverings, carpets and linoleum floor coverings, including of rubber or plastic	
		terrazzo, marble, granite or slate floor or wall coverings	
		wallpaper	

45.44	Painting and glazing	Interior and exterior painting of buildings  Painting of civil engineering structures  Installation of glass, mirrors, etc.	45440000
45.45	Other building completion	Installation of private swimming pools  Steam cleaning, sand blasting and similar activities for building exteriors  Other building completion and finishing work n.e.c.	45212212 and DA04 45450000
45.5	Renting of construction or demolition equipment with operator		45500000
45.50	Renting of construction or demolition equipment with operator		45500000".

## SCHEDULE 2

Regulations 2(4) and 3(5)

## “SCHEDULE 3

Regulation 2(2)

## CATEGORIES OF SERVICES

<i>Category</i>	<i>Services</i>	<b>Part A</b> <i>CPC Reference No</i>	<i>CPV Code</i>
1	Maintenance and repair of vehicles and equipment	6112, 6122, 633, 886	from 50100000-6 to 50884000-5 (except for 50310000-1 to 50324200-4, and 50116510-9, 50190000-3, 50229000-6, 50243000-0), and from 51000000-9 to 51900000-1

2	Transport by land, including armoured car services and courier services but not including transport of mail and transport by rail	712 (except 71235), 7512, 87304	from 60100000-9 to 60183000-4 (except 60160000-7, 60161000-4, 60220000-6), and from 64120000-3 to 64121200-2
3	Transport by air but not transport of mail	73 (except 7321)	from 60410000-5 to 60424120-3 (except 60411000-2, 60421000-5), and 60500000-3, and from 60440000-4 to 60445000-9
4	Transport of mail by land, other than by rail, and by air	71235, 7321	60160000-7, 60161000-4 60411000-2, 60421000-5
5	Telecommunications services	752	from 64200000-8 to 64228200-2, 72318000-7, and from 72700000-7 to 72720000-3
6	Financial services: (a) Insurance services (b) Banking and investment services other than financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments and central bank services	ex 81, 812, 814	from 66100000-1 to 66720000-3
7	Computer and related services	84	from 50310000-1 to 50324200-4, from 72000000-5 to 72920000-5 (except 72318000-7 and from 72700000-7 to 72720000-3), 79342410-4
8	Research and development services where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs and the services are to be wholly paid for by the contracting authority	85	from 73000000-2 to 73436000-7 (except 73200000-4, 73210000-7, 73220000-0)
9	Accounting, auditing and book-keeping services	862	from 79210000-9 to 79223000-3
10	Market research and public opinion polling services	864	from 79300000-7 to 79330000-6 and 79342310-9, 79342311-6



11	Management consultancy services and related services but not arbitration and conciliation services	865, 866	from 73200000-4 to 73220000-0, from 79400000-8 to 79421200-3 and 79342000-3, 79342100-4, 79342300-6, 79342320-2, 79342321-9, 79910000-6, 79991000-7, 98362000-8
12	Architectural services; engineering services and integrated engineering services; urban planning and landscape engineering services; related scientific and technical consulting services; technical testing and analysis services	867	from 71000000-8 to 71900000-7 (except 71550000-8), and 79994000-8
13	Advertising services	871	from 79341000-6 to 79342200-5 (except 79342000-3 and 79342100-4)
14	Building-cleaning services and property management services	874, 82201 to 82206	from 70300000-4 to 70340000-6, and from 90900000-6 to 90924000-0
15	Publishing and printing services on a fee or contract basis	88442	from 79800000-2 to 79824000-6, and from 79970000-6 to 79980000-7
16	Sewage and refuse disposal services; sanitation and similar services	94	from 90400000-1 to 90743200-9 (except 90712200-3), from 90910000-9 to 90920000-2 and 50190000-3, 50229000-6, 50243000-0

**Part B**

<i>Category</i>	<i>Services</i>	<i>CPC Reference No</i>	<i>CPV Code</i>
17	Hotel and restaurant services	64	55100000-1 to 55524000-9 and from 98340000-8 to 98341100-6
18	Transport by rail	711	from 60200000-0 to 60220000-6
19	Transport by water	72	from 60600000-4 to 60653000-0, and from 63727000-1 to 63727200-3
20	Supporting and auxiliary	74	from 63000000-9 to

	transport services		63734000-3 (except 63711200-8, 63712700-0, 63712710-3, and from 63727000-1 to 63727200-3), and 98361000-1
21	Legal services	861	from 79100000-5 to 79140000-7
22	Personnel placement and supply services	872	from 79600000-0 to 79635000-4 (except 79611000-0, 79632000-3, 79633000-0), and from 98500000-8 to 98514000-9
23	Investigation and security services, other than armoured car services	873 (except 87304)	from 79700000-1 to 79723000-8
24	Education and vocational education services	92	from 80100000-5 to 80660000-8 (except 80533000-9, 80533100-0, 80533200-1)
25	Health and social services	93	79611000-0 and from 85000000-9 to 85323000-9 (except 85321000-5 and 85322000-2)
26	Recreational, cultural and sporting services	96	from 79995000-5 to 79995200-7, and from 92000000-1 to 92700000-8 (except 92230000-2, 92231000-9, 92232000-6)
27	Other services”.		

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Public Contracts Regulations 2006 (SI 2006/05) (“the Public Contracts Regulations”) and the Utilities Contracts Regulations 2006 (SI 2006/06) (“the Utilities Contracts Regulations”).

Council Directive 2004/17/EC (OJ L134, 30.4.2004, p.1) (“the Utilities Directive”) concerns the co-ordination of procurement procedures of entities operating in the water, energy, transport and postal service sectors. Council Directive 2004/18/EC (OJ L134, 30.4.2004, p.114) (“the Public Sector Directive”) concerns the co-ordination of procedures for the award of public works contracts, public supply contracts and public services contracts. Those Directives have been implemented for England, Wales and Northern Ireland by the Utilities Contracts Regulations and the Public Contracts Regulations respectively.

Commission Regulation (EC) 213/2008 (OJ L74, 15.3.2008, p.1) (“the CPV Regulation”) concerning the revision of the Common Procurement Vocabulary amends Annexes I, IIA and IIB of the Public Sector Directive and Annexes XII, XVIIA and XVIIIB of the Utilities Directive which list the activities, along with their Common Procurement Vocabulary (“CPV”) codes, which constitute public works and public services for the purposes of the two directives.

The CPV Regulation does not change the material scope of the Public Sector Directive or of the Utilities Directive.

Regulations 2 and 3 amend the Public Contracts Regulations and the Utilities Contracts Regulations to reflect the amendments to the Public Sector Directive and Utilities Directive made by the CPV Regulation.

Regulation 3 also clarifies the CPV codes used in regulation 38(4)(b) of the Utilities Contracts Regulations.

A full regulatory impact assessment has not been produced as no impact on the private and voluntary sectors is foreseen.

A Transposition Note is attached to the Explanatory Memorandum which is available alongside this instrument on the OPSI website ([www.opsi.gov.uk](http://www.opsi.gov.uk)).

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STATUTORY INSTRUMENTS

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