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# STATUTORY INSTRUMENTS

# 2015 No. 102

# **PUBLIC PROCUREMENT**

# The Public Contracts Regulations 2015

Made - - - - 4th February 2015

Laid before Parliament 5th February 2015

Coming into force in accordance with regulation 1(2) to (6)

# THE PUBLIC CONTRACTS REGULATIONS 2015

#### PART 1

# GENERAL

- 1. Citation, commencement, extent and application
- 2. Definitions

# PART 2

# RULES IMPLEMENTING THE PUBLIC CONTRACTS DIRECTIVE

# CHAPTER 1

#### SCOPE AND GENERAL PRINCIPLES

# SECTION 1

Scope

#### **SUB-SECTION 1**

Subject-matter and mixed procurement

- 3. Subject-matter and scope of Part 2
- 4. Mixed procurement

# **SUB-SECTION 2**

#### **Thresholds**

5. Threshold amounts

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Methods for calculating the estimated value of procurement

6. (1) The calculation of the estimated value of a procurement...

#### **SUB-SECTION 3**

#### **Exclusions**

- 7. Contracts in the water, energy, transport and postal services sectors
- 8. Specific exclusions in the field of electronic communications
- 9. Public contracts awarded, and design contests organised, pursuant to international rules
- 10. Specific exclusions for service contracts
- 11. Service contracts awarded on the basis of an exclusive right Public contracts between entities within the public sector
- 12. (1) A public contract awarded by a contracting authority to...

#### **SUB-SECTION 4**

# Specific situations

- 13. Contracts subsidised by contracting authorities
- 14. Research and development services
- 15. Defence and security
- 16. Mixed procurement involving defence or security aspects
- 17. Public contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules

# **SECTION 2**

#### General Rules

- 18. Principles of procurement
- 19. Economic operators
- 20. Reserved contracts
- 21. Confidentiality
  - Rules applicable to communication
- 22. (1) Subject to paragraphs (3), (5), (8) and (10), all...
- 23. Nomenclatures
- 24. Conflicts of interest

# **CHAPTER 2**

# RULES ON PUBLIC CONTRACTS

#### SECTION 3

#### **Procedures**

- 25. Conditions relating to the GPA and other international agreements Choice of procedures
- 26. (1) When awarding public contracts, contracting authorities shall apply procedures...
- 27. Open procedure
- 28. Restricted procedure

Competitive procedure with negotiation

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- 29. (1) In competitive procedures with negotiation, any economic operator may...
  - Competitive dialogue
- 30. (1) In competitive dialogues, any economic operator may submit a...
- 31. Innovation partnership
- 32. Use of the negotiated procedure without prior publication

#### **SECTION 4**

Techniques and Instruments for Electronic and Aggregated Procurement

- 33. Framework agreements
  - Dynamic purchasing systems
- 34. (1) Contracting authorities may use a dynamic purchasing system for...
- 35. Electronic auctions
  - Electronic catalogues
- 36. (1) Where the use of electronic means of communication is...
- 37. Centralised purchasing activities and central purchasing bodies
- 38. Occasional joint procurement
- 39. Procurement involving contracting authorities from other member States

#### **SECTION 5**

# Conduct of the Procedure

### **SUB-SECTION 5**

#### Preparation

- 40. Preliminary market consultations
- 41. Prior involvement of candidates or tenderers
- 42. Technical specifications
- 43. Labels
- 44. Test reports, certificates and other means of proof
- 45. Variants
- 46. Division of contracts into lots
- 47. Setting time limits

# **SUB-SECTION 6**

# Publication and transparency

- 48. Prior information notices
- 49. Contract notices
- 50. Contract award notices
- 51. Form and manner of sending notices for publication at EU level Publication at national level
- 52. (1) In addition to the publication of the notices refered...
- 53. Electronic availability of procurement documents
- 54. Invitations to candidates
- 55. Informing candidates and tenderers

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#### **SUB-SECTION 7**

# Choice of participants and award of contracts

- 56. General principles in awarding contracts etc Exclusion grounds
- 57. (1) Contracting authorities shall exclude an economic operator from participation...
  Selection criteria
- 58. (1) Selection criteria may relate to— (a) suitability to pursue... European Single Procurement Document
- 59. (1) At the time of submission of requests to participate... Means of proof
- 60. (1) —Contracting authorities may require the certificates, statements and other...
- 61. Recourse to e-Certis
- 62. Quality assurance standards and environmental management standards
- 63. Reliance on the capacities of other entities
- 64. Recognition of official lists of approved economic operators and certification by certification bodies
- 65. Reduction of the number of otherwise qualified candidates to be invited to participate
- 66. Reduction of the number of tenders and solutions
- 67. Contract award criteria
- 68. Life-cycle costing
- 69. Abnormally low tenders

# **SECTION 6**

#### Contract Performance

- 70. Conditions for performance of contracts Subcontracting
- 71. (1) In the procurement documents, the contracting authority may ask...
- 72. Modification of contracts during their term
- 73. Termination of contracts

#### **CHAPTER 3**

# PARTICULAR PROCUREMENT REGIMES

#### **SECTION 7**

# Social and Other Specific Services

- 74. Award of contracts for social and other specific services
- 75. Publication of notices
- 76. Principles of awarding contracts
- 77. Reserved contracts for certain services

# **SECTION 8**

#### Rules Governing Design Contests

78. Scope of Section 8

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- 79. Notices
- 80. Rules on the organisation of design contests and the selection of participants
- 81. Composition of the jury
- 82. Decisions of the jury

#### **CHAPTER 4**

#### RECORDS AND REPORTS

- 83. Retention of contract copies
  Reporting and documentation requirements
- 84. (1) For every contract or framework agreement covered by this...

#### PART 3

#### REMEDIES

#### CHAPTER 5

#### **FACILITATION OF REMEDIES**

- 85. Scope of Chapter 5
- 86. Notices of decisions to award a contract or conclude a framework agreement
- 87. Standstill period

# CHAPTER 6

#### APPLICATIONS TO THE COURT

- 88. Interpretation of Chapter 6
- 89. Duty owed to economic operators from EEA states
- 90. Duty owed to economic operators from certain other states
- 91. Enforcement of duties through the Court
- 92. General time limits for starting proceedings
- 93. Special time limits for seeking a declaration of ineffectiveness
- 94. Starting proceedings
- 95. Contract-making suspended by challenge to award decision
- 96. Interim orders
- 97. Remedies where the contract has not been entered into
- 98. Remedies where the contract has been entered into
- 99. Grounds for ineffectiveness
- 100. General interest grounds for not making a declaration of ineffectiveness
- 101. The consequences of ineffectiveness
- 102. Penalties in addition to, or instead of, ineffectiveness
- 103. Ineffectiveness etc. in relation to specific contracts based on a framework agreement
- 104. Injunctions against the Crown

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# PART 4

# MISCELLANEOUS OBLIGATIONS

#### CHAPTER 7

#### ADDITIONAL RULES FOR PART 2 PROCUREMENTS

- 105. Scope of Chapter 7
- 106. Publication of information on Contracts Finder where contract notices are used
- 107. Qualitative selection
- 108. Publication of information on Contracts Finder about contracts awarded

#### CHAPTER 8

#### BELOW-THRESHOLD PROCUREMENTS

- 109. Scope of Chapter 8
- 110. Publication of contract opportunities on Contracts Finder
- 111. Assessing suitability etc
- 112. Publication of information on Contracts Finder about contracts awarded

#### **CHAPTER 9**

### MISCELLANEOUS PROVISIONS

- 113. Payment of undisputed invoices within 30 days by contracting authorities, contractors and subcontractors
- 114. General provisions applicable to Part 4

#### PART 5

# REVOCATIONS, CONSEQUENTIAL AMENDMENTS, SAVINGS AND TRANSITIONAL PROVISIONS

- 115. Interpretation of Part 6
- 116. Revocation and amendments
- 117. General saving in respect of certain concession contracts
- 118. General transitional provision and saving where procurement procedure commenced before 26th February 2015
- 119. Transitional provision and saving where utilities procurement procedure commenced before 26th February 2015
- 120. Temporary exemption and saving for certain NHS procurements
- 121. Transitory provision prior to full commencement of regulation 22(1) to (7)
- 122. Complying with regulation 113 before 1st April 2016 Signature

SCHEDULE 1 — CENTRAL GOVERNMENT AUTHORITIES

SCHEDULE 2 — ACTIVITIES CONSTITUTING WORKS In this Schedule, 'NACE Rev.1' has the same meaning as...

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#### SCHEDULE 3 — SOCIAL AND OTHER SPECIFIC SERVICES

# SCHEDULE 4 — LIST OF PRODUCTS RELEVANT TO THRESHOLDS The products covered by this Schedule are those specified in...

# SCHEDULE 5 — PROFESSIONAL AND TRADE REGISTERS ETC.

The registers and other requests referred to in regulation 58(5)...

# SCHEDULE 6 — CONSEQUENTIAL AND MISCELLANEOUS AMENDMENTS

PART 1 — Consequential amendments to Acts of Parliament

- 1. Late Payment of Commercial Debts (Interest) Act 1998
- 2. Greater London Authority Act 1999
- 3. (1) Section 355 (duties of waste collection authorities etc.) is...
- 4. (1) Section 356 (directions by the Mayor) is amended as...
- 5. (1) Section 358 (information about new waste contracts) is amended...
- 6. In section 359 (confidential information about waste contracts) in subsection...
- 7. (1) Section 360 (interpretation) is amended as follows.
- 8. Public Services (Social Value) Act 2012
- 9. Health and Social Care Act 2012
  - PART 2 Consequential and miscellaneous amendments to other legislation
- 10. Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975
- 11. Civil Procedure Rules 1998
- 12. Service Charges (Consultation Requirements) (England) Regulations 2003
- 13. Schools Forums (Wales) Regulations 2003
- 14. Service Charges (Consultation Requirements) (Wales) Regulations 2004
- 15. Utilities Contracts Regulations 2006
- 16. Provision of Services Regulations 2009
- 17. Quality Contracts Schemes (Tendering Requirements) (England) Regulations 2009
- 18. Cleaner Road Transport Vehicle Regulations 2011
- 19. Defence and Security Public Contracts Regulations 2011
- 20. Schools Forums (England) Regulations 2012
- 21. National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013
- 22. Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013
- 23. In regulation 6(2)—(a) in sub-paragraph (a) for "the Public...
- 24. In regulation 8(3)(a) for "the Public Contracts Regulations 2006 or...
- 25. The provisions of the Utilities Contracts Regulations 2006 applied by...
- 26. Energy Savings Opportunity Scheme Regulations 2014
- 27. Tax Relief for Social Investments (Accreditation of Social Impact Contractor) Regulations 2014

**Explanatory Note** 

# **Status:**

Point in time view as at 03/07/2017.

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