
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement, for England and Wales and Northern Ireland, Directive 2014/23/EU of the European Parliament and of the Council on the award of concession contracts (OJ No L 94, 28.3.2014, p1) (“the Concessions Directive”).

These Regulations impose obligations on contracting authorities (as defined in regulation 4) and utilities (as defined in regulation 5) concerning the award of concession contracts.

Parts 1 and 2 set out the scope of the Regulations (including by reference to the thresholds based on the estimated value of the concession contract) and lay down general principles that apply to concession contracts within the scope of the Regulations and the principles for the award of mixed contracts. Chapter 2 of Part 2 contains details of the types of concession contracts that are excluded from the scope of these Regulations.

Part 3 contains rules on the award of concession contracts. Chapter 1 contains obligations relating to the publication of concession notices and concession award notices (regulations 31 to 33), the electronic availability of concession documents (regulation 34) and the prevention of corruption and conflicts of interest (regulation 35). Chapter 2 of Part 3 contains provisions relating to technical and functional requirements of concession contracts (regulation 36), the selection and qualitative assessment of candidates (regulation 38) and award criteria (regulation 41).

Part 4 contains rules on the performance of concession contracts, including provisions relating to subcontracting (regulation 42), the modification and termination of concession contracts (regulations 43 and 44) and reporting requirements (regulation 45). Part 5 contains provisions about remedies (and their facilitation) in relation to concession contracts within the scope of these Regulations. These provisions replicate, with consequential amendments, Part 3 of the Public Contracts Regulations 2015 (S.I. 2015/102) and Part 9 of the Utilities Contracts Regulations 2006 (S.I. 2006/6). In doing so they implement, for England and Wales and Northern Ireland, the following EU instruments, as amended by Articles 46 and 47 of the Concessions Directive—

- (a) Council Directive [89/665/EEC](#) on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ No L 395, 30.12.1989, p33); and
- (b) Council Directive [92/13/EEC](#) coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunication sectors (OJ No L 76, 23.3.1992, p14).

A transposition note and a full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at www.gov.uk. It is also annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk.

Status:

Point in time view as at 20/03/2024.

Changes to legislation:

The Concession Contracts Regulations 2016 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.