
STATUTORY INSTRUMENTS

2016 No. 274

The Utilities Contracts Regulations 2016

PART 2

RULES APPLICABLE TO CONTRACTS

CHAPTER 4

Contract performance

Termination of contracts

89.—(1) Utilities shall ensure that every contract which they award contains provisions enabling the utility to terminate the contract where—

- (a) the contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with regulation 88(8).
- (b) the contractor has, at the time of contract award, been in one of the situations referred to in regulation 57(1) of the Public Contracts Regulations and should therefore have been excluded from the procurement procedure in accordance with regulation 80(2) of these Regulations.
- (c) the contract should not have been awarded to the contractor in view of a serious infringement of the obligations under the Treaties and the Utilities Contracts Directive that has been declared by the European Court in a procedure under Article 258 of TFEU.

(2) Those provisions may address the basis on which the power is to be exercisable in those circumstances, for example by providing for notice of termination to be given and by addressing consequential matters that will or might arise from the termination.

(3) To the extent that a contract does not contain provisions enabling the utility to terminate the contract on any of the grounds mentioned in paragraph (1), a power for the utility to do so on giving reasonable notice to the contractor shall be an implied term of that contract.