
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 65

PUBLIC PROCUREMENT

The Concession Contracts (Scotland) Regulations 2016

Made - - - - - *29th January 2016*

Laid before the Scottish

Parliament - - - *2nd February 2016*

Coming into force in accordance with regulation 1

**THE CONCESSION CONTRACTS
(SCOTLAND) REGULATIONS 2016**

PART 1

1. Citation, commencement and extent
2. Interpretation
3. Meaning of “concession contract”
4. Meaning of “contracting authority”
5. Meaning of “utility”
6. Meaning of “concession notice”

PART 2

CHAPTER 1

7. Subject matter and application of these Regulations
8. Thresholds and methods for calculating the estimated value of the concession contract

CHAPTER 2

9. Exclusions: Concession contracts awarded on the basis of an exclusive right
10. Exclusions: Concession contracts awarded pursuant to international rules
11. Exclusions: Concession contracts involving defence or security aspects which are awarded or organised pursuant to international rules
12. Exclusions: Specific service contracts
13. Exclusions: Electronic Communications

Status: This is the original version (as it was originally made).

14. Exclusions: Water
15. Exclusions: Concession contracts awarded to an affiliated undertaking
16. Exclusions: Concession contracts awarded to a joint venture or to a utility forming part of a joint venture
17. Notification of information by utilities
18. Exclusion of activities which are directly exposed to competition
19. Exclusions: Concession contracts between entities within the public sector

CHAPTER 3

20. Duration of the concession contract
21. Social and other specific services
22. Mixed Procurement
23. Mixed procurement involving defence or security aspects
24. Contracts covering both activities listed in Schedule 2 and other activities
25. Contracts covering both activities listed in Schedule 2 and activities involving defence or security aspects

CHAPTER 4

26. Reserved Concession Contracts
27. Specific situations: Research and development services

CHAPTER 5

28. Principles of equal treatment, non-discrimination and transparency
29. Economic Operators
30. Nomenclatures
31. Confidentiality
32. Rules applicable to communication

PART 3

CHAPTER 6

33. Concession notice
34. Concession contract award notice
35. Form and manner of publication of notices
36. Electronic availability of concession documents
37. Conflict of Interest

CHAPTER 7

38. Technical and functional requirements
39. Procedural guarantees
40. Exclusion grounds
41. Selection of and qualitative assessment of candidates

- 42. Time limits for receipt of applications and tenders for the concession contract
- 43. Informing candidates and tenderers
- 44. Concession contract award criteria

PART 4

- 45. Subcontracting
- 46. Modification of concession contract during contract term
- 47. Termination of concession contract

PART 5

CHAPTER 8

- 48. Scope of Chapter 8
- 49. Notice of a decision to award a concession contract
- 50. Standstill period

CHAPTER 9

- 51. Duty owed to economic operators
- 52. Enforcement of duties through the Courts
- 53. Automatic suspension of authority power to proceed with concession contract award
- 54. Powers and duties of the court
- 55. Ineffectiveness orders
- 56. Powers of the court
- 57. General interest grounds for not making a declaration of ineffectiveness
- 58. Other orders
- 59. Financial penalties

PART 6

- 60. Reporting requirements
- 61. Review of these Regulations

PART 7

- 62. Interpretation of Part 7
- 63. Transitional provision and saving where procurement was commenced before 18th April 2016
- 64. Transitory provision prior to full commencement of regulation 32(1) to (7)
Signature

SCHEDULE 1 ACTIVITIES CONSTITUTING WORKS
SCHEDULE 2 ACTIVITIES EXERCISED BY UTILITIES

- 1. Gas and heat
- 2. Electricity

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

3. Transport services
4. Ports and airports
5. Postal services activities
6. Oil and gas

SCHEDULE 3

SCHEDULE 4

SOCIAL AND OTHER SPECIFIC SERVICES
LIST OF INTERNATIONAL SOCIAL AND
ENVIRONMENTAL CONVENTIONS REFERRED TO
IN REGULATION 40(9)

Explanatory Note