STATUTORY INSTRUMENTS

1995 No. 201

The Public Supply Contracts Regulations 1995

PART I

GENERAL

Interpretation

2.—(1) In these Regulations—

"to award" means to accept an offer made in relation to a proposed contract;

"the Commission" means the European Commission;

"contract documents" means the invitation to tender for or to negotiate the contract, the proposed conditions of contract, the specifications or description of the goods required by the contracting authority, and all documents supplementary thereto;

"contract notice" means a notice sent to the Official Journal in accordance with regulation 11(2), 12(2) or 13(2);

"contracting authority" has the meaning ascribed to it by regulation 3;

"ECU" means the European Currency Unit as defined in Council Regulation (EEC) No. 3180/78(**1**);

"established" means the same as it does for the purposes of the Community Treaties;

"financial year" means the period of 12 months ending on 31st March in any year or, in relation to any person whose accounts are prepared in respect of a different 12 month period, that period of 12 months;

"a GATT contracting authority" means one of the entities specified in Schedule 1, being entities in respect of which special provision is made by these Regulations in pursuance of the obligations of the Economic Community under the Agreement on Government Procurement between certain parties to the General Agreement on Tariffs and Trade (GATT) signed in Geneva on 12 April 1979(**2**);

"goods" includes electricity, substances, growing crops and things attached to or forming part of the land which are agreed to be severed before the purchase or hire under the supply contract and any ship, aircraft or vehicle;

"government department" includes a Northern Ireland department or the head of such department;

"Minister of the Crown" means the holder of an office in Her Majesty's Government in the United Kingdom, and includes the Treasury;

(**1**) OJ No. L379, 30.12.78, p.1, as amended by Council Regulation (EEC) No. 2626/84 (OJ No. L247, 16.9.84, p.1) and Council Regulation EEC No. 1971/89 (OJ No. L189, 4.7.89, p. 1).

(**2**) Cmnd. 7662.

"national of a relevant State" means, in the case of a person who is not an individual, a person formed in accordance with the laws of a relevant State and which has its registered office, central administration or principal place of business in a relevant State;

"negotiated procedure" means a procedure leading to the award of a public supply contract whereby a contracting authority negotiates the terms of the contract with one or more persons selected by it;

"Official Journal" means the Official Journal of the European Communities;

"open procedure" means a procedure leading to the award of a public supply contract whereby all interested persons may tender for the contract;

"prior information notice" means a notice sent to the Official Journal in accordance with regulation 9;

"public supply contract" means a contract in writing for consideration (whatever the nature of the consideration)—

(a) for the purchase of goods by a contracting authority (whether or not the consideration is given in instalments and whether or not the purchase is conditional upon the occurrence of a particular event), or

(b) for the hire of goods by a contracting authority (both where the contracting authority becomes the owner of the goods after the end of the period of hire and where it does not),

and for any siting or installation of those goods, but where under such a contract services are also to be provided, the contract shall only be a public supply contract where the value of the consideration attributable to the goods and any siting or installation of the goods is equal to or greater than the value attributable to the services;

"relevant State" means a member State, Hungary, Poland, Iceland, Norway and, as from the date that the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**3**), as adjusted by the Protocol signed at Brussels on 17th March 1993(**4**), is in force in relation to it, Liechtenstein;

"restricted procedure" means a procedure leading to the award of a public supply contract whereby only persons selected by the contracting authority may submit tenders for the contract;

"ship" includes any boat and other description of a vessel used in navigation;

"substance" means any natural or artificial substance, whether in solid, liquid or gaseous form or in the form of a vapour;

"supplier" has the meaning ascribed to it by regulation 4;

"working day" means a day other than a Saturday, Sunday or Bank Holiday (within the meaning of the Banking and Financial Dealings Act 1971(**5**)); and

"year" means a calendar year.

(2) The value in the currency of any relevant State of any amount expressed in these Regulations in ECU or of the amount in ECU for the purposes of regulation 7(2) shall be calculated by reference to the exchange rate for the time being applying for the purposes of Council Directive 93/36/EEC(**6**) as published from time to time in the Official Journal(**7**).

(3) Where a thing is required to be done under these Regulations—

(**3**) Cmnd. 2073.
(**4**) Cmnd. 2183.
(**5**) 1971 c. 80.
(**6**) OJ No. L199, 9.8.93, p. 1.
(**7**) The rates are determined for each successive period of two years by calculating the average of the daily exchange rates between each currency and the ECU over a period of 24 months preceding the determination.

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(a) within a period after an action is taken, the day on which that action was taken shall not be counted in the calculation of that period;

(b) within a certain period, that period must include two working days;

(c) within a period and the last day of that period is not a working day, the period shall be extended to include the following working day.

(4) References in these Regulations to a regulation are references to a regulation in these Regulations and references to a Schedule are references to a Schedule to these Regulations.