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STATUTORY INSTRUMENTS

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**2016 No. 274**

**The Utilities Contracts Regulations 2016**

**PART 1**

**GENERAL**

**CHAPTER 3**

**MATERIAL SCOPE**

*SECTION 2*

*Excluded contracts and design contests; special provisions  
for procurement involving defence and security aspects*

**SUB-SECTION 1** *Exclusions applicable to all utilities and special exclusions for the water and energy sectors*

**Specific exclusions for service contracts**

**21.—(1)** These Regulations do not apply to service contracts—

- (a) for the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or which concern interests in or rights over any of them;
- (b) for arbitration or conciliation services;
- (c) for any of the following legal services—
  - (i) legal representation of a client by a lawyer <sup>F1</sup>..., in:—
    - (aa) an arbitration or conciliation held in [<sup>F2</sup>the United Kingdom, another] country or before an international arbitration or conciliation instance, or
    - (bb) judicial proceedings before the courts, tribunals or public authorities of [<sup>F3</sup>the United Kingdom or another] country or before international courts, tribunals or institutions;
  - (ii) legal advice given—
    - (aa) in preparation of any of the proceedings referred to in paragraph (i), or
    - (bb) where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings, provided that the advice is given by a lawyer <sup>F4</sup>...;
  - (iii) document certification and authentication services which must be provided by notaries;
  - (iv) legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court or tribunal in the [<sup>F5</sup>United Kingdom] or are designated by law to carry out specific tasks under the supervision of such tribunals or courts;

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- (v) other legal services which in the [<sup>F6</sup>United Kingdom] are connected, even occasionally, with the exercise of official authority;
  - (d) for—
    - (i) financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of Directive 2004/39/EC of the European Parliament and of the Council <sup>M1</sup> as amended from time to time, or
    - (ii) operations conducted with the European Financial Stability Facility and the European Stability Mechanism;
  - (e) for loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments;
  - (f) which are employment contracts;
  - (g) for public passenger transport services by rail or metro;
  - (h) for civil defence, civil protection, and danger prevention that are provided by non-profit organisations or associations, and which are covered by CPV codes 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and 85143000-3 except patient transport ambulance services; or
  - (i) for broadcasting time or programme provision that are awarded to audiovisual or radio media service providers.
- (2) In this regulation—
- [<sup>F7</sup>(za) “lawyer” means a person practising as an advocate, barrister or solicitor in any part of the United Kingdom or in Gibraltar;]
- (a) “media service providers” has the meaning given by Article 1(1)(d) of Directive 2010/13/EU of the European Parliament and of the Council <sup>M2</sup> as amended from time to time;
  - (b) “programme” has the meaning given by Article 1(1)(b) of that Directive as amended from time to time, but also includes radio programmes and radio programme materials; and
  - (c) “programme material” has the same meaning as “programme”.

#### Textual Amendments

- F1** Words in reg. 21(1)(c)(i) omitted (31.12.2020) by virtue of The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **10(12)(a)(i)(aa)** (with Sch. paras. 3-5)
- F2** Words in reg. 21(1)(c)(i)(aa) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **10(12)(a)(i)(bb)** (with Sch. paras. 3-5)
- F3** Words in reg. 21(1)(c)(i)(bb) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **10(12)(a)(i)(cc)** (with Sch. paras. 3-5)
- F4** Words in reg. 21(1)(c)(ii) omitted (31.12.2020) by virtue of The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **10(12)(a)(ii)** (with Sch. paras. 3-5)
- F5** Words in reg. 21(1)(c)(iv) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **10(12)(a)(iii)** (with Sch. paras. 3-5)
- F6** Words in reg. 21(1)(c)(v) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **10(12)(a)(iii)** (with Sch. paras. 3-5)
- F7** Reg. 21(2)(za) inserted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **10(12)(b)** (with Sch. paras. 3-5)

#### Marginal Citations

- M1** OJ No L 145, 30.04.2004, p1, last amended by Directive 2010/78/EU of the European Parliament and of the Council (OJ No L 331, 15.12.2010, p120).

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**M2** OJ No L 95, 15.4.2010, p1.

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 54 Sch. 11 para. 7](#)
- reg. 21(1)(c)(v) words substituted by [S.I. 2019/560 reg. 9\(12\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 21(1)(c)(iv) words substituted by [S.I. 2019/560 reg. 9\(12\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 20(2)(2A) substituted for reg. 20(2) by [2024 c. 6 Sch. para. 9\(3\)](#)
- reg. 20(5) inserted by [2024 c. 6 Sch. para. 9\(6\)](#)
- reg. 21(1)(c)(i)(aa) words substituted by [S.I. 2019/560 reg. 9\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 21(1)(c)(i)(bb) words substituted by [S.I. 2019/560 reg. 9\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 70(2)(a)(iiia) inserted by [2024 c. 6 Sch. para. 10](#)