

Regulation (EC) No 1370/2007 of the European Parliament and of the Council  
of 23 October 2007 on public passenger transport services by rail and by  
road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70

*Article 8*

**Transition**

1 Public service contracts shall be awarded in accordance with the rules laid down in this Regulation. However, service contracts or public service contracts as defined in Directive 2004/17/EC or 2004/18/EC for public passenger transport services by bus or tram shall be awarded in accordance with the procedures provided for under those Directives where such contracts do not take the form of service concessions contracts as defined in those Directives. Where contracts are to be awarded in accordance with Directives 2004/17/EC or 2004/18/EC, the provisions of paragraphs 2 to 4 of this Article shall not apply.

[<sup>F12</sup> Without prejudice to paragraph 3,

- (i) Article 5 shall apply to the award of public service contracts for passenger transport services by road and by track-based modes other than rail such as metro or tramways from 3 December 2019.
- (ii) Article 5 shall apply to public passenger transport services by rail from 3 December 2019.
- (iii) Article 5(6) and Article 7(3) shall cease to apply from 25 December 2023.

The duration of contracts awarded in accordance with Article 5(6) between 3 December 2019 and 24 December 2023 shall not exceed 10 years.

Until 2 December 2019, Member States shall take measures to gradually comply with Article 5 in order to avoid serious structural problems in particular relating to transport capacity.

Within six months after 25 December 2020, Member States shall provide the Commission with a progress report, highlighting the implementation of any award of public service contracts that comply with Article 5. On the basis of the Member States' progress reports, the Commission shall carry out a review and, if appropriate, submit legislative proposals.]

[<sup>F2a</sup> Public service contracts for public passenger transport services by rail directly awarded on the basis of a procedure other than a fair competitive procedure as of 24 December 2017 until 2 December 2019 may continue until their expiry date. In derogation from Article 4(3), the duration of such contracts shall not exceed 10 years, except where Article 4(4) applies.]

3 In the application of paragraph 2, no account shall be taken of public service contracts awarded in accordance with Community and national law:

- (a) before 26 July 2000 on the basis of a fair competitive tendering procedure;
- (b) before 26 July 2000 on the basis of a procedure other than a fair competitive tendering procedure;

---

**Changes to legislation:** There are outstanding changes not yet made to Regulation (EC) No 1370/2007 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

- (c) as from 26 July 2000 and before 3 December 2009 on the basis of a fair competitive tendering procedure;
- (d) [<sup>F1</sup>as from 26 July 2000 and before 24 December 2017 on the basis of a procedure other than a fair competitive tendering procedure.]

The contracts referred to in (a) may continue until they expire. The contracts referred to in (b) and (c) may continue until they expire, but for no longer than 30 years. The contracts referred to in (d) may continue until they expire, provided they are of limited duration comparable to the durations specified in Article 4.

Public service contracts may continue until they expire where their termination would entail undue legal or economic consequences and provided that the Commission has given its approval.

4 Without prejudice to paragraph 3, the competent authorities may opt, in the second half of the transitional period specified in paragraph 2, to exclude from participation in the award of contracts by invitation to tender those public service operators which cannot provide evidence that the value of the public transport services for which they are receiving compensation or enjoy an exclusive right granted in accordance with this Regulation represents at least half the value of all the public transport services for which they are receiving compensation or enjoy an exclusive right. Such exclusion shall not apply to public service operators running the services which are to be tendered. For the application of this criterion, no account shall be taken of public service contracts awarded by emergency measure as referred to in Article 5(5).

Where competent authorities make use of the option referred to in the first subparagraph, they shall do so without discrimination, exclude all potential public service operators meeting this criterion and inform the potential operators of their decision at the beginning of the procedure for the award of public service contracts.

The competent authorities concerned shall inform the Commission of their intention to apply this provision at least two months before the publication of the invitation to tender.

#### Textual Amendments

- F1** Substituted by [Regulation \(EU\) 2016/2338 of the European Parliament and of the Council of 14 December 2016 amending Regulation \(EC\) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail \(Text with EEA relevance\)](#).
- F2** Inserted by [Regulation \(EU\) 2016/2338 of the European Parliament and of the Council of 14 December 2016 amending Regulation \(EC\) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail \(Text with EEA relevance\)](#).

### Changes to legislation:

There are outstanding changes not yet made to Regulation (EC) No 1370/2007 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

[View outstanding changes](#)

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

- Art. 8(1) substituted by [S.R. 2020/252 reg. 12\(a\)](#) (This amendment not applied to legislation.gov.uk. S.R. 2020/252 revoked immediately before IP completion day by S.R. 2020/338, regs. 1(1), 2)
- Art. 8(1) substituted by [S.R. 2021/337 reg. 2\(11\)\(a\)](#)
- Art. 8(1) substituted by [S.I. 2020/504 reg. 12\(a\)](#)
- Art. 8(2)(4) omitted by [S.R. 2021/337 reg. 2\(11\)\(b\)](#)
- Art. 8(2) words omitted by [S.R. 2020/252 reg. 12\(b\)](#) (This amendment not applied to legislation.gov.uk. S.R. 2020/252 revoked immediately before IP completion day by S.R. 2020/338, regs. 1(1), 2)
- Art. 8(2) words omitted by [S.I. 2020/504 reg. 12\(b\)](#)
- Art. 8(2) words substituted by [S.R. 2020/252 reg. 12\(b\)](#) (This amendment not applied to legislation.gov.uk. S.R. 2020/252 revoked immediately before IP completion day by S.R. 2020/338, regs. 1(1), 2)
- Art. 8(2)(3) words substituted by [S.R. 2021/337 reg. 2\(11\)\(b\)](#)
- Art. 8(3) words omitted by [S.R. 2020/252 reg. 12\(c\)](#) (This amendment not applied to legislation.gov.uk. S.R. 2020/252 revoked immediately before IP completion day by S.R. 2020/338, regs. 1(1), 2)
- Art. 8(3)(3) words omitted by [S.R. 2021/337 reg. 2\(11\)\(c\)](#)
- Art. 8(3) words omitted by [S.I. 2020/504 reg. 12\(c\)](#)
- art. 8(4)(3) omitted by [S.R. 2021/337 reg. 2\(11\)\(d\)](#)
- Art. 8(4) words omitted by [S.R. 2020/252 reg. 12\(d\)](#) (This amendment not applied to legislation.gov.uk. S.R. 2020/252 revoked immediately before IP completion day by S.R. 2020/338, regs. 1(1), 2)
- Art. 8(4) words omitted by [S.I. 2020/504 reg. 12\(d\)](#)

### Changes and effects yet to be applied to the whole legislation item and associated provisions

- Annex para. 6 words omitted by [S.R. 2020/252 reg. 15](#) (This amendment not applied to legislation.gov.uk. S.R. 2020/252 revoked immediately before IP completion day by S.R. 2020/338, regs. 1(1), 2)
- Signature words omitted by [S.I. 2020/504 reg. 14](#)
- Annex para. 6 words omitted by [S.I. 2020/504 reg. 15](#)
- Art. 2(b) words omitted by [S.R. 2020/252 reg. 4\(a\)](#) (This amendment not applied to legislation.gov.uk. S.R. 2020/252 revoked immediately before IP completion day by S.R. 2020/338, regs. 1(1), 2)
- Art. 2(b) words omitted by [S.R. 2021/337 reg. 2\(3\)\(a\)](#)
- Art. 2(b) words omitted by [S.I. 2020/504 reg. 4\(a\)](#)
- Art. 2(i) words omitted by [S.R. 2020/252 reg. 4\(b\)](#) (This amendment not applied to legislation.gov.uk. S.R. 2020/252 revoked immediately before IP completion day by S.R. 2020/338, regs. 1(1), 2)
- Art. 2(i) words omitted by [S.R. 2021/337 reg. 2\(3\)\(b\)](#)
- Art. 2(i) words omitted by [S.I. 2020/504 reg. 4\(b\)](#)
- Art. 2a(1)(3) words omitted by [S.R. 2021/337 reg. 2\(4\)\(b\)](#)
- Art. 2a(1)(4) words omitted by [S.R. 2021/337 reg. 2\(4\)\(c\)](#)
- Art. 5(2)(a) words omitted by [S.R. 2020/252 reg. 8\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. S.R. 2020/252 revoked immediately before IP completion day by S.R. 2020/338, regs. 1(1), 2)
- Art. 5(2)(a) words omitted by [S.R. 2021/337 reg. 2\(7\)\(b\)\(ii\)](#)

- Art. 5(2)(a) words omitted by [S.I. 2020/504 reg. 8\(b\)\(ii\)](#)
- Art. 5(4)Art. 5(1)(a) sum substituted by [S.R. 2021/337 reg. 2\(7\)\(e\)\(i\)](#)
- Art. 5(4)(a) sum substituted by [S.I. 2020/504 reg. 8\(e\)\(i\)](#)
- Art. 12(6) words omitted by [S.R. 2021/337 reg. 2\(14\)](#)