

## SCHEDULE 3

### EXCLUSIONS OF SECTION 4(2)(a) AND (b) OF THE ACT

#### Public procurement

**10.**—(1) Any question asked by or on behalf of a contracting authority or contracting entity in relation to a conviction specified in regulation 23(1) of the Public Contracts (Scotland) Regulations 2012<sup>(1)</sup> which is a spent conviction (or any circumstances ancillary to such a conviction) for the purpose of determining whether or not to treat a person as ineligible—

- (a) for the purposes of regulation 23 of the Public Contracts (Scotland) Regulations 2012 or regulation 26 of the Utilities Contracts (Scotland) Regulations 2012<sup>(2)</sup>; or
- (b) to participate in a design contest for the purposes of regulation 33 of the Public Contracts (Scotland) Regulations 2012 or regulation 34 of the Utilities Contracts (Scotland) Regulations 2012,

where the person questioned is informed at the time the question is asked that, by virtue of this Order, convictions within the meaning of regulation 23(1) of the Public Contracts (Scotland) Regulations 2012, which are spent convictions, are to be disclosed.

(2) For the purposes of contract award procedures or design contests commenced before 1st May 2012—

- (a) the references in sub-paragraph (1) to regulations 23 and 33 of the Public Contracts (Scotland) Regulations 2012 are to be read as references to regulations 23 and 33 of the Public Contracts (Scotland) Regulations 2006<sup>(3)</sup>; and
- (b) the references in sub-paragraph (1) to regulations 26 and 34 of the Utilities Contracts (Scotland) Regulations 2012 is to be read as references to regulations 26 and 34 of the Utilities Contracts (Scotland) Regulations 2006<sup>(4)</sup>.

(3) For the purposes of sub-paragraph (2), the commencement of a contract award procedure or design contest is to be interpreted in accordance with—

- (a) regulation 52(2) of the Public Contracts (Scotland) Regulations 2012; and
- (b) regulation 49(2) of the Utilities Contracts (Scotland) Regulations 2012.

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(1) S.S.I. 2012/88.

(2) S.S.I. 2012/89.

(3) S.S.I. 2006/1. Regulations 23 and 33 were repealed by the Public Contracts (Scotland) Regulations 2012 (S.S.I. 2012/88), Schedule 7(A), paragraph 1, subject to savings and transitional provisions in regulation 52 of those Regulations.

(4) S.S.I. 2006/2; regulations 26 and 34 were repealed by the Utilities Contracts (Scotland) Regulations 2012 (S.S.I. 2012/89), Schedule 5(A), paragraph 1, subject to savings and transitional provisions in regulation 49 of those Regulations.