

SCHEDULE

TRANSITIONAL AND SAVINGS PROVISIONS

Interpretation

1.—(1) In this schedule—

“amended”, in relation to a provision, means that provision as amended or substituted by these Regulations,

“amendments” (and cognate expressions) include the modifications made by regulations 10 and 11,

“Official Journal” means the Official Journal of the European Union,

“the Procurement Regulations” means—

- (a) the Public Contracts (Scotland) Regulations 2012,
- (b) the Utilities Contracts (Scotland) Regulations 2012,
- (c) the Public Contracts (Scotland) Regulations 2015,
- (d) the Concession Contracts (Scotland) Regulations 2016,
- (e) the Utilities Contracts (Scotland) Regulations 2016,

“unamended”, in relation to a provision, means that provision in the form in which it existed immediately before it was amended or substituted by these Regulations.

(2) In this schedule, the following have the same meaning as in whichever of the Procurement Regulations the context requires—

- (a) contracting authority,
- (b) design contest,
- (c) dynamic purchasing system,
- (d) framework agreement,
- (e) utility.

(3) For the purposes of this schedule, a procurement has been commenced before a particular date if, before that date—

- (a) a notice has been sent to the Official Journal in accordance with the applicable Procurement Regulations in order to—
 - (i) invite offers or requests to be selected to tender for or to negotiate in respect of a proposed contract, framework agreement or dynamic purchasing system, or
 - (ii) publicise an intention to hold a design contest,
- (b) the contracting authority or utility has had published any form of advertisement seeking offers or expressions of interest in a proposed contract, framework agreement or dynamic purchasing system, or
- (c) the contracting authority or utility has contacted any economic operator in order to—
 - (i) seek expressions of interest or offers in respect of a proposed contract, framework agreement or dynamic purchasing system, or
 - (ii) respond to an unsolicited expression of interest or offer received from that economic operator in relation to a proposed contract, framework agreement or dynamic purchasing system.

(4) For the purposes of this schedule, a procurement covers the whole of the procedures which stem from that commencement.

Draft Legislation: This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, *The Public Procurement etc. (Scotland) (Amendment) (EU Exit) Regulations 2019* ISBN 978-0-11-104067-6

(5) Accordingly, for example, if a contract notice in relation to a proposed framework agreement under the Public Contracts (Scotland) Regulations 2015 has, before exit day, been sent as described in sub-paragraph (3)(a), paragraph 3(1) applies to the award of any contracts based on that framework agreement regardless of whether the relevant specific procedure for the award of any such contract under regulation 34(6) to (10) of the Public Contracts (Scotland) Regulations 2015 had itself been commenced before exit day.

(6) Procedures taken for the purpose of modifying a contract or framework agreement are not to be regarded, for the purposes of sub-paragraph (4), as stemming from the commencement of the procurement from which the award of that contract or framework agreement had itself stemmed.

(7) A procedure commenced as described in sub-paragraph (3)(a)(i), (b) or (c) is not to be regarded, for the purposes of sub-paragraph (4), as stemming from the commencement of any design contest that had previously been held in relation to the subject-matter of the procurement.