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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 2**

**The Utilities Contracts (Scotland) Regulations 2006**

**PART 3**

**PROCEDURES LEADING TO THE AWARD OF A CONTRACT**

**Time limits**

**22.**—(1) Subject to the minimum time limits specified in this regulation, a utility shall take account of all the circumstances, in particular, the complexity of the contract and the time required for drawing up tenders when fixing time limits for receipt by it of requests to be selected to tender for or to negotiate the contract and for the receipt by it of tenders.

(2) Subject to paragraphs (3), (6) and (7), the date which a utility using the open procedure fixes as the last date for the receipt by it of tenders made in response to the contract notice shall be specified in the notice and shall be not less than 52 days from the date of despatch of the notice.

(3) Where—

- (a) the utility has published a periodic indicative notice in accordance with regulation 15;
- (b) the periodic indicative notice contained as much of the information specified in the form of periodic indicative notice used to call for competition in Annex IV to Commission Regulation (EC) No. 1564/2005 as was available at the time of publication; and
- (c) the periodic indicative notice was sent to the Official Journal at least 52 days and not more than 12 months before the date on which the contract notice was despatched;

a utility using the open procedure may substitute for the period of not less than 52 days specified in paragraph (2) a shorter period of generally not less than 36 days and in any event not less than 22 days.

(4) The date which a utility using the restricted procedure or the negotiated procedure with a call for competition fixes as the last date for the receipt by it of requests to be selected to tender for or to negotiate the contract shall be specified in the contract notice or, where the call for competition is made by means of a periodic indicative notice, in the invitation to economic operators made in accordance with regulation 16(3)(b), and shall in general be at least 37 days from the date of the despatch of the notice or invitation and shall in any case be not less than 22 days from that date, apart from when the notice is transmitted by electronic means in accordance with paragraph (6) or facsimile in which case it shall be not less than 15 days.

(5) The date which is the last date for the receipt of tenders made in response to an invitation to tender by a utility using the restricted procedure or the negotiated procedure with a call for competition may be agreed between the utility and the economic operators invited to tender and shall be the same date for all economic operators or, in the absence of agreement as to the date, shall be fixed by the utility and shall be as a general rule at least 24 days and in any event not less than 10 days from the despatch of the invitation to tender.

(6) Where a contract notice is transmitted by electronic means in accordance with the format and procedures referred to in paragraph (3) of Annex XX to the Utilities Directive a utility may reduce the time limits by 7 days for—

- (a) the receipt by it of requests to be selected to tender for or to negotiate the contract; and
- (b) the receipt by it of tenders when using the open procedure.

(7) Subject to paragraph (5), a utility using the open procedure, the restricted procedure or the negotiated procedure may reduce the time limits for the receipt by it of tenders by 5 days provided that—

- (a) the utility offers unrestricted and full direct access by electronic means to the contract documents from the date of publication of the contract notice; and
- (b) the contract notice specifies the internet address at which the documents referred to in sub paragraph (a) are available.

(8) When using the reductions specified in paragraphs (3), (6) and (7), the date which a utility using the open procedure fixes as the last date for the receipt by it of tenders, shall be not less than 15 days from the date of despatch of the contract notice.

(9) Where the contract notice is not transmitted by facsimile or electronic means and when using the reductions specified in paragraphs (3), (6) and (7), the date which a utility using the open procedure fixes as the last date for the receipt by it of tenders, shall be not less than 22 days from the date of despatch of the contract notice.

(10) When using the reductions specified in paragraphs (3), (6) and (7) the date which a utility using the restricted procedure or the negotiated procedure with a call for competition fixes as the last date for the receipt by it of requests to be selected to tender for or to negotiate the contract, shall be not less than 15 days from the date of despatch of the notice or invitation.

(11) Subject to paragraph (5) and when using the reductions specified in paragraphs (3), (6) and (7), the date which a utility using the restricted procedure or the negotiated procedure with a call for competition fixes as the last date for the receipt by it of tenders, shall be not less than 10 days from the date of despatch of the invitation to tender.

(12) Subject to paragraph (5), a utility shall extend the time limit for receipt by it of tenders in order that all the information necessary for the preparation of a tender is available to all economic operators where—

- (a) an economic operator requests the contract documents in sufficient time to allow a utility to respond in accordance with paragraphs (3) and (14) and, for whatever reason, the contract documents are not supplied in accordance with those paragraphs; or
- (b) it is necessary that the economic operators be given the opportunity to inspect the site or premises or documents relating to the contract documents.

(13) Where a utility using the open procedure does not offer unrestricted and full direct access by electronic means to the contract documents in accordance with paragraph (7), the utility shall send the contract documents to an economic operator within 6 days of the receipt of a request from that economic operator, provided that the documents are requested in good time before the date specified in the contract notice as the final date for the receipt by it of tenders.

(14) A utility using the open procedure, the restricted procedure or the negotiated procedure shall supply to an economic operator such further information relating to the contract documents as may be reasonably requested by that economic operator provided that the request is received in sufficient time to enable the utility to supply the information not later than 6 days before the date specified in the contract notice as the final date for the receipt by it of tenders.

(15) A utility using the restricted procedure or the negotiated procedure with or without a call for competition shall send invitations in writing simultaneously to each of the economic operators selected to tender for or to negotiate the contract and the invitation shall—

- (a) be accompanied by the contract documents;

- (b) specify the internet address which offers unrestricted and full direct access by electronic means to the contract documents in accordance with paragraph (7); or
  - (c) where the contract documents are held by an entity other than the utility, specify the address to which requests for contract documents should be sent including any final date for making such requests and the amount and any method of payment of any fee which may be charged for supplying that information.
- (16) Where the contract documents are held by an entity other than the utility, the utility shall ensure that the contract documents are sent to economic operators by the most rapid means practicable.
- (17) The utility shall include the following information in the invitation—
- (a) the final date for making requests for further information and the amount and method of payment of any fee which may be charged for supplying that information;
  - (b) the final date for receipt by it of tenders, the address to which they must be sent and the one or more languages in which they must be drawn up;
  - (c) a reference to any contract notice;
  - (d) an indication of the information to be included with the tender;
  - (e) the criteria for the award of the contract if this information was not specified in the contract notice, the notice on the existence of a qualification system used as a means of calling for competition published in accordance with regulation 16(2)(a)(ii) or the contract documents; and
  - (f) the relative weighting of the contract award criteria or, where appropriate, the descending order of importance of such criteria if this information was not specified in the contract notice, the notice on the existence of a qualification system or the contract documents.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Utilities Contracts (Scotland) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

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

- Part 9 (regs 45 - 46) appl (mod) by [S.S.I. 2010/390 reg 6](#)
- reg 22 am (with transtl provns) by [S.S.I. 2009/428 regs 45](#)
- 19 am (with transtl provns) by [S.S.I. 2009/428 regs 45](#)

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3-68-10](#)

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

- Regulations revoked by [S.S.I. 2012/89 reg. 48Sch. 5 Pt. A](#)
- reg. 6(p) inserted by [S.I. 2011/1848 Sch. 4 para. 4\(4\)](#)
- reg. 34(5)(e)(iii)(aa) words substituted by [S.I. 2011/2053 reg. 30\(2\)\(d\)](#)
- regs 45A - 45C added (with transtl provns) by [S.S.I. 2009/428 regs 45](#)