
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 65

The Concession Contracts (Scotland) Regulations 2016

PART 7

TRANSITIONAL, SAVINGS AND TRANSITORY PROVISIONS

Interpretation of Part 7

62. In this Part, “the 2012 Regulations” means the Public Contracts (Scotland) Regulations 2012⁽¹⁾.

Transitional provision and saving where procurement was commenced before 18th April 2016

63.—(1) Nothing in these Regulations, except regulation 46 (modification of contracts during contract term) and 47(1)(a) to (3) (termination of concession contract) affects a procurement for the award of a contract commenced before 18th April 2016.

(2) Procurement for the award of a concession contract (except a service concession contract) commenced before 18th April 2016 will continue to be subject to the application of the 2012 Regulations as if those Regulations had not been revoked.

(3) For the purposes of paragraph (1), a concession contract award procedure has been commenced before 18th April 2016 if, before that date—

- (a) a contract notice has been sent to the Official Journal in accordance with the 2012 Regulations in order to invite offers or requests to be selected to tender for or to negotiate in respect of a proposed concession contract;
- (b) the contracting entity has published any form of advertisement seeking offers or expressions of interest in a proposed concession contract; or
- (c) the contracting entity has contacted any economic operator in order to—
 - (i) seek expressions of interest or offers in respect of a proposed concession contract; or
 - (ii) respond to an unsolicited expression of interest or offer received from that economic operator in relation to a proposed concession contract.

Transitory provision prior to full commencement of regulation 32(1) to (7)

64.—(1) During the period beginning on 18th April 2016 and ending immediately before 18th April 2017, a central purchasing body may choose between the following means of communication for the purposes mentioned in paragraph (3)—

- (a) electronic means in accordance with regulation 32 (rules applicable to communication);
- (b) post or other suitable carrier;
- (c) fax;

(1) S.S.I. 2012/88, revoked by the Public Contracts (Scotland) Regulations 2015.

(d) a combination of those means.

(2) During the period beginning on 18th April 2106 and ending immediately before 18th October 2018, a contracting entity may choose between the following means of communication for the purposes mentioned in paragraph (3)—

- (a) electronic means in accordance with regulation 32 (rules applicable to communication);
- (b) post or other suitable carrier;
- (c) fax;
- (d) a combination of those means.

(3) The choices referred to in paragraphs (1) and (2) are available for all communication and information exchange in respect of which both the following criteria are met—

- (a) the use of electronic means would, in accordance with regulation 32(1) to (7), have been required if those provisions had been in force;
- (b) the use of electronic means is not required by any provision of these Regulations other than regulation 32(1).