
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 65

The Concession Contracts (Scotland) Regulations 2016

PART 2

SCOPE AND PRINCIPLES

CHAPTER 3

GENERAL PROVISIONS

Contracts covering both activities listed in Schedule 2 and other activities

24.—(1) This regulation applies in the case of a contract intended to cover several activities where one of those activities is listed in Schedule 2, except in a case to which regulation 25 applies.

(2) Utilities may choose to award separate contracts for the purposes of the separate activities or to award a single contract for the purposes of all the activities.

(3) The choice between awarding a single contract or separate contracts must not be made with the objective of excluding the procurement from the scope of these Regulations or, if applicable, the Public Contracts (Scotland) Regulations 2015 or the Utilities Contracts (Scotland) Regulations 2016.

(4) If a utility chooses to award a separate contract, the decision as to which rules apply to each such separate contract must be taken on the basis of the characteristics of the separate activity concerned.

(5) If a utility chooses to award a single contract—

(a) a contract which is intended to cover several activities must be subject to the rules applicable to the activity for which it is principally intended;

(b) in the case of a contract where it is objectively impossible to determine for which activity the contract is principally intended, the applicable rules must be determined in accordance with the following—

(i) the contract must be awarded in accordance with the provisions of these Regulations applicable to procurements for the award of a concession contract by a contracting authority, if one of the activities for which the contract is intended is subject to the provisions of these Regulations applicable to procurement for the award of a concession contract by a contracting authority and the other is subject to the provisions of these Regulations applicable to the procurement for the award of concession contracts by a utility;

(ii) the contract must be awarded in accordance with the Public Contracts (Scotland) Regulations 2015, if one of the activities for which the contract is intended is subject to these Regulations and the other to the Public Contracts (Scotland) Regulations 2015;

(iii) the contract must be awarded in accordance with these Regulations, if one of the activities for which the contract is intended is subject to these Regulations and the

other is not subject to these Regulations, the Public Contracts (Scotland) Regulations 2015 or the Utilities Contracts (Scotland) Regulations 2016.