

## SCHEDULE

### TRANSITIONAL AND SAVINGS PROVISIONS

#### PART 3

#### PROVISIONS COMMENCED ON IP COMPLETION DAY

##### **Procurement involving contracting authorities or utilities from other member States**

- 6.—(1) This paragraph applies in relation to the omission, by these Regulations, of—
- (a) regulation 40 of the Public Contracts (Scotland) Regulations 2015 (procurement involving contracting authorities from different member States),
  - (b) regulation 55 of the Utilities Contracts (Scotland) Regulations 2016 (procurement involving utilities from different member States).
- (2) Those omissions do not imply—
- (a) any prohibition of the activities authorised by the omitted regulations (which activities might, accordingly, be carried on to any extent that would have been lawful if the omitted regulations had never existed), or
  - (b) that any matters provided for in those regulations are necessarily to have a different effect unless so required by applicable law (including rules for resolving any conflicts between the laws of different jurisdictions).

##### **Saving of implied power to terminate contracts**

- 7.—(1) This paragraph applies where—
- (a) a contract was awarded before IP completion day, and
  - (b) immediately before IP completion day, the contract contained a power—
    - (i) implied by regulation 73(3) of the Public Contracts (Scotland) Regulations 2015 to terminate the contract on the ground mentioned in regulation 73(1)(c) of those Regulations,
    - (ii) implied by regulation 47(3) of the Concession Contracts (Scotland) Regulations 2016 to terminate the contract on the ground mentioned in regulation 47(1)(c) of those Regulations, or
    - (iii) implied by regulation 87(3) of the Utilities Contracts (Scotland) Regulations 2016 to terminate the contract on the ground mentioned in regulation 87(1)(c) of those Regulations.
- (2) On and after IP completion day, that power continues despite the omission, by these Regulations, of regulations 73(1)(c), 47(1)(c) or 87(1)(c), as the case may be.

##### **Saving of regulation 55(5) of the Concession Contracts Regulations 2016**

8. The amendment made by these Regulations to regulation 55(5) of the Concession Contracts (Scotland) Regulations 2016 (application of the first ground of ineffectiveness) does not apply where the contract referred to in regulation 55(5) was awarded before IP completion day.

##### **Saving in relation to voluntary ex ante transparency notices**

- 9.—(1) This paragraph applies in relation to the amendments made by these Regulations to—

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) regulation 91(7) of the Public Contracts (Scotland) Regulations 2015,
  - (b) regulation 104(7) of the Utilities Contracts (Scotland) Regulations 2016,
  - (c) regulation 55(6) of the Concession Contracts (Scotland) Regulations 2016.
- (2) Those amendments do not apply in relation to a voluntary transparency notice that was published in the Official Journal of the European Union if the notice was sent, before IP completion day, to be so published.