Procurement Act 2023

CHAPTER 54

PROCUREMENT ACT 2023

PART 1

KEY DEFINITIONS

1. Procurement and covered procurement
2. Contracting authorities
3. Public contracts
4. Valuation of contracts
5. Mixed procurement: above and below threshold
6. Utilities contracts
7. Defence and security contracts
8. Concession contracts
9. Light touch contracts
10. Mixed procurement: special regime contracts

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11. Covered procurement only in accordance with this Act
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13. The national procurement policy statement
14. The Wales procurement policy statement
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27 Excluding suppliers from a competitive flexible procedure
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29 Excluding a supplier that is a threat to national security
30 Excluding suppliers for improper behaviour
31 Modifying a section 19 procurement

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34 Competitive award by reference to dynamic markets
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1 (1) The threshold amount for a contract of a type...
2 An appropriate authority may by regulations amend this Schedule for...
3 An appropriate authority may by regulations amend this Schedule for...
4 A contract is a “works contract” if its main purpose...
5 (1) In this Schedule— “central government authority” means a contracting...

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7 General
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9 Broadcasting
10 A contract for the broadcast (by any means) by a...
11 Electronic communications services
12 A contract the main purpose of which is permitting a...
13 Alternative dispute resolution
14 Legal services
15 Financial services
16 (1) A contract for the provision or carrying out of...
17 A contract for the provision of services by the Bank...
18 Employment
19 Any other contract between a contracting authority and an individual...
20 Emergency services
21 Public passenger transport services
22 Research and development services
23 International agreements and organisations
24 A contract awarded under a procedure— (a) adopted by an...
National security
Intelligence activities
Defence and security contracts
A defence and security contract where— (a) the supplier is...
A defence and security contract awarded under a procedure adopted...
A defence and security contract awarded under an arrangement between...
Utilities contracts
A utilities contract for the supply of water to a...
A utilities contract for the supply of energy, or fuel...
A contract for the supply of goods, services or works...
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(1) A concession contract that— (a) confers an exclusive right...
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Electricity
Water
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Ports and airports
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Exploration for oil in England, Scotland or Wales.
Exploration for natural gas in England, Scotland or Wales.
Production of oil in England, Scotland or Wales.
Production of natural gas in England, Scotland or Wales.
Development of infrastructure for production of oil in England, Scotland...
Development of infrastructure for production of natural gas in England,...

SCHEDULE 5 — Direct award justifications
This Schedule contains the direct award justifications.
Prototypes and development
In paragraph 2, “novel goods or services” means goods or...
Single suppliers
The following conditions are met in relation to the public...
The following conditions are met in relation to the public...

Additional or repeat goods, services or works

The public contract concerns the supply of goods, services or...

In paragraphs 7 and 8—“existing goods, services or works”...

Commodities

Advantageous terms on insolvency

A supplier is “undergoing insolvency proceedings” if it has—

Urgency

For the purpose of paragraph 13, urgency is unavoidable if...

User choice contracts

In paragraph 15, “user choice services” means services—

Defence and security

(1) The following conditions are met in relation to the...

The following conditions are met in relation to the public...

SCHEDULE 6 — Mandatory exclusion grounds

PART 1 — OFFENCES

A mandatory exclusion ground applies to a supplier if the...

Corporate manslaughter or corporate homicide

Terrorism

Theft, fraud, bribery etc

An offence at common law of conspiracy to defraud.

An offence under any of the following sections of the...

An offence under any of the following sections of the...

An offence under section 3 of the Theft Act 1978...

An offence under section 5 of the Theft (Northern Ireland)...

An offence under Article 172 or 172A of the Road...

An offence under section 58 of the Civic Government (Scotland)...

An offence under section 113 of the Representation of the...

An offence under section 178 of the Road Traffic Act...

An offence under section 327, 328 or 329 of the...

An offence under section 2, 3, 4, 6 or 7...

An offence under section 993 of the Companies Act 2006...

An offence under section 1, 2 or 6 of the...

An offence under section 49 of the Criminal Justice and...

Labour market, slavery and human trafficking offences

An offence under the Employment (Miscellaneous Provisions) (Northern Ireland) Order...

An offence under section 31(1) of the National Minimum Wage...

An offence under the Gangmasters (Licensing) Act 2004 (offences relating...

An offence under section 1, 2, 4 or 30 of...

An offence under section 1, 4 or 32 of the...

An offence under section 1, 2 or 4 of the...

An offence under section 27 of the Immigration Act 2016...

Organised crime

An offence under section 45 of the Serious Crime Act...

Tax offences

(1) An offence under the law of any part of...

An offence under section 45 or 46 of the Criminal...

Cartel offence

Ancillary offences
34 Offences committed outside the United Kingdom

PART 2 — OTHER MANDATORY EXCLUSION GROUNDS

35 National security
36 Misconduct in relation to tax
37 (1) A mandatory exclusion ground applies to a supplier if...
38 (1) A mandatory exclusion ground applies to a supplier if—...
39 (1) A mandatory exclusion ground applies to a supplier if...
40 (1) A mandatory exclusion ground applies to a supplier if...
41 Competition law infringements
42 Equivalents outside the United Kingdom
43 Failure to cooperate with investigation

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44 Excluded matters
45 Definitions

SCHEDULE 7 — Discretionary exclusion grounds

1 Labour market misconduct
2 A discretionary exclusion ground applies to a supplier if the...
3 A discretionary exclusion ground applies to a supplier if the...
4 Environmental misconduct
5 Insolvency, bankruptcy, etc
6 A discretionary exclusion ground applies to a supplier if the...
7 Potential competition infringements
8 A discretionary exclusion ground applies to a supplier if the...
9 (1) A discretionary exclusion ground applies to a supplier if—...
10 (1) A discretionary exclusion ground applies to a supplier if...
11 Professional misconduct
12 Breach of contract and poor performance
13 Acting improperly in procurement
14 National security
15 Excluded matters
16 Definitions
17 Other terms used in this Schedule and defined in Schedule...

SCHEDULE 8 — Permitted contract modifications

1 Provided for in the contract
2 Urgency and the protection of life, etc
3 Assume, for the purposes of paragraph 2, that the contract...
4 Unforeseeable circumstances
5 Materialisation of a known risk
6 In paragraph 5, a “known risk” means a risk that—...
7 In considering whether awarding a new contract would be in...
8 Additional goods, services or works
9 Transfer on corporate restructuring
10 Defence authority contracts
11 A modification of a defence authority contract is a permitted...

SCHEDULE 9 — Treaty state suppliers (specified international agreements)

1 The Agreement on Government Procurement signed at Marrakesh on 15...
2 Agreement establishing an Association between the United Kingdom of Great...
3 Trade Agreement between the United Kingdom of Great Britain and...
4 Trade and Partnership Agreement between the Government of the United...
5 Economic Partnership Agreement between the CARIFORUM States, of the one...
6 Trade Agreement between the United Kingdom of Great Britain and...
7 Agreement Establishing an Association between the United Kingdom of Great...
8 Free Trade Agreement between the United Kingdom of Great Britain...
9 Strategic Partnership and Cooperation Agreement between the United Kingdom of...
10 Partnership, Trade and Cooperation Agreement between the United Kingdom of...
11 Political, Free Trade and Strategic Partnership Agreement between the United...
12 Agreement between the United Kingdom of Great Britain and Northern...
13 Partnership, Trade and Cooperation Agreement between the United Kingdom of...
14 Agreement on Trade Continuity between the United Kingdom of Great...
15 Free Trade Agreement between the United Kingdom of Great Britain...
16 Trade Continuity Agreement between the United Kingdom of Great Britain...
17 Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom...
18 Free Trade Agreement between the United Kingdom of Great Britain...
19 Trade and Cooperation Agreement between the United Kingdom of Great...
20 Partnership, Trade and Cooperation Agreement between the United Kingdom of...
21 Partnership, Trade and Cooperation Agreement between the Government of the...
22 Free Trade Agreement between Iceland, the Principality of Liechtenstein and...
23 Free Trade Agreement between the United Kingdom of Great Britain...
24 Free Trade Agreement between the United Kingdom of Great Britain...

SCHEDULE 10 — Single source defence contracts
1 The Defence Reform Act 2014 is amended as follows.
2 Definition of qualifying defence contract
3 Pricing of qualifying defence contracts
4 (1) Section 16 (pricing of contracts: supplementary) is amended as...
5 After section 21(2) (final price adjustment) insert—
6 In section 22(1)(a) (recovery of unpaid amounts), after “section” insert...
7 (1) Section 42 (single source contract regulations: general) is amended...
8 In section 43 (interpretation etc), at the appropriate place insert—...
9 Contract profit rate
10 (1) Section 18 (contract profit rate: supplementary) is amended as...
11 (1) Section 19 (rates etc relevant to determining contract profit...
12 Allowable costs
13 Reports
14 In section 43 (interpretation etc), in the definition of “financial...
15 Qualifying sub-contracts
16 In section 30(4)(a) (application of single source contracts regime to...
17 In section 31(3) (compliance notices)— (a) in paragraph (e), omit...
18 Powers of the Single Source Regulations Office (“SSRO”)
19 After section 35 insert— Guidance The SSRO may issue such guidance as it considers appropriate...
20 In paragraph 10(3) of Schedule 4 (procedure of the SSRO),...

SCHEDULE 11 — Repeals and revocations
1 Primary legislation
2 Sections 39 and 40 of the Small Business, Enterprise and...
3 The Trade (Australia and New Zealand) Act 2023.
4 Subordinate legislation
7 The Utilities Contracts Regulations 2016 (S.I. 2016/274).