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STATUTORY INSTRUMENTS

2011 No. 1275

EUROPEAN COMMUNITIES

The Financial Transparency (EC Directive) (Amendment) Regulations 2011

<i>Made</i>	- - - -	<i>16th May 2011</i>
<i>Laid before Parliament</i>		<i>18th May 2011</i>
<i>Coming into force</i>	- -	<i>9th June 2011</i>

The Secretary of State, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures on the transparency of financial relations between public authorities and public undertakings and on financial transparency within certain undertakings, in exercise of the powers conferred by that section, makes the following Regulations—

1. These Regulations may be cited as the Financial Transparency (EC Directive) (Amendment) Regulations 2011 and shall come into force on 9th June 2011.

2.—(1) The Financial Transparency (EC Directive) Regulations 2009⁽³⁾ are amended as follows.

(2) In regulation 1, delete the definition of “contract” and insert—

““contract” shall be construed as any agreement linking a public authority—

(a) to a public undertaking in respect of compensation; or

(b) to an undertaking which is either—

(i) granted a special or an exclusive right, or

(ii) entrusted with any service of general economic interest and receives public service compensation, in any form whatsoever, in relation to that service.”

(3) Delete regulation 12 and insert—

“**12.—(1)** In the event that a contract does not expressly contain the elements required by Regulation 11, then it is an implied term of that contract that any undertaking that is a party to that contract shall comply with the provisions of—

(1) S.I. 2005/850.
(2) 1972 c. 68.
(3) S.I. 2009/2331.

Status: This is the original version (as it was originally made).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

- (a) Regulations 3, 4 and 5, in respect of public undertakings;
 - (b) Regulations 6, 7 and 8, in respect of an undertaking required to maintain separate accounts; and
 - (c) Regulation 9 in respect of public undertakings operating in the manufacturing sector.
- (2) Any term of a contract is void to the extent that it purports to exclude the application of paragraph (1).”

16th May 2011

Edward Davey
Minister for Employment Relations, Consumer
and Postal Affairs
Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Financial Transparency (EC Directive) Regulations 2009 to clarify ambiguity in the drafting of Regulation 12 of those Regulations.

Regulation 2 of these Regulations amends Regulation 12 of the Financial Transparency (EC Directive) Regulations 2009 to make the mutual exclusivity of Regulations 11 and 12 clearer, to clarify ambiguity in the application of Regulation 12 and to remove any uncertainty as to whether the implied term in Regulation 12 can be excluded by an express contractual term.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

A full Impact Assessment for the Financial Transparency (EC Directive) Regulations 2009 was carried out and a copy has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the State Aid Branch of the Department for Business, Innovation and Skills, 1 Victoria Street, London, SW1H 0ET.