
STATUTORY INSTRUMENTS

2016 No. 273

The Concession Contracts Regulations 2016

PART 2

Scope and principles

CHAPTER 1

Concession contracts to which these Regulations apply

Subject-matter and scope of these Regulations

7.—(1) These Regulations establish rules on the procedures for procurement by contracting authorities and utilities by means of a concession contract—

- (a) the value of which is estimated to be not less than the threshold mentioned in regulation 9; and
- (b) which is not excluded from the scope of these Regulations by any other provision of this Part.

(2) These Regulations apply to the award of works concession contracts or services concession contracts to economic operators by—

- (a) contracting authorities; or
- (b) utilities, provided that the works or services are intended for the pursuit of one of the activities listed in Schedule 2.

[^{F1}(3) These Regulations—

- (a) do not oblige the United Kingdom to supply information the disclosure of which it considers contrary to the essential interests of its security;
- (b) do not preclude the United Kingdom from taking such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production or trade in arms, munitions and war material, provided that such measures do not adversely affect the conditions of competition regarding products which are not intended for specifically military purposes.

(4) The arms, munitions and war material to which paragraph (3)(b) applies are, subject to paragraph (6), those included in the 1958 List.

(5) Subject to the effect of any regulations made under paragraph (6), any measures which, if they had been taken immediately before IP completion day, would have been covered by Article 346 of TFEU shall be regarded as measures covered by paragraph (3).

(6) The Secretary of State may make regulations providing that the 1958 List is to be treated for the purposes of these Regulations as if it were changed in respects specified in the regulations.

(7) In this regulation, “the 1958 List” means the list of arms, munitions and war material adopted by the Council of the European Economic Community in its decision 255/58 of 15th April 1958.]

Changes to legislation: The Concession Contracts Regulations 2016, PART 2 is up to date with all changes known to be in force on or before 06 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F1** Reg. 7(3)-(7) substituted for reg. 7(3) (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **8(4)** (with Sch. paras. 3-5)

Principle of equal treatment, non-discrimination and transparency

8.—(1) Contracting authorities and utilities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner.

(2) The design of the concession contract award procedure, including the estimate of the value, shall not be made with the intention of excluding it from the scope of these Regulations or of unduly favouring or disadvantaging certain economic operators or certain works, supplies or services.

(3) During the concession contract award procedure, contracting authorities and utilities shall not provide information in a discriminatory manner which may give some candidates or tenderers an advantage over others.

(4) Contracting authorities and utilities shall aim to ensure the transparency of the concession contract award procedure and of the performance of the contract, while complying with regulation 28.

[^{F2}(5) Contracting authorities and utilities ^{F3}... shall not terminate concession contracts in a manner that circumvents their obligations under these Regulations.]

- F2** Reg. 8(5) inserted (25.5.2023) by [The Public Procurement \(International Trade Agreements\) \(Amendment\) Regulations 2023 \(S.I. 2023/484\)](#), regs. 1(2), **3(2)** (with reg. 5)
- F3** Words in reg. 8(5) omitted (26.5.2023) by virtue of [The Public Procurement \(International Trade Agreements\) \(Amendment\) \(Wales\) \(No. 2\) Regulations 2023 \(S.I. 2023/567\)](#), regs. 1(2), **3(2)** (with reg. 5)

Threshold amounts and methods for calculating the estimated value of concession contracts

Threshold amounts

Threshold amounts

9.—(1) These Regulations apply to concession contracts the value of which are equal to or greater than [^{F4}£5,372,609].

^{F5}(2)

Calculating the value of the concession contract

(3) For the purposes of paragraph (1), the value of a concession contract shall be the total turnover of the concessionaire generated over the duration of the contract, [^{F6}inclusive] of value added tax, as estimated by the contracting authority or utility, in consideration for the works and services which are the object of the concession contract and for the supplies incidental to such works and services.

(4) That estimate shall be calculated as at the moment at which the concession notice is [^{F7}submitted] for publication in accordance with regulation 33 or, in cases where such notice is not provided for, at the moment at which the contracting authority or utility commences the concession contract award procedure, for example by contacting economic operators in relation to the concession contract.

(5) But if the value as estimated at the time of the award is more than 20% higher than the estimate calculated in accordance with paragraph (4), the former shall be used for the purposes of this regulation.

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(6) The estimated value of the concession contract shall be calculated using an objective method specified in the concession documents.

(7) When calculating the estimated value of the concession contract, contracting authorities and utilities shall, where applicable, take into account in particular—

- (a) the value of any form of option and any extension of the duration of the concession contract;
- (b) revenue from the payment of fees and fines by the users of the works or services other than those collected on behalf of the contracting authority or utility;
- (c) payments or any other financial advantages, in any form, from the contracting authority or utility or any other public authority to the concessionaire, including compensation for compliance with a public service obligation and public investment subsidies;
- (d) the value of grants or any other financial advantages, in any form, from third parties for the performance of the concession contract;
- (e) revenue from sales of any assets which are part of the concession contract;
- (f) the value of all the supplies and services that are made available to the concessionaire by the contracting authorities or utilities, provided that they are necessary for executing the works or providing the services;
- (g) any prizes or payments to candidates or tenderers.

(8) The choice of the method used to calculate the estimated value of a concession contract shall not be made with the intention of excluding it from the scope of these Regulations.

(9) A concession contract shall not be subdivided with the effect of preventing it from falling within the scope of these Regulations, unless justified by objective reasons.

[^{F8}(9A) If a contracting authority or a utility ^{F9}... is unable to estimate the value of a concession contract in accordance with this regulation, the estimated value of the concession contract inclusive of value added tax is deemed to be equal to the threshold amount in paragraph (1).]

Treatment of lots

(10) Where a proposed work or proposed provision of services may result in concession contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots.

(11) Where the aggregate value of the lots is equal to or greater than the threshold mentioned in paragraph (1), these Regulations shall apply to the awarding of each lot.

- F4** Sum in Reg. 9(1) substituted (1.1.2024) by The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2023 (S.I. 2023/1117), regs. 1(1), **3(2)** (with reg. 5)
- F5** Reg. 9(2) omitted (31.12.2020) by virtue of The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(5)(b)** (with Sch. paras. 3-5)
- F6** Word in reg. 9(3) substituted (1.1.2022) by The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021 (S.I. 2021/1221), regs. 1(1), **4(2)(b)** (with reg. 7)
- F7** Word in reg. 9(4) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(5)(c)** (with Sch. paras. 3-5)
- F8** Reg. 9(9A) inserted (25.5.2023) by The Public Procurement (International Trade Agreements) (Amendment) Regulations 2023 (S.I. 2023/484), regs. 1(2), **3(3)** (with reg. 5)
- F9** Words in reg. 9(9A) omitted (26.5.2023) by virtue of The Public Procurement (International Trade Agreements) (Amendment) (Wales) (No. 2) Regulations 2023 (S.I. 2023/567), regs. 1(2), **3(3)** (with reg. 5)

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[^{F10}Review and amendment of the threshold in regulation 9(1)

9A.—(1) Every two years the Minister for the Cabinet Office must review the threshold mentioned in regulation 9(1) to verify whether it corresponds with the threshold established in the GPA for works concessions.

(2) The Minister must do so by calculating the sterling value of the threshold on the basis of the average daily value of sterling in terms of the special drawing rights mentioned in the GPA over a period of 24 months ending with 31st August.

(3) The Minister must make that calculation using the applicable conversion rates in the monthly International Financial Statistics published from time to time by the International Monetary Fund.

(4) If the sterling value of the threshold so calculated differs from the sum for the time being mentioned in regulation 9(1) in respect of the threshold, the Minister must make regulations amending regulation 9(1) so as to substitute for that sum the sum equal to that value.

(5) Such regulations—

- (a) must be made and laid before Parliament before 1st November following the end of the 24-month period covered by the review; and
- (b) must provide for the substitution to come into force on the following 1st January.

(6) The first review under this regulation must relate to the 24-month period ending with 31st August 2021.]

F10 Reg. 9A inserted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **8(6)** (with Sch. paras. 3-5)

CHAPTER 2

Exclusions

General exclusions

Exclusive rights

Exclusive rights

10.—(1) These Regulations do not apply to services concession contracts awarded to a contracting authority or to a utility referred to in regulation 5(1)(a), or to an association of such contracting authorities or utilities, on the basis of an exclusive right.

(2) These Regulations do not apply to services concession contracts awarded to an economic operator on the basis of an exclusive right that has been granted [^{F11}for the exercise of one of the] activities listed in Schedule 2.

(3) But where the [^{F12}exclusive right was not granted following the application of] sector-specific transparency obligations, regulation 32 applies.

Transport services

(4) These Regulations do not apply to concession contracts for—

- (a) air transport services based on the [^{F13}economic operator's status as a qualifying air carrier] within the meaning of Regulation (EC) No 1008/2008 of the European Parliament and of the Council ^{M1} as amended from time to time; or
- (b) public passenger transport services within the meaning of Regulation (EC) No 1370/2007 of the European Parliament and of the Council ^{M2} as amended from time to time.

Concession contracts awarded pursuant to international rules

(5) These Regulations do not apply to concession contracts which the contracting authority or utility is obliged to award in accordance with procedures which are different from those laid down by these Regulations and are established by any of the following—

- (a) a legal instrument creating international law obligations, such as an international agreement, concluded in conformity with the [^{F14}Retained] Treaties, between [^{F15}the United Kingdom and one or more other] countries (or subdivisions of such countries) and covering works, supplies or services intended for the joint implementation or exploitation of a project by its signatories;
- (b) an international organisation.

(6) These Regulations do not apply to concession contracts which the contracting authority or utility awards in accordance with procurement rules provided by an international organisation or international financing institution where the concession contracts concerned are fully financed by that organisation or institution.

(7) In the case of concession contracts co-financed for the most part by an international organisation or international financing institution, the parties shall agree on the applicable procurement procedures.

(8) Paragraphs (5) to (7) do not apply to concession contracts in the fields of defence and security as referred to in Directive [2009/81/EC](#) of the European Parliament and of the Council ^{M3}.

Defence and security concession contracts

(9) These Regulations do not apply to concession contracts in the fields of defence and security as referred to in Directive [2009/81/EC](#)—

- (a) which are governed by specific procedural rules pursuant to an international agreement or arrangement concluded between [^{F16}the United Kingdom] and one or more [^{F17}other] countries;
- (b) which are governed by specific procedural rules pursuant to a concluded international agreement or arrangement relating to the stationing of troops and concerning the undertakings of [^{F18}the United Kingdom or another] country;
- (c) which are governed by specific procedural rules of an international organisation purchasing for its purposes or which must be awarded by [^{F19}the United Kingdom] in accordance with those rules;
- (d) in relation to which the application of these Regulations would oblige the United Kingdom to supply information the disclosure of which it considers contrary to the essential interests of its security or the procurement and performance of which is classified as secret or must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in any part of the United Kingdom, provided that the United Kingdom has determined that the essential interests concerned cannot be guaranteed by less intrusive measures, such as those referred to in paragraph (10);
- (e) awarded in the framework of a cooperative programme referred to in regulation 7(1)(c) of the Defence and Security Regulations;
- (f) awarded by a government to another government relating to works and services directly linked to military equipment or sensitive equipment, or works and services specifically for military purposes, or sensitive works and sensitive services (and in this sub-paragraph “government” means the State, regional or local government of a member State or a State which is not a member State);

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- (g) awarded in a [^{F20}country other than the United Kingdom or Gibraltar], to be carried out when forces are deployed outside the [^{F21}United Kingdom and Gibraltar] where operational needs require those concession contracts to be concluded with economic operators located in the area of operations.

Protection of essential security interests

(10) These Regulations do not apply to concession contracts not otherwise exempted by paragraph (9)(d) to (g) to the extent that the protection of the essential security interests of the United Kingdom ^{F22}... cannot be guaranteed by less intrusive measures, for example by imposing requirements aimed at protecting the confidential nature of information which the contracting authority or utility makes available in a concession contract award procedure as provided for in these Regulations.

Other exclusions

- (11) These Regulations do not apply to services concession contracts for—
- (a) the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or which concern interests in or rights over any of them;
 - (b) (i) the acquisition, development, production or co-production of programme material intended for audiovisual media services or radio media services, that are awarded by audiovisual or radio media providers, or
 - (ii) broadcasting time or programme provision that are awarded to audiovisual or radio media service providers;
 - (c) arbitration or conciliation services;
 - (d) any of the following legal services—
 - (i) legal representation of a client by a lawyer ^{F23}... in—
 - (aa) an arbitration or conciliation held in [^{F24}the United Kingdom, another] country or before an international arbitration or conciliation instance, or
 - (bb) judicial proceedings before the courts, tribunals or public authorities of [^{F25}the United Kingdom or another] country, or before international courts, tribunals or institutions;
 - (ii) legal advice given—
 - (aa) in preparation of any of the proceedings referred to in paragraph (i), or
 - (bb) where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings, provided that the advice is given by a lawyer ^{F26}...
 - (iii) document certification and authentication services which must be provided by notaries;
 - (iv) legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court or tribunal in the [^{F27}United Kingdom] or are designated by law to carry out specific tasks under the supervision of such tribunals or courts;
 - (v) other legal services which in the [^{F28}United Kingdom] are connected, even occasionally, with the exercise of official authority;

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- (e) (i) financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of Directive 2004/39/EC of the European Parliament and of the Council ^{M4} as amended from time to time,
 - (ii) central bank services, or
 - (iii) operations conducted with the European Financial Stability Facility and the European Stability Mechanism;
 - (f) loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments;
 - (g) civil defence, civil protection, and danger prevention services that are provided by non-profit organisations or associations, and which are covered by CPV codes: 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and 85143000-3 except patient transport ambulance services; or
 - (h) political campaign services which are covered by CPV codes 79341400-0, 92111230-3 and 92111240-6, when awarded by a political party in the context of an election campaign.
- (12) In this regulation—
- (a) “audiovisual media services” and “media service providers” have, respectively, the meanings given by Articles 1(1)(a) and 1(1)(d) of Directive 2010/13/EU of the European Parliament and of the Council ^{M5} as amended from time to time;
 - [^{F29}(aa) “lawyer” means a person practising as an advocate, barrister or solicitor in any part of the United Kingdom or in Gibraltar;]
 - (b) “programme” has the meaning given by Article 1(1)(b) of that Directive as amended from time to time, but also includes radio programmes and radio programme materials; and
 - (c) “programme material” has the same meaning as “programme”.

Lottery services

(13) These Regulations do not apply to services concession contracts for lottery services which are covered by CPV code 92351100-7 and awarded to an economic operator on the basis of an exclusive right granted otherwise than as described in regulation 5(2).

Activities in a third country

(14) These Regulations do not apply to concession contracts awarded by utilities for the pursuit of their activities in a [^{F30}country other than the United Kingdom], in conditions not involving the physical use of a network or geographical area within the [^{F31}United Kingdom].

- F11** Words in reg. 10(2) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 8(7)(a) (with Sch. paras. 3-5)
- F12** Words in reg. 10(3) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 8(7)(b) (with Sch. paras. 3-5)
- F13** Words in reg. 10(4)(a) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 8(7)(c) (with Sch. paras. 3-5)
- F14** Word in reg. 10(5)(a) inserted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 8(7)(d)(i) (with Sch. paras. 3-5)
- F15** Words in reg. 10(5)(a) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 8(7)(d)(ii) (with Sch. paras. 3-5)
- F16** Words in reg. 10(9)(a) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 8(7)(e)(i)(aa) (with Sch. paras. 3-5)
- F17** Word in reg. 10(9)(a) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 8(7)(e)(i)(bb) (with Sch. paras. 3-5)

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- F18** Words in reg. 10(9)(b) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(e)(ii)** (with Sch. paras. 3-5)
- F19** Words in reg. 10(9)(c) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(e)(iii)** (with Sch. paras. 3-5)
- F20** Words in reg. 10(9)(g) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(e)(iv)(aa)** (with Sch. paras. 3-5)
- F21** Words in reg. 10(9)(g) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(e)(iv)(bb)** (with Sch. paras. 3-5)
- F22** Words in reg. 10(10) omitted (31.12.2020) by virtue of The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(f)** (with Sch. paras. 3-5)
- F23** Words in reg. 10(11)(d)(i) omitted (31.12.2020) by virtue of The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(g)(i)(aa)** (with Sch. paras. 3-5)
- F24** Words in reg. 10(11)(d)(i)(aa) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(g)(i)(bb)** (with Sch. paras. 3-5)
- F25** Words in reg. 10(11)(d)(i)(bb) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(g)(i)(cc)** (with Sch. paras. 3-5)
- F26** Words in reg. 10(11)(d)(ii) omitted (31.12.2020) by virtue of The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(g)(ii)** (with Sch. paras. 3-5)
- F27** Words in reg. 10(11)(d)(iv) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(g)(iii)** (with Sch. paras. 3-5)
- F28** Words in reg. 10(11)(d)(v) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(g)(iii)** (with Sch. paras. 3-5)
- F29** Reg. 10(12)(aa) inserted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(h)** (with Sch. paras. 3-5)
- F30** Words in reg. 10(14) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(i)(i)** (with Sch. paras. 3-5)
- F31** Words in reg. 10(14) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(7)(i)(ii)** (with Sch. paras. 3-5)

Marginal Citations

- M1** OJ No L 293, 31.10.2008, p3.
- M2** OJ No L 315, 3.12.2007, p1.
- M3** OJ No L 216, 20.8.2009, p76, last amended by Commission Regulation (EU) 2015/2340 (OJ No L 330, 16.12.2015, p14).
- M4** OJ No L 145, 30.4.2004, p1, last amended by Directive 2010/78/EU of the European Parliament and of the Council (OJ No L 331, 15.12.2010, p120).
- M5** OJ No L 95, 15.4.2010, p1.

Specific exclusions in the field of electronic communications

11.—(1) These Regulations do not apply to concession contracts for the principal purpose of permitting contracting authorities to provide or exploit public communications networks, or to provide to the public one or more electronic communication services.

(2) In this regulation, “public communications network” and “electronic communications service” have the meanings given by Directive [2002/21/EC](#) of the European Parliament and of the Council ^{M6} as amended from time to time.

Marginal Citations

- M6** OJ No L 108, 24.4.2002, p33, last amended by Directive 2009/140/EC of the European Parliament and of the Council (OJ No L 337, 18.12.2009, p37).

Specific exclusions in the field of water

12. These Regulations do not apply to—

- (a) concession contracts awarded to provide or operate fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water;
- (b) concession contracts awarded to supply drinking water to such networks;
- (c) concession contracts for either or both of the following—
 - (i) hydraulic engineering projects, irrigation or land drainage, provided that the volume of water to be used for the supply of drinking water represents more than 20% of the total volume of water made available by such projects or irrigation or drainage installations, or
 - (ii) the disposal or treatment of sewage,when the contracts are connected with an activity referred to in paragraph (a) or (b).

Concession contracts awarded to an affiliated undertaking

13.—(1) These Regulations do not apply to concession contracts awarded—

- (a) by a utility to an affiliated undertaking, or
- (b) by a joint venture, formed exclusively by a number of utilities for the purpose of carrying out activities listed in Schedule 2, to an affiliated undertaking of one its members,

provided that the conditions in paragraph (2) are fulfilled.

(2) The conditions are that—

- (a) in respect of services concession contracts, at least 80% of the average total turnover of the affiliated undertaking over the preceding 3 years, taking into account all services provided by that undertaking, derives from the provision of services to the utility or one or more of its affiliated undertakings;
- (b) in respect of works concession contracts, at least 80% of the average total turnover of the affiliated undertaking over the preceding 3 years, taking into account all works provided by that undertaking, derives from the provision of works to the utility or one or more of its affiliated undertakings.

(3) Where, because of the date on which an affiliated undertaking was created or commenced activities, the turnover referred to in paragraph (2) is not available for the preceding 3 years, it shall be sufficient for that undertaking to show that the turnover is credible, in particular by means of business projections.

(4) Where more than one undertaking affiliated with the utility with which they form an economic group provides the same or similar services or works, the percentages referred to in paragraph (2) shall be calculated taking into account the total turnover deriving respectively from the provision of services or works by those affiliated undertakings.

(5) In this regulation, “affiliated undertaking” and any similar expression means—

- (a) any undertaking the annual accounts of which are consolidated with those of the utility in accordance with the requirements of [F32Part 15 of the Companies Act 2006] as amended from time to time;
- (b) in the case of an undertaking which is not subject to that [F33Part], any undertaking that—
 - (i) may be, directly or indirectly, subject to a dominant influence by the utility,
 - (ii) may exercise a dominant influence over the utility, or

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(iii) in common with the utility, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it.

(6) For the purposes of paragraph (5)(b), a “dominant influence” shall be presumed on the part of a utility or, as the case may be, an undertaking in the same circumstances in which it is, in accordance with regulation 5(5), presumed on the part of a contracting authority.

(7) This regulation applies despite the provisions of regulation 17.

- F32** Words in [reg. 13\(5\)\(a\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **8(8)(a)** (with Sch. paras. 3-5)
- F33** Word in [reg. 13\(5\)\(b\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **8(8)(b)** (with Sch. paras. 3-5)

Concession contracts awarded to a joint venture or to a utility forming part of a joint venture

14.—(1) These Regulations do not apply to concession contracts awarded—

- (a) by a joint venture, formed exclusively by a number of utilities for the purpose of carrying out activities listed in Schedule 2, to one of those utilities, or
- (b) by a utility to such a joint venture of which it forms part,

provided that the joint venture has been set up in order to carry out the activity concerned over a period of at least 3 years and the instrument setting up the joint venture stipulates that the utilities which form it will be part of the joint venture for at least the same period.

(2) This regulation applies despite the provisions of regulation 17.

Notification of information by utilities

^{F34}**15.**

- F34** [Reg. 15](#) omitted (31.12.2020) by virtue of [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **8(9)** (with Sch. paras. 3-5)

Exclusion of activities which are directly exposed to competition

16. These Regulations do not apply to concession contracts awarded by utilities where it has been established that the activity is directly exposed to competition in accordance with regulation 34(2) of the Utilities Contracts Regulations 2016 ^{M7}.

Marginal Citations

M7 [S.I. 2016/274](#).

Concession contracts between entities within the public sector

Award of contracts to controlled persons

Award of contracts to controlled persons

17.—(1) A concession contract awarded by a contracting authority or a utility referred to in regulation 5(1)(a) to a legal person falls outside the scope of these Regulations where all of the following conditions are fulfilled—

- (a) the contracting authority or utility exercises over the legal person concerned a control which is similar to that which it exercises over its own departments;
- (b) more than 80% of the activities of the controlled legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authority or utility or by other legal persons controlled by that contracting authority or utility; and
- (c) there is no direct private capital participation in the controlled legal person with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the [F35Retained] Treaties, which do not exert a decisive influence on the controlled legal person.

(2) A concession contract also falls outside the scope of these Regulations where a controlled legal person which is a contracting authority or utility referred to in regulation 5(1)(a) awards a concession contract to—

- (a) its controlling contracting authority or utility, or
- (b) another legal person controlled by the same contracting authority or utility,

provided that there is no direct private capital participation in the legal person being awarded the concession contract with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the [F36Retained] Treaties, which do not exert a decisive influence on the legal person being awarded the contract.

(3) A contracting authority or utility shall be deemed to exercise over a legal person a control similar to that which it exercises over its own departments within the meaning of paragraph (1)(a) where—

- (a) it exercises a decisive influence over both strategic objectives and significant decisions of the controlled legal person, or
- (b) that control is exercised by another legal person which is itself controlled in the same way by the contracting authority or utility,

and references to “control”, “controlled” and “controlling” in paragraphs (1) to (3) shall be interpreted accordingly.

Award of concession contracts where there is joint control

(4) A contracting authority or utility referred to in regulation 5(1)(a) which does not exercise over a legal person control within the meaning of paragraph (3) may nevertheless award a concession contract to that legal person without applying these Regulations where all of the following conditions are fulfilled—

- (a) the contracting authority or utility exercises jointly with other contracting authorities or utilities a control over that legal person which is similar to that which they exercise over their own departments;
- (b) more than 80% of the activities of that legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authorities or utilities or by other legal persons controlled by the same contracting authorities or utilities; and
- (c) there is no direct private capital participation in the controlled legal person with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the [F37Retained] Treaties, which do not exert a decisive influence on the controlled legal person.

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(5) For the purposes of paragraph (4)(a), contracting authorities or utilities exercise joint control over a legal person where all of the following conditions are fulfilled—

- (a) the decision-making bodies of the controlled legal person are composed of representatives of all participating contracting authorities or utilities;
- (b) those contracting authorities or utilities are able to jointly exert decisive influence over the strategic objectives and significant decisions of the controlled legal person; and
- (c) the controlled legal person does not pursue any interests which are contrary to those of the controlling contracting authorities or utilities.

(6) For the purposes of paragraph (5)(a), individual representatives may represent several or all of the participating contracting authorities or utilities.

Contracts which establish or implement co-operation between contracting authorities or utilities

(7) A concession contract concluded exclusively between two or more contracting authorities or utilities referred to in regulation 5(1)(a) falls outside the scope of these Regulations where all of the following conditions are fulfilled—

- (a) the contract establishes or implements a co-operation between the participating contracting authorities or utilities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;
- (b) the implementation of that co-operation is governed solely by considerations relating to the public interest; and
- (c) the participating contracting authorities or utilities perform on the open market less than 20% of the activities concerned by the co-operation.

Determination of percentages

(8) For the determination of the percentage of activities referred to in paragraphs (1)(b), (4)(b) and (7)(c), the average total turnover, or an appropriate alternative activity-based measure such as costs incurred by the relevant legal person, contracting authority or utility referred to regulation 5(1)(a) with respect to services, supplies and works for the 3 years preceding the concession contract award shall be taken into consideration.

(9) Where, because of—

- (a) the date on which the relevant legal person, contracting authority or utility was created or commenced activities, or
- (b) a reorganisation of its activities,

the turnover, or alternative activity-based measure such as costs, are either not available for the preceding 3 years or no longer relevant, it shall be sufficient to show that the measurement of activity is credible, particularly by means of business projections.

- F35** Word in reg. 17(1)(c) inserted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(10)** (with Sch. paras. 3-5)
- F36** Word in reg. 17(2) inserted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(10)** (with Sch. paras. 3-5)
- F37** Word in reg. 17(4)(c) inserted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), **8(10)** (with Sch. paras. 3-5)

CHAPTER 3

General Provisions

Duration of the concession contract

18.—(1) The duration of concession contracts shall be limited.

(2) The contracting authority or utility shall estimate the duration on the basis of the works or services requested.

(3) For concession contracts lasting more than 5 years, the maximum duration of the concession contract shall not exceed the time that a concessionaire could reasonably be expected to take to recoup the investments made in operating the works or services together with a return on invested capital taking into account the investments required to achieve the specific contractual objectives.

(4) The investments taken into account for the purposes of the calculation of the time period referred to in paragraph (3) shall include both initial investments and investments during the life of the concession contract.

Social and other specific services

19. Concession contracts for social and other specific services listed in Schedule 3 falling within the scope of these Regulations shall be subject only to the obligations arising from regulations 24(2), 31(3) to (5), 32 and 46 to 64.

Mixed contracts

20.—(1) Concession contracts which have as their subject-matter both works and services shall be awarded in accordance with the provisions applicable to the type of concession contract that characterises the main subject-matter of the contract in question.

(2) In the case of mixed concession contracts consisting partly of social and other specific services listed in Schedule 3 and partly of other services, the main subject-matter shall be determined in accordance with which of the estimated values of the respective services is the highest.

(3) Where the different parts of a given contract are objectively separable—

- (a) in the case of contracts which have as their subject-matter elements covered by these Regulations as well as other elements, contracting authorities and utilities may choose to award separate contracts for the separate parts or to award a single contract;
- (b) where contracting authorities or utilities choose to award separate contracts for separate parts, the decision as to which legal regime applies to any one of such separate contracts shall be taken on the basis of the characteristics of the separate part concerned;
- (c) where contracting authorities or utilities choose to award a single contract, these Regulations, unless otherwise provided in sub-paragraph (d), apply to the ensuing mixed contract, irrespective of—

(i) the value of the parts that would otherwise fall under a different legal regime, and

(ii) which legal regime those parts would otherwise have been subject to;

- (d) in the case of a mixed contract containing elements of concession contracts as well as elements of public contracts covered by the Public Contracts Regulations 2015 ^{M8} or contracts covered by the Utilities Contracts Regulations 2016, the mixed contract shall be awarded in accordance with the Public Contracts Regulations 2015 or the Utilities Contracts Regulations 2016, respectively.

(4) Where the different parts of a given contract are objectively not separable—

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- (a) the applicable legal regime shall be determined on the basis of the main subject-matter of that contract; and
 - (b) where that contract involves both elements of a services concession contract and of a supply contract, the main subject-matter shall be determined according to which of the estimated values of the respective services or supplies is the highest.
- (5) But where part of a given contract is covered by [^{F38}regulation 7(3)] or the Defence and Security Regulations, regulation 21 applies instead of paragraphs (1) to (4).
- (6) In the case of contracts intended to cover several activities, one of them being an activity listed in Schedule 2 or subject to the Utilities Contracts Regulations 2016, the applicable provisions shall be established in accordance with regulation 22 of these Regulations and regulation 7 of the Utilities Contracts Regulations 2016, respectively.
- (7) This regulation is subject to regulation 22.

F38 Words in [reg. 20\(5\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(11\)](#) (with [Sch. paras. 3-5](#))

Marginal Citations

M8 [S.I. 2015/102](#), as amended by [S.I. 2016/275](#).

Mixed procurement contracts involving defence or security aspects

21.—(1) This regulation applies in the case of mixed contracts which have as their subject-matter elements of a concession contract covered by these Regulations and procurement or other elements covered by [^{F39}regulation 7(3)] or the Defence and Security Regulations.

(2) In the case of contracts intended to cover several activities, one of them being listed in Schedule 2 or covered by the Utilities Contracts Regulations 2016, and another being covered by [^{F40}regulation 7(3)] or the Defence and Security Regulations, the applicable provisions shall be established in accordance with regulation 23 of these Regulations and regulation 26 of the Utilities Contracts Regulations 2016, respectively.

(3) Where the different parts of a given contract are objectively separable, contracting authorities or utilities may choose to award separate contracts for the separate parts or to award a single contract.

(4) The decision to award a single contract shall not, however, be taken for the purpose of excluding contracts from the application of these Regulations or the Defence and Security Regulations.

(5) Where contracting authorities or utilities choose to award separate contracts for separate parts, the decision as to which legal regime applies to any one of such separate contracts shall be taken on the basis of the characteristics of the separate part concerned.

(6) Where contracting authorities or utilities choose to award a single contract, the following criteria shall apply to determine the applicable legal regime—

- (a) where part of a given contract is covered by [^{F41}regulation 7(3)], or different parts are covered by [^{F41}regulation 7(3)] and the Defence and Security Regulations respectively, the contract may be awarded without applying these Regulations, provided that the award of a single contract is justified by objective reasons;
- (b) where part of a given contract is covered by the Defence and Security Regulations, the contract may be awarded in accordance with these Regulations or in accordance with the Defence and Security Regulations, provided that the award of a single contract is justified by objective reasons.

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(7) Paragraph (6)(b) is without prejudice to the thresholds and exclusions for which the Defence and Security Regulations provide.

(8) Where the different parts of a given contract are objectively not separable, the contract may be awarded without applying these Regulations where it includes elements [^{F42}covered by regulation 7(3)]; otherwise it may be awarded in accordance with these Regulations or in accordance with the Defence and Security Regulations.

(9) This regulation is subject to regulation 23.

- F39** Words in [reg. 21\(1\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(12\)\(a\)](#) (with [Sch. paras. 3-5](#))
- F40** Words in [reg. 21\(2\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(12\)\(a\)](#) (with [Sch. paras. 3-5](#))
- F41** Words in [reg. 21\(6\)\(a\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(12\)\(a\)](#) (with [Sch. paras. 3-5](#))
- F42** Words in [reg. 21\(8\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(12\)\(b\)](#) (with [Sch. paras. 3-5](#))

Contracts covering both activities listed in Schedule 2 and other activities

22.—(1) This regulation applies in the case of contracts intended to cover several activities where one of those activities is listed in Schedule 2.

(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 shall not be made with the objective of excluding the contract or contracts from the scope of these Regulations or, where applicable, the Public Contracts Regulations 2015 or the Utilities Contracts Regulations 2016.

(4) Where utilities choose to award a separate contract, the decision as to which rules apply to any one of such separate contracts shall be taken on the basis of the characteristics of the separate activity concerned.

(5) Where utilities choose to award a single contract—

- (a) a contract which is intended to cover several activities shall 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 shall be determined in accordance with the following—
 - (i) the contract shall be awarded in accordance with the provisions of these Regulations applicable to concession contracts awarded by contracting authorities, if one of the activities for which the contract is intended is subject to the provisions of these Regulations applicable to concession contracts awarded by contracting authorities and the other is subject to the provisions of these Regulations applicable to concession contracts awarded by utilities,
 - (ii) the contract shall be awarded in accordance with the Public Contracts 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 Regulation 2015,
 - (iii) the contract shall 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 Regulations 2015 or the Utilities Contracts Regulations 2016.

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(6) But where one of the activities concerned is covered by [^{F43}regulation 7(3)] or the Defence and Security Regulations, regulation 23 applies instead of paragraph (5).

F43 Words in [reg. 22\(6\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(13\)](#) (with [Sch. paras. 3-5](#))

Contracts covering both activities listed in Schedule 2 and activities involving defence or security aspects.

23.—(1) This regulation applies in the case of contracts intended to cover several activities, one of them being listed in Schedule 2 and another being covered by [^{F44}regulation 7(3)] or the Defence and Security Regulations.

(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 awarding separate contracts shall not, however, be made with the objective of excluding the contract or contracts from the scope of these Regulations or the Defence and Security Regulations and a decision to award a single contract shall be justified by objective reasons.

(4) Where utilities choose to award separate contracts for separate parts, the decision as to which legal regime applies to any one of the separate contracts shall be taken on the basis of the characteristics of the separate activity concerned.

(5) Where utilities choose to award a single contract, the following shall apply—

- (a) in the case of a contract intended to cover an activity which is covered by these Regulations and another which is covered by [^{F45}regulation 7(3)], the utility may award the contract without applying these Regulations;
- (b) in the case of a contract intended to cover an activity which is covered by these Regulations and another which is covered by the Defence and Security Regulations, the utility may award the contract either in accordance with these Regulations or in accordance with the Defence and Security Regulations.

(6) Paragraph (5)(b) is without prejudice to the thresholds and exclusions for which the Defence and Security Regulations provide.

(7) Contracts referred to in paragraph (5)(b) which also include procurement or other elements which are covered by [^{F46}regulation 7(3)] may be awarded without applying these Regulations.

F44 Words in [reg. 23\(1\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(14\)](#) (with [Sch. paras. 3-5](#))

F45 Words in [reg. 23\(5\)\(a\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(14\)](#) (with [Sch. paras. 3-5](#))

F46 Words in [reg. 23\(7\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(14\)](#) (with [Sch. paras. 3-5](#))

CHAPTER 4

Specific Situations

Reserved concession contracts

24.—(1) Contracting authorities and utilities may—

- (a) reserve the right to participate in concession contract award procedures to sheltered workshops and economic operators whose main aim is the social and professional integration of disabled or disadvantaged persons, or
- (b) provide for such concession contracts to be performed in the context of sheltered employment programmes,

provided that at least 30% of the employees of those workshops, economic operators or programmes are disabled or disadvantaged workers.

(2) In such cases, the concession notice or, in the case of a concession contract for social and other specific services listed in Schedule 3, the prior information notice, shall make reference to [^{F47}this regulation].

F47 Words in [reg. 24\(2\)](#) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), [regs. 1\(2\), 8\(15\)](#) (with [Sch. paras. 3-5](#))

Research and development services

25. These Regulations apply to services concession contracts for research and development services which are covered by CPV codes 73000000-2 to 73120000-9, 73300000-5, 73420000-2 and 73430000-5 only if—

- (a) the benefits accrue exclusively to the contracting authority or utility for its use in the conduct of its own affairs; and
- (b) the service provided is wholly remunerated by the contracting authority or utility.

CHAPTER 5

Principles

Economic operators

26.—^{F48}(1)

(2) Legal persons may be required to indicate, in the tender or in the application, the names and relevant professional qualifications of the staff to be responsible for the performance of the contract in question.

Groups of economic operators

(3) Groups of economic operators, including temporary associations, may participate in concession contract award procedures and shall not be required by contracting authorities or utilities to have a specific legal form in order to submit a tender or an application.

(4) Where necessary, contracting authorities or utilities may clarify in the concession documents how groups of economic operators are to meet the requirements as to economic and financial standing or technical and professional ability referred to in regulation 38 provided that this is justified by objective reasons and is proportionate.

(5) Any conditions for the performance of a concession contract by such groups of economic operators which are different from those imposed on individual participants shall also be justified by objective reasons and shall be proportionate.

(6) Contracting authorities or utilities may require groups of economic operators to assume a specific legal form once they have been awarded the contract, to the extent that such a change is necessary for the satisfactory performance of the contract.

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F48 [Reg. 26\(1\)](#) omitted (31.12.2020) by virtue of [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **8(16)** (with [Sch. paras. 3-5](#))

Nomenclatures

27. Any references to nomenclatures in the context of the award of concession contracts shall be made using the CPV.

Confidentiality

28.—(1) A contracting authority or utility shall not disclose information which has been forwarded to it by an economic operator and designated by that economic operator as confidential, including, but not limited to, technical or trade secrets and the confidential aspects of tenders.

(2) Paragraph (1) is without prejudice to—

- (a) any other provisions of these Regulations, including the obligations relating to the advertising of awarded concession contracts and the provision of information to candidates and tenderers set out in regulations 32 and 40 respectively;
- (b) the Freedom of Information Act 2000 ^{M9};
- (c) any other requirement, or permission, for the disclosure of information that is applicable under the law of England and Wales or, as the case may be, Northern Ireland.

(3) Contracting authorities and utilities may impose on economic operators requirements aimed at protecting the confidential nature of information which they make available throughout the concession contract award procedure.

Marginal Citations

M9 [2000 c.36](#).

Rules applicable to communication

29.—(1) Except where the use of electronic means is mandatory in accordance with regulations 33(1) and 34, contracting authorities and utilities may choose one or more of the following means of communication for all communication and information exchange—

- (a) electronic means;
- (b) post or facsimile;
- (c) oral communication, including telephone, in respect of communications other than the essential elements of a concession contract award procedure, and provided that the content of the oral communication is documented to a sufficient degree on a durable medium;
- (d) hand delivery certified by an acknowledgement of receipt.

(2) The means of communication chosen shall be generally available and non-discriminatory, and shall not restrict economic operators' access to the concession contract award procedure.

(3) The tools and devices to be used for communicating by electronic means, and their technical characteristics, shall be interoperable with information and communication technology products in general use.

(4) In all communication, exchange and storage of information, contracting authorities and utilities shall ensure that the integrity of data and the confidentiality of applications and tenders are preserved.

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(5) Contracting authorities and utilities shall examine the content of applications and tenders only after the time limit set for submitting them has expired.

Changes to legislation:

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 54 Sch. 11 para. 6](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 8(5) words omitted by [S.I. 2023/506 reg. 3\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). S.I. 2023/506 revoked before coming into force by The Public Procurement (International Trade Agreements) (Amendment) (Wales) (No. 2) Regulations 2023 (S.I. 2023/567), regs. 1(2), 6)
- reg. 9(9A) words omitted by [S.I. 2023/506 reg. 3\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S.I. 2023/506 revoked before coming into force by The Public Procurement (International Trade Agreements) (Amendment) (Wales) (No. 2) Regulations 2023 (S.I. 2023/567), regs. 1(2), 6)
- reg. 10(11)(d)(i)(aa) words substituted by [S.I. 2019/560 reg. 7\(7\)\(e\)\(i\)\(aa\)](#) (This amendment not applied to [legislation.gov.uk](#). Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 10(11)(d)(i)(bb) words substituted by [S.I. 2019/560 reg. 7\(7\)\(e\)\(i\)\(bb\)](#) (This amendment not applied to [legislation.gov.uk](#). Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))