
STATUTORY INSTRUMENTS

2016 No. 273

The Concession Contracts Regulations 2016

PART 2

Scope and principles

CHAPTER 3

General Provisions

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 [^{F1}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 [^{F2}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 [^{F3}regulation 7(3)] may be awarded without applying these Regulations.

F1 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)

F2 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)

Changes to legislation: *The Concession Contracts Regulations 2016, Section 23 is up to date with all changes known to be in force on or before 04 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*

F3 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)

Changes to legislation:

The Concession Contracts Regulations 2016, Section 23 is up to date with all changes known to be in force on or before 04 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 54 Sch. 11 para. 6](#)
- reg. 23(1) words substituted by [S.I. 2019/560 reg. 7\(14\)](#) (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. 23(5)(a) words substituted by [S.I. 2019/560 reg. 7\(14\)](#) (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. 23(7) words substituted by [S.I. 2019/560 reg. 7\(14\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))

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))