
STATUTORY INSTRUMENTS

2016 No. 274

The Utilities Contracts Regulations 2016

PART 6

**REVOCATION, MODIFICATION, SAVINGS
AND TRANSITIONAL PROVISIONS**

Interpretation of Part 6

120. In this Part, “the 2006 Regulations” means the Utilities Contracts Regulations 2006⁽¹⁾.

Revocations

121. The following instruments are revoked—

- (a) subject to regulations 122 and 123, the 2006 Regulations; and
- (b) the Utilities Contracts (Amendment) Regulations 2009⁽²⁾.

Transitional provisions and savings where procurement procedure commenced before 18th April 2016

122.—(1) Nothing in these Regulations affects any contract award procedure or design contest commenced before 18th April 2016.

(2) For that purpose, a contract award procedure or design contest has been commenced before 18th April 2016 if, before that date—

- (a) the utility has sent a notice to the Official Journal in accordance with the 2006 Regulations in order to invite tenders or requests to be selected to tender for or to negotiate in respect of a proposed contract, framework agreement or dynamic purchasing system;
- (b) the utility has had published any form of advertisement seeking offers or expressions of interest in a proposed contract, framework or dynamic purchasing system;
- (c) the utility has contacted any economic operator in order to—
 - (i) seek expressions of interest or offers in respect of a proposed contract, framework agreement or dynamic purchasing system; or
 - (ii) respond to an unsolicited expression of interest or offer received from that economic operator in relation to a proposed contract, framework agreement or dynamic purchasing system; or
- (d) the utility has sent a notice to the Official Journal in accordance with the 2006 Regulations in order to publicise its intention to hold a design contest.

(1) S.I. 2006/6, amended by S.I. 2007/2157, 3542, 2008/2256, 2848, 2009/3100, 2011/1043, 1441, 2053, 1848, 2012/1659, 2013/610, 2015/102.
(2) S.I. 2009/3100.

(3) Nothing in these Regulations affects the award of a specific contract based on a framework agreement where the framework agreement was concluded—

- (a) before 18th April 2016; or
- (b) on or after that date following a contract award procedure which, by virtue of paragraph (1), was not affected by these Regulations.

(4) Nothing in these Regulations affects the award of a specific contract under a dynamic purchasing system where the system was established—

- (a) before 18th April 2016; or
- (b) on or after that date following a contract award procedure which, by virtue of paragraph (1), was not affected by these Regulations.

(5) Paragraphs (6) to (9) apply in the case of a contract awarded—

- (a) before 18th April 2016; or
- (b) after that date but where the award itself was not, by virtue of paragraphs (1) to (4), affected by these Regulations.

(6) Except in the case of a contract referred to in paragraph (7) to the extent referred to in paragraph (8), nothing in these Regulations affects a contract to which paragraph (5) applies.

(7) This paragraph refers to a contract which was awarded under the 2006 Regulations.

(8) A contract referred to in paragraph (7) is subject to regulations 88 and 89(3) and Chapter 2 of Part 5 (so far as that Chapter applies to regulations 88 and 89(3)).

(9) For the purposes of paragraph (8), any reference in regulations 88 or 89(3) or Chapter 2 of Part 5 to a contract includes a contract to which paragraph (7) applies.

(10) In this regulation, “dynamic purchasing system”, “framework agreement”, “contract”, “notice”, “design contest” and “utility” have the same meanings as in the 2006 Regulations.

Time limits and the 2006 Regulations: modification of the existing saving of the original provisions

123.—(1) This regulation applies where, as a result of regulation 122, regulation 45E(4) of the 2006 Regulations continues to apply on or after 18th April 2016.

(2) In those circumstances, regulation 45E(4) of the 2006 Regulations applies as though any reference to a “contract notice” were a reference to a “notice”.

Transitory provision prior to commencement of regulation 40(1) to (7)

124.—(1) This regulation applies during the period beginning on the date mentioned in regulation 1(2) and ending immediately before the date mentioned in regulation 1(3)(c).

(2) During that period, utilities may choose between the following means of communication for the purposes mentioned in paragraph (3)—

- (a) electronic means in accordance with regulation 40;
- (b) post or other suitable carrier;
- (c) facsimile;
- (d) a combination of those means.

(3) That choice is available for all communication and information exchange in respect of which both the following criteria are met:—

- (a) the use of electronic means would, in accordance with regulation 40(1) to (7), have been required if those provisions had been in force;

- (b) the use of electronic means is not required by any other provision of these Regulations that is in force.