

Transposition Note - Directive 2014/25/EU (Public Procurement)

This transposition note accompanies the Explanatory Memorandum to the Utilities Contracts Regulations (UCR) 2016.

As set out in the Explanatory Memorandum, the Cabinet Office's general approach to drafting the UCR 2016 has been to use the copy out technique, where available. The approach to transposing the Utilities Directive has mirrored that taken for the Public Contracts Directive (2014/24/EU), which was implemented in February 2015 by the Public Contracts Regulations (S.I 2015, No. 102). Many of the changes in the Public Contracts Directive have been included in the Utilities Directive and provisions that are common with the Public Contracts Regulations have been aligned to ensure consistency and avoid any ambiguity.

The transposition table below sets out which Regulations have transposed the Directive's Articles and Annexes.

Transposition table

Article		National Provision
Article 1	Subject-matter and scope	Regulation 3 copies out Art 1(1), (3) & (6). Article 1(2) is copied out in the definitions
Article 2	Definitions	Regulation 2 lists the definitions in alphabetical order. Regulations 18(3) and 55(10) and (11) also implement definitions in Article 2.
Article 3	Contracting authorities	Regulation 4
Article 4	Contracting entities	Regulation 5
Article 5	Mixed procurement covering the same activity	Regulation 6
Article 6	Procurement covering several activities	Regulation 7
Article 7	Common provisions	Regulation 8
Article 8	Gas and heat	Regulation 9
Article 9	Electricity	Regulation 10
Article 10	Water	Regulation 11

Article		National Provision
Article 11	Transport services	Regulation 12
Article 12	Ports and airports	Regulation 13
Article 13	Postal services	Regulation 14
Article 14	Extraction of oil and gas and exploration for, or extraction of coal or other solid fuels	Regulation 15
Article 15	Threshold amounts	Regulation 16
Article 16	Methods for calculating the average value of thresholds	Regulation 17
Article 17	Revision of the thresholds	N/A
Article 18	Contracts awarded for the resale or lease to third parties	Regulation 18
Article 19	Contracts and design contests awarded or organised for purposes other than the pursuit of a covered activity or for the pursuit of such an activity in a third country	Regulation 19
Article 20	Contracts awarded and design contests organised pursuant to international rules	Regulation 20
Article 21	Specific exclusions for services contracts	Regulation 21
Article 22	Services awarded on the basis of exclusive rights	Regulation 22

Article		National Provision
Article 23	Contracts awarded by certain contracting entities for the purchase of water and for the supply of energy or of fuels for the	Regulation 23
Article 24	Defence and Security	Regulation 24
Article 25	Mixed procurement covering the same activity and involving defence or security aspects	Regulation 25
Article 26	Procurement covering several activities and involving defence or security aspects	Regulation 26
Article 27	Contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules	Regulation 27
Article 28	Contracts between contracting authorities	Regulation 28
Article 29	Contracts awarded to an affiliated undertaking	Regulation 29
Article 30	Contracts awarded to a joint venture or to a contracting entity forming part of a joint venture	Regulation 30
Article 31	Notification of information	Regulation 31
Article 32	Research and development services	Regulation 32
Article 33	Contracts subject to special arrangements	Regulation 33

Article		National Provision
Article 34	Activities directly exposed to competition	Regulation 34
Article 35	Procedure establishing whether Article 34 is available	Regulation 35
Article 36	Principles of procurement	Regulation 36
Article 37	Economic operators	Regulation 37
Article 38	Reserved contracts	Regulation 38
Article 39	Confidentiality	Regulation 39
Article 40	Rules applicable to communication	Regulation 40
Article 41	Nomenclatures	Regulation 41
Article 42	Conflicts of interest	Regulation 42
Article 43	Conditions relating to the GPA and other international contracts	Regulation 43
Article 44	Choice of procedures	Regulation 44
Article 45	Open procedure	Regulation 45
Article 46	Restricted procedure	Regulation 46
Article 47	Negotiated procedure with call for competition	Regulation 47
Article 48	Competitive dialogue	Regulation 48
Article 49	Innovation partnership	Regulation 49
Article 50	Use of the negotiated procedure without a call for competition	Regulation 50
Article 51	Framework agreements	Regulation 51
Article 52	Dynamic purchasing systems	Regulation 52
Article 53	Electronic auctions	Regulation 53

Article		National Provision
Article 54	Electronic catalogues	Regulation 54
Article 55	Centralised purchasing activities and central purchasing bodies	Regulation 55
Article 56	Occasional joint procurement	Regulation 56
Article 57	Procurement involving contracting entities from different m Member States	Regulation 57
Article 58	Preliminary market consultation	Regulation 58
Article 59	Prior involvement of candidates or tenderers	Regulation 59
Article 60	Technical specifications	Regulation 60
Article 61	Labels	Regulation 61
Article 62	Test reports, certification and other means of proof	Regulation 62
Article 63	Communication of technical specifications	Regulation 63
Article 64	Variants	Regulation 64
Article 65	Division of contracts into lots	Regulation 65
Article 66	Setting time limits	Regulation 66
Article 67	Periodic indicative notices	Regulation 67
Article 68	Notice on the existence of a qualification system	Regulation 68
Article 69	Contract notices	Regulation 69
Article 70	Contract award notices	Regulation 70

Article		National Provision
Article 71	Form and manner of publication of notices	Regulation 71
Article 72	Publication at national level	Regulation 72
Article 73	Electronic availability of procurement documents	Regulation 73
Article 74	Invitations to candidates	Regulation 74
Article 75	Informing applicants for qualification, candidates and tenderers	Regulation 75
Article 76	General principles	Regulation 76
Article 77	Qualification systems	Regulation 77
Article 78	Criteria for qualitative selection	Regulation 78
Article 79	Reliance on the capacities of other entities	Regulation 79
Article 80	Use of exclusion and selection provided for under Directive 2014/24/EU	Regulation 80
Article 81	Quality assurance standards and environmental management standards	Regulation 81
Article 82	Contract award criteria	Regulation 82
Article 83	Life-cycle costing	Regulation 83
Article 84	Abnormally low tenders	Regulation 84
Article 85	Tenders comprising products originating in third countries	Regulation 85

Article		National Provision
Article 86	Relations with third countries as regards works, supplies and service contracts	N/A
Article 87	Conditions for performance of contracts	Regulation 86
Article 88	Subcontracting	Regulation 87
Article 89	Modification of contracts during their term	Regulation 88
Article 90	Termination of contracts	Regulation 89
Article 91	Award of contracts for social and other specific aspects	Regulation 90
Article 92	Publication of notices	Regulation 91
Article 93	Principles of awarding contracts	Regulation 92
Article 94	Reserved contracts for certain services	Regulation 93
Article 95	Scope	Regulation 94
Article 96	Notices	Regulation 95
Article 97	Rules on the organisation of design contests, the selection of participants and the jury	Regulation 96
Article 98	Decisions of the jury	Regulation 97
Article 99	Enforcement	Regulation 98
Article 100	Individual reports on procedures for the award of contracts	Regulation 99
Article 101	National reporting and statistical information	Regulation 99(9)
Article 102	Administrative cooperation	N/A
Article 103	Exercise of the delegation of powers	N/A

Article		National Provision
Article 104	Urgency procedure	N/A
Article 105	Committee procedure	N/A
Article 106	Transposition and transitional provisions	N/A
Article 107	Repeals	N/A
Article 108	Review	N/A
Article 109	Entry into force	N/A
Article 110	Addressees	N/A
ANNEX I	LIST OF THE ACTIVITIES REFERRED TO IN POINT (A) OF POINT 2 OF ARTICLE 2	Schedule 1
ANNEX II	LIST OF UNION LEGAL ACTS REFERRED TO IN ARTICLE 4(3)	Cross-referred in Regulation 5(6)(b)
ANNEX III	LIST OF UNION LEGAL ACTS REFERRED TO IN ARTICLE 34(3)	Cross-referred in Regulation 35(1)(b)(ii)(aa)
ANNEX IV	DEADLINES FOR THE ADOPTION OF THE IMPLEMENTING ACTS REFERRED TO IN ARTICLE 34(3)	Cross-referred in Regulation 35(2)(i)
ANNEX V	REQUIREMENTS RELATING TO TOOLS AND DEVICES FOR THE ELECTRONIC	Regulation 40(16)

	Article	National Provision
	RECEIPT OF TENDERS, REQUESTS FOR PARTICIPATION AS WELL AS PLANS AND PROJECTS IN CONTESTS	
ANNEX VI PART A	INFORMATION TO BE INCLUDED IN THE PERIODIC INDICATIVE NOTICE (AS REFERRED TO IN ARTICLE 67)	Cross-referred in Regulation 67(2) and (5)(c)
ANNEX VI PART B	INFORMATION TO BE INCLUDED IN NOTICES OF PUBLICATION OF A PERIODIC INDICATIVE NOTICE ON A BUYER PROFILE NOT USED AS A CALL FOR COMPETITION (AS REFERRED TO IN ARTICLE 67(1))	Cross-referred in Regulation 67(4)
ANNEX VII	INFORMATION TO BE INCLUDED IN THE PROCUREMENT DOCUMENTS RELATING TO ELECTRONIC AUCTIONS (ARTICLE 53(4))	Cross-referred in Regulation 53(8)
ANNEX VIII	DEFINITION OF CERTAIN TECHNICAL SPECIFICATIONS	Regulations 2(1), 60(3),(4) and (5)
ANNEX IX	FEATURES CONCERNING PUBLICATION	Regulations 71(1) and (3), 72(1) and (2), 73(1)
ANNEX X	INFORMATION TO BE INCLUDED IN THE NOTICE OF A	Cross-referred in regulation 68(1)

Article	National Provision
	QUALIFICATION SYSTEM (AS REFERRED TO IN POINT B OF ARTICLE 44(4) AND IN ARTICLE 68)
ANNEX XI	INFORMATION TO BE INCLUDED IN CONTRACT NOTICES (AS REFERRED TO IN ARTICLE 69) Cross-referred in Regulation 69
ANNEX XII	INFORMATION TO BE INCLUDED IN THE CONTRACT AWARD NOTICE (AS REFERRED TO IN ARTICLE 70) Cross-referred in Regulation 70(2)
ANNEX XIII	CONTENTS OF THE INVITATIONS TO SUBMIT A TENDER, PARTICIPATE IN THE DIALOGUE OR TO CONFIRM INTEREST PROVIDED FOR UNDER ARTICLE 74 Cross-referred in Regulations 74(4) and (6)
ANNEX XIV	LIST OF SOCIAL AND ENVIRONMENTAL CONVENTIONS REFERRED TO IN ARTICLE 18(2) N/A
ANNEX XV	LIST OF UNION ACTS REFERRED TO IN ARTICLE 88(3) Cross-referred in Regulation 88(3)
ANNEX XVI	INFORMATION TO BE INCLUDED IN NOTICES OF MODIFICATIONS OF CONTRACTS DURING THEIR TERM Cross-referred in regulation 88(3)

Article		National Provision
ANNEX XVII	SERVICES REFERRED TO IN ARTICLE 91	Schedule 2
ANNEX XVIII	INFORMATION TO BE INCLUDED IN THE NOTICES CONCERNING CONTRACTS FOR SOCIAL AND OTHER SPECIFIC SERVICES (AS REFERRED TO ARTICLE 92)	Cross-referred in Regulation 91(5)
ANNEX XIX	INFORMATION TO BE INCLUDED IN THE DESIGN CONTEST NOTICE (AS REFERRED TO IN ARTICLE 96(1))	Cross-referred in Regulation 95(2)(a)
ANNEX XX	INFORMATION TO BE INCLUDED IN THE RESULTS OF THE DESIGN CONTEST NOTICE (AS REFERRED TO IN ARTICLE 96(1))	Cross-referred in Regulation 95(4)
ANNEX XXI	CORRELATION TABLE	N/A