

STATUTORY INSTRUMENTS

**2016 No. 274**

**The Utilities Contracts Regulations 2016**

**PART 1**

GENERAL

CHAPTER 3

MATERIAL SCOPE

*SECTION 2*

*Excluded contracts and design contests; special provisions  
for procurement involving defence and security aspects*

SUB-SECTION 5 *Activities directly exposed to competition and related procedural provisions*

**Activities directly exposed to competition**

**34.**—(1) These Regulations do not apply to contracts or design contests intended to enable an activity mentioned in regulations 9 to 15 to be carried out where that activity is directly exposed to competition on markets to which access is not restricted.

(2) For the purposes of paragraph (1), the activity is directly exposed to competition on markets to which access is not restricted only if—

(a) the activity is covered by the following Commission Decisions:—

- (i) Commission Decision [2006/211/EC](#)<sup>M1</sup> (electricity generation in England, Scotland and Wales);
- (ii) Commission Decision [2007/141/EC](#)<sup>M2</sup> (supply of electricity and gas in England, Scotland and Wales); and
- (iii) Commission Decision [2010/192/EU](#)<sup>M3</sup> (exploration for and exploitation of oil and gas in England, Scotland and Wales)<sup>F1</sup>...

<sup>F1</sup>(b) .....

(3) The activity referred to in paragraph (1) may form a part of a larger sector or be exercised only in certain parts of the United Kingdom.

**Textual Amendments**

**F1** [Reg. 34\(2\)\(b\)](#) and word omitted (31.12.2020) by virtue of [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **10(22)** (with Sch. paras. 3-5)

**Marginal Citations**

**M1** OJ No L 76, 15.3.2006, p6.

**M2** OJ No L 62, 1.3.2007, p23.

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**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Utilities Contracts Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

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**M3** OJ No L 84, 31.3.2010, p52.

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 54 Sch. 11 para. 7](#)
- reg. 34(2)(b) and word omitted by [S.I. 2019/560 reg. 9\(22\)](#) (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. 20(2)(2A) substituted for reg. 20(2) by [2024 c. 6 Sch. para. 9\(3\)](#)
- reg. 20(5) inserted by [2024 c. 6 Sch. para. 9\(6\)](#)
- reg. 21(1)(c)(i)(aa) words substituted by [S.I. 2019/560 reg. 9\(12\)\(a\)\(i\)](#) (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. 21(1)(c)(i)(bb) words substituted by [S.I. 2019/560 reg. 9\(12\)\(a\)\(ii\)](#) (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. 70(2)(a)(iiia) inserted by [2024 c. 6 Sch. para. 10](#)