
STATUTORY INSTRUMENTS

2019 No. 624

The Public Procurement (Electronic Invoices etc.) Regulations 2019

Amendments to the Defence and Security Public Contracts Regulations 2011

- 2.—(1) The Defence and Security Public Contracts Regulations 2011⁽¹⁾ are amended as follows.
(2) Before Part 10 insert—

“PART A10

PROCESSING OF INVOICES SUBMITTED ELECTRONICALLY

Contractual provisions relating to the processing of electronic invoices

A66.—(1) Subject to paragraph (2), this regulation applies in respect of any contract which has been awarded, or which is to be awarded, in accordance with these Regulations.

(2) This regulation does not apply in respect of a particular contract if—

- (a) the performance of that contract is classified as secret or must be accompanied by special security measures; and
- (b) the essential security interests of the United Kingdom are such that those interests cannot be guaranteed if the contracting authority is required to accept and process electronic invoices submitted for payment under that contract.

(3) A contracting authority must ensure that every contract which it awards contains a provision requiring the contracting authority to accept and process an electronic invoice submitted for payment by or on behalf of the contractor where the conditions in paragraph (4) are met.

(4) The conditions are that—

- (a) the invoice is undisputed; and
- (b) the invoice complies with the standard on electronic invoicing.

(5) A failure to comply with paragraph (3) does not, of itself, affect the validity of a contract that has been entered into.

(6) To the extent that a contract which has been awarded does not contain express provision requiring the contracting authority to accept and process an electronic invoice where the conditions in paragraph (4) are met, a term to that effect is to be implied into the contract.

(7) For the purposes of this regulation, an electronic invoice complies with the standard on electronic invoicing where it complies with—

- (a) the European standard, and

⁽¹⁾ *S.I. 2011/1848*, amended by *S.I. 2015/102*, *2016/275* and *S.S.I. 2015/446*, *2016/49*; there are other amending instruments but none is relevant.

- (b) any of the syntaxes,

published in Commission Implementing Decision (EU) 2017/1870 as amended from time to time.

(8) In this regulation, “electronic invoice” means an invoice which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing.

Application of regulation A66 to utilities and sub-central contracting authorities

B66.—(1) Regulation A66 does not apply until 18th April 2020 in respect of a contract awarded by—

- (a) a utility; or
(b) a sub-central contracting authority.

(2) But paragraph (1) does not apply where—

- (a) in the case of a contract that has been awarded, the utility or sub-central contracting authority was acting as a central purchasing body;
(b) in the case of a contract that is to be awarded, the utility or sub-central contracting authority is to award it acting as a central purchasing body.

(3) In this regulation—

“sub-central contracting authority” has the meaning given by—

- (a) regulation 2(1) of the Public Contracts Regulations 2015⁽²⁾;
(b) regulation 2(1) of the Public Contracts (Scotland) Regulations 2015⁽³⁾;

“utility” means—

- (a) a utility within the meaning of regulation 5 of the Utilities Contracts Regulations 2016⁽⁴⁾;
(b) a utility within the meaning of regulation 4 of the Utilities Contracts (Scotland) Regulations 2016⁽⁵⁾.”.

(2) S.I. 2015/102, amended by S.I. 2015/1472, 2016/275, 696; there are other amending instruments but none is relevant.

(3) S.S.I. 2015/446, amended by S.S.I. 2016/47; there are other amending instruments but none is relevant.

(4) S.I. 2016/274, amended by S.I. 2016/696.

(5) S.S.I. 2016/49, amended by S.I. 2016/696.