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STATUTORY INSTRUMENTS

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**2023 No. 1348**

The Health Care Services (Provider Selection Regime) Regulations 2023

PART 6

Consequential and transitional provision

**Amendment of the Public Contracts Regulations 2015 consequential on the coming into force of these Regulations**

- 27.—(1) The Public Contracts Regulations 2015 are amended as follows.  
(2) After regulation 12, insert—

**“Contracts and framework agreements for health care services**

**12A.** This Part does not apply to contracts or framework agreements to which the Health Care Services (Provider Selection Regime) Regulations 2023 apply.”.

- (3) After regulation 113(1)(b)(1), insert—

“(c) contracts for relevant health care services for the purposes of the health service in England within the meaning and scope of the Health Care Services (Provider Selection Regime) Regulations 2023.”.

**Amendment of the Public Contracts Regulations 2015 consequential on the revocation of the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 (S.I. 2013/500)**

28. In the Public Contracts Regulations 2015, omit(2)—
- (a) regulation 77(6);
  - (b) regulation 105(2)(a);
  - (c) regulation 109(2)(d);
  - (d) regulation 113(1)(a);
  - (e) regulation 120.

**Transitional provision**

- 29.—(1) Nothing in these Regulations affects—
- (a) any contract award procedure commenced, but where the award was not made, before 1st January 2024;

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(1) Regulation 113 was amended by [S.I. 2016/275](#).

(2) These amendments are consequential on section 80(4) of the Health and Care Act 2022 which revokes the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 ([S.I. 2013/500](#)).

- (b) the conclusion of any framework agreement where the procurement process commenced, but where the framework agreement was not concluded, before 1st January 2024; or
- (c) the use of a dynamic purchasing, or similar, system which is not a framework agreement (whether or not the system is operated in accordance with regulation 34 of the Public Contracts Regulations 2015) where the period of validity has not expired and the system has not otherwise been terminated.

(2) These Regulations apply to the modification of any contract for relevant health care services between a relevant authority and a provider whether or not the contract was awarded in accordance with these Regulations or before 1st January 2024.

(3) These Regulations apply to—

- (a) the modification of; and
- (b) any contract award procedure commenced on or after 1st January 2024 for the award of a contract to be based on,

any framework agreement for relevant health care services between one or more relevant authorities and one or more providers whether or not the framework agreement was concluded in accordance with these Regulations or before 1st January 2024.

(4) For the purpose of paragraph (1)—

- (a) a contract award procedure has been commenced before 1st January 2024 if, before that date—
  - (i) a contract notice has been submitted to the UK e-notification service for publication in accordance with regulation 51(1) of the Public Contracts Regulations 2015;
  - (ii) the relevant authority has contacted any provider in order to—
    - (aa) seek expressions of interest or offers in respect of a proposed contract; or
    - (bb) respond to an unsolicited expression of interest or offer received from that provider in relation to a proposed contract;
  - (iii) in the case of a contract to be based on a framework agreement or other technique or instrument for electronic or aggregated procurement concluded in accordance with the Public Contracts Regulations 2015 before 1st January 2024, any steps have been taken with a view to making an award;

(b) the procurement process for a framework agreement has been commenced before the 1st January 2024 if, before that date—

- (i) the relevant authority has published any form of advertisement seeking offers or expressions of interest in a proposed framework agreement; or
- (ii) the relevant authority has contacted any provider in order to—
  - (aa) seek expressions of interest or offers in respect of a proposed framework agreement; or
  - (bb) respond to an unsolicited expression of interest or offer received from that provider in relation to a proposed framework agreement.

(5) In this regulation—

- (a) “dynamic purchasing system” includes a dynamic purchasing system within the meaning in the Public Contracts Regulations 2015, and
- (b) “framework agreement” includes a framework agreement within the meaning in the Public Contracts Regulations 2015.