STATUTORY INSTRUMENTS

2025 No. 163

PUBLIC PROCUREMENT

The Procurement Act 2023 (Consequential and Other Amendments) Regulations 2025

Made - - - - 12th February 2025

Coming into force in accordance with regulation 1

The Minister for the Cabinet Office makes these Regulations in exercise of the powers conferred by sections 89(3), 95(1), (2) and (3), 113(1), 116(2), 122(3), 125(1) and (2) of, and paragraphs 2, 3(a) and 5(1) of Schedule 1, paragraphs 2(6), 3(3) and 6(4) and (5) of Schedule 2 and paragraphs 1(3), 2(3), 2(4) and 3(5) and (6) of Schedule 4 to, the Procurement Act 2023(**a**).

In accordance with section 122(4)(k), (o), (r), (v), (x), (y) and (z) of the Procurement Act 2023, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

These Regulations are made with the consent of the Department of Finance for Northern Ireland in accordance with section 113(4) of the Procurement Act 2023.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Procurement Act 2023 (Consequential and Other Amendments) Regulations 2025.

(2) These Regulations, except for Part 1 and regulation 3, come into force on the 24th February 2025.

(3) Part 1 and regulation 3 come into force on the 23rd February 2025.

Extent and application

2.—(1) The amendments made by these Regulations have the same extent as the provisions to which they relate.

(**a**) 2023 c. 54. See section 123(1) of the Procurement Act 2023 for the definitions of "appropriate authority" and "Minister of the Crown".

(2) Regulation 8 applies to a contracting authority that is a devolved Welsh authority(**a**) only in relation to a procurement under—

(a) a reserved procurement arrangement(**b**), or

(b) a transferred Northern Ireland procurement arrangement(**c**).

(3) Regulation 8 does not apply to a contracting authority in relation to a procurement under a devolved Welsh procurement arrangement(**d**).

(4) Regulations 33 and 34 extend to England and Wales and apply in relation to England only.

PART 2

Amendment of primary legislation

Chapter 1

Amendments to the Procurement Act 2023

Amendment of the Procurement Act 2023

3.—(1) The Procurement Act 2023 is amended as follows.

(2) In Schedule 1 (threshold amounts), in paragraph 1—

(a) in sub-paragraph (1), for the words before the table substitute—

"The threshold amount for a contract of a type referred to in the second column of the table below is—

(a) if the contract is regulated by the Welsh Ministers, the threshold set out in the corresponding row of the third column, and

(b) in any other case, the threshold set out in the corresponding row of the fourth column.";

(b) in sub-paragraph (1), in the table—

(i) in the heading of the third column, at the end insert ": contract regulated by Welsh Ministers";

(ii) insert a fourth column as follows—

"Threshold amount: any other contract
£5,372,609
£5,372,609
£429,809
£5,372,609
£884,720
£429,809
£5,372,609

(**a**) See section 111 of the Procurement Act 2023 for the definition of "devolved Welsh authority".
(**b**) See section 114 of the Procurement Act 2023 for the definition of "reserved procurement arrangement".
(**c**) See section 114 of the Procurement Act 2023 for the definition of "transferred Northern Ireland procurement arrangement".
(**d**) See section 114 of the Procurement Act 2023 for the definition of "devolved Welsh procurement arrangement".

"Threshold amount: any other contract
£663,540
£5,372,609
£5,372,609
£139,688
£214,904";

(c) after sub-paragraph (1), insert—

"(1A) For the purposes of sub-paragraph (1) a contract is regulated by the Welsh Ministers if it is—

(a) a contract awarded by a contracting authority that is a devolved Welsh authority, other than such a contract awarded as part of a procurement under a reserved procurement arrangement or a transferred Northern Ireland procurement arrangement, or

(b) a contract which is awarded as part of a procurement under a devolved Welsh procurement arrangement.".

(3) In Schedule 9 (treaty state suppliers)—

(a) before paragraph 1 insert—

"Interpretation

A1 For the purposes of this Schedule a procurement is "a procurement regulated by the Welsh Ministers" if—

(a) the contracting authority concerned is a devolved Welsh authority, unless it is a procurement under a reserved procurement arrangement or a transferred Northern Ireland procurement arrangement, or

(b) it is a procurement under a devolved Welsh procurement arrangement.

The Agreements";

(b) for paragraph 9 substitute—

"9 In—

(a) the case of a procurement regulated by the Welsh Ministers, the Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia, signed at London on 21 October 2019;

(b) any other case, the Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia, signed at London on 21 October 2019, as amended by Amending Agreement No. 2 between the United Kingdom of Great Britain and Northern Ireland and Georgia Amending the Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia, signed at Tbilisi on 2 and 14 December 2022.";

(c) for paragraph 10 substitute—

"10 In—

(a) the case of a procurement regulated by the Welsh Ministers, the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo, signed at Pristina on 3 December 2019;

(b) any other case, the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo, signed at Pristina on 3 December 2019, as amended by Amending Agreement No. 1 between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo to amend the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo, signed at Pristina on 19 September 2023.";

(d) for paragraph 11 substitute—

"11 In—

(a) the case of a procurement regulated by the Welsh Ministers, the Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine, signed at London on 8 October 2020;

(b) any other case, the Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine, signed at London on 8 October 2020, as amended by Agreement No. 2 in the form of an Exchange of Letters between the United Kingdom of Great Britain and Northern Ireland and Ukraine amending the Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine, signed at Kyiv on 18 August 2022.";

(e) for paragraph 13 substitute—

"13 In—

(a) the case of a procurement regulated by the Welsh Ministers, the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia, signed at Skopje on 3 December 2020;

(b) any other case, the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia, signed at Skopje on 3 December 2020, as amended by the Agreement in the form of an Exchange of letters between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia amending the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia, signed at Skopje on 10 December 2021.";

(f) for paragraph 17 substitute—

"17 In—

(a) the case of a procurement regulated by the Welsh Ministers, the Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova, signed at Chisinau on 24 December 2020;

(b) any other case, the Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova, signed at Chisinau on 24 December 2020, as amended by Amending Agreement No. 2 between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova to amend the Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova, signed at Chisinau on 25 May 2023.";

(g) for paragraph 20 substitute—

"20 In—

(a) the case of a procurement regulated by the Welsh Ministers, the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania, signed at Tirana on 5 February 2021;

(b) any other case, the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania, signed at Tirana on 5 February 2021, as amended by the Exchange of Letters to amend the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania, signed at Tirana on 12 January and 12 June 2023.".

Chapter 2

Amendments consequential to the coming into force of the Procurement Act 2023

Amendment of the Late Payment of Commercial Debts (Interest) Act 1998

4.—(1) The Late Payment of Commercial Debts (Interest) Act 1998(**a**) is amended as follows.

(2) In section 4(**b**) (period for which statutory interest runs), in subsection (8), for the definition of "public authority", as it extends to England and Wales and Northern Ireland, substitute—

""public authority" means a public authority within the meaning of the Procurement Act 2023 (see section 2 of that Act) that is not—

(a) an excluded authority within the meaning of section 2(5)(a), (c) or (d) of that Act, but as if in section 2(5)(d)(ii) the reference to paragraph (b) were omitted, or

(b) the Common Council of the City of London other than for the purposes of its functions as a local authority, police authority or port health authority.".

Amendment of the Greater London Authority Act 1999

5.—(1) The Greater London Authority Act 1999(**c**) is amended as follows.

(2) In section 355(**d**) (duties of waste collection authorities etc.), in subsection (8)—

(**a**) 1998 c. 20.
(**b**) Section 4(8) was amended by S.I. 2013/395, 2015/102, S.S.I. 2013/77 and 2015/446.
(**c**) 1999 c. 29.
(**d**) Section 355(8) was inserted by S.I. 2015/102 and amended by S.I. 2016/275 and 2020/1319.

(a) in paragraph (a), for "Public Procurement Regulations" substitute "Procurement Act 2023";

(b) for paragraph (b) (but not the "and" after it) substitute—

"(b) in compliance with that Act the authority publishes or provides(**a**) the tender notice relating to the awarding of that contract,";

(c) in paragraph (c), for "submits" substitute "publishes or provides".

(3) In section 356(**b**) (directions by the Mayor), in subsection (3A)—

(a) in paragraph (a), for "Public Procurement Regulations" substitute "Procurement Act 2023";

(b) for paragraph (b) substitute—

"(b) in compliance with that Act the authority publishes or provides the tender notice relating to the awarding of that contract.".

(4) In section 358(**c**) (information about new waste contracts)—

(a) for subsection (1ZA) substitute—

"(1ZA) Subsection (1A) applies if, in the awarding of a waste contract, a waste authority in compliance with the Procurement Act 2023 decides to publish a planned procurement notice relating to the awarding of the contract.";

(b) in subsection (1A), in the words before paragraph (a) and in paragraph (a), omit "submit or";

(c) for subsection (1BA) substitute—

"(1BA) Subsection (1C) applies if, in the awarding of a waste contract, a waste authority in compliance with the Procurement Act 2023—

(a) has decided not to publish a planned procurement notice relating to the awarding of the contract, but

(b) decides to publish or provide a tender notice relating to the awarding of the contract.";

(d) in subsection (1C), in the words before paragraph (a) and in paragraph (a), for "submit" substitute "publish or provide";

(e) in subsection (2), for "Public Procurement Regulations" substitute "Procurement Act 2023".

(5) In section 359(**d**) (confidential information about waste contracts), in subsection (1)—

(a) at the end of paragraph (b), insert "("confidentiality requirements")";

(b) for paragraph (c) (but not the "and" after it) substitute—

"(c) the waste authority is, by virtue of provision contained in section 94 of the Procurement Act 2023 or in regulations made under that Act, not required to comply with an obligation that, apart from that provision, would otherwise apply to publish or disclose the information under that Act,";

(c) in paragraph (d), for "that duty" substitute "the confidentiality requirements".

(**a**) See 40 of the Procurement Act 2023 for circumstances when a contracting authority may provide, rather than publish, a tender notice.

(**b**) Section 356(3A) was inserted by S.I. 2015/102 and amended by S.I. 2016/275 and 2020/1319.

(**c**) Subsections (1ZA) and (1BA) of section 358 were inserted by S.I. 2015/102 and amended by S.I. 2016/275 and 2020/1319; subsection (1A) and (1C) of section 358 were inserted by the Greater London Authority Act 2007 (c. 24), sections 39(1) to (3) and amended by S.I. 2015/102 and 2020/1319.

(**d**) Section 359(1)(c) was amended by S.I. 2015/102 and 2016/275.

(6) In section 360(**a**) (interpretation of sections 353 to 359), in subsection (2)—

(a) omit the definition of—

(i) "buyer profile";

(ii) "concession notice";

(iii) "contract notice";

(iv) "periodic indicative notice";

(v) "prior information notice";

(vi) "the Public Procurement Regulations";

(vii) "qualification system notice";

(viii) "the UK e-notification service";

(b) after the definition of "the national waste management plan", insert—

""planned procurement notice" has the same meaning as in section 15(2) of the Procurement Act 2023,";

(c) after the definition of "recovery", insert—

""tender notice" has the same meaning as in section 21(2) of the Procurement Act 2023,".

Amendment of the Equality Act 2010

6.—(1) The Equality Act 2010(**b**) is amended as follows.

(2) In section 155(**c**) (power to impose specific duties: supplementary)—

(a) in subsection (2), for "Public Contracts Regulations" substitute "public procurement legislation";

(b) for subsection (3), substitute—

"(3) In this section—

"concession contract" has the same meaning as in the Procurement Act 2023 (see section 8 of that Act);

"covered procurement" has the same meaning as in the Procurement Act 2023 (see section 1 of that Act);

"defence and security contract" has the same meaning as in the Procurement Act 2023 (see section 7 of that Act);

"devolved Scottish authority" has the same meaning as in the Procurement Act 2023 (see section 2 of that Act);

"public procurement functions" means—

(a) functions related to covered procurement, other than the procurement of a utilities contract, defence and security contract or concession contract, the exercise of which is regulated by the Procurement Act 2023, as amended from time to time, or

(**a**) Section 360(2) was amended by the Greater London Authority Act 2007 (c. 24), section 39(7), S.I. 2015/102, 2016/275 and 2020/1319; there are other amending instruments but none is relevant.
(**b**) 2010 c. 15.
(**c**) Section 155(2) and (3) was amended by S.I. 2020/1319.

(b) functions the exercise of which is regulated by the Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446), as amended from time to time;

"public procurement legislation" means the Procurement Act 2023 or, in respect of a public authority that is a devolved Scottish authority, the Public Contracts (Scotland) Regulations 2015, as amended from time to time;

"utilities contract" has the same meaning as in the Procurement Act 2023 (see section 6 of that Act).".

Amendment of the Public Services (Social Value) Act 2012

7.—(1) The Public Services (Social Value) Act 2012(**a**) is amended as follows.

(2) In section 1(**b**) (contracts of relevant authorities)—

(a) in subsection (1)—

(i) in paragraph (a), for "framework agreement" substitute "framework";

(ii) in paragraph (b)—

(aa) for "framework agreement" substitute "framework";

(bb) for "the agreement" substitute "the framework";

(b) in subsection (2)—

(i) in paragraph (a)—

(aa) for "submitting a notice to the UK e-notification service" substitute "publishing a notice under the Procurement Act 2023";

(bb) for "framework agreement" substitute "framework";

(ii) in paragraphs (b), (c), (d) and (e), for "framework agreement" substitute "framework";

(c) in subsection (4), for "framework agreement" substitute "framework";

(d) in subsection (10), for "Regulations" substitute "Procurement Act 2023";

(e) in subsection (15)—

(i) in the definition of "central government authority", for "Regulations (even though the Regulations do not apply)" substitute "Procurement Act 2023 (see Schedule 1 to that Act) (even though the Act does not apply)";

(ii) after the definition of "central government authority", insert—

""concession contract" has the same meaning as in the Procurement Act 2023 (see section 8 of that Act);

"defence and security contract" has the same meaning as in the Procurement Act 2023 (see section 7 of that Act);

"exempted contract" is a contract that would be considered an exempted contract for the purposes of Schedule 2 (exempted contracts) to the Procurement Act 2023 (even though that Act does not apply);

(**a**) 2012 c. 3.

(**b**) Section 1(2) was amended by S.I. 2020/1319; section 1(15) was amended by S.I. 2015/102; the definitions of "central government authority" and "sub-central contracting authority" were inserted by S.I. 2016/275; the definition of "UK e-notification service" was inserted by S.I. 2020/1319 and section 1(16) was substituted by S.I. 2016/275.

"framework" has the same meaning as in the Procurement Act 2023 (see section 45 of that Act) (whether or not the Act applies), and a reference to a contract based on a framework is a reference to a contract entered into on terms established by such an arrangement;

"light touch contract" has the same meaning as in the Procurement Act 2023 (see section 9 of that Act) (even though the Act does not apply);

"public contract" has the same meaning as in the Procurement Act 2023 (see section 3 of that Act);";

(iii) in the definition of "relevant authority", for "Regulations (whether or not the Regulations apply)" substitute "Procurement Act 2023 (see section 2 of that Act) (whether or not the Act applies)";

(iv) after the definition of "relevant authority", insert—

""sub-central government authority" has the same meaning as in the Procurement Act 2023 (see Schedule 1 to that Act) (even though the Act does not apply);

"utilities contract" has the same meaning as in the Procurement Act 2023 (see section 6 of that Act)";

(v) omit the definition of—

(aa) "framework agreement";

(bb) "the Regulations";

(cc) "sub-central contracting authority";

(dd) "the UK e-notification service";

(f) for subsection (16), substitute—

"(16) For the purposes of this section references to a public services contract are to—

(a) a public contract for the supply of services to which the Procurement Act 2023 applies (or which is treated as such a contract by that Act), other than a utilities contract, defence and security contract or concession contract;

(b) a contract, not being a contract within paragraph (a), which—

(i) is a light touch contract,

(ii) is not an exempted contract, a utilities contract, a defence and security contract or a concession contract, and

(iii) falls within subsection (17).

(17) A contract falls within this subsection if—

(a) it is awarded by a central government authority and is estimated to be of a value equal to or greater than the threshold amount mentioned in row 11 of the table in paragraph 1(1) of Schedule 1 to the Procurement Act 2023, or

(b) it is awarded by a sub-central government authority and is estimated to be of a value equal to or greater than the threshold amount mentioned in row 12 of that table.".

PART 3

Amendment of secondary legislation

Chapter 1

Amendment of the Procurement Regulations 2024

Amendment of the Procurement Regulations 2024

8.—(1) The Procurement Regulations 2024(**a**) are amended as follows.

(2) In regulation 11 (supplier's connected person information)—

(a) omit the "and" after paragraph (6)(f);

(b) after sub-paragraph (g), insert—

", and

(h) where the connected person is a company registered under the CA 2006, the person's registration number given under that Act".

(3) In regulation 12 (supplier's exclusion grounds information)—

(a) in paragraph (1), for "(13)" substitute "(13A)";

(b) insert "and" after paragraph (13)(d)(ii);

(c) omit paragraph (13)(e) and the "and" after it;

(d) after paragraph (13), insert—

"(13A) If the supplier or one or more connected persons has been the subject of an event mentioned in paragraphs (2) to (12), any evidence that the supplier or connected person—

(a) took the event seriously, for example by paying any fine or compensation,

(b) took steps to prevent the event occurring again, for example by changing staff or management, or putting procedures or training in place, and

(c) committed to taking further preventative steps, where appropriate.".

(4) In regulation 18 (tender notices: open procedure), omit sub-paragraph (2)(v).

(5) In regulation 19(2) (tender notices: competitive flexible procedure)—

(a) omit the "and" after sub-paragraph (g);

(b) after sub-paragraph (h), insert—

", and

(i) whether an associated tender document is being, or may be, provided in accordance with the tender notice after the date when that notice is published and, if so, a link to the web page where it will be provided, or an explanation of how the document will be provided".

(6) In regulation 26(2) (transparency notices)—-

(a) after sub-paragraph (d), insert—

"(da) in the case of a procurement where the direct award justification at paragraph 8 of Schedule 5 to the PA 2023 applies, the unique identifiers of the earlier competitive tendering procedure (that is the procurement identifier) and contract referred to in paragraph 8(a) of Schedule 5;";

(**a**) S.I. 2024/692.

(b) omit the "and" after sub-paragraph (k)(i);

(c) after sub-paragraph (k)(ii), insert—

", and

(iii) the direct award justification in Schedule 5 to the PA 2023 which applies and an explanation of why the contracting authority considers that it applies";

(d) after sub-paragraph (p), insert—

"(pa) a description of any option which will be included in the contract—

(i) to supply additional goods, services or works, or

(ii) to extend or renew the term of the contract,".

(7) In regulation 29(2) (contract award notices published by private utilities: direct award), in sub-paragraph (g)—

(a) omit the "and" after paragraph (i);

(b) after paragraph (ii), insert—

", and

(iii) the direct award justification in Schedule 5 to the PA 2023 which applies and an explanation of why the contracting authority considers that it applies".

(8) In regulation 32(2) (contract details notices: open or competitive flexible procedure), for sub-paragraph (r) (but not the "and" after it) substitute—

"(r) where key performance indicators were set in accordance with section 52(1) of the PA 2023, a description of the three key performance indicators which the contracting authority regards, at the time the contract details notice is published, as most material to performance of the contract obligations,".

(9) In regulation 35(2) (contract details notice: direct award), for sub-paragraph (e) substitute—

"(e) if sub-paragraph (d) applies—

(i) the direct award justification in Schedule 5 to the PA 2023 which applies and an explanation of why the contracting authority considers that it applies,

(ii) the offence or other event mentioned in Schedule 6 to the PA 2023 by virtue of which the supplier is an excluded supplier, and

(iii) which ground in section 41(5) of the PA 2023 applies and an explanation of why the contracting authority considers that it applies,".

(10) In regulation 38 (payments compliance notices)—

(a) in paragraph (2), after sub-paragraph (c), insert—

"(ca) the proportion of invoices paid in accordance with the term in section 68(2) of the PA 2023 during the reporting period, expressed as a percentage of the total number of invoices that were, or should have been, paid in accordance with that term within the reporting period,";

(b) in paragraph (5), for "is to" substitute "includes".

(11) In regulation 39(4) (contract performance notices except in relation to full termination)—

(a) for sub-paragraphs (d) and (e) substitute—

"(d) a description of the three key performance indicators set in accordance with section 52(1) which the contracting authority regards, at the time the contract

performance notice is published, as most material to performance of the contract obligations,

(e) a statement that the notice is being used to set out the contracting authority's assessment of performance against key performance indicators selected in accordance with sub-paragraph (d),";

(b) in sub-paragraphs (f) and (g), after "against the" insert "selected".

(12) After regulation 42, insert—

"Exempt contracts: vertical arrangements' calculations

42A.—(1) For the purposes of paragraph 2(2)(c) of Schedule 2 to the PA 2023 (exempted contracts), the calculation of the percentage of activities carried out by a person is to be made in accordance with this regulation.

(2) Subject to paragraph (8), the percentage of activities carried out by a person for or on behalf of the contracting authorities or other persons described in sub-paragraph (ii) of paragraph 2(2)(c) is to be calculated by taking that person's attributable turnover as a percentage of their total turnover, over the relevant period.

(3) A person's attributable turnover is their turnover deriving from activities carried out on behalf of the contracting authorities or other persons described in sub-paragraph (ii) of paragraph 2(2)(c).

(4) Where a person's attributable turnover or total turnover is not available for the entirety of the relevant period because the person was created or commenced their activities following the beginning of the relevant period, the attributable turnover and total turnover is to be calculated in accordance with paragraph (5).

(5) A person's attributable turnover and total turnover is to be calculated—

(a) where there has been no turnover at all during the relevant period, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any attributable turnover or total turnover, as the case may be, generated during the relevant period, and

(ii) credible business projections, for a period beginning with the date of contract award,

which, when combined, provide turnover information and projections for the entirety of the period of three years beginning with the date any turnover was first generated during the relevant period.

(6) Where a person's attributable turnover or total turnover for the entirety of the relevant period is, as at the date of contract award, no longer representative of the person's activities because the activities changed as a result of a reorganisation of the person which occurred following the beginning of the relevant period, the attributable turnover and total turnover is to be calculated in accordance with paragraph (7).

(7) A person's attributable turnover and total turnover is to be calculated—

(a) where there has been no turnover at all generated after reorganisation, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any attributable turnover or total turnover, as the case may be, generated after reorganisation, and

(ii) credible business projections, for a period beginning with the date of contract award,

which, when combined, provide turnover information and projections for the entirety of the period of three years beginning with the date any turnover was first generated after reorganisation.

(8) Where the percentage of activities carried out by a person calculated in accordance with paragraphs (2) to (7) does not satisfy the requirement in paragraph 2(2)(c) of Schedule 2 to the PA 2023, the percentage of activities may be calculated by taking, over the relevant period, any of the following that does satisfy that requirement—

(a) costs incurred by the person on activities carried out for or on behalf of the authorities or other persons, as a percentage of their total costs;

(b) time spent by the person on activities carried out for or on behalf of the authorities or other persons, as a percentage of their total time;

(c) the value of goods, services or works supplied by the person to the authorities or other persons, as a percentage of the total value of goods, services or works supplied by the person;

(d) the value of goods, services or works supplied to the person by the authorities or other persons, as a percentage of the total value of goods, services or works supplied to the person.

(9) In this regulation—

"accounting period" means a period in respect of which accounts are prepared in relation to the person;

"date of contract award" means the date when the contracting authority decided to award the contract;

"relevant period" means—

(a) the period of three years ending with the date of contract award, or

(b) where, due to the timing of the preparation of the person's accounts, information relating to turnover for the period in sub-paragraph (a) is not available as at the date of contract award, a period of three years ending with the date the last accounting period before the date of contract award for which such information is available ends;

"reorganisation" means a change, other than a minimal or incidental change, to a person's structure, operations, funding or ownership.

Exempt contracts: horizontal arrangements' calculations

42B.—(1) For the purposes of paragraph 3(2)(b) of Schedule 2 to the PA 2023 (exempted contracts), the calculation of the percentage of activities contemplated by the horizontal arrangement is to be made in accordance with this regulation.

(2) Subject to paragraph (8), the percentage of activities intended to be carried out other than for the purposes of the contracting authorities' public functions is to be calculated by taking the non-attributable turnover generated by the horizontal arrangement's activities as a percentage of the total turnover generated by the horizontal arrangement's activities, over the relevant period.

(3) A horizontal arrangement's non-attributable turnover is turnover generated by the horizontal arrangement's activities that is attributable to purposes other than the contracting authorities' public functions.

(4) Where the non-attributable turnover or total turnover generated by a horizontal arrangement's activities is not available for the entirety of the relevant period because the arrangement was created, or the activities commenced, after the beginning of the relevant period, the non-attributable turnover and total turnover is to be calculated in accordance with paragraph (5).

(5) Non-attributable turnover and total turnover generated by a horizontal arrangement's activities is to be calculated—

(a) where there has been no turnover at all during the relevant period, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any non-attributable turnover or total turnover, as the case may be, generated during the relevant period, and

(ii) credible business projections, for a period beginning with the date of contract award,

where, when combined, provide turnover information and projections for the entirety of the period of three years beginning with the date any turnover was first generated during the relevant period.

(6) Where the non-attributable turnover or the total turnover generated by a horizontal arrangement's activities for the entirety of the relevant period is, as at the date of contract award, no longer representative of the horizontal arrangement's activities because the activities changed as a result of a reorganisation of the horizontal arrangement which occurred following the beginning of the relevant period, the non-attributable turnover and total turnover is to be calculated in accordance with paragraph (7).

(7) Non-attributable turnover and total turnover generated by a horizontal arrangement's activities is to be calculated—

(a) where there has been no turnover generated after reorganisation or the change in activities, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any non-attributable turnover or total turnover, as the case may be, generated after reorganisation or the change in activities, and

(ii) credible business projections, for a period beginning with the date of contract award,

where, when combined, provide turnover information and projections for the entirety of the period of three years beginning with the date any turnover was first generated after reorganisation or the change in activities.

(8) Where the percentage of activities intended to be carried out other than for the purposes of the contracting authorities' public functions, calculated in accordance with paragraphs (2) to (7), does not satisfy the requirement in paragraph 3(2)(b) of Schedule 2 to the PA 2023, the percentage of activities may be calculated by taking, over the relevant period, any of the following that does satisfy that requirement—

(a) costs incurred in respect of the horizontal arrangement's activities for purposes other than the authorities' public functions as a percentage of its total costs;

(b) time spent in respect of the horizontal arrangement's activities for purposes other than the authorities' public functions as a percentage of its total time;

(c) the value of goods, services or works supplied in respect of the horizontal arrangement's activities for purposes other than the authorities' public functions as a percentage of the total value of goods, services or works supplied in respect of the activities.

(9) In this regulation—

"accounting period" means a period in respect of which accounts are prepared in relation to the horizontal arrangement's activities;

"date of contract award" means the date when the contracting authority decided to award the contract;

"horizontal arrangement's activities" means the activities contemplated by, or undertaken in pursuance of, a horizontal arrangement;

"relevant period" means—

(a) the period of three years ending with the date of contract award, or

(b) where, due to the timing of the preparation of accounts related to the horizontal arrangement's activities, information relating to turnover for the period in sub-paragraph (a) is not available as at the date of contract award, a period of three years ending with the date the last accounting period before the date of contract award for which such information is available ends;

"reorganisation" means a change, other than a minimal or incidental change, to any terms of the horizontal arrangement in respect of—

(a) the horizontal arrangement's activities, or

(b) where the arrangement establishes a person to undertake those activities, the structure, operations, funding or ownership of that person.

Exempt contracts: affiliated persons' calculations

42C.—(1) For the purposes of the turnover test in paragraph 6(3) of Schedule 2 to the PA 2023, an affiliated person's—

(a) affiliated turnover amount(**a**) is to be calculated using their entire affiliated turnover amount generated over the relevant period, and

(b) total turnover amount is to be calculated using their entire total turnover amount generated over the relevant period.

(2) Where an affiliated person's affiliated turnover amount or total turnover amount is not available for the entirety of the relevant period because the affiliated person(**b**) was created or commenced their activities following the beginning of the relevant period, the affiliated turnover amount and total turnover amount is to be calculated in accordance with paragraph (3).

(3) An affiliated person's affiliated turnover amount and total turnover amount is to be calculated—

(**a**) See paragraph 6(3) of Schedule 2 to the PA 2023 for the definition of "affiliated turnover amount".
(**b**) See paragraph 6(2) of Schedule 2 to the PA 2023 for the meaning of "affiliated person".

(a) where there has been no turnover at all during the relevant period, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any affiliated turnover or total turnover, as the case may be, generated during the relevant period, and

(ii) credible business projections, for a period beginning with the date of contract award,

which, when combined, provide turnover information and projections for the entirety of the period of three years beginning with the date any turnover was first generated during the relevant period.

(4) In calculating the affiliated turnover amount and total turnover amount in relation to a person ("A"), equivalent turnover of a person who is an affiliated person in relation to A, but is not the utility(**a**), is to be treated as part of A's turnover.

(5) In this regulation—

"accounting period" means a period in respect of which accounts are prepared in relation to the affiliated person;

"date of contract award" means the date when the contracting authority decided to award the contract;

"equivalent turnover" means—

(a) where the turnover test is being applied in respect of goods—

(i) in respect of the affiliated turnover amount, turnover deriving from the supply of goods to the utility or other persons affiliated with the utility;

(ii) in respect of the total turnover amount, the total turnover deriving from the supply of goods,

where, for the purposes of paragraph (i), those goods are the same or similar to the goods A supplies to the utility or other persons affiliated with the utility and are supplied over the relevant period or, where A's turnover has been calculated in accordance with paragraph (3), a corresponding three-year period;

(b) where the turnover test is being applied in respect of services—

(i) in respect of the affiliated turnover amount, turnover deriving from the supply of services to the utility or other persons affiliated with the utility;

(ii) in respect of the total turnover amount, the total turnover deriving from the supply of services,

where, for the purposes of paragraph (i), those services are the same or similar to the services A supplies to the utility or other persons affiliated with the utility and are supplied over the relevant period or, where A's turnover has been calculated in accordance with paragraph (3), a corresponding three-year period;

(c) where the turnover test is being applied in respect of works—

(**a**) See section 35(4) of the PA 2023 for the definition of "utility".

(i) in respect of the affiliated turnover amount, turnover deriving from the supply of works to the utility or other persons affiliated with the utility;

(ii) in respect of the total turnover amount, the total turnover deriving from the supply of works,

where, for the purposes of paragraph (i), those works are the same or similar to the works A supplies to the utility or other persons affiliated with the utility and are supplied over the relevant period or, where A's turnover has been calculated in accordance with paragraph (3), a corresponding three-year period;

"relevant period" means—

(a) the period of three years ending with the date of contract award, or

(b) where, due to the timing of the preparation of the affiliated person's accounts, information relating to turnover for the period in sub-paragraph (a) is not available as at the date of contract award, a period of three years ending with the date the last accounting period before the date of contract award for which such information is available ends.

Gas or heat operator calculations

42D.—(1) For the purposes of paragraph 1(2)(c) of Schedule 4 to the PA 2023—

(a) the amount of gas or heat supplied to the network is to be calculated using the total turnover generated by the supply of gas or heat by the operator to the network ("network turnover") during the relevant period, and

(b) the operator's turnover amount is to be calculated using the operator's total turnover during the relevant period.

(2) Where an operator's network turnover or total turnover is not available for the entirety of the relevant period because the operator was created or commenced their activities after the beginning of the relevant period, turnover is to be calculated in accordance with paragraph (3).

(3) An operator's network turnover and total turnover is to be calculated—

(a) where there has been no turnover at all during the relevant period, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any network turnover or total turnover, as the case may be, generated during the relevant period, and

(ii) credible business projections, for a period beginning with the date of contract award,

where, when combined, provide turnover information and projections for the entirety of the period of three years beginning with the date any turnover was first generated during the relevant period.

(4) In this regulation—

"accounting period" means a period in respect of which accounts are prepared in relation to the operator;

"date of contract award" means the date when the contracting authority decided to award the contract;

"quarter" means a period of three months beginning with 1st January, 1st April, 1st July or 1st October in any given year;

"relevant period" means—

(a) the period of three years ending with the date of contract award, or

(b) where, due to the timing of the preparation of the operator's accounts, turnover information for the period in sub-paragraph (a) is not available as at the date of contract award, a period of three years corresponding with the accounting periods of the operator ending with the date the last quarter before the date of contract award for which such information is available ends.

Electricity operator calculations

42E.—(1) For the purposes of paragraph 2(2)(d) of Schedule 4 to the PA 2023—

(a) the amount of electricity supplied to the network is to be calculated using the total amount of electricity supplied by the operator to the network during the relevant period, and

(b) the amount of energy produced by the operator is to be calculated using the total amount of energy produced by the operator during the relevant period.

(2) Where the amount of electricity supplied by the operator to the network or the amount of energy produced by the operator is not available for the entirety of the relevant period because the operator was created or commenced their activities after the beginning of the relevant period, electricity supplied and energy produced is to be calculated in accordance with paragraph (3).

(3) The amount of electricity supplied by the operator to the network and energy produced by the operator is to be calculated—

(a) where there has been no energy produced during the relevant period, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any electricity supplied to the network or energy produced, as the case may be, during the relevant period, and

(ii) credible business projections, for a period beginning with the date of contract award,

which, when combined, provide information in respect of electricity supplied or energy produced, as the case may be, and projections for the entirety of the period of three years beginning with the date that energy was first produced during the relevant period.

(4) In this regulation—

"accounting period" means a period in respect of which accounts are prepared in relation to the operator;

"date of contract award" means the date when the contracting authority decided to award the contract;

"quarter" means a period of three months beginning with 1st January, 1st April, 1st July or 1st October in any given year;

"relevant period" means either—

(a) the period of three years ending with the date of contract award, or

(b) where, due to the timing of the preparation of the operator's accounts, information relating to electricity supplied or energy produced for the period in sub-paragraph (a) is not available as at the date of contract award, a three-year period corresponding with the accounting periods of the operator ending with the date the last quarter before the date of contract award for which such information is available ends.

Water operator calculations

42F.—(1) For the purposes of paragraph 3(4)(d) of Schedule 4 to the PA 2023—

(a) the amount of drinking water supplied to the network is to be calculated using the total amount of drinking water supplied by the operator to the network during the relevant period, and

(b) the amount of drinking water produced by the operator is to be calculated using the total amount of drinking water produced by the operator during the relevant period.

(2) Where the amount of drinking water supplied by the operator to the network or the amount of drinking water produced by the operator is not available for the entirety of the relevant period because the operator was created or commenced their activities after the beginning of the relevant period, the amount of drinking water supplied and produced is to be calculated in accordance with paragraph (3).

(3) The amount of drinking water supplied by the operator to the network and the amount of drinking water produced by the operator is to be calculated—

(a) where there has been no drinking water produced during the relevant period, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any drinking water supplied to the network or drinking water produced, as the case may be, during the relevant period, and

(ii) credible business projections, for a period beginning with the date of contract award,

which, when combined, provide information relating to drinking water supplied or produced, as the case may be, and projections for the entirety of the three year period beginning with the date that drinking water was first produced during the relevant period.

(4) In this regulation—

"accounting period" means a period in respect of which accounts are prepared in relation to the operator;

"date of contract award" means the date when the contracting authority decided to award the contract;

"quarter" means a period of three months beginning with 1st January, 1st April, 1st July or 1st October in any given year;

"relevant period" means—

(a) the period of three years ending with the date of contract award, or

(b) where, due to the timing of the preparation of the operator's accounts, information relating to drinking water supplied or produced for the period

in sub-paragraph (a) is not available as at the date of contract award, a three-year period corresponding with the accounting periods of the operator ending with the date the last quarter before the date of contract award for which such information is available ends.".

(13) In the table in Schedule 2 (central government authorities)—

(a) for the entry relating to "Department for Business, Energy and Industrial Strategy" substitute—

"Department for Business and Trade	Competition Appeal Tribunal
	Competition and Markets Authority
	Competition Service
	Office of Manpower Economics";

(b) for "Department for Digital, Culture, Media and Sport" substitute "Department for Culture, Media and Sport";

(c) after the entry for "Department for Education" insert—

"Department for Energy Security and Net Zero	Nuclear Decommissioning Authority
	Oil and Gas Authority (known as "North Sea Transition Authority")";

(d) omit "Department for International Trade";

(e) after the entry for "Department for Environment, Food and Rural Affairs" insert—

"Department for Science, Innovation and Technology	Intellectual Property Office
	Meteorological Office (known as "Met Office")
	UK Research and Innovation";

(f) in the entry for "Ministry of Justice", for "Her Majesty's Courts and Tribunals Service" substitute "His Majesty's Courts and Tribunals Service".

Chapter 2

Amendments consequential to the coming into force of the Procurement Act 2023

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996

9.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations 1996(**a**) are amended as follows.

(2) In the Schedule (duties of trustees of relevant trust schemes in connection with provision of FM services)—

(**a**) S.I. 1996/1715, the Schedule was inserted by S.I. 2022/825; there are other amending instruments but none is relevant.

(a) in paragraph 2 (general interpretation), in the definition of "relevant tender process"—

(i) omit the "or" after sub-paragraph (c);

(ii) after sub-paragraph (d), insert—

", or

(e) where the trustees are a contracting authority for the purposes of the Procurement Act 2023, a procurement carried out in accordance with that Act";

(b) in paragraph 7 (duty of trustees to carry out a qualifying tender process in connection with continued use of continuing in-scope FM providers), after sub-paragraph (2)(b)(iv), insert—

";

(v) where the trustees are a contracting authority for the purposes of the Procurement Act 2023, any arrangements made with an FM provider who was appointed as a result of a procurement carried out in accordance with that Act";

(c) in paragraph 8 (duty of trustees of a relevant scheme to carry out a qualifying tender process in connection with appointment, or change to the mandate, of an in-scope FM provider)—

(i) in sub-paragraph (3)(b), after "purposes of" insert "the Procurement Act 2023 ("the Procurement Act"),";

(ii) in sub-paragraphs (4)(a), (4)(b) and (4)(c)(ii), before "the PC Regulations" insert "the Procurement Act,".

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997

10.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(**a**) are amended as follows.

(2) In the Schedule (duties of trustees of relevant trust schemes in connection with provision of FM services)—

(a) in paragraph 2 (general interpretation), in the definition of "relevant tender process"—

(i) omit the "or" after paragraph (b);

(ii) after paragraph (c) insert—

"; or

(d) where the trustees are a contracting authority for the purposes of the Procurement Act 2023, a procurement carried out in accordance with that Act";

(b) in paragraph 7 (duty of trustees to carry out a qualifying tender process in connection with continued use of continuing in-scope FM providers), after sub-paragraph (2)(b)(iii) insert—

";

(iv) where the trustees are a contracting authority for the purposes of the Procurement Act 2023, any arrangements made with an FM provider who was appointed as a result of a procurement carried out in accordance with that Act";

(**a**) S.R. 1997 No. 94, the Schedule was inserted by S.R. 2024 No. 74.

(c) in paragraph 8 (duty of trustees of a relevant scheme to carry out a qualifying tender process in connection with appointment, or change to the mandate, of an in-scope FM provider)—

(i) in sub-paragraph (3)(b), after "purposes of" insert "the Procurement Act 2023 ("the Procurement Act") or";

(ii) in sub-paragraph (4)(a), after "purposes of" insert "the Procurement Act or";

(iii) in sub-paragraphs (4)(b) and (4)(c)(ii), after "accordance with" insert "the Procurement Act or, as the case may be,".

Amendment of the Service Charges (Consultation Requirements) (England) Regulations 2003

11.—(1) The Service Charges (Consultation Requirements) (England) Regulations 2003(**a**) are amended as follows.

(2) In regulation 2 (interpretation), in the definition of "public notice", for the words from ", pursuant to" to the end substitute "pursuant to the Procurement Act 2023".

Amendment of the Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) Regulations 2009

12.—(1) The Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) Regulations 2009(**b**) are amended as follows.

(2) In regulation 18 (information requirements where a concession toll is involved), in paragraph (2)(b), for "concession notice within the meaning of regulation 6 of the Concession Contracts Regulations 2016" substitute "tender notice published under section 21(1) of the Procurement Act 2023".

Amendment of the Quality Contracts Schemes (Tendering Requirements) (England) Regulations 2009

13.—(1) The Quality Contracts Schemes (Tendering Requirements) (England) Regulations 2009(**c**) are amended as follows.

(2) In regulation 9 (European procurement regulations)—

(a) for the heading substitute "The Procurement Act 2023";

(b) for the words from "Utilities Contracts" to the end substitute "Procurement Act 2023".

Amendment of the Cleaner Road Transport Vehicles Regulations 2011

14.—(1) The Cleaner Road Transport Vehicles Regulations 2011(**d**) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) for the definitions of "concession notice", "contract documents", "contracting authority", "contract notice" and "declaration of ineffectiveness", substitute—

""associated tender documents" has the same meaning as in section 21(4) of the Procurement Act 2023;

"contract documents" means any tender notice or associated tender documents;

(**a**) S.I. 2003/1987, as amended by S.I. 2006/5 and 2020/1319; there are other amending instruments but none is relevant.
(**b**) S.I. 2009/1914, as amended by S.I. 2014/2437, 2016/275 and 2018/1352, there are other amending instruments but none is relevant.
(**c**) S.I. 2009/3244, as amended by S.I. 2015/102 and 2016/275.
(**d**) S.I. 2011/1631, as amended by S.I. 2015/102, 2016/275 and 2020/964.

"contract notice" means a notice which is a contract notice within the meaning of Part 2 of the Public Contracts Regulations 2015 or the Utilities Contracts Regulations 2016 (as applicable);

"contracting authority" has the same meaning as in section 2 of the Procurement Act 2023, but as if section 2(5)(b), and the reference to paragraph (b) in section 2(5)(d)(ii), were omitted;";

(b) after the definition of "road transport vehicle", insert—

""supplier" means—

(a) a person or public entity or group of such persons and entities, including any temporary association of undertakings, which offers the execution of works or a work, the supply of products or the provision of services on the market;

(b) a person who—

(i) offers on the market road transport vehicles for purchase or leasing,

(ii) sought, seeks or would have wished, to be the person with whom an operator enters into a contract for the purchase or leasing of road transport vehicles, and

(iii) is a national of, and established in, the United Kingdom or Gibraltar;

"tender notice" has the same meaning as in section 21(2) of the Procurement Act 2023;";

(c) omit the definition of "utility";

(d) after the definition of "type approval appointment", insert—

""work" means the outcome of a building or civil engineering works taken as a whole which is sufficient in itself to fulfil an economic or technical function.".

(3) In regulation 3 (scope of the Regulations)—

(a) in paragraph (1), omit ", utilities";

(b) in paragraph (3)—

(i) for sub-paragraph (a), substitute—

"(a) the Procurement Act 2023 applies in respect of that contract; or";

(ii) omit sub-paragraphs (b) and (c) and the "or" after sub-paragraph (c);

(c) in paragraph (4)—

(i) in sub-paragraph (a), for "Public Contracts Regulations 2015 by regulation 5 (threshold amounts) of those regulations (whether or not it would also be so excluded for any other reason); and" substitute "Procurement Act 2023 by section 3 (public contracts) of that Act (whether or not it would also be so excluded for any other reason).";

(ii) omit sub-paragraphs (b), and (c).

(4) In regulation 4 (purchase and leasing of clean and energy-efficient road transport vehicles)—

(a) in paragraph (1), omit ", utility";

(b) in paragraph (3), omit ", utilities";

(c) in paragraph (4), omit ", utility";

(d) for paragraph (7), substitute—

"(7) Where a contracting authority or operator applies the option set out in paragraph (6), and employs—

(a) a competitive tendering procedure or a direct award within the meaning of Part 3 of the Procurement Act 2023, or

(b) any other procedure by means of which they advertise for, and consider offers, in relation to a proposed contract,

that contracting authority or operator must use the energy and environmental impacts as award criteria.

(8) Where a contracting authority or operator applies the option set out in paragraph (6) and operational lifetime costs are attributed to the energy and environmental impacts, that contracting authority or operator must comply with regulation 5.".

(5) In regulation 6 (enforcement of duties)—

(a) in paragraph (1)—

(i) omit ", utility";

(ii) for "an economic operator" substitute "a supplier";

(b) in paragraph (2)—

(i) in the words before sub-paragraph (a), for "Part 3 of the Public Contracts Regulations 2015" substitute "Part 9 of the Procurement Act 2023";

(ii) in sub-paragraph (a), for "regulation 89 of those Regulations" substitute "section 100 of that Act";

(iii) in sub-paragraph (c), in each place it occurs, for "an economic operator" substitute "a supplier";

(c) omit paragraphs (3) and (3A);

(d) in paragraph (4)—

(i) for the words before sub-paragraph (a) substitute—

"(4) Where Part 9 of the Procurement Act 2023 has effect in relation to a supplier by virtue of paragraph (2)(b)—";

(ii) in sub-paragraph (b), for "a declaration of ineffectiveness," substitute "an order setting aside the contract or modification,".

Amendment of the Elected Local Policing Bodies (Specified Information) Order 2011

15.—(1) The Elected Local Policing Bodies (Specified Information) Order 2011(**a**) is amended as follows.

(2) In article 2 (specified information), in paragraph (2)—

(a) omit the "or" after sub-paragraph (c);

(b) after sub-paragraph (d), insert—

"; or

(e) is required under the Procurement Act 2023".

(**a**) S.I. 2011/3050, as amended by S.I. 2021/547; there are other amending instruments but none is relevant.

Amendment of the Schools Forums (England) Regulations 2012

16.—(1) The Schools Forums (England) Regulations 2012(**a**) are amended as follows.

(2) In regulation 9 (consultation on contracts), for "regulation 5 of the Public Contracts Regulations 2015" substitute "section 3 of, and Schedule 1 to, the Procurement Act 2023".

Amendment of the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013

17.—(1) The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013(**b**) are amended as follows.

(2) In regulation 6 (tender requirements and procedure)—

(a) for paragraph (2), substitute—

"(2) Subject to paragraphs (3) and (4), where in relation to the specified infrastructure project—

(a) the Procurement Act 2023 does not apply,

(b) the incumbent undertaker relies on an exemption under the Procurement Act 2023, or

(c) the incumbent undertaker awards a contract directly under sections 41 or 43 of the Procurement Act 2023,

the provisions of the Procurement Act 2023 mentioned in the first column of the table in Part 1 of Schedule 2 (application of the Procurement Act 2023) apply in relation to that project.";

(b) in paragraph (3)—

(i) in the words before sub-paragraph (a), for "Utilities Contracts Regulations 2016" substitute "Procurement Act 2023";

(ii) in sub-paragraph (b)(i), for "utility" substitute "contracting authority";

(iii) after sub-paragraph (b)(i), insert—

"(ia) references to a "public contract" were references to a "contract".";

(iv) omit sub-paragraph (b)(ii);

(c) after paragraph (3), insert—

"(3A) Where the Procurement Regulations 2024 apply by virtue of the application of the Procurement Act 2023 in accordance with Schedule 2, references to a "public contract" are to be read as if they were references to a "contract".";

(d) in paragraph (4), in the words before sub-paragraph (a), for "and (3)" substitute ", (3) and (3A)";

(e) in paragraph (8)—

(i) in the words before sub-paragraph (a), for "and (3)" substitute ", (3) and (3A)";

(ii) in sub-paragraph (b), for "regulations 42 and 98 of the Utilities Contracts Regulations 2016" substitute "sections 81 to 83 and 98 of the Procurement Act 2023".

(3) In Schedule 2—

(**a**) S.I. 2012/2261, as amended by S.I. 2015/102; there are other amending instruments but none is relevant.
(**b**) S.I. 2013/1582, as amended by S.I. 2015/102, 2016/275 and 2020/1319; there are other amending instruments but none is relevant.

(a) for the heading substitute "Application of the Procurement Act 2023";

(b) in Part 1, for the table substitute—

Provision applied	*Modification*
Section 1	Subsection (1)(b) does not apply, and the remaining provisions apply as if references to "covered procurement" were omitted
Section 2	
Section 4	
Section 6	Subsections (5) and (6) do not apply
Section 12	
Section 15	
Section 16	
Section 18	
Section 19	Subsection (9) does not apply
Section 20	Subsection (9) does not apply
Section 21	
Section 22	
Section 23	Subsection (6) does not apply
Section 24	
Section 25	
Section 26	
Section 27	
Section 28	
Section 30	
Section 31	
Section 34	Subsection (7) does not apply
Section 35	Subsection (3) does not apply
Section 40	
Section 43	
Section 44	
Section 45	Subsection (9) does not apply
Section 46	Subsection (11) does not apply
Section 47	Subsection (5)(c) does not apply

Provision applied	*Modification*
Section 48	
Section 49	
Section 50	
Section 51	In subsection (3), only paragraphs (c), (d) and (e) apply, and paragraph (c) applies as though it referred only to section 43 (switching to direct award)
Section 54	Entries relating to light touch contracts do not apply
Section 56	
Section 57	
Section 58	
Section 59	Subsection (1)(a)(iv) and (v) do not apply
Section 62	Only subsections (3) and (4) apply
Section 74	Subsection (1) applies as though the reference to a "convertible contract" were omitted; subsection (2) does not apply
Section 78	
Section 79	
Section 81	Applies as though the word "covered" were omitted every time it appears
Section 82	Applies as though the word "covered" were omitted
Section 83	Applies as though the word "covered" were omitted
Section 89	
Section 90	
Section 94	
Section 96	Applies as though the word "covered" were omitted both times it appears
Section 98	Applies as though for the words "this Act" were substituted "the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013", and as though, for subsection (4)(a) were substituted "the day on which the contracting authority decides not to award the contract". Subsection (5) does not apply.
Section 99	
Section 100	Subsection (6) does not apply

Provision applied	*Modification*
Section 101	Subsection (1) applies as if the words "or a convertible contract" were omitted; subsection (4) does not apply
Section 102	
Section 103	
Section 104	
Section 105	
Section 110	
Section 123	Subsections (4) and (5) do not apply
Schedule 1	Only paragraphs 4 and 5 apply
Schedule 3	Paragraph 3 does not apply
Schedule 4	
Schedule 6	
Schedule 7	
Schedule 8	Paragraphs 2, 3, 10 and 11 do not apply
Schedule 9	

(c) omit Part 2.

Amendment of the Energy Savings Opportunity Scheme Regulations 2014

18.—(1) The Energy Savings Opportunity Scheme Regulations 2014(**a**) are amended as follows.

(2) In regulation 16 (excluded undertakings), for paragraph (2)(b), substitute—

"(b) "public body" means—

(i) a public authority within the meaning of the Procurement Act 2023 (see section 2 of that Act) that is not an excluded authority within the meaning of section 2(5)(a), (c) or (d) of that Act, but as if in section 2(5)(d)(ii) the reference to paragraph (b) were omitted, or

(ii) in respect of a devolved Scottish authority, a contracting authority as defined in regulation 2(1) of the Public Contracts (Scotland) Regulations 2015;

(c) "devolved Scottish authority" has the same meaning as in section 2(6) of the Procurement Act 2023.".

Amendment of the Public Contracts (Scotland) Regulations 2015

19.—(1) The Public Contracts (Scotland) Regulations 2015(**b**) are amended as follows.

(**a**) S.I. 2014/1643, as amended by S.I. 2015/102 and S.S.I. 2015/446; there are other amending instruments but none is relevant.

(**b**) S.S.I. 2015/446, as amended by S.S.I. 2020/468; there are other amending instruments but none is relevant.

(2) In regulation 2 (interpretation)—

(a) omit the definition of "Defence and Security Regulations";

(b) after the definition of "CPV", insert—

> ""defence and security contract" has the meaning given in section 7 of the Procurement Act 2023;".

(3) In regulation 3(5) (subject matter and application of these regulations), omit "as that list is to be treated for the purpose of Part 2 of the Public Contracts Regulations 2015".

(4) In regulation 4(1) (mixed procurement), for "the Defence and Security Regulations" substitute "would, if awarded as a separate contract, be considered a defence and security contract".

(5) In regulation 16(1) (specific situations: defence and security)—

(a) in the words before sub-paragraph (a), omit "or design contests";

(b) in sub-paragraph (a), for "Defence and Security Regulations apply", substitute "Procurement Act 2023 applies";

(c) for sub-paragraph (b), substitute—

> "(b) to which that Act does not apply pursuant to section 3 of that Act.".

(6) In regulation 17 (mixed procurement involving defence or security aspects)—

(a) in paragraph (1), for "the Defence and Security Regulations" substitute "would be considered a defence and security contract";

(b) in paragraph (3), for "Defence and Security Regulations" substitute "Procurement Act 2023";

(c) in paragraph (5)(b), for "is covered by the Defence and Security Regulations, the procurement may be undertaken in accordance with those Regulations" substitute "would, if awarded as a separate contract, be considered a defence and security contract, the procurement may be undertaken in accordance with the Procurement Act 2023";

(d) in paragraph (7), for "Defence and Security Regulations" substitute "Procurement Act 2023".

(7) In Schedule 6 (consequential and miscellaneous amendments), omit paragraph 6.

Amendment of the Concession Contracts (Scotland) Regulations 2016

20.—(1) The Concession Contracts (Scotland) Regulations 2016(**a**) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "CPV", insert—

> ""defence and security contract" has the same meaning as in section 7 of the Procurement Act 2023;";

(b) omit the definition of "Defence and Security Regulations".

(3) In regulation 5(3) (meaning of "utility")—

(a) in sub-paragraph (a), for ", the Utilities Contracts (Scotland) Regulations 2016 or the Defence and Security Regulations" substitute "or the Utilities Contracts (Scotland) Regulations 2016";

(b) after sub-paragraph (a), insert—

> "(aa) procedures in accordance with section 19 of the Procurement Act 2023;".

(**a**) S.S.I. 2016/65, as amended by S.S.I. 2016/125 and 2020/468; there are other amending instruments but none is relevant.

(4) In regulation 10(3) (exclusions: concession contracts awarded pursuant to international rules), for "involving defence or security as referred to in the Defence and Security Regulations" substitute "which is a defence and security contract".

(5) In regulation 11(1)—

(a) in the words before sub-paragraph (a), for "in the fields of defence and security as referred to in the Defence and Security Regulations" substitute "which is a defence and security contract";

(b) in paragraphs (a), (b) and (c), for "which are" substitute "which is";

(c) in sub-paragraph (e), for "regulation 7(1)(c) of the Defence and Security Regulations" substitute "paragraph 30 of Schedule 2 to the Procurement Act 2023".

(6) In regulation 22(5) (mixed procurement), for "the Defence and Security Regulations" substitute "would, if awarded as a separate contract, be considered a defence and security contract".

(7) In regulation 23 (mixed procurement involving defence or security aspects)—

(a) in paragraph (1), for "the Defence and Security Regulations" substitute "would be considered a defence and security contract";

(b) in paragraph (2), for "the Defence and Security Regulations" substitute "being the supply of anything within section 7(1) of the Procurement Act 2023";

(c) in paragraph (4), for "Defence and Security Regulations" substitute "Procurement Act 2023";

(d) in paragraph (6)(b), for "is covered by the Defence and Security Regulations, the procurement may be undertaken in accordance with those Regulations" substitute "would, if awarded as a separate contract, be considered a defence and security contract, the procurement may be undertaken in accordance with the Procurement Act 2023";

(e) in paragraph (8), for "Defence and Security Regulations" substitute "Procurement Act 2023".

(8) In regulation 25 (contracts covering both activities listed in Schedule 2 and activities involving defence or security aspects)—

(a) in paragraph (1), for "the Defence and Security Regulations" substitute "being the supply of anything within section 7(1) of the Procurement Act 2023";

(b) in paragraph (3), for "Defence and Security Regulations" substitute "Procurement Act 2023".

(9) In regulation 40 (exclusion grounds), in paragraph (9)(i), for "in the fields of defence and security as referred to in the Defence and Security Regulations" substitute "which is a defence and security contract".

Amendment of the Utilities Contracts (Scotland) Regulations 2016

21.—(1) The Utilities Contracts (Scotland) Regulations 2016(**a**) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "CPV", insert—

> ""defence and security contract" has the same meaning as in section 7 of the Procurement Act 2023;";

(b) omit the definition of "Defence and Security Regulations".

(3) In regulation 4(6) (utilities)—

(**a**) S.S.I. 2016/49, as amended by S.S.I. 2019/173 and 2020/468; there are other amending instruments but none is relevant.

(a) insert "or" after sub-paragraph (a)(ii);

(b) omit the "or" after sub-paragraph (a)(iii);

(c) omit sub-paragraph (a)(iv) and the "and" after it;

(d) after sub-paragraph (a), insert—

"(aa) procedures in accordance with section 19 of the Procurement Act 2023; and".

(4) In regulation 5(1) (mixed procurement covering the same activity), for "the Defence and Security Regulations" substitute "is the supply of anything within section 7(1) of the Procurement Act 2023".

(5) In regulation 6(1) (procurement covering several activities), for "the Defence and Security Regulations" substitute "is the supply of anything within section 7(1) of the Procurement Act 2023".

(6) In regulation 23(1) (defence and security)—

(a) in paragraph (1) omit "or design contests";

(b) in sub-paragraph (a), for "Defence and Security Regulations apply" substitute "Procurement Act 2023 applies";

(c) in sub-paragraph (b), for "those Regulations do not apply pursuant to regulations 7 or 9 of those Regulations" substitute "the Procurement Act 2023 does not apply pursuant to section 3 of that Act".

(7) In regulation 24 (mixed procurement covering the same activity and involving defence and security aspects)—

(a) in paragraph (1), for "the Defence and Security Regulations" substitute "is the supply of anything within section 7(1) of the Procurement Act 2023";

(b) in paragraph (3), for "Defence and Security Regulations" substitute "Procurement Act 2023";

(c) in paragraph (5)(b), for "is covered by the Defence and Security Regulations, the procurement may be undertaken in accordance with those Regulations" substitute "would, if awarded as a separate contract, be considered a defence and security contract, the procurement may be undertaken in accordance with the Procurement Act 2023";

(d) in paragraph (7), for "Defence and Security Regulations" substitute "Procurement Act 2023".

(8) In regulation 25 (procurement covering several activities and involving defence and security aspects)—

(a) in paragraph (1), for "the Defence and Security Regulations" substitute "are the supply of anything within section 7(1) of the Procurement Act 2023";

(b) in paragraph (3), for "Defence and Security Regulations" substitute "Procurement Act 2023";

(c) in paragraph (5)(b), for "is intended to cover an activity which is covered by the Defence and Security Regulations, the procurement may be undertaken in accordance with those Regulations" substitute "would, if it were awarded as a separate contract, be considered a defence and security contract, the procurement may be undertaken in accordance with the Procurement Act 2023";

(d) in paragraph (7), for "Defence and Security Regulations" substitute "Procurement Act 2023".

(9) In Schedule 3, omit paragraph 2.

Amendment of the National Health Service Commissioning Board (Additional Functions) Regulations 2017

22.—(1) The National Health Service Commissioning Board (Additional Functions) Regulations 2017(**a**) are amended as follows.

(2) In regulation 4(3)(a) (power to conclude and manage framework agreements), for "economic operator (within the meaning of regulation 2 (definitions) of the Public Contracts Regulations 2015)" substitute "supplier".

Amendment of the Branded Health Service Medicines (Costs) Regulations 2018

23.—(1) The Branded Health Service Medicines (Costs) Regulations 2018(**b**) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) in the definition of "contracting authority", after "has the meaning given to it by" insert "section 2(1)(a) of the Procurement Act 2023 (but as if section 2(5)(b), and the reference to paragraph (b) in section 2(5)(d)(ii), were omitted),";

(b) for the definition of "framework agreement", substitute—

""framework agreement" means—

(a) a framework as defined in section 45(2) of the Procurement Act 2023, where the framework was awarded under that Act;

(b) a framework agreement as defined in—

(i) regulation 2 of the Public Contracts Regulations 2006,

(ii) regulation 2 of the Public Contracts (Scotland) Regulations 2012,

(iii) regulation 33(2) of the Public Contracts Regulations 2015, or

(iv) regulation 2 of the Public Contracts (Scotland) Regulations 2015,

where the relevant agreement was concluded under those regulations;";

(c) for the definition of "public contract", substitute—

""public contract" means—

(a) a contract of a kind specified in section 3(2) of the Procurement Act 2023, where the contract was awarded under that Act;

(b) a public contract as defined in—

(i) regulation 2 of the Public Contracts Regulations 2006,

(ii) regulation 2 of the Public Contracts (Scotland) Regulations 2012,

(iii) regulation 2 of the Public Contracts Regulations 2015, or

(iv) regulation 2 of the Public Contracts (Scotland) Regulations 2015,

where the relevant contract was awarded under those regulations;".

Amendment of the Health Service Products (Provision and Disclosure of Information) Regulations 2018

24.—(1) The Health Service Products (Provision and Disclosure of Information) Regulations 2018(**c**) are amended as follows.

(**a**) S.I. 2017/212, as amended by S.I. 2023/1071.
(**b**) S.I. 2018/345.
(**c**) S.I. 2018/677, to which there are amendments none of which is relevant.

(2) In Schedule 1, paragraph 5 (meaning of "NHS framework contract")—

(a) before sub-paragraph (1)(a), insert—

"(za) a public contract awarded in accordance with a framework under the Procurement Act 2023,

(zb) a public contract awarded under the Procurement Act 2023,";

(b) in sub-paragraph (2), for the definition of "contracting authority", substitute—

""contracting authority"—

(a) in relation to a contract awarded in accordance with a framework, where the framework was awarded under the Procurement Act 2023, means a public authority within the meaning of the Procurement Act 2023 (see section 2 of that Act) that is not an excluded authority within the meaning of section 2(5)(a), (c) or (d) of that Act, but as if in section 2(5)(d)(ii) the reference to paragraph (b) were omitted;

(b) in relation to a contract based on a framework agreement—

(i) where the framework agreement was concluded under the 2006 Regulations, has the meaning given in regulation 3 of those Regulations;

(ii) where the framework agreement was concluded under the 2012 Scotland Regulations, has the meaning given in regulation 3 of those Regulations;

(iii) where the framework agreement was concluded under the 2015 Regulations, has the meaning given in regulation 2 of those Regulations;

(iv) where the framework agreement was concluded under the 2015 Scotland Regulations, has the meaning given in regulation 2 of those Regulations.".

Amendment of the National Security and Investment Act 2021 (Notifiable Acquisition) (Specification of Qualifying Entities) Regulations 2021

25.—(1) The National Security and Investment Act 2021 (Notifiable Acquisition) (Specification of Qualifying Entities) Regulations 2021(**a**) are amended as follows.

(2) In Schedule 7 (critical suppliers to government), in paragraph 1 (interpretation), for the definition of "government" substitute—

""government" has the same meaning as "contracting authority" in section 2 of the Procurement Act 2023, but—

(a) as if section 2(5)(b), and the reference to paragraph (b) in section 2(5)(d)(ii), were omitted, and

(b) does not include the Common Council of the City of London other than for the purposes of its functions as a local authority, police authority or port health authority;".

(**a**) S.I. 2021/1264, to which there are amendments none of which is relevant.

Amendment of the Competition Act 1998 (Vertical Agreements Block Exemption) Order 2022

26.—(1) The Competition Act 1998 (Vertical Agreements Block Exemption) Order 2022(**a**) is amended as follows.

(2) In article 8 (hardcore restrictions), in paragraph (7)—

(a) after the definition of "active sales", insert—

> ""devolved Scottish authority" has the same meaning as in section 2 of the Procurement Act 2023;";

(b) in the definition of "passive sales", in sub-paragraph (c), for paragraphs (i) and (ii) substitute—

> "(i) the Procurement Act 2023, or
>
> (ii) in respect of a public authority that is a devolved Scottish authority, the Public Contracts (Scotland) Regulations 2015, the Concession Contracts (Scotland) Regulations 2016 or the Utilities Contracts (Scotland) Regulations 2016,";

(c) after the definition of "passive sales", insert—

> ""public authority"has the same meaning as in section 2(2) of the Procurement Act 2023;".

Amendment of the Competition Act 1998 (Research and Development Agreements Block Exemption) Order 2022

27.—(1) The Competition Act 1998 (Research and Development Agreements Block Exemption) Order 2022(**b**) is amended as follows.

(2) in article 10 (hardcore restrictions), in paragraph (5), in the definition of "passive sales", for sub-paragraph (c) substitute—

> "(c) participating in a public procurement exercise undertaken in accordance with the Procurement Act 2023.".

Amendment of the Health Care Services (Provider Selection Regime) Regulations 2023

28.—(1) The Health Care Services (Provider Selection Regime) Regulations 2023(**c**) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1)—

(a) after the definition of "basic selection criteria", insert—

> ""central digital platform" is the online system established by the Minister for the Cabinet Office and which may be accessed on www.gov.uk(**d**);";

(b) after the definition of "CPV", insert—

> ""debarment list" means the list kept under section 62 (debarment list) of the Procurement Act 2023;";

(c) after the definition of "Direct Award Process C", insert—

(**a**) S.I. 2022/516.
(**b**) S.I. 2022/1271, to which there are amendments none of which is relevant.
(**c**) S.I. 2023/1348.
(**d**) See here: https://www.gov.uk/find-tender.

""excludable supplier" means a provider that would be an excludable supplier in accordance with sections 57 (meaning of excluded and excludable supplier) and 58 (considering whether a supplier is excluded or excludable) of the Procurement Act 2023, were the relevant authority the contracting authority, and the provider a supplier, under that Act and any references to an associated person omitted(**a**);

"excluded supplier" means a provider that would be an excluded supplier in accordance with sections 57 and 58 of the Procurement Act 2023, were the relevant authority the contracting authority. and the provider a supplier, under that Act and any reference to an associated person omitted";

(d) omit the definition of "UK e-notification system".

(3) In regulations 7(1)(b) (Direct Award Process A), 8(1)(b) (Direct Award Process B), 9(3) and (10) (Direct Award Process C), 10(2), (7) and (14) (the Most Suitable Provider Process), 11(3), (9) and (16) (the Competitive Process), 12(2) (the standstill period), 13(4) (modification of contracts and framework agreements during their term), 14(4) (urgent award or modification), 15(4) (abandonment of, or repetition of steps in, a procurement) and 18(5) (contracts based on a framework agreement), for "UK e-notification service" substitute "central digital platform".

(4) In regulation 20 (exclusions)—

(a) for paragraphs (1) to (5), substitute—

"(1) Subject to paragraph (1A), a relevant authority must not award a contract to an excluded provider, or select an excluded provider to be party to a framework agreement, and must exclude an excluded provider from a procurement process under these Regulations.

(1A) The relevant authority may award a contract to a provider that is an excluded provider, or select an excluded provider to be party to a framework agreement, on an exceptional basis, if the relevant authority considers that there are overriding reasons relating to the public interest, including public health.

(2) The relevant authority may exclude an excludable provider from a procurement process under these Regulations.";

(b) in paragraph (6), for "such evidence" substitute "evidence in accordance with section 58 of the Procurement Act 2023,".

(5) After regulation 20, insert—

"Exclusions: sub-contractors

20A.—(1) A relevant authority must as part of a procurement process under these Regulations—

(a) request information about whether a provider intends to sub-contract the performance of all or part of the contract, and

(b) seek to determine whether any intended sub-contractor is on the debarment list.

(2) A relevant authority may, as part of a procurement process under these Regulations, request information for the purpose of determining whether any intended sub-contractor is an excluded or excludable provider.

(3) Subject to paragraph (4), if after requesting information under paragraph (1) or (2) a relevant authority considers that a provider intends to sub-contract to a provider that is

(**a**) In accordance with the Procurement Act 2023, an "associated person" means a person that the supplier is relying on in order to satisfy the conditions of participation (see section 22(8)), but not a person who is to act as guarantor as described in section 22(9). The Health Care Services (Provider Selection Regime) Regulations 2023 do not have the concept of an "associated person". Providers do not have to satisfy "conditions of participation" and there is no provision for providers to rely on someone else to meet the basic selection criteria or any other requirements of the contract.

an excluded provider, the relevant authority must exclude the provider from the procurement process.

(4) A relevant authority may award a contract to a provider that would otherwise be excluded from the procurement process under paragraph (3) if the relevant authority considers that there are overriding reasons relating to the public interest, including public health.

(5) If, after requesting information under paragraph (1) or (2), a relevant authority considers that a provider intends to sub-contract to a provider that is an excludable provider, the relevant authority may exclude the provider from the procurement process.

(6) Before excluding a provider under paragraph (3) or (5), a relevant authority must—

(a) notify the provider of its intention, and

(b) give the provider reasonable opportunity to find an alternative provider with which to sub-contract.

Excluding a provider that is a threat to national security

20B.—(1) Paragraph (2) applies if the relevant authority intends to exclude a provider under regulation 20 or 20A because it considers the provider, or an intended sub-contractor, is an excludable provider on the basis of the discretionary exclusion ground in paragraph 14 of Schedule 7 (threat to national security) to the Procurement Act 2023.

(2) The relevant authority may not exclude the provider or notify the provider of its intention unless—

(a) the authority has notified a Minister of the Crown of its intention, and

(b) the Minister of the Crown considers that—

(i) the provider or an intended sub-contractor is an excludable supplier by reference to paragraph 14 of Schedule 7, and

(ii) the provider should be excluded.

(3) The reference in paragraph (2) to a relevant authority notifying a provider of its intention is a reference to notification in accordance with regulation 20A(6)(a).

Notification of exclusion of provider

20C.—(1) This regulation applies where—

(a) a relevant authority—

(i) has excluded an excluded or excludable provider from a procurement process under regulation 20 or 20A, or

(ii) is aware of a sub-contractor having been replaced under regulation 20A, and

(b) the provider, or an intended sub-contractor, was an excluded or excludable provider because they would have been an excluded or excludable supplier—

(i) under section 57(1)(a) or (2)(a) of the Procurement Act 2023 by virtue of a relevant exclusion ground, or

(ii) on the basis of being on the debarment list by virtue of paragraph 35 of Schedule 6 (national security) of the Procurement Act 2023.

(2) The relevant authority must, before the end of the period of 30 days beginning with the date on which the provider was excluded or replaced, give notice of that fact to a Minister of the Crown.

(3) A notice under paragraph (2) must set out any relevant exclusion ground that the authority considers applies to the provider.

(4) If the relevant authority receives representations in accordance with regulation 12(3), or is aware of any review proceedings, in respect of the exclusion or replacement, it must give notice to the Minister of the Crown of—

(a) the receipt of those representations or commencement of those proceedings or any appeal proceedings;

(b) the outcome of the regulation 12 process or of any proceedings within sub-paragraph (2).

(5) Notice under—

(a) paragraph (4)(a) must be given before the end of the period of 30 days beginning with the day the representations concerned are made or the proceedings concerned are commenced;

(b) paragraph (4)(b) must be given before the end of the period of 30 days beginning with the day the regulation 12 process is concluded or the proceedings concerned are determined.

(6) In this regulation—

"exclusion ground" means a mandatory exclusion ground as set out in Schedule 6 to the Procurement Act 2023, or a discretionary exclusion ground as set out in Schedule 7 to the Procurement Act 2023;

"relevant exclusion ground" means any exclusion ground except the one listed in paragraph 43 of Schedule 6 (failure to cooperate with investigation) to the Procurement Act 2023.

Debarment

20D.—(1) A Minister of the Crown may carry out an investigation under section 60 of the Procurement Act 2023 for the purpose of considering whether an entry could be added to the debarment list in respect of a provider, but as if references to—

(a) "supplier" were to "provider";

(b) "excluded supplier" were to "excluded supplier" as defined in regulation 2 of these Regulations;

(c) "excludable supplier" were to "excludable supplier" as defined in regulation 2 of these Regulations;

(d) "contracting authority" were to "relevant authority".

(2) Sections 61 to 66 of the Procurement Act 2023 apply in respect of any investigation carried out in accordance with paragraph (1), but as if references to—

(a) "supplier" were to "provider";

(b) "excluded supplier" were to "excluded supplier" as defined in regulation 2 of these Regulations;

(c) "excludable supplier" were to "excludable supplier" as defined in regulation 2 of these Regulations;

(d) "contracting authority" were to "relevant authority".".

(6) In regulation 22 (termination of contracts), in paragraph (1)—

(a) in sub-paragraph (b), after "regulation 20(1)" insert "or 20A(3)";

(b) at the end of sub-paragraph (b) insert—

";

(c) a provider has, since the award of the contract, become an excluded provider or excludable provider;

(d) a provider to which the provider is sub-contracting the performance of all or part of the public contract is an excluded or excludable provider".

(7) Omit regulations 27 (amendment of the Public Contracts Regulations 2015 consequential on the coming into force of these Regulations) and 28 (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).

PART 4

Amendment of assimilated law

Amendment of Regulation (EC) No 1370/2007 of the European Parliament and of the Council

29.—(1) Regulation (EC) No 1370/2007(**a**) of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 is amended as follows.

(2) For paragraph 3 of Article 1 (purpose and scope) substitute—

"3. This Regulation shall not apply to "concession contracts" as defined by section 8(1) of the Procurement Act 2023.".

(3) For paragraph 1 of Article 5 (award of public service contracts), substitute—

"1. Subject to paragraph 1A, public service contracts shall be awarded in accordance with the rules laid down in this Regulation.

1A. In respect of a contract to which paragraph 1B applies—

(a) the contract shall be awarded in accordance with the Procurement Act 2023; and

(b) paragraphs 2 to 6 of this Article do not apply.

1B. This paragraph applies to a contract—

(a) for public passenger transport services by bus or tram to which the Procurement Act 2023 applies; and

(b) which is not a concession contract as defined by section 8 of that Act.".

(4) For paragraph 1 of Article 8 (transition), substitute—

"1. Subject to paragraph 1A, public service contracts shall be awarded in accordance with the rules laid down in this Regulation.

1A. In respect of a contract to which paragraph 1B applies—

(a) the contract shall be awarded in accordance with the Procurement Act 2023; and

(b) paragraphs 2 to 6 of this Article do not apply.

(**a**) EUR 1370/2007, as amended by S.R. 2020 No. 252, S.I. 2020/504, S.R. 2021 No. 337, there are other amending instruments but none is relevant. This is a reference to the assimilated version of Regulation (EC) 1370/2007, which was revoked in respect of England and Wales and Scotland by S.I. 2023/1369.

1B. This paragraph applies to a contract—

(a) for public passenger transport services by bus or tram to which the Procurement Act 2023 applies; and

(b) which is not a concession contract as defined by section 8 of that Act.".

Amendment of Regulation (EU) No 910/2014 of the European Parliament and of the Council

30.—(1) Regulation (EU) No 910/2014(**a**) of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC is amended as follows.

(2) In Article 3 (definitions), for paragraphs (7) and (8), substitute—

"(7) 'public sector body' means a public authority, or a private entity mandated by a public authority to provide public services, when acting under such a mandate;

(8) 'public authority' means:

(a) a public authority within the meaning of the Procurement Act 2023 (see section 2(2) of that Act) that is not an excluded authority within the meaning of section 2(5)(a) or (d)(i);

(b) in respect of a devolved Scottish authority within the meaning of section 2(6) of the Procurement Act 2023, a contracting authority as defined in regulation 2(1) of the Public Contracts (Scotland) Regulations 2015;".

Amendment of Regulation (EU) No 1144/2014 of the European Parliament and of the Council

31.—(1) Regulation (EU) No 1144/2014(**b**) of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008 is amended as follows.

(2) In Article 20 (procurement with regard to measures implemented on the initiative of the Commission), for "the Public Contracts Regulations 2015", substitute "the Procurement Act 2023".

PART 5

Repeals and revocations

Repeals etc.

32. The enactments listed in the Schedule are repealed and revoked to the extent specified.

(**a**) EUR 910/2014, as amended by S.I. 2019/89. This is a reference to the assimilated version of EUR 910/2014.

(**b**) EUR 1144/2014, as amended by S.I. 2019/821, there are other amending instruments but none is relevant. This is a reference to the assimilated version of EUR 1144/2014. EUR 1144/2014 was revoked in respect of England and Wales by the Retained EU Law (Revocation and Reform) Act 2023 c. 28, the effect of which was disapplied in relation to Northern Ireland by S.I. 2023/1143.

PART 6

Transitional Provisions

Transitional provision in respect of the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013

33.—(1) Nothing in regulation 17 (amendment of the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013) affects—

(a) any contract award procedure commenced, but not yet awarded, before 24th February 2025;

(b) any contract awarded in accordance with the Utilities Contracts Regulations 2016 ("the 2016 Regulations"), as modified by the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013 ("the 2013 Regulations")—

(i) before 24th February 2025, or

(ii) on or after that date but where the award itself was not, by virtue of sub-paragraph (a), affected by these Regulations;

(c) the conclusion of any framework agreement where the procurement process commenced, but where the framework agreement was not concluded, before 24th February 2025;

(d) any framework agreement concluded in accordance with the 2016 Regulations, as modified by the 2013 Regulations—

(i) before 24th February 2025, or

(ii) on or after that date but where the conclusion of the framework agreement was not, by virtue of sub-paragraph (c), affected by these Regulations.

(2) For the purposes of paragraph (1)—

(a) a contract award procedure has been commenced before 24th February 2025 if, before that date, in accordance with regulation 6 (tender requirements and procedure) of the 2013 Regulations—

(i) an incumbent undertaker has contacted an economic operator to commence the negotiated procedure without prior call for competition in accordance with regulation 50(1)(a) (use of the negotiated procedure without prior call for competition) of the 2016 Regulations;

(ii) a notice on the existence of a qualification system required by regulation 68 (notices on the existence of a qualification system) of the 2016 Regulations has been submitted for publication in accordance with regulation 71 (publication on the UK e-notification service) of the 2016 Regulations, as modified by the 2013 Regulations;

(iii) a contract notice required by regulation 69 (contract notices) of the 2016 Regulations has been submitted for publication in accordance with regulation 71 of the 2016 Regulations, as modified by the 2013 Regulations;

(b) the procurement process for a framework agreement has been commenced before the 24th February 2025 if, before that date a contract notice required by regulation 69 of the 2016 Regulations has been submitted for publication in accordance with regulation 71 of the 2016 Regulations, as modified by the 2013 Regulations.

(3) In this regulation—

(a) "an incumbent undertaker" has the same meaning as in the 2013 Regulations, and

(b) any other terms have the same meaning as in the 2016 Regulations as they had effect immediately before 24th February 2025.

Transitional provision in respect of the Health Care Services (Provider Selection Regime) Regulations 2023

34.—(1) Nothing in regulation 28 (amendment of the Health Care Services (Provider Selection Regime) Regulations 2023) affects—

(a) any contract award procedure commenced, but not yet awarded, before 24th February 2025;

(b) any contract awarded in accordance with the Health Care Services (Provider Selection Regime) Regulations 2023 ("the 2023 Regulations") before—

(i) 24th February 2025, or

(ii) on or after that date but where the award itself was not, by virtue of sub-paragraph (a), affected by these Regulations;

(c) the conclusion of any framework agreement where the procurement process commenced, but where the framework agreement was not concluded, before 24th February 2025;

(d) any framework agreement concluded in accordance with the 2023 Regulations—

(i) before 24th February 2025, or

(ii) on or after that date but where the conclusion of the framework agreement was not, by virtue of sub-paragraph (c), affected by these Regulations.

(2) For the purposes of paragraph (1)—

(a) a contract award procedure has been commenced before 24th February 2025 if, before that date—

(i) a relevant authority has contacted a provider in order to commence Direct Award Process A or Direct Award Process B;

(ii) notice of intention to make an award under Direct Award Process C has been submitted to the UK e-notification service for publication in accordance with regulation 9 (Direct Award Process C) of the 2023 Regulations;

(iii) notice of intention to follow the Most Suitable Provider Process has been submitted to the UK e-notification service for publication in accordance with regulation 10 (the Most Suitable Provider Process) of the 2023 Regulations;

(iv) notice inviting offers in accordance with the Competitive Process has been submitted to the UK e-notification service for publication in accordance with regulation 11 (the Competitive Process) of the 2023 Regulations;

(b) the procurement process for a framework agreement has been commenced before the 24th February 2025 if, before that date, notice inviting offers in accordance with the Competitive Process has been submitted to the UK e-notification service for publication in accordance with regulation 11 of the 2023 Regulations.

(3) In this regulation—

(a) the following have the same meaning as in the 2023 Regulations—

(i) Competitive Process;

(ii) Direct Award Process A;

(iii) Direct Award Process B;

(iv) Direct Award Process C;

(v) framework agreement;

(vi) Most Suitable Provider Process;

(vii) provider;

(viii) UK e-notification service;

(b) "relevant authority" has the same meaning as in section 12ZB(7) of the National Health Service Act 2006(**a**).

Georgia Gould
Parliamentary Secretary
Cabinet Office

12th February 2025

(**a**) 2006 c. 41, section 12ZB was inserted by section 79 of the Health and Care Act 2022 (c. 31) and amended by paragraph 164 of Schedule 4 to the Levelling-Up and Regeneration Act 2023 (c. 55).

SCHEDULE

Regulation 32

REPEALS AND REVOCATIONS

PART 1

REPEALS

The enactments listed in column (1) are repealed to the extent listed in column (2).

(1) Short title	*(2) Extent of repeal*
Advanced Research and Invention Agency Act 2022(**a**)	**1.** In Schedule 3, paragraph 17(1).

PART 2

REVOCATIONS

The enactments listed in column (1) are revoked to the extent listed in column (2).

(1) Enactment	*(2) Extent of revocation*
Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(**b**)	**1.** In article 2(1), the definitions of— (a) contracting authority, and (b) utility. **2.** Article 3(1)(j).
Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979(**c**)	**3.** In article 1(2), the definitions of— (a) contracting authority, and (b) utility. **4.** Article 2(g).
Provision of Services Regulations 2009(**d**)	**5.** Regulation 31(5)(g).
Public Procurement (Miscellaneous Amendments) Regulations 2011(**e**)	**6.** Regulations 2(3) and 26 to 28.

(**a**) 2022 c. 4, to which there are amendments, none of which is relevant.
(**b**) S.I. 1975/1023, as amended by S.I. 1986/2268, 2006/2143, 2013/1198, 2015/102 and 2016/275; there are other amending instruments but none is relevant.
(**c**) S.R. (NI) 1979 No 195, as amended by S.R. (NI) 2009 No 173 and S.I. 2016/275; there are other amending instruments but none is relevant.
(**d**) S.I. 2009/2999, as amended by S.I. 2015/102, 2015/2059, 2018/1329, 2020/1319 and 2023/1286; there are other amending instruments but none is relevant.
(**e**) S.I. 2011/2053, to which there are amendments none of which is relevant.

(1) Enactment	*(2) Extent of revocation*
Public Contracts and Defence and Security Public Contracts (Croatia Accession Amendment) Regulations 2013(**a**)	**7.** Regulation 3.
Modern Slavery Act 2015 (Consequential Amendments) Regulations 2015(**b**)	**8.** Regulations 18 and 19.
Electronic Identification and Trust Services for Electronic Transactions Regulations 2016(**c**)	**9.** In Schedule 3, paragraphs 7, 17 and 20.
Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(**d**)	**10.** In Schedule 7, paragraph 27.
Financial Service and Markets Act 2000 (Markets in Financial and Instruments) Regulations 2017(**e**)	**11.** In Schedule 5, paragraph 23.
UK Statistics (Amendment etc.) (EU Exit) Regulations 2019(**f**)	**12.** Regulations 4, 6 and 7.
Public Procurement (Electronic Invoices etc.) Regulations 2019(**g**)	**13.** The whole Regulations.
Defence and Security Public Contracts (Amendment) (EU Exit) Regulations 2019(**h**)	**14.** The whole Regulations.
Public Procurement (Amendment etc.) (EU Exit) Regulations 2020(**i**)	**15.** Regulations 6 to 11.
Defence and Security Public Contracts (Amendment) (EU Exit) Regulations 2020(**j**)	**16.** The whole Regulations.
Public Procurement (Agreement on Government Procurement) (Amendment) Regulations 2021(**k**)	**17.** Regulations 2 to 4.
Public Procurement (International Trade Agreements) (Amendment) Regulations 2021(**l**)	**18.** Regulations 2 to 4.
Public Procurement (Agreement on Government Procurement) (Amendment) (No. 2) Regulations 2021(**m**)	**19.** Regulations 2 to 4.
Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021(**n**)	**20.** The whole Regulations.

(**a**) S.I. 2013/1431.
(**b**) S.I. 2015/1472.
(**c**) S.I. 2016/696, to which there are amendments none of which is relevant.
(**d**) S.I. 2017/692, to which there are amendments none of which is relevant.
(**e**) S.I. 2017/701, to which there are amendments none of which is relevant.
(**f**) S.I. 2019/489.
(**g**) S.I. 2019/624.
(**h**) S.I. 2019/697, as amended by S.I. 2020/1450 and 2024/80.
(**i**) S.I. 2020/1319, as amended by S.I. 2024/80.
(**j**) S.I. 2020/1450.
(**k**) S.I. 2021/573.
(**l**) S.I. 2021/787.
(**m**) S.I. 2021/872.
(**n**) S.I. 2021/1221.

(1) Enactment	*(2) Extent of revocation*
UK Statistics (Amendment etc.) (EU Exit) Regulations 2021(**a**)	**21.** Regulations 3, 5 and 6.
Public Procurement (International Trade Agreements) (Amendment) Regulations 2022(**b**)	**22.** Regulations 2 to 4.
Parliamentary Works Sponsor Body (Abolition) Regulations 2022(**c**)	**23.** Regulation 10(3).
Public Contracts (Amendment) Regulations 2022(**d**)	**24.** The whole Regulations.
Public Procurement (International Trade Agreements) (Amendment) Regulations 2023(**e**)	**25.** The whole Regulations.
Health and Care Act 2022 (Further Consequential Amendments) (No. 2) Regulations 2023(**f**)	**26.** Regulation 78.
Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2023(**g**)	**27.** The whole Regulations.
Public Procurement (Agreement on Government Procurement) (Amendment) Regulations 2023(**h**)	**28.** The whole Regulations.

(**a**) S.I. 2021/1300.
(**b**) S.I. 2022/766.
(**c**) S.I. 2022/1360.
(**d**) S.I. 2022/1390.
(**e**) S.I. 2023/484.
(**f**) S.I. 2023/1071.
(**g**) S.I. 2023/1117.
(**h**) S.I. 2023/1169.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make substantive amendments to the Procurement Act 2023 (c. 54) ("PA 2023") and the Procurement Regulations 2024 (S.I. 2024/692) ("PR 2024"), as well as consequential amendments arising from the coming into force of the PA 2023.

Chapter 1 of Part 2 contains amendments to the PA 2023. Regulation 3(2) makes updates to the threshold amounts set out in Schedule 1 to that Act. Those thresholds determine the value above which contracts of different types fall to be regulated by the substantive regime. The threshold amounts amended here are set under the World Trade Organisation Agreement on Government Procurement. The PA 2023 was enacted with the threshold amounts applicable at the time; these were updated in January 2024 and regulation 3(2) ensures that the threshold amounts will be appropriately updated ahead of the PA 2023 coming into force.

Regulation 3(3) amends Schedule 9 to the PA 2023 in order to reflect additions and amendments to the UK's international obligations in respect of procurement.

Chapter 2 of Part 2 contains consequential amendments to primary legislation rendered necessary by the coming into force of the PA 2023.

Chapter 1 of Part 3 contains amendments to the PR 2024. These amendments are being made to coincide with the coming into force of those Regulations and address a small number of matters for which provision was not made in those Regulations.

Chapter 2 of Part 3 and Part 4 contain consequential amendments to secondary legislation and assimilated law respectively, rendered necessary by the coming into force of the PA 2023.

Part 5 and the Schedule contain repeals and revocations rendered necessary by the coming into force of the PA 2023.

Part 6 contains transitional provisions which set out the circumstances in which the amendments made to the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013 (via regulation 17) and the Heath Care Services (Provider Selection Regime) Regulations 2023 (via regulation 28) will not have affect.

An impact assessment in relation to the PA 2023 and associated reforms was published in May 2022 and can be found at https:/bills.parliament.uk/publications/46429/documents/1767 or may be obtained by writing to the Cabinet Office, 70 Whitehall, London, SW1A 2AS, United Kingdom.

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