

SCHEDULE 2

Regulation 4(1)

Review of decisions taken in accordance with paragraphs 2, 4, 5 and 6 of Article 5 of Regulation (EC) No. 1370/2007

1. Proceedings under this Schedule may be brought in the High Court by any person having or having had an interest in obtaining a particular public service contract and who has been or risks being harmed by an alleged infringement on the grounds that the decision has infringed European Union law.

2.—(1) Subject to subparagraph (2), such proceedings must be started within 30 days beginning with the date when the person first knew or ought to have known that grounds for starting the proceedings had arisen.

(2) Where the decision is published, subparagraph (1) does not require proceedings to be started before the end of a period of 10 days beginning with the day on which the decision is published.

(3) Subject to subparagraph (4), the Court may extend the time limit imposed by subparagraph (1) where it considers there is good reason for doing so.

(4) The Court must not exercise its power under subparagraph (3) so as to permit proceedings to be started more than 3 months after the date when the person first knew or ought to have known that grounds for starting the proceedings had arisen.

(5) For the purposes of this Schedule, proceedings are to be regarded as started when the originating process is issued.

3. Subject to paragraph 4, but otherwise without prejudice to any other powers of the Court in proceedings brought under this Schedule, the Court may—

- (1) by interim order suspend the implementation of any decision;
- (2) if satisfied that the decision infringed European Union law –
 - (a) order the setting aside of the decision or order the Department to amend any document;
 - (b) award damages to the person who has suffered loss or damage as a consequence of that infringement; or
 - (c) do both of these things.

4. In proceedings under this Schedule, the Court does not have the power to order any remedy other than an award of damages in respect of an infringement of European Union law if the public service contract in relation to which the infringement occurred has been entered into.

5. For the purposes of the Schedule, and notwithstanding section 39(2) of the Interpretation (Northern Ireland) Act 1954, where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

6. In this Schedule, “person” includes a body of persons corporate or unincorporated.