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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 446**

**The Public Contracts (Scotland) Regulations 2015**

**PART 4**

**REVOCATIONS, CONSEQUENTIAL AMENDMENTS,  
SAVINGS AND TRANSITIONAL PROVISIONS**

**Transitional Provision and saving where utilities procurement procedures commenced before 18th April 2016**

**99.**—(1) The Utilities amendments do not affect any contract award procedure commenced before 18th April 2016.

(2) For that purpose, a contract award procedure has been commenced before 18th April 2016 if, before that date—

- (a) a contract notice has been sent to the Official Journal in accordance with the UCR in order to invite offers or requests to be selected to tender for or to negotiate in respect of a proposed contract or dynamic purchasing system;
- (b) a periodic indicative notice has been sent to the Official Journal, in which case the contract award procedure that is not affected by the Utilities amendments is the procedure for the award of any proposed contract the intention to award which was indicated in the notice, but only if the requirements in regulation 16(3)(a) and (b) of the UCR are satisfied;
- (c) the utility has had published any form of advertisement seeking offers or expressions of interest in a proposed contract or dynamic purchasing system; or
- (d) the utility has contacted any economic operator in order to—
  - (i) seek expressions of interest or offers in respect of a proposed contract or dynamic purchasing system; or
  - (ii) respond to an unsolicited expression of interest or offer received from that economic operator in relation to a proposed contract or dynamic purchasing system.

(3) The Utilities amendments do not affect the award of a specific contract under a framework agreement where the framework agreement was concluded—

- (a) before 18th April 2016; or
- (b) on or after 18th April 2016 following a contract award procedure which, by virtue of paragraph (1), was not affected by the Utilities amendments.

(4) The Utilities amendments do not affect the award of a specific contract under a dynamic purchasing system where the system was established—

- (a) before 18th April 2016; or
- (b) on or after 18th April 2016 following a contract award procedure which, by virtue of paragraph (1), was not affected by the Utilities amendments.

(5) In this regulation—

“contract”, “contract notice”, “dynamic purchasing system”, “economic operator”, “framework agreement” and “periodic indicative notice” have the same meanings as in the UCR;

“the UCR” means the Utilities Contracts (Scotland) Regulations 2012<sup>(1)</sup>; and

“the Utilities amendments” means the amendments made to the UCR by paragraph 9 of Schedule 6.

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(1) S.S.I. 2012/89 was amended by the Public Contracts and Utilities Contracts (Scotland) Amendment Regulations 2012 (S.S.I. 2012/108).