

SCHEDULE 6

CONSEQUENTIAL AND MISCELLANEOUS AMENDMENTS

PART 2

Consequential and miscellaneous amendments to other legislation

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

10. For article 3(1)(j) of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(1) substitute—

“(j) any question asked by or on behalf of a contracting authority in relation to a conviction for an offence listed in regulation 57(1) of the Public Contracts Regulations 2015 which is a spent conviction (or any circumstances ancillary to such a conviction) for the purpose of determining whether or not a person is excluded—

(i) for the purposes of regulation 57 of the Public Contracts Regulations 2015,
or

(ii) from participation in a design contest for the purposes of regulation 80 of the Public Contracts Regulations 2015,

where the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions for such offences are to be disclosed;

(ja) any question asked by or on behalf of a contracting authority in relation to a conviction for an offence listed in regulation 26(1) of the Utilities Contracts Regulations 2006(2) which is a spent conviction (or any circumstances ancillary to such a conviction) for the purpose of determining whether or not a person is ineligible—

(i) for the purposes of regulation 26 of the Utilities Contracts Regulations 2006,
or

(ii) to participate in a design contest for the purposes of regulation 34 of the Utilities Contracts Regulation 2006,

where the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions for such offences are to be disclosed;”.

Civil Procedure Rules 1998

11.—(1) Rule 54.5 of the Civil Procedure Rules 1998(3) is amended as follows.

(2) In paragraph (A1)—

(a) for the definition of “decision governed by the Public Contracts Regulations 2006(4)” substitute—

(1) S.I. 1975/1023 amended by S.I. 2006/2143; there are other amending instruments but none is relevant.

(2) S.I. 2006/6, amended by S.I. 2008/2848, 2011/1043, 2053, 2012/1659, 2013/610; there are other amending instruments but none is relevant.

(3) S.I. 1998/3132; relevant amending instruments are S.I. 2013/1412 and 2000/2092.

(4) S.I. 2006/5, amended by S.I. 2007/3542, 2008/2256, 2683, 2848, 2009/1307, 2992, 2010/133, 976, 2011/1043, 1848, 2053, 2581, 3058, 2013/252, 1431, 2014/834 and by the Enterprise and Regulatory Reform Act 2013 (c.24), Schedule 20, paragraph 2.

Status: This is the original version (as it was originally made).

““decision governed by the Public Contracts Regulations 2015” means any decision the legality of which is or may be affected by a duty owed to an economic operator by virtue of regulations 89 or 90 of those Regulations (and for this purpose it does not matter that the claimant is not an economic operator); and”,

- (b) in the definition of “economic operator” for “regulation 4 of the Public Contracts Regulations 2006” substitute “regulation 2(1) of the Public Contracts Regulations 2015”.
- (3) In paragraph (6)—
 - (a) for “the Public Contracts Regulations 2006” substitute “the Public Contracts Regulations 2015”,
 - (b) for “regulation 47D(2)” substitute “regulation 92”.

Service Charges (Consultation Requirements) (England) Regulations 2003

12. In regulation 2(1) of the Service Charges (Consultation Requirements) (England) Regulations 2003⁽⁵⁾ in the definition of “public notice” for “in the Official Journal of the European Union pursuant to the Public Contracts Regulations 2006” substitute “by the Publications Office of the EU pursuant to the Public Contracts Regulations 2015”.

Schools Forums (Wales) Regulations 2003

13. In regulation 9(1) of the Schools Forums (Wales) Regulations 2003⁽⁶⁾ for “regulation 8 of the Public Contracts Regulations 2006” substitute “regulation 5 of the Public Contracts Regulations 2015”.

Service Charges (Consultation Requirements) (Wales) Regulations 2004

14. In regulation 2(1) of the Service Charges (Consultation Requirements) (Wales) Regulations 2004⁽⁷⁾ in the definition of “public notice” for “in the Official Journal of the European Union pursuant to the Public Contracts Regulations 2006” substitute “by the Publications Office of the EU pursuant to the Public Contracts Regulations 2015”.

Utilities Contracts Regulations 2006

15.—(1) The Utilities Contracts Regulations 2006 are amended as follows.

(2) In regulation 2, in the definition of “contracting authority” for “regulation 3 of the Public Contracts Regulations 2006” substitute “regulation 2(1) of the Public Contracts Regulations 2015”.

(3) In regulation 3(2) for the definition of “local authority” substitute—

““local authority” means—

- (a) in relation to a local authority in England—
 - (i) a county council, a district council, a London borough council, a parish council, the Council of the Isles of Scilly;
 - (ii) the Common Council of the City of London in its capacity as local authority or police authority; or

⁽⁵⁾ S.I. 2003/1987, amended by S.I. 2006/5; there are other amending instruments but none is relevant.

⁽⁶⁾ S.I. 2003/2909, amended by S.I. 2006/5; there are other amending instruments but none is relevant.

⁽⁷⁾ S.I. 2004/684, amended by S.I. 2006/5; there are other amending instruments but none is relevant.

- (iii) the Greater London Authority or a functional body within the meaning of the Greater London Authority Act 1999(8);
 - (b) in relation to a local authority in Wales, a county council, a county borough council or a community council;
 - (c) in relation to Scotland, a local authority within the meaning of section 235(1) of the Local Government (Scotland) Act 1973(9) and also includes a joint board or joint committee within the meaning of section 235(1) of that Act;
 - (d) in relation to a local authority in Northern Ireland, a district council within the meaning of the Local Government Act (Northern Ireland) 1972(10).”
- (4) In regulations 5 and 21 for “the Public Contracts Regulations 2006”, in each place it occurs, substitute “Part 2 of the Public Contracts Regulations 2015”.

Provision of Services Regulations 2009

16. In regulation 31(5)(g) of the Provision of Services Regulations 2009(11) for “regulations 23(5), 24(1) and 25 of the Public Contracts Regulations 2006” substitute “regulations 60(1) (read with regulation 58(5)), 60(4) and (5) and 62 of the Public Contracts Regulations 2015”.

Quality Contracts Schemes (Tendering Requirements) (England) Regulations 2009

17. In regulation 9 of the Quality Contracts Tendering Schemes (Tendering Requirements) (England) Regulations 2009(12) for “the Public Contracts Regulations 2006, the Utilities Contracts Regulations 2006 or the Defence and Security Public Contracts Regulations 2011(13)” substitute “the Utilities Contracts Regulations 2006, the Defence and Security Public Contracts Regulations 2011 or Part 2 or 3 of the Public Contracts Regulations 2015”.

Cleaner Road Transport Vehicle Regulations 2011

- 18.—(1) The Cleaner Road Transport Vehicle Regulations 2011(14) are amended as follows.
- (2) In regulation 2(1)—
- (a) omit the definitions of “contracting authority”, “established”, “national of a relevant State” and “relevant State”,
 - (b) in the appropriate place insert ““contracting authority” has the meaning given to “contracting authorities” in regulation 2(1) of the Public Contracts Regulations 2015,”,
 - (c) in the definition of “contract notice” for “the Public Contracts Regulations 2006” substitute “Part 2 of the Public Contracts Regulations 2015”,
 - (d) in the definition of “declaration of ineffectiveness” for “regulation 47(1) of the Public Contracts Regulations 2006” substitute “regulation 88(1) of the Public Contracts Regulations 2015”,

(8) 1999 (c.29), the definition of “functional body” in section 424 was amended by section 3(9) of the Police Reform and Social Responsibility Act 2011 (c.13) and paragraphs 44 and 52 of Schedule 22 and Part 32 of Schedule 25 to the Localism Act 2011 (c.20).

(9) 1973 c.65; section 235(1) was amended by the Local Government etc (Scotland) Act 1994 (c.39), section 180(1), (2) and Schedule 13, paragraph 92(66)(c).

(10) 1972 c.9; section 1 was amended by S.I. 1985/454.

(11) S.I. 2009/2999, to which there are amendments not relevant to these Regulations.

(12) S.I. 2009/3244, amended by S.I. 2011/1848.

(13) S.I. 2011/1848, amended by S.S.I. 2012/88, 2012/89; there are other amending instruments but none is relevant.

(14) S.I. 2011/1631.

Status: This is the original version (as it was originally made).

- (e) in the definition of “economic operator” for “Public Contracts Regulations 2006” substitute “Public Contracts Regulations 2015”, and
- (f) in the definition of “procurement procedure” for sub-paragraph (a) substitute—
 - “the open procedure, the restricted procedure, the competitive procedure with negotiation, competitive dialogue, the negotiated procedure without prior publication or an innovation partnership within the meaning of the Public Contracts Regulations 2015;”.
- (3) In regulation 3—
 - (a) in paragraph (3)(a) for “the Public Contracts Regulations 2006” substitute “Part 2 of the Public Contracts Regulations 2015”,
 - (b) in paragraph (4)(a) for “Public Contracts Regulations 2006 by regulation 8 (thresholds)” substitute “Public Contracts Regulations 2015 by regulation 5 (threshold amounts)”.
- (4) In regulation 6—
 - (a) in paragraph (2) for “Part 9 of the Public Contracts Regulations 2006” substitute “Part 3 of the Public Contracts Regulations 2015”,
 - (b) in paragraph 2(a) for “regulation 47A” substitute “regulation 89”,
 - (c) in paragraph (4) for “Part 9 of the Public Contracts Regulations 2006” substitute “Part 3 of the Public Contracts Regulations 2015”,
 - (d) in paragraph (4)(a) for “a national of and established in a relevant State” substitute “a national of or established in an EEA state”.

Defence and Security Public Contracts Regulations 2011

- 19.**—(1) The Defence and Security Regulations are amended as follows.
- (2) In regulation 2(2) for “will” substitute “must”.
 - (3) In regulation 3(1)—
 - (a) in the definition of “central purchasing body” for “regulation 3 of the Public Contracts Regulations 2006(15)” substitute “regulation 2(1) of the Public Contracts Regulations 2015”,
 - (b) in the definition of “disabled person” omit the words “and “disabled person” is to be interpreted accordingly”, and
 - (c) in the definition of “supply contract” for—
 - (i) “(c)” substitute “(a)”,
 - (ii) “(d)” substitute “(b)”.
 - (4) In regulation 4(a) for “a “contracting authority” within the meaning of regulation 3 of the Public Contracts Regulations 2006;” substitute ““contracting authorities” within the meaning of regulation 2(1) of the Public Contracts Regulations 2015;”.
 - (5) In regulation 6 for “the Public Contracts Regulations 2006”, in each place it occurs, substitute “Part 2 of the Public Contracts Regulations 2015”.
 - (6) In regulation 7(1)(g) omit “, including existing buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land”.
 - (7) In regulation 12(1) in the definition of “recognised bodies” omit “and “recognised body” shall be interpreted accordingly”.

(15) S.I. 2006/5, amended by S.I. 2007/3542, 2008/2256, 2683, 2848, 2009/1307, 2992, 2010/133, 976, 2011/1043, 1848, 2053, 2581, 3058, 2013/252, 1431, 2014/834 and by the Enterprise and Regulatory Reform Act 2013 (c.24), Schedule 20, paragraph 2.

(8) In regulations 16(2), 31(9) and 33(14) for sub-paragraph (b), in each place it occurs, substitute—

“(b) where the contracting authority is—

- (i) a “body governed by public law” within the meaning of regulation 2(1) of the Public Contracts Regulations 2015 and the Secretary of State for Defence is the authority referred to in sub-paragraph (c) of that definition for that body or the financing, supervisory or appointing body,
- (ii) an association formed by either the Secretary of State for Defence or one or more bodies governed by public law within the meaning of (i), or
- (iii) a contracting authority within the meaning of regulation 3(1)(bb) of the Public Contracts (Scotland) Regulations 2012⁽¹⁶⁾ and the Secretary of State for Defence is “another contracting authority” within the meaning of that provision,

in which case the contracting authority must submit the report to the Ministry of Defence for onward transmission to the Commission.”.

(9) In regulation 21—

- (a) in paragraph 5(b) for “price or the values” substitute “values, which can include the price,” and
- (b) omit paragraph (19).

(10) In regulation 46 for paragraph (3) substitute—

“(3) This paragraph applies where the contracting authority is—

- (a) a “body governed by public law” within the meaning of regulation 2(1) of the Public Contracts Regulations 2015 and the Secretary of State for Defence is the authority referred to in sub-paragraph (c) of that definition for that body or the financing, supervisory or appointing body,
- (b) an association formed by either the Secretary of State for Defence or one or more bodies governed by public law within the meaning of (i), or
- (b) a contracting authority within the meaning of regulation 3(1)(bb) of the Public Contracts (Scotland) Regulations 2012 and the Secretary of State for Defence is “another contracting authority” within the meaning of that provision.”.

Schools Forums (England) Regulations 2012

20. In regulation 9 of the Schools Forum (England) Regulations 2012⁽¹⁷⁾ for “regulation 8” of the Public Contracts Regulations 2006” substitute “regulation 5 of the Public Contracts Regulations 2015”.

National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013

21. In regulations 13(3) and 17 of the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013⁽¹⁸⁾ (and the corresponding entries in the table of contents for those Regulations) for “Public Contracts Regulations 2006”, in each place it occurs, substitute “Public Contracts Regulations 2015”.

⁽¹⁶⁾ S.S.I. 2012/88 amended by S.S.I. 2013/119; there is another amending instrument that is not relevant.

⁽¹⁷⁾ S.I. 2012/2261, to which there are amendments not relevant to these Regulations.

⁽¹⁸⁾ S.I. 2013/500.

Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013

22. The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013⁽¹⁹⁾ are amended as follows.

23. In regulation 6(2)—

- (a) in sub-paragraph (a) for “the Public Contracts Regulations 2006 nor the Utilities Contracts Regulations 2006⁽²⁰⁾” substitute “the Utilities Contracts Regulations 2006 nor Part 2 of the Public Contracts Regulations 2015”,
- (b) in sub-paragraph (c) omit sub-paragraph (i),
- (c) in sub-paragraph (d) for “regulation 14 of the Public Contracts Regulations 2006” substitute “regulation 32 of the Public Contracts Regulations 2015”.

24. In regulation 8(3)(a) for “the Public Contracts Regulations 2006 or the Utilities Contracts Regulations 2006” substitute “the Utilities Contracts Regulations 2006 or Part 2 of the Public Contracts Regulations 2015”.

25. The provisions of the Utilities Contracts Regulations 2006 applied by the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013 have effect with the amendments of those provisions made by these Regulations.

Energy Savings Opportunity Scheme Regulations 2014

26. In regulation 16(2)(b)(i) of the Energy Savings Opportunity Scheme Regulations 2014⁽²¹⁾ for “a “contracting authority” as defined in regulation 3 of the Public Contracts Regulations 2006” substitute “any of the “contracting authorities” as defined in regulation 2(1) of the Public Contracts Regulations 2015”.

Tax Relief for Social Investments (Accreditation of Social Impact Contractor) Regulations 2014

27. In regulation 3(2)(a) of the Tax Relief for Social Investments (Accreditation of Social Impact Contractor) Regulations 2014⁽²²⁾ for “regulation 3(1) of the Public Contracts Regulations 2006” substitute “regulation 2(1) of the Public Contracts Regulations 2015”.

⁽¹⁹⁾ S.I. 2013/1582.

⁽²⁰⁾ S.I. 2006/6, amended by S.I. 2008/2848, 2011/1043, 2053, 2012/1659, 2013/610; there are other amending instruments but none is relevant.

⁽²¹⁾ S.I. 2014/1643.

⁽²²⁾ S.I. 2014/3066.