

Public Finance (Control and Audit)

**PUBLIC PROCUREMENT (ENFORCEMENT OF OBLIGATIONS)  
REGULATIONS 1996**

**1977-09**

**Revoked  
Subsidiary  
1996/008**

Regulations made under section 76 of the Public Finance (Control and Audit) Act.

**PUBLIC PROCUREMENT (ENFORCEMENT OF  
OBLIGATIONS) REGULATIONS 1996**

**Revoked by LN. 2012/089 as from 21.6.2012**

**(LN. 1996/008)**

**11.1.1996**

| Amending enactments | Relevant current provisions | Commencement date |
|---------------------|-----------------------------|-------------------|
| None                |                             |                   |

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**ARRANGEMENT OF REGULATIONS.**

Regulation

1. Title and commencement.
2. Application.
3. Enforcement of obligations.

**1977-09**

**Revoked**  
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**PUBLIC PROCUREMENT (ENFORCEMENT OF OBLIGATIONS)**  
**REGULATIONS 1996**

**Title and commencement.**

1. These regulations may be cited as the Public Procurement (Enforcement of Obligations) Regulations 1996 and shall come into effect on the 11th day of January 1996.

**Application.**

2. The provisions of these regulations shall apply for the purpose of enforcing the obligations under —

- (a) the Public Services Contracts Regulations 1996;
- (b) the Public Works Contracts Regulations 1996; and
- (c) the Public Supply Contracts Regulations 1996

in accordance with Council Directive 89/665/EEC.

**Enforcement of obligations.**

3. (1) The obligations on a contracting authority to comply with the provisions of —

- (a) the Public Services Contracts Regulations 1996 other than regulations 8(6), 10(7), 21(8), 23(3) and 27 of those regulations, and with any enforceable Community obligation in respect of a public services contract (other than one excluded from the application of those regulations by regulation 6 or 7 of those regulations), is a duty owed to services providers;
- (b) the Public Works Contracts Regulations 1996 other than regulations 8(6), 10(7), 20(7), 22(3), 28 and 29(1) of those regulations, and with any enforceable Community obligation in respect of a public works contract (other than one excluded from the application of those regulations by sections 6 and 7 of those regulations), and the obligation on a concessionaire to comply with the provisions of section 26(3) of those regulations is a duty owed to contractors;
- (c) the Public Supply Contracts Regulations 1996 other than regulations 8(6), 10(6), 21(8), 23(3) and 25 of those regulations, and with any enforceable Community obligation in respect of a public supply contract (other than one excluded from the application of those regulations by regulation 6 or 7 of those regulations), is a duty owed to suppliers.

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- (2) A breach of the duty owed pursuant to sub-regulation (1) shall not be a criminal offence but any breach of the duty shall be actionable by any services provider, contractor, concessionaire or supplier, as the case may be, who, in consequence, suffers, or risks suffering, loss or damage.
- (3) Proceedings under this regulation shall be brought before the Supreme Court .
- (4) Proceedings under this regulation may not be brought unless —
- (a) in the case of a services provider or supplier, as the case may be, who is bringing or intending to bring the proceedings he has informed the contracting authority of the breach or apprehended breach of the duty owed to him pursuant to sub-regulation (1) by the contracting authority and of his intention to bring proceedings under this regulation in respect of it; or
  - (b) the contractor bringing or intending to bring the proceedings has informed the contracting authority or concessionaire, as the case may be, of the breach or apprehended breach of the duty owed to him pursuant to sub-regulation (1) by that contracting authority or concessionaire and of his intention to bring proceedings under this regulation in respect of it; and
  - (c) they are brought promptly and in any event within 3 months from the date when grounds for the bringing of the proceedings first arose unless the Court considers that there is good reason for extending the period within which proceedings may be brought.
- (5) Subject to sub-regulation (6), but otherwise without prejudice to any other powers of the Court, in proceedings brought under this regulation the Court may —
- (a) by interim order suspend the procedure leading to the award of the contract in relation to which the breach of the duty owed pursuant to sub-regulation (1) is alleged, or suspend the implementation of any decision or action taken by the contracting authority or concessionaire, as the case may be, in the course of following such procedures; and
  - (b) if satisfied that a decision or action taken by a contracting authority or concessionaire, as the case may be, was in breach of the duty owed pursuant to sub-regulation (1) —

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- (i) order the setting aside of the decision or action or order the contracting authority or concessionaire, as the case may be, to amend any documents, or
- (ii) award damages to a complainant who has suffered loss or damage as a consequence of the breach, or
- (iii) do both of those things.

(6) In any proceedings under this regulation the Court shall not have power to order any remedy other than an award of damages in respect of a breach of the duty owed pursuant to sub-regulation (1) if the contract in relation to which the breach occurred has been entered into.

(7) Notwithstanding sections 19 and 29 of the Crown Proceedings Act, in proceedings brought under this regulation against any contracting authority the Court shall have power to grant an injunction.

(8) In this regulation and notwithstanding regulation 4 of the Public Works Contracts Regulations 1996, references to a “contractor” include, where the duty owed pursuant to sub-regulation (1) is the obligation on a concessionaire to comply with regulation 26(3) of those regulations, any person —

- (a) who sought, or who seeks, or would have wished, to be the person to whom a contract to which regulation 26(3) of those regulations applies is awarded, and
- (b) who is a national of and established in a relevant State.