

## Consultation on New Public Sector Regulations

The new Public Sector Directive 2014/24 (the New Public Sector Directive) on public procurement entered into force on 17 April 2014. This replaces Directive 2004/18. The New Public Sector Directive is accompanied by two other new directives, those for utilities and concession contracts respectively. Member States have two years to implement the New Public Sector Directive into national law. However, the UK government believes there are efficiencies to be gained for the national economy by its early implementation. To this end the Cabinet Office has recently published for consultation a draft version of the Public Contracts Regulations 2015 (the Draft Regulations). Whilst the government is keen to encourage dialogue regarding the Draft Regulations, it also points out that the vast majority of the content of the Regulations must be included in accordance with the New Public Sector Directive. As such, the consultation will not result in any dramatic changes to the Draft Regulations. The Cabinet Office has also stated that it has adopted a "copy out" approach in line with the Coalition's policy of avoiding "gold plating" legislation wherever possible.

The Draft Regulations state that they will not apply to any contract award procedure that relates to the procurement of health care services for the purposes of the NHS within the meaning and scope of the National Health Service Regulations 2013, and which is commenced before 18 April 2016. Therefore, until 18 April 2016 in England, commissioners of clinical health care services must continue to follow the existing "Part B" service regime and the 2013 Regulations. In addition, as the new Concessions Directive will not be transposed before the Draft Regulations come into force, the Public Contracts Regulations 2006 will continue to apply to works and service concessions until the New Public Sector Directive is implemented.

The draft Regulation and accompanying documents can be found at: <https://www.gov.uk/government/consultations/transposing-the-2014-eu-procurement-directives>. Consultations are due to follow for the implementation of the utilities and concession directives. The government is aiming to bring the new Regulations into force in spring 2015. Over the coming months GTM will be producing alerts on the aspects of the new directives as they affect both contracting authorities and suppliers.



**FOR MORE INFORMATION:**

This *GTM Alert* was prepared by [Stephen Tupper](#) and [Stephen Abram](#) in [Greenberg Traurig Maher's London office](#). Questions about this information can be directed to:

- Stephen Tupper – +44 (0) 203 349 8729 | [tuppers@gtmlaw.com](mailto:tuppers@gtmlaw.com)
- Stephen Abram – +44 (0) 203 349 8715 | [abrams@gtmlaw.com](mailto:abrams@gtmlaw.com)

Or your [Greenberg Traurig Maher](#) attorney

**Greenberg Traurig Maher LLP**  
200 Gray's Inn Road, 7<sup>th</sup> Floor  
London WC1X 8HF  
United Kingdom  
T +44 (0) 203 349 8700  
F +44 (0) 207 900 3632  
[www.gtmlaw.com](http://www.gtmlaw.com)



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