



Partnership

ARTHUR COX

E X P E C T E X C E L L E N C E

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Arthur Cox has a widely acclaimed and leading Public Procurement law practice. Our team has a wealth of experience in advising on all aspects of the procurement process, both in Northern Ireland and the Republic of Ireland. We regularly advise on the application of the EC Directives and national Regulations, as well as the extensive body of relevant EU, Irish and UK case-law that has developed in this area.

We advise public and private sector clients alike on the procurement of works, supplies and services, and our experience is across all sectors, but particularly in accommodation, education, waste, energy, transport, health and ICT.

We are currently advising on the procurement of some of the most significant projects being undertaken in Ireland and Northern Ireland.

We regularly provide training and bespoke seminars on procurement law for our clients. For further information, please make contact with Peter Curran or Patrick McGovern (see details overleaf).

This document contains a general summary of developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.

Procurement Law Update

New Year - New Procurement Rules

Significant changes to law on Procurement Remedies

Major changes to the law affecting the remedies that can be sought by those aggrieved by a tendering process came into force on 20 December 2009, the deadline for the transposition into national law of the Remedies Directive 2007/66/EC. The Directive was implemented in the UK by the Public Contracts (Amendment) Regulations 2009 and by the Utilities Contracts (Amendment) Regulations 2009, both published in November 2009. As at mid-January 2009 the equivalent secondary legislation in the Republic of Ireland has yet to issue. The new law will significantly alter the existing remedies regime, principally by providing the Courts with the power to declare contracts ineffective (including for example in the case of 'illegal direct awards' where a contract is purported to be awarded other than on foot of a contract notice in the Official Journal of the European Union), and by modifying the rules on debriefing bidders and bringing court proceedings. Arthur Cox will be issuing a more comprehensive summary of the new law shortly.

Revised Financial Thresholds

Contracting authorities should note that the financial thresholds for the application of the public procurement legislation have changed with effect from 1 January 2010.

The values of these new thresholds were set by Council Regulation 1177/2009 of 30 November 2009 with the Sterling equivalent values published separately on 2 December 2009.

These changes affect the Public Sector Procurement Directive 2004/18/EC and the Utilities Procurement Directive 2004/17/EC (and the Defence Procurement Directive 2009/81/EC) and are directly applicable. The thresholds have generally fallen across the board with the effect that potentially more contracts will now come within the scope of the Directives and their corresponding national laws.

Given recent developments in relation to the remedies that are now available where procurement law is breached (including as to the publication of contract notices),

contracting authorities are strongly advised to implement these changes with immediate effect.

The principal new thresholds are set out below.

Public Sector Procurement Directive

	Supplies	Services	Works
Central government bodies subject to the WTO Agreement on Government Procurement and listed in Schedule 1 of the Directive (and successor bodies)	£101,323 / €125,000	£101,323 / €125,000 (subject to minor exceptions)	£3,927,260 / €4,845,000

Utilities Procurement Directive

	Supplies	Services	Works
Threshold	£313,694 / €387,000	£313,694 / €387,000	£3,927,260 / €4,845,000

Contacts

For further information on the application of the new financial thresholds, the new law on remedies or any other aspect of public procurement law, please contact:



Peter Curran Partner
Projects / Procurement Law
+44 (0)28 9026 5889
peter.curran@arthurcox.com



Patrick McGovern Partner
Projects / Procurement Law
+353 (0)1 618 0545
patrick.mcGovern@arthurcox.com

Belfast

Capital House, 3 Upper Queen Street, Belfast BT1 6PU, Northern Ireland
tel: +44 (0)28 9023 0007 | fax: +44 (0)28 9023 3464
email: belfast@arthurcox.com

London

12 Gough Square, London EC4A 3DW, England
tel: +44 (0)20 7832 0200 | fax: +44 (0)20 7832 0201
email: london@arthurcox.com

Dublin

Earlsfort Centre, Earlsfort Terrace, Dublin 2, Ireland
tel: +353 (0)1 618 0000 | fax: +353 (0)1 618 0618
email: dublin@arthurcox.com

New York

300 Park Avenue, 17th Floor, New York NY 10022, USA
tel: +1 (1)212 705 4288 | fax: +1 (1)212 572 6499
email: newyork@arthurcox.com