

STATUTORY INSTRUMENTS

S.I. No. 104 of 1993.

EUROPEAN COMMUNITIES

**(Review Procedures for the Award Of Contracts By Entities Operating In The Water,
Energy, Transport And Telecommunications Sectors)
REGULATIONS, 1993.**

I, Bertie Ahern, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive No. 92/13/EEC¹, hereby make the following Regulations:

1. These Regulations may be cited as the European Communities (Review Procedures for the Award of Contracts by Entities operating in the Water, Energy, Transport and Telecommunications Sectors) Regulations, 1993.
2. (1) In the Regulations - "the Council Directive" means Council Directive No. 92/13/EEC.

(2) A word or expression that is used in these Regulations and is also used in the Council Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Directive.
3. Decisions taken by the contracting authorities shall be reviewed in accordance with the conditions set out in the said Council Directive as regards -
 - (a) contract award procedures falling within the scope of Council Directive No. 90/531/EEC, and
 - (b) compliance with Article 3(2) (a) of that Directive in-the case of the contracting entities to which that provision applies.

[Ref Art 1.1 (a) & (b)]
4. (1) The review procedures referred to in the Council Directive and the powers provided for in Article 2(1) (a), (b) and (d) of the Council Directive shall be carried out and exercised by the High Court.

(2) When considering whether or not to order interim measures, the High Court may take into account the probable consequences of the measures for all interests likely to be harmed, as well as the public interest, and may decide not to grant such measures where their negative consequences could exceed their benefits.

[Ref Art 2 (1) & (4)]
5. A person seeking a review of a contract falling within the scope of Council Directive No. 90/531/EEC shall first notify the contracting entity of the alleged infringement and of his intention to seek a review under these Regulations.

[Ref Art 1 (3)]

6. When a contract has been concluded subsequent to its award, the High Court may award damages to any person harmed by an infringement.
[Ref Art 2 (6)]
7. An application under the provision of these Regulations may be brought in a summary manner.

BERTIE AHERN
GIVEN under my Official Seal this 21st day of April, 1993

¹ O.J. No. L 76/14 23.3.1992

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

These Regulations relate to the EEC Council Directive which governs the review procedures for contractors and suppliers who have been or risk being harmed by breaches of the procedures in the EEC Directive for the procurement of works and supplies by certain entities operating in the water, energy, transport and telecommunications sectors. The High Court will act as the review body in this country. The procedures for the award of contracts by these entities are contained in statutory Instrument No. 103 of 1993.