

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

25 June 2026

NET ZERO INDUSTRY ACT IN PUBLIC CONTRACTS

The Department of Contracts, in liaison with the Ministry for the Economy, Technology and Strategic Projects encourages Contracting Authorities/Entities, specifically officers responsible for Public Procurement to thoroughly read and familiarise themselves with the latest version of Regulation (EU) 2024/1735 in relation to '*Establishing a Framework of Measures for Strengthening Europe's Net-Zero Technology Manufacturing Ecosystem*' (hereinafter: the Net Zero Industry Act – NZIA). The latest version of NZIA may be reviewed and downloaded from the EUR-Lex website: <https://eur-lex.europa.eu>¹.

The Net Zero Industry Act is binding in its entirety and has been directly applicable in all Member States since 29 June 2024. However, certain provisions have a delayed Effective Date.

Applicability of NZIA: Public Contracts

NZIA (EU) 2024/1735 applies to Public/Utilities² Procurement Procedures (including the Aggregate Tools: Framework Agreements and Dynamic Purchasing Systems) as well as Concession Procedures covered by the following European Union (EU) Directives as well as their respective locally transposed versions:

- Directive 2014/23/EU - Concession Contracts Regulations S.L. 601.09
- Directive 2014/24/EU - Procurement Regulations S.L. 601.03.
- Directive 2014/25/EU - Utilities Procurement Regulations S.L. 601.05

Further to the above, it follows that Regulation (EU) 2024/1735 applies to the above-mentioned Public/Utilities Procurement and Concession Procedures specifically when the Estimated Value meets or exceeds the EU Financial Thresholds³.

¹ The NZIA may be downloaded from <https://eur-lex.europa.eu/eli/reg/2024/1735/oj/eng> - Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724 Text with EEA relevance. - CL2024R1735EN0010010.0001_cp 1..1

² Utilities Procurement Regulations: Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations: S.L. 601.05.

³ EU Financial Thresholds as defined in Article 8 of Directive 2014/23/EU, Article 4 of Directive 2014/24/EU and Article 15 of Directive 2014/25/EU.

Applicability of NZIA: Procurement/Concession Provisions

Contracting Authorities/Entities when procuring any of the eleven (11) Net-Zero Technologies, as specifically listed in Article 4(1)(a) to 4(1)(k) of Regulation (EU) 2024/1735 shall include the requirements as detailed in Article 25 of NZIA.

Article 25 of Regulation (EU) 2024/1735 lays down salient Public/Utilities Procurement and Concession provisions, specifically identifying three (3) Sets of Qualitative Non-Price Criteria (including their implementation) to be considered when procuring Net-Zero Technologies:

- Social or Employment-related Considerations or Cybersecurity Compliance or Timely Delivery Obligation [*Article 25(3)*]
- Environmental Sustainability [*Articles 25(1), 25(4) and 25(5)*]
- Resilience Contribution [*Article 25(7)*]

Contracting Authorities/Entities are being notified that Article 25 of NZIA shall be without prejudice to:

- (a) Using Additional Non-Price Criteria;
- (b) Excluding Abnormally Low Tenders⁴;
- (c) Articles 107 and 108 of the Treaty on the Functioning of the European Union⁵.

At Annex I, the Department of Contracts provides detailed information on the Outline of Article 25 of the NZIA including its Applicability, Fulfillment, Effective Dates, Conditions under which it applies and Procedural Measures to be observed for its implementation as well as reference to the relevant Commission Implementing Regulations.

Non-Applicability of NZIA: Public Contracts

Articles 25(9), 25(10) and 25(11) of NZIA provide the salient Public/Utilities Procurement and Concession provisions, specifying the exceptional circumstances in which the abovementioned three (3) Sets of Qualitative Non-Price Criteria need not be applied.

The aforementioned Annex I offers additional information on the Non-Applicability of NZIA in Public/Utilities Procurement and Concession Procedures.

Application of NZIA: Procurement/Concession Documents

Contracting Authorities/Entities shall include the relevant criteria as detailed in Article 25 of Regulation (EU) 2024/1735 as part of the Procurement/Concession Document specifically for instances wherein the Public/Utilities Procurement or Concession Procedures are within the scope of the NZIA requirements.

⁴ Abnormally Low Tenders in line with Article 69 of Directive 2014/24/EU and Article 84 of Directive 2014/25/EU.

⁵ Article 107 & 108 TFEU in the case of uncompetitive public procurement procedures.

Pre-Commercial Procurement and Public Procurement of Innovative Solutions

Article 27(1) of the NZIA specifies that ‘*Member States shall seek to use, where appropriate, pre-commercial procurement⁶ and public procurement of innovative solutions⁷ in order to stimulate innovation in net-zero technology and the creation of new manufacturing capacity for net-zero technologies in the Union. Pre-commercial procurement and public procurement of innovative solutions may be topped up with Union-level funding within the framework of existing Union programmes for joint pre-commercial procurement or public procurement across Member States*’⁸.

Monitoring and Reporting

Pursuant to Article 42 of NZIA, Contracting Authorities/Entities are encouraged to keep record of any information, evidence and data that the local Competent National Authority might be requesting to fulfil any relevant Monitoring and Reporting requirements.

Additional Information

To assist Contracting Authorities/Entities in reviewing and implementing Regulation (EU) 2024/1735, a set of additional Annexes are being provided as follows:

- Annex II: Selection of Definitions
- Annex III: Selection of Net Zero Technologies
- Annex IV: Brief Overview of Other salient content of the NZIA Regulation

Guidance Documentation

In line with Article 29 of NZIA, in the eventuality that Guidance Documentation in respect of Article 25 (Assessment of the Sustainability and Resilience Contribution of Net-Zero Technology Products in Public Procurement Procedures) is published by the European Commission, Contracting Authorities/Entities shall be notified accordingly.

Contact

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⁶ Article 3(14) of NZIA defines Pre-Commercial Procurement as ‘the procurement of net-zero technologies in a pre-commercial phase, involving risk-benefit sharing under market conditions and competitive development in phases’.

⁷ Article 3(15) of NZIA defines Public Procurement of Innovative Solutions as a ‘public procurement procedure for which contracting authorities or contracting entities act as a launch customer for net-zero technologies, which may include conformity testing’.

⁸ Article 27(2) of NZIA states: ‘The Platform shall prepare recommendations on the design of pre-commercial procurement or public procurement of innovative solutions’.