



Making a contract modification

Checklist

This checklist is designed to help you comply with the Procurement Act with respect to contract modifications. It covers the steps you may typically follow when modifying a public contract or 'convertible contract' (a regulated below-threshold contract that, following modification, exceeds the relevant threshold set out in schedule 1 of the act and is now a public contract). For more detailed information on the modification process, please see the step-by-step guide to modification.

Contract modification checklist

1. **Where applicable**, if the modification is the result of poor supplier performance or breach of contract, then follow the guidance on *managing poor performance and breach of contract* alongside this checklist.
2. Identify the need for contract modification and determine impact (e.g. change in contract cost, duration, etc.)
3. Identify the **appropriate modification ground** (see schedule 8 and section 74 of the Procurement Act) and ensure that you meet **all** applicable conditions in full.
4. Agree the terms of the modification in principle with your supplier(s).
5. **Where applicable, publish a contract change notice** (unless an exemption applies - see appendix 1)
6. **Optional** - if you have published a contract change notice: observe a voluntary standstill period (minimum 8 working days)

7. Arrange for you and your supplier to sign the modification / modified contact (following the conclusion of any standstill period)

8. **Where applicable, publish the modification** within **90 days** of it being made, where applicable (unless an exemption applies - see appendix 1), as follows:

a. Publication is not applicable because an exemption applies (see appendix 1). No action required.

b. Where the value of the contract was over £5m before the modification. You may publish a copy of the modification itself only (e.g. as an addendum).

c. Where the value of the contract is now over £5m as a result of the modification. You must publish a full copy of the contract documents, as modified.

9. Keep a full record of the contract modification for audit trail purposes.

Appendix 1: exemptions from publication

This appendix lists the organisations and contracts that are exempt from publishing a contract change notice and/or modified contract documents. It also lists the modification grounds where publication of a contract change notice and contract documents is not required. If your organisation, contract type and/or modification ground does not appear in the lists below, then publication is required.

Exempt from publishing a contract change notice

Specific contracts / contracting authorities:

- Defence and security contracts
- Light touch contracts
- Contracts awarded by a private utility
- Contracts awarded by a transferred Northern Ireland authority - [unless it was awarded as part of a procurement under a reserved procurement arrangement or a devolved Welsh procurement arrangement](#)

Applicable to all contracting authorities:

- Provided for in the contract (schedule 8(1)) - contracting authorities do not have to publish a contract change notice when taking up an option that was already provided for in the contract as awarded

(modification ground schedule 8(1)), provided that the modification was built in to the contract value and/or term (as applicable) listed in the respective contract detail notice

- Where the modification increases or decreases the contract term by less than 10%
- Where the modification increases or decreases the contract value by less than 10% (goods & services) or 15% (works)
- Unless they are a **convertible contract** - then a contract change notice **must** be published

Exempt from publication of modifications

- Defence and security contracts
- Light touch contracts
- Contracts awarded by a private utility
- Contracts awarded by a transferred Northern Ireland authority - contracting authorities do not have to publish a contract change notice when taking up an option that was already provided for in the contract as awarded (modification ground schedule 8(1)), provided that the modification was built in to the contract value and/or term (as applicable) listed in the respective contract detail notice
- Contracts awarded by a devolved Welsh authority - unless it was awarded as part of a procurement under a reserved procurement arrangement
- Contracts that are below £5m in value (including the value of the modification)