



02024

THE SCOTTISH OFFICE

National Health Service in Scotland  
Management Executive

COMMON SERVICES AGENCY	
RECEIVED	
14 JAN 1994	
MEMO	
REFERRED TO	ACTION TAKEN

NHS:  
MEL(1994)1St. Andrew's House  
Edinburgh EH1 3DG

Dear Colleague

CONSOLIDATED EC SUPPLIES DIRECTIVE

REVISION OF THRESHOLDS FOR THE GATT AGREEMENT ON GOVERNMENT PROCUREMENT (EC DIRECTIVE 80/767), EC SUPPLIES DIRECTIVE (77/62 UNTIL 16/6/94, THEN 93/36), EC WORKS DIRECTIVE (93/57) AND EC SERVICES DIRECTIVE (91/50)

14 January 1994

NHS Circular  
DGM(1990)10 is  
cancelled**Addressees**

**For Action:**  
General Manager,  
Health Boards  
General Manager,  
Common Services Agency

Chief Executives and  
Chief Executives  
Designate, NHS Trusts

**For Information:**  
General Manager,  
State Hospital

General Manager,  
Health Education Board  
for Scotland

To be copied to:  
Unit General Managers  
and Supplies Works and  
Services Managers for  
information

**Enquiries to:**

**On Supplies**  
Miss K Glancy  
NHS ME 3-2  
Room 279  
St Andrew's House  
EDINBURGH  
EH1 3DG  
Tel: 031-244 2428  
Fax: 031-244 3487

**On Services**  
Miss C Lumsden  
Central Services  
Division  
NHS ME 3-1  
Room 277  
(Address as Above)  
Tel: 031-244 2238  
Fax: 031-244 3487

**On Works**  
Mr J McCulloch  
Estates Division  
NHS ME 2-4  
Room 357A  
(Address as Above)  
Tel: 031-244 2084  
Fax: 031-244 2323

**Summary**

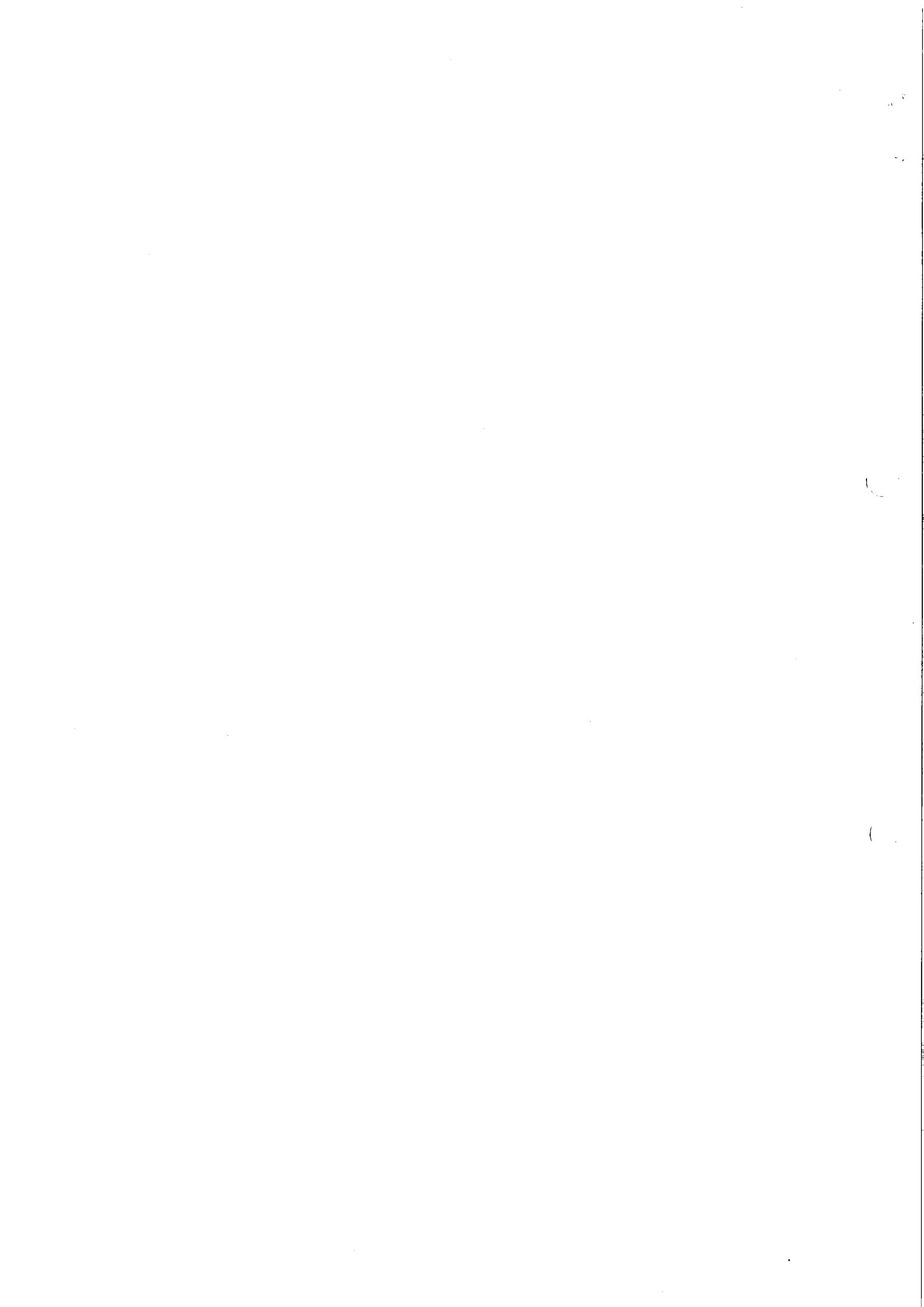
1. This letter is to inform Health Boards, NHS Trusts and other bodies of the consolidated EC Supplies Directive and revised thresholds for the advertising of contracts as required by the EC Supplies, Works and Services Directives and the GATT Agreement on Government Procurement. The revised thresholds supersede those listed in SHHD/DGM (1990)10 on 13 February 1990, and in paragraph 7 of the guidance on Market Testing in the NHS issued under cover of NHS Circular GEN(1993)13 on 6 October 1993.

**Action**

2. Attached at Annex A is a copy of the consolidated Supplies Directive. General Managers and Chief Executives are asked to draw this to the attention of Supplies Managers and their staff.
3. Attached at Annex B is a table of the revised thresholds, which took effect from 1 January 1994. General Managers and Chief Executives are asked to bring these to the attention of all staff involved in contracting for supplies, works and services. Chief Executives are asked to remind staff that the Treasury has confirmed that NHS Trust status does not mean exemption from the requirements of the EC Directives and the GATT agreement.

Yours sincerely

G W TUCKER  
Directorate of Strategic Management



## CONSOLIDATED SUPPLIES DIRECTIVE

1. Attached is a copy of the Consolidated Supplies Directive, 93/36/EEC. This Directive reviews and consolidates the earlier Directives 77/62/EEC and 88/295/EEC and comes into force on 14 June 1994.
2. As well as providing a single text for easier reference, the Directive amends various articles so that they align more closely with the Works and Services Directives.
3. The principal changes are:
  - 3.1 the adoption of the generic definition of those bodies "governed by public law" to which the Supplies Directive is to apply, in addition to the State, regional and local authorities (Article 1(b)); in the UK the directive will therefore extend to bodies in fields other than the existing field of health, education and urban development;
  - 3.2 the placing of open and restricted procedures on an equal footing, thereby allowing purchasers to choose, without having to provide justification, the procedure which is better suited to a particular purchase (Article 6(4));
  - 3.3 a new provision to require the debriefing of unsuccessful applicants or tenderers, on request, in order to increase transparency in award procedures (Article 7(i)); this reflects an existing obligation under the GATT GPA and extends it to non-GATT bodies;
  - 3.4 a requirement to inform interested parties of the abandonment of contract award procedures for which a contract notice has been published (Article 7(ii));
  - 3.5 a wider facility to publish notices in the Official Journal for supplies contracts which are below the threshold (Article 13);
  - 3.6 explicit provision for contracting authorities to ask suppliers whether they intend to sub-contract to third parties (Article 17);
  - 3.7 under the restricted procedure, a requirement to include not less than 5 and not more than 20 if contracting authorities choose to indicate the range of the number of suppliers they intend to invite to tender (Article 19(2));
  - 3.8 a provision that where Member States have official lists of suppliers, they are not used to the detriment of suppliers from other Member States, but constitute a presumption of suitability for certain aspects of economic, financial and technical capacity to supply (Article 25). The Treasury are not aware of any Member State which has official lists for supplies contracts;
  - 3.9 a provision for the Commission, in consultation with the Member States in the Advisory Committee on Public Contracts to determine such matters as the arrangements for the transmission of notices for publication in the Official Journal and to change, as necessary, references to product classification systems (Article 32(2)).

4. These changes will be directly applicable to public bodies when the directive comes into force. The intention, however, is to give them effect by amending the Public Supply Contracts Regulations, issued on 19 December 1991 - SHHD/DGM(1991)100 refers.

## REVISION OF EC AND GATT PROCUREMENT THRESHOLDS

The national currency equivalents of the Supplies, Services and Works Directives and the GATT Agreement on Government Procurement have been revised with effect from 1 January 1994. The revised rates are as follows:

Supplies Contracts for GATT Entities (Note: Health Boards, NHS Trusts, CSA Divisions and other NHS bodies are all GATT entities)

	<u>To 31/12/93</u>	<u>From 1/1/94</u>
Contracts	£88,802	£96,403
Indicative Notices	£530,366	£561,480

Works Contracts

	<u>To 31/12/93</u>	<u>From 1/1/94</u>
All Contracting Authorities	£3,535,775	£3,743,203
Small Lots Provision	£707,155	£748,641

Services Contracts

	<u>To 31/12/93</u>	<u>From 1/1/94</u>
All Contracting Authorities	£141,431	£149,728
Small Lots	£56,572	£59,891
Indicative Notices	£530,366	£561,480