



Matheson

# Making Changes Mid-Contract: the Search for “Magic Words” and Review Mechanisms

Helen Kelly - 12 May 2016

**Financial Times 2012-2015**

Matheson is ranked in the FT's top 10 European law firms 2015. Matheson has also been commended by the FT for corporate law, finance law, dispute resolution and corporate strategy.

**Irish Transfer Pricing Firm of the Year 2015**  
International Tax Review

**European Law Firm of the Year 2015**  
Hedge Fund Journal

**Law Firm of the Year 2014**  
Irish Pensions Awards

## The New Rules are Finally Here...

European Union (Award of Public Authority Contracts) Regulations 2016

European Union (Award of Contracts by Utility Undertakings) Regulations 2016

Regulation 72: Modification of contracts during their term

## New Rules on Material Change:

Creation of safe harbours for certain procurement contracts

Publication of certain safe harbour notices

Codification of *Pressetext*

## Regulation 72: Creation of Welcome Safe Harbours

De Minimis changes: 10% (services / supplies), (15% works)

Modifications provided for in “clear, precise and unequivocal review clauses” – no value limit

Additional works, services, supplies from same contractor for economic and technical reasons and change would cause significant inconvenience – value of each < 50%

Unforeseen modifications, not altering overall nature of contract – value of each < 50%

New contractor including takeover, insolvency

## Regulation 72: Substantial Modification

New procurement procedure where substantial modification rendering contract materially different

Codification of *Pressetext*

## Minimising Risk and Flushing Out Challenges

Stay quiet

Write to all tenderers

Publishing notices

Thank You