Draft Regulations laid before the Scottish Parliament under section 122(14) of the Procurement Act 2023, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2025 No.

PUBLIC PROCUREMENT

The Cross-Border Public Procurement (Miscellaneous Amendment) (Scotland) Regulations 2025

Made - - - -	*2025*
Coming into force - -	*20th December 2025*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 115(3) of the Procurement Act 2023(**a**) and all other powers enabling them to do so.

In accordance with section 122(14) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Cross-Border Public Procurement (Miscellaneous Amendment) (Scotland) Regulations 2025 and come into force on 20 December 2025.

Amendment of the Public Contracts (Scotland) Regulations 2015

2.—(1) The Public Contracts (Scotland) Regulations 2015(**b**) are amended in accordance with paragraphs (2) and (3).

(2) After regulation 3 (subject matter and application of these regulations), insert—

"Regulation of procurement by UK contracting authorities

3A.—(1) The provisions of these Regulations apply without modification where a UK contracting authority carries out a procurement under a devolved Scottish procurement arrangement and, as part of that arrangement, a contract is to be awarded following a procedure or other selection process carried out—

(a) jointly by that authority and one or more contracting authorities, or

(b) by a central purchasing body or equivalent which is a contracting authority.

(2) In respect of a procurement not falling within paragraph (1) but to which paragraph (3) applies—

(**a**) 2023 c. 54.
(**b**) S.S.I. 2015/446.

(a) the provisions of these Regulations specified in column (1) of the table in schedule 7 apply in relation to that procurement, and

(b) where there is a modification specified in column (2) of that table in respect of a provision specified in column (1), that provision applies subject to that modification.

(3) This paragraph applies in relation to a procurement carried out by a UK contracting authority under a devolved Scottish procurement arrangement and, as part of that arrangement, a contract is to be awarded—

(a) in accordance with a framework agreement, or

(b) by reference to a dynamic purchasing system.

(4) In this regulation and regulation 3B—

"devolved Scottish procurement arrangement" has the meaning given in section 114(4) of the Procurement Act 2023,

"UK contracting authority" means a contracting authority within the meaning of section 2(1) of the Procurement Act 2023.

Regulation of procurement under cross-border arrangements

3B.—(1) Paragraph (2) applies where a contracting authority carries out a procurement under a reserved procurement arrangement, a devolved Welsh procurement arrangement or a transferred Northern Ireland procurement arrangement.

(2) The provisions of these Regulations specified in the table in schedule 8 do not apply to that procurement.

(3) In this regulation "reserved procurement arrangement", "devolved Welsh procurement arrangement" and "transferred Northern Ireland procurement arrangement" have the meanings given in section 114 of the Procurement Act 2023.".

(3) After schedule 6, insert—

"SCHEDULE 7

regulation 3A

Procurement by UK contracting authorities

Provision of these Regulations	Modification
Regulation 1 (citation, commencement and extent)	
Regulation 2 (interpretation)	
Regulation 3 (subject matter and application of these regulations)	
Regulation 4 (mixed procurement)	
Regulation 5 (thresholds)	
Regulation 6 (estimating value)	
Regulation 7 (exclusions: utilities)	
Regulation 8 (exclusions: concessions)	

Provision of these Regulations	Modification
Regulation 9 (exclusions: electronic communications)	
Regulation 10 (exclusions: public contracts awarded, and design contests organised, pursuant to international rules)	
Regulation 11 (exclusions: specific service contracts)	
Regulation 12 (exclusions: service contracts awarded on the basis of an exclusive right)	
Regulation 13 (exclusions: public contracts between entities within the public sector)	
Regulation 14 (specific situations: contracts subsidised by a contracting authority)	
Regulation 15 (specific situations: research and development services)	
Regulation 16 (specific situations: defence and security)	
Regulation 17 (mixed procurement involving defence or security aspects)	
Regulation 18 (public contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules)	
Regulation 19 (principles of procurement)	Paragraphs (4) to (5) do not apply
Regulation 20 (economic operators)	Paragraphs (2) to (6) do not apply
Regulation 21 (reserved contracts)	
Regulation 22 (confidentiality)	
Regulation 23 (rules applicable to communication)	
Regulation 24 (nomenclatures)	
Regulation 25 (conflicts of interest)	
Regulation 26A (conditions relating to the GPA)	
Regulation 26B (conditions relating to international agreements by which the United Kingdom is bound, other than the GPA)	
Regulation 27 (choice of procedures)	Paragraphs (1) to (7) do not apply
Regulation 29 (restricted procedure)	Paragraph (4) does not apply
Regulation 34 (framework agreements)	Paragraphs (1) and (2) do not apply

Provision of these Regulations	Modification
Regulation 35 (dynamic purchasing systems)	Paragraphs (2) to (4), (6) to (9), (13) to (18) and (26) to (27A) do not apply
Regulation 36 (electronic auctions)	
Regulation 37 (electronic catalogues)	
Regulation 38 (centralised purchasing activities and central purchasing bodies)	Paragraph (7) does not apply
Regulation 39 (occasional joint procurement)	
Regulation 41 (preliminary market consultation)	
Regulation 42 (prior involvement of candidates or tenderers)	
Regulation 43 (technical specifications)	
Regulation 44 (labels)	
Regulation 45 (test reports, certificates and other means of proof)	
Regulation 46 (variants)	
Regulation 48 (setting time limits)	Paragraph (4) does not apply
Regulation 50 (contract notices)	
Regulation 51 (contract award notices)	
Regulation 52 (publication on the UK e-notification service)	
Regulation 53 (publication otherwise than on the UK e-notification service)	Paragraphs (1), (2) and (6) do not apply. Paragraph (5) is to be read as if references to "buyer profile" were omitted.
Regulation 54 (electronic availability of procurement documents)	Paragraph (7) does not apply
Regulation 55 (invitations to candidates)	Paragraphs (2) and (5)(c) do not apply
Regulation 56 (informing candidates and tenderers)	Paragraphs (2)(a), (2)(d), (3)(a) and (3)(d) do not apply
Regulation 57 (general principles)	Paragraphs (1)(b)(iii), (2A), (2B), (2C), (3) and (4) do not apply
Regulation 58 (exclusion grounds)	

Provision of these Regulations	Modification
Regulation 59 (selection criteria)	
Regulation 60 (single procurement document: use, content and form of the SPD)	
Regulation 61 (means of proof)	
Regulation 63 (quality assurance standards and environmental management standards)	
Regulation 64 (reliance upon the capacities of other entities)	
Regulation 67 (contract award criteria)	
Regulation 68 (life-cycle costing)	
Regulation 69 (abnormally low tenders)	
Regulation 70A (electronic invoicing)	
Regulation 71 (subcontracting)	
Regulation 73 (termination of contracts)	
Regulation 74 (award of contracts for social and other specific services)	
Regulation 75 (publication of notices)	Paragraph (2) does not apply
Regulation 76 (principles of awarding contracts)	
Regulation 82 (retention of contract copies)	
Regulation 83 (reporting and documentation requirements)	Paragraphs (1) to (6) do not apply
Regulation 84 (scope of chapter 5)	
Regulation 85 (notices of decisions to award a contract or conclude a framework agreement)	Paragraphs (6)(b)(ii), (6)(b)(iii), (7)(ii) and (7)(iii) do not apply
Regulation 86 (standstill period)	
Regulation 87 (duty owed to economic operators, including those from countries with whom the EU has a relevant international agreement other than the GPA)	
Regulation 87A (duty owed to economic operators from GPA parties)	
Regulation 87B (duty owed to economic operators from countries with whom the United Kingdom has an international agreement, other than the GPA)	
Regulation 88 (enforcement of duties through the courts)	

Provision of these Regulations	Modification
Regulation 89 (automatic suspension of authority power to proceed with contract award)	
Regulation 90 (powers and duties of the court)	
Regulation 91 (ineffectiveness orders)	
Regulation 92 (powers of the court)	
Regulation 93 (general interest grounds for not making a declaration of ineffectiveness)	
Regulation 94 (other orders)	
Regulation 95 (financial penalties)	
Schedule 1 (central government authorities)	
Schedule 1A (parties to the GPA)	
Schedule 2 (activities constituting works)	
Schedule 3 (social and other specific services)	
Schedule 4 (list of products relevant to thresholds)	
Schedule 4A (international trade agreements)	

SCHEDULE 8

regulation 3B

Procurement under cross-border arrangements

Provision of these Regulations
Regulation 4 (mixed procurement)
Regulation 5 (thresholds)
Regulation 6 (estimating value)
Regulation 17 (mixed procurement involving defence or security aspects)
Regulation 18 (public contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules)
Regulation 20 (economic operators)
Regulation 22 (confidentiality)
Regulation 23 (rules applicable to communication)
Regulation 24 (nomenclatures)
Regulation 25 (conflicts of interest)
Regulation 26A (conditions relating to the GPA)

Provision of these Regulations
Regulation 26B (conditions relating to international agreements by which the United Kingsome is bound, other than the GPA)
Regulation 27 (choice of procedures)
Regulation 28 (open procedure)
Regulation 29 (restricted procedure)
Regulation 30 (competitive procedure with negotiation)
Regulation 31 (competitive dialogue)
Regulation 32 (innovation partnership)
Regulation 33 (use of the negotiated procedure without prior publication)
Regulation 34 (framework agreements)
Regulation 35 (dynamic purchasing systems)
Regulation 36 (electronic auctions)
Regulation 37 (electronic catalogues)
Regulation 38 (centralised purchasing activities and central purchasing bodies)
Regulation 39 (occasional joint procurement)
Regulation 42 (prior involvement of candidates or tenderers)
Regulation 43 (technical specifications)
Regulation 44 (labels)
Regulation 45 (test reports, certificates and other means of proof)
Regulation 46 (variants)
Regulation 47 (division of contracts into lots)
Regulation 48 (setting time limits)
Regulation 49 (prior information notices)
Regulation 50 (contract notices)
Regulation 51 (contract award notices)
Regulation 52 (publication on the UK e-notification service)
Regulation 53 (publication otherwise than on the UK e-notification service)
Regulation 54 (electronic availability of procurement documents)
Regulation 55 (invitations to candidates)
Regulation 56 (informing candidates and tenderers)
Regulation 57 (general principles)
Regulation 58 (exclusion grounds)

Provision of these Regulations
Regulation 59 (selection criteria)
Regulation 60 (single procurement documents: use, content and form of the SPD)
Regulation 61 (means of proof)
Regulation 63 (quality assurance standards and environmental management standards)
Regulation 64 (reliance upon the capacities of other entities)
Regulation 65 (recognition of official lists of approved economic operators and certification by certification bodies)
Regulation 66 (reduction of the number of otherwise qualified candidates to be invited to participate)
Regulation 67 (contract award criteria)
Regulation 68 (life-cycle costing)
Regulation 69 (abnormally low tenders)
Regulation 70A (electronic invoicing)
Regulation 71 (subcontracting)
Regulation 73 (termination of contracts)
Regulation 74 (award of contracts for social and other specific services)
Regulation 75 (publication of notices)
Regulation 76 (principles of awarding contracts)
Regulation 83 (reporting and documentation requirements)
Regulation 84 (scope of Chapter 5)
Regulation 85 (notices of decisions to award a contract or conclude a framework agreement)
Regulation 86 (standstill period)
Regulation 87 (duty owed to economic operators, including those from countries with whom the EU has a relevant international agreement, other than the GPA)
Regulation 87A (duty owed to economic operators from GPA parties)
Regulation 87B (duty owed to economic operators from countries with whom the United Kingdom has an international agreement, other than the GPA)
Regulation 88 (enforcement of duties through the courts)
Regulation 89 (automatic suspension of authority power to proceed with contract award)
Regulation 90 (powers and duties of the court)
Regulation 91 (ineffectiveness orders)
Regulation 92 (powers of the court)

Provision of these Regulations
Regulation 93 (general interest grounds for not making a declaration of ineffectiveness)
Regulation 94 (other orders)
Regulation 95 (financial penalties)
Regulation 97 (revocations and consequential amendments)
Regulation 98 (transitional provision and saving where procurement procedure commenced before 18th April 2016)
Regulation 99 (transitional provision and saving where utilities procurement procedures commenced before 18th April 2016)
Regulation 100 (transitory provision prior to full commencement of regulation 23(1) to (7))
Regulation 101 (transitory provision: temporary exemption)".

Amendment of the Utilities Contracts (Scotland) Regulations 2016

3.—(1) The Utilities Contracts (Scotland) Regulations 2016(**a**) are amended in accordance with paragraphs (2) and (3).

(2) After regulation 3 (subject-matter and application of these regulations), insert—

"Regulation of procurement by UK contracting authorities

3A.—(1) The provisions of these Regulations apply without modification where a UK contracting authority carries out a procurement under a devolved Scottish procurement arrangement and, as part of that arrangement, a contract is to be awarded following a procedure or other selection process carried out—

(a) jointly by that authority and one or more contracting authority, or

(b) by a central purchasing body or equivalent which is a contracting authority.

(2) In respect of a procurement not falling within paragraph (1) but to which paragraph (3) applies—

(a) the provisions of these Regulations specified in column (1) of the table in schedule 4 apply in relation to that procurement, and

(b) where there is a modification specified in column (2) of that table in respect of a provision specified in column (1), that provision applies subject to that modification.

(3) This paragraph applies in relation to a procurement carried out by a UK contracting authority under a devolved Scottish procurement arrangement and as part of that arrangement a contract is to be awarded—

(a) in accordance with a framework agreement, or

(b) by reference to a dynamic market system.

(4) In this regulation, and as the case may be, regulation 3B—

(**a**) S.S.I. 2016/49.

"devolved Scottish procurement arrangement" has the meaning given in section 114(4) of the Procurement Act 2023,

"UK contracting authority" means a contracting authority within the meaning of section 2(1) of the Procurement Act 2023.

Regulation of procurement under cross-border arrangements

3B.—(1) Paragraph (2) applies where a contracting authority carries out procurement under a reserved procurement arrangement, a devolved Welsh procurement arrangement or a transferred Northern Ireland procurement arrangement.

(2) The provisions of these Regulations specified in the table in schedule 5 do not apply to that procurement.

(3) In this regulation "reserved procurement arrangement", "devolved Welsh procurement arrangement" and "transferred Northern Ireland procurement arrangement" have the meanings given in section 114 of the Procurement Act 2023(**a**).".

(3) After schedule 3, insert—

"SCHEDULE 4

regulation 3A

Procurement by UK contracting authorities

Provision of these Regulations	Modification
Regulation 1 (citation, commencement and extent)	
Regulation 2 (interpretation)	
Regulation 3 (subject-matter and application of these regulations)	
Regulation 4 (utilities)	
Regulation 5 (mixed procurement covering the same activity)	
Regulation 6 (procurement covering several activities)	
Regulation 7 (common provisions)	
Regulation 8 (gas and heat)	
Regulation 9 (electricity)	
Regulation 10 (water)	
Regulation 11 (transport services)	
Regulation 12 (ports and airports)	
Regulation 13 (postal services)	
Regulation 14 (extraction of oil and gas and exploration for, or extraction of, coal or other solid fuels)	

(**a**) 2023 c. 54; relevant amending instruments are S.I. 2025/163.

Provision of these Regulations	Modification
Regulation 15 (thresholds)	
Regulation 16 (estimating value)	Paragraphs (8) and (9) do not apply
Regulation 17 (exclusion: contracts awarded for the purpose of resale or lease to third parties)	
Regulation 18 (exclusion: contracts and design contests awarded or organised for purposes other than the pursuit of a covered activity or for the pursuit of such an activity outside the United Kingdom)	
Regulation 19 (exclusion: contracts awarded, and design contests organised pursuant to international rules)	
Regulation 20 (exclusion: specific exclusions for service contracts)	
Regulation 21 (exclusion: service contracts awarded on the basis of an exclusive right)	
Regulation 22 (exclusion: contracts awarded by certain utilities for the purchase of water and for the supply of energy or of fuels for the production of energy)	
Regulation 23 (defence and security)	
Regulation 24 (mixed procurement covering the same activity and involving defence and security aspects)	
Regulation 25 (procurement covering several activities and involving defence and security aspects)	
Regulation 26 (contracts and design contests involving defence and security aspects which are awarded or organised pursuant to international rules)	
Regulation 27 (exclusion: contracts between contracting authorities)	
Regulation 28 (exclusion: contracts awarded to an affiliated undertaking)	
Regulation 29 (exclusion: contracts awarded to a joint venture or to a utility forming part of a joint venture)	
Regulation 31 (research and development services)	
Regulation 32 (activities directly exposed to competition)	
Regulation 34 (principles of procurement)	
Regulation 35 (economic operators)	Paragraphs (1) to (6) and (9) do not apply
Regulation 36 (reserved contracts)	

Provision of these Regulations	Modification
Regulation 37 (confidentiality)	
Regulation 38 (rules applicable to communication)	
Regulation 39 (nomenclatures)	
Regulation 40 (conflicts of interest)	
Regulation 41A (conditions relating to the GPA)	
Regulation 41B (conditions relating to international agreements by which the United Kingdom is bound, other than the GPA)	
Regulation 42 (choice of procedures)	Paragraphs (1) to (6) do not apply
Regulation 44 (restricted procedure)	
Regulation 49 (framework agreements)	Paragraphs (1) and (2) do not apply
Regulation 50 (dynamic purchasing systems)	Paragraphs (2) to (9), (11) to (16), (25) and (25A) do not apply
Regulation 51 (electronic auctions)	
Regulation 52 (electronic catalogues)	
Regulation 53 (centralised purchasing activities and central purchasing bodies)	Paragraphs (2)(a), (7) and (8) do not apply
Regulation 54 (occasional joint procurement)	
Regulation 56 (preliminary market consultation)	
Regulation 57 (prior involvement of candidates or tenderers)	
Regulation 58 (technical specifications)	
Regulation 59 (labels)	
Regulation 60 (test reports, certificates and other means of proof)	
Regulation 61 (communications of technical specifications)	Paragraphs (1) and (2) do not apply
Regulation 64 (setting time limits)	Paragraph (4) does not apply
Regulation 67 (contract notices)	
Regulation 68 (contract award notices)	
Regulation 69 (publication on the UK e-notification service)	
Regulation 70 (publication otherwise than on the UK e-notification service)	Paragraphs (1), (2) and (6) do not apply

Provision of these Regulations	Modification
	Paragraph (5) is to be read as if the references to "buyer profile" were omitted
Regulation 71 (electronic availability of procurement documents)	Paragraph (8) does not apply
Regulation 72 (invitations to candidates)	Paragraphs (2) and (5)(b) do not apply
Regulation 73 (informing applicants for qualification, candidates and tenderers)	Paragraphs (2)(a), (2)(d), (3)(a), (3)(d) and (5) to (7) do not apply
Regulation 74 (general principles)	Paragraphs (1)(c), (2), (3) and (6A) to (7) do not apply
Regulation 76 (criteria for qualitative selection)	Paragraphs (2) and (3) do not apply
Regulation 77 (reliance on the capacities of other entities)	
Regulation 78 (use of exclusion grounds and selection criteria provided for under the Public Contracts (Scotland) Regulations)	Paragraph (1)(a) does not apply
Regulation 79 (quality assurance standards and environmental management standards)	
Regulation 80 (contract award criteria)	
Regulation 81 (life-cycle costing)	
Regulation 82 (abnormally low tenders)	
Regulation 84 (conditions for performance of contracts)	
Regulation 84A (electronic invoicing)	
Regulation 85 (subcontracting)	
Regulation 87 (termination of contracts)	
Regulation 88 (award of contracts for social and other specific services)	
Regulation 89 (publication of notices)	Paragraphs (1)(c) and (2) do not apply
Regulation 90 (principles of awarding contracts)	
Regulation 95 (retention of contract copies)	
Regulation 96 (reporting and documentation requirements)	Paragraph (8) does not apply
Regulation 97 (scope of chapter)	

Provision of these Regulations	Modification
Regulation 98 (notices of decision to award a contract or conclude a framework agreement)	Paragraphs (6)(b)(ii), (6)(b)(iii), (7)(b) and (7)(c)
Regulation 99 (standstill period)	
Regulation 100 (duty owed to economic operators, including those from countries with whom the EU has relevant international agreement other than the GPA)	
Regulation 100A (duty owed to economic operators from GPA parties)	
Regulation 100B (duty owed to economic operators from countries with whom the United Kingdom has an international agreement, other than the GPA)	
Regulation 101 (enforcement of duties through the courts)	
Regulation 102 (automatic suspension of utility's power to proceed with contract award)	
Regulation 103 (powers and duties of the court)	
Regulation 104 (ineffectiveness orders)	
Regulation 105 (powers of the court: ineffectiveness order)	
Regulation 106 (general interest grounds for not making a declaration of ineffectiveness)	
Regulation 107 (other orders)	
Regulation 108 (financial penalties)	
Schedule A1 (parties to the GPA)	
Schedule 1 (activities constituting works)	
Schedule 2 (social and other specific services)	
Schedule 2A (international trade agreements)	

SCHEDULE 5

regulation 3B

Procurement under cross-border arrangements

Provision of these Regulations
Regulation 5 (mixed procurement covering the same activity)
Regulation 6 (procurement covering several activities)
Regulation 15 (thresholds)

Provision of these Regulations
Regulation 16 (estimating value)
Regulation 24 (mixed procurement covering the same activity and involving defence and security aspects)
Regulation 25 (procurement covering several activities and involving defence or security aspects)
Regulation 26 (contracts and design contests involving defence and security aspects which are awarded or organised pursuant to international rules)
Regulation 35 (economic operators)
Regulation 37 (confidentiality)
Regulation 38 (rules applicable to communication)
Regulation 39 (nomenclatures)
Regulation 40 (conflicts of interest)
Regulation 41A (conditions relating to the GPA)
Regulation 41B (conditions relating to international agreements by which the United Kingdom is bound, other than the GPA)
Regulation 42 (choice of procedures)
Regulation 43 (open procedure)
Regulation 44 (restricted procedure)
Regulation 45 (negotiated procedure with prior call for competition)
Regulation 46 (competitive dialogue)
Regulation 47 (innovation partnership)
Regulation 48 (use of the negotiated procedure without prior call for competition)
Regulation 49 (framework agreements)
Regulation 50 (dynamic purchasing systems)
Regulation 51 (electronic auctions)
Regulation 52 (electronic catalogues)
Regulation 53 (centralised purchasing activities and central purchasing bodies)
Regulation 54 (occasional joint procurement)
Regulation 55 (procurement involving utilities from different member states)
Regulation 57 (prior involvement of candidates or tenderers)
Regulation 58 (technical specifications)
Regulation 59 (labels)
Regulation 60 (test reports, certificates and other means of proof)

Provision of these Regulations
Regulation 61 (communication of technical specifications)
Regulation 62 (variants)
Regulation 63 (division of contracts into lots)
Regulation 64 (setting time limits)
Regulation 65 (periodic indicative notices)
Regulation 66 (notices on the existence of a qualification system)
Regulation 67 (contract notices)
Regulation 68 (contract award notices)
Regulation 69 (publication on the UK e-notification service)
Regulation 70 (publication otherwise than on the UK e-notification service)
Regulation 71 (electronic availability of procurement documents)
Regulation 72 (invitations to candidates)
Regulation 73 (informing applicants for qualification, candidates and tenderers)
Regulation 74 (general principles)
Regulation 75 (qualification systems)
Regulation 76 (criteria for qualitative selection)
Regulation 77 (reliance on the capacities of other entities)
Regulation 78 (use of exclusion grounds and selection criteria provided for under the Public Contracts (Scotland) Regulations)
Regulation 79 (quality assurance standards and environmental management standards)
Regulation 80 (contract award criteria)
Regulation 81 (life-cycle costing)
Regulation 82 (abnormally low tenders)
Regulation 84A (electronic invoicing)
Regulation 85 (subcontracting)
Regulation 87 (termination of contracts)
Regulation 88 (award of contracts for social and other specific services)
Regulation 89 (publication of notices)
Regulation 90 (principles of awarding contracts)
Regulation 96 (reporting and documentation requirements)
Regulation 97 (scope of Chapter)

Provision of these Regulations
Regulation 98 (notices of decisions to award a contract or conclude a framework agreement)
Regulation 99 (standstill period)
Regulation 100 (duty owed to economic operators, including those from countries with whom the EU has a relevant international agreement other than the GPA)
Regulation 100A (duty owed to economic operators from GPA parties)
Regulation 100B (duty owed to economic operators from countries with whom the United Kingdom has an international agreement, other than the GPA)
Regulation 101 (enforcement of duties through the courts)
Regulation 102 (automatic suspension of utility's power to proceed with contract award)
Regulation 103 (powers and duties of the court)
Regulation 104 (ineffectiveness orders)
Regulation 105 (powers of the court: ineffectiveness order)
Regulation 106 (general interest grounds for not making a declaration of ineffectiveness)
Regulation 107 (other orders)
Regulation 108 (financial penalties)".

Amendment of the Concession Contracts (Scotland) Regulations 2016

4.—(1) The Concession Contracts (Scotland) Regulations 2016(**a**) are amended as follows.

(2) After regulation 7 (subject matter and application of these regulations), insert—

"Regulation of procurement by UK contracting authorities

7A.—(1) The provisions of these Regulations apply without modification where a UK contracting authority carries out procurement under a devolved Scottish procurement arrangement and, as part of that arrangement, a contract is to be awarded following a procedure or other selection process carried out—

(a) jointly by that authority and one or more contracting authority, or

(b) by a central purchasing body or equivalent which is a contracting authority.

(2) In this regulation—

"devolved Scottish procurement arrangement" has the meaning given in section 114(4) of the Procurement Act 2023,

"UK contracting authority" means a contracting authority within the meaning of section 2(1) of the Procurement Act 2023.".

(**a**) S.S.I. 2016/65.

Amendment of the Procurement Reform (Scotland) Act 2014

5.—(1) The Procurement Reform (Scotland) Act 2014(**a**) is amended in accordance with paragraphs (2) to (6).

(2) In section 1 (contracting authorities), in subsections (1)(a) and (3), for "the schedule" substitute "schedule 1".

(3) After section 3 (regulated contracts), insert—

"3A. Regulation of procurement under cross-border arrangements

(1) Subsection (2) applies where a contracting authority carries out procurement under a reserved procurement arrangement, a devolved Welsh procurement arrangement or a transferred Northern Ireland procurement arrangement.

(2) The provisions of this Act specified in the table in schedule 2 do not apply to that procurement.

(3) In this section "reserved procurement arrangement", "devolved Welsh procurement arrangement" and "transferred Northern Ireland procurement arrangement" have the meaning given in section 114 of the Procurement Act 2023.".

(4) In section 41 (public contracts regulations and higher value regulated procurements), in subsection (1)(c) after "Regulations" insert "or section 115A of the Procurement Act 2023".

(5) The existing schedule becomes schedule 1.

(6) After that schedule (as so numbered), insert—

"SCHEDULE 2

section 3A

Procurement under cross-border arrangements

Provision of this Act
Section 5 (estimated value of contract)
Section 7 (dynamic purchasing systems)
Section 8 (general duties)
Section 9 (sustainable procurement duty)
Section 10 (guidance on sustainable procurement duty)
Section 11 (supported businesses)
Section 12 (contracts for health or social care services)
Section 14 (other circumstances in which contract can be awarded without competition)
Section 22 (public contracts website)
Section 23 (publication of contract notices and award notices)
Section 26 (guidance on community benefit requirements)
Section 29 (guidance on selection of tenderers and award of contracts)

(**a**) 2014 asp 12.

Provision of this Act
Section 31 (charges for participation in procurement process)
Section 34 (withholding information)
Section 36 (amendment of Climate Change (Scotland) Act 2009)
Section 38 (procedure and time limits)
Section 39 (determination by the court)
Section 40 (transfer of forum for proceedings to First-tier Tribunal)
Section 43 (ancillary provision)
Section 44 (subordinate legislation)
Section 45 (commencement)
Section 46 (short title)".

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for how devolved Scottish procurement legislation applies to cross-border procurement following the enactment of the Procurement Act 2023 ("the 2023 Act"). The Regulations apply devolved Scottish procurement legislation to UK contracting authorities regulated by the 2023 Act in certain circumstances. They also disapply devolved Scottish procurement legislation where the 2023 Act regulates cross-border procurement by a devolved Scottish authority (as defined by that Act). The provisions applied or disapplied are listed in tables inserted as schedules to the relevant devolved Scottish procurement legislation. In some cases, provisions are applied with the modifications specified in those tables.

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