*Draft Regulations laid before Parliament under paragraph 4(1) of Schedule 2 to the Trade Act 2021 for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

# 2021 No.

# PUBLIC PROCUREMENT

## The Public Procurement (International Trade Agreements) (Amendment) Regulations 2021

| | |
|---|---|
| *Made - - - -* | *** |
| *Coming into force - -* | *** |

The Minister for the Cabinet Office makes these Regulations in exercise of the powers conferred by sections 2 and 5(1) of the Trade Act 2021(**a**).

In accordance with paragraph 4(1) of Schedule 2 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

## PART 1

## GENERAL

### Citation, commencement and extent

**1.**—(1) These Regulations may be cited as the Public Procurement (International Trade Agreements) (Amendment) Regulations 2021 and come into force the day after the day they are made.

(2) The amendments made by these Regulations have the same extent as the provisions to which they relate.

## PART 2

## AMENDMENT OF UNITED KINGDOM SECONDARY LEGISLATION

### Amendments to the Public Contracts Regulations 2015

**2.**—(1) The Public Contracts Regulations 2015(**b**) are amended as follows.

(2) After regulation 25A (conditions relating to the GPA), insert—

(**a**) 2021 c. 10. See the definitions of "appropriate authority" and "free trade agreement" in section 5(1).
(**b**) S.I. 2015/102, as amended by S.I. 2016/275, S.I. 2020/1319 and S.I. 2021/[xxx]; there are other amending instruments but none is relevant.

**"Conditions relating to international agreements by which the United Kingdom is bound, other than the GPA**

**25B.**—(1) Where a relevant international trade agreement applies to a procurement, the contracting authority shall accord to the works, supplies, services and economic operators of the signatories to that agreement treatment no less favourable than the treatment accorded to the works, supplies, services and economic operators of the United Kingdom.

(2) For the purposes of paragraph (1), a relevant international trade agreement applies if the procurement is covered by an agreement listed in Schedule 4A.".

(3) After regulation 90A (duty owed to economic operators from GPA countries), insert—

**"Duty owed to economic operators from countries with whom the United Kingdom has an international agreement, other than the GPA**

**90B.**—(1) The duty owed in accordance with regulation 89 is a duty owed also to an economic operator from a country in respect of which a relevant international trade agreement applies, but only where the agreement applies to the procurement concerned.

(2) For the purposes of paragraph (1), a relevant international trade agreement applies if the procurement is covered by an agreement listed in Schedule 4A.".

(4) After Schedule 4 (list of products relevant to thresholds), insert—

"SCHEDULE 4A Regulation 25B and 90B

INTERNATIONAL TRADE AGREEMENTS

Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile, signed at Santiago on 30th January 2019.

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation, signed at Bern on 11th February 2019.

Trade and Partnership Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel, signed at Tel Aviv on 18th February 2019.

Economic Partnership Agreement between the CARIFORUM States, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed in St Lucia on 22nd March 2019.

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Republic of Colombia, the Republic of Ecuador and the Republic of Peru, of the other part, signed at Quito on 15th May 2019.

Agreement Establishing an Association between the United Kingdom of Great Britain and Northern Ireland and Central America, signed at Managua on 18th July 2019.

Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Republic of Korea, of the other part, signed at London on 22nd August 2019.

Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia, signed at London on 21st October 2019.

Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo, signed at Pristina on 3rd December 2019.

Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine, signed at London on 8th October 2020.

Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan for a Comprehensive Economic Partnership, signed at Tokyo on 23rd October 2020.

Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia, signed at Skopje on 3rd December 2020.

Agreement on Trade Continuity between the United Kingdom of Great Britain and Northern Ireland and Canada, signed at Ottawa on 9th December 2020.

Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Singapore, signed at Singapore on 10th December 2020.

Trade Continuity Agreement between the United Kingdom of Great Britain and Northern Ireland and the United Mexican States, signed at Mexico City on 15th December 2020.

Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova, signed at Chisnau on 24th December 2020.

Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Socialist Republic of Viet Nam, signed at London on 29th December 2020.

Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania, signed at Tirana on 5th February 2021.

Partnership, Trade and Cooperation Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Serbia, signed at Belgrade on 16th April 2021.".

**Amendments to the Concession Contracts Regulations 2016**

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

(2) After regulation 51A (duty owed to economic operators from GPA countries), insert—

**"Duty owed to economic operators from countries with whom the United Kingdom has an international agreement, other than the GPA**

**51B.**—(1) The duty owed in accordance with regulation 50 is a duty owed also to an economic operator from a country in respect of which a relevant international trade agreement applies, but only where the agreement applies to the procurement concerned.

(2) For the purposes of paragraph (1), a relevant international trade agreement applies if the procurement is covered by an agreement listed in Schedule 4.".

(3) After Schedule 3 (social and other specific services), insert—

"SCHEDULE 4 Regulation 51B

INTERNATIONAL TRADE AGREEMENTS

Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile, signed at Santiago on 30th January 2019.

(**a**) S.I. 2016/273, as amended by S.I. 2019/624, S.I. 2020/1319 and S.I. 2021/[xxx].

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation, signed at Bern on 11th February 2019.

Trade and Partnership Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel, signed at Tel Aviv on 18th February 2019.

Economic Partnership Agreement between the CARIFORUM States, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed in St Lucia on 22nd March 2019.

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Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo, signed at Pristina on 3rd December 2019.

Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine, signed at London on 8th October 2020.

Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan for a Comprehensive Economic Partnership, signed at Tokyo on 23rd October 2020.

Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia, signed at Skopje on 3rd December 2020.

Agreement on Trade Continuity between the United Kingdom of Great Britain and Northern Ireland and Canada, signed at Ottawa on 9th December 2020.

Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Singapore, signed at Singapore on 10th December 2020.

Trade Continuity Agreement between the United Kingdom of Great Britain and Northern Ireland and the United Mexican States, signed at Mexico City on 15th December 2020.

Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova, signed at Chisnau on 24th December 2020.

Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Socialist Republic of Viet Nam, signed at London on 29th December 2020.

Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania, signed at Tirana on 5th February 2021.

Partnership, Trade and Cooperation Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Serbia, signed at Belgrade on 16th April 2021.".

**Amendments to the Utilities Contracts Regulations 2016**

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

(2) After regulation 43A (conditions relating to the GPA), insert—

**"Conditions relating to international agreements by which the United Kingdom is bound, other than the GPA**

**43B.**—(1) Where a relevant international trade agreement applies to a procurement, utilities within the meaning of regulation 5(1)(a) (utilities) shall accord to the works, supplies, services and economic operators of the signatories to that agreement treatment no less favourable than the treatment accorded to the works, supplies, services and economic operators of the United Kingdom.

(2) For the purposes of paragraph (1), a relevant international trade agreement applies if the procurement is covered by an agreement listed in Schedule 3.".

(3) After regulation 105A (duty owed to economic operators from GPA countries), insert—

**"Duty owed to economic operators from countries with whom the United Kingdom has an international agreement, other than the GPA**

**105B.**—(1) The duty owed in accordance with regulation 104 is a duty owed also to an economic operator from a country in respect of which a relevant international trade agreement applies, but only where the agreement applies to the procurement concerned.

(2) For the purposes of paragraph (1), a relevant international trade agreement applies if the procurement is covered by an agreement listed in Schedule 3.".

(4) After Schedule 2 (social and other specific services), insert—

"SCHEDULE 3 Regulation 43B and 105B

INTERNATIONAL TRADE AGREEMENTS

Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile, signed at Santiago on 30th January 2019.

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation, signed at Bern on 11th February 2019.

Trade and Partnership Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel, signed at Tel Aviv on 18th February 2019.

Economic Partnership Agreement between the CARIFORUM States, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed in St Lucia on 22nd March 2019.

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Republic of Colombia, the Republic of Ecuador and the Republic of Peru, of the other part, signed at Quito on 15th May 2019.

Agreement Establishing an Association between the United Kingdom of Great Britain and Northern Ireland and Central America, signed at Managua on 18th July 2019.

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(**a**) S.I. 2016/274, as amended by S.I. 2016/696, S.I. 2019/624, S.I. 2020/1319 and S.I. 2021/[xxx].

Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Republic of Korea, of the other part, signed at London on 22nd August 2019.

Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia, signed at London on 21st October 2019.

Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo, signed at Pristina on 3rd December 2019.

Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine, signed at London on 8th October 2020.

Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan for a Comprehensive Economic Partnership, signed at Tokyo on 23rd October 2020.

Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia, signed at Skopje on 3rd December 2020.

Agreement on Trade Continuity between the United Kingdom of Great Britain and Northern Ireland and Canada, signed at Ottawa on 9th December 2020.

Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Singapore, signed at Singapore on 10th December 2020.

Trade Continuity Agreement between the United Kingdom of Great Britain and Northern Ireland and the United Mexican States, signed at Mexico City on 15th December 2020.

Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova, signed at Chisnau on 24th December 2020.

Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Socialist Republic of Viet Nam, signed at London on 29th December 2020.

Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania, signed at Tirana on 5th February 2021.

Partnership, Trade and Cooperation Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Serbia, signed at Belgrade on 16th April 2021.".

# PART 3

## AMENDMENT OF SCOTTISH SECONDARY LEGISLATION

### Amendment to the Public Contracts (Scotland) Regulations 2015

**5.**—(1) The Public Contracts (Scotland) Regulations 2015(**a**) are amended as follows.

(2) After regulation 26A (conditions relating to the GPA), insert—

(**a**) S.S.I. 2015/446, as amended by S.S.I 2016/47, S.S.I. 2020/468 and S.I. 2021/[xxx].

**"Conditions relating to international agreements by which the United Kingdom is bound, other than the GPA**

**26B.**—(1) Where a relevant international trade agreement applies to a procurement, the contracting authority must accord to the works, supplies, services and economic operators of the signatories to that agreement treatment no less favourable than the treatment accorded to the works, supplies, services and economic operators of the United Kingdom.

(2) For the purposes of paragraph (1), a relevant international trade agreement applies if the procurement is covered by an agreement listed in Schedule 4A (international trade agreements).".

(3) After regulation 87A (duty owed to economic operators from GPA countries), insert—

**"Duty owed to economic operators from countries with whom the United Kingdom has an international agreement, other than the GPA**

**87B.**—(1) The duty owed in accordance with regulation 87(1) (duty owed to economic operators, including from countries with whom the EU has a relevant international agreement other than the GPA) is a duty owed also to an economic operator from a country in respect of which a relevant international trade agreement applies, but only where the agreement applies to the procurement concerned.

(2) For the purposes of paragraph (1), a relevant international trade agreement applies if the procurement is covered by an agreement listed in Schedule 4A (international trade agreements).".

(4) After Schedule 4 (list of products relevant to thresholds), insert—

## "SCHEDULE 4A Regulation 26B and 87B

## INTERNATIONAL TRADE AGREEMENTS

Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile, signed at Santiago on 30th January 2019.

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation, signed at Bern on 11th February 2019.

Trade and Partnership Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel, signed at Tel Aviv on 18th February 2019.

Economic Partnership Agreement between the CARIFORUM States, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed in St Lucia on 22nd March 2019.

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Republic of Colombia, the Republic of Ecuador and the Republic of Peru, of the other part, signed at Quito on 15th May 2019.

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Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania, signed at Tirana on 5th February 2021.

Partnership, Trade and Cooperation Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Serbia, signed at Belgrade on 16th April 2021.".

**Amendments to the Utilities Contracts (Scotland) Regulations 2016**

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

(2) After regulation 41A (conditions relating to the GPA), insert—

**"Conditions relating to international agreements by which the United Kingdom is bound, other than the GPA**

**41B.**—(1) Where a relevant international trade agreement applies to a procurement, a utility within the meaning of regulation 4(1)(a) (utilities) must accord to the works, supplies, services and economic operators of the signatories to that agreement treatment no less favourable than the treatment accorded to the works, supplies, services and economic operators of the United Kingdom.

(2) For the purposes of paragraph (1), a relevant international trade agreement applies if the procurement is covered by an agreement listed in Schedule 2A (international trade agreements).".

(3) After regulation 100A (duty owed to economic operators from GPA countries), insert—

(**a**) S.S.I. 2016/49, as amended by S.S.I/468 and S.I. 2021/[xxx].

**"Duty owed to economic operators from countries with whom the United Kingdom has an international agreement, other than the GPA**

**100B.**—(1) The duty owed in accordance with regulation 100(1) (duty owed to economic operators, including from countries with whom the EU has an international agreement other than the GPA) is a duty owed also to an economic operator from a country in respect of which a relevant international trade agreement applies, but only where the agreement applies to the procurement concerned.

(2) For the purposes of paragraph (1), a relevant international trade agreement applies if the procurement is covered by an agreement listed in Schedule 2A (international trade agreements).".

(4) After Schedule 2 (social and other specific services), insert—

## "SCHEDULE 2A Regulation 41B and 100B

## INTERNATIONAL TRADE AGREEMENTS

Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile, signed at Santiago on 30th January 2019.

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation, signed at Bern on 11th February 2019.

Trade and Partnership Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel, signed at Tel Aviv on 18th February 2019.

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Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova, signed at Chisnau on 24th December 2020.

Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Socialist Republic of Viet Nam, signed at London on 29th December 2020.

Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania, signed at Tirana on 5th February 2021.

Partnership, Trade and Cooperation Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Serbia, signed at Belgrade on 16th April 2021.".

**Amendments to the Concession Contracts (Scotland) Regulations 2016**

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

(2) After regulation 51A (duty owed to economic operators from GPA countries), insert—

**"Duty owed to economic operators from countries with whom the United Kingdom has an international agreement, other than the GPA**

**51B.**—(1) The duty owed in accordance with regulation 51(1) (duty owed to economic operators, including from countries with whom the EU has an international agreement other than the GPA) is a duty owed also to an economic operator from a country in respect of which a relevant international trade agreement applies, but only where the agreement applies to the procurement concerned.

(2) For the purposes of paragraph (1), a relevant international trade agreement applies if the procurement is covered by an agreement listed in Schedule 5 (international trade agreements).".

(3) After Schedule 4 (list of international social and environmental conventions referred to in regulation 40(9)), insert—

"SCHEDULE 5 Regulation 51B

INTERNATIONAL TRADE AGREEMENTS

Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile, signed at Santiago on 30th January 2019.

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation, signed at Bern on 11th February 2019.

(**a**) S.S.I. 2016/65, as amended by S.S.I. 2016/125, S.S.I. 2020/468 and S.I. 2021/[xxx].

Trade and Partnership Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel, signed at Tel Aviv on 18th February 2019.

Economic Partnership Agreement between the CARIFORUM States, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed in St Lucia on 22nd March 2019.

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Republic of Colombia, the Republic of Ecuador and the Republic of Peru, of the other part, signed at Quito on 15th May 2019.

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Partnership, Trade and Cooperation Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Serbia, signed at Belgrade on 16th April 2021.".

*Name*
Parliamentary Secretary
Cabinet Office

Date

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make amendments to various United Kingdom and Scottish public procurement regulations for the purpose of implementing various international trade agreements to which the United Kingdom is a signatory.

The amendments made by these Regulations are "steady state amendments", as that term is defined in the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319) and the Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468) ("the EU Exit SIs"). As such, in accordance with the transitional provisions in the EU Exit SIs, these amendments do not affect any procedure (as that term is defined in the Schedules to the EU Exit SIs) launched before but not yet finalised by IP completion day.

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£6.90

http://www.legislation.gov.uk/id/ukdsi/2021/9780348223507

ISBN 978-0-34-822350-7

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