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

2024 No.

PUBLIC PROCUREMENT

The Public Procurement (International Trade Agreements) (Miscellaneous Amendments) (Scotland) Regulations 2024

Made - - - -	*2024*
Coming into force - -	*21st November 2024*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 91 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.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Public Procurement (International Trade Agreements) (Miscellaneous Amendments) (Scotland) Regulations 2024.

(2) These Regulations come into force on 21 November 2024.

Saving

2.—(1) The amendments made by these Regulations do not apply to a procurement commenced before 21 November 2024.

(2) For the purposes of paragraph (1)—

(a) a procurement commences when the person carrying out the procurement, or a person acting on that person's behalf—

(i) publishes an advertisement seeking expressions of interest or offers in relation to the contract to be awarded at the conclusion of the procurement,

(ii) contacts another person to seek an expression of interest or offer in relation to the contract, or

(iii) responds to an unsolicited expression of interest or offer in relation to the contract,

(**a**) 2023 c. 54.

(b) nothing done in the course of holding a design contest is to be regarded as commencing a procurement in relation to the subject matter of the contest.

(3) In this regulation—

"contract" includes—

(a) framework agreement (as defined by any of the Regulations amended by Part 2 of these Regulations), and references to a contract's award include conclusion of a framework agreement,

(b) dynamic purchasing system (as defined by any of the Regulations amended by Part 2 of these Regulations), and references to a contract's award include the establishment of a dynamic purchasing system,

"design contest" means any process treated as a design contest by any of the Regulations amended by Part 2 of these Regulations,

"procurement" means the process leading to the award of a contract.

PART 2

Amendments

Amendment of the Public Contracts (Scotland) Regulations 2015

3.—(1) Schedule 4A (international trade agreements) of the Public Contracts (Scotland) Regulations 2015(**a**) is amended as follows.

(2) For the entry for the Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia substitute—

> "Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia, signed at London on 21st October 2019, as amended by Amending Agreement No. 2 signed at Tbilisi on 2nd and 14th December 2022.".

(3) For the entry for the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo substitute—

> "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, as amended by Amending Agreement No. 1 signed at Pristina on 19th September 2023.".

(4) For the entry for the Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine substitute—

> "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, as amended by Agreement No. 2 in the form of Exchange of Letters signed at Kyiv on 18th August 2022.".

(5) For the entry for the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia substitute—

> "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, as amended by Agreement No. 1 in the form of an Exchange of Letters signed at Skopje on 10th December 2021.".

(6) For the entry for the Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova substitute—

(**a**) S.S.I. 2015/446. Those Regulations were relevantly amended by S.I. 2021/787, S.I. 2022/766 and S.S.I. 2023/124.

"Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova, signed at Chisinau on 24th December 2020, as amended by Amending Agreement No. 2 signed at Chisinau on 25th May 2023.".

(7) For the entry for the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania substitute—

"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, as amended by the Exchange of Letters No. 1 signed at Tirana on 12th January 2023 and 12th June 2023.".

(8) After the last entry in Schedule 4A (international trade agreements) insert—

"Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kazakhstan, signed at Astana on 24th April 2024.".

Amendment of the Utilities Contracts (Scotland) Regulations 2016

4.—(1) Schedule 2A (international trade agreements) of the Utilities Contracts (Scotland) Regulations 2016(**a**) is amended as follows.

(2) For the entry for the Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia substitute—

"Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia, signed at London on 21st October 2019, as amended by Amending Agreement No. 2 signed at Tbilisi on 2nd and 14th December 2022.".

(3) For the entry for the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo substitute—

"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, as amended by Amending Agreement No. 1 signed at Pristina on 19th September 2023.".

(4) For the entry for the Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine substitute—

"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, as amended by Agreement No. 2 in the form of Exchange of Letters signed at Kyiv on 18th August 2022.".

(5) For the entry for the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia substitute—

"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, as amended by Agreement No. 1 in the form of an Exchange of Letters signed at Skopje on 10th December 2021.".

(6) For the entry for the Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova substitute—

"Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova, signed at Chisinau on 24th December 2020, as amended by Amending Agreement No. 2 signed at Chisinau on 25th May 2023.".

(**a**) S.S.I. 2016/49. Those Regulations were relevantly amended by S.I. 2021/787, S.I. 2022/766 and S.S.I. 2023/124.

(7) For the entry for the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania substitute—

> "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, as amended by the Exchange of Letters No. 1 signed at Tirana on 12th January 2023 and 12th June 2023.".

(8) After the last entry in Schedule 2A (international trade agreements) insert—

> "Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kazakhstan, signed at Astana on 24th April 2024.".

Amendment of the Concession Contracts (Scotland) Regulations 2016

5.—(1) Schedule 5 (international trade agreements) of the Concession Contracts (Scotland) Regulations 2016(**a**) is amended as follows.

(2) For the entry for the Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia substitute—

> "Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia, signed at London on 21st October 2019, as amended by Amending Agreement No. 2 signed at Tbilisi on 2nd and 14th December 2022.".

(3) For the entry for the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo substitute—

> "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, as amended by Amending Agreement No. 1 signed at Pristina on 19th September 2023.".

(4) For the entry for the Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine substitute—

> "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, as amended by Agreement No. 2 in the form of Exchange of Letters signed at Kyiv on 18th August 2022.".

(5) For the entry for the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia substitute—

> "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, as amended by Agreement No. 1 in the form of an Exchange of Letters signed at Skopje on 10th December 2021.".

(6) For the entry for the Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova substitute—

> "Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova, signed at Chisinau on 24th December 2020, as amended by Amending Agreement No. 2 signed at Chisinau on 25th May 2023.".

(7) For the entry for the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania substitute—

> "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

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(**a**) S.S.I. 2016/65. Those Regulations were relevantly amended by S.I. 2021/787, S.I. 2022/766 and S.S.I. 2023/124.

2021, as amended by the Exchange of Letters No. 1 signed at Tirana on 12th January 2023 and 12th June 2023.".

(8) After the last entry in Schedule 5 (international trade agreements) insert—

"Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kazakhstan, signed at Astana on 24th April 2024.".

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 amend the Public Contracts (Scotland) Regulations 2015, the Utilities Contracts (Scotland) Regulations 2016 and the Concession Contracts (Scotland) Regulations 2016 ("Scottish public procurement regulations").

The Scottish public procurement regulations contain provisions requiring contracting authorities to treat economic operators from countries with which the United Kingdom has an International Trade Agreement ("ITA") no less favourably than economic operators from the United Kingdom. Details of the relevant ITAs are set out in schedules to the Scottish public procurement regulations. These Regulations amend those schedules as a consequence of amendments made to the United Kingdom's ITAs with Georgia, the Republic of Kosovo, Ukraine, the Republic of North Macedonia, the Republic of Moldova and the Republic of Albania. The ITAs with these countries have been amended to remove access to bidders from those countries to the procurement of certain health care services. In practice, these Regulations update the list of ITAs to reflect the date and location of the amended agreements.

The Regulations also insert into the Scottish public procurement regulations the United Kingdom's ITA with the Republic of Kazakhstan.

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