POLICY NOTE

THE PUBLIC PROCUREMENT (INDIA TRADE AGREEMENT) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2026

SSI 2026/104

The above instrument was made in exercise of the powers conferred by section 91(1) of the Procurement Act 2023. The instrument is subject to affirmative procedure.

Summary Box

This instrument makes amendments to Scottish public procurement regulations for the purpose of fulfilling international obligations and reflecting the Comprehensive Economic and Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and India.

Policy Objectives

This instrument gives effect in Scotland to international obligations.

The Republic of India and the UK signed a Comprehensive Economic and Trade Agreement ("CETA") on 24 July 2025. This instrument inserts that agreement into the list of relevant International Trade Agreements contained in Schedules to the Public Contracts (Scotland) Regulations 2015, the Concession Contracts (Scotland) Regulations 2016 and the Utilities Contracts (Scotland) Regulations 2016.

Suppliers from the Republic of India will be afforded the same rights as suppliers from the United Kingdom for relevant contracts. This will apply to procurements that start on or after the date on which the agreement enters into force.

The UK Government is expected to make similar changes to procurement legislation in England and Northern Ireland, while the Welsh Government is expected to make similar changes to procurement legislation in Wales.

This instrument relies on an enabling power in section 91 of the UK Government's Procurement Act 2023. Section 122 of the Act, which sets out the parliamentary procedures to which regulations made using powers in the Act are subject, erroneously refers at paragraph (14)(a) to an enabling power in section 90, rather than in section 91. There is no enabling power in section 90; this is an error which occurred during renumbering of the Bill's clauses during its passage. A correction slip[1] clarifies that this should read section 91.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Public Procurement (India Trade Agreement) (Miscellaneous Amendment)

[1] https://www.legislation.gov.uk/ukpga/2023/54/pdfs/ukpgacs_20230054_en_001.pdf

(Scotland) Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration
This SSI is not directly relevant to the Scottish Government's policy to maintain alignment with the EU, since the EU does not currently have a Free Trade Agreement with the Republic of India. This SSI is purely consequential on the CETA between the UK and India and means Scotland can fulfil international obligations.

Consultation
There has been no consultation on this SSI as the CETA is an international obligation which must be implemented. The Scottish Government does not have any substantive discretion in the matter.

Impact Assessments
Impact assessments have not been carried out in relation to this instrument as any impacts are brought about by the agreement concluded by the UK Government, rather than this instrument, which merely implements the technical provisions of that agreement.

Financial Effects
The Minister for Public Finance confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Scottish Procurement and Property Directorate

January 2026