
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 446

The Public Contracts (Scotland) Regulations 2015

PART 2 **S**

RULES IMPLEMENTING THE PUBLIC CONTRACTS DIRECTIVE

CHAPTER 3 **S**

PARTICULAR PROCUREMENT REGIMES

SECTION 8

Rules Governing Design Contests

Scope of Section 8 **S**

77.—(1) This Section applies to—

- (a) design contests organised as part of a procedure leading to the award of a public service contract;
- (b) design contests with prizes or payments to participants.

(2) In the cases referred to in paragraph (1)(a), the threshold referred to in regulation 5 (thresholds) is calculated on the basis of the estimated value net of VAT of the public service contract, including any possible prizes or payments to participants.

(3) In the cases referred to in paragraph (1)(b), the threshold referred to in regulation 5 (thresholds) is calculated on the basis of the total amount of the prizes and payments, including the estimated value net of VAT of the public services contract which might subsequently be concluded following a negotiated procedure without prior publication in accordance with regulation 33(6) and (7) (use of the negotiated procedure without prior publication) if the contracting authority has announced its intention to award such a contract in the contest notice.

Notices **S**

78.—(1) A contracting authority that intends to carry out a design contest must make known its intention by means of a contest notice which includes the information set out in Part E of Annex V to the Directive [^{F1}, but as if—

- (a) in paragraph 2, “the second and third sub-paragraphs of Article 53(1)” were a reference to regulation 54(3) and (4) of these Regulations,
- (b) in paragraph 16, “date of dispatch” were a reference to the date on which the notice is submitted to the UK e-notification service for the purposes of these Regulations].

(2) Where a contracting authority intends to award a subsequent service contract under regulation 33(6) (use of the negotiated procedure without prior publication), this must be indicated in the contest notice.

Changes to legislation: The Public Contracts (Scotland) Regulations 2015, Cross Heading: SECTION 8 is up to date with all changes known to be in force on or before 27 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) The contracting authority must [F2submit] the contest notice for publication in accordance with regulation 52 ([F3publication on the UK e-notification service]).
- (4) A contracting authority that has held a design contest must—
 - (a) [F4submit] a notice of the results of the contest for publication in accordance with regulation 52 ([F5publication on the UK e-notification service]); and
 - (b) be able to prove the date [F6on which the notice was submitted to the UK e-notification service].
- (5) The notice of the results of the contest must include the information set out in Part F of Annex V to the Directive [F7, but as if—
 - (a) paragraph 12 (financing by EU funds) were omitted,
 - (b) in paragraph 13, “in the *Official Journal of the European Union* “ read “on the UK e-notification service (within the meaning of the Public Contracts (Scotland) Regulations 2015”, and
 - (c) in paragraph 14, “date of dispatch” were a reference to the date on which the notice is submitted to the UK e-notification service for the purposes of these Regulations].
- (6) A contracting authority may withhold from publication information on the result of the contest where the release of the information—
 - (a) would impede law enforcement or otherwise be contrary to the public interest;
 - (b) would prejudice the commercial interests of any person; or
 - (c) might prejudice fair competition between economic operators.

Textual Amendments

- F1** Reg. 78(1)(a)(b) and words inserted (31.12.2020) by The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), 4(53)(a) (with sch. paras. 1-5)
- F2** Word in reg. 78(3) substituted (31.12.2020) by The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), 4(53)(b)(i) (with sch. paras. 1-5)
- F3** Words in reg. 78(3) substituted (31.12.2020) by The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), 4(53)(b)(ii) (with sch. paras. 1-5)
- F4** Word in reg. 78(4)(a) substituted (31.12.2020) by The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), 4(53)(c)(i)(aa) (with sch. paras. 1-5)
- F5** Words in reg. 78(4)(a) substituted (31.12.2020) by The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), 4(53)(c)(i)(bb) (with sch. paras. 1-5)
- F6** Words in reg. 78(4)(b) substituted (31.12.2020) by The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), 4(53)(c)(ii) (with sch. paras. 1-5)
- F7** Reg. 78(5)(a)-(c) and words inserted (31.12.2020) by The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), 4(53)(d) (with sch. paras. 1-5)

Rules on the organisation of design contests and the selection of participants S

79.—(1) When organising a design contest, a contracting authority must apply procedures which are adapted to the provisions of Chapter 1 and this Section.

[F8(2)

(3) Where a design contest is restricted to a limited number of participants, the contracting authority must—

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- (a) lay down clear and non-discriminatory selection criteria; and
- (b) ensure that the number of candidates invited to participate is sufficient to ensure genuine competition in so far as there are enough qualified candidates.

Textual Amendments

F8 Reg. 79(2) omitted (31.12.2020) by virtue of [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **4(54)** (with sch. paras. 1-5)

Modifications etc. (not altering text)

C1 Reg. 79 modified by SSI 2013/50, Sch. 3 para. 10(2)(a) (as substituted (18.4.2016) by [The Utilities Contracts \(Scotland\) Regulations 2016 \(S.S.I. 2016/49\)](#), reg. 1, **sch. 3 para. 3(2)(c)**)

Appointment and composition of the jury **S**

80.—(1) A contracting authority must appoint a jury which must be composed exclusively of natural persons who are independent of participants in the contest.

(2) Where a particular professional qualification is required from participants in a contest, at least a third of the members of the jury must have that qualification or an equivalent qualification.

Decisions of the jury **S**

81.—(1) The jury must be autonomous in its decisions and opinions.

(2) The jury must examine the plans and projects submitted by the candidates anonymously and solely on the basis of the criteria indicated in the contest notice.

(3) The jury must record its ranking of projects in a report, signed by its members, made according to the merits of each project, together with its remarks and any points that may need clarification.

(4) Anonymity must be observed until the jury has reached its opinion or decision.

(5) Candidates may be invited, if need be, to answer questions that the jury has recorded in the minutes to clarify any aspect of the projects.

(6) Complete minutes must be recorded of the dialogue between jury members and candidates.

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Changes and effects yet to be applied to :

- Regulations applied by [2023 c. 54 s. 119\(2\)\(a\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 11(1)(e)(i)(aa) words substituted by [S.S.I. 2019/112 reg. 3\(11\)\(a\)\(i\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 11(1)(e)(i)(bb) words substituted by [S.S.I. 2019/112 reg. 3\(11\)\(a\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 78(1)(i)(ii) and words inserted by [S.S.I. 2019/112 reg. 3\(52\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))