

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2023 No. 124**

**The Public Procurement (Miscellaneous  
Amendments) (Scotland) Regulations 2023**

**PART 2**

**Amendments**

**Public Contracts (Scotland) Regulations 2015**

4.—(1) The Public Contracts (Scotland) Regulations 2015<sup>(1)</sup> are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1), in the definition of “procurement document”, omit “where it is used as a means of calling for competition”.

(3) In regulation 5 (thresholds)—

(a) in paragraph (3)(b) for “regulation 6” substitute “regulation 6(1)(a)”,

(b) after paragraph (3) insert—

“(3A) For the avoidance of doubt, in determining for the purpose of paragraph (3) (b) the estimated aggregate value of all the lots, no account is to be taken of a lot if its estimated value is taken to be a certain amount by virtue of regulation 6(1)(b) (rather than being an amount calculated in accordance with regulation 6(1)(a)).”.

(4) In regulation 6 (methods for calculating the estimated value)—

(a) in paragraph (1)—

(i) the words from “calculate” to the end become sub-paragraph (a),

(ii) in that sub-paragraph, after “calculate” insert “in accordance with the following paragraphs”,

(iii) at the end of that sub-paragraph insert—

“; or

(b) if it is not possible to calculate the estimated value of a contract, take its estimated value to be equal to the relevant threshold mentioned in regulation 5”,

(b) the regulation’s heading becomes “Estimating value”.

(5) In regulation 27 (choice of procedures)—

(a) for paragraph (2) substitute—

“(2) A call for competition must be made by means of a contract notice in accordance with regulation 50 (contract notices).”.

(b) omit paragraph (8).

(6) In regulation 28 (open procedure), in paragraph (4) omit from “which was” to “procedures”.

- (7) In regulation 29 (restricted procedure)—
  - (a) omit paragraph (3)(b) and the “or” immediately preceding it,
  - (b) in paragraph (7), omit from “which was” to “competition”.
- (8) In regulation 30 (competitive procedure with negotiation)—
  - (a) omit paragraph (5)(b) and the “or” immediately preceding it,
  - (b) in paragraph (7), omit from “which was” to “competition”.
- (9) In regulation 35 (dynamic purchasing systems)—
  - (a) omit paragraph (8)(b) and the “or” immediately preceding it,
  - (b) in paragraph (22), omit from “or” to the end of the paragraph.
- (10) In regulation 37 (electronic catalogues), in paragraph (5)(a), omit from “or” to “competition”.
- (11) In regulation 46 (variants), in paragraph (2), omit from “or,” to “interest,”.
- (12) In regulation 49 (prior information notices)—
  - (a) omit paragraphs (6) and (7),
  - (b) in paragraph (8), for “Subject to paragraph (9), the” substitute “The”,
  - (c) omit paragraph (9).
- (13) In regulation 51 (contract award notices), omit paragraph (3).
- (14) In regulation 55 (invitations to candidates)—
  - (a) omit paragraph (3),
  - (b) in paragraph (4), for “to (3)” substitute “and (2)”,
  - (c) omit paragraph (6).
- (15) In regulation 73 (termination of contracts), after paragraph (3) insert—
  - “(4) A contracting authority must not terminate a public contract in a manner that circumvents the obligations under these Regulations.”.
- (16) In regulation 75 (publication of notices), omit paragraph (1)(b) and the “or” immediately preceding it.
- (17) In regulation 76 (principles of awarding contracts), in paragraph (4), omit “or prior information notice”.
- (18) In schedule 4A (international trade agreements), after the last entry (for Iceland, the Principality of Liechtenstein and the Kingdom of Norway), insert—

“Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Australia, signed at London on 16th December 2021 and Adelaide on 17th December 2021.  
Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and New Zealand, signed at London on 28th February 2022.”.