

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively arising from the withdrawal of the UK from the European Union.

The opportunity is also taken to amend (under powers conferred by section 2(2) of the European Communities Act 1972 (c.68)) a small number of other matters which would otherwise have required separate regulations to have been brought forward by the Scottish Government.

These Regulations make amendments in the field of public procurement. Part 2 amends the Procurement Reform (Scotland) Act 2014 (asp 12). Part 3 amends secondary legislation. In particular, Chapters 1, 2, 3, 4, and 5 of Part 3 amend the Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446), the Utilities Contracts (Scotland) Regulations 2016 (S.S.I. 2016/49), the Concession Contracts (Scotland) Regulations 2016 (S.S.I. 2016/65), the Procurement (Scotland) Regulations 2016 (S.S.I. 2016/145), the Public Contracts (Scotland) Regulations 2012 (S.S.I. 2012/88) and the Utilities Contract (Scotland) Regulations 2012 (S.S.I. 2012/89) respectively. The schedule makes transitional and savings provisions.

The power contained in section 2(2) of the European Communities Act 1972 has been relied upon for amendments made by regulation 5(2)(a)(iii), (3)(a), (23)(b), (36), (50)(a) and (c) and regulation 7(7)(a) and (29)(c) of these Regulations.