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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2019 No.**

**The Public Procurement etc. (Scotland)  
(Amendment) (EU Exit) Regulations 2019**

**PART 2**

**AMENDMENT OF PRIMARY LEGISLATION**

**The Procurement Reform (Scotland) Act 2014**

2. The Procurement Reform (Scotland) Act 2014 is amended as follows—
- (a) for section 8(4) (general duties), substitute—

“(4) A relevant economic operator is an economic operator who is a national of, or is established in, the United Kingdom or Gibraltar.”,
  - (b) in each of sections 8(5) (general duties), 11(1) (supported businesses), 27(1) (exclusion of economic operators on grounds of criminal activity), 28(1) (selection of tenderers), 32(1) (giving reasons to unsuccessful participants), 33(1) (request for further information) and 37(1) (actionable duties) for “an EU-regulated procurement” substitute “a higher value regulated procurement”,
  - (c) in section 30(1) (technical specifications), for “EU-regulated procurements” substitute “higher value regulated procurements”,
  - (d) for section 37(3) (actionable duties), substitute—

“(3) A relevant person is an economic operator who is a national of, or is established in, the United Kingdom or Gibraltar.”,
  - (e) in section 41 (the Directive, Public Contracts Regulations and EU-regulated procurements) —
    - (i) for the heading substitute “Public Contracts Regulations and Higher Value Regulated Procurements”,
    - (ii) omit subsections (1)(a) and (2)(a),
    - (iii) in paragraph (1)(c)(1) for “an “EU-regulated procurement”” substitute “a “higher value regulated procurement””.
  - (f) in section 42 (general interpretation)—
    - (i) for the meaning of “public contract” substitute “a contract for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities and having as its object the execution of works, the supply of products or the provision of services”,
    - (ii) for the meaning of “public works contract” substitute—

“a public contract having as its object one of the following—

- (a) the execution or the design and execution of works related to one of the activities within the meaning of schedule 2 of the Public Contracts Regulations,
  - (b) the execution or the design and execution of a work,
  - (c) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work,  
(except in a subsidised public works contract),”
- (iii) at the end of sub-section (1) insert—
- ““work” means the outcome of building or civil engineering works taken as a whole which is sufficient in itself to fulfil an economic or technical function.”.