
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Public Contracts (Scotland) Regulations 2012 (“the 2012 Regulations”).

Part 2 implements, for Scotland, Directive 2014/24/EU of the European Parliament and of the Council on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p.65).

The Part imposes obligations on public bodies called contracting authorities in relation to how they award public contracts for the execution of works, the supply of products or the provision of services. In particular:

- Chapter 1 sets out the scope of the Part (including by reference to thresholds based on the estimated value of the procurement) and lays down some general rules and principles that apply to procurements within the scope of the Part;
- Chapter 2 sets out detailed rules to be followed in relation to procurement procedures (except where Chapter 3 applies);
- Chapter 3 establishes particular procurement regimes for the procurement of social and other specific services and the use of design contests: these regimes impose less detailed requirements and allow greater flexibilities than under Chapter 2;
- Chapter 4 imposes certain requirements on contracting authorities in relation to records and reports, including requirements about retaining copies of contracts above a certain value, drawing up individual reports about procurements, sending information about procurements to the Scottish Ministers and European Commission on request, and documenting the progress of procurement procedures.

^{M1}Part 3 contains provisions about remedies (and their facilitation) in relation to procurements within the scope of Part 2. These provisions replace Part 9 of the 2012 Regulations. In so doing, they implement, for Scotland, Council Directive 89/665/EEC on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30.12.1989, p.33) as amended .

Part 4 contains provisions which:

- revoke the 2012 Regulations and make consequential and miscellaneous amendments to primary and secondary legislation.
- make transitional and transitory provision and savings, including provision for certain concession contracts, and for certain procurement procedures commenced before the commencement of these Regulations, not to be affected by these Regulations.

A regulatory impact assessment was published on 19th March 2015 (<http://www.gov.scot/Topics/Government/Procurement/policy/ProcurementReform/implementEUDirProcRef/PartBRIA>).

An updated assessment will be published and will be available from the Scottish Parliament Information Centre in 2016.

Status:

Point in time view as at 25/01/2023.

Changes to legislation:

The Public Contracts (Scotland) Regulations 2015 is up to date with all changes known to be in force on or before 17 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.