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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 446**

**The Public Contracts (Scotland) Regulations 2015**

**PART 2**

**RULES IMPLEMENTING THE PUBLIC CONTRACTS DIRECTIVE**

**CHAPTER 1**

**SCOPE AND GENERAL PRINCIPLES**

*SECTION 1*

*Scope*

**Exclusions: Specific service contracts**

**11.**—(1) These Regulations do not apply to procurement for the award of a public service contract, framework agreement or dynamic purchasing system—

- (a) for the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or of any estate, right, servitude or other interest in or over such land, buildings or property;
- (b) by an audio-visual or radio media service provider, for the acquisition, development production or co-production of programme material intended for audio-visual media services or radio media services;
- (c) to an audio-visual or radio media service provider, for broadcasting time or programme provision;
- (d) for arbitration or conciliation services;
- (e) for any of the following legal services—
  - (i) legal representation of a client by a lawyer<sup>F1</sup>... in—
    - (aa) an arbitration or conciliation held in [<sup>F2</sup>the United Kingdom, another] country or before an international arbitration or conciliation instance; or
    - (bb) judicial proceedings before the courts, tribunals or public authorities of [<sup>F3</sup>the United Kingdom or another] country or before international courts, tribunals or institutions;
  - (ii) legal advice given by a lawyer<sup>F4</sup>...—
    - (aa) in preparation of any proceedings referred to in paragraph (i); or
    - (bb) where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings;
  - (iii) document certification or authentication services which must be provided by a notary public;

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** The Public Contracts (Scotland) Regulations 2015, Section 11 is up to date with all changes known to be in force on or before 11 June 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)

- (iv) legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court or tribunal <sup>F5</sup> ... or are designated by law to carry out specific tasks under the supervision of such tribunals or courts;
  - (v) other legal services which <sup>F6</sup> ... are connected, even occasionally, with the exercise of official authority;
  - (f) for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC <sup>M1</sup> as amended from time to time;
  - (g) for central bank services;
  - (h) for operations conducted with the European Financial Stability Facility or the European Stability Mechanism;
  - (i) for loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments;
  - (j) which is an employment contract;
  - (k) for civil defence, civil protection or danger prevention services that are provided by non-profit organisations or associations, and which are specified under CPV Codes 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and 85143000-3 except patient transport ambulance services;
  - (l) for public passenger transport services by rail or metro; or
  - (m) for political campaign services which are specified under CPV Codes 79341400-0, 92111230-3 and 92111240-6, when awarded by a political party in the context of an election campaign.
- (2) In this Regulation—
- (a) “audio-visual media services” has the meaning given by Article 1(1)(a) of the Audio-visual Media Services Directive;
  - (b) “Audio-visual Media Services Directive” means Directive 2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services as amended from time to time <sup>M2</sup>;
  - <sup>F7</sup>(c) “lawyer” means a person practising as an advocate, barrister or solicitor in any part of the United Kingdom or in Gibraltar;
  - (d) “media service provider” has the meaning given by Article 1(1)(d) of the Audio-visual Media Services Directive; and
  - (e) “programme” and “programme material” have the meaning given by Article 1(1)(b) of the Audio-visual Media Services Directive but also include radio programmes and radio programme material.

### Textual Amendments

- F1** Words in [reg. 11\(1\)\(e\)\(i\)](#) 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(10)(a)(i)** (with sch. paras. 1-5)

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- F2** Words in reg. 11(1)(e)(i)(aa) substituted (31.12.2020) by The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), **4(10)(a)(ii)** (with sch. paras. 1-5)
- F3** Words in reg. 11(1)(e)(i)(bb) substituted (31.12.2020) by The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), **4(10)(a)(iii)** (with sch. paras. 1-5)
- F4** Words in reg. 11(1)(e)(ii) 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(10)(b)** (with sch. paras. 1-5)
- F5** Words in reg. 11(1)(e)(iv) 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(10)(c)** (with sch. paras. 1-5)
- F6** Words in reg. 11(1)(e)(v) 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(10)(d)** (with sch. paras. 1-5)
- F7** Reg. 11(2)(c) substituted (31.12.2020) by The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), **4(10)(e)** (with sch. paras. 1-5)

#### Marginal Citations

- M1** OJ L 145, 30.4.2004, p.1.  
**M2** OJ L 95, 15.4.2010, p.1.

**Status:**

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**Changes to legislation:**

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