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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 446**

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

**PART 3**

**REMEDIES**

**CHAPTER 6**

**APPLICATIONS TO THE COURT**

**General interest grounds for not making a declaration of ineffectiveness**

**93.**—(1) The court may decline to make an ineffectiveness order where the court is satisfied that overriding reasons relating to a general interest require that the enforceability of the rights and obligations arising from the contract or framework agreement should be maintained.

(2) For the purposes of paragraph (1)—

- (a) economic interests directly linked to the contract or framework agreement do not constitute overriding reasons relating to a general interest; and
- (b) economic interests in the effectiveness of the contract or framework agreement may only be considered as overriding reasons relating to a general interest in exceptional circumstances where ineffectiveness would lead to disproportionate consequences.

(3) For the purposes of paragraph (2)(a), economic interests directly linked to the contract or framework agreement include the costs—

- (a) resulting from the delay in the performance of the contract or framework agreement;
- (b) resulting from the commencement of a new procurement procedure;
- (c) resulting from the change of the economic operator performing the contract or framework agreement; and
- (d) of legal obligations resulting from an ineffectiveness order.

**Changes to legislation:**

The Public Contracts (Scotland) Regulations 2015, Section 93 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- Regulations applied by [2023 c. 54 s. 119\(2\)\(a\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 11(1)(e)(i)(aa) words substituted by [S.S.I. 2019/112 reg. 3\(11\)\(a\)\(i\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 11(1)(e)(i)(bb) words substituted by [S.S.I. 2019/112 reg. 3\(11\)\(a\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 78(1)(i)(ii) and words inserted by [S.S.I. 2019/112 reg. 3\(52\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))