

## SCOTTISH STATUTORY INSTRUMENTS

# 2016 No. 49

## The Utilities Contracts (Scotland) Regulations 2016

### PART 1

#### GENERAL

#### CHAPTER 1

#### CITATION, COMMENCEMENT, EXTENT, DEFINITIONS AND SUBJECT-MATTER

#### Subject-matter and application of these Regulations

**3.**—(1) Parts 1 to 4 establish rules on the procedures for procurement for the award of a contract, or [<sup>F1</sup>for the organisation] of a design contest, by a utility which—

- (a) has a value estimated to be not less than the threshold mentioned in regulation 15 (thresholds); and
- (b) is not excluded from the scope of Parts 1 to 4 by any other provision in Chapters 2 and 3 of this Part.

[<sup>F2</sup>(2) Parts 1 to 4—

- (a) do not oblige the United Kingdom to supply information the disclosure of which it considers contrary to the essential interests of its security,
- (b) do not preclude the United Kingdom from taking such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material, provided that such measures do not adversely affect the conditions of competition regarding products which are not intended for specifically military purposes.

(2A) The arms, munitions and war material to which paragraph (2)(b) applies are those included in the 1958 List.

(2B) Any measures which, if they had been taken immediately before IP completion day, would have been covered by Article 346 of the TFEU shall be regarded as measures covered by paragraph (2)(b).

(2C) In this regulation, “the 1958 List” means the list of arms, munitions and war material adopted by the Council of the European Economic Community in its Decision 255/58 of 15 April 1958 as that list is to be treated for the purpose of Parts 1 to 4 of the Utilities Contracts Regulations 2016<sup>F3</sup>.]

(3) The scope of Parts 1 to 4 does not include non-economic services of general interest.

#### Textual Amendments

**F1** Words in reg. 3(1) substituted (1.7.2019) by [The Public Procurement etc. \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/173\)](#), regs. 1(2), 2(3)

**F2** Reg. 3(2)-(2C) substituted for reg. 3(2) (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), 6(3)(a) (with sch. paras. 1-5)

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**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Utilities Contracts (Scotland) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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**F3** [S.I. 2016/274](#), amended by [S.I. 2016/696](#).

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**Commencement Information**

**I1** [Reg. 3](#) in force at 18.4.2016, see [reg. 1\(2\)](#)

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

- Regulations applied by 2023 c. 54 s. 119(2)(b)
- Regulations power to amend conferred by 2023 c. 54 s. 115(3)(4)
- reg. 3(1) words substituted by S.S.I. 2019/112 reg. 5(3)(a) (This amendment not applied to legislation.gov.uk. Reg. 5(3)(a) revoked without ever coming into force by S.S.I. 2019/173, reg. 4(2))

### 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):

- Pt. 5A inserted by S.S.I. 2019/112 reg. 5(61) (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. 3(2)-(2C) substituted for reg. 3(2) by S.S.I. 2019/112 reg. 5(3)(b) (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. 15A inserted by S.S.I. 2019/112 reg. 5(7) (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. 20(1)(d)(i)(aa) words substituted by S.S.I. 2019/112 reg. 5(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. 20(1)(d)(i)(bb) words substituted by S.S.I. 2019/112 reg. 5(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. 38A inserted by S.S.I. 2019/112 reg. 5(26) (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. 41(1) reg. 41 renumbered as reg. 41(1) by S.S.I. 2019/112 reg. 5(27)(b) (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. 41(1) words omitted by S.S.I. 2019/112 reg. 5(27)(b)(i) (This amendment not applied to legislation.gov.uk. Reg. 5(27)(b)(i) substituted by S.S.I. 2019/114, reg. 2(5)(a)(ii)(aa) and then S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 41(1) words substituted by S.S.I. 2019/112 reg. 5(27)(b)(ii) (This amendment not applied to legislation.gov.uk. Reg. 5(27)(b)(ii) omitted by virtue of S.S.I. 2019/114, reg. 2(5)(a)(ii)(bb))
- reg. 41(1) words substituted by S.S.I. 2019/112 reg. 5(27)(b)(iii) (This amendment not applied to legislation.gov.uk. Reg. 5(27)(b)(iii) substituted by S.S.I. 2019/114, reg. 2(5)(a)(ii)(cc) and then S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 41(1) words substituted by S.S.I. 2019/112, reg. 5(27)(b)(i) (as substituted) by S.S.I. 2019/114 reg. 2(5)(a)(ii) (This amendment not applied to legislation.gov.uk. S.S.I. 2019/114 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(b))
- reg. 41(1) words substituted by S.S.I. 2019/112, reg. 5(27)(b)(iii) (as substituted) by S.S.I. 2019/114 reg. 2(5)(a)(ii) (This amendment not applied to legislation.gov.uk.

S.S.I. 2019/114 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(b))

- reg. 41(2) inserted by [S.S.I. 2019/112 reg. 5\(27\)\(c\)](#) (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. 50(25)(25A) substituted for reg. 50(25) by [S.S.I. 2019/112 reg. 5\(33\)\(c\)](#) (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. 66(2A) inserted by [S.S.I. 2019/112 reg. 5\(38\)\(b\)](#) (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. 69(5)(6) inserted by [S.S.I. 2019/112 reg. 5\(41\)\(f\)](#) (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. 74(6A)-(6C) inserted by [S.S.I. 2019/112 reg. 5\(44\)\(c\)](#) (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. 100(3)(3A) substituted for reg. 100(3) by [S.S.I. 2019/112 reg. 5\(58\)\(c\)](#) (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. 100(4A) inserted by S.S.I. 2019/112, reg. 5(58)(da) (as substituted) by [S.S.I. 2019/114 reg. 2\(5\)\(c\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/114 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(b))