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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Part 2 of the Defence Reform Act 2014 (c. 20) (“the Act”) establishes a regulatory framework for single source contracts (that is, contracts which are not subject to competitive tendering processes) to procure goods, works and services for defence purposes. The framework applies to qualifying defence contracts (that is, contracts to which the Secretary of State is a party and which meet the criteria in section 14(2) of the Act) and to qualifying sub-contracts (that is, contracts intended to secure the delivery of goods, works or services required under a qualifying defence contract and which meet the criteria in section 28(3) or (4) of the Act). The framework is overseen and monitored by the Single Source Regulations Office (“the SSRO”), a non-departmental public body established by the Act. The Single Source Contract Regulations 2014 (S.I. 2014/3337) (“the Principal Regulations”) were made to implement the detail of the Act’s framework.

Part 2 of the Act has been amended by Schedule 10 to the Procurement Act 2023 (c. 54) for three broad purposes—

- (a) to expand the definition of “qualifying defence contracts” to include contracts which procure goods, works and services which are substantially (as well as wholly) for defence purposes,
- (b) to authorise the introduction of a wider range of pricing methods (“alternative pricing methods”) to account for the range of commercial circumstances in which single source contracts operate, and
- (c) to more easily enable distinct parts of qualifying defence contracts to be separated into components of the contract so that they can be priced distinctly and managed appropriately.

These Regulations amend the Principal Regulations to implement the detail of these amendments to the Act. In particular—

- (a) regulation 4 substitutes regulation 3 of the Principal Regulations to provide a new definition of contracts which are “substantially for defence purposes”;
- (b) regulation 11 inserts new regulation 9A into the Principal Regulations to describe the circumstances in which a part of a contract becomes a component of the contract;
- (c) regulation 12 inserts new regulation 9B into the Principal Regulations to introduce the mechanism by which the parties to a qualifying defence contract may agree to price the contract (or a component of such a contract) using an alternative pricing method instead of an existing pricing method;
- (d) regulation 24 inserts into the Principal Regulations the descriptions of the new alternative pricing methods—
  - (i) new regulation 19A describes how to price a contract or component for the supply of goods, works or services which have previously been provided on a commercial basis;
  - (ii) new regulation 19B describes how to price a contract or component for the supply of goods, works or services the price of which is affected by law (whether of the United Kingdom or otherwise);
  - (iii) new regulation 19C describes how to price a contract which was not, but has become, a qualifying defence contract, and how to price the supply of goods, works or services

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- which were to be provided under one qualifying defence contract and are now to be provided under another;
- (iv) new regulation 19D describes how to price a contract which is novated;
  - (v) new regulation 19E describes how to price a contract or component for the supply of goods, works or services the unit price or rate of which has been agreed pursuant to a competitive process, but the volume has not;
  - (vi) new regulation 19F describes how to price a contract or component where there has been error in the calculation of the contract profit rate under regulation 11, or where the parties agree that a change should be made to the incentive adjustment element of contract profit rate;
  - (vii) new regulation 19G describes how to price a contract which contains components where the parties wish to make an adjustment to the price to account for commercial risk arising from the aggregation of the components;
- (e) regulations 26 to 35 amend Part 5 of the Principal Regulations, primarily to modify and expand contract reporting requirements to secure that components of contracts are properly reported on;
  - (f) regulations 39 and 40 amend regulations 51 and 52 of the Principal Regulations to expand the matters on which the SSRO is required to give an opinion or make a determination, primarily in consequence of the introduction of alternative pricing mechanisms;
  - (g) regulation 42 amends regulation 65 of the Principal Regulations to secure that the amendments made by these Regulations are modified appropriately in their application to qualifying sub-contracts;
  - (h) regulation 43 amends the Schedule to the Principal Regulations, primarily to add a new Part 4 of that Schedule which deals with the re-determination of the price of a qualifying defence contract, or a component of such a contract, which was originally priced under an alternative pricing mechanism and which is subsequently amended.

These Regulations make further minor amendments to the Principal Regulations in consequence of the amendments to the Act and to correct errors.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is published alongside this instrument on [legislation.gov.uk](https://legislation.gov.uk).