

PROCUREMENT REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: General

Interpretation

Section 41 – The Directive, Public Contracts Regulations and EU-regulated procurements

81. This section provides definitions of these terms as used in the Act. Section 41(2) gives the Scottish Ministers the power to amend the definition of “the Directive” in the Act to take account of any new or subsequent EU directive relevant to this Act. It also gives the Scottish Ministers the power to amend the definition of “Public Contracts Regulations” in the Act to give the flexibility to take account of any relevant changes - for example to refer to an instrument that implements a new EU public procurement directive.
82. [Section 41\(3\)](#) provides that an order amending the definition of “the Directive” or of “the Public Contracts Regulations” may make appropriate consequential modifications to the Act.

Section 42 – General interpretation

83. [Section 42\(1\)](#) and [\(2\)](#) provide definitions of terms used in the Act.

Final provisions

Section 43 – Ancillary provision

84. [Section 43](#) provides the Scottish Ministers with the power to make an order making such supplementary, incidental, consequential, transitional or transitory provision or savings as they consider appropriate. Any such order will be subject to the affirmative procedure if the order adds to, replaces or omits any part of the text of an Act (see [section 44\(2\)](#)), otherwise it will be subject to the negative procedure.

Section 44 – Subordinate legislation

85. [Section 44\(1\)](#) provides that any power of the Scottish Ministers to make an order or regulations under the Act includes powers to make different provision for different purposes and such supplementary, incidental, consequential, transitional, transitory or saving provision as they consider appropriate.
86. [Section 44\(4\)](#) provides that this section does not apply to commencement orders.

Section 45 – Commencement

87. [Section 45](#) provides for sections 41, 42, 43, 44, 45 and 46 of the Act to come into force on the day of Royal Assent. Section 45(2) provides for the other provisions of the Act to be commenced by order made by the Scottish Ministers. Such an order may include transitional, transitory or savings provision.

Section 46 – Short title

88. This section states the short title of the Act as being the Procurement Reform (Scotland) Act 2014.