



Procurement Reform (Scotland) Act 2014

2014 asp 12

PART 1

KEY CONCEPTS AND APPLICATION

Contracting authorities

1 Contracting authorities

- (1) For the purposes of this Act, a “contracting authority” is—
 - (a) a body, office-holder or other person listed in the schedule, or
 - (b) any other person who is a contracting authority for the purposes of the Public Contracts Regulations and whose functions—
 - (i) are exercisable in or as regards Scotland, and
 - (ii) do not relate to reserved matters within the meaning of the Scotland Act 1998 (c.46).
- (2) The Scottish Ministers may by order modify the meaning of “contracting authority” for the purposes of this Act.
- (3) An order under subsection (2) may amend subsection (1) and the schedule.

Commencement Information

- II [S. 1](#) in force at 28.9.2015 by [S.S.I. 2015/331](#), [art. 3](#)

Regulated procurements

2 Regulated procurements

For the purposes of this Act, a “regulated procurement” is—

- (a) any procedure carried out by a contracting authority in relation to the award of a proposed regulated contract including, in particular—
 - (i) the seeking of offers in relation to the contract, and

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- (ii) the selection of economic operators,
- (b) the award of a regulated contract by a contracting authority.

Commencement Information

I2 [S. 2](#) in force at 28.9.2015 by [S.S.I. 2015/331](#), [art. 3](#)

Regulated contracts

3 Regulated contracts

- (1) A contract is regulated if—
 - (a) it is a public contract,
 - (b) the estimated value of the contract (see section 5) is equal to or greater than the contract threshold, and
 - (c) the contract is not an excluded contract (see section 4).
- (2) For the purposes of this Act, the contract threshold is as follows—

Type of contract	Threshold
Public contract (other than a public works contract)	£50,000
Public works contract	£2,000,000

- (3) The Scottish Ministers may by order amend the table in subsection (2) so as to substitute for the figures specified there for the time being such other figures as they consider appropriate.

Commencement Information

I3 [S. 3](#) in force at 18.4.2016 by [S.S.I. 2016/30](#), [art. 3](#) (with [art. 5](#))

4 Excluded contracts

- (1) A contract is an excluded contract for the purposes of section 3 if—
 - (a) it is a contract of a kind [^{F1}to which Public Contracts Regulations do not apply by virtue of regulation 4 or 7 to 18 of those regulations],
 - (b) the following conditions apply—
 - (i) it is for the purpose of acquiring goods, works or services in order to sell, hire or provide them to other persons,
 - (ii) the contracting authority will not have an exclusive right to sell, hire or provide the goods, works or services, and
 - (iii) the conditions on which the contracting authority intends to sell, hire or provide them are the same as or similar to the conditions on which another person could sell, hire or provide the same or similar goods, works or services, or

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- (c) the principal purpose of the contract is to acquire goods, works or services in connection with research or development undertaken by the contracting authority.
- (2) The Scottish Ministers may by regulations amend subsection (1) so as to modify the kinds of contracts which are or are not excluded contracts.

Textual Amendments

F1 Words in [s. 4\(1\)](#) substituted (18.4.2016) by [The Public Contracts \(Scotland\) Regulations 2015 \(S.S.I. 2015/446\)](#), [reg. 1\(2\)](#), [Sch. 6 para. 2\(2\)](#) (with [regs. 3-18, 99-101](#))

Commencement Information

I4 S. 4 in force at 18.4.2016 by [S.S.I. 2016/30](#), [art. 3](#) (with [art. 5](#))

5 Estimated value of contract

- (1) For the purposes of this Act, the estimated value of a contract is the value of the total consideration (not including value added tax) which the contracting authority expects to be payable under or by virtue of the contract.
- (2) The Scottish Ministers may by regulations make further provision about how the estimated value of a contract is to be determined.

Commencement Information

I5 [S. 5](#) in force at 18.4.2016 by [S.S.I. 2016/30](#), [art. 3](#) (with [art. 5](#))

Framework agreements and dynamic purchasing systems

6 Framework agreements and call-off contracts

- (1) For the purposes of this Act—
 - (a) a framework agreement is an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing public contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged,
 - (b) a call-off contract is a contract awarded under a framework agreement.
- (2) This Act applies to framework agreements and call-off contracts as follows—
 - (a) a framework agreement is treated as a public contract for the purposes of section 3 (and references to “contract” elsewhere in this Act are to be construed accordingly),
 - (b) the following provisions do not apply to a regulated procurement in so far as it relates to a call-off contract—
 - (i) section 8(2),
 - (ii) section 11,
 - (iii) section 23(1),
 - (iv) section 27.

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Commencement Information

I6 [S. 6](#) in force at 18.4.2016 by [S.S.I. 2016/30](#), [art. 3](#) (with [art. 5](#))

7 **Dynamic purchasing systems**

- (1) The Scottish Ministers may by regulations make provision about dynamic purchasing systems including, in particular, provision—
- (a) applying this Act to the establishment and operation of a dynamic purchasing system as it applies to the carrying out of a regulated procurement with such modifications as the regulations may specify,
 - (b) modifying the application of this Act to a contract awarded under a dynamic purchasing system.
- (2) For the purposes of subsection (1), a dynamic purchasing system is an electronic system—
- (a) established by a contracting authority to purchase goods, services or works which are—
 - (i) commonly used by the authority, and
 - (ii) readily available on the market, and
 - (b) which is open to any economic operator who satisfies selection criteria specified by the contracting authority.

Commencement Information

I7 [S. 7](#) in force at 18.4.2016 by [S.S.I. 2016/30](#), [art. 3](#) (with [art. 5](#))

Changes to legislation:

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

- Act power to amend conferred by [2023 c. 54 s. 115\(3\)\(4\)](#)

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

- sch. para. 40A inserted by [2023 asp 6 sch. 2 para. 5\(2\)](#)