



Procurement Reform (Scotland) Act 2014

2014 asp 12

PART 3

SPECIFIC DUTIES

Selection of tenderers and award of contracts

28 Selection of tenderers

- (1) The Scottish Ministers may by regulations make further provision about the selection by contracting authorities of economic operators in relation to a regulated procurement (other than [^{F1}a higher value regulated procurement]) including, in particular, provision about—
 - (a) the use of minimum standard requirements to assess the suitability of economic operators in relation to a regulated procurement,
 - (b) the circumstances in which an economic operator may or may not be excluded on the basis of criteria specified in the regulations,
 - (c) the procedure that is to be followed in determining whether or not to exclude an economic operator.
- (2) In subsection (1)(a), a minimum standard requirement is a requirement that an economic operator has a particular financial standing, technical ability or other characteristic.
- (3) Without prejudice to the generality of subsection (1)(b), criteria which may be specified in the regulations include—
 - (a) that—
 - (i) the economic operator,
 - (ii) a director, secretary, office-holder or partner of the economic operator, or
 - (iii) another person having powers of representation, decision-making or control in relation to the economic operator,has been convicted of an offence,
 - (b) that the economic operator has failed to comply with—
 - (i) an obligation in relation to the payment of tax, or

Changes to legislation: Procurement Reform (Scotland) Act 2014, Section 28 is up to date with all changes known to be in force on or before 24 April 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. (See end of Document for details) View outstanding changes

- (ii) another statutory duty (other than by committing an offence) specified in the regulations,
 - (c) that the economic operator has committed an act of misconduct of a kind specified in the regulations,
 - (d) that the economic operator has entered into an agreement with another economic operator aimed at distorting competition,
 - (e) that the economic operator does not have a licence, possession of which is necessary to perform the contract,
 - (f) that the economic operator is not a member of a regulatory body, membership of which is necessary to perform the contract,
 - (g) that the economic operator has granted a trust deed for creditors or become otherwise apparently insolvent or is the subject of a petition presented for sequestration,
 - (h) that a receiver or administrator has been appointed in relation to the economic operator,
 - (i) that the economic operator's performance in relation to another regulated procurement was not satisfactory.
- (4) Regulations under this section may make provision specifying evidence that is to be conclusive in determining whether or not such criteria are met.

Textual Amendments

- F1** Words in s. 28(1) substituted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **3(3)** (with sch. paras. 1-5)
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Commencement Information

- I1** S. 28 in force at 18.4.2016 by [S.S.I. 2016/30](#), **art. 3** (with **art. 5**)

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Changes and effects yet to be applied to :

- s. 28(1) words substituted by [S.S.I. 2019/112 reg. 2\(b\)](#) (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))

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\(2\)](#)