



Procurement Reform (Scotland) Act 2014

2014 asp 12

PART 5

GENERAL

Interpretation

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

(1) In this Act—

- (a) “the Directive” means Directive [2004/18/EC](#) of the European Parliament and of the Council,
- (b) “the Public Contracts Regulations” means the Public Contracts (Scotland) Regulations 2012 ([S.S.I. 2012/88](#)), and
- (c) an “EU-regulated procurement” is a regulated procurement to which the Public Contracts Regulations apply by virtue of regulation 5(1).

(2) The Scottish Ministers may by order—

- (a) amend the definition of “the Directive” so as to substitute for the Directive for the time being specified there such successor Directive as they consider appropriate,
- (b) amend the definition of “the Public Contracts Regulations” so as to substitute for the regulations for the time being specified there such other instrument as they consider appropriate.

(3) An order under subsection (2) may make such consequential modifications to subsection (1) and any other provision of this Act as the Scottish Ministers consider appropriate.

42 General interpretation

(1) In this Act—

- “award notice” has the meaning given in section 23(6),
- “community benefit requirement” has the meaning given in section 24,
- “contract notice” has the meaning given in section 23(6),

“contracting authority” has the meaning given in section 1,
“economic operator” means any person who offers the execution of works, the supply of products or the provision of services on the market,
“financial year” means the period of 12 months in respect of which the accounts of the contracting authority in question are prepared,
“public contract” has the same meaning as in the Directive,
“Public Contracts website” has the meaning given in section 22,
“public works contract” has the same meaning as in the Directive,
“regulated procurement” has the meaning given in section 2.

- (2) In this Act, a contracting authority’s area is the area by reference to which the contracting authority primarily exercises its functions, disregarding any areas outside Scotland.

Final provisions

43 Ancillary provision

- (1) The Scottish Ministers may by order make such supplementary, incidental, consequential, transitional or transitory provision or savings as they consider necessary or expedient for the purposes of, or in connection with, any provision made by or under this Act.
- (2) An order under subsection (1) may modify any enactment (including this Act).

44 Subordinate legislation

- (1) Any power conferred by this Act on the Scottish Ministers to make an order or regulations includes the power to make—
- (a) different provision for different cases or descriptions of case or for different purposes,
 - (b) such incidental, supplementary, consequential, transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient.
- (2) Orders or regulations made under the following provisions are subject to the affirmative procedure—
- (a) section 1(2),
 - (b) section 3(3),
 - (c) section 4(2),
 - (d) section 7(1),
 - (e) section 14(1),
 - (f) section 15(6),
 - (g) section 25(5),
 - (h) section 40,
 - (i) section 41(2),
 - (j) section 43 (but only if the order adds to, replaces or omits any part of the text of an Act).
- (3) Any other orders or regulations made under this Act are subject to the negative procedure.

(4) This section does not apply to an order under section 45(2).

45 Commencement

- (1) This section and sections 41, 42, 43, 44 and 46 come into force on the day of Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.
- (3) An order under subsection (2) may contain such transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient.

46 Short title

The short title of this Act is the Procurement Reform (Scotland) Act 2014.