
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

**The Scheme for Construction Contracts
(Scotland) Amendment Regulations 2011**

Amendment of Part II of the Scheme

4.—(1) Part II (payment) of the Scheme is amended as follows.

(2) For paragraph 9, substitute—

“Payment notice

9.—(1) In relation to every payment provided for by the contract, the payer shall, not later than 5 days after the payment due date, give a notice to the payee complying with sub-paragraph (2).

(2) A notice complies with this sub-paragraph if it specifies—

- (a) the sum that the payer considers to be or to have been due at the payment due date;
- (b) the work to which the payment relates; and
- (c) the basis on which that sum is calculated.

(3) For the purposes of this paragraph, it is immaterial that the sum referred to in sub-paragraph (2) may be zero.

(4) A payment provided for by the contract includes any payment of the kind mentioned in paragraphs 2, 5, 6, or 7.”

(3) For paragraph 10, substitute—

“Notice of intention to pay less than the notified sum

10. Any notice of intention to pay less than the notified sum mentioned in section 111(3)(1) of the Act shall be given not later than 7 days before the final date for payment determined—

- (a) in accordance with the construction contract, or
- (b) where no such provision is made in the contract, in accordance with paragraph 8.”

(4) In paragraph 12 (interpretation)—

(a) omit the definition of “claim by the payee”; and

(b) after the definition of “contract price” insert the following definitions—

““making of a claim by the payee” means the giving of a written notice by the payee to the payer specifying—

- (a) the sum that the payee considers to be due from the payer;
- (b) the work to which the sum relates; and
- (c) the basis on which that sum is calculated;

“payee” means the person under a construction contract to whom a payment is due;
“payer” means the person under a construction contract from whom a payment is due;”.