
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Public Contracts (Scotland) Regulations 2006 ([S.S.I. 2006/01](#)) (“the Public Contracts Regulations”) and the Utilities Contracts (Scotland) Regulations 2006 ([S.S.I. 2006/02](#)) (“the Utilities Contracts Regulations”). The amendments implement Article 6 of Council Directive

[2004/17/EC](#) (O.J. L 134, 30.4.2004, p.1) (“the Utilities Directive”) concerning the co-ordination of procurement procedures of entities operating in the water, energy, transport and postal service sectors. Most of the provisions of that Directive are already implemented by the Utilities Contracts Regulations. Article 71 of the Directive allowed an additional period for the implementation of article 6.

Regulation 2 amends the Public Contracts Regulations to remove the Postal Business of the Post Office from the list of “Schedule 1 entities” for the purposes of those Regulations. Those Regulations implement (for Scotland) Council Directive [2004/18/EC](#) (O.J. L 134, 30.4.2004, p.114) (“the Public Sector Directive”) concerning the co-ordination of procedures for the award of public works contracts, public supply contracts and public services contracts. This amendment reflects the extension of the scope of the Utilities Contracts Regulations and the corresponding reduction in the scope of the Public Contracts Regulations (by virtue of regulation 6(l) of the latter Regulations), implementing article 12 of the Public Sector Directive.

Regulation 2(3) makes amending provision to the Public Contracts Regulations to correct an error in Class 45.21 of Schedule 2, as amended by Schedule 1 to the Public Contracts and Utilities Contracts (Common Procurement Vocabulary Codes) Amendment (Scotland) Regulations 2008 ([S.S.I. 2008/291](#)). The note to Class 45.21 now refers to “Long-distance pipelines, communication and power lines”; a separate entry is added to refer to “Urban pipelines, urban communication and power lines” to correctly update the Common Procurement Vocabulary Codes as required by Commission Regulation ([EC](#)) [213/2008](#).

Regulation 3 and the Schedule amend the Utilities Contracts Regulations to bring within the scope of those Regulations the Royal Mail Group Limited and any other “relevant person” (as defined by regulation 3(2) of those Regulations) carrying out activities relating to the provision of postal and certain related services.

Regulation 3(2) makes amending provision to the Utilities Contracts Regulations to correct an error in Class 45.21 of Schedule 3 as amended by Schedule 2 to the Public Contracts and Utilities Contracts (Common Procurement Vocabulary Codes) Amendment (Scotland) Regulations 2008 ([S.S.I. 2008/291](#)). The note to Class 45.21 now refers to “Long-distance pipelines, communication and power lines”; a separate entry is added to refer to “urban pipelines, urban communication and power lines” to correctly update the Common Procurement Vocabulary Codes as required by Commission Regulation ([EC](#)) [213/2008](#).