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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 88**

**The Public Contracts (Scotland) Regulations 2012**

**PART 3**

**PROCEDURES LEADING TO THE AWARD OF A PUBLIC CONTRACT**

**Prior information notices**

**11.**—(1) Subject to paragraphs (4), (5) and (6), a contracting authority must send a notice in the form of the prior information notice in Annex I to [Commission Regulation \(EC\) No 1564/2005](#) and containing the information therein specified to the Commission or publish it on that contracting authority's buyer profile as soon as possible after—

- (a) the beginning of the financial year in the case of public supply contracts or public services contracts or framework agreements for the purchase or hire of goods or for the provision of services; or
  - (b) the decision authorising the programme of public works contracts or framework agreements for the carrying out of work or works, in the case of public works contracts or framework agreements for the carrying out of work or works.
- (2) The notice referred to in paragraph (1) must contain information in respect of—
- (a) the public supply contracts, the public services contracts or the framework agreements referred to in paragraph (1)(a) which the contracting authority expects to award or conclude during the period of 12 months beginning with the date of the notice; and
  - (b) the public works contracts or the framework agreements referred to in paragraph (1)(b) which the contracting authority expects to award or conclude, and that notice must be subdivided to give that information separately for each product area of goods by reference to the CPV nomenclature of each category of works or services as specified in Schedules 2 and 3.

(3) Where a contracting authority publishes a notice on its buyer profile in accordance with paragraph (1), it must also send a notice in the form of a notice on a buyer profile in Annex VIII to [Commission Regulation \(EC\) No 1564/2005](#)(<sup>1</sup>) informing the Commission by electronic means in accordance with the format and procedure for sending notices specified in paragraph (3) of Annex VIII to the Public Sector Directive of that publication.

(4) The obligation to publish a prior information notice in accordance with paragraph (1) applies only to proposed public contracts or framework agreements which are not excluded from the application of these Regulations by regulation 6 or 8 and where, at the date of dispatch of the notice—

- (a) the total consideration which the contracting authority expects to be payable under—
  - (i) public supply contracts or framework agreements for the purchase or hire of goods falling within the same product area; or

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(1) The annex to Commission Regulation (EC) No 1564/2005 was amended by Commission Regulation ([EC](#)) [1150/2009](#), OJ L 313, 29.11.2009, p.3.

- (ii) Part A services contracts or framework agreements for the provision of services falling within the same category specified in Part A of Schedule 3, is equal to or exceeds 750 000 euro; or
  - (b) the total consideration which the contracting authority expects to be payable under public works contracts or framework agreements for the carrying out of work or works is equal to or exceeds the amount set out in Article 7(c).
- (5) The obligation to publish a prior information notice applies only where the contracting authority takes the option of shortening the time limits for the receipt of tenders in accordance with regulation 15(7) or 16(18).
- (6) This regulation does not apply to a proposed public contract where the procedure for the award of the contract is the negotiated procedure without the prior publication of a contract notice in accordance with regulation 14.