SCOTTISH STATUTORY INSTRUMENTS

# 2015 No. 446

# The Public Contracts (Scotland) Regulations 2015

## PART 2

RULES IMPLEMENTING THE PUBLIC CONTRACTS DIRECTIVE

CHAPTER 1

SCOPE AND GENERAL PRINCIPLES

*SECTION 1*

*Scope*

**Specific situations: Defence and security**

**16.**—(1) These Regulations apply to procurement for the award of public contracts and to design contests organised in the fields of defence and security, with the exception of procurement or design contests—

(a) to which the Defence and Security Regulations apply; or

(b) to which those Regulations do not apply pursuant to regulations 7 or 9 of those Regulations.

(2) These Regulations do not apply to procurement for the award of public contracts or design contests, not otherwise exempt by virtue of paragraph (1), to the extent that—

(a) the protection of the essential security interests of the United Kingdom [F1]... cannot be guaranteed by less intrusive measures; or

(b) the application of these Regulations would oblige the United Kingdom to supply information the disclosure of which it considers contrary to the essential interests of its security.

(3) These Regulations do not apply where—

(a) the procurement and performance of the public contract or design contest are classified as secret or must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in any part of the United Kingdom; and

(b) the United Kingdom has determined that the protection of the essential interests concerned cannot be guaranteed by less intrusive measures.

(4) In this regulation reference to "less intrusive measures" includes, but is not limited to, imposing requirements aimed at protecting the confidential nature of information which the contracting authority makes available in a contract award procedure as provided for in these Regulations.

**Textual Amendments**

**F1** Words in reg. 16(2)(a) omitted (31.12.2020) by virtue of The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468), regs. 1(2), **4(14)** (with sch. paras. 1-5)

**Changes to legislation:**
The Public Contracts (Scotland) Regulations 2015, Section 16 is up to date with all changes known to be in force on or before 22 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.
View outstanding changes

**Changes and effects yet to be applied to :**

- Regulations applied by 2023 c. 54 s. 119(2)(a)
- reg. 16(2)(a) words omitted by S.S.I. 2019/112 reg. 3(15) (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 Instrument associated Parts and Chapters:**
Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 11(1)(e)(i)(aa) words substituted by S.S.I. 2019/112 reg. 3(11)(a)(i) (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))
- reg. 11(1)(e)(i)(bb) words substituted by S.S.I. 2019/112 reg. 3(11)(a)(ii) (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))
- reg. 78(1)(i)(ii) and words inserted by S.S.I. 2019/112 reg. 3(52)(a) (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))