
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 2

General Rules

Principles of procurement

19.—(1) A contracting authority must, in carrying out any procurement or design contest which is subject to the application of these Regulations—

- (a) treat economic operators equally and without discrimination; and
- (b) act in a transparent and proportionate manner.

(2) A contracting authority must not design a procurement or design contest with the intention of excluding it from the application of these Regulations or of artificially narrowing competition.

(3) Without prejudice to the generality thereof, competition shall be deemed to be artificially narrowed for the purpose of paragraph (2) where the design of the procurement or design contest is made with the intention of unduly favouring or disadvantaging any particular economic operator.

(4) A contracting authority must include in each public contract or framework agreement such conditions relating to the performance of the contract or framework as meet the requirements mentioned in paragraph (5) and are reasonably necessary to ensure that the economic operator complies with environmental, social and employment law, including any relevant collective agreements or [^{F1}, subject to paragraphs (4A) and (4B),] international law measures referred to in Annex X of the Directive as amended from time to time.

[^{F2}(4A) Where—

- (a) the United Kingdom has ratified an international agreement establishing obligations in any of the fields mentioned in paragraph (4), and
 - (b) the agreement is not already referred to,
- the Scottish Ministers may make regulations providing that paragraph (4) is to have effect as if the agreement were referred to.

(4B) Where the United Kingdom has ceased to ratify an international agreement that is already referred to, the Scottish Ministers may make regulations providing that paragraph (4) is to have effect as if the agreement were not referred to.

(4C) In paragraphs (4A) and (4B)—

Changes to legislation: *The Public Contracts (Scotland) Regulations 2015, Section 19 is up to date with all changes known to be in force on or before 18 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. (See end of Document for details) View outstanding changes*

- (a) “referred to” means referred to in Annex X mentioned in paragraph (4), and
 - (b) where paragraph (4) already has effect as if an agreement were referred to, “already referred to” includes that agreement.]
- (5) The requirements referred to in paragraph (4) are that the conditions are—
- (a) linked to the subject matter of the contract or framework within the meaning of regulation 70 (conditions for performance of contracts); and
 - (b) indicated in the call for competition or in the procurement documents.

Textual Amendments

- F1** Words in [reg. 19\(4\)](#) inserted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), [4\(17\)\(a\)](#) (with sch. paras. 1-5)
- F2** [Reg. 19\(4A\)-\(4C\)](#) inserted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), [4\(17\)\(b\)](#) (with sch. paras. 1-5)

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Changes and effects yet to be applied to :

- Regulations applied by [2023 c. 54 s. 119\(2\)\(a\)](#)
- reg. 19(4) words inserted by [S.S.I. 2019/112 reg. 3\(18\)\(a\)](#) (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))
- reg. 19(4A)-(4C) inserted by [S.S.I. 2019/112 reg. 3\(18\)\(b\)](#) (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))