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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the European Union.

These Regulations amend the Public Procurement etc. (Scotland) (Amendment) (EU Exit) Regulations 2019 (S.S.I. 2019/112) (“the first SSI”) before the first SSI comes into force.

Regulation 2 affects the amendments which the first SSI will, if made, make to various statutory instruments on exit day. These Regulations will be made only if the first SSI is made.

Among other things, the first SSI would have amended the Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446), the Utilities Contracts (Scotland) Regulations 2016 (S.S.I. 2016/49) and the Concession Contracts (Scotland) Regulations 2016 (S.S.I. 2016/65) (collectively “the principal public procurement Regulations”) to remove from them, on exit day, certain provisions which gave effect to, or referred to, international agreements by which the EU is bound. Before exit day, those provisions required, in particular, that economic operators from third country signatories to such agreements be treated no less favourably than economic operators from the EU when they participate in public procurements within the scope of any of the principal public procurement Regulations, and made certain remedies available to them. These Regulations amend the first SSI so that, instead of removing those provisions on exit day, the first SSI removes them 18 months after exit day and modifies them so that, during the 18 months from exit day, they continue to have the effect that they had before the UK’s withdrawal from the EU.

Regulation 2(2) of these Regulations also amends the first SSI so that provisions relating to the Government Procurement Agreement between certain parties to the World Trade Organisation which the first SSI would have removed from the principal public procurement Regulations eight months after exit day are removed instead 18 months after exit day.