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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 7**

**The Electronic Invoicing (Public Contracts etc.) Amendment (Scotland) Regulations 2019**

**Amendment of the Public Contracts (Scotland) Regulations 2015**

2.—(1) The Public Contracts (Scotland) Regulations 2015 are amended in accordance with paragraph (2).

(2) After regulation 70 (conditions for performance of contracts) insert—

**“Electronic invoicing**

**70A.**—(1) It shall be an implied term of all public contracts that contracting authorities must accept and process electronic invoices for the provision of works, supplies or services in the performance of a contract where such invoices—

- (a) comply with the European standard on electronic invoicing reference to which has been published pursuant to Article 3(2) of [Directive 2014/55/EU](#) of the European Parliament and of the Council on electronic invoicing in public procurement<sup>(1)</sup>, and
- (b) contain any of the syntaxes on the list published pursuant to Article 3(2) of that Directive.

(2) In this regulation—

“electronic invoice” means an invoice containing the information components referred to in regulation 70A(3) that has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing,

“GDPR” means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing [Directive 95/46/EC](#), and

“syntax” means the machine readable language or dialect used to represent the data elements contained in an electronic invoice.

(3) An electronic invoice referred to in this regulation must contain the following information components—

- (a) process and invoice identifiers,
- (b) the invoice period,
- (c) seller information,
- (d) buyer information,
- (e) payee information,
- (f) seller’s tax representative information,
- (g) contract reference,

- (h) delivery details,
- (i) payment instructions,
- (j) allowance or charge information,
- (k) invoice line item information,
- (l) invoice totals, and
- (m) VAT breakdown.

(4) This regulation is without prejudice to applicable law on data protection.

(5) Subject to any provisions to the contrary in any enactments and without prejudice to the exemptions and restrictions set out in GDPR and the Data Protection Act 2018<sup>(2)</sup>, personal data obtained for the purpose of electronic invoicing may be used only for that purpose or for purposes compatible with it.

(6) This regulation is without prejudice to any provision made by or under Schedule 11 of the Value Added Tax Act 1994<sup>(3)</sup>.”.

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(2) 2018 c.12.

(3) 1994 c.23; section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning regulations made by the Commissioners under the Act; paragraphs 2A and 2B of Schedule 11 were inserted by section 24(2) of Finance Act 2002 (c.23); paragraph 3 of Schedule 11 was substituted by section 24(3) of Finance Act 2002; paragraph 6 of Schedule 11 was amended by paragraphs 4 and 5 of Schedule 37 to the Finance Act 2008 (c.9). The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5 of the Commissioners For Revenue and Customs Act 2005 (c. 11); section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs.