



# Small Business, Enterprise and Employment Act 2015

## 2015 CHAPTER 26

### PART 3

#### PUBLIC SECTOR PROCUREMENT

#### **39 Regulations about procurement**

- (1) The Minister for the Cabinet Office or the Secretary of State may by regulations impose on a contracting authority duties in respect of the exercise of its functions relating to procurement.
- (2) For the purposes of this section “the exercise of functions relating to procurement” includes the exercise of functions in preparation for entering into contracts and in the management of contracts.
- (3) Subject to subsection (4), “contracting authority” has the same meaning as in regulation 2 of the Public Contracts Regulations 2015 (S.I. 2015/102), or any regulation replacing that regulation, as from time to time amended.
- (4) But such an authority is not a contracting authority for the purposes of this section if <sup>F1</sup>it is a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006) or if] its functions are wholly or mainly devolved functions, namely—
  - (a) Scottish devolved functions, that is to say functions the exercise of which would be within devolved competence (within the meaning of section 54 of the Scotland Act 1998);
  - (b) Northern Ireland devolved functions, that is to say functions which could be conferred by provision included in an Act of the Northern Ireland Assembly made without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998), <sup>F2</sup> ...
  - <sup>F3</sup>(c) .....

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*Changes to legislation: Small Business, Enterprise and Employment Act 2015, Section 39 is up to date with all changes known to be in force on or before 29 March 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*

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- (5) Regulations under this section may, in particular, impose—
- (a) duties to exercise functions relating to procurement in an efficient and timely manner;
  - (b) duties relating to the process by which contracts are entered into (including timescales and the extent and manner of engagement with potential parties to a contract);
  - (c) duties to make available without charge—
    - (i) information or documents;
    - (ii) any process required to be completed in order to bid for a contract;
  - (d) duties relating to the acceptance of invoices by electronic means (including a prohibition on the charging of fees for processing such invoices, the publication of reports relating to the number of such invoices received or the electronic systems that must be used by a contracting authority);
  - (e) duties to publish reports about compliance with the regulations.
- (6) A person making regulations under this section must before making the regulations undertake such consultation as the person considers appropriate.
- (7) The Minister for the Cabinet Office or the Secretary of State may issue guidance relating to regulations under this section.
- (8) A contracting authority must have regard to any guidance for the time being in force under this section.
- (9) Guidance or revised guidance given under this section must be published.
- (10) Regulations under this section are subject to affirmative resolution procedure.

#### Textual Amendments

- F1** Words in s. 39(4) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\)](#), [Sch. 6 para. 108\(a\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(r\)](#)
- F2** Word in s. 39(4)(b) omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\), s. 71\(4\)](#), [Sch. 6 para. 108\(b\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(r\)](#)
- F3** S. 39(4)(c) omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\), s. 71\(4\)](#), [Sch. 6 para. 108\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(r\)](#)

**Changes to legislation:**

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

- s. 39 repealed by [2023 c. 54 Sch. 11 para. 2](#)