

PROCUREMENT REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Remedies

Section 39 – Determination by the court

78. **Section 39** gives the court power to suspend the procedure leading to the award of a contract, and to suspend the implementation of any decision or action taken by a contracting authority in relation to that procedure. This section further details the considerations to be taken into account by the court in considering whether to make such a suspension and lists the remedies available to the court where a contracting authority is found to be in breach of its duties. The court must review the decisions taken by a contracting authority and must consider the balance of negative consequences against the benefits of its decision having regard to specified matters including public interest.
79. Where the breach of duty is in respect of a regulated contract which has already been entered into the only remedy available to the court is the award of damages. Section 39(6) specifies that nothing in section 39 affects any power that the court may have as a result of any other rule of law.