

EXECUTIVE NOTE

The Public Contracts and Utilities Contracts (Scotland) Amendment Regulations 2007 (S.S.I 2007/ 565)

The above instrument was made in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972. The instrument is subject to the negative resolution procedure.

Policy Objectives

The purpose of the instrument is to update the contract threshold values set out in the Public Contracts (Scotland) Regulations 2006 (S.S.I 2006/1) and the Utilities Contracts (Scotland) Regulations 2006 (S.S.I 2006/2), which give effect to the EU Procurement Directives in Scots law.

The European Commission has adopted a Regulation (Commission Regulation (EC) No 1422/2007) which modifies the threshold values in the EU Procurement Directives (2004/17/EC and 2004/18/EC). The threshold values (in euro) are revised every two years to ensure that they remain in line with the thresholds in the World Trade Organisation Government Procurement Agreement (expressed in special drawing rights) which govern the level at which non-EC firms have access to formal tendering procedures in the EC. The value of special drawing rights is based on a basket of key national currencies. Due to fluctuations in exchange rates, the revised thresholds are slightly lower than the existing thresholds. They take effect from 1 January 2008.

Rather than simply updating the amounts in the Scottish Regulations, reference is instead made to the “threshold values in the EU Procurement Directives as amended from time to time”. Framing the legislation in this way will avoid the need to amend the Scottish Regulations every two years. UK Government is taking a similar approach.

A copy of Commission Regulation (EC) No 1422/2007, amending Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council in respect of their application thresholds for the procedures for the award of contracts, is attached.

Consultation

None. We are obliged to update the contract threshold values in the Scottish Regulations in order to ensure compatibility with community law.

Financial Effects

This instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Procurement Directorate
Scottish Government
December 2007