
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 446

The Public Contracts (Scotland) Regulations 2015

PART 2

RULES IMPLEMENTING THE PUBLIC CONTRACTS DIRECTIVE

CHAPTER 2

RULES ON PUBLIC CONTRACTS

SECTION 5

Conduct of the Procedure

Variants

46.—(1) A contracting authority may authorise or require tenderers to submit variants.

(2) A contracting authority must indicate in the contract notice ^{F1}... whether or not it authorises or requires variants.

(3) A contracting authority authorising or requiring variants must state in the procurement documents the minimum requirements to be met by the variants and any specific requirements for their presentation, in particular whether variants may be submitted only where the economic operator also submits a tender which is not a variant.

(4) A contracting authority must not take into consideration a variant which—

- (a) has not been authorised or required;
- (b) is not linked to the subject matter of the contract; or
- (c) does not meet the minimum requirements laid down by the contracting authority.

(5) A contracting authority must ensure that the award criteria can be applied to variants meeting those minimum requirements as well as to tenders which are not variants.

(6) In a procedure for awarding a public supply contract or public service contract, a contracting authority that has authorised or required variants must not reject a variant on the sole ground that it would, where successful, lead to either a public service contract rather than a public supply contract or a public supply contract rather than a public service contract.

Textual Amendments

- F1** Words in [reg. 46\(2\)](#) omitted (30.5.2023) by virtue of [The Public Procurement \(Miscellaneous Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/124\)](#), [regs. 2, 4\(11\)](#) (with [reg. 3](#))

Changes to legislation:

The Public Contracts (Scotland) Regulations 2015, Section 46 is up to date with all changes known to be in force on or before 21 April 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations applied by [2023 c. 54 s. 119\(2\)\(a\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 11(1)(e)(i)(aa) words substituted by [S.S.I. 2019/112 reg. 3\(11\)\(a\)\(i\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 11(1)(e)(i)(bb) words substituted by [S.S.I. 2019/112 reg. 3\(11\)\(a\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))
- reg. 78(1)(i)(ii) and words inserted by [S.S.I. 2019/112 reg. 3\(52\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). S.S.I. 2019/112 revoked immediately before IP completion day by S.S.I. 2020/468, regs. 1(3), 2(2)(a))