
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 49

The Utilities Contracts (Scotland) Regulations 2016

PART 1

GENERAL

CHAPTER 3

MATERIAL SCOPE

SECTION 2

*Excluded contracts and design contests; special provisions
for procurement involving defence and security aspects*

SUB-SECTION 2 Procurement involving defence and security aspects

Defence and security

23.—(1) These Regulations apply to procurement for the award of contracts and to design contests organised in the fields of defence and security, with the exception of procurement or design contests—

- (a) to which the Defence and Security Regulations apply; or
- (b) to which those Regulations do not apply pursuant to regulations 7 or 9 of those Regulations.

(2) These Regulations do not apply to procurement for the award of contracts or design contests, not otherwise exempt by virtue of paragraph (1), to the extent that—

- (a) the protection of the essential security interests of the United Kingdom or another member State cannot be guaranteed by less intrusive measures; or
- (b) the application of these Regulations would oblige the United Kingdom to supply information the disclosure of which it considers contrary to the essential interests of its security.

(3) These Regulations do not apply where—

- (a) the procurement and performance of the contract or design contest are classified as secret or must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in any part of the United Kingdom; and
- (b) the United Kingdom has determined that the protection of the essential interests concerned cannot be guaranteed by less intrusive measures.

(4) In this regulation reference to “less intrusive measures” includes, but is not limited to, imposing requirements aimed at protecting the confidential nature of information which the utility makes available in a contract award procedure as provided for in these Regulations.