
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 49

The Utilities Contracts (Scotland) Regulations 2016

PART 1

GENERAL

CHAPTER 4

GENERAL PRINCIPLES

Confidentiality

37.—(1) A utility must not disclose information forwarded to it by an economic operator which the economic operator has designated as confidential, including, but not limited to, technical or trade secrets and the confidential aspects of tenders.

(2) Paragraph (1) is without prejudice to—

- (a) any other provision of these Regulations, including the obligation relating to advertising of awarded contracts and to provision of information to candidates and tenderers set out in regulations 68 (contract award notices) and 73 (informing applicants for qualification, candidates and tenderers);
- (b) the Freedom of Information (Scotland) Act 2002⁽¹⁾;
- (c) the Environmental Information (Scotland) Regulations 2004⁽²⁾; and
- (d) any other enactment to which the entity is subject relating to the disclosure of information.

(3) A utility may impose upon an economic operator requirements aimed at protecting the confidential nature of information which the utility makes available throughout the procurement.

⁽¹⁾ 2002 asp 13.

⁽²⁾ S.S.I. 2004/520, amended by the Environmental Information (Scotland) Amendment Regulations 2013, S.S.I. 2013/127.