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STATUTORY INSTRUMENTS

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**1995 No. 201**

**The Public Supply Contracts Regulations 1995**

**PART VII**

**APPLICATIONS TO THE COURT**

**Enforcement of obligations**

**29.**—(1) The obligation on a contracting authority to comply with the provisions of these Regulations other than regulations 8(6), 10(6), 21(8), 23(3) and 25, and with any enforceable Community obligation in respect of a public supply contract (other than one excluded from the application of these Regulations by regulations 6 and 7), is a duty owed to suppliers.

(2) A breach of the duty owed pursuant to paragraph (1) above shall not be a criminal offence but any breach of the duty shall be actionable by any supplier who, in consequence, suffers, or risks suffering, loss or damage.

(3) Proceedings under this regulation shall be brought in England and Wales and in Northern Ireland in the High Court and, in Scotland, before the Court of Session.

(4) Proceedings under this regulation may not be brought unless—

- (a) the supplier bringing the proceedings has informed the contracting authority of the breach or apprehended breach of the duty owed to him pursuant to paragraph (1) above by the contracting authority and of his intention to bring proceedings under this regulation in respect of it; and
- (b) they are brought promptly and in any event within 3 months from the date when grounds for the bringing of the proceedings first arose unless the Court considers that there is good reason for extending the period within which proceedings may be brought.

(5) Subject to paragraph (6) below, but otherwise without prejudice to any other powers of the Court, in proceedings brought under this regulation the Court may—

- (a) by interim order suspend the procedure leading to the award of the contract in relation to which the breach of the duty owed pursuant to paragraph (1) above is alleged, or suspend the implementation of any decision or action taken by the contracting authority in the course of following such procedure; and
- (b) if satisfied that a decision or action taken by a contracting authority was in breach of the duty owed pursuant to paragraph (1) above—
  - (i) order the setting aside of that decision or action or order the contracting authority to amend any document, or
  - (ii) award damages to a supplier who has suffered loss or damage as a consequence of the breach, or
  - (iii) do both of those things.

(6) In proceedings under this regulation the Court shall not have power to order any remedy other than an award of damages in respect of a breach of the duty owed pursuant to paragraph (1) above if the contract in relation to which the breach occurred has been entered into.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(7) Notwithstanding sections 21 and 42 of the Crown Proceedings Act 1947<sup>(1)</sup>, in proceedings brought under this regulation against the Crown the court shall have power to grant an injunction or interdict.

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<sup>(1)</sup> 1947 c. 44; the Crown Proceedings Act 1947 was extended to Northern Ireland in relation to Her Majesty's Government in the United Kingdom and in Northern Ireland by and with the additions exceptions and modifications set out in the Crown Proceedings (Northern Ireland) Order 1981, to which there is an amendment not relevant to these regulations.