

Draft Regulations laid before the Scottish Parliament under paragraph 1(7) of schedule 7 of the European Union (Withdrawal) Act 2018 for approval by resolution of the Scottish Parliament

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

**EXITING THE EUROPEAN UNION
PUBLIC PROCUREMENT**

**The Public Procurement etc. (Scotland) (Amendment)
(EU Exit) Amendment Regulations 2019**

*Made - - - - 2019
Coming into force in accordance with regulation 1*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018⁽¹⁾ and all other powers enabling them to do so.

In accordance with paragraph 1(7) of schedule 7 of the European Union (Withdrawal) Act 2018 a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Public Procurement etc. (Scotland) (Amendment) (EU Exit) Amendment Regulations 2019.

(2) These Regulations come into force immediately before exit day.

Amendment of the Public Procurement etc. (Scotland) (Amendment) (EU Exit) Regulations 2019

2.—(1) The Public Procurement etc. (Scotland) (Amendment) (EU Exit) Regulations 2019⁽²⁾ amended as follows.

(2) In regulation 1 paragraph (3) (citation, commencement and transitional and savings provisions) for “eight” substitute “18”.

(3) In regulation 3 (amendments to the Public Contracts (Scotland) Regulations 2015⁽³⁾ that are commenced on exit day)—

(1) [2018 c.16](#).

(2) The Public Procurement etc. (Scotland) (Amendment) (EU Exit) Regulations 2019 were laid in draft before the Scottish Parliament on 29 January 2019.

(3) [S.S.I. 2015/446](#), relevantly amended by [S.S.I. 2016/47](#).

- (a) in paragraph (23) (amendment of regulation 26 which concerns conditions relating to the GPA and other international agreements)—
 - (i) omit sub-paragraph (b),
 - (ii) in sub-paragraph (c)—
 - (aa) for paragraph (i) substitute—
 - “(i) for “is bound” substitute “was, immediately before exit day, bound”,”,
 - (bb) omit paragraph (ii),
 - (cc) for paragraph (iii) substitute—
 - “(iii) for “EU” where it last appears substitute “United Kingdom”,”,
- (b) in paragraph (46) (amendment of regulation 68 which concerns life-cycle costing), in sub-paragraph (a), for paragraph (ii) substitute—
 - “(ii) for “is bound” substitute “was, immediately before exit day, bound”,”,
- (c) in paragraph (57) (amendment of regulation 87 which concerns the duty owed to economic operators)—
 - (i) in sub-paragraph (b), for “Condition 1 or Condition 2” substitute “Condition 1, Condition 2 or Condition 3”,
 - (ii) for sub-paragraph (d) substitute—
 - “(d) in paragraph (4)—
 - (i) for “For the purpose of paragraph (2)(b), a relevant bilateral agreement applies if” substitute “Condition 3 is that”,
 - (ii) in sub-paragraph (a)—
 - (aa) for “there is” substitute “immediately before exit day there was”,
 - (bb) for “is bound” substitute “was bound”,
 - (da) after paragraph (4) insert—
 - “(4A) Paragraph (4)(b) is to be applied as if the United Kingdom were a member State.”,”.
- (4) In the heading to regulation 4 (amendments commenced eight months after exit day), for “eight” substitute “18”.
- (5) In regulation 5 (amendments to the Utilities Contracts (Scotland) Regulations 2016(4) that are commenced on exit day)—
 - (a) in paragraph (27) (amendment of regulation 41 which concerns conditions relating to the GPA and other international agreements)—
 - (i) omit sub-paragraph (a),
 - (ii) in sub-paragraph (b)—
 - (aa) for paragraph (i) substitute—
 - “(i) for “is bound” substitute “was, immediately before exit day, bound”,”,
 - (bb) omit paragraph (ii),
 - (cc) for paragraph (iii) substitute—