

Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No.

EXITING THE EUROPEAN UNION

PUBLIC PROCUREMENT

The Public Procurement (Amendment etc.) (EU Exit) (No. 2) Regulations 2019

Made - - - -

Coming into force in accordance with regulation 1

The Minister for the Cabinet Office makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾. In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Public Procurement (Amendment etc.) (EU Exit) (No. 2) Regulations 2019 and come into force immediately before exit day⁽²⁾.

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

2.—(1) The Public Procurement (Amendment etc.) (EU Exit) Regulations 2019⁽³⁾ are amended as follows.

(2) In regulation 1 (citation, commencement and transitional and saving provision)—

- (a) in paragraph (2), for “and 10” substitute “10 and 21”;
- (b) in paragraph (3)—
 - (i) for “8 and 10” substitute “8, 10 and 21”;
 - (ii) for “eight” substitute “18”.

(1) 2018 c. 16.

(2) Accordingly, regulation 2 affects the amendments which the Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 will, if made, make to various statutory instruments on exit day.

(3) These Regulations have not yet been made, but were laid in draft before both Houses of Parliament on 13th December 2018. These Regulations will be made only if those Regulations are made.

(3) In regulation 5 (amendments to the Public Contracts Regulations 2015⁽⁴⁾ that are commenced on exit day)—

(a) in paragraph (20) (amendment of regulation 25 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);

(b) in paragraph (45) (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 (58) (amendment of regulation 90 which concerns the duty owed to economic operators from certain states)—

(i) in sub-paragraph (a)(i)(bb), for “Condition 1 or Condition 2” substitute “Condition 1, Condition 2 or Condition 3”;

(ii) for sub-paragraph (c) substitute—

“(c) in paragraph (3)—

(i) for the words from the beginning to “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”;

(ca) after paragraph (3) insert—

“(3A) Paragraph (3)(b) is to be applied as if the United Kingdom were a member State.”;

(4) In the heading to regulation 6 (amendments commenced eight months after exit day), for “eight” substitute “18”.

(5) In regulation 7 (amendments to the Concession Contracts Regulations 2016⁽⁵⁾ that are commenced on exit day), in paragraph (28) (amendment of regulation 51 which concerns the duty owed to economic operators from certain states)—

(a) in sub-paragraph (a)(i)(bb), for “Condition 1 or Condition 2” substitute “Condition 1, Condition 2 or Condition 3”;

(b) for sub-paragraph (c) substitute—

“(c) in paragraph (3)—

(i) for the words from the beginning to “applies if” substitute “Condition 3 is that”;

(ii) in sub-paragraph (a)—

(aa) for “there is” substitute “immediately before exit day there was”;

(4) S.I. 2015/102, amended by S.I. 2016/275; there are other amending instruments but none is relevant.

(5) S.I. 2016/273.