
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 414

**EXITING THE EUROPEAN UNION
PUBLIC PROCUREMENT**

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

Made - - - - 3rd December 2019

Laid before the Scottish

Parliament - - - - 5th December 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 4 of schedule 2 of the European Union (Withdrawal) Act 2018 the Scottish Ministers have consulted with the Secretary of State.

Citation and commencement

1.—(1) These Regulations may be cited as the Public Procurement etc. (Scotland) (Amendment) (EU Exit) Amendment (No. 2) 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⁾ are amended as follows.

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

(a) in paragraph (6)(a)(i) for “£4,551,413” substitute “£4,733,252”,

(b) in paragraph (6)(a)(ii) for “£118,133” substitute “£122,976”,

⁽¹⁾ 2018 c.16.

⁽²⁾ S.S.I. 2019/112. These regulations were relevantly amended by the Public Procurement etc. (Scotland) (Amendment) (EU Exit) Amendment Regulations 2019 (S.S.I. 2019/114).

- (c) in paragraph (6)(a)(iii) for “£181,302” substitute “£189,330”,
 - (d) in paragraph (6)(a)(iv) for “£615,278” substitute “£663,540”,
 - (e) in paragraph (6)(b) for “£65,630” substitute “£70,778”,
 - (f) in paragraph (6)(c) for “£820,370” substitute “£884,720”,
 - (g) in paragraph (54)(a)(i) for “£820,370” substitute “£884,720”,
 - (h) in paragraph (54)(a)(ii) for “£8,203,700” substitute “£8,847,200”.
- (3) In regulation 5 (amendments to the Utilities Contracts (Scotland) Regulations 2016 commenced on exit day)—
- (a) in paragraph (6)(a) for “£363,424” substitute “£378,660”,
 - (b) in paragraph (6)(b) for “£4,551,413” substitute “£4,733,252”,
 - (c) in paragraph (6)(c) for “£820,370” substitute “£884,720”,
 - (d) in paragraph (6)(d)(i) for “£65,630” substitute “£70,778”,
 - (e) in paragraph (6)(d)(ii) for “£820,370” substitute “£884,720”,
 - (f) in paragraph (56)(a)(i) for “£820,370” substitute “£884,720”,
 - (g) in paragraph (56)(a)(ii) for “£8,203,700” substitute “£8,847,200”.
- (4) In regulation 7 (amendments to the Concession Contracts (Scotland) Regulations 2016 commenced on exit day), in paragraph (5)(a) for “£4,551,413” substitute “£4,733,252”.
- (5) In regulation 11 (amendments to the Utilities Contracts (Scotland) Regulations 2012)—
- (a) in paragraph (2)(e)(i) for “£4,101,850” substitute “£4,423,600”,
 - (b) in paragraph (2)(e)(ii)(aa) for “£328,150” substitute “£353,890”,
 - (c) in paragraph (2)(e)(ii)(bb) for “£4,101,850” substitute “£4,423,600”.

St Andrew’s House,
Edinburgh
3rd December 2019

DEREK MACKAY
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made 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 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the European Union.

These Regulations amend the Public Procurement etc. (Scotland) (Amendment) (EU Exit) Regulations 2019 (S.S.I. 2019/112) (“the first SSI”) before the first SSI comes into force.

The first SSI is also amended by the Public Procurement etc. (Scotland) (Amendment) (EU Exit) Amendment Regulations 2019 (S.S.I. 2019/114) before it comes into force.

Duties in procurement legislation apply to contracts with an estimated value of at least the amount set out in various financial thresholds. At present, the domestic procurement regulations which transpose the procurement directives apply those threshold values by way of a combination of ambulatory references to the directives (in relation to changeable thresholds) and listing in Euros (in relation to static thresholds). The first SSI deletes these ambulatory references and values in Euros and replaces them with the values in sterling according to the conversion rate which applies to the period ending 31 December 2019. The European Commission reviews and updates the thresholds and sterling equivalent values every two years. These Regulations reflect the conversion rate which will apply from 1 January 2020.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.