

Economy and Fair Work Committee

14th Meeting, 2021 (Session 6), Wednesday 8 December 2021

Subordinate Legislation

Overview of instrument

1. The Committee has been designated as lead for consideration of the following negative instrument:

[The Public Procurement \(Agreement on Government Procurement\) \(Thresholds etc.\) \(Amendment\) \(Scotland\) Amendment Regulations 2021 \(legislation.gov.uk\)](#)

2. The instrument and policy note are attached.

Purpose of the Regulations

3. The purpose of these regulations is to correct two errors in the Public Procurement (Agreement on Government Procurement) (Thresholds etc.) (Amendment) (Scotland) Regulations 2021, considered at the meeting on 24 November, before the regulations come into force.
4. The corrections made by this instrument are as follows:
 - the reference to “Schedule 2” is replaced with “Schedule 1”; and
 - a transposed figure in a threshold applied is corrected, replacing £462,955 with £426,955.

Delegated Powers and Law Reform Committee consideration

5. The DPLR Committee (DPLRC) considered this instrument at its meeting on 30 November.
6. [In its report, the DPLRC noted](#) that the instrument rectified the errors previously identified, no points were raised.

For Decision

- 7. The Committee is invited to note the instrument or to consider if it wishes to raise any issues in relation to the instrument.**

**Clerk to the Committee
3 December 2021**

This SSI has been printed to correct errors in S.S.I. 2021/378 and is being issued free of charge to all known recipients of that instrument.

SCOTTISH STATUTORY INSTRUMENTS

2021 No. 424

PUBLIC PROCUREMENT

The Public Procurement (Agreement on Government Procurement) (Thresholds etc.) (Amendment) (Scotland) Amendment Regulations 2021

<i>Made</i>	- - - -	<i>18th November 2021</i>
<i>Laid before the Scottish Parliament</i>		<i>22nd November 2021</i>
<i>Coming into force</i>	- -	<i>31st December 2021</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by regulation 15A(4) of the Utilities Contracts (Scotland) Regulations 2016(a), sections 1(1) and 4(1) of the Trade Act 2021(b) and all other powers enabling them to do so.

Citation and commencement

1.—(1) These Regulations may be cited as the Public Procurement (Agreement on Government Procurement) (Thresholds etc.) (Amendment) (Scotland) Amendment Regulations 2021.

(2) These Regulations come into force on 31 December 2021.

Amendment of the Public Procurement (Agreement on Government Procurement) (Thresholds etc.) (Amendment) (Scotland) Regulations 2021

2.—(1) The Public Procurement (Agreement on Government Procurement) (Thresholds etc.) (Amendment) (Scotland) Regulations 2021(c) are amended as follows.

(2) In regulation 3(5) (amendment of the Public Contracts (Scotland) Regulations 2015) for “Schedule 2” substitute “Schedule 1”.

(a) S.S.I. 2016/49. Regulation 15A was inserted by regulation 6(7) of the Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/468).

(b) 2021 c. 10.

(c) S.S.I. 2021/378.

(3) In regulation 4(2)(b) (amendment of the Utilities Contracts (Scotland) Regulations 2016) for “£462,955” substitute “£426,955”.

IVAN McKEE

A member of the Scottish Government

St Andrew's House,
Edinburgh
18th November 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations correct the Public Procurement (Agreement on Government Procurement) (Thresholds etc.) (Amendment) (Scotland) Regulations 2021. In particular, they correct the schedule reference in regulation 3(5) and the threshold that applies in the field of public procurement that is specified in regulation 4(2)(b), of those Regulations.

POLICY NOTE

THE PUBLIC PROCUREMENT (AGREEMENT ON GOVERNMENT PROCUREMENT) (THRESHOLDS ETC.) (AMENDMENT) (SCOTLAND) AMENDMENT REGULATIONS 2021

SSI 2021/424

The above instrument was made using the powers in regulation 15A(4) of the Utilities Contracts (Scotland) Regulations 2016 sections 1(1) and 4(1) of the Trade Act 2021 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Purpose of the instrument

To correct two errors in the Public Procurement (Agreement on Government Procurement) (Thresholds etc.) (Amendment) (Scotland) Regulations 2021 before it comes into force.

Policy Objectives

1. The objective is to ensure the correct changes are made to the Public Contracts (Scotland) Regulations 2015 and to the Utilities Contracts (Scotland) Regulations 2016 by correcting the Public Procurement (Agreement on Government Procurement) (Thresholds etc.) (Amendment) (Scotland) Regulations 2021 (SSI 2021/378) which comes into force on 1 January 2022.
2. The instrument replaces the reference to “Schedule 2” with “Schedule 1” in the Public Procurement (Agreement on Government Procurement) (Thresholds etc.) (Amendment) (Scotland) Regulations 2021 where it amends the Public Contracts (Scotland) Regulations 2015.
3. The instrument amends the reviewable financial threshold value in regulation 4(2)(b) of the Public Procurement (Agreement on Government Procurement) (Thresholds etc.) (Amendment) (Scotland) Regulations 2021, to ensure that the threshold value being amended in the Utilities Contracts (Scotland) Regulations 2016 is accurately aligned with those specified by the World Trade Organisation’s Government Procurement Agreement (GPA), which public bodies in Scotland are subject to as part of the UK’s GPA membership. The instrument removes “£462,955” and substitutes it with “£426,955”.

Explanation of the law being amended by the Regulations

4. The purpose of SSI 2021/378 was twofold
 - to update threshold figures found in the Public Contracts (Scotland) Regulations 2015, the Utilities Contracts (Scotland) Regulations 2016, and the Concession Contracts (Scotland) Regulations 2016; and
 - remove a reference to a non-existent body from Part 2 of Schedule 1 of the Public Contracts (Scotland) Regulations 2015.
5. However, that SSI contained two errors (outlined in paragraphs 2 and 3 above) and the current SSI corrects those errors.

Consultation

6. There has been no public consultation as the changes made by the SSI are solely to correct errors in SSI 2021/378.

Impact Assessments

7. Impact assessments have not been prepared for this instrument because the SSI is solely to correct factual errors in SSI 2021/378.

Financial Effects

8. There is no requirement for a BRIA for this SSI, as it is solely correcting technical errors in SSI 2021/378 and has no financial effects on the Scottish Government, local government or on business.

Scottish Government
November 2021