



# Social Partnership and Public Procurement (Wales) Act 2023

2023 asc 1

## PART 3

### SOCIALLY RESPONSIBLE PUBLIC PROCUREMENT

#### CHAPTER 2

#### SOCIALLY RESPONSIBLE PROCUREMENT DUTY

*The socially responsible procurement duty*

#### **24 Socially responsible procurement duty**

- (1) A contracting authority must seek to improve the economic, social, environmental and cultural well-being of its area by carrying out public procurement in a socially responsible way.
- (2) A contracting authority carries out public procurement in a socially responsible way by taking action, in accordance with the sustainable development principle, aimed at contributing to the achievement of the well-being goals listed in section 4 of the WFGA 2015 (referred to for the purposes of this Part as the “well-being goals”).
- (3) A contracting authority must set and publish objectives (“socially responsible procurement objectives”) designed to maximise its contribution to achieving the well-being goals.
- (4) Schedule 2 makes provision about revising and reviewing socially responsible procurement objectives.
- (5) In taking action aimed at contributing to the achievement of the well-being goals, a contracting authority must—

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*Status: This is the original version (as it was originally enacted).*

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- (a) take all reasonable steps to meet its socially responsible procurement objectives when it carries out public procurement in relation to any prescribed contract;
  - (b) take the particular actions referred to in section 25 when it carries out public procurement in relation to a major construction contract;
  - (c) take the particular actions referred to in section 26 when it carries out public procurement in relation to an outsourcing services contract.
- (6) Despite subsection (1), a contracting authority must not include provisions in a prescribed contract that—
- (a) are not proportionate (taking into account the estimated value of the contract);
  - (b) would conflict with any other enactment or rule of law relating to public procurement.
- (7) For the purposes of subsection (2), “the sustainable development principle” has the meaning given by section 5 of the WFGA 2015.
- (8) In this Part, a “prescribed contract” means—
- (a) a major construction contract (see section 25),
  - (b) an outsourcing services contract (see section 26), and
  - (c) any other public contract of a description prescribed by the Welsh Ministers by regulations.

## **25 Socially responsible procurement duty: major construction contracts**

- (1) The particular actions mentioned in section 24(5)(b) are—
- (a) having regard to model social public works clauses published by the Welsh Ministers under section 27;
  - (b) in designing and carrying out procedures preceding the award of the major construction contract, considering whether the contract should include social public works clauses;
  - (c) in negotiating and awarding the contract, taking all reasonable steps—
    - (i) to include any social public works clauses it considers should be included;
    - (ii) to ensure that clauses included in the contract can be implemented;
  - (d) in managing the contract, taking all reasonable steps to ensure that any social public works clauses included in the contract are implemented;
- (see sections 27 to 31 for further provision about the meaning of “social public works clauses” and their application to major construction contracts).
- (2) In this Part, a “major construction contract” is a public contract with an estimated value equal to or greater than £2,000,000, which is—
- (a) a public works contract,
  - (b) a works contract, or
  - (c) a works concession contract.
- (3) The Welsh Ministers may by regulations amend this section to modify the meaning of a major construction contract.

## **26 Socially responsible procurement duty: outsourcing services contracts**

- (1) The particular actions mentioned in section 24(5)(c) are—
- (a) having regard to the public services outsourcing and workforce code published by the Welsh Ministers under section 32;
  - (b) in designing and carrying out procedures preceding the award of the outsourcing services contract, considering whether the contract should include social public workforce clauses;
  - (c) in negotiating and awarding the contract, taking all reasonable steps—
    - (i) to include any social public workforce clauses it considers should be included;
    - (ii) to ensure that clauses included in the contract can be implemented;
  - (d) in managing the contract, taking all reasonable steps to ensure that any social public workforce clauses included in the contract are implemented;
- (see sections 32 to 37 for further provision about the public services outsourcing and workforce code, the meaning of “social public workforce clauses” and their application to outsourcing services contracts).
- (2) In this Part, “an outsourcing services contract” means a contract under which—
- (a) a requirement to provide a public service provided by, or previously provided by, a contracting authority is transferred to another person, or
  - (b) another person agrees to undertake any other function undertaken by, or previously undertaken by, a contracting authority;
- and “outsourced” is to be construed accordingly.