



# Procurement Act 2023

## 2023 CHAPTER 54

### PART 6

#### BELOW-THRESHOLD CONTRACTS

PROSPECTIVE

#### **88 Regulated below-threshold contracts: implied payment terms**

- (1) The terms in subsections (2) to (5) are implied into every regulated below-threshold contract entered into by a contracting authority.
- (2) Any sum due to be paid under the contract by the contracting authority must be paid before the end of the period of 30 days beginning with—
  - (a) the day on which an invoice is received by the contracting authority in respect of the sum, or
  - (b) if later, the day on which the sum first became due in accordance with the invoice.
- (3) The term in subsection (2) does not apply if the contracting authority—
  - (a) considers the invoice invalid, or
  - (b) disputes the invoice.
- (4) On receiving an invoice from a payee, the contracting authority must notify the payee without undue delay if—
  - (a) it considers the invoice invalid, or
  - (b) it disputes the invoice.
- (5) A contracting authority may rely on a payment made by a third party to satisfy the term in subsection (2) only with the agreement of the payee.
- (6) For the purposes of the terms in subsections (2) to (5), an invoice is valid if it sets out the minimum required information and meets any other requirement set out in the contract.

*Status: Point in time view as at 12/03/2024. This version of this provision is prospective.*

*Changes to legislation: Procurement Act 2023, Section 88 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (7) The minimum required information is—
- (a) the name of the invoicing party,
  - (b) a description of the goods, services or works supplied,
  - (c) the sum requested, and
  - (d) a unique identification number.
- (8) The terms in subsections (2) to (5) are also implied into any contract that is wholly or substantially for the purpose of performing (or contributing to the performance of) all or any part of the contract referred to in subsection (1).
- (9) But for the purpose of subsection (8), references in those terms to the contracting authority are to be read as references to the person to whom goods, services or works are supplied for the purpose of performing (or contributing to the performance of) all or any part of the contract referred to in subsection (1).
- (10) Any term purporting to restrict or override the terms implied by this section is without effect.
- (11) But nothing in this section prohibits the parties to a contract from agreeing that a sum due under the contract must be paid earlier than would be required by the term in subsection (2).
- (12) A Minister of the Crown or the Welsh Ministers may by regulations amend this section for the purpose of changing the number of days referred to in subsection (2), but the number of days may not be more than 30 days.
- (13) In this section—
- (a) “payee” means the person due to be paid under the invoice concerned;
  - (b) a reference to a contracting authority receiving an invoice includes a reference to an invoice being delivered to an address specified in the contract for the purpose.

#### **Commencement Information**

**II** S. 88 not in force at Royal Assent, see [s. 127\(2\)](#)

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