



Procurement Act 2023

2023 CHAPTER 54

PART 11

APPROPRIATE AUTHORITIES AND CROSS-BORDER PROCUREMENT

111 Welsh Ministers: restrictions on the exercise of powers

- (1) The Welsh Ministers may only exercise a power under this Act for the purpose of regulating—
 - (a) contracting authorities that are devolved Welsh authorities (within the meaning given in section 157A of the Government of Wales Act 2006),
 - (b) contracting authorities that—
 - (i) are not devolved Welsh authorities, but
 - (ii) for the purposes of this Act, are to be treated as devolved Welsh authorities, or
 - (c) procurement under a devolved Welsh procurement arrangement.
- (2) A contracting authority that is a public undertaking or private utility is to be treated as a devolved Welsh authority for the purposes of this Act if—
 - (a) it operates wholly or mainly in relation to Wales, and
 - (b) its activities are wholly or mainly activities that do not relate to reserved matters.
- (3) Otherwise, a contracting authority is to be treated as a devolved Welsh authority for the purposes of this Act if the authority's functions—
 - (a) are exercisable wholly or mainly in relation to Wales, and
 - (b) are wholly or mainly functions that do not relate to reserved matters.
- (4) Other than in this section and section 127 (commencement), a reference in this Act to a devolved Welsh authority includes a reference to an authority that is to be treated as a devolved Welsh authority for the purposes of this Act.
- (5) Subsection (1) does not apply in relation to a power under sections 59 to 66 (debarment).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Procurement Act 2023, PART 11. (See end of Document for details)

(6) In this section—

“reserved matters” has the meaning given in the Government of Wales Act 2006;

“Wales” has the meaning given in section 158 of the Government of Wales Act 2006 (when read by reference to section 157A(9) of that Act).

Commencement Information

I1 S. 111 not in force at Royal Assent, see [s. 127\(2\)](#)

I2 [S. 111](#) in force at 12.3.2024 by [S.I. 2024/361](#), [reg. 2\(m\)](#)

PROSPECTIVE

112 Northern Ireland department: restrictions on the exercise of powers

- (1) A Northern Ireland department may only exercise a power under this Act for the purpose of regulating—
 - (a) contracting authorities that are transferred Northern Ireland authorities,
 - (b) contracting authorities that are public undertakings or private utilities that—
 - (i) are not transferred Northern Ireland authorities, but
 - (ii) for the purposes of this Act, are to be treated as transferred Northern Ireland authorities, or
 - (c) procurement under a transferred Northern Ireland procurement arrangement.
- (2) For the purposes of this section, an authority is a “transferred Northern Ireland authority” if its functions—
 - (a) are exercisable only in or as regards Northern Ireland, and
 - (b) are wholly or mainly functions that do not relate to reserved or excepted matters (within the meaning given by the Northern Ireland Act 1998).
- (3) A contracting authority that is a public undertaking or private utility is to be treated as a transferred Northern Ireland authority for the purposes of this Act if—
 - (a) it operates only in or as regards Northern Ireland, and
 - (b) its activities are wholly or mainly activities that do not relate to reserved or excepted matters.
- (4) Other than in this section, a reference in this Act to a transferred Northern Ireland authority includes a reference to an authority that is to be treated as a transferred Northern Ireland authority for the purposes of this Act.
- (5) Subsection (1) does not apply in relation to a power under sections 59 to 66 (debarment).

Commencement Information

I3 S. 112 not in force at Royal Assent, see [s. 127\(2\)](#)

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Procurement Act 2023, PART 11. (See end of Document for details)

113 Minister of the Crown: restrictions on the exercise of powers

- (1) A Minister of the Crown may exercise a power under this Act for the purpose of regulating a contracting authority that is a devolved Welsh authority only in relation to procurement under—
 - (a) a reserved procurement arrangement, or
 - (b) a transferred Northern Ireland procurement arrangement.
- (2) Subsection (1) does not apply in relation to a power under section 67 (electronic invoicing) or 110 (guidance following procurement investigation).
- (3) A Minister of the Crown may not make regulations under section 67 or section 125, or publish guidance under section 110, for the purpose of regulating a devolved Welsh authority without the consent of the Welsh Ministers, unless the regulations relate to, or the guidance relates to, procurement under—
 - (a) a reserved procurement arrangement, or
 - (b) a transferred Northern Ireland procurement arrangement.
- (4) A Minister of the Crown may not make regulations under this Act for the purpose of regulating a transferred Northern Ireland authority without the consent of a Northern Ireland department, unless the regulations relate to procurement under—
 - (a) a reserved procurement arrangement, or
 - (b) a devolved Welsh procurement arrangement.
- (5) A Minister of the Crown may not publish guidance under section 110 for the purpose of regulating a Northern Ireland department without the consent of a Northern Ireland department, unless the guidance relates to procurement under—
 - (a) a reserved procurement arrangement, or
 - (b) a devolved Welsh procurement arrangement.
- (6) Subsections (1) and (4) do not apply in relation to a power under—
 - (a) sections 59 to 66 (debarment);
 - (b) section 89 (treaty state suppliers);
 - (c) section 91 (non-discrimination in Scotland);
 - (d) section 92 (trade disputes);
 - (e) section 125 (power to make consequential, etc, provision);
 - (f) section 127 (commencement).

Commencement Information

- 14** S. 113 not in force at Royal Assent, see [s. 127\(2\)](#)
15 S. 113 in force at 12.3.2024 by [S.I. 2024/361](#), [reg. 2\(n\)](#)

114 Definitions relating to procurement arrangements

- (1) In this Act, a reference to a procurement under a procurement arrangement is a reference to a procurement as part of which the contract is awarded—
 - (a) in accordance with a framework or similar arrangement,
 - (b) by reference to a dynamic market or similar arrangement, or
 - (c) following a procedure or other selection process carried out—
 - (i) jointly by two or more authorities, or

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- (ii) by a centralised procurement authority or equivalent body.
- (2) A procurement arrangement is a devolved Welsh procurement arrangement if—
- (a) the framework was awarded by a devolved Welsh authority,
 - (b) the dynamic market was established by a devolved Welsh authority,
 - (c) the centralised procurement authority is a devolved Welsh authority, or
 - (d) a devolved Welsh authority is designated the lead authority in the tender or transparency notice.
- (3) A procurement arrangement is a transferred Northern Ireland procurement arrangement if—
- (a) the framework was awarded by a transferred Northern Ireland authority,
 - (b) the dynamic market was established by a transferred Northern Ireland authority,
 - (c) the centralised procurement authority is a transferred Northern Ireland authority, or
 - (d) a transferred Northern Ireland authority is designated the lead authority in the tender or transparency notice.
- (4) A procurement arrangement is a devolved Scottish procurement arrangement if—
- (a) the framework or similar arrangement was awarded by a devolved Scottish authority,
 - (b) the dynamic market or similar arrangement was established by a devolved Scottish authority,
 - (c) the centralised procurement authority or equivalent body is a devolved Scottish authority, or
 - (d) a devolved Scottish authority was designated the lead authority in respect of the procedure or selection process.
- (5) A procurement arrangement is a reserved procurement arrangement if it is not—
- (a) a devolved Welsh procurement arrangement,
 - (b) a transferred Northern Ireland procurement arrangement, or
 - (c) a devolved Scottish procurement arrangement.
- (6) In this section—
- “equivalent body” means, in relation to a centralised procurement authority, a body carrying out functions of a kind described in section 1(4) (centralised procurement authorities);
- “framework” includes a framework agreement within the meaning given in Scottish procurement legislation;
- “similar arrangement” includes, in relation to a dynamic market, a dynamic purchasing or qualification system.

Commencement Information

I6 S. 114 not in force at Royal Assent, see [s. 127\(2\)](#)

I7 S. 114 in force at 12.3.2024 by [S.I. 2024/361](#), [reg. 2\(o\)](#)

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects
for the Procurement Act 2023, PART 11. (See end of Document for details)

115 Powers relating to procurement arrangements

- (1) A Minister of the Crown may by regulations make provision, including provision amending this Act, for the purpose of regulating devolved Scottish authorities carrying out procurement under—
 - (a) reserved procurement arrangements,
 - (b) devolved Welsh procurement arrangements, or
 - (c) transferred Northern Ireland procurement arrangements.
- (2) A Minister of the Crown may by regulations amend this Act for the purpose of disapplying provision so far as it relates to procurement under devolved Scottish procurement arrangements.
- (3) The Scottish Ministers may by regulations amend Scottish procurement legislation for the purpose of—
 - (a) applying it in relation to procurement carried out by contracting authorities under devolved Scottish procurement arrangements;
 - (b) disapplying it in relation to procurement carried out by devolved Scottish authorities under—
 - (i) reserved procurement arrangements,
 - (ii) devolved Welsh procurement arrangements, or
 - (iii) transferred Northern Ireland procurement arrangements.
- (4) In this Act, “Scottish procurement legislation” means—
 - (a) the Procurement Reform (Scotland) Act 2014 ([asp 12](#)),
 - (b) the Public Contracts (Scotland) Regulations 2015 ([S.S.I. 2015/446](#)),
 - (c) the Utilities Contracts (Scotland) Regulations 2016 ([S.S.I. 2016/49](#)),
 - (d) the Concession Contracts (Scotland) Regulations 2016 ([S.S.I. 2016/65](#)), and
 - (e) any legislation which modifies or replaces that legislation (including an Act of the Scottish Parliament).

Commencement Information

- 18** S. 115 not in force at Royal Assent, see [s. 127\(2\)](#)
19 S. 115(1) in force at 12.3.2024 by [S.I. 2024/361](#), [reg. 2\(p\)](#)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Procurement Act 2023, PART 11.