



# Social Partnership and Public Procurement (Wales) Act 2023

2023 asc 1

## PART 3

SOCIALLY RESPONSIBLE PUBLIC PROCUREMENT

## CHAPTER 2

SOCIALLY RESPONSIBLE PROCUREMENT DUTY

PROSPECTIVE

### *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.

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Social Partnership and Public Procurement (Wales) Act 2023, Cross Heading: The socially responsible procurement duty. (See end of Document for details)*

- (5) In taking action aimed at contributing to the achievement of the well-being goals, a contracting authority must—
- (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.

#### **Commencement Information**

**II** S. 24 not in force at Royal Assent, see [s. 48\(1\)](#)

## **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

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Social Partnership and Public Procurement (Wales) Act 2023, Cross Heading: The socially responsible procurement duty. (See end of Document for details)*

(c) a works concession contract.

(3) The Welsh Ministers may by regulations amend this section to modify the meaning of a major construction contract.

#### Commencement Information

I2 S. 25 not in force at Royal Assent, see [s. 48\(1\)](#)

## 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.

#### Commencement Information

I3 S. 26 not in force at Royal Assent, see [s. 48\(1\)](#)

**Status:**

This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Social Partnership and Public Procurement (Wales) Act 2023, Cross Heading: The socially responsible procurement duty.