

## **STATUTORY INSTRUMENT CONSENT MEMORANDUM**

### **The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 which contain amendments to section 155 (2) and (3) of the Equality Act 2010**

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO 30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before Senedd Cymru if a UK Statutory Instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd.
2. The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 were laid before UK Parliament on 07 October 2020 The SI and the Explanatory Memorandum can be found at:  
<https://www.legislation.gov.uk/ukdsi/2020/9780348212952>

### **Summary of the Statutory Instrument and its objective**

3. The objective of the SI, in the main, is to correct deficiencies in legislation arising from the UK leaving the European Union as provided for by the European Union (Withdrawal) Act 2018.
4. The SI makes amendments to a suite of procurement related legislation but the amendments to which this SICM relates are technical amendments to section 155 (2) and (3) of the Equality Act 2010. These amendments are required to ensure this provision of the Equality Act 2010 can continue to operate effectively at the end of the transition period.
5. The SI to which this Statutory Instrument Consent Memorandum relates has been laid in the UK Parliament under the draft affirmative procedure and the SI cannot be made unless a draft has been laid before and approved by both Houses of Parliament. The provisions in the SI that amend the primary legislation referenced in this Memorandum would come into force on the IP completion day, being 31 December 2020 at 11.00 p.m.

### **Provisions to be made by the Statutory Instrument for which consent is sought**

6. The primary legislation that is within the legislative competence of the Senedd that is to be amended by the SI, is section 155(2) and (3) of the Equality Act 2010, which is amended by regulation 4 of the SI. The amendment provides for defining a term by reference to the Public Contracts Regulations 2015, rather than by reference to the Public Sector Directive (2014/24/EU). The Public Contract Regulations 2015 are domestic regulations which gave effect to the Public Sector Directive.
7. It is the view of the Welsh Government that the provisions described above fall within the legislative competence of Senedd Cymru and could be the subject of a Senedd Bill.

### **Why it is appropriate for the SI to make this provision**

8. This amendment is relatively minor and is technical in nature given that it provides for certain terms to be defined by reference to a set of domestic regulations which gave effect to an EU Directive, rather than by reference to the EU Directive itself. There is no divergence between the Welsh Government and the UK Government in relation to the policy of the correction. Making separate SIs in Wales and England to correct the reference in question would lead to duplication, and unnecessary complication of the statute book. In the exceptional circumstances presented by EU exit, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.

### **Financial implications**

9. There are no anticipated financial implications for the Welsh Government associated with the SI.

**Jane Hutt**  
**Deputy Minister and Chief Whip**