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Health Service Procurement (Wales) Bill

[AS AMENDED AT STAGE 3]

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Health Service Procurement (Wales) Bill

[AS AMENDED AT STAGE 3]

An Act of Senedd Cymru in relation to the procurement of health services in Wales.

Having been passed by Senedd Cymru and having received the assent of His Majesty, it is enacted as follows:

1 Overview

- (1) The Procurement Act 2023 regulates the way in which public authorities procure goods and services.
- (2) Section 2 of this Act amends the Procurement Act 2023 to enable the Welsh Ministers to disapply provisions of that Act in relation to services provided as part of the health service, to the extent that alternative provision is made in that respect.
- (3) Section 3 of this Act amends the National Health Service (Wales) Act 2006 (c. 42) to enable the Welsh Ministers to make specific (alternative) provision about procuring services provided as part of the health service.

2 Power to disapply procurement rules in relation to NHS procurement in Wales

- (1) The Procurement Act 2023 is amended as follows.
- (2) After section 120 insert—

“120A Power to disapply this Act in relation to procurement by NHS in Wales

- (1) The Welsh Ministers may, in relation to regulated health service procurement in Wales, by regulations make provision for the purpose of disapplying any provision of this Act.
- (2) In subsection (1)—
 - (a) “regulated health service procurement in Wales” means the procurement of goods or services by a relevant authority that is subject to provision made under section 10A of the National Health Service (Wales) Act 2006 (c. 42) (procurement of services etc. as part of the NHS in Wales), whether or not that provision is in force;
 - (b) “relevant authority” has the meaning given in that section.”
- (3) In section 122(10), after paragraph (n), insert—
 - “(na) section 120A (disapplication of Act: NHS procurement in Wales);”.

3 Procurement of services etc. as part of the NHS in Wales

- (1) The National Health Service (Wales) Act 2006 (c. 42) is amended as follows.

(2) After section 10 insert—

“Procurement

10A Procurement of services etc. as part of the NHS in Wales

- 5 (1) The Welsh Ministers may, by regulations, make provision in relation to the processes to be followed and objectives to be pursued by relevant authorities in the procurement of—
- (a) services provided as part of the health service in Wales (“health services”), and
- 10 (b) goods or other services that are connected to those health services.
- (2) Regulations under subsection (1) must include provision specifying steps to be taken when following a competitive tendering process.
- (3) Regulations under subsection (1) must, in relation to the procurement of the services or goods to which they apply, make provision for the purposes of—
- 15 (a) ensuring transparency;
- (b) ensuring fairness;
- (c) ensuring that compliance can be verified;
- (d) managing conflicts of interest.
- 20 (4) Before making regulations under subsection (1), the Welsh Ministers must carry out such consultation as they consider appropriate and publish a summary of the responses they receive.
- (5) Explanatory material accompanying regulations made under subsection (1) must set out how the regulations make provision for the purposes of subsection (3).
- 25 (6) The Welsh Ministers must publish such guidance as they consider appropriate about compliance with the regulations.
- (7) A relevant authority must have regard to guidance published under this section.
- 30 (8) The Welsh Ministers must—
- (a) review the operation of the regulations, and
- (b) publish the conclusions of the review before the end of the period of 5 years beginning with the day on which the regulations come into force.
- 35 (9) In this section “relevant authority” means—
- (a) a county council or county borough council in Wales;
- (b) a local health board established under section 11;
- (c) a National Health Service trust established under section 18;
- (d) a special health authority established under section 22.”

(3) In section 203(6), before “section 25B(3)(c)” insert “section 10A(1),”.

4 Coming into force

This Act comes into force on the day after the day it receives Royal Assent.

5 Short title

5 The short title of this Act is the Health Service Procurement (Wales) Act 2023.