

SL(6)571 – The Procurement (Miscellaneous Amendments) (Wales) Regulations 2025

Background and Purpose

These Regulations amend the Procurement Act 2023 (“the 2023 Act”) and the Procurement (Wales) Regulations 2024 (“the 2024 Regulations”). The amendments deal with ensuring that updates can be made to the threshold figures that will apply to contracting authorities that are or are treated as devolved Welsh authorities; additions and amendments to the UK’s international obligations regarding procurement; and matters that were raised in a previous report of this Committee and subsequent correspondence relating to the 2024 Regulations.

Procedure

Affirmative

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Regulation 6 inserts a new regulation 45A into the 2024 Regulations. The new regulation 45A includes references to “affiliated turnover amount”, “affiliated person” and “utility”. These terms are not defined in the new regulation 45A, nor are they defined in the 2024 Regulations (“utility” is defined in relation to Part 2 of the 2024 Regulations, but not for the purposes of Part 3 of which regulation 45A would be part). Footnotes to the new regulation 45A invite references to provisions of the 2023 Act for the meaning of these terms, but footnotes are not operative parts of legislation. It is therefore necessary to define these terms in the body of the new regulation 45A.

It should also be noted that the term “affiliated person” is used twice before reference is made to the footnote. Reference is also made to “persons affiliated” but it is not clear whether this is intended to have the same meaning as “affiliated person” (although it is noted that the definition used in the 2023 Act would cover both).

The Welsh Government is asked to explain why definitions for “affiliated turnover amount”, “affiliated person” and “utility” were not included in the new section 45A(5) or elsewhere in the Regulations if appropriate.



Merits Scrutiny

The following three points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

Some of the amendments that the Regulations make to the 2024 Regulations address issues that were raised in this [Committee's previous report and subsequent correspondence](#). This includes updating terminology in Schedule 2 to the Regulations so that it now correctly refers to the Senedd Cymru Commission instead of the National Assembly for Wales Commission, and to other public bodies by their current titles.

The Committee notes that the [letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office to the Chair of the Committee dated 2 September 2024](#) cited concerns about the impact of changing the names of these bodies on compatibility with international obligations. It was noted that the Welsh Government intended to return to looking at the international obligations-related implications of updating the names of Schedule 2 authorities at a later date. The Committee would be grateful if the Welsh Government could provide an update regarding how and why it determined that it is now appropriate to make these name changes.

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

The Regulations amend changes to the 2023 Act that are to be made by the Procurement Act 2023 (Consequential and Other Amendments) Regulations 2025 ("the UK Regulations"), which are currently in draft form before the UK Parliament and are not yet law. The provisions of the draft UK Regulations to which these Regulations relate are due to come into force on 23 February 2025, one day before these Regulations.

4. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

A public consultation exercise was not carried out in relations to these Regulations. The Explanatory Memorandum states:

Formal public consultations were held on the UK Government's Draft Statutory Instruments (SIs) with bilingual supporting documentation explaining the proposed derogations / differences for Wales. Many of the elements included in the consultations are being taken forward in these Regulations and the information gathered therefore applies. A separate consultation exercise was therefore not held.



Welsh Government response

A Welsh Government response is required in relation to the technical reporting point and the first merit point only.

Legal Advisers

Legislation, Justice and Constitution Committee

21 January 2025



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee