

Explanatory Memorandum to The Procurement Act 2023 (Threshold Amounts) (Amendment) (Wales) Regulations 2025

This Explanatory Memorandum has been prepared by the Commercial and Procurement Directorate and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Cabinet Secretary Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Procurement Act 2023 (Threshold Amounts) (Amendment) (Wales) Regulations 2025. I am satisfied the benefits justify the likely costs.

Mark Drakeford MS
Cabinet Secretary for Finance and Welsh Language
11 December 2025

PART 1

1. Description

- 1.1 The Procurement Act 2023 (“The 2023 Act”) established regulation-making powers for Welsh Ministers in relation to Public Procurement for Wales.
- 1.2 The Procurement Act 2023 (Threshold Amounts) (Amendment) (Wales) Regulations 2025 (“the Regulations”) will be made using the power set out in paragraph 2, Schedule 1 of the 2023 Act to update certain threshold amounts in Schedule 1. These amounts govern the procedures for the award of public contracts for goods, works and services.
- 1.3 These amendments follow a review of the relevant thresholds to ensure they continue to correspond with the relevant thresholds laid down in the World Trade Organisation’s Agreement on Government Procurement (“GPA”).
- 1.4 Regulation 3 (1) amends the table which contains the threshold amounts set out in Schedule 1 to the Act. The threshold amounts determine the value above which contracts of different types fall to be regulated by the substantive regime.
- 1.5 Regulation 4 (1) makes transitional provision in connection with the changes to thresholds, making clear when they have effect from.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 None.

3. Legislative background

- 3.1 The Regulations are made by the Welsh Ministers in exercise of the powers conferred on them by section by paragraph 2 of Schedule 1 to the 2023 Act.
- 3.2 In accordance with the provisions of section 122(11) of the 2023 Act, this statutory instrument containing regulations made by the Welsh Ministers is subject to annulment in pursuance of a resolution of Senedd Cymru.

4. Purpose and intended effect of the legislation

- 4.1 The Regulations amend certain financial thresholds contained in Schedule 1 to the 2023 Act, which govern the procedures for the award of public contracts for goods, works and services.
- 4.2 Those thresholds determine the value above which contracts of different types fall to be regulated by the substantive regime.
- 4.3 These amendments follow a review of the relevant thresholds to ensure they continue to correspond with the relevant thresholds laid down in the World Trade Organisation's Government Procurement Agreement ("GPA").
- 4.4 This review is undertaken every two years.

5. Improvements the subordinate legislation will make to the current situation

- 5.1 The Regulations will update the table in Schedule 1 containing the procurement thresholds to ensure alignment with the World Trade Organisation (WTO) Government Procurement Agreement (GPA) requirements, ensuring the UK remains compliant with its international obligations.
- 5.2 This will provide legal certainty for Welsh Contracting Authorities, maintain consistency across UK jurisdictions, and reduce the risk of trade disputes.
- 5.3 Regulation 4(1) makes transitional provision in connection with the changes to thresholds, making clear when the changes will come into effect.

6. How will the legislation enable sectors to operate more efficiently?

- 6.1 By updating Schedule 1 to reflect the current thresholds indicated in the GPA, the Regulations provide clarity and certainty for contracting authorities and suppliers, supporting efficient and lawful procurement processes.

7. Whether the legislation will improve access or outcomes for disadvantaged or excluded sections of society

- 7.1 These Regulations and the 2023 Act and associated Regulations, alongside the Social Partnership and Public Procurement (Wales) Act 2023 (SPPP) and the Health Service Procurement (Wales) Act 2024 (HSP), will all dovetail together to provide an effective framework for public procurement activity in Wales.

- 7.2 Alongside the Wales Procurement Policy Statement (WPPS) and the Well-Being of Future Generations Act (WBFGA), this will ensure that the Welsh public sector uses procurement as an effective lever to deliver social, cultural, economic and environmental outcomes, including fair work.
- 7.3 The provisions contained in the Regulations are technical in nature and relate to the implementation of thresholds relating to international procurement obligations. They do not directly impact access or outcomes for disadvantaged or excluded groups.
- 7.4 While the Regulations and associated 2023 Act do not make any other direct reference to any protected characteristics, Welsh Contracting Authorities should consider how they can use the public procurement framework to deliver additional outcomes through their procurement activities, maximising opportunities to deliver economic, social, environmental and cultural well-being.
- 7.5 The Regulations and associated 2023 Act do not disadvantage some people or groups more than others. No direct or indirect negative impacts or barriers have been identified on people with protected characteristics.

8. Consultation

- 8.1 As these Regulations are technical amendments to implement thresholds relating to international obligations, no formal public consultation has been undertaken.

PART 2 – REGULATORY IMPACT ASSESSMENT

9. Introduction

- 9.1 This Regulatory Impact Assessment (RIA) assesses the potential impacts of the proposed Regulations namely The Procurement Act 2023 (Threshold Amounts) (Amendment) (Wales) Regulations 2025. The assessment considers two options: Business as Usual (do nothing) and Make Secondary Legislation.
- 9.2 The RIA aims to identify any additional transition costs to the Welsh Government (WG), Welsh Contracting Authorities (WCAs), or potential bidders, as well as any ongoing costs associated with the implementation of the proposed Regulations.

Options Considered

10. Option 1: Business as Usual (Do Nothing)

- 10.1 Doing nothing would mean that the two-yearly review of procurement thresholds is not implemented. These thresholds are revised every two years to take account of currency fluctuations and to ensure the UK complies with its obligations under the World Trade Organisation's Agreement on Government Procurement (GPA).
- 10.2 Failure to carry out this review would leave thresholds outdated and misaligned with international obligations, undermining transparency and fairness in public procurement as contracting authorities would be applying figures that no longer reflect GPA commitments.
- 10.3 This approach could expose contracting authorities and the Welsh Government to legal and reputational risks, including:
 - Increased risk of Wales being perceived as non-compliant with GPA obligations, which could lead to disputes being raised at the WTO or under Free Trade Agreements, and/or reputational damage at an international level. The consequences of a successful dispute being raised against the UK under the WTO or an FTA would likely involve the UK being required to change its measures and/or pay compensation. Retaliatory tariffs or quotas could also be imposed on its imports or exports.
 - Operational uncertainty for contracting authorities, resulting in inefficiencies and potential procurement errors.
- 10.4 In addition, not updating thresholds could lead to divergence from the approach taken in other parts of the UK, where reviews are undertaken regularly, which may affect overall consistency and confidence in the procurement framework.

- 10.5 Failure to implement procurement obligations could jeopardise the UK's compliance with the details included in the GPA, potentially leading to disputes being raised at an international level. A successful dispute could lead to economic sanctions being imposed on the UK as detailed in 10.4. Wales, as part of the UK, would be implicated in any such breach.
- 10.6 If these Regulations were not made, this would cause non-compliance with the required procurement thresholds and in addition to the risks highlighted above this would create inconsistency with the approach adopted by the UK Government and the Northern Ireland department, where regulations are being properly implemented, and could expose contracting authorities to legal and reputational risks.

11. Option 2: Make Secondary Legislation

- 11.1 This option updates the thresholds to reflect inflation and policy decisions.
- 11.2 The benefit is legal certainty, proportionality, and alignment with UK-wide practices.
- 11.3 The practical impact for contracting authorities with the changes to the thresholds will be that they must apply the updated figures specified in the Regulations when determining which procurement procedures are required. The Procurement Procedures themselves have not changed.
- 11.4 Where contracts now fall above the amended thresholds, the full procurement regulations will need to be followed to comply with international obligations.
- 11.5 This may result in additional costs and resource implications for contracting authorities; however, we are unable to quantify the overall cost impact or the number of contracts affected across Wales. Failure to comply could lead to remedies being sought or trade disputes being raised.
- 11.6 Contracting authorities should review the new thresholds, familiarise themselves with the amended figures, and update their internal guidance and procedures where appropriate to reflect these changes.
- 11.7 They should use the amended thresholds as the basis for compliance in future procurements from 1 January 2026. While these actions are necessary, we are unable to quantify the overall cost of this process across Wales.
- 11.8 Welsh Government Guidance will be updated, and communications

will be published to ensure Contracting Authorities are aware of the change in threshold amounts in order for them to review and update their procedures.

- 11.9 Transitional provisions will ensure that ongoing procurements are not affected, minimising disruption.
- 11.10 It would achieve parity for Contracting Authorities in England and Wales.

12. Costs and benefits - Option 1: Do nothing

- 12.1 This is the baseline option. It is difficult to ascertain the costs associated with this option. It could lead to disputes being raised at the WTO or under Free Trade Agreements, and/or reputational damage at an international level. The consequences of a successful dispute being raised against the UK under the WTO or an FTA would likely involve the UK being required to change its measures and/or pay compensation. Retaliatory tariffs or quotas could also be imposed on its imports or exports.
- 12.2 No additional benefit has been identified.

13 Costs and benefits - Option 2: Make Secondary Legislation

- 13.1 The Regulations implement the updated amended Thresholds for international obligations included in the WTO GPA and will ensure legal certainty for Contracting Authorities. Although there may be some costs as highlighted in the sections above, the details cannot be quantified.
- 13.2 By implementing these Regulations WCA's will continue their compliance with their GPA obligations regarding thresholds, helping to avoid disputes and maintain Wales' reputation at an international level.
- 13.3 Updating thresholds also ensures alignment with the approach taken in other parts of the UK, supporting overall consistency and confidence in the procurement framework.
- 13.4 The benefit of option 2 is legal certainty, parity and compliance with the UK's GPA International Obligations relating to Thresholds. For these reasons, option 2 is the preferred option.