

## **Explanatory Memorandum to The Social Partnership and Public Procurement (Wales) Regulations 2026**

This Explanatory Memorandum has been prepared by the Corporate Services and Inspectorates Group of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Social Partnership and Public Procurement (Wales) Regulations 2026. I am satisfied that the benefits justify the likely costs.

**Jack Sargeant MS,  
Minister for Culture, Skills and Social Partnership  
27 February 2026**

## **PART 1 – EXPLANATORY MEMORANDUM**

### **1. Description**

- 1.1 The Social Partnership and Public Procurement (Wales) Act 2023 (“the Act”) provides a framework to enhance the well-being of the people of Wales by improving public services through social partnership working, promoting fair work and socially responsible public procurement.
- 1.2 These Regulations, namely “The Social Partnership and Public Procurement (Wales) Regulations 2026” (“the Regulations”) are made under powers provided for the Welsh Ministers included within the Act. The Regulations provide the necessary detail to implement Part 3 of the Act (Socially Responsible Public Procurement).
- 1.3 These Regulations make provision for:
- A definition of prescribed contracts
  - Amendment to Section 27(4) of the Act
  - A definition of registrable contracts
  - Information required in annual socially responsible procurement reports

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

- 2.1 None

### **3. Legislative background**

- 3.1 These Regulations are being made by Welsh Ministers in exercise of the powers conferred by sections 24(8)(c), 27(4)(c), 39(2)(e) and (f) and (3), 40(2) and 44 to the Act.
- 3.2 Commencement Order 4 commences Section 22(2), 24(1-7), 25(1), 26(1), 28, 29, 30, 31, 34, 35, 36, 37, 38, 40, 41, and Schedule 2 on 25 March 2026 and Section 39 and 42 on the 1 April 2026. It is intended that the Regulations will come into force in line with the relevant sections under Commencement Order 4.
- 3.3 Pursuant to paragraph 2 of Schedule 1A to the Legislation (Wales) Act 2019, references in the Act to the “affirmative procedure” are to be read instead as references to the Senedd approval procedure in section 37C of that Act and references to the “negative procedure” are to be read instead as to the Senedd annulment procedure in section 37E.
- 3.4 In accordance with the provisions of section 44(2) of the Act, the Senedd approval procedure will apply to Regulations made under sections 24(8)(c) and 27(4)(c).

- 3.5 In accordance with the provisions of section 44(3) of the Act, the Senedd annulment procedure will apply to Regulations made under sections 39(2)(e), 39(2)(f), 39(3), 40(2).
- 3.6 Under Section 40 of the Legislation (Wales) Act 2019, provision subject to the Senedd annulment procedure may be combined in the same instrument as provision subject to the Senedd approval procedure. As a result, the Senedd approval procedure applies to these Regulations.

#### **4. Purpose and intended effect of the legislation**

- 4.1 The public procurement landscape in Wales is evolving. With over £11bn billion spent on public procurement each year in Wales, improving the way public procurement is regulated can drive innovation and resilience, and deliver benefits across Wales by supporting our local economy and saving the taxpayer money.
- 4.2 Through the lens of the Well-being of Future Generations (Wales) Act, the Welsh Government is committed to harnessing new and existing opportunities and to working with partners across Wales and beyond to develop a modern and sustainable approach to procurement.
- 4.3 The legislative changes being introduced through the Act and the Regulations will help to deliver the Welsh Government's Programme for Government aspirations.
- 4.4 This Explanatory Memorandum and Regulatory Impact Assessment has been developed in relation to The Social Partnership and Public Procurement Regulations (Wales) 2026 which derive from the Act. These Regulations are required to implement the Socially Responsible Procurement Duty requirements established by the Act.
- 4.5 The main policy objectives for the Regulations are to establish duties towards delivering socially responsible public procurement and contract management in Wales.
- 4.6 Part of the socially responsible procurement duty in the Act requires further steps to be taken in relation to "prescribed contracts". Contracting authorities are required to "take all reasonable steps" to meet their socially responsible procurement objectives, and to include relevant information in their annual socially responsible procurement reports.
- 4.7 Prescribed contracts are defined in the Act as major construction and outsourcing services contracts, with a provision for extending this definition by regulations. These Regulations extend the definition to include public contracts above the thresholds as set out in Schedule 1 to the Procurement Act 2023, unless the contract is an excluded contract under regulation 3 of the Social Partnership and Public Procurement

(Wales) Regulations 2026. This intention to extend through Regulations was included in the [Explanatory Memorandum](#) to the then Social Partnership and Public Procurement (Wales) Bill. The Regulations mean that contracting authorities will have to “take all reasonable steps” to meet their objectives for all larger procurements, not only those that are defined as major construction and outsourcing services contracts, and then to report on how they have done so each year. The Regulations therefore maximise in a proportionate way the action a contracting authority must take towards contributing to the achievement of the well-being goals. This is in line with the Well-being of Future Generations (Wales) Act 2015 which applies to procurement in all sectors.

4.8 The intentions are to:

- support contracting authorities, [listed in Schedule 1 of the Act](#), in ensuring that well-being goals are central considerations in procurement, in order to improve the well-being of Wales and public service delivery;
- ensure that well-being outcomes are at the heart of procurement strategies and processes;
- improve the link between procurement processes and the delivery of outcomes by better contract management;
- improve transparency through annual reporting which shares good practice and highlights areas where improvements are needed.

## 5. Consultation

5.1 A formal public consultation on the draft Regulations was held over a 12-week period running from 22 July 2025 to 14 October 2025. The consultation is available here: [Socially responsible public procurement | GOV.WALES](#)

5.2 Officials held discussions with key stakeholders in relation to the consultation approach, sent letters to key stakeholders and broadcasted widely via newsletter, the social media platform 'X' and email.

5.3 The consultation asked whether the drafting reflected the policy intent. Views were not sought on the policy itself which has already been established by the Act.

5.4 Compulsory questions were asked to respondents. Where respondents answered “disagree” or “strongly disagree”, they were asked to provide the detail under each section. In addition, there were two Welsh Language Questions in the Consultation.

5.5 The Welsh Government received 60 responses to the consultation from a wide range of stakeholders, via a combination of online forms, emails and letters.

5.6 The consultation documents and Welsh Government's summary of responses has been published ([Socially responsible public procurement](#)).

5.7 Feedback received was generally positive with respondents welcoming the opportunity to give their views.

5.8 There was general agreement to the proposals in the consultation. However, several points raised necessitated some amendments to the Regulations.

5.9 These amendments are as follows:

- There will be an amendment to the Regulations such that reportable contracts (s.39) will no longer be defined by reference to registrable contracts (s.40). The meaning will remain the same, but it will assist the reader of the Regulations by avoiding confusion and the need to cross-refer to an unrelated definition.
- Regulation 3(3) and 4(3) to add sub-paragraphs to exempt contracts exempted from the PA under Section 102A (Power to disapply this Act in relation procurement by NHS in Wales) and contracts awarded under section 41 by reference to paragraph 15 of schedule 5 (direct award: user choice contracts) from the definition of a prescribed contract.
- Removal of Regulation 5(2) sub paragraph (f) (information on emissions).
- Removal of Regulation 5(2) sub paragraph (j) (collective bargaining).

5.10 In addition, the guidance will be strengthened to provide additional information and support on definitions, processes and annual reports.

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **6. Introduction**

6.1 A Regulatory Impact Assessment (RIA) has been completed for The Social Partnership and Public Procurement (Wales) Regulations) 2026 and it follows below.

6.2 The RIA presents a best estimate of the costs and benefits of the Regulations based upon the available evidence.

6.3 It has been necessary to make a series of assumptions in order to complete the calculations due to insufficient data being available. Any assumptions made are explained in the narrative. Unless otherwise stated, all costs in the RIA have been rounded to the nearest hundred. Some of the totals may not sum due to this rounding.

6.4 This RIA takes into account estimated costs over the period 2025-26 to 2034-35.

### **7. Options**

#### **7.1 Option 1: Business as usual (do nothing)**

7.1.1 Doing nothing would mean that the Welsh Ministers would not take forward the powers contained within the Act to make Regulations. This would:

- reduce the scope of the Act concerning obligations related to prescribed contracts
- not enable section 40 of the Act to come into force (the Contracts Register)
- reduce the level of information required to be included by Contracting Authorities in their annual socially responsible procurement reports
- keep a term in the Act which is not aligned with the social model of disability

7.1.2 There would be no change to current social partnership arrangements or to the current policy expectations on socially responsible public procurement in Wales. Existing informal and ad-hoc social partnership arrangements would continue.

7.1.3 This approach would have the following negative impacts:

- Opportunities to strengthen fair work as well as enhance well-being through better strategic planning and clearer accountability would be lost.

- Welsh Ministers would not have a cohesive overview and would lack the necessary transparency across socially responsible procurement activities, resulting in limited visibility of practices and outcomes throughout Wales. This absence of clear, accessible information would hinder the collection of robust evidence to inform and guide future changes, making it challenging to identify opportunities for improvement and to ensure that public services evolve in line with well-being goals and policy ambitions.

7.1.4 Option 1 carries the following risk:

- Reputational risks associated with the significant work undertaken to date on creating social partnership and public procurement legislation in Wales and then not taking it forward. This would result in a lack of confidence from stakeholders in Welsh Government's decision-making which could lead to stakeholder disengagement.

7.1.5 Option 1 would also lead to lost opportunities to have:

- Transparency – there would be a missed opportunity to improve transparency throughout the commercial lifecycle and aid better scrutiny.
- Missed opportunities to collect information that would improve the evidence base for future policy decisions.
- Missed opportunity to use annual reporting for data driven intervention and policy development.
- Missed opportunities to promote forward planning and greater focus on socially responsible outcomes.

7.1.6 Option 1 is not recommended due to the risks and lost opportunities stated above and because it does not meet the Ministerial priorities or policy objectives for Social Partnership and Public Procurement in Wales.

### **Costs and Benefits Option 1: Business as usual (do nothing)**

7.1.7 Option 1 has the following potential costs:

- Re-engagement with the public sector - in the event of doing nothing, Welsh Government would need to undertake a new series of announcements and newsletters to explain why we have taken the decision not to make Regulations.

7.1.8 The resource for these activities would come from current Welsh Government staff, so whilst there would be no additional costs to

Welsh Government, this activity would take resource away from delivery against other Programme for Government commitments.

## **7.2 Option 2 – Make Secondary Legislation with limited central digital solution**

7.2.1 Option 2 would mean that the Welsh Ministers would utilise the powers contained within the Act to make secondary legislation. This would bring into force legislation to:

- support contracting authorities in ensuring that well-being goals are central considerations in procurement, in order to improve the well-being of Wales and public service delivery;
- ensure that well-being outcomes are at the heart of procurement strategies and processes;
- improve the link between procurement processes and the delivery of outcomes by better contract management;
- improve transparency through annual reporting which shares good practice and highlights areas where improvements are needed.

7.2.2 The limited digital solution refers to an enhanced supplier registration profile in Sell2Wales to incorporate the supplier information required to be measured by Regulation 6.

7.2.3 Regulation 6 requires contracting authorities to include in their annual socially responsible procurement report information about the estimated value of contracts awarded to contractors that satisfy certain conditions specified within Regulation 6. This information must be expressed as a percentage figure, and necessitates the collection of contract value and supplier information for each relevant contract awarded by the contracting authority.

7.2.4 Contracting authorities will be able to extract the information required from Sell2Wales. Contracting authorities will need to use the Sell2Wales data to calculate the percentage information required by the Regulations.

### **Costs and benefits - Option 2: Make Secondary Legislation with limited central digital solution**

#### **Contracts register**

7.2.5 Contracting authorities will be required to maintain and publish a contracts register containing information on registerable contracts which are of a description prescribed by the Welsh Ministers in these Regulations. The table below assumes that the contracting authority utilises the functionality within Sell2Wales to create its contracts register. This will not require any additional resource, however,

below is the estimated cost of checking and maintaining that register annually. Contracting authorities are expected to incur this cost from 2025-26 onwards.

Job Title	Annual Staff Cost (£)	Daily Rate (£) (Divide by 220)	Days Spent	Annual Cost (£)
SEO	74,943	340	0.5	170
HEO	59,751	272	1	272
<b>CA TOTAL</b>				<b>442</b>
<b>OVERALL x 73</b>				<b>32,266</b>

7.2.6 N.B. proxy rates equivalent to Welsh Government Grade SEO and HEO are used for staff pay rates due to variances across the public sector, and differences in job titles. It is estimated that 73 contracting authorities will be required to create, maintain and publish a contracts register.

7.2.7 Therefore, the estimated aggregate cost for creating, maintaining and publishing a contracts register is £32,300 per annum (rounded to the nearest hundred).

### **Contracting Authority annual socially responsible procurement reports**

7.2.8 The supplier profile within Sell2Wales will be amended to capture the information required about contractors. Contracting Authorities will then have two options to extract the required data:

- Utilise the information collected in Sell2Wales via the supplier profile to provide the information (where suppliers have already updated their profile information).
- request the information be updated by suppliers (where the information has not been already updated) within their Sell2Wales profile prior to contract award point for each supplier awarded a prescribed contract.

7.2.9 The limited central digital solution will provide the information for each contractor via their supplier profile, therefore contracting authorities can use this as a basis to calculate the percentage information required by the Regulations. The contracting authority will need to manually extract the information from Sell2Wales and utilise a calculation template, which will be provided by Welsh Government, to calculate the information required to meet the requirements of the Regulations. The administration costs of doing this will be minimal. This will provide a limited centralised digital

solution to capture the required information and save some of the administrative costs for each contracting authority.

7.2.10 An annual reporting template will also be provided.

7.2.11 It is envisaged that the gathering of information required for the annual reports will be undertaken by a procurement official within each contracting authority. The first report will be published in 2027-28 (based on procurement activity in 2026-27).

7.2.12 The costings for this reporting were provided in the RIA for the Act however below is the new uplifted costs.

Job Title	Annual Staff Cost (£)	Daily Rate (£) (Divide by 220)	Days Spent	Annual Cost (£)
G7	117,797	535	2	1,070
SEO	74,943	340	5	1,700
<b>CONTRACTING AUTHORITY TOTAL</b>				<b>2,770</b>
<b>OVERALL x 44</b>				<b>121,880</b>

7.2.13 N.B. proxy rates equivalent to Welsh Government Grade 7 and SEO are used for staff pay rates due to variances across the public sector, and differences in job titles. It is estimated that 44 contracting authorities will be required to produce annual reports, as this is the number that is likely to have carried out at least one prescribed procurement in any particular year.

7.2.14 Therefore, the estimated cost for collating data required for annual procurement reports is £121,900 per annum (rounded to the nearest hundred).

### Welsh Ministers Annual Report

7.2.15 Welsh Ministers must prepare and publish a report on public procurement in Wales each year. This report, which will first be published in 2027-28, must include information about the annual reports published by contracting authorities and the results of any investigations under Section 41 of the Act. A copy of the report must be laid before the Senedd. Full details were included within the [Act RIA](#).

Job Title	Annual Staff Cost (£)	Daily Rate (£) (Divide by 220)	Days Spent	Annual Cost (£)
SEO	74,943	340	15	5,100
HEO	59,751	272	15	4,080
<b>TOTAL</b>				<b>9,180</b>

7.2.16 Therefore, the estimated cost for producing the Welsh Minister's annual procurement report is £9,200 per annum (rounded to the nearest hundred).

7.2.17 There is also a one-off cost of creating additional guidance and a template for contracting authorities to use. Those costs are estimated as follows: -

Job Title	Annual Staff Cost (£)	Daily Rate (£) (Divide by 220)	Days Spent	One-off Cost (£)
G7	117,797	535	0.5	267
SEO	74,943	340	1	340
<b>TOTAL</b>				<b>607</b>

7.2.18 Therefore, the estimated cost for producing the annual report guidance and template is £600 (rounded to the nearest hundred). This cost will be incurred in 2025-26.

### **Welsh Government Digital Development Costs**

7.2.19 A one-off cost to provide a limited central digital solution (as described above) is estimated at £30,000. This cost is expected to be incurred in 2025-26.

### **Supplier Costs**

7.2.20 There will be a limited transitional cost to suppliers to familiarise themselves with the requirements and to provide the information contracting authorities will require to comply with the Regulations. Suppliers will provide this information by updating their Sell2Wales profile.

7.2.21 Costs associated with this will be opportunity costs related to existing staff time and are expected to be minimal as providing a Yes or No response via tick boxes on Sell2Wales will take very little time.

7.2.22 Data from Sell2Wales shows the number of suppliers awarded a contract with a value over £30,000 in the past 12 months was 1,621. This is likely to be an over-estimate of the number of suppliers who will be impacted by these Regulations because it includes suppliers

awarded contracts by contracting authorities who are outside the scope of the Social Partnership and Public Procurement Act. Nevertheless, it represents our best estimate at this stage.

7.2.23 ONS' Annual Survey of Hours and Earnings shows the median gross hourly pay for 'Corporate managers and directors' in Wales in 2025 was £24.21. Adjusting this for non-wage costs gives an average hourly staff cost of approximately £30. If we assume each supplier will require no more than 30 minutes to familiarise themselves with the requirements and to complete the relevant sections on Sell2Wales, this gives an aggregate supplier cost in 2026-27 of approximately £24,300.

## OVERALL ESTIMATED COSTS SUMMARY – OPTION 2

Description	2025-26	2026-27	2027-28 onwards
Contracting Authority Contracts Register	£32,300	£32,300	£32,300
Contracting Authority Annual Report			£121,900
Welsh Minister Annual Report			£9,200
Welsh Government guidance and template	£600		
Sell2Wales development	£30,000		
Supplier cost		£24,300	
<b>TOTAL COST</b>	<b>£62,900</b>	<b>£56,600</b>	<b>£163,400</b>

7.2.24 The costs in the table have been rounded to the nearest hundred pounds and the present value of the costs over the ten-year appraisal period is approximately £1.2m

7.2.25 Option 2 is the preferred option.

### **7.3 Option 3 – Make Secondary Legislation with a full central digital solution**

7.3.1 Option 3 is to make Regulations with a full digital solution where the information required by Regulation 6 is built into supplier profiles on Sell2Wales and the system has a reporting functionality to provide the exact information required in the contracting authorities annual report.

7.3.2 Digitalising the full collection and reporting will enable a more efficient solution for contracting authorities to present the information required in their annual report.

7.3.3 Option 3 will include all the costs in option 2 and additional costs for the further digital functionality within Sell2Wales.

7.3.4 Officials are continuing to look at this option and considering providing a full digital solution in the future. This will be subject to a full cost and benefit analysis and will be dependent upon affordability, value for money and feasibility of the proposed solution.

## 8. Competition Assessment

The competition filter test	
Question	Answer yes or no
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10% market share?	NO
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20% market share?	NO
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	NO
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	NO
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of firms?	NO
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	NO
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	NO
<b>Q8:</b> Is the sector characterised by rapid technological change?	NO
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	NO

8.1 There are unlikely to be any detrimental effects on competition.

## 9. Post implementation review

9.1 The new transparency provisions within the Regulations will increase the availability of robust and reliable data, which will help to inform decision making, and identify and monitor trends.

9.2 Welsh Ministers will also be producing an annual report which provides information on public procurement in Wales each year.

9.3 The Welsh Government is committed to monitoring and reviewing the implementation of the Act and Regulations, and the impacts of its provisions in the post implementation period.