

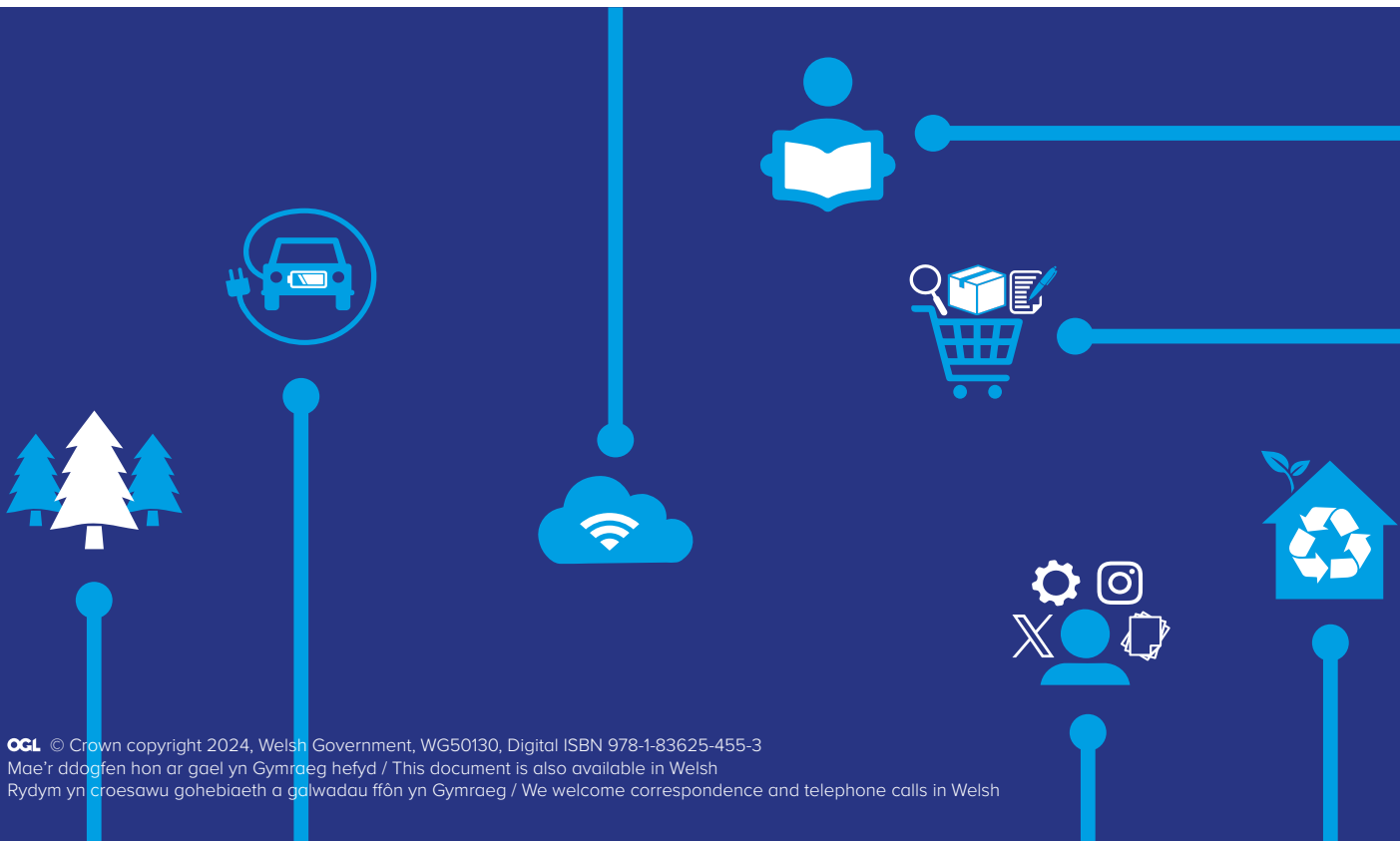


Llywodraeth Cymru
Welsh Government

Guidance

Procurement Act 2023 – List of Expressions and Definitions

July 2024





Guidance: Procurement Act 2023 – List of Expressions and Definitions

The following table is listed in alphabetical order by expression/word used in the Procurement Act 2023 (“Act”). It is not an exhaustive list of all the expressions or words within the Act, but covers some of the main terms that devolved Welsh authorities may find relevant as a high-level reference aid. The table lists the expression/word, its meaning, and where it may be found within the Act to provide context and so that a devolved Welsh authority can refer back to the appropriate location in the Act.

The terms and wording under the columns ‘Provision Reference’, ‘Provision Title’ and ‘Meaning’ in the table below have not been translated, since the Procurement Act 2023 is UK Government legislation, and the original Act is only available in English.

Expression	Provision Reference	Provision Title	Meaning
air service	Schedule 2	Exempted Contracts	36(2) In this paragraph, “air service” means a flight, or a series of flights, carrying passengers or cargo (including mail).
airport	Schedule 2	Exempted Contracts	36(2) In this paragraph, “airport” means any area especially adapted for air services.
appropriate authority	section 123	Interpretation	(1) In this Act, “appropriate authority” means– (a) a Minister of the Crown, (b) the Welsh Ministers, or (c) a Northern Ireland department;



assessment summary	section 50	Contract award notices and assessment summaries	(4) An “assessment summary” means, in relation to an assessed tender, information about the contracting authority’s assessment of— (a) the tender, and (b) if different, the most advantageous tender submitted in respect of the contract.
appropriate supplier	section 72	Sub-contracting: directions	(4) In subsection (3), an “appropriate supplier” means a supplier that— (a) is not an excluded supplier, and (b) could have been relied on in place of the supplier referred to in subsection (1)(b)(ii).
assessed tender	section 50	Contract award notices and assessment summaries	(5) In this section, an “assessed tender” is a tender which— (a) was submitted in respect of the contract and assessed for the purposes of determining the most advantageous tender under section 19(1), and (b) was not disregarded in the assessment of tenders.
associated person	section 26	Excluding suppliers from a competitive award	(4) In this Act, “associated person” means a person that the supplier is relying on in order to satisfy the conditions of participation (see section 22(8)), but not a



			person who is to act as guarantor as described in section 22(9).
associated tender document	section 21	Tender notices and associated tender documents	(4) “Associated tender document” means, in relation to a tender notice, a document setting out information specified in regulations under section 95 that supplements that set out in the tender notice.
award criteria	section 23	Award criteria	(1) In this Act, “award criteria” means criteria set in accordance with this section against which tenders may be assessed for the purpose of awarding a public contract under section 19 (award following competitive tendering procedure).
below-threshold contract	section 5	Mixed procurement: above and below threshold	(5) In this Act “below-threshold contract” means— (a) a contract for the supply, for pecuniary interest, of goods, services or works to a contracting authority, (b) a framework, or (c) a concession contract, that has an estimated value of less than the threshold amount for the type of contract.
below-threshold tender notice	section 87	Regulated below-threshold	(5) A “below-threshold tender notice” is a notice setting out—



		contracts: notices	(a) that the contracting authority intends to award a contract, and (b) any other information specified in regulations under section 95.
central government authority	schedule 1	Threshold Amounts	(5)(1) In this Schedule, “central government authority” means a contracting authority specified, or of a description specified, in regulations made by an appropriate authority.
centralised procurement authority	section 1	Procurement and covered procurement	(4) In this Act, “centralised procurement authority” means a contracting authority that is in the business of carrying out procurement for or on behalf of, or for the purpose of the supply of goods, services or works to, other contracting authorities.
comparable contract	section 33	Reserving contracts to public service mutuals	(7) In this section, “comparable contract” means a contract that was— (a) a contract for the same kind of services, (b) awarded by the same contracting authority, and (c) awarded in reliance on this section
competitive flexible procedure	section 20	Competitive tendering procedures	(4) A competitive flexible procedure—



		<p>(a) may limit the number of participating suppliers, generally or in respect of particular tendering rounds or other selection processes;</p> <p>(b) may provide for the refinement of award criteria in accordance with section 24;</p> <p>(c) may not permit the participation of suppliers that did not submit a tender in the first round of tendering or that were excluded following an earlier round.</p> <p>(5) A competitive flexible procedure may provide for the exclusion of suppliers—</p> <p>(a) by reference to conditions of participation (see section 22);</p> <p>(b) by reference to an intermediate assessment of tenders;</p> <p>(c) that are not United Kingdom suppliers or treaty state suppliers;</p> <p>(d) that intend to sub-contract the performance of all or part of the contract to a supplier that is not a United Kingdom supplier or treaty state Supplier.</p>
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competitive selection process	section 46	Frameworks: competitive selection process	(10) In this section, a “competitive selection process” means a competitive selection process for the award of a public contract in accordance with a framework.
competitive tendering procedure	section 20	Competitive tendering procedures	(2) A “competitive tendering procedure” is— (a) a single-stage tendering procedure without a restriction on who can submit tenders (an “open procedure”), or (b) such other competitive tendering procedure as the contracting authority considers appropriate for the purpose of awarding the public contract (a “competitive flexible procedure”).
complete work	schedule 1	Threshold Amounts	(5)(1) In this Schedule— “complete work” means a functioning structure that results from the carrying out of works.
concession contract	section 8	Concession contracts	(1) In this Act, “concession contract” means a contract for the supply, for pecuniary interest, of works or services to a contracting authority where— (a) at least part of the consideration for that supply is a right for the supplier to exploit the works or services, and (b) under the contract the supplier is exposed to a real operating risk.



condition of participation	section 22	Conditions of participation	(2) A “condition of participation” is a condition that a supplier must satisfy if the supplier is to be awarded the public contract.
condition of participation	section 46	Frameworks: competitive selection process	(2) In this section, a “condition of participation” means a condition that a supplier must satisfy in order to be awarded a public contract in accordance with the framework.
connected person	Schedule 6	Mandatory exclusion grounds	(45) In this Schedule, “connected person”, in relation to a supplier, means any of the following— (a) a person with “significant control” over the supplier (within the meaning given by section 790C(2) of the Companies Act 2006 (“CA 2006”)); (b) a director or shadow director of the supplier; (c) a parent undertaking or a subsidiary undertaking of the supplier; (d) a predecessor company; (e) any other person who it can reasonably be considered stands in an equivalent position in relation to the supplier as a person within paragraph (a) to (d);



			<p>(f) any person with the right to exercise, or who actually exercises, significant influence or control over the supplier;</p> <p>(g) any person over which the supplier has the right to exercise, or actually exercises, significant influence or control</p>
contract award notice	section 50	Contract award notices and assessment summaries	<p>(2) A “contract award notice” means a notice setting out—</p> <p>(a) that the contracting authority intends to enter into a contract, and</p> <p>(b) any other information specified in regulations under section 95.</p>
contract change notice	section 75	Contract change notices	<p>(3) A “contract change notice” is a notice setting out—</p> <p>(a) that the contracting authority intends to modify the contract;</p> <p>(b) any other information specified in regulations under section 95.</p>
contract details notice	section 53	Contract details notices and publication of contracts	<p>(2) A “contract details notice” means a notice setting out—</p> <p>(a) that the contracting authority has entered into a contract, and</p>



			(b) any other information specified in regulations under section 95.
conflict of interest	section 81	Conflicts of interest: duty to identify	(2) There is a conflict of interest in relation to a covered procurement if— (a) a person acting for or on behalf of the contracting authority in relation to the procurement has a conflict of interest, or (b) a Minister acting in relation to the procurement has a conflict of interest.
contract termination notice	section 80	Contract termination notices	(2) A “contract termination notice” is a notice setting out— (a) that the contract has been terminated, and (b) any other information specified in regulations under section 95.
contracting authority	section 2	Contracting authorities	(1) In this Act “contracting authority” means— (a) a public authority, or (b) in the case of a utilities contract, a public authority, public undertaking or private utility, other than an excluded authority.



convertible contract	section 74	Modifying a public contract	<p>(1) A contracting authority may modify a public contract or a contract that, as a result of the modification, will become a public contract (a “convertible contract”) if the modification—</p> <p>(a) is a permitted modification under Schedule 8 (permitted modifications),</p> <p>(b) is not a substantial modification, or</p> <p>(c) is a below-threshold modification.</p>
covered procurement	section 1	Procurement and covered procurement	<p>(1) In this Act—</p> <p>(b) “covered procurement” means the award, entry into and management of a public contract.</p>
debarment list	section 57	Meaning of excluded and excludable supplier	<p>(5) In this Act “debarment list” means the list kept under section 62.</p>
devolved Welsh authority	section 111	Welsh Ministers: restrictions on the exercise of powers	<p>(1) The Welsh Ministers may only exercise a power under this Act for the purpose of regulating—</p> <p>(a) contracting authorities that are devolved Welsh authorities (within the meaning given in section 157A of the Government of Wales Act 2006),</p>



			<p>(2) A contracting authority that is a public undertaking or private utility is to be treated as a devolved Welsh authority for the purposes of this Act if—</p> <p>(a) it operates wholly or mainly in relation to Wales, and</p> <p>(b) its activities are wholly or mainly activities that do not relate to reserved matters.</p> <p>(3) Otherwise, a contracting authority is to be treated as a devolved Welsh authority for the purposes of this Act if the authority’s functions—</p> <p>(a) are exercisable wholly or mainly in relation to Wales, and</p> <p>(b) are wholly or mainly functions that do not relate to reserved matters.</p>
devolved Welsh authority	section 127	Commencement	(5) In this section, “devolved Welsh authority” has the meaning given in section 157A of the Government of Wales Act 2006.



devolved Welsh procurement arrangement	section 114	Definitions relating to procurement arrangements	(2) A procurement arrangement is a devolved Welsh procurement arrangement if— (a) the framework was awarded by a devolved Welsh authority, (b) the dynamic market was established by a devolved Welsh authority, (c) the centralised procurement authority is a devolved Welsh authority, or (d) a devolved Welsh authority is designated the lead authority in the tender or transparency notice.
discretionary exclusion ground	Schedule 7	Discretionary Exclusion Grounds	Note: Please refer to Schedule 7 ‘discretionary exclusion grounds’.
dynamic market	section 34	Competitive award by reference to	(8) In this Act, “dynamic market” means arrangements established under section 35(1);



		dynamic markets	<p>references to a contract being awarded by reference to suppliers' membership of a dynamic market are references to a contract being awarded in reliance on this section;</p> <p>references to suppliers' membership of a dynamic market are references to suppliers' participation in arrangements established under section 35(1).</p> <p><i>Section 35 Dynamic markets: establishment</i></p> <p>35(1) A contracting authority may establish arrangements for the purpose of a contracting authority awarding public contracts by reference to suppliers' participation in the arrangements.</p>
dynamic market notice	section 39	Dynamic market notices	(1) A notice under this section is called a "dynamic market notice".



electronic invoice	section 67	Electronic invoicing: implied term	(3) For the purposes of the term in subsection (2)— “electronic invoice” means an invoice which is issued, transmitted and received in a structured electronic format that allows for its automatic and electronic processing.
enactment	section 123	Interpretation	(1) In this Act, “enactment” includes primary legislation and legislation made under primary legislation.
equivalent body	section 114	Definitions relating to procurement arrangements	(6) In this section, “equivalent body” means, in relation to a centralised procurement authority, a body carrying out functions of a kind described in section 1(4) (centralised procurement authorities).
estimated value	section 4	Valuation of contracts	(1) For the purposes of this Act, the “estimated value” of a contract is its value for the time being estimated by a contracting authority.
exclusion ground	section 59	Notification of exclusion of supplier	(6) In this section, “exclusion ground” means a mandatory exclusion ground or a discretionary exclusion ground;
excludable supplier	section 57	Meaning of excluded and excludable supplier	(2) A supplier is an “excludable supplier” if— (a) the contracting authority considers that— (i) a discretionary exclusion ground applies to the supplier or an associated person, and



			<p>(ii) the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again, or</p> <p>(b) the supplier or an associated person is on the debarment list by virtue of a discretionary exclusion ground.</p> <p>(4) For the purposes of a covered procurement carried out by a private utility—</p> <p>(a) an excluded supplier is to be regarded as an excludable supplier, and</p> <p>(b) a reference in this Act to an excludable supplier includes a reference to such an excluded supplier.</p>
excluded supplier	section 57	Meaning of excluded and excludable supplier	<p>(1) A supplier is an “excluded supplier” if—</p> <p>(a) the contracting authority considers that—</p> <p>(i) a mandatory exclusion ground applies to the supplier or an associated person, and</p> <p>(ii) the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again, or</p>



			<p>(b) the supplier or an associated person is on the debarment list by virtue of a mandatory exclusion ground.</p> <p>(3) If a supplier is an excluded supplier on the basis of the supplier or an associated person being on the debarment list only by virtue of paragraph 35 of Schedule 6 (threat to national security), the supplier is to be treated as an excluded supplier only in relation to public contracts of a kind described in the relevant entry.</p> <p>(4) For the purposes of a covered procurement carried out by a private utility—</p> <p>(a) an excluded supplier is to be regarded as an excludable supplier, and</p> <p>(b) a reference in this Act to an excludable supplier includes a reference to such an excluded supplier.</p>
exempted contract	Schedule 2	Exempted Contracts	Note: <i>Please refer to Schedule 2 ‘Exempted contracts’.</i>
existing legislation	section 127	Commencement	(8) In this section, “existing legislation” means any enactment, other than this Act or regulations made



			under this Act, that is passed or made before section 11 (covered procurement only in accordance with this Act) comes into force.
existing supplier	section 49	Open frameworks	(8) In this section, an “existing supplier” means a supplier that is party to a framework under the open Framework.
financial year	section 93	Pipeline notices	(4) In this section, “financial year” means— (a) the period of twelve months beginning with the 1 April following the day on which this section comes into force, and (b) each successive period of 12 months
framework	section 45	Frameworks	(2) A “framework” is a contract between a contracting authority and one or more suppliers that provides for the future award of contracts by a contracting authority to the supplier or Suppliers.
GPA	schedule 1	Threshold Amounts	(5)(1) In this Schedule, The “GPA” means the Agreement on Government Procurement signed at Marrakesh on 15 April 1994, as amended from time to time.



horizontal arrangement	Schedule 2	Exempted Contracts	(3)(2) A “horizontal arrangement” means an arrangement— (a) entered into— (i) with the aim of achieving objectives the authorities have in common in connection with the exercise of their public functions; (ii) solely in the public interest; (b) in which no more than 20 per cent of the activities contemplated by the arrangement are intended to be carried out other than for the purposes of the authorities’ public Functions.
information	section 97	Information relating to a procurement	(3) In this section, “information” means information shared under, or for a purpose relating to, this Act.
intelligence services	section 41	Direct award in special cases	(7) In this section, “intelligence services” means the Security Service, the Secret Intelligence Service and the Government Communications Headquarters.
interest	section 81	Conflicts of interest: duty to identify	(4) In this section, “interest” includes a personal, professional or financial interest and may be direct or indirect.



key performance indicator	section 52	Key performance indicators	(4) A “key performance indicator” is a factor or measure against which a supplier’s performance of a contract can be assessed during the life-cycle of the contract.
lawyer	Schedule 2, paragraph 14	Exempted Contracts	(14)(3) In this paragraph, “lawyer” means— (a) a person who is an authorised person or an exempt person in relation to a reserved legal activity for the purposes of the Legal Services Act 2007 (see sections 18 and 19 of that Act); (b) a solicitor or advocate in Scotland; (c) a solicitor or barrister in Northern Ireland; (d) a person who is a member, and entitled to practise as such, of a legal profession regulated in a jurisdiction outside the United Kingdom.
light touch contract	section 9	Light touch contracts	(1) In this Act, “light touch contract” means a contract wholly or mainly for the supply of services of a kind specified in regulations under subsection (2). (2) An appropriate authority may by regulations specify services for the purposes of the definition in subsection (1).



			(5) In this Act, a reference to a light touch contract includes a reference to a framework for the future award of contracts wholly or mainly for the supply of services of a kind specified in regulations under subsection (2).
mandatory exclusion ground	Schedule 6	Mandatory Exclusion Grounds	(1) A mandatory exclusion ground applies to a supplier if the supplier or a connected person has been convicted of an offence referred to in this Part of this Schedule. <i>(Note: Please refer to the entirety of Schedule 6.)</i>
mandatory standstill period	section 51	Standstill periods on the award of contracts	(2) The “mandatory standstill period” is the period of eight working days beginning with the day on which a contract award notice is published in respect of the contract.
material breach	section 78	Implied right to terminate public contracts	(12) In this section, “material breach” means a breach that the contracting authority considers could reasonably result in a successful legal challenge under Part 9 or otherwise.
member of the Welsh Government	section 81	Conflicts of interest: duty to identify	(4) In this section, “member of the Welsh Government” means a person referred to in section 45 of the Government of Wales Act 2006.



Minister	section 81	Conflicts of interest: duty to identify	(4) In this section, “Minister” means— (a) a Minister of the Crown; (b) a member of the Welsh Government; (c) the First Minister, deputy First Minister or a Northern Ireland Minister.
Minister of the Crown	section 123	Interpretation	(1) In this Act, “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.
modify	section 123	Interpretation	(1) In this Act, “modify”, in relation to enactments, includes amend, repeal or revoke.
most advantageous tender	section 19	Award of public contracts following a competitive tendering procedure	(2) The “most advantageous tender” is the tender that the contracting authority considers— (a) satisfies the contracting authority’s requirements, and (b) best satisfies the award criteria when assessed by reference to— (i) the assessment methodology under section 23(3)(a), and (ii) if there is more than one criterion, the relative importance of the criteria under section 23(3)(b).



the national procurement policy statement	section 13	The national procurement policy statement	(2) In this section, “the national procurement policy statement” means the statement for the time being published under this section.
necessary	section 42	Direct award to protect life, etc	(1) If a Minister of the Crown considers it necessary, the Minister may by regulations provide that specified public contracts may be awarded under section 41 as if a direct award justification applies. (2) In subsection (1), “necessary” means necessary to— (a) protect human, animal or plant life or health, or (b) protect public order or safety.
negotiated tendering period	section 54	Time limits	(5) In this section, “negotiated tendering period” means a tendering period agreed between a contracting authority and pre-selected suppliers in circumstances where tenders may be submitted only by those pre-selected suppliers.
notifiable below-threshold contract	section 87	Regulated below-threshold contracts: notices	(4) A “notifiable below-threshold contract” is a regulated below-threshold contract with an estimated value of— (a) in the case of a contract to be awarded by a central government authority, not less than £12,000, or (b) otherwise, not less than £30,000.



			<i>(Note: Regulations are intended to be laid which will make a consequential amendment to this section to amend the £12,000 to £30,000k.)</i>
open framework	section 49	Open frameworks	(1) An “open framework” is a scheme of frameworks that provides for the award of successive frameworks on substantially the same terms.
operating risk	Section 8	Concession contracts	(2) An “operating risk” is a risk that the supplier will not be able to recover its costs in connection with the supply and operation of the works or services, where the factors giving rise to that risk— (a) are reasonably foreseeable at the time of award, and (b) arise from matters outside the control of the contracting authority and the supplier.
parent undertaking / parent undertakings	Schedule 2	Exempted Contracts	2(4) In sub-paragraph (2)(a)— “parent undertaking” has the meaning given in section 1162 of the Companies Act 2006, save that an “undertaking” includes any person; “parent undertakings” means two or more contracting authorities acting jointly that would, if they were a single undertaking, be a parent undertaking.



participating supplier	section 31	Modifying a section 19 procurement	(7) In this section, “participating supplier” means a supplier that— (a) has submitted a request to participate in, or a tender as part of, the competitive tendering procedure, and (b) has not been excluded in accordance with the procedure or under this Act.
participation period	section 54	Time limits	(5) In this section, “participation period” means the period beginning with the day following the day on which a contracting authority invites the submission of requests to participate in a competitive flexible procedure and ending with the day by which those requests must be submitted.
payee	section 68	Implied payment terms in public contracts	(11) In this section, “payee” means the person due to be paid under the invoice concerned.
payments compliance notice	section 69	Payments compliance notices	(2) A “payments compliance notice” means a notice setting out— (a) specified information about the contracting authority’s compliance with the term set out in section 68(2) (payment within 30 days), and



			(b) any other specified information.
pipeline notice	section 93	Pipeline notices	(3) A “pipeline notice” means a notice setting out specified information about any public contract with an estimated value of more than £2 million in respect of which the contracting authority intends to publish a tender notice or transparency notice during the reporting period.
planned procurement notice	section 15	Planned procurement notices	(2) A “planned procurement notice” means a notice setting out— (a) that the contracting authority intends to publish a tender notice, and (b) any other information specified in regulations under section 95.
preliminary market engagement notice	section 17	Preliminary market engagement notices	(2) A “preliminary market engagement notice” means a notice setting out— (a) that the contracting authority intends to conduct, or has conducted, preliminary market engagement, and (b) any other information specified in regulations under section 95.



pre-selected supplier (preselected supplier)	section 54	Time limits	(5) In this section, “pre-selected supplier” means a supplier that— (a) has been assessed as satisfying conditions of participation before being invited to submit a tender as part of a competitive tendering procedure, or (b) in the case of a contract that is being awarded by reference to suppliers’ membership of a dynamic market, is a member of that market.
primary legislation	section 123	Interpretation	(1) In this Act, “primary legislation” means— (a) an Act of Parliament, (b) an Act of the Scottish Parliament, (c) an Act or Measure of Senedd Cymru, or (d) Northern Ireland legislation
private utility	section 2	Contracting authorities	(2) In this Act, “private utility” means a person that— (a) is not a public authority or public undertaking, and (b) carries out a utility activity.
procedural requirement	section 19	Award of public contracts following a competitive	(11) In this section “procedural requirement” includes a requirement that a supplier provide information.



		tendering procedure	
procurement	section 1	Procurement and covered procurement	(1) In this Act— (a) “procurement” means the award, entry into and management of a contract.
procurement arrangement	section 114	Definitions relating to procurement arrangements	(1) In this Act, a reference to a procurement under a procurement arrangement is a reference to a procurement as part of which the contract is awarded— (a) in accordance with a framework or similar arrangement, (b) by reference to a dynamic market or similar arrangement, or (c) following a procedure or other selection process carried out— (i) jointly by two or more authorities, or (ii) by a centralised procurement authority or equivalent body.
procurement documents	section 56	Technical specifications	(9) In this section, “procurement documents” means—



			<p>(a) the tender notice or associated tender documents, including any requirements of a competitive tendering procedure, conditions of participation or award criteria;</p> <p>(b) documents inviting suppliers to participate in a competitive selection process under a framework, including details of the process, any conditions of participation or criteria for the award of the contract;</p> <p>(c) documents inviting suppliers to apply for membership of a dynamic market, including any conditions for membership.</p>
procurement investigation	section 108	Procurement investigations	(5) In this section, “procurement investigation” means an investigation under subsection (1).
public authority	section 2	Contracting authorities	<p>(2) In this Act, “public authority” means a person that is—</p> <p>(a) wholly or mainly funded out of public funds, or</p> <p>(b) subject to public authority oversight, and does not operate on a commercial basis (but see subsections (9) and (10)).</p>



			<p>(9) In this Act, a reference to a public authority includes a reference to the Common Council of the City of London.</p> <p>(10) For the purposes of this Act, a person that operates on a commercial basis but is, as a controlled person, awarded an exempted contract by a public authority in reliance on paragraph 2 of Schedule 2 (vertical arrangements) is to be treated as a public authority in relation to any relevant sub-contract.</p>
public contract	section 3	Public contracts	<p>(1) A “public contract” is a contract of a kind specified in subsection (2), (3) or (4).</p> <p>(2) Any contract for the supply, for pecuniary interest, of goods, services or works to a contracting authority which—</p> <p>(a) has an estimated value of not less than the threshold amount for the type of contract, and</p> <p>(b) is not an exempted contract.</p> <p>(3) Any framework which—</p>



			<p>(a) has an estimated value of not less than the threshold amount for the type of contract, and</p> <p>(b) is not an exempted contract.</p> <p>(4) Any concession contract which—</p> <p>(a) has an estimated value of not less than the threshold amount for the type of contract, and</p> <p>(b) is not an exempted contract.</p>
public service mutual	section 33	Reserving contracts to public service mutuals	<p>(6) A “public service mutual” means a body that—</p> <p>(a) operates for the purpose of delivering public services and mainly for the purpose of delivering one or more reservable light touch services,</p> <p>(b) is run on a not-for-profit basis or provides for the distribution of profits only to members, and</p> <p>(c) is under the management and control of its employees.</p>
public sub-contract	section 73	Implied payment terms in sub-contracts	<p>(5) In this section, “public sub-contract” means a contract substantially for the purpose of performing (or contributing to the performance of) all or any part of a public contract.</p>



public undertaking	section 2	Contracting authorities	(2) In this Act, “public undertaking” means a person that— (a) is subject to public authority oversight, and (b) operates on a commercial basis;
publication of a tender notice	section 40	Qualifying utilities dynamic market notices: no duty to publish a tender notice	(7) In this Act, a reference to publication of a tender notice includes a reference to provision of a tender notice under subsection (2) or (3).
pupil referral unit	section 123	Interpretation	(1) In this Act, “pupil referral unit” means— (a) in England, a pupil referral unit within the meaning given by section 19 of the Education Act 1996; (b) in Wales, a pupil referral unit within the meaning given by section 19A of the Education Act 1996.
qualifying planned procurement notice	section 15	Planned procurement notices	(3) A “qualifying planned procurement notice” means a planned procurement notice published at least 40 days but not more than 12 months before the day on which the tender notice is published.



qualifying public service mutual	section 33	Reserving contracts to public service mutuals	(5) A “qualifying public service mutual” means a public service mutual that has not entered into a comparable contract during the period of three years ending with the day on which the contract referred to in subsection (1) is awarded.
qualifying utilities dynamic market notice	section 40	Qualifying utilities dynamic market notices: no duty to publish a tender notice	(6) In this section, “a qualifying utilities dynamic market notice” means a dynamic market notice under section 39(2) (dynamic market notices) that— (a) relates to the establishment of a utilities dynamic market, and (b) sets out— (i) that only members of the market will be notified of a future intention to award a contract by reference to suppliers’ membership of the market, and (ii) any other information specified in regulations under section 95.
quarter	section 70	Information about payments	(5) In this section, “quarter” means a period of three months ending with 31 March, 30 June, 30 September or 31 December in any year.



		under public contracts	
a reference to a contracting authority receiving an invoice	section 68	Implied payment terms in public contracts	(11) In this section, a reference to a contracting authority receiving an invoice includes a reference to an invoice being delivered to an address, or through an electronic invoicing system, specified in the contract for the purpose.
the reference to a supplier being excluded	section 65	Debarment decisions: appeals	(6) In this section, the reference to a supplier being excluded includes a reference to— (a) the supplier’s tender being disregarded under section 26; (b) the supplier becoming an excluded supplier for the purposes of section 41(1)(a), 43(1) or 45(6)(a).
regulated below-threshold contract	section 84	Regulated below-threshold contracts	(1) In this Part, a “regulated below-threshold contract” means a below-threshold contract which is not— (a) an exempted contract, (b) a concession contract, or (c) a utilities contract.



relevant appropriate authority	section 59	Notification of exclusion of supplier	(6) In this section, “relevant appropriate authority” means— (a) if the contracting authority is a devolved Welsh authority, the Welsh Ministers; (b) if the contracting authority is a transferred Northern Ireland authority, the Northern Ireland department that the contracting authority considers it most appropriate to notify; (c) in any other case, a Minister of the Crown.
relevant authority	section 116	Disapplication of duty in section 17 of the Local Government Act 1988	(4) In this section, “relevant authority” means an authority to which section 17 of the 1988 Act applies other than a devolved Scottish authority.
relevant contracts	section 93	Pipeline notices	(4) In this section, “relevant contracts” means any contracts for the supply of goods, services or works to the contracting authority other than exempted contracts.
relevant contracting authority	section 29	Excluding a supplier that is a threat to national security	(4) In this section, a “relevant contracting authority” means a contracting authority other than— (a) a Minister of the Crown or a government department, (b) the Corporate Officer of the House of Commons, or



			(c) the Corporate Officer of the House of Lords.
relevant contracting authority	section 108	Procurement investigations	(5) In this section, “relevant contracting authority” means a contracting authority other than— (a) a Minister of the Crown or a government department; (b) the Welsh Ministers; (c) a Northern Ireland department; (d) the Corporate Officer of the House of Commons; (e) the Corporate Officer of the House of Lords; (f) the Senedd Commission; (g) the Northern Ireland Assembly Commission; (h) a private utility
relevant debarment information	section 62	Debarment list	(4) In this section, the “relevant debarment information” means— (a) the exclusion ground to which the entry relates; (b) whether the exclusion ground is mandatory or discretionary; (c) in the case of an entry made on the basis of paragraph 35 of Schedule 6 (threat to national security), a description of the contracts in relation to which the supplier is to be an excluded supplier;



			(d) the date on which the Minister expects the exclusion ground to cease to apply (see paragraph 44 of Schedule 6 and paragraph 15 of Schedule 7).
relevant documents	section 60	Investigations of supplier: exclusion grounds	(8) In this section, “relevant documents” means documents or other information that— (a) are specified or described in a notice under subsection (4) or (6), and (b) are in the possession or control of the recipient of the notice.
relevant documents	section 108	Procurement investigations	(5) In this section, “relevant documents” means documents or other information that— (a) are specified or described in a notice under subsection (2), and (b) are in the possession or control of the relevant contracting authority to which the notice is given;
relevant exclusion ground	section 59	Notification of exclusion of supplier	(6) In this section, “relevant exclusion ground” means any exclusion ground except the one listed in paragraph 43 of Schedule 6 (failure to cooperate with investigation).
relevant joint venture	Schedule 2	Exempted Contracts	5(2) In this Schedule, “relevant joint venture” means a joint venture—



			(a) formed for the purpose of carrying out a utility activity; (b) where each party to the joint venture is a utility.
relevant notice	section 83	Conflicts assessments	(8) In this section, “relevant notice” means— (a) a tender notice, (b) a transparency notice, (c) a dynamic market notice in relation to the establishment of a dynamic market, (d) a contract details notice relating to a public contract, or (e) a contract change notice
relevant scheduled air service	Schedule 2, paragraph 36	Exempted contracts	36(2) In this paragraph, “relevant scheduled air service” means an air service that— (a) operates between two airports within the United Kingdom or within the United Kingdom and Gibraltar, and (b) the Secretary of State considers to be necessary in order to maintain sufficient transport links between the areas served by the airports.



relevant sub-contract	section 2	Contracting authorities	(12) In this section, “relevant sub-contract” means a contract substantially for the purpose of performing (or contributing to the performance of) all or any part of the exempted contract.
reporting period	section 93	Pipeline notices	(4) In this section, “reporting period” means the period of 18 months beginning with the first day of the financial year referred to in subsection (1).
requirements	section 19	Award of public contracts following a competitive tendering procedure	(7) In this Act, a reference to a contracting authority’s requirements is a reference to requirements described in the tender notice or associated tender documents (see section 21(5) and (6)).
required electronic form	section 67	Electronic invoicing: implied term	(3) For the purposes of the term in subsection (2)— “required electronic form” means a form that— (a) complies with the standard for electronic invoicing approved and issued by the British Standards Institution in the document numbered BS EN 16931-1:2017 (Electronic invoicing - Part 1: Semantic data model of the core elements of an electronic invoice), and



			(b) uses a syntax which is listed as a syntax that complies with that standard in the document numbered PD CEN/TS 16931-2:2017 (Electronic invoicing - Part 2: List of syntaxes that comply with EN 16931-1) approved and issued by the British Standards Institution.
research and development services	Schedule 2, paragraph 22	Exempted Contracts	<p>22(2) In this paragraph, “research and development services” means services that consist of one or more of the following activities—</p> <p>(a) research to acquire new scientific or technical knowledge without any particular application or use in view;</p> <p>(b) research directed mainly at generating scientific or technical knowledge for the purposes of a particular objective;</p> <p>(c) development which uses existing knowledge to initiate the manufacture of new materials or products, establish new processes, systems or services, or to achieve a substantial improvement in existing materials, products, processes, systems or services;</p> <p>(d) the manufacture and testing of prototypes.</p>



reservable light touch services	section 33	Reserving contracts to public service mutuels	(7) In this section, “reservable light touch services” means services of a kind specified in regulations under subsection (8).
reserved matters	section 111	Welsh Ministers: restrictions on the exercise of powers	(6) In this section, “reserved matters” has the meaning given in the Government of Wales Act 2006.
reserved procurement arrangement	section 114	Definitions relating to procurement arrangements	(5) A procurement arrangement is a reserved procurement arrangement if it is not— (a) a devolved Welsh procurement arrangement, (b) a transferred Northern Ireland procurement arrangement, or (c) a devolved Scottish procurement arrangement.
school	section 123	Interpretation	(1) In this Act, “school” means— (a) the governing body of a maintained school (see section 19(1) of the Education Act 2002); (b) the proprietor, within the meaning given by section 579(1) of the Education Act 1996, of an Academy within the meaning given by that section;



			<p>(c) the proprietor, within the meaning given by section 579(1) of the Education Act 1996, of a school that has been approved under section 342 of that Act;</p> <p>(d) the governing body, within the meaning given by section 90 of the Further and Higher Education Act 1992, of an institution within the further education sector within the meaning given by section 91 of that Act;</p> <p>(e) the Board of Governors of a grant-aided school within the meaning given by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)).</p>
the Senedd	section 14	The Wales procurement policy statement	(10) In this section “the Senedd” means Senedd Cymru.
Sensitive commercial information	section 94	General exemptions from duties to publish or disclose information	(2) “Sensitive commercial information” is information which— <p>(a) constitutes a trade secret, or</p> <p>(b) would be likely to prejudice the commercial interests of any person if it were published or otherwise disclosed.</p>



similar arrangement	section 114	Definitions relating to procurement arrangements	(6) In this section, “similar arrangement” includes, in relation to a dynamic market, a dynamic purchasing or qualification system.
small and medium-sized enterprises	section 123	Interpretation	(1) In this Act, “small and medium-sized enterprises” means suppliers that— (a) have fewer than 250 staff, and (b) have a turnover of an amount less than or equal to £44 million, or a balance sheet total of an amount less than or equal to £38 million.
specified	section 116	Disapplication of duty in section 17 of the Local Government Act 1988	(4) In this section, “specified” means specified, or of a description specified, in regulations under this section.
specified information	section 95	Notices, documents and information: regulations and online system	(2) Regulations under subsection (1) may for example— (a) require a notice or document to contain specified information; (b) require publication on a specified online system.



			<p>[(1) An appropriate authority may by regulations make provision about—</p> <p>(a) the form and content of notices, documents or other information to be published or provided under this Act;</p> <p>(b) how such notices or documents are, or information is, to be published, provided or revised.]</p>
special regime contract	section 10	Mixed procurement: special regime contracts	<p>(6) A “special regime contract” means—</p> <p>(a) a concession contract,</p> <p>(b) a defence and security contract,</p> <p>(c) a light touch contract, or</p> <p>(d) a utilities contract,</p> <p>and a reference to a special regime contract of a particular kind is a reference to a special regime contract of a kind described in paragraph (a), (b), (c) or (d).</p> <p>(7) This section does not apply for the purpose of determining whether a contract is a public contract.</p>



			(8) This section does not apply to a contract awarded in accordance with a framework.
specified regulations	section 127	Commencement	(4) In this section, “specified regulations” means regulations to bring into force provisions regulating procurement by a devolved Welsh authority other than procurement under— (a) a reserved procurement arrangement, or (b) a transferred Northern Ireland procurement arrangement, but “specified regulations” does not include regulations to bring into force provisions in Part 7 (implementation of international obligations).
specified set-aside proceedings	section 106	Time limits on claims	(5) In this section, “specified set-aside proceedings” means proceedings under section 104(2) to— (a) set aside a public contract in circumstances where the contracting authority did not publish a contract details notice in respect of the contract in accordance with section 53, or (b) set aside a modification of a contract.
sub-central government authority	schedule 1	Threshold Amounts	(5)(1) In this Schedule, “sub-central government authority” means a contracting authority that is not— (a) a central government authority, or



			(b) a private utility or a public undertaking
supported employment provider	section 32	Reserving contracts to supported employment providers	<p>(4) A “supported employment provider” means an organisation that operates wholly or partly for the purpose of providing employment, or employment related support, to disabled or disadvantaged individuals where—</p> <p>(a) disabled or disadvantaged individuals represent at least 30 per cent of the workforce of the organisation,</p> <p>(b) if a particular part of the organisation is to perform the contract,</p> <p>disabled or disadvantaged individuals represent at least 30 per cent of the workforce of that part of the organisation, or</p> <p>(c) if more than one organisation is to perform the contract, disabled or disadvantaged individuals represent at least 30 per cent of the combined workforce of—</p> <p>(i) those organisations,</p> <p>(ii) where a particular part of each organisation is to perform the contract, those parts, or</p>



			(iii) where a combination of organisations and parts is to perform the contract, those organisations and parts.
tender notice	section 21	Tender notices and associated tender documents	(2) A “tender notice” means a notice setting out— (a) that a contracting authority intends to award a public contract under section 19, and (b) any other information specified in regulations under section 95.
tendering period	section 54	Time limits	(5) In this section, “tendering period” means the period beginning with the day following the day on which a contracting authority invites the submission of tenders as part of a competitive tendering procedure and ending with the day by which tenders must be submitted.
terms of a covered procurement	section 31	Modifying a section 19 procurement	(7) In this section, “terms of a covered procurement” means anything set out in a tender notice or associated tender documents, including any requirements of a competitive tendering procedure, conditions of participation or award criteria.
transparency notice	section 44	Transparency notices	(2) A “transparency notice” means a notice setting out— (a) that a contracting authority intends to award a contract directly, and



			(b) any other information specified in regulations under section 95.
treaty state	section 90	Treaty state suppliers: non-discrimination	<p>(5) In this section, a “treaty state” means a state, territory or organisation of states or territories that is party to an international agreement specified in Schedule 9, other than the United Kingdom.</p> <p>(6) And, in subsection (2)(a), a treaty state is a supplier’s treaty state if the supplier is entitled to the benefits of such an international agreement by reference to that treaty state being party to the agreement.</p>
treaty state supplier	section 89	Treaty state suppliers	<p>(1) In this Act, a “treaty state supplier” means a supplier that is entitled to the benefits of an international agreement specified in Schedule 9.</p> <p>(2) But a supplier is a treaty state supplier only to the extent that it is entitled to the benefits of an international agreement specified in Schedule 9 in relation to the procurement being—</p> <p>(a) carried out, or</p>



			<p>(b) challenged.</p> <p>(6) In this Act—</p> <p>(a) a reference to a treaty state supplier does not include a reference to a supplier that is entitled to the benefits of an international agreement only by reference to the United Kingdom being party to that agreement.</p> <p>(b) a reference to a state or territory being party to an agreement includes a reference to a state or territory being part of an organisation of states or territories that is party to an agreement.</p>
United Kingdom standard	section 56	Technical specifications	<p>(9) In this section, “United Kingdom standard” means a standard that is—</p> <p>(a) set by the British Standards Institution, or</p> <p>(b) primarily developed for use in the United Kingdom, or part of the United Kingdom.</p>
United Kingdom supplier	section 90	Treaty state suppliers: non-discrimination	<p>(7) In this Act, “United Kingdom supplier” means a supplier that is—</p> <p>(a) established in, or controlled or mainly funded from, the United Kingdom, a British Overseas Territory or a Crown Dependency, and</p>



			(b) is not a treaty state supplier.
user choice services	Schedule 5	Direct Award Justifications	<p>(15) The public contract is a contract for the supply of user choice services and the conditions in paragraph 17 are met.</p> <p>(16) In paragraph 15, “user choice services” means services—</p> <p>(a) that are of a kind specified in regulations under section 9 (light touch contracts),</p> <p>(b) that are supplied for the benefit of a particular individual, and</p> <p>(c) in respect of which a contracting authority would, in awarding a contract for their supply, be required under an enactment to have regard to the views of the individual, or a person providing care to the individual (their “carer”), in relation to who should supply the services.</p>
utility	section 35	Dynamic markets: establishment	<p>(4) In this Act, “utility” means—</p> <p>(a) a public authority, or public undertaking, that carries out a utility activity;</p> <p>(b) a private utility.</p>



utility activity	section 6	Utilities contracts	(2) In this Act, “utility activity” means an activity that— (a) is specified in Part 1 of Schedule 4, (b) is not specified in Part 2 of Schedule 4, (c) is not carried out wholly outside the United Kingdom, and (d) in the case of an activity carried out by a person that is not a public authority or public undertaking, is carried out pursuant to a special or exclusive right.
utilities contract	section 6	Utilities contracts	(1) In this Act, “utilities contract” means a contract for the supply of goods, services or works wholly or mainly for the purpose of a utility activity. (7) In this Act, a reference to a utilities contract includes a reference to a framework for the future award of contracts for the supply of goods, services or works wholly or mainly for the purpose of a utility activity.
utilities dynamic market	section 35	Dynamic markets: establishment	(2) In this Act a “utilities dynamic market” means a dynamic market established only for the purpose of the award of utilities contracts by utilities.
utilities framework	section 47	Frameworks: maximum term	(4) In this section—



			(b) “a utilities framework” is a framework which does not provide for the future award of public contracts other than utilities contracts.
VAT	section 123	Interpretation	(1) In this Act, “VAT” means value added tax.
Wales	section 111	Welsh Ministers: restrictions on the exercise of powers	(6) In this section, “Wales” has the meaning given in section 158 of the Government of Wales Act 2006 (when read by reference to section 157A(9) of that Act).
the Wales procurement policy statement	section 14	The Wales procurement policy statement	(2) In this section, “the Wales procurement policy statement” means the statement for the time being published under this section.
working day	section 123	Interpretation	(1) In this Act, “working day” means a day other than— (a) a Saturday or Sunday, or (b) a day which is a bank holiday in any part of the United Kingdom under the Banking and Financial Dealings Act 1971.
works	Schedule 1	Threshold Amounts	(5)(1) In this Schedule, “works” has the meaning given by regulations made by an appropriate authority.
works contract	Schedule 1	Threshold Amounts	(4) A contract is a “works contract” if its main purpose is—



			<p>(a) the carrying out of works under the contract (whether or not resulting in a complete work), or</p> <p>(b) to facilitate the carrying out of works otherwise than under the contract, where those works are intended to result in a complete work that complies with specifications set out in, or determined under, the contract.</p>
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