



## Guidance: Thresholds

This guide covers the thresholds included in the Procurement Act 2023. Information regarding thresholds contained within the Social Partnership and Public Procurement (Wales) Act 2023 is available at the end of the document.

### What are thresholds?

1. The majority of the provisions in the Procurement Act 2023 (the Act) only apply to a public contract (as defined in section 3). A contract is only a public contract where it is not exempted (as set out in Schedule 2) and has an estimated value (including VAT)<sup>1</sup> of not less than the threshold amounts set out in Schedule 1. These thresholds are therefore critical in ensuring that contracting authorities understand when they need to comply with the standard provisions in the Act.
2. Certain contracts with a contract value less than the threshold amounts in Schedule 1 are subject to the below-threshold provisions in Part 6 of the Act. For further information, please see paragraphs 14 to 16 below and the separate guidance on below-threshold contracts.

### What is the legal framework that governs thresholds?

3. The applicable thresholds are set out in Schedule 1 of the Act and can be grouped into 3 main categories:
  - a. Those aligned to international agreements;
  - b. Defence and security contracts (although these are not applicable to devolved Welsh authorities); and
  - c. Light touch contracts.
4. Devolved Welsh authorities must also consider the following thresholds:
  - a. Notifiable below-threshold contracts (see paragraphs 14 to 16 below and the separate guidance on below-threshold contracts)

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<sup>1</sup> Section 123 of the Act, 'Interpretation', explains that a reference to an amount payable or paid, receivable or received, or to be paid or received, under a contract includes a reference to any amount referable to VAT (the terms receivable and received are used to reflect the different way in which concession contracts are valued).



- b. Social Partnership and Public Procurement (Wales) Act 2023 and regulations, above which certain duties will apply when this legislation comes into force (see end of document for further information).
- 5. As explained in more detail at paragraph 10 below, the thresholds in the Act have since been updated to align with the UK's international obligations on public procurement. The Act will be updated when it comes into force to ensure that the revised thresholds are reflected.

## Key points and policy intent

### International agreements

- 6. The UK has a duty to give access to its public procurement markets to suppliers from states which it has a relevant trade agreement with.<sup>2</sup> These trade agreements are listed in Schedule 9 of the Act.
- 7. The UK's thresholds in its relevant trade agreements either align with or are higher than the thresholds in the UK schedules to the WTO Government Procurement Agreement (GPA). Accordingly, the UK remains compliant with its international obligations by aligning relevant thresholds in the Act to the UK GPA thresholds.
- 8. The UK GPA thresholds are in Special Drawing Rights (SDRs). Every 2 years, the UK is obliged to provide the GPA with the sterling equivalent of its SDR thresholds. The revised threshold then takes effect from 1 January of every even year. This is to adjust for currency fluctuations.
- 9. To ensure the Act remains aligned to the sterling UK GPA thresholds, Schedule 1 contains a power for an appropriate authority (a Minister of the Crown, the Welsh Ministers or a Northern Ireland department) to update relevant thresholds in the Act by statutory instrument. A Procurement Policy Note is issued every 2 years to confirm the new sterling thresholds.
- 10. The thresholds listed in rows 4, 6 and 9 to 12 in Schedule 1, paragraph 1(1) correspond to the UK GPA sterling thresholds. See the online version of the Act or the latest WPPN on thresholds for the current threshold levels.

### Light touch contracts

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<sup>2</sup> This duty is only to the extent of the terms agreed within the trade agreement.



11. Schedule 1 provides a power to update the thresholds for light touch contracts. These thresholds are not determined by the GPA and as such are not subject to change every 2 years.
12. Schedule 1 does, however, allow the light touch contracts' thresholds to be updated for different purposes, for example to allow for inflation or reflect changing priorities for this category of contract.
13. Where a light touch contract is also a concession contract, the higher threshold used for concession contracts applies. See the online version of the Act or the latest WPPN on thresholds for the current threshold levels.

## Notifiable below-threshold contracts in Wales

14. Section 87 of the Act contains a power for the Welsh Ministers to update the financial threshold for a notifiable below-threshold contract by statutory instrument. Welsh Ministers have exercised this power through Regulation 47(3) of the Procurement (Wales) Regulations 2024, meaning that for devolved Welsh authorities a “notifiable below-threshold contract” is a regulated below-threshold contract with an estimated value above £30,000 (inclusive of VAT).
15. This threshold will apply equally to Welsh central government authorities (CGAs) and non-CGAs. This means that any contract valued above this value will require a contract details notice to be published by all devolved Welsh authorities (DWAs).
16. However, if a Welsh CGA is procuring under a reserved procurement arrangement, such as a Framework or Dynamic Market established by Crown Commercial Services for example, then the below-threshold value that would apply is £12,000 (inclusive of VAT).

## Definition of terms

17. Schedule 1 of the Act defines the following expressions used in Schedule 1 and throughout the Act:



Term	Definition
Central government authority	<p>The Welsh Ministers and each of the entities (and their successors) listed in columns 1 or 2 of the Table in Schedule 2 to the Procurement (Wales) Regulations 2024.</p> <p>(Schedule 1 of the Act contains a regulation making power permitting an appropriate authority to list those contracting authorities that are “central government authorities”.)</p>
Complete work	A functioning structure that results from the carrying out of works.
GPA	The Agreement on Government Procurement signed at Marrakesh on 15 April 1994, as amended from time to time.
Sub-central government authority	A contracting authority which is neither (i) a central government authority, nor (ii) a private utility or a public undertaking.
Works	<p>The activities which fall within the CPV codes listed in Schedule 3 to the Procurement (Wales) Regulations 2024.</p> <p>(Schedule 1 of the Act contains a regulation making power permitting an appropriate authority to list those categories of activity that are to count as “works” for the purposes of defining a “works contract”.)</p>
Works contract	A contract whose main purpose is either (i) the carrying out of “works” (see definition above) under that contract



	(whether or not resulting in a complete work), or (ii) to facilitate the carrying out of works under a separate arrangement, where those works are intended to result in a complete work that complies with specifications set out in that contract.
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## What other guidance is of particular relevance to this topic area?

- Guidance on covered procurement
- Guidance on exempted contracts
- Guidance on below-threshold contracts

## Social Partnership and Public Procurement (Wales) Act 2023

18. The [Social Partnership and Public Procurement \(Wales\) Act 2023](#) (SPPP Act) places a socially responsible procurement duty on Welsh contracting authorities, so that they "...must seek to improve the economic, social, environmental and cultural well-being of its area by carrying out public procurement in a socially responsible way" (Section 24(1)).
19. The definition of a public contract in the Social Partnership and Public Procurement (Wales) Act 2023 is broader than the definition in the Procurement Act, with no reference to financial thresholds<sup>3</sup>.
20. The SPPP Act places additional (reasonable steps and reporting) duties on contracting authorities in relation to a category of procurements known as "prescribed contracts". These are defined (section 24(8)) as "a major construction contract", an outsourcing services contract and any other public contract of a description prescribed by the Welsh Ministers. A major construction contract, which DWAs will need to be aware of when this legislation comes into force, is a public contract that is a works contract with an estimated value of no less than £2,000,000 inclusive of VAT.
21. The Explanatory Memorandum to the SPPP Act indicates that it has been the policy intention of Welsh Ministers to extend to the definition of prescribed

<sup>3</sup> See Section 21 of the SPPP Act.



contracts, by regulation, to include above-threshold contracts, linked to the Procurement Act.

22. A further category of “registerable contracts” will also be defined in regulations. The details of these contracts must be included in a published contracts register (section 40).
23. The definitions for “works” and “works contract” in the SPPP Act have been amended by the Procurement (Wales) Regulations 2024 (Regulation 46(3)(b) and (c) in relation to the Procurement Act 2023 (Act), to reflect the definitions contained within these Regulations and the Act.
24. Separate regulations and guidance on the SPPP Act will be published which will provide further information on the above.