



INFORMATION DOCUMENT: SPPP Act Part 3 Implementation Considerations



Introduction

1. Part 3 of the Social Partnership and Public Procurement (Wales) Act 2023 (the SPPP Act) relates to socially responsible public procurement. Part 3 does not make any transitory provision for contracting authorities as the new duties come into force.
2. All remaining duties in Part 3 of the SPPP Act will come into force on 25 March 2026, except for Sections 39 and 42, which will come into force on 1 April 2026.
3. This means that when these duties come into force they will immediately apply to all public procurement carried out by the Contracting Authorities listed in Schedule 1 of the Act.
4. Section 23 defines public procurement as:
 - a. designing and carrying out any procedure preceding the award of a public contract, including, in particular, seeking bids and selecting economic operators
 - b. drafting, negotiating and awarding a public contract; and
 - c. managing a public contract after it has been awarded.
5. A public contract is defined in section 21 as a contract between one or more economic operators and one or more contracting authorities; and having as its object the execution of works, the supply or products or the provision of services. A framework agreement is also to be treated as a public contract, which means that the Part 3 duties apply to both the agreement and any call-off contract.
6. Given the broad terms on which public contracts and public procurement is defined this means that when the duties in Part 3 come into force all procurement or contract management activity underway will be subject to those duties, including all procurement processes that started before the coming into force date.
7. It should be noted that the requirements (Sections 24(1) and (2)) to apply the sustainable development principle to procurement and pursue the well-being goals are not new duties for most of the organisations listed in Schedule 1 of the SPPP Act. This is already required under the Wellbeing of Future Generations (Wales) Act 2015 (WFGA 2015).
8. There are, however, a small number of bodies listed in Schedule 1 who are not also listed as a “public body” in section 6(1) of the WFGA 2015. For those bodies these general duties are also new.

Setting socially responsible procurement objectives and publishing annual reports.



9. The requirement to set procurement objectives will apply as soon as the duties come into force (section 24(3)), and Contracting Authorities should take action to set objectives as soon as reasonably possible because they will be required to report on how they have met their objectives in their first Annual Socially Responsible Procurement Report (Section 39(2)(a) to (c)), which must be published as soon as reasonably practicable after the end of the first financial year, i.e. after April 2027.
10. Given the time it will take Contracting Authorities to prepare and publish Objectives, it will not be possible for these objectives to apply to all public contracts awarded in the year 2026/27. The first year of annual reports will therefore be expected to report on the achievement of objectives for as much of the previous financial year as possible.

Social Public Works and Workforce Clauses and Notifications

11. The duty to consider including the social public works or workforce clauses in all relevant procurements, and to notify Welsh Ministers if they are not to be included, also applies as soon as the law comes into force.
12. It should be noted that the obligation to consider including relevant clauses will apply to all contracting authorities listed in Schedule 1 of the Act as soon as the Act is in force. This means that contracting authorities must consider including all of the relevant clauses in a call-off contract, even if the framework agreement or dynamic market was made by a body not included in Schedule 1 (for example a body located outside of Wales) or was made before the law comes into force. If the authority creating the call-off contract decides it does not intend to include the clauses, a notification will need to be sent to Welsh Ministers, as described above.
13. A notification for non-inclusion of the works or workforce clauses will *only* be required for any procurement that is at the “designing and carrying out procedures preceding the award” stage on the coming into force date of 25 March 2026. For contracts at “negotiating and awarding” or “managing the contract” stages on this date a notification is not required (see Sections 25(1)(c) and (d) and 26(1)(c) and (d)). For the contract to be deemed to be at the “negotiating and awarding” stage it is expected that a supplier would have been identified.
14. Contracting Authorities will therefore need to consider including the works or workforce clauses in any procurement for a relevant contract that has not yet reached the “negotiating and awarding” stage, and notify Welsh Ministers if they are not including the clauses, along with reasons for not doing so. These reasons should include a summary of project timescales.
15. In their response to a notification, Welsh Ministers will take account of how much of the procurement exercise was already underway before the Part 3



duties in the SPPP Act come fully into force, and whether it would be reasonable to have included the clauses in determining whether they are satisfied with the reasons given.

Framework agreements, Dynamic Purchasing Systems and Dynamic Markets

16. The new duties will apply to all contracts awarded after the coming into force date, including call-offs from an established arrangement such as a framework, DPS or DM. Contracting Authorities will need to consider how to maximise the achievement of the well-being goals through these contracts.
17. If the call-off contract is for a major construction or outsourcing services contract, a notification will be required if the contract does not include the works or workforce clauses respectively.
18. A “public contract” is defined in section 21(1) as a “contract between one or more economic operators and one or more Contracting Authorities; and having as its object the execution of works, the supply of products or the provision of services”. Section 21(2) requires a framework agreement to be treated as a public contract. Section 25(2) defines a “major construction contract as a public contract that is a works contract with a value equal to or greater than £2m.”

Procurement Strategies and Contracts Registers

19. Action will be needed on preparing procurement strategies and publishing contracts registers as soon as the new duties come into force. Please see guidance for details.