EXPLANATORY MEMORANDUM TO

THE COMMON PROCUREMENT VOCABULARY (AMENDMENT) REGULATIONS 2023

2023 No. 601

1. Introduction

1.1 This explanatory memorandum has been prepared by Cabinet Office and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument will implement the changes required to update two of the United Kingdom's (UK) Common Procurement Vocabulary (CPV) codes to change out of date language.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Regulation 2195/2002 of the European Parliament and of the Council of 5th November 2002 on the Common Procurement Vocabulary (CPV) forms part of UK law as retained EU law. Articles 2 and 3 of Regulation 2195/2002 were replaced by Article 2 by regulation 18 of the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 which provides the Minister for the Cabinet Office with the necessary powers to amend, by regulations, the Annexes to Regulation 2195/2002.

7. Policy background

What is being done and why?

7.1 CPV codes are a single classification system used in public procurement to standardise the references used by procurers to describe the subject matter of the contract. They are contained in Regulation 2195/2002.

7.2 Annexes I (Common Procurement Vocabulary) and II (Correspondence table between CPV and CPC Prov.) to Regulation 2195/2002, which were substituted by Commission Regulation (EC) 213/2008, include the following CPV codes:

- 85311200-4 - Welfare services for the handicapped; and

- 85312120-6 - Day-care services for handicapped children and young people.

7.3 The language used in these codes is outdated and incompatible with the language of the Equality Act 2010. The Department of Health and Social Care (DHSC) has already committed not to use the codes as currently worded in the legislation.

7.4 This instrument will amend these two CPV codes and update the wording of the codes, following advice set out in the Government's *Inclusive language: words to use and avoid when writing about disability* guidance[1], to:

- 85311200-4 - Welfare services for disabled people; and
- 85312120-6 - Day-care services for disabled children and young people.

7.5 The amendments will ensure that any references to these CPV codes in either procurement legislation or public procurements use the appropriate language.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the United Kingdom from the European Union.

9. Consolidation

9.1 There are no current plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

10.1 There has been no consultation on this instrument. However, the issue with the CPV Codes was identified as part of a consultation exercise DHSC undertook in relation to the Provider Selection Regime (a new set of rules replacing the existing procurement rules for healthcare services in England). Feedback from stakeholders indicated the wording was outdated and offensive. As a result, the Government agreed to amend the codes.

10.2 Regular discussions on the content of this instrument have been held with the devolved administrations throughout the drafting process in accordance with the Devolution Memorandum of Understanding, dated October 2013.

11. Guidance

11.1 A Procurement Policy Note will be published and issued to practitioners to notify them of the changes ahead of them coming into effect.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because the framework and principles underlying the regulations being amended have not been substantially amended. Modifications contained in this instrument have been made to ensure the regulations function effectively. Therefore, any impact is expected to be low and below the threshold required to carry out a full impact assessment.

[1] https://www.gov.uk/government/publications/inclusive-communication/inclusive-language-words-to-use-and-avoid-when-writing-about-disability.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The impact on small businesses arising from this instrument is expected to be low.

14. Monitoring & review

14.1 As this instrument is amending provisions in connection with procurement only, the duty to review in section 28 of the Small Business, Enterprise and Employment Act 2015 does not apply and no review clause is required.

15. Contact

15.1 Julie Bremner at the Cabinet Office, telephone: 07771 957 746 or email: julie.bremner@cabinetoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Edward Green, Deputy Director for International and Reform Team, at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister Burghart at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.