Draft Regulations laid before Parliament under section 272(6)(zzf) of the National Health Service Act 2006 (c. 41), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2025 No. ****

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Procurement, Slavery and Human Trafficking) Regulations 2025

Made - - - - ***

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 12ZC and 272(7) and (8) of the National Health Service Act 2006(**a**) ("the Act").

A draft of this instrument has been laid before, and approved by, a resolution of each House of Parliament in accordance with section 272(6)(zzf) of the Act.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the National Health Service (Procurement, Slavery and Human Trafficking) Regulations 2025.

(2) These Regulations come into force at the end of the period of six months beginning with the day on which these Regulations are made.

(3) They extend to England and Wales, and apply to England.

Interpretation

2. In these Regulations—

"dynamic market" means arrangements established by a public body for the purpose of a public body awarding contracts by reference to suppliers' participation in the arrangements, and "membership of a dynamic market" means participation in those arrangements;

"framework agreement" is an agreement between a public body and one or more suppliers that provides for the future award of contracts by a public body to the supplier or suppliers;

"modern slavery risk" in relation to a good or service means the risk that slavery and human trafficking takes place in relation to any person involved in the supply chain for that good or service;

(**a**) 2006 c. 41. Section 12ZC was inserted by section 81(2) of the Health and Care Act 2022 (c. 31).

"procurement" means the award, entry into and management of a contract, and cognate expressions are to be construed accordingly;

"the Procurement Act" means the Procurement Act 2023(**a**);

"public body" means—

(a) a public authority within the meaning given in section 2(2) of the Procurement Act,

(b) a public undertaking within the meaning given in section 2(2) of the Procurement Act, or

(c) a relevant authority within the meaning given in section 12ZB(7) of the National Health Service Act 2006(**b**).

Application

3.—(1) These Regulations apply to a public body procuring goods or services other than items excluded by paragraph (2) if any of the goods and services being procured are to be used for the purposes of the health service in England.

(2) The following items are excluded from paragraph (1), for the purposes of these Regulations—

(a) services provided pursuant to—

(i) a contract of employment or a worker's contract, within the meaning of section 230 of the Employment Rights Act 1996(**c**), or

(ii) any other contract or arrangement between a public body and an individual for the remuneration or compensation of that individual where they are appointed to a public office by the public body, including as—

(aa) a non-executive director of a public authority, or

(bb) a member of a public inquiry;

(b) an interest in, or right over, any land, buildings or part of a building;

(c) any goods, services or works provided to the Common Council of the City of London other than for the purposes of its functions as a local authority, police authority or port health authority.

Procurement: risk assessment

4.—(1) Unless paragraph (3) applies, a public body undertaking a procurement of any good or service for the purposes of the health service in England must first assess the extent of the modern slavery risk in relation to that good or service.

(2) The risk assessment required by paragraph (1) must be completed—

(a) where a competitive tendering procedure is being followed, before the public body publishes a notice for the purpose of inviting suppliers to participate in a competitive tendering procedure;

(b) in the case of a notifiable below-threshold contract, before the publication of the below-threshold tender notice required by section 87 of the Procurement Act(**d**);

(**a**) 2023 c. 54.
(**b**) Section 12ZB was inserted by section 79 of the Health and Care Act 2022.
(**c**) 1996 c. 18. Section 230 has been amended by section 15(1) of the Public Interest Disclosure Act 1998 (c. 23), section 149(3) of the Small Business, Enterprise and Employment Act 2015 (c. 26) and paragraph 41 of Schedule 7 to the Children and Families Act 2014 (c. 6).
(**d**) Section 87 has been amended by S.I. 2024/782.

(c) in any other case, before the contract is awarded to any supplier.

(3) Subject to paragraph (4), a public body need not carry out a risk assessment under paragraph (1)—

(a) where a contract is awarded in accordance with a framework agreement, provided that a risk assessment has been conducted in relation to the framework agreement as required by regulation 5;

(b) where a contract is awarded by reference to a dynamic market, provided that a risk assessment has been conducted in relation to the dynamic market as required by regulation 6.

(4) Where a public body has previously carried out a risk assessment and the public body has any reason to suspect that the risk assessment no longer reflects the extent of the modern slavery risk in relation to the good or service in question, the public body may not rely on that risk assessment for the purposes of paragraph (3).

(5) In this regulation—

"competitive tendering procedure" means—

(a) a "competitive tendering procedure" as defined in section 20 of the Procurement Act, or

(b) a "Competitive Process" as defined in regulation 2(1) of the Health Care Services (Provider Selection Regime) Regulations 2023(**a**);

"notifiable below-threshold contract" has the meaning given in section 87(4) of the Procurement Act.

Framework agreement: risk assessment

5.—(1) A public body proposing to enter into a framework agreement which includes the supply of any good or service for the purposes of the health service in England must first assess the extent of the modern slavery risk in relation to that good or service which may be supplied under a contract awarded in accordance with the framework agreement.

(2) The risk assessment required by paragraph (1) must be completed before the public body advertises the opportunity to participate in the framework agreement.

Dynamic market: risk assessment

6.—(1) A public body proposing to establish a dynamic market must first assess the extent of the modern slavery risk in relation to any good or service which may be supplied for the purposes of the health service in England under a contract awarded to a supplier by reference to the supplier's membership of the dynamic market.

(2) The risk assessment required by paragraph (1) must be completed before the public body establishes the dynamic market.

Requirement to take reasonable steps

7.—(1) When a public body has carried out the risk assessment required under regulation 4, 5 or 6, the public body must take reasonable steps to address and where practicable eliminate any modern slavery risk identified in that assessment—

(**a**) S.I. 2023/1348. Regulation 11 has been amended by S.I. 2025/163. There are other amendments not relevant to this instrument.

(a) when designing the procurement procedure for the purposes of awarding the contract or concluding the framework agreement,

(b) when establishing the dynamic market,

(c) when setting—

(i) the terms of the contract or framework agreement, or

(ii) the conditions for membership of the dynamic market, and

(d) in managing—

(i) any contract awarded as a result of the procurement, including contracts awarded in accordance with a framework agreement,

(ii) any contract awarded by reference to the dynamic market,

(iii) the framework agreement, or

(iv) the dynamic market,

for the duration of the term of the contract, framework agreement, or dynamic market, as applicable.

(2) The reasonable steps taken in response to the requirement in paragraph (1) must be—

(a) proportionate to the extent of the assessed risk, and

(b) relevant to the contract, the framework agreement or to the dynamic market, as the case may be.

Reasonable steps: procurement process

8.—(1) Reasonable steps for the purposes of regulation 7(1)(a), (b) and (c) may include—

(a) setting—

(i) the conditions of participation in the procurement process, and

(ii) the criteria against which tenders may be assessed for the purpose of awarding a contract or concluding a framework agreement, or admitting a supplier to membership of a dynamic market,

to address the modern slavery risk;

(b) providing for—

(i) appropriate terms in any contract awarded as a result of the procurement or under the framework agreement, and

(ii) appropriate conditions for membership of the dynamic market,

to monitor and address the modern slavery risk.

(2) Appropriate terms for the purposes of paragraph (1)(b)(i) may include requirements for the supplier—

(a) to undertake due diligence on the modern slavery risk which may arise in relation to any sub-contractor or other participant in the supply chain which the supplier intends to use;

(b) to include specified terms requiring measures to address the modern slavery risk in any contract entered into by the supplier with a sub-contractor or other participant in the supply chain to fulfill the supplier's obligations under the contract awarded to the supplier;

(c) to report to the public body the names and contact details for any such sub-contractor or other participant in the supply chain;

(d) to keep records enabling the supply chain of the goods or services in question to be traced;

(e) to make those records available to the public body, or any person authorised by the public body on request;

(f) to take any necessary corrective action or reasonable steps to remedy identified incidences of slavery and human trafficking;

(g) to co-operate with any investigation into—

(i) an offence referred to in paragraphs 19 to 26 of Schedule 6 to the Procurement Act,

(ii) compliance in connection with any order referred to in paragraph 1 of Schedule 7, to the Procurement Act, or

(iii) a potential breach of the terms of the contract.

(3) In this regulation, "conditions of participation" means the conditions that a supplier must satisfy if the supplier is to be awarded the contract.

Reasonable steps: contract management for contracts, framework agreements and dynamic markets

9. Reasonable steps for the purposes of regulation 7(1)(d) and regulation 10(4) may include—

(a) monitoring the supplier's compliance with—

(i) the terms of the contract or framework agreement, or

(ii) the conditions of membership of the dynamic market;

(b) ensuring that there is a response from the supplier to any instance of slavery and human trafficking which is brought to the public body's attention;

(c) reassessing the extent of the modern slavery risk;

(d) taking such action as may be reasonably required to address any new risks which are identified by the reassessment carried out under sub-paragraph (c) or regulation 10.

Reassessment of risk: contract management for framework agreements and dynamic markets

10.—(1) The public body must regularly re-assess the extent of the modern slavery risk in relation to—

(a) any framework agreement the public body has concluded, and

(b) any dynamic market the public body has established.

(2) In deciding how often to carry out a reassessment under paragraph (1), the public body must have regard to—

(a) the subject matter of the framework agreement or dynamic market,

(b) the proportionality of such reassessment, taking account of—

(i) the market sector concerned,

(ii) the extent of the modern slavery risk in that market sector, considering the last risk-assessment, and any other information received subsequently by the public body,

(iii) the duration of the framework agreement or dynamic market.

(3) The public body must carry out a reassessment as soon as practicable if—

(a) there is reason to suspect that the most recent risk assessment is no longer valid,

(b) there has been a significant change in the framework agreement or the dynamic market to which the risk assessment relates, or

(c) any steps taken in relation to the management of the framework agreement or dynamic market show it to be necessary.

(4) When a public body has reassessed the extent of the modern slavery risk under this regulation, the public body must review the action it is taking to ensure that it is taking reasonable steps to address, and where practicable, eliminate any modern slavery risk identified by the assessment.

Guidance

11.—(1) NHS England must publish such guidance as it considers appropriate about compliance with these Regulations.

(2) A public body must have regard to any guidance issued by NHS England under paragraph (1).

(3) In this regulation, NHS England means the body established by section 1H(1) of the National Health Service Act 2006(**a**).

Name
Secretary of State
Department of Health and Social Care

Date

(**a**) 2006 c. 41. Section 1H was inserted by section 9(1) of the Health and Social Care Act 2012 (c. 7), and amended by paragraph 1 of Schedule 1 to, the Health and Care Act 2022. There are other amendments to section 1H which are not relevant to this instrument.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require public bodies in England to undertake an assessment of the risk that modern slavery or human trafficking is taking place in relation to the supply of any good or service which is being procured for the health service in England (see regulations 4, 5 and 6), and which is not excluded from the scope of the Regulations by regulation 3(2).

When a public body has carried out that assessment, the public body is required to take reasonable steps to address the risk identified by the assessment, and if possible eliminate it (regulation 7). The Regulations identify reasonable steps in relation to the procurement (regulation 8), and in relation to the management of the contract (regulation 9). They also require public bodies to undertake a re-assessment of the risk in certain circumstances (see regulation 10), give NHS England power to issue guidance in relation to the Regulations, and require public bodies to have regard to that guidance (regulation 11).

A full impact assessment of the effect that this draft instrument will have on the public sector is available from www.legislation.gov.uk and from the Department of Health and Social Care, 39 Victoria Street, London SW1H 0EU.

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ISBN 978-0-34-827487-5

£6.40

http://www.legislation.gov.uk/id/ukdsi/2025/9780348274875