EXPLANATORY MEMORANDUM TO

THE PROCUREMENT ACT 2023 (THRESHOLD AMOUNTS) (AMENDMENT) REGULATIONS 2025

2025 No. 1200

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Chris Ward, Parliamentary Secretary at the Cabinet Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Edward Green, Deputy Director, International and Reform for Commercial Policy, at the Cabinet Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 John Kenyon at the Cabinet Office can be contacted by email at the following address with any queries regarding the instrument: procurement.reform@cabinetoffice.gov.uk. Alternatively, the department can be contacted by telephone: 0777 195 7746.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Procurement Act 2023 ("the 2023 Act") to provide for the biennial revision of the thresholds in Schedule 1 to the 2023 Act which govern the procedures applicable to the award of public contracts. The thresholds are revised in accordance with the UK's obligations under the WTO's Agreement on Government Procurement (GPA). The instrument also updates the thresholds in section 85 of the 2023 Act. Section 85 limits contracting authorities from carrying out a separate suitability stage before tendering a below threshold contract as a way of reducing the number of bidders who are invited to tender. However, the threshold for works contracts, being circa £5.1m (once amended) is significantly higher than the threshold for works and services contracts (circa £135,000 for central government authorities and £207,000 for sub-central government authorities, once amended). It may be appropriate for works contracts that are below the threshold amount of £5.1m, but still of relatively significant value, to reduce tenders by carrying out a pre-tendering suitability stage process. Section 85(3) therefore sets the value at which the prohibition on a pre-tendering suitability stage is disapplied in respect of works contracts to align with that of the threshold amounts for works and services contract. These thresholds are therefore updated to ensure they align with the new thresholds contained in Schedule 1.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales (but not in respect of procurement regulated by the Welsh Ministers), Scotland (but only in respect of reserved procurement) and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 The GPA is a plurilateral agreement within the World Trade Organisation framework between 22 parties (covering 49 WTO members) including the US, Canada, the EU and Japan. The GPA mutually opens government procurement markets among its parties, and seeks to address trade barriers, such as preferential treatment of domestic goods and services, in the government procurement sector.

5.2 Many of the financial thresholds in Schedule 1 to the 2023 Act are the financial levels, set by the GPA, at which public procurement opportunities are subject to the full suite of regulations governing public contracts. These thresholds are revised every two years to take account of currency fluctuations. This instrument implements the changes required to update the UK's financial thresholds in accordance with that biennial review. These changes are required to ensure the UK complies with its obligations under the GPA.

5.3 In addition, this instrument also updates the threshold amounts in respect of defence and security contracts (which are set domestically but mirror the GPA thresholds), as well as threshold amounts in section 85 of the 2023 Act which relate to the applicability of certain procedures to regulated below-threshold works contracts, to ensure they remain aligned with the GPA financial thresholds.

5.4 This instrument will come into force on 1 January 2026 and will result in these thresholds decreasing by 3.2%. This is due to the falling rate of the GBP over the relevant period of time (September 2023 – August 2025). As this is a minor change, this will not impact greatly on the scope of public procurement.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends the 2023 Act to provide for the biennial revision of the threshold amounts in Schedule 1. The thresholds in section 85 were intended to align with the threshold amounts in Schedule 1 and are also being amended for consistency. It should be noted that the thresholds in section 85 do not currently align with the Schedule 1 threshold amounts, and this was due to an oversight when the Schedule 1 threshold amounts were updated immediately prior to the 2023 Act coming into force on 24 February 2025[1].

[1] By S.I. 2025/163.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes. The last update to the reviewable financial thresholds came into effect on 1 January 2024[2].

7. Consultation

Summary of consultation outcome and methodology

7.1 There has been no consultation on this instrument. The main change is to implement the biennial update to the financial thresholds and reflect the UK's obligations as an independent member of the GPA. Failure to amend the thresholds would result in the UK being in breach of its obligations under the agreement.

7.2 Regular discussions on the content of this instrument have been held with the devolved governments throughout the drafting.

8. Applicable Guidance

8.1 A Procurement Policy Note will be published and issued to practitioners to notify them of the changes ahead of them coming into effect. This Note will be available at https://www.gov.uk/government/collections/procurement-policy-notes.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the framework and principles underlying the regulations being amended have not been substantially amended.

9.2 Modifications contained in this instrument have been made to ensure the 2023 Act functions effectively and in accordance with the UK's international obligations. Therefore, any impact is expected to be low and below the threshold required to carry out a full impact assessment.

Impact on businesses, charities and voluntary bodies

9.3 There is no, or no significant, impact on business, charities or voluntary bodies because the framework and principles underlying the legislation being amended have not been substantially amended.

9.4 The legislation does not impact small or micro businesses.

9.5 There is no, or no significant, impact on the public sector because the modification to the public procurement threshold amounts is not significant.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through feedback from contracting authorities, suppliers, industry representatives and professionals using the 2023 Act which will help inform any updates.

[2] This update was originally implemented by S.I. 2023/1117 as an amendment to the UK's previous public procurement legislation which was replaced by the 2023 Act from 24 February 2025.

10.2 The instrument does not include a statutory review clause as this instrument is amending provisions in connection with procurement only, therefore the duty to review in section 28 of the Small Business, Enterprise and Employment Act 2015 does not apply.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument amends Schedule 1 of the 2023 Act to provide for the biennial revision of the thresholds in Schedule 1 in accordance with the UK's obligations under the GPA. The instrument also updates the thresholds in section 85 of the Procurement Act 2023 to ensure they align with the thresholds in Schedule 1.

11.2 The SI will be made under the negative procedure (in accordance with section 122(6) of the 2023 Act) using powers in section 85(4) of, and paragraph 2 of Schedule 1 to, the 2023 Act.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”). It does however relate to the withdrawal of the United Kingdom from the European Union because it implements the UK’s obligations in respect of the reviewable financial thresholds to reflect the UK’s independent membership of the GPA.