

The Procurement Act

What is it & what does it mean for you?

The Procurement Act is a new piece of legislation that represents the largest change to public procurement in over a decade.

The Act is intended to make public procurement more competitive, transparent, and cost-effective.

With new mechanisms to bar poor-performing or risky suppliers from the market, and bold new standards for transparent publishing, the Act also aims to even out the playing field for SMEs and smaller suppliers.

This guidebook provides a comprehensive overview of what the Procurement Act is, its key aims, and the changes it has introduced. Use this guide to prepare for its 'go-live' date in February 2025, and make the most of the reforms.



Key Aims

4 core ambitions underpin the Procurement Act.

1. To make the procurement process simpler, more efficient and deliver clearer objectives
2. Ensure procurement delivers better value for money for contracting authorities and citizens
3. Improve transparency and accountability throughout the procurement process
4. Increase market accessibility for smaller suppliers



Who's it for?

The Procurement Act will impact any organisation either buying within, or supplying into, the public sector.

The Act's provisions cover nearly all contracting authorities – including Central Government, Local Government, the NHS, certain devolved administrations and ALBs.

The Act is equally pertinent to suppliers: it changes how contracting authorities can choose successful bidders, what grounds suppliers can be excluded on, and what information may be reported on throughout a contract's lifecycle.

However, the Procurement Act only impacts contracting authorities in England, Wales and Northern Ireland – Scottish authorities will remain under their own procurement regulations.



What key changes is the Act introducing?

The Procurement Act brings several substantive reforms to how public procurement operates.

We've pin-pointed 10 key changes being introduced by the Act.

It's imperative that buyers and suppliers alike understand these changes, and consider how each might impact how you conduct or engage in public procurement.



Procurement Objectives

The Act redefines the core objectives public procurement should look to fulfil.

The new legislation introduces a long-awaited update to the [Public Contracts Regulations 2015](#) which previously required procurement teams to award contracts based on the the 'Most Economically Advantageous Tender'.

Under the new framework, this has been revised to 'Most Advantageous Tender,' reflecting a broader, more holistic approach that prioritises [social value](#) alongside economic considerations.

[Learn more about social value and the Procurement Act >](#)

It is important for contracting authorities to stay up to date with these changes and give feedback on the impact of the Procurement Act through subsequent feedback sessions and consultations for [secondary legislation](#).



Greater Flexibility

The Act looks to increase flexibility for contracting authorities in the procurement process, addressing the challenges of rigid and prescriptive procedures.

Contracting authorities will have greater discretion over what type of procurement procedure they want to use when going out to market. The new 'Competitive Flexible Procedure' is designed to give public sector buyers the flexibility to create a bespoke, multi-stage procurement process tailored to their needs.

[Open frameworks](#) are also being introduced as a more flexible alternative to traditional framework agreements. Acting as a mid-point between closed frameworks and [Dynamic Markets](#), open frameworks may open periodically during the their lifetime to allow new suppliers to join.

Additionally, newly introduced [contract termination notices](#), contract change notices and [procurement termination notices](#) grant contracting authorities greater power to modify or cancel contracts and procurements, provided a notice is published to inform the market.



New Notices

The Act introduces [several new notice types](#) that can – or must – be published throughout the procurement process.

This includes a handful of new pre-tender notices, such as [planned procurement notices](#), [preliminary market engagement notices](#) and [pipeline notices](#).

These new notices aim to improve transparency and give the market advanced warning of new opportunities or changes throughout the procurement process.

Contracting authorities can check out Tussell's [Procurement Act flowchart](#) to find out what notices they need to publish, and when.



Standstill Periods

The Act shortens the 'standstill period', addressing the challenge of prolonged delays in the procurement process.

The Act reduces the standstill period between a contract award decision and the contract's conclusion from 10 to 8 working days.

However, exceptions apply, such as in cases of extreme or unavoidable urgency for direct awards or when contracts are awarded through a framework.

This change is designed to accelerate the procurement process while preserving fairness and transparency.



Award criteria

In addition to new guidance on rewarding the 'most advantageous tender', the Procurement Act sets out new rules regarding award criteria.

As with PCR 2015, contracting authorities must continue using a weighted point system to evaluate bidders against a set of criteria.

Award criteria must be clear, measurable, and specific, with an assessment methodology provided to explain how tenders will be evaluated.

Under the new procurement regime, these criteria must also be ranked by importance or weighted as a percentage of their total significance.

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The Act grants contracting authorities greater powers to make direct awards in situations where public or environmental health and safety is at risk.

This provision was introduced in response to the COVID-19 pandemic, recognising the need for rapid action in emergencies.

The changes brought by the Procurement Act aim to strike a balance between transparency, efficiency, and flexibility in the procurement process. While they have the potential to enhance procurement practices, contracting authorities will need to navigate administrative challenges and adapt their processes to leverage these improvements effectively. Suppliers will also need to ensure they're adhering to these new regulations to remain competitive.



New KPIs

The Act introduces new requirements for contracting authorities to publish contract key performance indicators (KPIs) to evaluate supplier performance.

KPIs are now mandatory for most contracts valued at over £5 million, with a few exceptions.

These KPIs must be easily measurable and proportionate to the specific contract.

This change aims to enhance supplier performance monitoring and offer valuable insights into the effectiveness of procurement contracts.

It also gives buyers the authority to exclude suppliers or terminate contracts early in cases of underperformance.



Remedies

Should a breach of the new procurement regulations occur, legal remedies exist under the Procurement Act.

These are largely the same as those under the old procurement regime.

However, 'declarations of ineffectiveness' in instances of buyer misconduct have been renamed "set aside" proceedings.

Additionally, a new test has been introduced for interim orders, affecting automatic suspensions regarding contract entry or modification.



Terminating Contracts

The Act broadens the implied rights of contracting authorities to terminate public contracts early.

Grounds for termination now include instances where the contract was awarded or modified in breach of the Procurement Act.

Termination is also permitted when a supplier becomes an excluded or excludable supplier. This can be for a range of reasons including poor performance, misconduct or reasons relating to national security. In some instances, a contract may also be terminated if a sub-contractor is found to be excludable.

Under the new regime, contract termination notices must be published even in instances where the contract is not terminated early.



Supplier Registry

The Act will introduce a new supplier registration system to centralise information on suppliers.

The Procurement Act aims to resolve the common issue where suppliers had to submit their information across multiple platforms and websites when bidding for work across different contracting authorities and sectors.

The new supplier registration system will require suppliers to submit their basic profile information only once, with this information securely stored and accessible to other procurement systems.

The system will also provide clearer guidance on what information suppliers need to keep updated.





Supplier Exclusion

The Act addresses the management of excluded and excludable suppliers for contracting authorities, aiming to enhance the integrity of the procurement process and ensure responsible supplier selection.

The Procurement Act largely retains [the existing grounds for mandatory exclusion](#), such as those related to modern slavery, but introduces new offences including environmental misconduct and improper behaviour in procurement (such as theft, corporate manslaughter, and competition law violations).

A significant change is the inclusion of prior poor performance as a basis for exclusion, particularly when a supplier has failed to improve despite being given opportunities.

The Act also establishes a new central Debarment List.

As with all exclusions, inclusion on the Debarment List can be based on either mandatory or discretionary grounds. Suppliers on the list are barred from bidding for public contracts but may seek removal if there is a significant change in circumstances.

* * *

For suppliers worried about the new regulations, beginning the process of [‘self-cleaning’](#) now can help firms to avoid future exclusion and/or debarment.

As a supplier, being aware of changes to supplier exclusion is critical. You must understand what the new rules are and ensure that you abide by them.

The new exclusion regime allows a supplier to be excluded based on a subcontracted supplier further down the chain – make sure you pick your subcontractors wisely.

UK public procurement is set to go through some major changes. As your organisation adapts, don't get held back by a poor understanding of your market or categories. [Tussell](#) provides a 360° view of the public sector marketplace, providing unparalleled insights on suppliers, frameworks, competitors and more.

[Interested? Click here to book in a chat with our team.](#)

What does this mean for you?

On the whole, the Procurement Act is intended to make public procurement more accessible, flexible and transparent.

Reflecting on the outlined changes, we've highlighted the potential benefits the Procurement Act may provide for buyers and suppliers.

For suppliers

Greater visibility of procurement pipelines and changes to procurement should enable suppliers to better anticipate upcoming opportunities, and strategise their angle of approach

Clearer rules for contracting authorities on pre-market engagement should provide better visibility on when and how you can engage with buyers pre-tender

Simplified registration through the centralised supplier registry information should save time during the bid submission process – particularly beneficial for smaller suppliers

More diversity in the types of procurement procedures available to contracting authorities should make it easier for them to award work under unique circumstances

More consistent feedback post-bid should help suppliers craft better submissions in the future

For buyers

More diversity in the types of available procurement procedures should provide more avenues for contracting authorities to procure what they need

Enhanced autonomy under the 'most advantageous tender' clause means contracting authorities have more freedom to award contracts that promote environmental and social value

Greater transparency via the supplier Debarment List should provide greater visibility over poorer performing suppliers, helping to inform award decisions

More consistent reporting over high-value contracts' KPIs should enforce better oversight and monitoring over contract delivery performance

Expanded capabilities to reserve certain preliminary market engagements for SMEs should enable contracting authorities to better promote social value in their supply chains

To learn more about the potential benefits of the Procurement Act, [click here](#) to read the government's 'Benefits for Prospective Suppliers to the Public Sector' explainer.

To help your procurement team prepare, [we've produced a flowchart](#) showing you all the new notices being introduced by the Act, and where they fit into the procurement lifecycle.



What's next?

With the Procurement Act finally enacted into law, it is time to start preparing for its enforcement in February 2025.

Whether you're a buyer or supplier, we recommend getting your head around the new Act sooner rather than later – preparation resources are already available.



Procurement Bill receives Royal Assent, becoming the Procurement Act 2023

26th October 2023

Gov't "Knowledge Drops" expected – videos & resources on key changes

November 2023

Gov't e-learning product launched with Skilled Practitioner Certification

March 2024

Gov't "Deep Dives" launched through a 3 day virtual course

May 2024

Procurement Act 2023 comes in to force through a potentially staggered launch

February 2025

What you can do to get prepared

Read through the Act itself

Reading through legislation can be challenging, but setting time aside to comb through [the Act itself](#) is a great way to start understanding the changes it has introduced. You can also check out Tussell's [Procurement Act Hub](#) to learn more about what specific changes to expect.

Get your head around the key documents

The government has already produced a few documents to help you understand the Act's core elements. Tussell's suggested reading includes: ["Getting Ready for the New Procurement Act"](#), ["Planning & Preparation Checklist"](#) and a ["Summary Guide"](#).

Sign up for courses, learning and accreditations

The government has prepared a range of training services to help you prepare for the Act. To find out more about the training options, [click here](#).

Keep up-to-date with new developments

In September 2024, the Procurement Act go-live date was pushed back from October 28th 2024 to February 24th 2025. To keep up-to-date with changes to the Procurement Act, [sign up to Tussell's mailing list](#).

The Procurement Act makes clear the importance of clear data when buying or selling into government – [Tussell](#) can help you with this. [Book a personalised demo](#) to see what insights we can provide into the UK public procurement marketplace.



Tussell is officially
Procurement Act ready.

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