

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO 5)

Procurement Bill

1. This legislative consent memorandum (LCM) is laid under Standing Order (“SO”) 29.2. SO29 prescribes that an LCM must be laid before Senedd Cymru if a UK Parliamentary Bill makes “relevant provision” (that is to say provision in relation to Wales for any purpose within the legislative competence of the Senedd, or which modifies the legislative competence of the Senedd) or if a UK Parliamentary Bill, by virtue of amendments tabled by a Minister of the Crown or published with the name of a Minister of the Crown in support, in either House, makes (or would make) relevant provision for the first time or beyond the limits of any consent previously given by the Senedd.
2. The Procurement Bill (“the Bill”) was introduced in the UK Parliament, House of Lords, on 11 May 2022 and I [laid an LCM on 9 June based on the Bill as introduced](#).
3. On 11 July I laid a [supplementary LCM \(Memorandum No 2\)](#), following amendments tabled by the UK Government for consideration at Lords Committee Stage which commenced on 4 July and ran until 26 October.
4. On 6 December I laid a [supplementary LCM \(Memorandum No 3\)](#), following amendments tabled by the UK Government for consideration at Lords Report Stage which commenced on 28 November and ran until 30 November.
5. On 19 December I laid a [supplementary LCM \(Memorandum No 4\)](#), following non-government amendments agreed at Lords Report Stage which commenced on 28 November and ran until 30 November.
6. The UK Government has tabled amendments for consideration at House of Commons Committee stage which began on 31 January 2023. The tabled amendments can be found at: https://publications.parliament.uk/pa/bills/cbill/58-03/0218/amend/procurement_rm_pbc_0125.pdf. The clauses referred to in this supplementary LCM are as set out in the Bill as brought from the House of Lords published on 14 December. This version of the Bill can be found at: <https://publications.parliament.uk/pa/bills/cbill/58-03/0218/220218.pdf>

Policy Objective(s)

7. The stated policy objectives of the UK Government for the Bill are:

- to speed up and simplify public procurement processes
- to place value for money at their heart
- to create greater opportunities for small businesses and social enterprises to innovate public service delivery.

Summary of the Bill

8. The Bill is sponsored by the Cabinet Office (CO).

9. The purpose of the Bill is to introduce revised legislation for the processes and procedures governing public procurement. It will be a revision of the current procurement law regime (including the repeal of the Public Contract Regulations 2015) which are derived from EU Directives.

10. The Bill interacts with other legislation, namely the Social Partnership and Public Procurement (Wales) Bill (SPPP Bill) which was introduced to the Senedd on 7 June, and the Trade (Australia and New Zealand) Bill which was introduced into the UK Parliament (House of Lords) on 11 May. The Trade (Australia and New Zealand) Bill is to be repealed by the Procurement Bill, as are the amendments to the Government of Wales Act 2006 (GoWA) made by the Trade (Australia and New Zealand) Bill.

11. The procurement landscape is quite complex when referring to public bodies. Therefore, the following references have been used in this document to provide clarity:

- ‘Contracting authorities’ (CAs) - all public bodies subject to the Bill;
- ‘Devolved Welsh Authorities’ (DWAs) - as defined by section 157A of the Government of Wales Act 2006 (“GoWA”); and
- ‘Welsh Contracting Authorities’ (WCAs) - the contracting authorities in Wales which are subject to the Bill and in relation to whom relevant powers and duties conferred upon the Welsh Ministers under the Bill apply (these are referred to as “devolved Welsh authorities” in the Bill itself).

Update on position since the publication of the supplementary LCM (Memorandum No 4) laid on 19 December

12. I laid a supplementary LCM on 19 December. It covered the six non-government amendments agreed at Lords Report Stage, the majority of

which made provision falling within the legislative competence of the Senedd.

13. UK Government tabled further amendments for consideration at House of Commons Committee Stage on 25 January. These amendments, to the extent that they make provision which falls within the legislative competence of the Senedd, are the subject of this supplementary LCM. **Annex A** contains a table which outlines the changes to clause numbers following the amendments made at House of Lords Report Stage.
14. My previous legislative consent memoranda confirmed that, whilst I was content to begin the legislative consent process in the Senedd, there were a number of key matters of concern which needed to be resolved before I could consider recommending consent. The majority of these areas have been resolved, including the following:
 - Amendment to the definition of WCAs: An amendment to the definition of a WCA was being sought so that it is clear which provisions apply to cross-border procurements. The terms of the amendment have now been agreed and are included at amendments 66 and 67 (see paragraph 18.16 below for further information).
 - Powers to make consequential provision: The Bill provided for concurrent powers with no requirement to obtain the consent of the Welsh Ministers when UK Government Ministers are exercising this power in relation to devolved areas. The Cabinet Office has agreed to our request for concurrent plus powers, which means consent will need to be obtained in these circumstances. The amendment number is 68 (see paragraph 18.17 below for further information).
 - Commencement Powers: the Cabinet Office has agreed to table an amendment to this clause which would ensure a Minister of the Crown obtains the consent of the WMs before commencing the Bill's provisions which regulate procurement by a devolved Welsh authority.
15. The following matters of concern are still outstanding:
 - The power to add international agreements to the list in Schedule 9 to the Bill has been included as a concurrent power, with no requirement to obtain the consent of Welsh Ministers when UKG Ministers are exercising this power in relation to devolved areas, which is unacceptable to the Welsh Ministers. Similar provisions are also contained in the Trade (Australia and New Zealand) Bill. Detailed discussions are ongoing at official level, and it is expected that the

outcome of those discussions will be reflected in the Procurement Bill.

- A new matter of concern has arisen as a result of one of the amendments tabled by the UKG on 25 January (see paragraph 18.12 below for further information). It relates to trade disputes whereby a MoC can make regulations to deal with the procurement consequences of a trade dispute under a treaty implemented by way of Schedule 9 (other than the Trade and Cooperation Agreement with the EU, which is dealt with under existing legislation). This power is therefore a concurrent power, with no requirement to obtain the consent of Welsh Ministers when UKG Ministers are exercising this power in relation to devolved areas, which is unacceptable to the Welsh Ministers.

Provisions tabled by the UK Government to the Bill for consideration at House of Commons Committee stage for which consent is required

16. The amendments outlined in paragraphs 18.1 to 18.19 and 19.1 have been tabled by the UK Government for consideration at House of Commons Committee Stage. With the exception of the amendments to clause 107 (see paragraph 17 below), these amendments are considered to be for a purpose within the legislative competence of the Senedd and are therefore “relevant provisions” for purposes of SO 29.
17. The amendments to clause 107 (see 18.16) are not within the legislative competence of the Senedd to the extent that they make provision for the purpose of regulating contracting authorities which operate or whose functions are exercisable otherwise than in relation to Wales. However, the provision made by the amendments does relate to devolved matters in so far as it only applies in relation to contracting authorities whose activities are wholly or mainly activities that do not relate to reserved matters or whose functions are wholly or mainly functions that do not relate to reserved matters. This does not alter the conclusion in the legislative consent memorandum laid on 9 June 2022 that this clause contains provision which is within the legislative competence of the Senedd and is therefore relevant provision for the purposes of SO 29.

18. Amendments tabled on 25 January

18.1. Debarment list (3 amendments to clause 62)

Amendment 42 would make clearer that each entry onto the debarment list will relate to one exclusion ground and as such, could be challenged individually by the supplier.

Amendment 43 would ensure that an application for interim relief (see 18.3) would suspend the Minister's decision to add a supplier's name to the debarment list.

Amendment 44 would limit the amendments a Minister of the Cabinet Office could make to an entry on the debarment list, ensure that a Minister of the Cabinet Office can voluntarily suspend a decision to add an entry to the debarment list in light of an appeal, and clarify that a Minister of the Cabinet Office can remove an entry where the particular exclusion ground does not apply (even if there are other entries relating to the supplier on the list).

18.2. Debarment list: application for removal (3 amendments to clause 63)

Amendment 45 would ensure suppliers can apply to change the date indicating when it will cease to be an excluded or excludable supplier.

Amendment 46 links with the first amendment to clause 62 in paragraph 18.1. It would allow for the fact that a supplier may make separate applications should they have more than one entry on the debarment list.

Amendment 47 is a consequential amendment which would allow challenges of the date indicating when it will cease to be an excluded or excludable supplier as stated under clause 62

18.3. Debarment decisions – interim relief (NC 9)

This new clause would allow suppliers to apply to suspend a Minister's decision to add their name to the debarment list. If the decision is suspended, the supplier will not be able to be excluded from any procurements on the basis of the debarment list until the suspension is lifted.

18.4. Debarment decisions: appeals (amendment to clause 64)

Amendment 48 would amend clause 64 to replace a power to make provision about appeals with detailed provision for their operation.

Other amendments relating to debarment appeals

Amendment to clause 97. This amendment would ensure that challenges to debarment decisions are dealt with under section 64 (debarment decisions: appeals).

Amendment to clause 118. This amendment is consequential on the deletion of the power to make provision about debarment appeals

18.5. Reduced time periods for utilities and sub central entities (amendment to clause 54)

Amendment 34 will permit sub central authorities and utilities to use significantly shorter than usual time periods for returning tenders when using the competitive flexible tendering procedure. This flexibility is currently included in the existing procurement legislation.

Amendments 35 and 36 define terms used in Amendment 34

18.6. Contract Change Notices (amendment to clause 74)

Amendment 54 will remove the contradiction in the Contract Change Notice clause regarding light touch contracts. The effect of the amendment will ensure that all light touch contracts are exempt from the requirement to publish a contract change notice.

18.7. Publication of Modifications (amendment to clause 76)

Amendment 55 will ensure that the provisions on publication of modifications only apply when a contract change notice should be published and the underlying contract value is over £5M (whether before or after the amendment is made). This clause continues to exempt WCAs from the requirement to publish contract modifications, unless the contract was awarded as part of a procurement under a reserved procurement arrangement.

Amendments 56 to 58 are consequential on amendment 55

18.8. Concessions payment notices (clause 68)

Amendment 53 would exempt all CAs from publishing payment notices relating to concession contracts. This minor technical amendment aligns with the scope set out in clause 67, implied payment terms in public

contracts (from which concession contracts are excluded) and brings consistency across the payment clauses.

18.9. Abnormally low tenders (clause 19)

It is intended that CAs should be able to exclude abnormally low tenders. Currently the Bill purports to allow for a CA to consider that a tender is unsuitable if the price is abnormally low when switching to a direct award (see clause 43(2)(c)), however no specific provision is included that allows for a tender to be excluded due to an abnormally low price. The effect of amendment 30 is therefore to add explicit provision to the Bill to allow contracting authorities to disregard tenders offering an abnormally low price. Amendment 31 would require CAs to notify suppliers of the fact that the CA considers the price to be abnormally low and give suppliers reasonable opportunity to demonstrate that it is workable before disregarding their tender.

18.10. Technical Specifications (clause 56)

Amendments 37 to 41 will allow CAs to refer to a UK standard if the standard adopts an internationally recognised equivalent. It clarifies how a CA assesses whether tenders, proposals or applications satisfy equivalent standards to UK standards. The amendment removes the definition of standard and clarifies the definition of United Kingdom standard.

These amendments widen the scope to capture anything a CA requires to ensure their standard is appropriate.

18.11. Electronic Communications Systems (clauses 66, 67 and 94)

Amendment 50 would amend Clause 66 to ensure that CAs can require the use of a particular system in relation to electronic invoices. Also, that a CA which is a defence authority can require that the system requires the payment of fees by the supplier.

Amendments 51 and 54 would amend Clause 67 to clarify the meanings of 'electronic invoice' and 'required electronic form' to ensure consistency with clause 66. These amendments would also clarify that a reference to a contracting authority receiving an invoice for the purposes of clause 67 includes receiving an electronic invoice through a system specified in the contract.

There are four amendments to clause 94 (amendments 61 to 64):

Amendment 61 would ensure that the requirement for electronic systems is restricted to covered procurements.

Amendment 62 would create an exception to this where a contracting authority can charge suppliers where those systems are used **after** award of a public contract or in relation to a utilities dynamic market.

Amendments 63 and 64 would extend the security risk exemption to the whole clause, with the result that if a contracting authority considers an electronic communication system – or the use of one – poses a security risk, then the requirements of the clause do not apply.

18.12. Trade Disputes (new clause 11)

This clause includes the power to make regulations to deal with the procurement consequences of trade disputes, which arise from a treaty listed in Schedule 9 (other than the Trade and Cooperation Agreement with the EU, which is dealt with under existing legislation). This power is conferred on an appropriate authority which includes the Welsh Ministers.

Amendment 69 will amend clause 109 to allow a Minister of the Crown to exercise the trade dispute power under NC11 in relation to devolved Welsh authorities and transferred Northern Ireland authorities.

The effect of this amendment is that a MoC is able to exercise this power without obtaining the consent of Welsh Ministers which is unacceptable to the Welsh Ministers.

Amendment 79 will amend clause 118 to ensure that the making of the regulations by Welsh Ministers under this new clause will be subject to the affirmative procedure. It will therefore be subject to Senedd scrutiny.

18.13. Reserving contracts for supported employment providers (clause 32)

Amendments 32 and 33 would amend clause 32 to ensure that an organisation could meet the test of “supported employment provider” if part of the organisation meets that test and that part is to perform the contract, or the test is met by the combined workforce of organisations or parts of organisations that will together perform the contract.

18.14. Schedule 2 (Exempted contracts) – amendment to application of exception in paragraph 1(2)

Amendment 85 will amend Schedule 2 to make clear that contracts which fall within the exemption for vertical and horizontal arrangements (currently paragraphs 2 and 3) are always exempted from being public contracts and therefore exempt from the requirements of the Bill. Certain defence and security contracts (those which fall within the current paragraph 25) and certain utilities contracts (those which fall within the current paragraphs 31 and 32) will also be always exempt. The contracts which are always exempt will be contained in the new Part 1 of Schedule 2.

Amendment 86 would create a new Part 2 named "Subject-Matter Exempted Contracts". This retains the original requirement for Contracting Authorities to consider if any of the goods, services or works representing the main purpose of the contract could be reasonably supplied under a separate contract, and whether that contract would be an exempt contract. This allows a determination to be made as to whether the contract should be an exempted contract. An example of what is considered reasonable is now provided within the amendment, which includes consideration of the practical and financial consequences of awarding more than one contract.

18.15. Power to amend KPI thresholds (clause 52) to be subject to the affirmative procedure

Amendment 78 will amend Clause 118 (Regulations) to ensure that when there is an amendment to the KPI thresholds in regulations made by Welsh Ministers under clause 52, the making of the regulations will be subject to the affirmative procedure rather than the negative procedure. It will therefore be subject to Senedd scrutiny.

18.16. Amendment to the definition of WCAs (clause 107)

The provisions of clause 107 which relate to CAs which are treated as devolved Welsh authorities for the purpose of the Act will be amended to ensure that the Welsh rules apply to such authorities if they operate or exercise functions wholly or mainly in relation to Wales.

Amendment 66 would mean that a public undertaking or private utility that operates "wholly or mainly in relation to Wales" will be treated as a devolved Welsh authority.

Amendment 67 would mean that a contracting authority whose functions are exercisable "wholly or mainly in relation to Wales" will be treated as a devolved Welsh authority regardless of the subject-matter of a particular procurement.

18.17. Powers to make consequential provision (clause 109)

Amendment 68 will amend Clause 109 such that a Minister of the Crown could not make consequential provision under clause 121 for the purpose of regulating a devolved Welsh authority without the consent of Welsh Ministers.

18.18. Schedule 7

Amendment 88 would insert a definition of “event” for the purposes of paragraph 16 of Schedule 7.

18.19. Amendments overturning non-government amendments agreed during House of Lords Report Stage

There are a number of amendments which overturn the non-government amendments agreed during the House of Lords Report Stage.

To the extent that these amendments remove provision which was considered to be within the legislative competence of the Senedd, it is considered that these amendments are also within legislative competence and therefore make relevant provision for the purposes of SO 29.

The amendments which make relevant provision are as follows:

- Amendment 27: Amendment to clause 2 (contracting authorities) to remove the words “including the NHS” in the definition of “public authority” in clause 2(2).
- Amendments 28 and 29: Amendments to clause 13 (the national procurement policy statement) to remove subsection (3) and (4).
- Amendment 49: The removal of clause 65 (Timeline for removal of suppliers).
- Amendment 87: The removal of paragraph 15 of Schedule 7 (Involvement in forced organ harvesting).

19. Amendments tabled on 2 February 2023

19.1 Commencement (clause 123)

Amendment 115 would amend clause 123 to make commencement of devolved Welsh aspects of the Bill subject to the consent of the Welsh Ministers.

In the event that such consent was refused, the amendment would make provision to allow UK Ministers to amend the Act resulting from this Bill

so that the Act no longer applies in respect of devolved Welsh procurement and could be commenced without the consent of Welsh Ministers.

Amendment 113 would amend clause 107 (Welsh Ministers: restrictions on the exercise of powers). This amendment is consequential on amendment 115.

Reasons for making these provisions for Wales in the Procurement Bill

19. As the amendments detailed within this supplementary LCM fall within the legislative competence of the Senedd and all relate to the provisions set out in previous LCMs, the rationale for making these provisions in the Bill continue to apply.

Financial implications

20. I set out the potential financial implications associated with the reform of public procurement in Wales that are likely to be borne by the Welsh Government and the wider Welsh Public Sector in my original LCM laid on 9 June.
21. The proposed amendments will not levy any additional financial implications on Welsh Government or the wider Welsh Public Sector.

Conclusion

22. It is my view that it is appropriate to deal with these provisions in this UK Bill, as the Bill is the most effective way for these provisions to come into force. My officials have worked closely with officials in Cabinet Office to ensure Welsh Government's policy objectives have been included and I consider these provisions would provide a simplified, transparent procurement regime in Wales.
23. I consider the majority of the proposed amendments to be reasonable. Now that the majority of issues of concern have been resolved, I recommend consent to the core procurement elements of the Bill, which represent the majority of the Bill. However, I recommend that consent is withheld for the areas of the Bill which concern international trade, for the reasons outlined in paragraph 15.

Rebecca Evans MS
Minister for Finance and Local Government
6 February 2023

Annex A – Comparison table between versions of the Procurement Bill

Bill as introduced to the House of Lords on 11 May 2022:

<https://bills.parliament.uk/publications/46439/documents/1777>

Bill as amended in House of Lords Grand Committee on 26 October 2022:

<https://bills.parliament.uk/publications/48269/documents/2396>

Bill (as brought from the House of Lords) on 14 December 2022:

<https://publications.parliament.uk/pa/bills/cbill/58-03/0218/220218.pdf>

Clause number on introduction	Clause description	Clause as amended in Grand Committee	Clause as brought from the HOL
<i>PART 1 KEY DEFINITIONS</i>			
	New Clause as brought from the HOL: Procurement and Covered Procurement		1
1	Contracting authorities	1	2
2	Public contracts	2	3
3	Valuation of contracts	3	4
4	Mixed procurement: above and below threshold	4	5
5	Utilities contracts	5	6
6	Defence and security contracts	6	7
7	Concession contracts	7	8
8	Light touch contracts	8	9
9	Mixed procurement: special regime contracts	9	10
<i>PART 2 PRINCIPLES AND OBJECTIVES</i>			
10	Procurement only in accordance with this Act Amended clause title as brought from the HOL: Covered Procurement only in accordance with this Act	10	11
11	Procurement objectives Amended clause title as brought from the HOL: Covered procurement: objectives	11	12

Clause number on introduction	Clause description	Clause as amended in Grand Committee	Clause as brought from the HOL
12	The national procurement policy statement	12	13
13	The Wales procurement policy statement	13	14
<i>PART 3 AWARD OF PUBLIC CONTRACTS AND PROCEDURES</i>			
CHAPTER 1 PRELIMINARY STEPS			
14	Planned procurement notices	14	15
15	Preliminary market engagement	15	16
16	Preliminary market engagement notices	16	17
17	Duty to consider lots	17	18
CHAPTER 2 COMPETITIVE AWARD			
<i>Terms of a procurement</i>			
18	Award of public contracts following a competitive procedure Amended clause title: <i>Award of public contracts following a competitive tendering procedure</i>	18	19
19	Competitive tendering procedures	19	20
20	Tender notices and associated tender documents	20	21
21	Conditions of participation	21	22
22	Award criteria	22	23
23	Refining award criteria	23	24
24	Technical specifications Amended clause: <i>This clause has been moved to Chapter 6 'General provision about award and procedures', under a new <u>sub-section "Technical specifications"</u></i>	53	56
25	Sub-contracting specifications	24	25
<i>Exclusions and modifications</i>			
26	Excluding suppliers from a competitive award	25	26

Clause number on introduction	Clause description	Clause as amended in Grand Committee	Clause as brought from the HOL
27	Excluding suppliers from a competitive tendering procedure Amended clause title: <i>Excluding suppliers from a competitive flexible procedure</i>	26	27
28	Excluding suppliers by reference to sub-contractors	27	28
29	Excluding a supplier that is a threat to national security	28	29
30	Excluding suppliers for improper behaviour	29	30
31	Modifying a section 18 procurement Amended clause title as brought from the HOL: <i>Modifying a section 19 procurement</i>	30	31
<i>Reserving contracts to certain suppliers</i>			
32	Reserving contracts to supported employment providers	31	32
33	Reserving contracts to public service mutuals	32	33
<i>Awarding contracts by reference to dynamic markets</i>			
34	Competitive award by reference to dynamic markets	33	34
35	Dynamic markets: establishment	34	35
36	Dynamic markets: membership	35	36
37	Dynamic markets: removing members from the market	36	37
38	Dynamic markets: fees	37	38
39	Dynamic market notices	38	39
	New Clause as brought from the HOL: <i>Qualifying Utilities Dynamic Market notices: no duty to publish a tender</i>		40
CHAPTER 3 DIRECT AWARD			

Clause number on introduction	Clause description	Clause as amended in Grand Committee	Clause as brought from the HOL
40	Direct award in special cases	39	41
41	Direct award to protect life, etc	40	42
42	Switching to direct award	41	43
43	Transparency notices	42	44
CHAPTER 4 AWARD UNDER FRAMEWORKS			
44	Frameworks	43	45
	New Clause as brought from the HOL: Frameworks: Competitive Selection Process		46
45	Frameworks: maximum term	44	47
46	Frameworks: implied terms	45	48
47	Open frameworks	46	49
CHAPTER 5 AFTER AWARD, STANDSTILL PERIODS AND NOTICES			
48	Contract award notices and assessment summaries	47	50
49	Standstill periods on the award of contracts	48	51
50	Key performance indicators	49	52
51	Contract details notices and publication of contracts	50	53
CHAPTER 6 GENERAL PROVISION ABOUT AWARD AND PROCEDURES			
<i>Time limits and termination</i>			
52	Time limits	51	54
53	Procurement termination notices	52	55
<i>Technical Specifications</i>			
24	Technical specifications Amended clause: <i>This clause has been moved to Chapter 6 ‘General provision about award and procedures’, under a new sub-section “Technical specifications”</i>	53	56
<i>Excluding suppliers</i>			

Clause number on introduction	Clause description	Clause as amended in Grand Committee	Clause as brought from the HOL
54	Meaning of excluded and excludable supplier	54	57
55	Considering whether a supplier is excluded or excludable	55	58
<i>Debarment</i>			
56	Notification of exclusion of supplier	56	59
57	Investigations of supplier: exclusion grounds	57	60
58	Investigations under section 57: reports Amended clause title as brought from the HOL: <i>Investigations under section 60: reports</i>	58	61
59	Debarment list	59	62
60	Debarment list: application for removal	60	63
61	Debarment decisions: appeals	61	64
	New Clause as brought from the HOL: Timeline for removal of suppliers		65
PART 4 MANAGEMENT OF PUBLIC CONTRACTS			
<i>Terms implied into public contracts</i>			
62	Electronic invoicing: implied term	62	66
63	Implied payment terms in public contracts	63	67
<i>Notices about payments and performance</i>			
64	Payments compliance notices	64	68
65	Information about payments under public contracts	65	69
66	Assessment of contract performance	66	70
<i>Sub-contracting</i>			
67	Sub-contracting: directions	67	71

Clause number on introduction	Clause description	Clause as amended in Grand Committee	Clause as brought from the HOL
68	Implied payment terms in sub-contracts	68	72
<i>Modifying public contracts</i>			
69	Modifying a public contract	69	73
70	Contract change notices and publication of modifications Amended clause title: <i>Contract change notices</i>	70	74
71	Voluntary standstill period on the modification of contracts	71	75
N/A	New clause in Amended Bill: <i>Publication of modifications</i>	72	76
<i>Terminating public contracts</i>			
72	Implied right to terminate public contracts	73	77
N/A	New clause in Amended Bill: <i>Terminating public contracts: national security</i>	74	78
73	Contract termination notices	75	79
PART 5 CONFLICTS OF INTEREST			
74	Conflicts of interest: duty to identify	76	80
75	Conflicts of interest: duty to mitigate	77	81
76	Conflicts assessments	78	82
PART 6 BELOW-THRESHOLD CONTRACTS			
77	Regulated below-threshold contracts	79	83
78	Regulated below-threshold contracts: procedure	80	84
	New Clause as brought from the HOL: Regulated below threshold contracts: duty to consider small and medium sized enterprises		85

Clause number on introduction	Clause description	Clause as amended in Grand Committee	Clause as brought from the HOL
79	Regulated below-threshold contracts: notices	81	86
80	Regulated below-threshold contracts: implied payment terms	82	87
PART 7 <i>IMPLEMENTATION OF INTERNATIONAL OBLIGATIONS</i>			
81	Treaty state suppliers	83	88
82	Treaty state suppliers: non-discrimination	84	89
83	Treaty state suppliers: non-discrimination in Scotland	85	90
PART 8 <i>INFORMATION AND NOTICES: GENERAL PROVISION</i>			
84	Pipeline notices	86	91
85	General exemptions from duties to publish or disclose information	87	92
86	Notices, documents and information: regulations Amended clause title as brought from the HOL: <i>Notices, documents and information: regulations and online system</i>	88	93
87	Electronic communications	89	94
88	Information relating to a procurement	90	95
N/A	New clause in Amended Bill: Data protection	91	96
PART 9 <i>REMEDIES FOR BREACH OF STATUTORY DUTY</i>			
89	Duties under this Act enforceable in civil proceedings	92	97
90	Automatic suspension of the entry into or modification of contracts	93	98
91	Interim remedies	94	99
92	Pre-contractual remedies	95	100
93	Post-contractual remedies	96	101

Clause number on introduction	Clause description	Clause as amended in Grand Committee	Clause as brought from the HOL
94	Post-contractual remedies: set aside conditions	97	102
95	Time limits on claims	98	103
<i>PART 10 PROCUREMENT OVERSIGHT</i>			
96	Procurement investigations	99	104
97	Recommendations following procurement investigations	100	105
98	Guidance following procurement investigations	101	106
<i>PART 11 APPROPRIATE AUTHORITIES AND CROSS-BORDER PROCUREMENT</i>			
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102	Definitions relating to procurement arrangements	105	110
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<i>PART 12 AMENDMENTS AND REPEALS</i>			
104	Disapplication of duty in section 17 of the Local Government Act 1988	107	112
105	Single source defence contracts	108	113
106	Concurrent powers and the Government of Wales Act 2006	109	114
107	Repeals etc	110	115
<i>PART 13 GENERAL</i>			
108	Power to disapply this Act in relation to procurement by NHS in England	111	Removed

Clause number on introduction	Clause description	Clause as amended in Grand Committee	Clause as brought from the HOL
	New Clause as brought from the HOL: Application of this Act to procurement by NHS England		116
109	Power to amend this Act in relation to private utilities	112	117
110	Regulations	113	118
111	Interpretation	114	119
112	Index of defined expressions	115	120
113	Power to make consequential, etc, provision	116	121
114	Extent	117	122
115	Commencement	118	123
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SCHEDULES			
Schedule 1	Threshold amounts	Schedule 1	Schedule 1
Schedule 2	Exempted contracts	Schedule 2	Schedule 2
Schedule 3	Estimating the value of a contract	Schedule 3	Schedule 3
Schedule 4	Utility activities	Schedule 4	Schedule 4
	New Clause Part as brought from the HOL: Part 1 Activities that are utility activities		
	New Clause Part as brought from the HOL: Part 2 Activities that are not utility activities		
Schedule 5	Direct award justifications	Schedule 5	Schedule 5
Schedule 6	Mandatory exclusion grounds	Schedule 6	Schedule 6
	Part 1 Offences	Part 1 Offences	Part 1 Offences
	Part 2 Other mandatory exclusion grounds	Part 2 Other mandatory exclusion grounds	Part 2 Other mandatory exclusion grounds
	Part 3 General	Part 3 General	Part 3 General
Schedule 7	Discretionary exclusion grounds	Schedule 7	Schedule 7

Clause number on introduction	Clause description	Clause as amended in Grand Committee	Clause as brought from the HOL
Schedule 8	Permitted contract modifications	Schedule 8	Schedule 8
Schedule 9	Treaty state suppliers (specified international agreements)	Schedule 9	Schedule 9
Schedule 10	Single source defence contracts	Schedule 10	Schedule 10
Schedule 11	Repeals and revocations	Schedule 11	Schedule 11