



Procurement Reform (Scotland) Bill

Bill Number:	SP Bill 38
Introduced on:	03 October 2013
Introduced by:	Nicola Sturgeon (Government Bill)
Passed:	13 May 2014
Royal Assent:	17 June 2014

Passage of the Bill

The [Procurement Reform \(Scotland\) Bill](#) [SP Bill 38] was introduced in the Parliament on 3 October 2013. Stage 1 commenced on 9 October 2013, with the Infrastructure and Capital Investment Committee as the lead committee. The Stage 1 (general principles) debate took place on 20 February 2014 and the Bill was passed following the Stage 3 debate on 13 May 2014.

Purpose and objectives of the Bill

The purpose of the Bill is to establish a national legislative framework for public procurement through placing a number of general and specific duties on public sector bodies involved in procurement (“contracting authorities”).

Provisions of the Bill

Public procurement in Scotland is governed by a detailed and complex framework of European law and the Bill is framed within this existing EU legislation, but does not transpose new EU Directives agreed in 2014. Procurement above certain thresholds is mostly governed by EU law, so many of the Bill’s provisions only apply below these thresholds.

In addition to setting out that that they must comply with EU treaty principles even below the EU thresholds (as is the case at present), the Bill provides that contracting authorities must fulfil the terms of a “sustainable procurement duty”. Provision is also made for certain contracting authorities to publish procurement strategies and annual reports. The Bill also provides that contracting authorities must publish all regulated contracts on the Public Contracts Scotland website; apply community benefit requirements to all contracts at or above £4,000,000; and apply a number of other measures

designed to offer benefits to potential bidders in terms of greater transparency, and ensuring that processes are proportionate.

For those regulated contracts with a value between those set out in the Bill, and the EU thresholds, the Bill provides remedies for suppliers, similar (but not identical) to those in place for above-EU threshold procurement at present.

Parliamentary consideration

Much debate during all stages of the Bill focussed on whether the Bill could require contracting authorities to include payment of the “living wage” as a condition in public contracts. Amendments to introduce a “Scottish Living Wage Duty” at Stage 2 and Stage 3 were not agreed to. But at Stage 3, government amendments were agreed on the living wage, both in terms of contracting authorities’ procurement strategies and annual reports, and in the Scottish Government’s guidance on selection of tenderers.

Changes were also made to the Bill during the amending stages on:

- the publication of guidance on the sustainable procurement duty
- the definition of supported businesses
- the content of annual reports, including reporting on community benefits
- exemptions from the Bill for care and support services and university research
- a Scottish Government report on Scotland-wide procurement activity.

A number of other issues arose during parliamentary consideration of the Bill, including changing the bodies that the Bill applies to, and the extent to which small and medium sized enterprises would be able to benefit from the Bill. However, these issues either did not give rise to changes to the text of the Bill, or will be addressed in Scottish Government guidance.