

Public Services (Social Enterprise and Social Value) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Cabinet Office with the consent of Chris White, the Member in charge of the Bill, are published separately as Bill 6 – EN.

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TO

Require the Secretary of State and local authorities to publish strategies in connection with promoting social enterprise; to enable communities to participate in the formulation and implementation of those strategies; to require that public sector contracts include provisions relating to social outcomes and social value; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 National social enterprise strategy

- (1) The Secretary of State must prepare and publish a document setting out a strategy for the promotion by government departments of engagement in social enterprise in England (the “national social enterprise strategy”).
- (2) The national social enterprise strategy must be designed with a view to promoting participation in its implementation by persons or bodies appearing to the Secretary of State to be representative of those engaged in social enterprise and by the public, whether by monitoring its effectiveness or otherwise. 5
- (3) The Secretary of State may review the national social enterprise strategy and prepare and publish a new strategy to replace a previous national social enterprise strategy. 10
- (4) In preparing the national social enterprise strategy or a new strategy, the Secretary of State must—
 - (a) consult such persons or bodies appearing to the Secretary of State to be representative of those engaged in social enterprise as the Secretary of State considers appropriate; 15
 - (b) carry out such public consultation as the Secretary of State considers appropriate.
- (5) For the purposes of this section a person or body is engaged in social enterprise if—
 - (a) the person or body is carrying on a business; 20

- (b) the business’s activities are being carried on primarily for a purpose that promotes or improves the social or environmental well-being of the United Kingdom, whether the purpose is pursued in relation to all or any part of the United Kingdom or all or any of the persons resident or present in it; 5
- (c) the greater part of any profits for distribution is applied for such a purpose.
- 2 Local authority strategies**
- (1) Section 4 of the Local Government Act 2000 (strategies for promoting well-being) is amended as follows. 10
- (2) After subsection (1) insert –
- “(1A) A local authority’s sustainable community strategy must include –
- (a) their proposals in connection with promoting engagement in social enterprise in their area, and
- (b) a statement of measures proposed for enabling persons or bodies engaged in social enterprise in their area and such other persons as they consider appropriate to participate in the implementation of the proposals referred to in paragraph (a).” 15
- (3) After subsection (4) insert –
- “(4A) For the purposes of this section a person or body is engaged in social enterprise if – 20
- (a) the person or body is carrying on a business;
- (b) the business’s activities are being carried on primarily for a purpose that promotes or improves the social or environmental well-being of the United Kingdom, whether the purpose is pursued in relation to all or any part of the United Kingdom or all or any of the persons resident or present in it; 25
- (c) the greater part of any profits for distribution is applied for such a purpose.”
- 3 Contracts of contracting authorities** 30
- (1) Subsections (2) to (4) apply where a relevant authority is considering, in connection with the exercise of a function of the authority, the use of a public procurement contract.
- (2) The authority must consider how it might promote or improve the economic, social or environmental well-being of the relevant area by means of such a contract. 35
- (3) The authority must consider under subsection (2) only matters that are relevant to the subject-matter of the contract and must consider the extent to which it is proportionate in all the circumstances to take those matters into account. 40
- (4) The authority must consider whether to consult the persons (if any) for whom the authority is making provision in the exercise of that function.
- (5) If the authority takes steps, in connection with the exercise of that function, for the purpose of entering into a public procurement contract, it must consider

- how to take into account the matters (if any) identified by it in its consideration under subsection (2).
- (6) The authority must consider under subsection (5), where that is appropriate in relation to a matter so identified, the inclusion of provisions relating to that matter in the contract. 5
- (7) The relevant area, in relation to a function of a relevant authority, is –
- (a) if the area as regards which the function is exercisable is England and Wales or an area within England and Wales, that area;
 - (b) in any other case, the United Kingdom.
- (8) This section does not apply in relation to a function exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government. 10
- (9) This section does not apply in relation to a function –
- (a) conferred or imposed by or under a Measure or Act of the National Assembly for Wales, 15
 - (b) exercisable in or as regards Wales and relating to matters within the legislative competence of the National Assembly for Wales, or
 - (c) in relation to which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government, 20
- and in relation to which no functions are exercisable by a Minister of the Crown or government department.
- (10) For the purposes of subsection (9) –
- (a) section 70(5) of the Climate Change Act 2008 has effect in relation to a function of a relevant authority and functions exercisable by a Minister of the Crown or government department as it has effect in relation to a function of a reporting authority and functions so exercisable; 25
 - (b) section 70(7) of that Act has effect in relation to a function of a relevant authority and functions exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government as it has effect in relation to a function of a reporting authority and functions so exercisable. 30
- (11) In this section –
- “public procurement contract” means a contract that is regulated by the Regulations; 35
 - “the Regulations” means the Public Contracts Regulations 2006 (S.I. 2006/5) and includes any regulations amending or replacing those regulations;
 - “relevant authority” means a person or body that is a contracting authority for the purposes of the Regulations. 40

4 Financial provisions

There is to be paid out of money provided by Parliament any expenditure incurred in consequence of this Act by a Minister of the Crown, government department or other public authority.

5 Short title, commencement and extent

- (1) This Act may be cited as the Public Services (Social Enterprise and Social Value) Act 2011.
- (2) Section 4 and this section come into force on the day on which this Act is passed.
- (3) The other provisions of this Act come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (4) This Act extends to England and Wales.

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Presented by Chris White.

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