OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2025 Rhif 707 (Cy. 120)

2025 No. 707 (W. 120)

CAFFAEL CYHOEDDUS, CYMRU

PUBLIC PROCUREMENT, WALES

Rheoliadau Caffael (Cymru) (Diwygio) 2025

The Procurement (Wales) (Amendment) Regulations 2025

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn gwneud diwygiadau o sylwedd i Reoliadau Caffael (Cymru) 2024 ("Rheoliadau 2024") er mwyn galluogi gweithredu Deddf Caffael 2023 ("Deddf 2023").

Diben Deddf 2023 yw diwygio cyfundrefn caffael cyhoeddus y Deyrnas Unedig yn dilyn ei hymadawiad â'r Undeb Ewropeaidd ("UE"), gan greu system symlach a mwy tryloyw nad yw'n seiliedig mwyach ar Gyfarwyddebau'r UE wedi eu trosi. Mae Rheoliadau 2024 yn ychwanegu at Ddeddf 2023.

Mae rheoliad 3 yn gwneud sawl diwygiad i Reoliadau 2024. Mae paragraff (3) yn dileu'r diffiniad o "cyfleustod" o reoliad 4 ac mae paragraff (2) yn ei fewnosod yn rheoliad 3 yn lle hynny, er mwyn galluogi'r diffiniad i fod yn gymwys i'r Rheoliadau cyfan. Mae paragraff (4) yn mewnosod rheoliadau newydd 45E a 45F yn Rheoliadau 2024 er mwyn nodi sut y mae canran y gweithgareddau a gyflawnir gan berson i'w chyfrifo, mewn perthynas â threfniadau fertigol a llorweddol.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Y Gyfarwyddiaeth Caffael a Masnachol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make substantive amendments to the Procurement (Wales) Regulations 2024 ("the 2024 Regulations") to enable the implementation of the Procurement Act 2023 ("the 2023 Act").

The purpose of the 2023 Act is to reform the United Kingdom's public procurement regime following its exit from the European Union ("EU"), by creating a simpler and more transparent system, no longer based on transposed EU Directives. The 2024 Regulations supplement the 2023 Act.

Regulation 3 makes several amendments to the 2024 Regulations. Paragraph (3) removes the definition of "utility" from regulation 4 and paragraph (2) inserts it into regulation 3 instead, to enable the definition to apply to the whole Regulations. Paragraph (4) inserts new regulations 45E and 45F into the 2024 Regulations to set out how a calculation of the percentage of activities carried out by a person is to be made, in relation to vertical and horizontal arrangements.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from The Commercial and Procurement Directorate, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

2025 Rhif 707 (Cy. 120)

CAFFAEL CYHOEDDUS, CYMRU

Rheoliadau Caffael (Cymru) (Diwygio) 2025

Gwnaed *18 Mehefin 2025*

Yn dod i rym *23 Mehefin 2025*

Mae Gweinidogion Cymru(**1**) yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir iddynt gan adran 122(3) o Ddeddf Caffael 2023(**2**) a pharagraffau 2(6) a 3(3) o Atodlen 2 iddi.

Yn unol ag adran 122(10)(s) o'r Ddeddf honno, gosodwyd drafft o'r Rheoliadau hyn gerbron Senedd Cymru ac fe'i cymeradwywyd ganddi drwy benderfyniad.

Enwi a dod i rym

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Caffael (Cymru) (Diwygio) 2025.

(2) Daw'r Rheoliadau hyn i rym ar 23 Mehefin 2025.

Dehongli

2. Yn y Rheoliadau hyn, ystyr "Rheoliadau 2024" yw Rheoliadau Caffael (Cymru) 2024(**3**).

Diwygio Rheoliadau 2024

3.—(1) Mae Rheoliadau 2024 wedi eu diwygio fel a ganlyn.

(**1**) Gweinidogion Cymru yw'r "awdurdod priodol" fel y diffinnir "appropriate authority" yn adran 123(1) o Ddeddf Caffael 2023, yn ddarostyngedig i'r cyfyngiadau a nodir yn adran 111(1) o'r Ddeddf honno.

(**2**) 2023 p. 54.

(**3**) O.S. 2024/782 (Cy. 121), a ddiwygiwyd gan O.S. 2025/181 (Cy. 38).

2025 No. 707 (W. 120)

PUBLIC PROCUREMENT, WALES

The Procurement (Wales) (Amendment) Regulations 2025

Made *18 June 2025*

Coming into force *23 June 2025*

The Welsh Ministers(**1**) make the following Regulations in exercise of the powers conferred on them by section 122(3) of, and paragraphs 2(6) and 3(3) of Schedule 2 to, the Procurement Act 2023(**2**).

In accordance with section 122(10)(s) of that Act, a draft of these Regulations has been laid before, and approved by a resolution of, Senedd Cymru.

Title and coming into force

1.—(1) The title of these Regulations is the Procurement (Wales) (Amendment) Regulations 2025.

(2) These Regulations come into force on 23 June 2025.

Interpretation

2. In these Regulations, "the 2024 Regulations" means the Procurement (Wales) Regulations 2024(**3**).

Amendments to the 2024 Regulations

3.—(1) The 2024 Regulations are amended as follows.

(**1**) The Welsh Ministers are the "appropriate authority" as defined in section 123(1) of the Procurement Act 2023, subject to the restrictions set out in section 111(1) of that Act.

(**2**) 2023 c. 54.

(**3**) S.I. 2024/782 (W. 121), amended by S.I. 2025/181 (W. 38).

(2) Yn rheoliad 3 (dehongli), yn y lle priodol mewnosoder—

"mae i "cyfleustod" yr ystyr a roddir i "utility" gan adran 35(4) o Ddeddf 2023;".

(3) Yn rheoliad 4 (dehongli Rhan 2), hepgorer y diffiniad o "cyfleustod".

(4) Ar ôl rheoliad 45D (cyfrifiadau gweithredwyr dŵr) mewnosoder—

"Contractau esempt: cyfrifiadau trefniadau fertigol

45E.—(1) At ddibenion paragraff 2(2)(c) o Atodlen 2 i Ddeddf 2023 (contractau esempt), mae canran y gweithgareddau a gyflawnir gan berson i'w chyfrifo yn unol â'r rheoliad hwn.

(2) Yn ddarostyngedig i baragraff (8), mae canran y gweithgareddau a gyflawnwyd gan berson ar gyfer neu ar ran yr awdurdodau contractio neu'r personau eraill a ddisgrifir ym mharagraff 2(2)(c)(ii) o Atodlen 2 i Ddeddf 2023 i'w chyfrifo drwy gymryd trosiant priodoladwy y person hwnnw fel canran o gyfanswm ei drosiant, dros y cyfnod perthnasol.

(3) Trosiant priodoladwy person yw ei drosiant sy'n deillio o weithgareddau a gyflawnwyd ar ran yr awdurdodau contractio neu'r personau eraill a ddisgrifir ym mharagraff 2(2)(c)(ii) o Atodlen 2 i Ddeddf 2023.

(4) Pan na fo trosiant priodoladwy na chyfanswm trosiant person ar gael ar gyfer y cyfnod perthnasol cyfan oherwydd bod y person wedi cael ei greu neu wedi cychwyn ei weithgareddau ar ôl i'r cyfnod perthnasol ddechrau, mae'r trosiant priodoladwy a chyfanswm y trosiant i'w gyfrifo yn unol â pharagraff (5).

(5) Mae trosiant priodoladwy a chyfanswm trosiant person i'w gyfrifo—

(a) pan na fu trosiant o gwbl yn ystod y cyfnod perthnasol, gan ddefnyddio rhagamcanion busnes credadwy ar gyfer cyfnod o dair blynedd sy'n dechrau â dyddiad dyfarnu'r contract;

(b) mewn unrhyw achos arall, gan ddefnyddio—

(i) unrhyw drosiant priodoladwy neu gyfanswm y trosiant, yn ôl y digwydd, a gynhyrchwyd yn ystod y cyfnod perthnasol, a

(ii) rhagamcanion busnes credadwy, ar gyfer cyfnod sy'n dechrau â dyddiad dyfarnu'r contract,

(2) In regulation 3 (interpretation), at the appropriate place insert—

""utility" ("*cyfleustod*") has the meaning given by section 35(4) of the 2023 Act."

(3) In regulation 4 (interpretation of Part 2), omit the definition of "utility".

(4) After regulation 45D (water operator calculations) insert—

"Exempt contracts: vertical arrangements' calculations

45E.—(1) For the purposes of paragraph 2(2)(c) of Schedule 2 to the 2023 Act (exempted contracts), the calculation of the percentage of activities carried out by a person is to be made in accordance with this regulation.

(2) Subject to paragraph (8), the percentage of activities carried out by a person for or on behalf of the contracting authorities or other persons described in paragraph 2(2)(c)(ii) of Schedule 2 to the 2023 Act is to be calculated by taking that person's attributable turnover as a percentage of their total turnover, over the relevant period.

(3) A person's attributable turnover is their turnover deriving from activities carried out on behalf of the contracting authorities or other persons described in paragraph 2(2)(c)(ii) of Schedule 2 to the 2023 Act.

(4) Where a person's attributable turnover or total turnover is not available for the entirety of the relevant period because the person was created or commenced their activities following the beginning of the relevant period, the attributable turnover and total turnover is to be calculated in accordance with paragraph (5).

(5) A person's attributable turnover and total turnover is to be calculated—

(a) where there has been no turnover at all during the relevant period, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any attributable turnover or total turnover, as the case may be, generated during the relevant period, and

(ii) credible business projections, for a period beginning with the date of contract award,

sydd, o'u cyfuno, yn darparu gwybodaeth a rhagamcanion o ran trosiant ar gyfer y cyfnod cyfan o dair blynedd sy'n dechrau â'r dyddiad y cynhyrchwyd unrhyw drosiant gyntaf yn ystod y cyfnod perthnasol.

(6) Pan na fo trosiant priodoladwy na chyfanswm trosiant person ar gyfer y cyfnod perthnasol cyfan, ar ddyddiad dyfarnu'r contract, yn gynrychioliadol o weithgareddau'r person mwyach oherwydd bod y gweithgareddau wedi newid o ganlyniad i ad-drefnu'r person a ddigwyddodd ar ôl i'r cyfnod perthnasol ddechrau, mae'r trosiant priodoladwy a chyfanswm y trosiant i'w gyfrifo yn unol â pharagraff (7).

(7) Mae trosiant priodoladwy a chyfanswm trosiant person i'w gyfrifo—

(a) pan na fo trosiant o gwbl wedi ei gynhyrchu ar ôl ad-drefnu, gan ddefnyddio rhagamcanion busnes credadwy ar gyfer cyfnod o dair blynedd sy'n dechrau â dyddiad dyfarnu'r contract;

(b) mewn unrhyw achos arall, gan ddefnyddio—

(i) unrhyw drosiant priodoladwy neu gyfanswm y trosiant, yn ôl y digwydd, a gynhyrchwyd ar ôl ad-drefnu, a

(ii) rhagamcanion busnes credadwy, ar gyfer cyfnod sy'n dechrau â dyddiad dyfarnu'r contract,

sydd, o'u cyfuno, yn darparu gwybodaeth a rhagamcanion o ran trosiant ar gyfer y cyfnod cyfan o dair blynedd sy'n dechrau â'r dyddiad y cynhyrchwyd unrhyw drosiant gyntaf ar ôl ad-drefnu.

(8) Pan na fo canran y gweithgareddau a gyflawnwyd gan berson, fel y'i cyfrifwyd yn unol â pharagraffau (2) i (7), yn fesur addas o'r gweithgareddau a gyflawnwyd gan berson at ddibenion paragraff 2(2)(c) o Atodlen 2 i Ddeddf 2023, rhaid cyfrifo canran gweithgareddau o'r fath drwy gymryd, dros y cyfnod perthnasol, un o'r canlynol—

(a) y costau yr aed iddynt gan y person ar weithgareddau a gyflawnwyd ar gyfer neu ar ran yr awdurdodau neu'r personau eraill, fel canran o gyfanswm ei gostau;

which, when combined, provide turnover information and projections for the entirety of the period of three years beginning with the date any turnover was first generated during the relevant period.

(6) Where a person's attributable turnover or total turnover for the entirety of the relevant period is, as at the date of contract award, no longer representative of the person's activities because the activities changed as a result of a reorganisation of the person which occurred following the beginning of the relevant period, the attributable turnover and total turnover is to be calculated in accordance with paragraph (7).

(7) A person's attributable turnover and total turnover is to be calculated—

(a) where there has been no turnover at all generated after reorganisation, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any attributable turnover or total turnover, as the case may be, generated after reorganisation, and

(ii) credible business projections, for a period beginning with the date of contract award,

which, when combined, provide turnover information and projections for the entirety of the period of three years beginning with the date any turnover was first generated after reorganisation.

(8) Where the percentage of activities carried out by a person, as calculated in accordance with paragraphs (2) to (7), is not a suitable measure of the activities carried out by a person for the purposes of paragraph 2(2)(c) of Schedule 2 to the 2023 Act, the percentage of such activities must be calculated by taking, over the relevant period, one of the following—

(a) costs incurred by the person on activities carried out for or on behalf of the authorities or other persons, as a percentage of their total costs;

(b) yr amser a dreuliwyd gan y person ar weithgareddau a gyflawnwyd ar gyfer neu ar ran yr awdurdodau neu'r personau eraill, fel canran o gyfanswm ei amser;

(c) gwerth y nwyddau, y gwasanaethau neu'r gweithiau a gyflenwyd gan y person i'r awdurdodau neu'r personau eraill, fel canran o gyfanswm gwerth y nwyddau, y gwasanaethau neu'r gweithiau a gyflenwyd gan y person;

(d) gwerth y nwyddau, y gwasanaethau neu'r gweithiau a gyflenwyd i'r person gan yr awdurdodau neu'r personau eraill, fel canran o gyfanswm gwerth y nwyddau, y gwasanaethau neu'r gweithiau a gyflenwyd i'r person.

(9) Yn y rheoliad hwn—

ystyr "ad-drefnu" ("*reorganisation*") yw newid, heblaw newid bach iawn neu ansylweddol, i strwythur, gweithrediadau, cyllid neu berchnogaeth person;

ystyr "cyfnod cyfrifyddu" ("*accounting period*") yw cyfnod y paratoir cyfrifon mewn cysylltiad ag ef mewn perthynas â'r person;

ystyr "cyfnod perthnasol" ("*relevant period*") yw naill ai—

(a) y cyfnod o dair blynedd sy'n gorffen â dyddiad dyfarnu'r contract, neu

(b) pan na fo gwybodaeth sy'n ymwneud â throsiant ar gyfer y cyfnod yn is-baragraff (a) ar gael ar ddyddiad dyfarnu'r contract, oherwydd amseriad cyfrifon y person, cyfnod o dair blynedd sy'n gorffen â'r dyddiad y mae'r cyfnod cyfrifyddu olaf cyn dyddiad dyfarnu'r contract y mae gwybodaeth o'r fath ar gael ar ei gyfer yn gorffen;

ystyr "dyddiad dyfarnu'r contract" ("*date of contract award*") yw'r dyddiad y penderfynodd yr awdurdod contractio ddyfarnu'r contract.

Contractau esempt: cyfrifiadau trefniadau llorweddol

45F.—(1) At ddibenion paragraff 3(2)(b) o Atodlen 2 i Ddeddf 2023 (contractau esempt), mae canran y gweithgareddau a ystyrir gan y trefniant llorweddol i'w chyfrifo yn unol â'r rheoliad hwn.

(b) time spent by the person on activities carried out for or on behalf of the authorities or other persons, as a percentage of their total time;

(c) the value of goods, services or works supplied by the person to the authorities or other persons, as a percentage of the total value of goods, services or works supplied by the person;

(d) the value of goods, services or works supplied to the person by the authorities or other persons, as a percentage of the total value of goods, services or works supplied to the person.

(9) In this regulation—

"accounting period" ("*cyfnod cyfrifyddu*") means a period in respect of which accounts are prepared in relation to the person;

"date of contract award" ("*dyddiad dyfarnu'r contract*") means the date when the contracting authority decided to award the contract;

"relevant period" ("*cyfnod perthnasol*") means either—

(a) the period of three years ending with the date of contract award, or

(b) where, due to the timing of the preparation of the person's accounts, information relating to turnover for the period in sub-paragraph (a) is not available as at the date of contract award, a period of three years ending with the date the last accounting period before the date of contract award for which such information is available ends;

"reorganisation" ("*ad-drefnu*") means a change, other than a minimal or incidental change, to a person's structure, operations, funding or ownership.

Exempt contracts: horizontal arrangements' calculations

45F.—(1) For the purposes of paragraph 3(2)(b) of Schedule 2 to the 2023 Act (exempted contracts), the calculation of the percentage of activities contemplated by the horizontal arrangement is to be made in accordance with this regulation.

(2) Yn ddarostyngedig i baragraff (8), mae canran y gweithgareddau y bwriadwyd eu cyflawni, heblaw at ddibenion swyddogaethau cyhoeddus yr awdurdodau contractio, i'w chyfrifo drwy gymryd y trosiant amhriodoladwy a gynhyrchwyd gan weithgareddau'r trefniant llorweddol fel canran o gyfanswm y trosiant a gynhyrchwyd gan weithgareddau'r trefniant llorweddol, dros y cyfnod perthnasol.

(3) Trosiant amhriodoladwy trefniant llorweddol yw trosiant a gynhyrchwyd gan weithgareddau'r trefniant llorweddol y gellir ei briodoli i ddibenion heblaw swyddogaethau cyhoeddus yr awdurdodau contractio.

(4) Pan na fo'r trosiant amhriodoladwy na chyfanswm y trosiant a gynhyrchwyd gan weithgareddau trefniant llorweddol ar gael am y cyfnod perthnasol cyfan oherwydd bod y trefniant wedi cael ei greu, neu fod y gweithgareddau wedi eu cychwyn, ar ôl i'r cyfnod perthnasol ddechrau, mae'r trosiant amhriodoladwy a chyfanswm y trosiant i'w gyfrifo yn unol â pharagraff (5).

(5) Mae'r trosiant amhriodoladwy a chyfanswm y trosiant a gynhyrchwyd gan weithgareddau trefniant llorweddol i'w gyfrifo—

(a) pan na fu trosiant o gwbl yn ystod y cyfnod perthnasol, gan ddefnyddio rhagamcanion busnes credadwy ar gyfer cyfnod o dair blynedd sy'n dechrau â dyddiad dyfarnu'r contract;

(b) mewn unrhyw achos arall, gan ddefnyddio—

(i) unrhyw drosiant amhriodoladwy neu gyfanswm y trosiant, yn ôl y digwydd, a gynhyrchwyd yn ystod y cyfnod perthnasol, a

(ii) rhagamcanion busnes credadwy, ar gyfer cyfnod sy'n dechrau â dyddiad dyfarnu'r contract,

sydd, o'u cyfuno, yn darparu gwybodaeth a rhagamcanion o ran trosiant ar gyfer y cyfnod cyfan o dair blynedd sy'n dechrau â'r dyddiad y cynhyrchwyd unrhyw drosiant gyntaf yn ystod y cyfnod perthnasol.

(6) Pan na fo trosiant amhriodoladwy na chyfanswm y trosiant a gynhyrchwyd gan weithgareddau trefniant llorweddol ar gyfer y cyfnod perthnasol cyfan, ar ddyddiad dyfarnu'r contract, yn gynrychioliadol o weithgareddau'r trefniant llorweddol mwyach oherwydd bod y

(2) Subject to paragraph (8), the percentage of activities intended to be carried out, other than for the purposes of the contracting authorities' public functions, is to be calculated by taking the non-attributable turnover generated by the horizontal arrangement's activities as a percentage of the total turnover generated by the horizontal arrangement's activities, over the relevant period.

(3) A horizontal arrangement's non-attributable turnover is turnover generated by the horizontal arrangement's activities that is attributable to purposes other than the contracting authorities' public functions.

(4) Where the non-attributable turnover or total turnover generated by a horizontal arrangement's activities is not available for the entirety of the relevant period because the arrangement was created, or the activities commenced, after the beginning of the relevant period, the non-attributable turnover and total turnover is to be calculated in accordance with paragraph (5).

(5) Non-attributable turnover and total turnover generated by a horizontal arrangement's activities is to be calculated—

(a) where there has been no turnover at all during the relevant period, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any non-attributable turnover or total turnover, as the case may be, generated during the relevant period, and

(ii) credible business projections, for a period beginning with the date of contract award,

where, when combined, provide turnover information and projections for the entirety of the period of three years beginning with the date any turnover was first generated during the relevant period.

(6) Where the non-attributable turnover or the total turnover generated by a horizontal arrangement's activities for the entirety of the relevant period is, as at the date of contract award, no longer representative of the horizontal arrangement's activities because the

gweithgareddau wedi newid o ganlyniad i ad-drefnu'r trefniant llorweddol a ddigwyddodd ar ôl i'r cyfnod perthnasol ddechrau, mae'r trosiant amhriodoladwy a chyfanswm y trosiant i'w gyfrifo yn unol â pharagraff (7).

(7) Mae'r trosiant amhriodoladwy a chyfanswm y trosiant a gynhyrchwyd gan weithgareddau trefniant llorweddol i'w gyfrifo—

(a) pan na fo trosiant o gwbl wedi ei gynhyrchu ar ôl ad-drefnu neu ar ôl y newid mewn gweithgareddau, gan ddefnyddio rhagamcanion busnes credadwy ar gyfer cyfnod o dair blynedd sy'n dechrau â dyddiad dyfarnu'r contract;

(b) mewn unrhyw achos arall, gan ddefnyddio—

(i) unrhyw drosiant amhriodoladwy neu gyfanswm y trosiant, yn ôl y digwydd, a gynhyrchwyd ar ôl ad-drefnu neu ar ôl y newid mewn gweithgareddau, a

(ii) rhagamcanion busnes credadwy, ar gyfer cyfnod sy'n dechrau â dyddiad dyfarnu'r contract,

sydd, o'u cyfuno, yn darparu gwybodaeth a rhagamcanion o ran trosiant ar gyfer y cyfnod cyfan o dair blynedd sy'n dechrau â'r dyddiad y cynhyrchwyd unrhyw drosiant gyntaf ar ôl ad-drefnu neu ar ôl y newid mewn gweithgareddau.

(8) Pan na fo canran y gweithgareddau y bwriadwyd eu cyflawni, heblaw at ddibenion swyddogaethau cyhoeddus yr awdurdodau contractio, fel y'i cyfrifwyd yn unol â pharagraffau (2) i (7), yn fesur addas o'r gweithgareddau y bwriadwyd eu cyflawni gan y trefniant at ddibenion paragraff 3(2)(b) o Atodlen 2 i Ddeddf 2023, rhaid cyfrifo canran gweithgareddau o'r fath drwy gymryd, dros y cyfnod perthnasol, un o'r canlynol—

(a) y costau yr aed iddynt mewn cysylltiad â gweithgareddau'r trefniant llorweddol at ddibenion heblaw swyddogaethau cyhoeddus yr awdurdodau, fel canran o gyfanswm ei gostau;

(b) yr amser a dreuliwyd mewn cysylltiad â gweithgareddau'r trefniant llorweddol at ddibenion heblaw swyddogaethau cyhoeddus yr awdurdodau, fel canran o gyfanswm ei amser;

activities changed as a result of a reorganisation of the horizontal arrangement which occurred following the beginning of the relevant period, the non-attributable turnover and total turnover is to be calculated in accordance with paragraph (7).

(7) Non-attributable turnover and total turnover generated by a horizontal arrangement's activities is to be calculated—

(a) where there has been no turnover generated after reorganisation or the change in activities, using credible business projections for a period of three years beginning with the date of contract award;

(b) in any other case, using—

(i) any non-attributable turnover or total turnover, as the case may be, generated after reorganisation or the change in activities, and

(ii) credible business projections, for a period beginning with the date of contract award,

where, when combined, provide turnover information and projections for the entirety of the period of three years beginning with the date any turnover was first generated after reorganisation or the change in activities.

(8) Where the percentage of activities intended to be carried out, other than for the purposes of the contracting authorities' public functions, as calculated in accordance with paragraphs (2) to (7), is not a suitable measure of the activities intended to be carried out by the arrangement for the purposes of paragraph 3(2)(b) of Schedule 2 to the 2023 Act, the percentage of such activities must be calculated by taking, over the relevant period, one of the following—

(a) costs incurred in respect of the horizontal arrangement's activities for purposes other than the authorities' public functions as a percentage of its total costs;

(b) time spent in respect of the horizontal arrangement's activities for purposes other than the authorities' public functions as a percentage of its total time;

(c) gwerth y nwyddau, y gwasanaethau neu'r gweithiau a gyflenwyd mewn cysylltiad â gweithgareddau'r trefniant llorweddol at ddibenion heblaw swyddogaethau cyhoeddus yr awdurdodau, fel canran o gyfanswm gwerth y nwyddau, y gwasanaethau neu'r gweithiau a gyflenwyd mewn cysylltiad â'r gweithgareddau.

(9) Yn y rheoliad hwn—

ystyr "ad-drefnu" ("*reorganisation*") yw newid, heblaw newid bach iawn neu ansylweddol, i unrhyw un neu ragor o delerau'r trefniant llorweddol mewn cysylltiad—

(a) â gweithgareddau'r trefniant llorweddol, neu

(b) pan fo'r trefniant yn sefydlu person i ymgymryd â'r gweithgareddau hynny, â strwythur, gweithrediadau, cyllid neu berchnogaeth y person hwnnw;

ystyr "cyfnod cyfrifyddu" ("*accounting period*") yw cyfnod y paratoir cyfrifon mewn cysylltiad ag ef mewn perthynas â gweithgareddau'r trefniant llorweddol;

ystyr "cyfnod perthnasol" ("*relevant period*") yw naill ai—

(a) y cyfnod o dair blynedd sy'n gorffen â dyddiad dyfarnu'r contract, neu

(b) pan na fo gwybodaeth sy'n ymwneud â throsiant ar gyfer y cyfnod yn is-baragraff (a) ar gael ar ddyddiad dyfarnu'r contract, oherwydd amseriad paratoi cyfrifon sy'n ymwneud â gweithgareddau'r trefniant llorweddol, cyfnod o dair blynedd sy'n gorffen â'r dyddiad y mae'r cyfnod cyfrifyddu olaf cyn dyddiad dyfarnu'r contract y mae gwybodaeth o'r fath ar gael ar ei gyfer yn gorffen;

ystyr "dyddiad dyfarnu'r contract" ("*date of contract award*") yw'r dyddiad y penderfynodd yr awdurdod contractio ddyfarnu'r contract;

ystyr "gweithgareddau'r trefniant llorweddol" ("*horizontal arrangement's activities*") yw'r gweithgareddau a ystyrir gan drefniant llorweddol, neu yr ymgymerir â hwy yn unol â threfniant llorweddol."

(c) the value of goods, services or works supplied in respect of the horizontal arrangement's activities for purposes other than the authorities' public functions as a percentage of the total value of goods, services or works supplied in respect of the activities.

(9) In this regulation—

"accounting period" ("*cyfnod cyfrifyddu*") means a period in respect of which accounts are prepared in relation to the horizontal arrangement's activities;

"date of contract award" ("*dyddiad dyfarnu'r contract*") means the date when the contracting authority decided to award the contract;

"horizontal arrangement's activities" ("*gweithgareddau'r trefniant llorweddol*") means the activities contemplated by, or undertaken in pursuance of, a horizontal arrangement;

"relevant period" ("*cyfnod perthnasol*") means either—

(a) the period of three years ending with the date of contract award, or

(b) where, due to the timing of the preparation of accounts related to the horizontal arrangement's activities, information relating to turnover for the period in sub-paragraph (a) is not available as at the date of contract award, a period of three years ending with the date the last accounting period before the date of contract award for which such information is available ends;

"reorganisation" ("*ad-drefnu*") means a change, other than a minimal or incidental change, to any terms of the horizontal arrangement in respect of—

(a) the horizontal arrangement's activities, or

(b) where the arrangement establishes a person to undertake those activities, the structure, operations, funding or ownership of that person."

Mark Drakeford

Ysgrifennydd y Cabinet dros Gyllid a'r Gymraeg, un o Weinidogion Cymru
18 Mehefin 2025

The Cabinet Secretary for Finance and Welsh Language, one of the Welsh Ministers
18 June 2025

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