

Rebecca Evans AS/MS  
Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad  
a Swyddfa'r Cabinet  
Cabinet Secretary for Finance, Constitution & Cabinet Office



Llywodraeth Cymru  
Welsh Government

Mike Hedges MS  
Chair of the Legislation, Justice and  
Constitution Committee

<mailto:SeneddLJC@senedd.wales>

2 September 2024

Dear Mike

### **The Procurement (Wales) Regulations 2024**

Thank you for letter dated 16 July seeking further clarity on certain matters related to the Procurement (Wales) Regulations 2024 (“the Regulations”).

The questions in your letter seek clarity about the international obligations which apply in this situation as well as those which informed the decision to not update the names of central government authorities listed in the Regulations. You also asked whether Welsh Government considers it has the power to update the names.

In response to your first question, the international obligations that apply to this situation derive from the trade agreements listed in Schedule 9 to the Procurement Act 2023 (“the Act”). This list will continue to be updated via further regulations when new trade agreements are signed by the UK government.

In response to questions two, three, four and five, we believe we have the power under the Act to reflect name changes of central government authorities specified under paragraph 5(1) of Schedule 1 to the Act. The issue in this case was not the lack of power under the Act to do that, but concern about the impact of exercising this power on our compatibility with international obligations.

In some circumstances a change in the name of a contracting authority listed in a free trade agreement (FTA) could require notification, consultation, and, or compensatory adjustments, or might lead to a dispute about compliance with market access or other obligations. This could happen for instance where a change of name brings with it a reduction in the scope of the covered procurement carried out by the authority if that change in scope leads to a reduction in market access. For example, where an authority is renamed in legislation which also changes the authority’s functions so that the authority no longer

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Correspondence.Rebecca.Evans@gov.wales](mailto:Correspondence.Rebecca.Evans@gov.wales)  
[Gohebiaeth.Rebecca.Evans@llyw.cymru](mailto:Gohebiaeth.Rebecca.Evans@llyw.cymru)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

carries out the function it previously carried out, and access to procurement in relation to the function is not covered elsewhere by the FTA.

The UK is a party to many free trade agreements and some have procurement chapters containing obligations which go further than the UK's commitments in the World Trade Organisation's plurilateral Agreement on Government Procurement ("GPA"). Listing an authority in Schedule 2 to the Regulations confers certain domestic law rights in relation to goods, services and suppliers of other States. If an authority's name is changed in Schedule 2 and that authority is listed by its original name in an FTA, changing the name in Schedule 2 could affect the scope of the rights conferred by the Regulations in relation to goods, services and suppliers of the other Party to the FTA.

Because the Regulations contain a provision bringing successor entities within the ambit of the Regulations there was no legal doubt about whether The Senedd Commission or Social Care Wales would be covered by Schedule 2. In view of this, we chose to return to looking at the international obligations-related implications of updating names of Schedule 2 authorities at a later date in a further set of amending Regulations.

I can confirm this work is being progressed and Regulations to update the names will be laid in September 2024 with the intention that, subject to the will of the Senedd, they will be made in October to commence on 28 October 2024.

I trust the responses provided are helpful.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The signature is written in a cursive, flowing style.

**Rebecca Evans AS/MS**

Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad a Swyddfa'r Cabinet  
Cabinet Secretary for Finance, Constitution & Cabinet Office