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WELSH STATUTORY INSTRUMENTS

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**2014 No. 2365 (W. 229)**

**EDUCATION, WALES**

**The Education Workforce Council (Membership  
and Appointment) (Wales) Regulations 2014**

*Made* - - - - 3 September 2014  
*Laid before the National  
Assembly for Wales* - - 5 September 2014  
*Coming into force*  
  
29 September 2014  
  
*except as provided for in  
regulation 1(1)*

The Welsh Ministers in exercise of the powers conferred on them by sections 2(2) and 47(1) of, and by paragraphs 4, 9(2) and 12 of Schedule 1 to, the Education (Wales) Act 2014<sup>(1)</sup> make the following Regulations:

**Title, commencement and application**

1. (1) The title of these Regulations is the Education Workforce Council (Membership and Appointment) (Wales) Regulations 2014 and they come into force on 29 September 2014 except for regulation 2 which comes into force on 1 April 2015.

(2) These Regulations apply in relation to Wales.

**Revocation**

2. The Regulations in Schedule 1 are revoked.

**Interpretation**

3. In these Regulations—

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996<sup>(2)</sup>;

“the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998<sup>(3)</sup>;

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(1) 2014 anaw 5.  
(2) 1996 c. 56.  
(3) 1998 c. 30.

“the 2014 Act” (“*Deddf 2014*”) means the Education (Wales) Act 2014;  
 “the Council” (“*y Cyngor*”) means the Education Workforce Council;  
 “chief officer” (“*prif swyddog*”) means the chief officer of the Council; and  
 “member” (“*aelod*”) means a member of the Council.

### Membership

4. The Council must consist of 14 members appointed in accordance with regulations 6 and 7.

### Eligibility for appointments

5. No person is eligible for appointment under regulations 6 or 7 where—
- (a) the person is barred from regulated activity relating to children within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006<sup>(4)</sup>;
  - (b) the person is prohibited from teaching by virtue of a direction under section 142(1)(a) of the Education Act 2002<sup>(5)</sup>;
  - (c) the person is prohibited from being employed as a teacher by virtue of a prohibition order under section 141B of the Education Act 2002;
  - (d) a disciplinary order is made in respect of the person under Schedule 2 to the 1998 Act by virtue of which the person becomes ineligible for registration under section 3 of the 1998 Act;
  - (e) a disciplinary order is made in respect of the person under section 26<sup>(6)</sup> of the 2014 Act by virtue of which the person becomes ineligible for registration under section 9 of the 2014 Act;
  - (f) the person is disqualified from being employed as a teacher in any school by virtue of an order made—
    - (i) by an Independent Schools Tribunal under section 470 of the 1996 Act<sup>(7)</sup>, or
    - (ii) by the Secretary of State or the Welsh Ministers under section 471 of the 1996 Act<sup>(8)</sup>;
 or
  - (g) the person is ineligible for registration as a teacher, or disqualified from being a teacher in any school or further education institution in another part of the United Kingdom.

### Members appointed by the Welsh Ministers after nomination

6. (1) The Welsh Ministers must seek nominations for the post of Council member from the organisations set out in Schedule 2.
- (2) The Welsh Ministers must appoint seven members from the list of persons nominated by the organisations set out in Schedule 2.
- (3) In making appointments under paragraph (2) the Welsh Ministers must, so far as possible, ensure that four of the members so appointed are persons nominated by an organisation set out in Part 1 of Schedule 2.

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(4) 2006 c. 47.

(5) 2002 c. 32.

(6) Section 26 of the 2014 Act is not yet in force at the date these Regulations come into force. It is anticipated that section 26 will be fully commenced on 1 April 2015.

(7) Repealed by section 215(2) of, and Part 3 of Schedule 22 to, the Education Act 2002.

(8) Repealed by section 215(2) of, and Part 3 of Schedule 22 to, the Education Act 2002.

(4) Where an organisation set out in Schedule 2 changes its name, but its objects are not materially changed, the reference to the organisation in the Schedule is to be read as a reference to the organisation under its new name.

### **Members appointed by the Welsh Ministers without nomination**

7. Seven members must be appointed by the Welsh Ministers.

### **Vacancies**

8. (1) This regulation applies where a vacancy occurs among members otherwise than by the expiry of a member's term of office.

(2) If the vacancy is among members appointed under regulation 6 the vacancy must be filled by the Welsh Ministers by appointing a person—

- (a) from the list of persons most recently provided by the nominees who nominated the person who has vacated office;
- (b) if it is not possible to appoint a person in accordance with sub-paragraph (a), from the list of persons most recently provided by any other nominee listed in the same Part of Schedule 2 as the nominee who nominated the person who has vacated office; or
- (c) if it is not possible to appoint a person in accordance with sub-paragraphs (a) and (b), from the list of persons most recently provided by any other nominee listed in either Part 1 or 2 of Schedule 2.

(3) If the vacancy is among members appointed under regulation 7—

- (a) the vacancy must be filled by an appointment by the Welsh Ministers; and
- (b) where the person that has vacated office was a registered person the appointee must be from the same category of registered person as that which has vacated office.

(4) A person appointed under this regulation to fill a vacancy holds office until the date on which the term of office of the member whose vacancy that person fills would have expired.

(5) Where a vacancy has not been filled pursuant to this regulation the Council may fill that vacancy by a temporary appointment.

(6) Any temporary appointment under paragraph (5) must—

- (a) only be made where the vacancy occurs within 6 months of the date on which the term of office of the member whose vacancy that person fills would have expired;
- (b) be for a term not exceeding the date on which the term of office of the member whose vacancy that person fills would have expired, and
- (c) be on such other terms as the Council determine.

### **Appointment of chief officer**

9. (1) Up to and including the 31 March 2015 the General Teaching Council for Wales must appoint the chief officer.

(2) From and including the 1 April 2015 the Council must appoint the chief officer.

(3) The terms and conditions of a person's appointment under paragraph (1) are—

- (a) to be determined by the General Teaching Council for Wales; and
- (b) approved (and any revised terms and conditions) by the Welsh Ministers.

(4) The terms and conditions of a person's appointment under paragraph (2) are—

- (a) to be determined by the Council;

- (b) reviewed by the Council every three years; and
- (c) approved (and any revised terms and conditions) by the Welsh Ministers.

**Chief officer selection panel**

**10.** (1) The Council must advertise any vacancy in the post of the chief officer in such publications circulating throughout England and Wales as it considers appropriate.

(2) The Council must appoint a selection panel to—

- (a) select for interview such applicants for the post as the selection panel thinks fit;
- (b) interview such of those applicants as attend for the purpose; and
- (c) where the selection panel considers it appropriate to do so, recommend to the Council for appointment one of the applicants interviewed by the selection panel.

(3) The selection panel must elect a chair from among their number.

(4) Following a majority vote of the Council members the Council may remove the chair to any selection panel from the office of chair to that selection panel at any time.

(5) The majority of persons on any selection panel must be council members.

(6) The membership of a selection panel must include—

- (a) at least one representative of the Welsh Ministers; and
- (b) at least one independent member.

(7) A person is not to be regarded as independent for the purposes of paragraph (6)(b) if the person is—

- (a) a member or an employee of the Council; or
- (b) an employee of the Welsh Government.

(8) Where there is an equal decision of votes the chair, or as the case may be, the person who is acting as chair for the purposes of the meeting, has a second or casting vote.

(9) Any decision of the selection panel must be taken by a vote representing an absolute majority of all the persons on the panel.

3 September 2014

*Huw Lewis*  
Minister for Education and Skills, one of the  
Welsh Ministers

## SCHEDULE 1

Regulation 2

## REGULATIONS REVOKED

<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
General Teaching Council for Wales (Constitution) Regulations 1999	<a href="#">S.I. 1999/1619</a>	Fully
General Teaching Council for Wales (Constitution) (Amendment) Regulations 1999	<a href="#">S.I. 1999/3185</a>	Fully
General Teaching Council for Wales (Constitution) (Amendment) Regulations 2003	<a href="#">S.I. 2003/389 (W. 51)</a>	Fully
General Teaching Council for Wales (Constitution) (Amendment) Regulations 2007	<a href="#">S.I. 2007/812 (W. 69)</a>	Fully
General Teaching Council for Wales (Constitution) (Amendment) Regulations 2009	<a href="#">S.I. 2009/1352 (W. 128)</a>	Fully
General Teaching Council for Wales (Constitution) (Amendment) Regulations 2012	<a href="#">S.I. 2012/169 (W. 28)</a>	Fully

## SCHEDULE 2

Regulation 6

ORGANISATIONS ENTITLED TO NOMINATE  
PERSONS FOR APPOINTMENT TO THE COUNCIL

## PART 1

1. National Union of Teachers (Cymru).
2. National Association of Schoolmasters Union of Women Teachers (Cymru).
3. Association of School and College Leaders.
4. Professional Association of Teachers.
5. National Association of Head Teachers in Wales.
6. Undeb Cenedlaethol Athrawon Cymru.
7. Association of Teachers and Lecturers.
8. University and College Union.
9. UNISON.
10. GMB.
11. Unite the Union.

12. Aspect Group of Prospect Union.
13. Wales TUC.

## PART 2

14. CollegesWales.
15. Y Coleg Cymraeg Cenedlaethol.
16. Association of Directors of Education in Wales.
17. Welsh Local Government Association.
18. Confederation of School Governors Associations in Wales.
19. The Church in Wales.
20. The Catholic Education Service.
21. Higher Education Wales.
22. Universities Council for the Education of Teachers.
23. Welsh Independent Schools Council.
24. Wales Association of SACREs(9).
25. Association of Directors of Social Services Cymru.
26. Federation of Small Businesses.
27. Wales Council for Voluntary Action.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 2 in Part 2 of the Education (Wales) Act 2014 provides that the General Teaching Council for Wales is to continue to exist but will change its name to the Education Workforce Council (“the Council”). Part 2 makes further provision in relation to the Council. These Regulations make provision in relation to membership of the Council and the appointment of the chief officer and they come into force on 29 September 2014 except for those provisions in regulation 2 which come into force on 1 April 2015 when it is anticipated that the Council will be fully operational.

Schedule 1 to the Education (Wales) Act 2014 (“the 2014 Act”) provides that the Council will have 14 members appointed by the Welsh Ministers. Seven of those members must be appointed from nominees of organisations set out in the Schedule to these Regulations (regulations 4 and 6). The remaining seven will be appointed by the Welsh Ministers without nomination (regulations 4 and 7).

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(9) Standing advisory councils for religious education (SACREs) are established by virtue of section 390 of the Education Act 1996 (c. 56).

Regulation 5 sets out the grounds on which a person will not be eligible for appointment. This provision mirrors the grounds for removal from office set out in paragraph 6 of Schedule 1 to the 2014 Act.

Regulation 8 makes provision about the filling of vacancies among members of the Council before the expiry of that member's term of office.

Regulation 9 makes provision about the appointment of the chief officer of the Council.

Regulation 10 makes provision about the selection panel that must be appointed in relation to the appointment of the chief officer.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.