

Explanatory Memorandum to the Education Workforce Council (Membership and Appointment) (Wales) (Amendment) Regulations 2018

This Explanatory Memorandum has been prepared by the Education and Public Services of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education Workforce Council (Membership and Appointment) (Wales) (Amendment) Regulations 2018 ("the 2018 Regulations").

Kirsty Williams

Cabinet Secretary for Education

17 July 2018

1. Description

1.1. The 2018 Regulations make provision in relation to the membership of the Education Workforce Council (“the Council”).

2. Matters of special interest of Constitutional and Legislative Affairs Committee

2.1. None.

3. Legislative background

3.1 Part 2 of the Education (Wales) Act 2014 (“the 2014 Act”) confers functions on the Council in relation to persons who are required to register in the register the Council maintains in accordance with section 9 of that Act (“Registered Persons”). The categories of Registered Persons are set out in the Table at paragraph 1 of Schedule 2 to the 2014 Act.

3.2 Schedule 1 to 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 Regulations (“Nominating Bodies”). Accordingly, the list of Nominating Bodies is set out in Schedule 2 to the Education Workforce Council Membership (Membership and Appointment) (Wales) Regulations 2014 (“the 2014 Regulations”).

3.3 The power to make Regulations in respect of the membership of the Council and the procedure for appointment are in sections 2(2) and 47(1) of, and paragraph 4 of Schedule 1 to, the 2014 Act.

3.4 The Regulations will follow the negative resolution procedure.

4. Purpose & intended effect of the legislation

4.1 In relation to the membership of the Council the 2014 Regulations set out:

- the eligibility criteria for appointment to the Council
- who is entitled to make nominations; and
- how vacancies in the office of Council members are to be filled.

4.2 The current Council consists of fourteen members; all of which are appointed through a public appointment process by the Welsh Ministers. Of the fourteen members appointed by the Welsh Ministers, 7 are appointed from nominees of organisations listed in the 2014 Regulations. Part 1 contains Trade Unions and Part 2 contains groups and organisations associated with the education workforce.

4.3 The 2014 consultation “*Proposed arrangements for the appointment of members of the Education Workforce Council*”¹ recognised that when more categories of practitioners are added to Schedule 2 to the 2014 Act (as amended), the list of organisations who can make nominations may need to be changed and that there would be a requirement to consult further as and when that occurred.

Proposal

4.4 Schedule 1 to the 2014 Act has been amended by the Education Workforce Council (Registration of Youth Workers, Youth Support Workers and Work Based Learning Practitioners) Order 2016 so as to add three additional categories of Registered Persons, namely: youth workers, youth support workers, and work based learner practitioners.

4.5 These new categories of Registered Persons were required to register with the Council as of 1 April 2017.

4.6 Part 2 of Schedule 2 to the 2014 Regulations needs to be updated to ensure it captures all those who represent those new categories of Registered Persons.

4.7 Through a targeted public consultation (*Amendments to the Education Workforce Council (Membership and Appointment) (Wales) Regulations 2014*) the Welsh Government specifically sought suggestions from those organisations that represent the youth worker and youth support worker sector and work based learning practitioners, in order for them to be added to Part 2 of Schedule 2, to the 2014 Regulations. This will ensure that the organisations and bodies contained in that list are able to nominate members that will represent the youth worker and youth support worker sector and work based learning sector.

4.8 Following that consultation the following bodies will be added to Part 2 of Schedule 2 to the 2014 Regulations:

- Council for Wales of Voluntary Youth Services Cyngor Cymreig y Gwasanaethau Ieuenctid Gwirfoddol
- Wales Principal Youth Officers’ Group
- National Training Federation for Wales Ltd
- Education Training Standards Wales

4.9 Part 1 of Schedule 2 to the 2014 Regulations is amended to reflect the merger between the National Unions of Teachers (NUT) and the Association of Teachers and Lecturers (ATL). That new merged union is known as the National Education Union (NEU).

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<http://webarchive.nationalarchives.gov.uk/20140722144514/http://wales.gov.uk/consultations/education/consultation-on-the-appointment-of-members-to-the-education-workforce-council/?status=closed&lang=en>

4.10 All future appointments will continue to be made in accordance with the principles in the Code of Practice for Ministerial appointments for Public Bodies produced by the Commissioner for Public Appointments.

5. Consultation

5.1 As paragraph 4.6 sets out, a targeted public consultation process was undertaken between 21 February and 4 April 2018.

5.2 A copy of the consultation has been published at <https://beta.gov.wales/amendments-education-workforce-council-membership-and-appointment-wales-regulations-2014>.

5.3 The Welsh Government received five responses and para 4.8 sets out the organisations that were requested to be added to Part 2 of Schedule 2 to the 2014 Regulations.

6. Regulatory Impact Assessment

6.1 A Regulatory Impact Assessment has not been prepared as the Regulations do not impose any additional costs on business, employers or third parties. No additional requirements will be placed on the Council as a consequence of the Regulations.

7. Competition Assessment

7.1 There is no market implications associated with the making these 2018 Regulations.

8. Impact of the Proposed Legislation on duties of the Welsh Ministers set out in the Government of Wales Act 2006

8.1 The 2018 Regulations are not considered to have any specific impact on the duties of the Welsh Ministers as set out in the Government of Wales Act 2006.

9. Impact upon the Voluntary Sector

9.1 The Regulations are not considered to have any specific impact upon the voluntary sector.

10. Equality of opportunity and Welsh Language

10.1 No issues relating to these duties are considered to arise from the making of these 2018 Regulations.

11. Sustainable Development

11.1 The aim of these 2018 Regulations is for social (educational) benefits in making regulatory changes in the short term by refocusing assessment for the purposes of learning and away from accountability.