

**Education and Lifelong Learning Committee**

**PAPER TO NOTE**

**Letter to Chair from Chair of Legislation Committee re “the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2005”.**

Bae Caerdydd / Cardiff Bay  
Caerdydd / Cardiff  
CF99 1NA

Peter Black AM  
Chair of the Education and Lifelong Learning Committee  
The National Assembly for Wales  
Cardiff Bay  
CF99 1NA

7 July 2005

Dear Peter

**LC1108 - The Education (Induction Arrangements for School Teachers) (Wales) Regulations 2005**

The above mentioned Regulations were considered by the Legislation Committee at its meeting on the 28<sup>th</sup> of June 2005 and I attach for your information a copy of the report approved by the Committee and the minutes of the meeting.

The Legislation Committee was concerned that the inability to dismiss the appeal for failing to comply with directions might create significant complications for the panel. As at present there is yet no evidence as to how many appellants will not comply with the requirement, it is impossible to establish if this would be a problem. I was therefore asked to draw the attention of the Education and Lifelong Learning Committee to the report as your Committee might wish to keep the operation of these Regulations under review.

Yours sincerely

Glyn Davies AM  
Chair, Legislation Committee



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

ADRODDIAD GAN Y PWYLLGOR DEDDFAU LEGISLATION COMMITTEE REPORT

### **The Education (Induction Arrangements for School Teachers) (Wales) Regulations 2005**

The purpose of these Regulations is to replace existing legislation on this subject with a more flexible framework.

#### **Standing Order 11.7**

The following points have been identified for reporting under SO 11.7.

Regulation 2(1) purports to revoke “regulations 4 and 5 of the School Teachers (Consequential Amendments) (Wales) Regulations 2004. As there is no regulation 5 the words “and 5” should be removed. [Standing Order 11.7(v)]

These Regulations display again a problem that arises in relation to the use of “may” in National Assembly legislation. In some places the word “caiff” correctly reflects the permissive nature of the use of the word “may”; in other places the word “gall” (or “gellir”) (can) is used, which does not convey that permissive element. [Standing Order 11.7(vi)]

These are all considered to be minor drafting errors appropriate to be dealt with by a Memorandum of Corrections.

#### **Observations**

Paragraph 3(3)(b) of Schedule 2 requires the appellant to annex to the notice of appeal “any written statement given to the appellant by the appropriate body giving reasons for its decision”. However, paragraph 8(2)(b) requires the appropriate body (the body that took the decision being appealed against) to annex to its reply “where the appellant has not sent to the proper officer a copy of a written statement given to the appellant by the appropriate body giving reasons for its decision, a statement giving reasons for its decision”. As the appellant had been required to provide such a statement, it appears to be anticipated that some appellants will not comply. Paragraph 18 gives the Council the power to give directions to cure or waive the irregularity, but does not contain a power to dismiss the appeal if the appellant fails to comply with such a direction. That appears to the Committee to be a significant omission in the framework set up by the Schedule. However, as such a provision was not consulted upon, it cannot be inserted at this late stage.

Two formatting points have also been notified to the drafting lawyer for correction on printing.

**Glyn Davies AM**  
Chair, Legislation Committee

**28 June 2005**



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

ADRODDIAD GAN Y PWYLLGOR DEDDFAU LEGISLATION COMMITTEE REPORT

### **Rheoliadau Addysg (Trefniadau Ymsefydlu ar gyfer Athrawon Ysgol) (Cymru) 2005**

Diben y Rheoliadau yma yw gosod fframwaith mwy hyblyg yn lle'r ddeddfwriaeth bresennol ar y pwnc yma.

#### **Rheol Sefydlog 11.7**

Mae'r pwyntiau canlynol wedi'u nodi i fod yn destun adroddiad o dan Reol Sefydlog 11.7.

Mae Rheoliad 2(1) yn honni ei fod yn dirymu "rheoliadau 4 a 5 o Reoliadau Athrawon Ysgol (Diwygiadau Canlyniadol) (Cymru) 2004. Gan nad oes rheoliad 5, dylai'r geiriau "a 5" gael eu dileu. [Rheol Sefydlog 11.7(v)]

Mae'r Rheoliadau yma unwaith eto'n dangos problem sy'n codi mewn perthynas â denfyddio "may" yn neddfwriaeth y Cynulliad Cenedlaethol. Mewn rhai manau mae'r gair "caiff" yn adlewyrchiad cywir o natur ganiataol y gair "may"; mewn manau eraill "gall" (neu "gellir") yw'r gair sydd wedi'i ddefnyddio, a dydy hwnnw ddim yn cyfleu'r elfen ganiataol. [Rheol Sefydlog 11.7(vi)]

Bernir bod y rhain i gyd yn fân wallau drafftio y byddai'n briodol ymdrin â nhw drwy gyfrwng Memorandwm Cywiriadau.

#### **Sylwadau**

Mae paragraff 3(3)(b) o Atodlen 2 yn ei gwneud yn ofynnol i'r apelydd gynnwys fel atodiad i'r hysbysiad apêl "unrhyw ddatganiad ysgrifenedig a roddwyd i'r apelydd gan y corff priodol yn rhoi rhesymau dros benderfyniad y corff priodol". Er hynny, mae paragraff 8(2)(b) yn ei gwneud yn ofynnol i'r corff priodol (y corff a gymerodd y penderfyniad yr apelir yn ei erbyn) gynnwys fel atodiad i'w ateb "os nad yw'r apelydd wedi anfon at y swyddog priodol gopi o ddatganiad ysgrifenedig a roddwyd i'r apelydd gan y corff priodol yn rhoi rhesymau dros benderfyniad y corff priodol, ddatganiad sy'n rhoi rhesymau dros y penderfyniad". Gan ei bod wedi bod yn ofynnol i'r apelydd roi datganiad o'r fath, mae'n ymddangos y rhagwelir na fydd rhai apelwyr yn cydymffurfio. Mae paragraff 18 yn rhoi pŵer i'r Cyngor i roi cyfarwyddiadau i wella'r afreoleidd-dra neu i'w anwybyddu, ond dydy e ddim yn cynnwys pŵer i wrthod yr apêl os yw'r apelydd yn methu cydymffurfio â chyfarwyddyd o'r fath. Mae'n ymddangos i'r Pwyllgor fod hynny'n hepgoriad arwyddocaol yn y fframwaith sydd wedi'i sefydlu yn yr Atodlen.

Ond, gan nad ymgynghorwyd ar ddarpariaeth o'r fath, does dim modd ei mewnosod yn hwyr yn y dydd fel hyn.

Mae dau bwynt fformadu wedi'u mynegi i'r cyfreithiwr a ddrafftiodd y Rheoliadau hefyd i gael eu cywiro wrth eu hargraffu.

**Glyn Davies AC**  
Cadeirydd y Pwyllgor Deddfau

**28 Mehefin 2005**

## LEGISLATION COMMITTEE MEETING

### MINUTES (LEG(2)-18-2005):

**Meeting Date:** 28 June 2005

**Meeting Time:** 9:30 a.m.

**Meeting Venue:** Committee Room 1, National Assembly Building

#### Assembly Members in Attendance:

<b>Assembly Member</b>	<b>Constituency</b>
Eleanor Burnham	North Wales
Rosemary Butler	Newport West
Glyn Davies (Chair)	Mid and West Wales
Christine Gwyther	Carmarthen West and South Pembrokeshire
Ann Jones	Vale of Clwyd
Laura Jones	South Wales East
Dai Lloyd	South Wales West
Jeff Cuthbert	Caerphilly
Janet Ryder	North Wales

#### Officials

<b>Name</b>	<b>Job Title</b>
Gwyn Griffiths	Legal Adviser
Joanest Jackson	Assistant Legal Adviser

#### Committee Service

<b>Name</b>	<b>Job Title</b>
Olga Lewis	Committee Clerk
Hasera Khan	Deputy Clerk

**Item 1: Apologies for absence:** Janice Gregory

#### Item 2: Minutes of the Previous Meeting – LEG(2)-17-2005

2.1 The Committee agreed the minutes of the meeting held on 21 June 2005.

#### Item 3: Chair's Report

3.1. The Chair stated that items 5 and 6 of the Agenda were likely to take some time to discuss and therefore suggested moving directly to considering legislation.

#### Item 4: Assembly Orders for Consideration

##### 4.1 LC1106 - The Street Works (Recovery of Costs) (Wales) Regulations 2005

The Chair stated that the Committee had already considered and approved this Statutory Instrument at the meeting last week. All that had changed had been the coming into force date and the clear report previously agreed remained unchanged. The Members agreed that the report should be made in the form of the draft presented to the Committee by the Legal Advisers.

##### 4.2 LC1103 - The Higher Education Act 2004 (Commencement No 2 and Transitional Provision) (Wales) Order 2005

This Statutory Instrument was to be considered under "Any Other Business" (Item 7 of the Agenda), but the Chair suggested bringing the matter forward as, similarly to LC1106, at the meeting last week the Members discussed and approved without

comments and the Committee's report had been laid before the Assembly. Again, the coming into force date had changed and therefore the report needed to be re-affirmed by the Committee. The Members agreed.

#### **4.3 LC1108 - The Education (Induction Arrangements for School Teachers) (Wales) Regulations 2005**

Members noted the reference to the omission of a power to dismiss an appeal noted under Observations in the draft report, and were concerned that that might cause difficulties for the panel. As there was no evidence as to how many appellants would not comply with the requirement, it was impossible to establish if this would be a problem. It was agreed to draw the Education and Lifelong Learning Committee's attention to this issue and ask it to keep the operation of this Statutory Instrument under review. **Action: Chair/Legal Adviser/Clerk**

4.4 The Members agreed that the report should be made in the form of the draft presented to the Committee by the Legal Advisers.

#### **4.5 LC1111 - The Education (Nursery Education and Early Years Development and Childcare Plans) (Wales) (Amendment) Regulations 2005**

A small spelling mistake was noted in the Welsh version of the draft report on these Regulations. Subject to its correction, the Members agreed that the report should be made in the form of the draft presented to the Committee by the Legal Advisers.

#### **4.6 LC1113 - The Independent Review of Determinations (Adoption) (Wales) Regulations 2005**

The Legal Adviser was asked to clarify the difference between the use of the words "will" and "must" in statutory Instruments. The Legal Adviser explained that the word "will" could either mean a command or simply be an expression of future intention, whereas the verb "must" had only one meaning, which was preferable for legislation. Furthermore, the use of the verb "will" could create problems for translation into Welsh, as it did not translate straightforwardly, as "must" did. Thus, it was preferable to use the verb "must" in Statutory Instruments. The Members were happy with this explanation and agreed that the report should be made in the form of the draft presented to the Committee by the Legal Advisers.

4.7 In relation to the following Statutory Instruments Members agreed that the reports should be made in the form of the drafts presented to the Committee by the Legal Advisers:

**LC1109 - The Highways (Schools) (Special Extinguishment and Special Diversion Orders) (Wales) Regulations 2005**

**LC1110 - The Home Loss Payments (Prescribed Amounts) (Wales) Regulations 2005**

**LC1112 - Street Works (Records) (Wales) Regulations 2005**

**LC1114 - The Hazardous Waste (Wales) Regulations 2005**

**LC1115 - The Housing Act 2004 (Commencement No. 1) (Wales) Order 2005**

**LC1116 - Social Housing Ombudsman (Wales) Regulations 2005**

**LC1117 - The List of Wastes (Wales) Regulations 2005**

**Item 5: Committee Correspondence**



## **Response of the Minister for Social Justice and Regeneration Edwina Hart AM to the report of the Legislation Committee on The Housing (Right to Buy) (Priority of Charges) (Wales) Order 2005 (LC1084)**

5.1 The Chair reminded the Members that on the 10<sup>th</sup> of May they considered "The Housing (Right to Buy) (Priority of Charges) (Wales) Order 2005 (LC1084)". Although there were no points to report under Standing Order 11.7, the Committee had noted under Observations that in the Companies Register, all companies have eight digit numbers; whereas in this Statutory Instrument only the one company on the list had the full number.

The Chair informed the Members that although the Committee's report stated that these changes were so minor that they could be corrected on publication, the Minister had noted the Committee's observations and sent her response to the Committee's report. The Chair added that this was the first time since the Committee started its work that any Minister had reacted to the Committee's report without being asked to do so and the Minister's response was particularly noteworthy since it was an observation rather than a reporting point.

5.2 The Members noted that there were perfectly respectable arguments both ways, but as the Minister had thought it sufficiently important to write to the Committee it would accept her point of view. The Committee asked the Chair to write to the Minister thanking her for the interest in the Committee's observations and expressing the Committee's satisfaction with the explanations she provided. **Action: Chair/Legal Adviser/Clerk**

### **Item 6: Scrutiny of White Paper: Better Governance for Wales Consideration of the White Paper's implications for the work of the Legislation Committee**

6.1 The Chair stated that the White Paper on the future of the Assembly had been published and its proposals would have important implications for the work of the Legislation Committee. He went on to inform the Members that as the Chair of this Committee he was invited to give evidence to a scrutiny committee.

The Chair stated that the Legal Adviser had prepared a Note highlighting the issues for consideration and that Note had been circulated to Members. He invited the Members to express their views on this issue.

6.2 In discussion, the following points were made:

In respect of the status of the Legislation Committee it was noted that at present the Assembly was required by the Government of Wales Act to have a subordinate legislation scrutiny committee, whereas, according to the Government's proposal, the Audit Committee would be the only one mentioned in the Bill. The White Paper proposed to remove all provisions relating to committees beyond the need to have regard to party balance. Everything else would be left to the Assembly to decide through its Standing Orders. Views were expressed that the new Standing Orders should retain the requirement to have a legislation scrutiny committee and protect the status of the Committee by setting provisions relating to the party balance/membership, including that no Minister may be a member and that the chair cannot be from the largest party in government;

It was noted that at the moment the Bill had not been yet published and therefore it was too early to make any definite recommendations as to the development of the work/role of this Committee. It was suggested that the Legal Adviser researched into the remit/scope of the counterpart committees in other administrations, i.e., in Scotland, Westminster and Northern Ireland. It was also suggested that the views of the Richard Commission on this issue should be considered. It was decided to return to discussing this matter at the meeting of the Legislation Committee on the 12<sup>th</sup> of July 2005. **Action: Legal Adviser/Clerk**

### **Actions**

4.5 The Chair was asked to write to the Chair of the Education and Lifelong Learning Committee drawing his attention to the problem highlighted under "Observations" in the Legislation Committee's report on **LC1108 - The Education (Induction Arrangements for School Teachers) (Wales) Regulations 2005**

5.2 The Chair was asked to write to the Minister thanking her for the interest in the Committee's observations regarding "**The Housing (Right to Buy) (Priority of Charges) (Wales) Order 2005 (LC1084)**" and expressing the Committee's satisfaction with the explanations she provided. **Action: Chair/Legal Adviser/Clerk**

6.2 The Legal Adviser was asked to research into the remit/scope of the counterpart committees in Scotland, Westminster and Northern Ireland and the Clerk was asked to circulate his note on this subject for discussion at the meeting of the Legislation Committee on the 12<sup>th</sup> of July 2005. **Action: Legal Adviser/Clerk**

### **Item 7: Any Other Business and Date of Next Meeting**

7.1 The next meeting of the Committee would be held on 5 July 2005.

## CYFARFOD Y PWYLLGOR DEDDFAU

### COFNODION (LEG(2)-18-2005):

**Dyddiad y Cyfarfod:** 28 Mehefin 2005

**Amser y Cyfarfod:** 9:30 a.m.

**Lleoliad y Cyfarfod:** Ystafell Bwyllgora 1, Adeilad y Cynulliad Cenedlaethol

### Aelodau'r Cynulliad yn Bresennol:

#### Aelod Cynulliad

Eleanor Burnham

Rosemary Butler

Glyn Davies (Cadeirydd)

Christine Gwyther

Ann Jones

Laura Jones

Dai Lloyd

Jeff Cuthbert

Janet Ryder

#### Etholaeth

Gogledd Cymru

Gorllewin Casnewydd

Canolbarth a Gorllewin Cymru

Gorllewin Sir Gaerfyrddin a De Sir Benfro

Dyffryn Clwyd

Dwyrain De Cymru

Gorllewin De Cymru

Caerffili

Gogledd Cymru

### Swyddogion

#### Enw

Gwyn Griffiths

Joanest Jackson

#### Teitl y Swydd

Cynghorydd Cyfreithiol

Cynghorydd Cyfreithiol Cynorthwyol

### Gwasanaeth y Pwyllgorau

#### Enw

Olga Lewis

Hasera Khan

#### Teitl y Swydd

Clerc y Pwyllgor

Dirprwy Glerc

**Eitem 1: Ymddiheuriadau am absenoldeb:** Janice Gregory

### Eitem 2: Cofnodion y Cyfarfod Blaenorol – LEG(2)-17-2005

2.1 Cytunodd y Pwyllgor ar gofnodion y cyfarfod a gynhaliwyd ar 21 Mehefin 2005.

### Eitem 3: Adroddiad y Cadeirydd

3.1. Dywedodd y Cadeirydd fod eitemau 5 a 6 ar yr Agenda yn debyg o gymryd cryn amser i'w trafod ac awgrymodd felly y dylid symud rhag blaen i ystyried y ddeddfwriaeth.

### Eitem 4: Gorchmynion y Cynulliad i'w Hystyried

#### 4.1 LC1106 - Rheoliadau Gwaith Stryd (Adennill Costau) (Cymru) 2005

Dywedodd y Cadeirydd fod y Pwyllgor eisoes wedi ystyried yr Offeryn Statudol yma a'i gymeradwyo yn ei gyfarfod yr wythnos flaenorol. Y cyfan a oedd wedi'i newid oedd y dyddiad y deuai'r Rheoliadau i rym ac roedd yr adroddiad clir y cytunwyd arno o'r blaen yn parhau'n ddigyfnewid. Cytunodd yr Aelodau y dylai'r adroddiad gael ei wneud ar ffurf y drafft a gyflwynwyd i'r Pwyllgor gan y Cynghorwyr Cyfreithiol.

#### 4.2 LC1103 - Gorchmyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 2 a Darpariaeth Drosiannol) (Cymru) 2005

Roedd yr Offeryn Statudol yma i fod i gael ei ystyried o dan "Unrhyw Fusnes Arall" (Eitem 7 ar yr Agenda), ond awgrymodd y Cadeirydd y dylid dod â'r mater ymlaen, a

hynny am ei fod yn debyg i LC1106, gan fod yr Aelodau wedi'i drafod a'i gymeradwyo heb sylwadau yn y cyfarfod yr wythnos flaenorol a bod adroddiad y Pwyllgor wedi'i gyflwyno i'r Cynulliad. Unwaith eto, roedd y dyddiad y deuai'r Gorchymyn i rym wedi'i newid ac felly roedd angen i'r Pwyllgor ail-gadarnhau'r adroddiad. Cytunodd yr Aelodau.

#### **4.3 LC1108 - Rheoliadau Addysg (Trefniadau Ymsefydlu ar gyfer Athrawon Ysgol) (Cymru) 2005**

Nododd yr Aelodau y cyfeiriad at y ffaith bod pŵer i wrthod apêl wedi'i hepgor, a nodwyd o dan Sylwadau yn yr adroddiad drafft, ac roedden nhw'n gofidio y gallai hynny beri anawsterau i'r panel. Gan nad oedd tystiolaeth ynghylch faint o apelwyr fyddai'n methu cydymffurfio â'r gofyniad, doed dim modd gwybod a fyddai hyn yn broblem. Cytunwyd tynnu sylw'r Pwyllgor Addysg a Dysgu Gydol Oes at y mater a gofyn iddyn nhw gadw llygad ar sut y byddai'r Offeryn Statudol yma'n gweithio. **Camau i'w cymryd: Y Cadeirydd/ Y Cynghorydd Cyfreithiol/Y Clerc**

4.4 Cytunodd yr Aelodau y dylai'r adroddiad gael ei wneud ar ffurf y drafft a gyflwynwyd i'r Pwyllgor gan y Cynghorwyr Cyfreithiol.

#### **4.5 LC1111 - Rheoliadau Addysg (Addysg Feithrin a Chynlluniau Datblygu Blynyddoedd Cynnar a Gofal Plant) (Cymru) (Diwygio) 2005**

Nodwyd gwall sillafu bach yn fersiwn Cymraeg yr adroddiad drafft ar y Rheoliadau yma. Cyhyd ag y câi hwnnw ei gywiro, cytunodd yr Aelodau y dylai'r adroddiad gael ei wneud ar ffurf y drafft a gyflwynwyd i'r Pwyllgor gan y Cynghorwyr Cyfreithiol.

#### **4.6 LC1113 - Rheoliadau Adolygu Dyfarniadau'n Annibynnol (Mabwysiadu) (Cymru) 2005**

Gofynnwyd i'r Cynghorydd Cyfreithiol egluro'r gwahaniaeth rhwng defnyddio'r geiriau "will" a "must" mewn Offerynnau Statudol. Esboniodd y Cynghorydd Cyfreithiol y gallai'r gair "will" olygu naill ai gorchymyn neu fynegiant syml o fwriad at y dyfodol, ond mai dim ond un ystyr oedd i'r ferf "must", a oedd yn well ar gyfer deddfwriaeth. Ymhellach, gallai defnyddio'r ferf "will" greu problemau ar gyfer y cyfieithiad Cymraeg, gan nad oedd yn cyfieithu mor ddidrafferth â "must". Gan hynny, roedd yn well defnyddio'r ferf "must" mewn Offerynnau Statudol. Roedd yr Aelodau'n fodlon ar yr esboniad a chytunwyd y dylai'r adroddiad gael ei wneud ar ffurf y drafft a gyflwynwyd i'r Pwyllgor gan y Cynghorwyr Cyfreithiol.

4.7 O ran yr Offerynnau Statudol canlynol, cytunodd yr Aelodau y dylai'r adroddiadau gael eu gwneud ar ffurf y drafftiau a gyflwynwyd i'r Pwyllgor gan y Cynghorwyr Cyfreithiol:

**LC1109 - Rheoliadau Priffyrdd (Ysgolion) (Gorchymynion Dileu Arbennig a Gwyro Arbennig) (Cymru) 2005**

**LC1110 - Rheoliadau Taliadau Colli Cartref (Symiau Rhagnodedig) (Cymru) 2005**

**LC1112 - Rheoliadau Gwaith Stryd (Cofnodion) (Cymru) 2005**

**LC1114 - Rheoliadau Gwastraff Peryglus (Cymru) 2005**

**LC1115 - Gorchymyn Deddf Tai 2004 (Cychwyn Rhif 1) (Cymru) 2005**

**LC1116 - Rheoliadau Ombwdsmon Tai Cymdeithasol (Cymru) 2005**

**LC1117 - Rheoliadau'r Rhestr Wastraffoedd (Cymru) 2005**

**Eitem 5: Gohebiaeth y Pwyllgor**

## **Ymateb y Gweinidog dros Gyfiawnder Cymdeithasol ac Adfywio, Edwina Hart AC, i adroddiad y Pwyllgor Deddfau ar Orchymyn Tai (Hawl i Brynu) (Blaenoriaeth Arwystlon) (Cymru) 2005 (LC1084)**

5.1 Atgoffodd y Cadeirydd yr Aelodau eu bod nhw ar 10 Mai wedi ystyried "Gorchymyn Tai (Hawl i Brynu) (Blaenoriaeth Arwystlon) (Cymru) 2005 (LC1084)". Er nad oedd yna bwyntiau a oedd yn destun adroddiad o dan Reol Sefydlog 11.7, roedd y Pwyllgor wedi nodi o dan Sylwadau fod gan bob cwmni rifau wyth digid yn y Gofrestr Cwmnïau, ond mai dim ond un cwmni yn y rhestr yn yr Offeryn Statudol yma oedd â'r rhif cyflawn. Er bod adroddiad y Pwyllgor wedi dweud bod y newidiadau hyn mor fân nes y gallent gael eu cywiro wrth gyhoeddi'r Gorchymyn, dywedodd y Cadeirydd wrth yr Aelodau fod y Gweinidog wedi nodi sylwadau'r Pwyllgor ac wedi anfon ei hymateb i adroddiad y Pwyllgor. Ychwanegodd y Cadeirydd mai dyma'r tro cyntaf ers i'r Pwyllgor ddechrau ei waith i unrhyw Weinidog ymateb i adroddiad gan y Pwyllgor heb gael cais i wneud hynny a bod ymateb y Gweinidog yn arbennig o werthfawr gan ei fod yn cyfeirio at sylw ac nid at bwynt a fu'n destun adroddiad.

5.2 Nododd yr Aelodau fod yna ddadleuon cwbl barchus ar y ddwy ochr ond, gan fod y Gweinidog wedi meddwl ei bod yn ddigon pwysig i ysgrifennu at y Pwyllgor, y byddai'n derbyn barn y Gweinidog. Gofynnodd y Pwyllgor i'r Cadeirydd ysgrifennu at y Gweinidog i ddiolch iddi am ei diddordeb yn sylwadau'r Pwyllgor ac i fynegi boddhad y Pwyllgor ar yr esboniadau a roddwyd ganddi. **Camau i'w cymryd: Y Cadeirydd/ Y Cynghorydd Cyfreithiol/Y Clerc**

### **Eitem 6: Craffu ar y Papur Gwyn: Trefn Lywodraethu Well i Gymru Ystyried goblygiadau'r Papur Gwyn ar gyfer gwaith y Pwyllgor Deddfau**

6.1 Dywedodd y Cadeirydd fod y Papur Gwyn ar ddyfodol y Cynulliad wedi'i gyhoeddi ac y byddai'r cynigion ynddo yn dwyn goblygiadau pwysig ar gyfer gwaith y Pwyllgor Deddfau. Aeth ymlaen i roi gwybod i'r Aelodau ei fod e, fel Cadeirydd y Pwyllgor, wedi'i wahodd i gyflwyno tystiolaeth i bwyllgor craffu.

Dywedodd y Cadeirydd fod y Cynghorydd Cyfreithiol wedi paratoi Nodyn i danlinellu'r materion i'w hystyried a bod y Nodyn wedi'i gylchredeg i'r Aelodau. Gwahoddodd yr Aelodau i fynegi eu barn ar y mater.

6.2 Wrth drafod, cafodd y pwyntiau canlynol eu gwneud:

O ran statws y Pwyllgor Deddfau, nodwyd bod Deddf Llywodraeth Cymru ar hyn o bryd yn ei gwneud yn ofynnol bod gan y Cynulliad bwyllgor i graffu ar is-ddeddfwriaeth, ond mai'r Pwyllgor Archwilio fyddai'r unig un i gael ei grybwyll yn y Mesur yn ôl cynnig y Llywodraeth. Roedd y Papur Gwyn yn cynnig dileu pob darpariaeth a oedd yn ymwneud â phwyllgorau, heblaw'r angen i sicrhau cydbwysedd rhwng y pleidiau. Byddai popeth arall yn cael ei adael i gael ei benderfynu gan y Cynulliad drwy gyfrwng ei Reolau Sefydlog. Mynegwyd y farn y dylai'r Rheolau Sefydlog newydd gadw'r gofyniad bod rhaid cael pwyllgor i graffu ar ddeddfwriaeth a diogelu statws y Pwyllgor drwy nodi darpariaethau ynglŷn â chydbwysedd y pleidiau/aelodaeth, gan gynnwys na châi Gweinidog fod yn aelod ac na châi'r cadeirydd fod yn aelod o'r blaidd fwyaf yn y llywodraeth;

Nodwyd nad oedd y Mesur wedi'i gyhoeddi hyd yn hyn a'i bod yn rhy gynnar felly i gyflwyno unrhyw argymhellion pendant ynghylch datblygu gwaith/rôl y Pwyllgor. Awgrymwyd y dylai'r Cynghorydd Cyfreithiol ymchwilio i gylch gwaith/rhychwant y

pwyllgorau cyfatebol mewn gweinyddiaethau eraill, hynny yw yn yr Alban, San Steffan a Gogledd Iwerddon. Awgrymwyd hefyd y dylid ystyried barn Comisiwn Richard yn hyn o beth. Penderfynwyd dychwelyd i drafod y mater yng nghyfarfod y Pwyllgor Deddfau ar 12 Gorffennaf 2005. **Camau i'w cymryd: Y Cynghorydd Cyfreithiol/Y Clerc**

### **Camau i'w cymryd**

4.5 Gofynnwyd i'r Cadeirydd ysgrifennu at Gadeirydd y Pwyllgor Addysg a Dysgu Gydol Oes i dynnu ei sylw at y broblem a danlinellwyd o dan "Sylwadau " yn adroddiad y Pwyllgor Deddfau ar **LC1108 - Rheoliadau Addysg (Trefniadau Ymsefydlu ar gyfer Athrawon Ysgol) (Cymru) 2005**

5.2 Gofynnwyd i'r Cadeirydd ysgrifennu at y Gweinidog i ddiolch iddi am ei diddordeb yn sylwadau'r Pwyllgor ynghylch "Gorchymyn Tai (Hawl i Brynu) (Blaenoriaeth Arwystlon) (Cymru) 2005 (LC1084)" ac i fynegi boddhad y Pwyllgor ar yr esboniadau a roddwyd ganddi. **Camau i'w cymryd: Y Cadeirydd/ Y Cynghorydd Cyfreithiol/Y Clerc.**

6.2 Gofynnwyd i'r Cynghorydd Cyfreithiol ymchwilio i gylch gwaith/rhychwant y pwyllgorau cyfatebol yn yr Alban, San Steffan a Gogledd Iwerddon a gofynnwyd i'r Clerc gylchredeg ei nodyn ar y pwnc i gael ei drafod yng nghyfarfod y Pwyllgor Deddfau ar 12 Gorffennaf 2005. **Camau i'w cymryd: Y Cynghorydd Cyfreithiol/Y Clerc**

### **Eitem 7: Unrhyw Fusnes Arall a Dyddiad y Cyfarfod Nesaf**

7.1 Byddai cyfarfod nesaf y Pwyllgor yn cael ei gynnal ar 5 Gorffennaf 2005.

## NATIONAL ASSEMBLY FOR WALES

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**S T A T U T O R Y I N S T R U M E N T S**

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**2005 No. (W. )****EDUCATION, WALES****The Education (Induction  
Arrangements for School Teachers)  
(Wales) Regulations 2005****EXPLANATORY NOTE***(This note is not part of the Regulations)*

These Regulations revoke and replace the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2003, as amended. The provisions of the 2003 Regulations are largely re-enacted, save as explained below.

Persons who qualified as teachers after 1 April 2003 must complete an induction period before they can be employed as teachers at a school maintained by an LEA or a special school not so maintained (“a relevant school”).

This requirement does not apply to persons specified in Schedule 1 to the Regulations. These include teachers serving induction; teachers who are not required to be qualified teachers; teachers who have successfully completed an induction period or probation period elsewhere in the United Kingdom; certain teachers who are qualified by virtue of employment as teachers in independent schools or in further education colleges; teachers who are not required to serve induction under corresponding regulations applying in England; qualified teachers from the European Union, Norway, Liechtenstein, Iceland or Switzerland; overseas teachers who qualified overseas, who have at least two years teaching experience and qualified on the employment based teacher training scheme and have been assessed as meeting the induction standards.

A new exception is added to Schedule 1, which will cover certain experienced teachers from the further education sector and independent schools. These are teachers who qualified on the employment based teacher training scheme and who were assessed under

that scheme as meeting the standards for qualified teachers without having been required to undertake further training under the scheme, and who have been assessed as meeting the induction standards.

The provisions in relation to short term supply teaching have also been amended. A person will now be able to work as a short term supply teacher without serving induction for a period of five years from the date he or she qualified. After that time an appropriate body will be able to authorise a person to work for a further 12 months as a short-term supply teacher without serving induction where circumstances materially affected a person's ability to serve an induction period. Once those 12 months have expired, an appropriate body will be able to authorise further employment as a short term supply teacher but only with the Assembly's consent.

An induction period may be served in a relevant school (other than a hospital school) or an independent school provided its curriculum meets certain requirements of the National Curriculum.

An induction period may not be served in a pupil referral unit nor in a school requiring special measures unless the person in question started his or her induction period or was employed on an employment based training programme before the school was found to be in need of special measures, or one of Her Majesty's Inspectors of Education and Training in Wales certifies that the school is fit to provide induction. New provision is made allowing induction to be served in an FE college. Previously induction could only be served in an sixth form college.

Amended provision is made in regulations 8 and 9 in relation to the length of an induction period and the periods of employment that can count towards an induction period. As a general rule, an induction period must last three school terms, but need not do so where the school year at a school or college does not consist of three terms, where a person serves induction on a part time basis or where the appropriate body does not consider it appropriate for the three term rule to apply. In such cases the appropriate body has the discretion to determine the length of the induction period.

As a general rule, a person must work for a full term in order for that period of employment to count towards an induction period. The full term rule does not apply where a person is employed for two consecutive half terms or where the appropriate body considers that it is appropriate to count another period of employment towards an induction period.

Amended provision is also made in regulation 10 in relation to extending an induction period before its



completion. The appropriate body is given the power to extend an induction period if a person has been absent from work for 30 or more school days.

The detailed requirements in relation to supervision and training have been taken out of the regulations.

The National Assembly for Wales is given the power to set the standards against which teachers serving induction periods are to be assessed for the purpose of determining whether they have completed their induction periods successfully. The National Assembly has issued such standards which can be found at [www.learning.wales.gov.uk](http://www.learning.wales.gov.uk).

At the end of the induction period the head teacher of the school or college at which the teacher is employed makes a recommendation to the appropriate body, and that body decides whether a person has successfully completed induction, whether he or she should have their induction period extended or whether he or she has failed to complete induction successfully. A person whose induction period has been extended or who has failed to complete induction successfully can appeal to the General Teaching Council for Wales. Schedule 2 sets out the procedure for such appeals.

Any person exercising functions under these Regulations must have regard to guidance issued by the Assembly. This guidance can be found at [www.learning.wales.gov.uk](http://www.learning.wales.gov.uk). In particular guidance is given on the exercise of the new discretion given to appropriate bodies in regulations 8, 9, 10 and 18, and on the performance of the duty imposed in regulation 12 on head teachers and appropriate bodies in relation to a person's supervision and training during the induction period.

**2005 No. (W.)**

**EDUCATION, WALES**

**The Education (Induction  
Arrangements for School Teachers)  
(Wales) Regulations 2005**

*Made* 2005

*Coming into force* 1 September 2005

**ARRANGEMENT OF REGULATIONS**

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2. Revocation and transitional provision
3. Interpretation
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5. Appropriate body
6. Requirement to serve an induction period
7. Institutions in which an induction period may be served
8. Length of an induction period
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10. Extension of an induction period before completion
11. Service of more than one induction period
12. Supervision and training during the induction period
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14. Completion of an induction period
15. Extension of an induction period pursuant to a decision of the appropriate body or the Council
16. Termination of employment following failure to complete an induction period satisfactorily
17. Appeals
18. Other functions of the appropriate body
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In exercise of the powers conferred on the Secretary of State by sections 19 and 42(6) and (7) of the Teaching and Higher Education Act 1998<sup>(1)</sup> and now vested in the National Assembly for Wales<sup>(2)</sup>, the National Assembly for Wales makes the following Regulations:

**Title, commencement and application**

**1.**—(1) The title of these Regulations is the Education (Induction Arrangements for School

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<sup>(1)</sup> 1998 c.30; section 19 was amended by the Learning and Skills Act 2000, section 139 and Schedule 11 and the Education Act 2002, Schedule 21, paragraph 85. For the meaning of “prescribed” and “regulations” see section 43(1).

<sup>(2)</sup> The functions of the Secretary of State under these sections were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

Teachers) (Wales) Regulations 2005 and they come into force on 1 September 2005.

(2) These Regulations apply in relation to school teachers in Wales.

### **Revocation and transitional provision**

**2.** —(1) The Education (Induction Arrangements for School Teachers) (Wales) Regulations 2003<sup>(1)</sup>, the Education (Induction Arrangements for School Teachers) (Amendment) (Wales) Regulations 2004<sup>(2)</sup> and regulations 4 and 5 of the School Teachers (Consequential Amendments) (Wales) Regulations 2004<sup>(3)</sup> are revoked.

(2) A person who on 1 September 2005 is serving an induction period in accordance with the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2003 is to be treated as if he or she were serving an induction period in accordance with these Regulations.

### **Interpretation**

**3.** —(1) Save where the context otherwise requires, in these Regulations —

“the 1998 Act” (“*Deddf 1998*”) means the School Standards and Framework Act 1998<sup>(4)</sup>;

“the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002<sup>(5)</sup>;

“the 1999 Regulations” (“*Rheoliadau 1999*”) means the Education (Teachers’ Qualifications and Health Standards) (Wales) Regulations 1999<sup>(6)</sup>;

“appropriate body” (“*corff priodol*”) means the appropriate body under regulation 5;

“authority” (“*awdurdod*”) means a local education authority;

“the Council” (“*y Cyngor*”) means the General Teaching Council for Wales;

“employer” (“*cyflogwr*”) includes an authority, governing body or other person who engage (or make arrangements for the engagement of) a person to provide his or her services as a teacher otherwise than under a contract of employment, and “employed” (“*cyflogi*”), “employment” (“*cyflogaeth*”) and any expressions relating to the

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<sup>(1)</sup> S.I. 2003/543 (W.77).

<sup>(2)</sup> S.I. 2004/872 (W.87).

<sup>(3)</sup> S.I. 2004/1745 (W.184).

<sup>(4)</sup> 1998 c.31.

<sup>(5)</sup> 2002 c.32.

<sup>(6)</sup> S.I. 1999/2817 (W. 18) amended by S.I. 2002/1663 (W.158), 2002/2938 (W.279), 2003/140 (W.12), 2003/2458 (W.240) and revoked in large part by S.I. 2004/1729 (W.173), 2004/1744 (W.183) and 2004/2733 (W.240).

termination of employment are to be construed accordingly;

“employment-based teacher training scheme” (“*cynllun hyfforddi athrawon ar sail cyflogaeth*”) means a scheme established by the National Assembly under regulation 8 of the School Teachers’ Qualifications Regulations;

“England’s Induction Regulations” (“*Rheoliadau Ymsefydlu Lloegr*”) means regulations made from time to time under section 19 of the Teaching and Higher Education Act 1998(1) in relation to teachers in England;

“FE college” (“*coleg AB*”) means an institution within the further education sector as defined in section 91(3) of the Further and Higher Education Act 1992(2);

“governing body” (“*corff llywodraethu*”) in relation to an FE college has the same meaning as in section 90(1) of the Further and Higher Education Act 1992;

“graduate teacher” (“*athro neu athrawes raddedig*”) means a person who was granted an authorisation to teach in accordance with paragraphs 5 to 11 of Schedule 2 to the 1999 Regulations before 1 September 2004;

“head teacher” (“*pennaeth*”) includes the principal of an FE college;

“induction period” (“*cyfnod ymsefydlu*”) means an induction period required by these Regulations;

“institution” (“*sefydliad*”) means a relevant school, an independent school or an FE college in which an induction period may be served under these Regulations, as the context requires;

“key stage” (“*cyfnod allweddol*”) has the same meaning as in section 103(1) of the 2002 Act;

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“non-maintained special school” (“*ysgol arbennig nas cynhelir*”) means a special school which is neither a community special school nor a foundation special school;

“qualified teacher” (“*athro neu athrawes gymwysedig*”) means a person who satisfies

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(1) The regulations in force for England at the time of making these Regulations were the Education (Induction Arrangements for School Teachers’) (Consolidation) (England) Regulations 2001 (S.I. 2001/2897) as amended by S.I. 2001/3938, S.I. 2002/2063 and S.I. 2003/2148.

(2) 1992 c.13.

requirements specified in regulations made under section 132 of the 2002 Act(1);

“registered teacher” (“*athro neu athrawes gofrestredig*”) means a person who was granted an authorisation to teach in accordance with paragraphs 12 to 18 of Schedule 2 to the 1999 Regulations before 1 September 2004;

“relevant school” (“*ysgol berthnasol*”) means a school maintained by an authority or a non-maintained special school;

“school day” (“*diwrnod ysgol*”) in relation to a school means any day on which at that school there is a school session, and in relation to an FE college, means any day on which the college meets;

“school session” (“*sesiwn ysgol*”) has the same meaning as in regulations 4 and 5 of the Education (School Day and School Year) (Wales) Regulations 2003(2);

“the School Teachers’ Qualifications Regulations” (“*Rheoliadau Cymwysterau Athrawon Ysgol*”) means the Education (School Teachers’ Qualifications) (Wales) Regulations 2004(3);

“school term” (“*tymor ysgol*”) includes a term of an FE college;

“school year” (“*blwyddyn ysgol*”) includes the academic year of an FE college;

“short term supply teacher” (“*athro neu athrawes gyflenwi tymor byr*”) means a supply teacher who is employed for a period of less than one term;

“special school” (“*ysgol arbennig*”) has the same meaning as in section 337(1) of the Education Act 1996(4);

“supply teacher” (“*athro neu athrawes gyflenwi*”) means a teacher employed wholly or mainly for the purpose of supervising or teaching pupils whose regular teacher is not available to teach them; and

“working day” (“*diwrnod gwaith*”) means any day other than a Saturday, a Sunday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(5).

(2) For the purposes of these Regulations a person has completed an induction period when that person has served an induction period of –

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(1) The Regulations currently in force under this provision are the Education (School Teachers’ Qualifications) (Wales) Regulations 2004, S.I. 2004/1729 (W.173).

(2) S.I. 2003/3231 (W. 311).

(3) S.I. 2004/1729 (W.173).

(4) 1996 c.56. Section 337(1) is amended by paragraph 80 of Schedule 30 to the School Standards and Framework Act 1998.

(5) 1971 c.80.

- (a) three school terms, or
- (b) such other length as the appropriate body has determined in accordance with regulation 8(2) (comprising only periods of employment which count towards an induction period under regulation 9); and

where the appropriate body extends the induction period in accordance with regulation 10, the period of that extension.

(3) Any reference in these Regulations to —

- (a) a numbered regulation or Schedule is a reference to the regulation or Schedule bearing that number in these Regulations;
- (b) a numbered paragraph is a reference to the paragraph bearing that number in the regulation or Schedule in which the reference appears; and
- (c) a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in the paragraph in which the reference appears.

#### **Breach of time limits**

4. Failure by any person to discharge any duty within a time limit specified in these Regulations does not relieve that person of that duty.

#### **Appropriate body**

5. —(1) For the purposes of these Regulations —

- (a) the appropriate body in relation to a community, foundation or voluntary school, a community or foundation special school, or a maintained nursery school (in each case within the meaning of the 1998 Act) is the authority maintaining it;
- (b) the appropriate body in relation to a non-maintained special school is the authority for the area in which the school is situated; and
- (c) the appropriate body in relation to an independent school is —
  - (i) an authority, or
  - (ii) such persons or body as the National Assembly may determine, which persons or body must include as a member a representative of an authority; and
- (d) the appropriate body in relation to an FE college is an authority.

(2) Any question as to who is the appropriate body for the purposes of exercising any functions imposed or conferred on an appropriate body by these Regulations in a case where a person serves an

induction period in more than one institution is to be determined by the National Assembly.

**Requirement to serve an induction period**

6. Subject to the exceptions in Schedule 1, no person is to be employed on or after 1 September 2005 as a teacher at a relevant school unless that person has satisfactorily completed an induction period in accordance with the following provisions of these Regulations in a school or an FE college to which regulation 7(1) refers.

**Institutions in which an induction period may be served**

7.—(1) Subject to paragraph (2), an induction period may only be served in —

- (a) a relevant school in Wales other than a community or foundation special school established in a hospital; or
- (b) in the circumstances prescribed in paragraph (3) an independent school in Wales; or
- (c) in the circumstances prescribed in paragraph (4) an FE college in Wales; or
- (d) a school or an FE college in England in which an induction period may be served under England’s Induction Regulations.

(2) An induction period may not be served in —

- (a) a school in Wales in respect of which the circumstances described in section 15(6)(a) and (b) of the 1998 Act apply, unless —
  - (i) the person in question began his or her induction period, or was employed as a graduate teacher or a registered teacher or on an employment-based teacher training scheme, at the school at a time when such circumstances did not apply, or
  - (ii) one of Her Majesty’s Inspectors of Education and Training in Wales has certified in writing that he or she is satisfied that the school is fit for the purpose of providing induction supervision and training; or
- (b) a pupil referral unit.

(3) The circumstances in which a person may serve an induction period in an independent school are —

- (a) in the case of a person who is employed to teach pupils at the third or fourth key stage, the curriculum of the school for pupils at those key stages includes all the core and other foundation subjects specified in relation to the third and fourth key stages in section 105(2) and (3) and section 106(2) and (3) of



the 2002 Act which such person is employed to teach; and

- (b) in all cases, the curriculum for all registered pupils at the first and second key stages meets the requirements of section 105(1) of the 2002 Act (the National Curriculum for Wales), other than in relation to assessment arrangements; and
- (c) in all cases, before the start of the induction period the proprietor of the school and either an authority or the persons or body determined by the National Assembly under regulation 5(1)(c) have agreed that the authority or the persons or body, as the case may be, are to act as the appropriate body in relation to the school.

(4) A person may not serve an induction period in an FE college in Wales unless before the start of the induction period the governing body of the college and an authority have agreed that the authority are to act as the appropriate body in relation to the college.

(5) A person may not serve an induction period in two or more institutions simultaneously unless before the start of the induction period the head teachers of all the institutions have agreed which of them is to act as the lead head teacher.

(6) In this regulation, “induction period” (“*cyfnod ymsefydlu*”) includes a part of an induction period.

### **Length of an induction period**

**8.**—(1) Subject to paragraphs (2) and (3) the length of an induction period is to be three school terms (“the three term rule”).

(2) The three term rule does not apply in the following circumstances—

- (a) where an induction period is served at an institution at which a school year does not consist of three school terms;
- (b) where an induction period is served by a person in part time service;
- (c) where an induction period is served in two or more institutions simultaneously;
- (d) where in the opinion of the appropriate body it is not appropriate that it applies.

(3) The length of an induction period where the three term rule does not apply is such length as the appropriate body determines.

### **Periods of employment counting towards an induction period**

**9.**—(1) Only periods of employment specified in paragraph (2) on or after 1 September 2003 as a qualified teacher count towards an induction period.

(2) For the purpose of paragraph (1), the periods of employment are:

- (a) a period of employment in an institution in Wales to which regulation 7(1) applies of not less than one school term in duration;
- (b) a period of employment in an institution or institutions in Wales to which regulation 7(1) applies of two half school terms which (disregarding holidays) are consecutive; or
- (c) in the case of an individual teacher a period of employment in an institution or institutions in Wales to which regulation 7(1) applies of such other length as the appropriate body considers appropriate;
- (d) a period of employment in a school or FE college in England if it would count towards an induction period under England's Induction Regulations.

### **Extension of an induction period before completion**

**10.**—(1) Where a person serving an induction period is absent from work for an aggregate period of thirty or more school days the appropriate body may extend the induction period by the aggregate period of the absences or by any lesser period as it considers appropriate.

(2) Where an induction period is extended under England's Induction Regulations and the person serving the induction period becomes employed at an institution in Wales, the induction period is to be treated as having been extended under this regulation.

(3) Except as provided for in this regulation an induction period may not be extended before its completion.

### **Service of more than one induction period**

**11.** Except as provided for in regulation 14 or 17, no person may serve more than one induction period.

### **Supervision and training during the induction period**

**12.** The head teacher of an institution in Wales in which a person serves an induction period and the appropriate body in relation to that institution is responsible for that person's supervision and training during the induction period.

### **Standards for determining whether a person has satisfactorily completed an induction period**

**13.** The National Assembly may determine the standards against which a person who has completed an induction period is to be assessed for the purpose of deciding whether that person has satisfactorily completed his or her induction period, and it may determine different standards in relation to different categories of persons.

### **Completion of an induction period**

**14.** —(1) This regulation applies where a person has completed an induction period if —

- (a) at the completion of the induction period, if that person is employed at an institution in Wales, or
- (b) at the completion of an induction period served in two or more institutions simultaneously, the lead head teacher's institution is in Wales.

(2) Within the period of ten working days beginning with the date on which the induction period was completed the head teacher of the institution at which the person is employed at the completion of the induction period —

- (a) must make a written recommendation to the appropriate body as to whether the person has achieved the standards mentioned in regulation 13, and
- (b) may, if the recommendation is that the standards have not been achieved, recommend that the induction period be extended and the length of such extension, and
- (c) must at the same time send a copy of the recommendation to the person concerned and,
  - (i) in the case of a relevant school or an FE college, to the governing body of the school or college at which the person is employed, or
  - (ii) in the case of an independent school, to the proprietor.

(3) The appropriate body must within the period of twenty working days beginning with the date on which it received the head teacher's recommendation under paragraph (2) decide whether the person who has completed an induction period —

- (a) has achieved the standards mentioned in regulation 13 and has accordingly satisfactorily completed his or her induction period; or

- (b) should have his or her induction period extended by such period as it determines;
- (c) has failed satisfactorily to complete his or her induction period.

(4) Before making a decision under paragraph (3) the appropriate body must have regard to any written representations received from the person concerned within the period of ten working days beginning with the date on which that person received a copy of the head teacher's recommendation under paragraph (2) (c).

(5) The appropriate body must within the period of three working days beginning with the date on which it made a decision under paragraph (3) —

- (a) give written notice of its decision to —
  - (i) the person concerned,
  - (ii) in the case of a relevant school or an FE college, the governing body of the school or college at which the person is employed,
  - (iii) in the case of an independent school, the proprietor,
  - (iv) the head teacher of the institution at which he or she was employed at the completion of the induction period,
  - (v) if that person is not employed by the appropriate body, his or her employer (if not entitled to receive a notice under paragraph (ii) or (iii) above), and
  - (vi) the Council; and
- (b) if the appropriate body made a decision falling within paragraph (3) (b) or (c), give the person concerned written notice of —
  - (i) his or her right to appeal to the Council against the decision,
  - (ii) the Council's address, and
  - (iii) the time period for making an appeal.

(6) Notice under paragraph (5) may be given to a person by facsimile, electronic mail or other similar means which are capable of producing a document containing the text of the communication, and a notice sent by such a method is to be regarded as given when it is received in legible form.

#### **Extension of an induction period pursuant to a decision of the appropriate body or the Council**

**15.**—(1) Regulations 7, 9 to 14, 16 and 17 and Schedule 2 apply in relation to a person serving an induction period extended following its completion by a decision of the appropriate body under regulation 14 or of the Council under regulation 17 as those

provisions apply in relation to the initial induction period.

(2) Regulations 7, 9 to 14, 16 and 17 and Schedule 2 also apply in relation to a person serving an induction period extended, following its completion, under England's Induction Regulations if that person is subsequently employed at an institution in Wales, as those provisions apply in relation to an initial induction period.

### **Termination of employment following failure to complete an induction period satisfactorily**

**16.**—(1) This paragraph applies to a person employed as a teacher at a relevant school in Wales who has failed satisfactorily to complete an induction period, whether in Wales or England.

(2) The employer of a person to whom paragraph (1) applies must secure the termination of that person's employment as a teacher if —

- (a) he or she does not appeal to the Council against the decision of the appropriate body; or
- (b) his or her appeal to the Council, or the appeal body under England's Induction Regulations, is dismissed.

(3) An employer must take the steps necessary to secure the termination of a person's employment in the circumstances mentioned in paragraph (2)(a) so that the termination takes effect within the period of ten working days beginning with the date on which —

- (a) the employer received written notification from such person that he or she did not intend to appeal to the Council; or
- (b) the time limit for appeal imposed by paragraph 2(1) of Schedule 2 expired.

(4) The employer must take the steps necessary to secure the termination of a person's employment in the circumstances mentioned in paragraph (2)(b) so that the termination takes effect within the period of ten working days beginning with the date on which the employer received notice of the outcome of the appeal hearing.

(5) The employer of a person —

- (a) to whom paragraph (1) applies, and
- (b) who appeals to the Council against the decision of the appropriate body or who appeals to the appeal body under England's Induction Regulations,

is not obliged to secure the termination of such person's employment as a teacher pending the outcome of the appeal provided such employer secures

that the person only undertakes such limited teaching duties as the National Assembly may determine.

### **Appeals**

**17.** —(1) Where the appropriate body decides under regulation 14 that a person —

- (a) should have his or her induction period extended; or
- (b) has failed satisfactorily to complete the induction period,

that person may appeal to the Council against the decision.

(2) Schedule 2 has effect in relation to appeals under this regulation.

(3) Where a person appeals against a decision to have an induction period extended, the Council may —

- (a) allow the appeal;
- (b) dismiss the appeal; or
- (c) substitute a different period of extension.

(4) Where a person appeals against a decision that he or she has failed satisfactorily to complete an induction period, the Council may —

- (a) allow the appeal;
- (b) dismiss the appeal; or
- (c) extend the induction period for such person as it thinks fit.

### **Other functions of the appropriate body**

**18.** The appropriate body may provide —

- (a) guidance, support and assistance to schools and FE colleges; and
- (b) training for teachers,

in connection with providing induction training, supervision and assessment under these Regulations.

(2) Subject to paragraph (3), where it is satisfied that it is appropriate to do so in order to take into account circumstances which materially affected a person's ability to serve an induction period, an appropriate body which is an authority may authorise a person who can no longer be employed under paragraph 4 of Schedule 1 to be employed as a short term supply teacher.

(3) In the first instance a person may only be employed as a short term supply teacher pursuant to paragraph (2) during a period of twelve months commencing on the date that he or she is first so employed (by any employer), and after that time only if the National Assembly consents to the appropriate body's authorisation.

### **Charges**

**19.** An appropriate body in relation to an independent school or an FE college may make a reasonable charge (not exceeding the cost of provision of the service) to the governing body of a school or an FE college for which it is the appropriate body in connection with any of its functions under these Regulations.

### **Guidance given by the National Assembly**

**20.** A person or body exercising a function under these Regulations must have regard to any guidance given by the National Assembly from time to time as to the exercise of that function.

Signed on behalf of the National Assembly for Wales  
under section 66(1) of the Government of Wales Act  
1998(1)

Date

The Presiding Officer of the National Assembly

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(1) 1998 c.38.

# SCHEDULE 1

## Regulation 6

### CASES IN WHICH A PERSON MAY BE EMPLOYED AS A TEACHER IN A RELEVANT SCHOOL WITHOUT HAVING SATISFACTORILY COMPLETED AN INDUCTION PERIOD

1. A person who on 1 April 2003 is a qualified teacher.
2. A person serving an induction period (including an induction period which has been extended before its completion under regulation 10 or after its completion under regulation 14 or 17).
3. A person who has failed satisfactorily to complete an induction period whose employment is subject to restriction under regulation 16(5) pending the outcome of an appeal.
4. A person employed as a short term supply teacher during a period of five years from the date when he or she became a qualified teacher.
5. A person employed as a short term supply teacher by virtue of regulation 18(2).
6. A person who can no longer be employed under paragraph 4 but who is employed as a short term supply teacher while serving an induction period in part-time service.
7. A person who is a school teacher within the meaning of section 122(5) of the 2002 Act<sup>(1)</sup>.
8. A person who has satisfactorily completed an induction period under England's Induction Regulations.
9. A person who has, or is eligible for, full registration as a teacher of primary or secondary education with the General Teaching Council for Scotland.
10. A person —

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<sup>(1)</sup> See the Education (School Teachers' Prescribed Qualifications, etc) Order 2003, S.I. 2003/1709.



- (a) who has successfully completed the induction stage of teacher education in Northern Ireland, or
- (b) was employed as a teacher in Northern Ireland at any time prior to the introduction of the induction stage of teacher training in Northern Ireland.

**11.** A person who as respects the profession of school teacher, falls within Article 3 of Council Directive 89/48 EEC(1) on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration, as extended by the Agreement of the European Economic Area signed at Oporto on 2 May 1992(2) as adjusted by the Protocol signed at Brussels on 17 March 1993(3), and as amended by the Agreement between the European Community and its member States of the one part and the Swiss Confederation of the other on the Free Movement of Persons signed at Luxemburg on 21 June 1999 and which came into force on 1 June 2002(4).

**12.** A person who has successfully completed a probationary period for teachers under arrangements approved and supervised by the Director of Education of Gibraltar.

**13.** A person who has successfully completed the States of Jersey Induction Programme for Newly Qualified Teachers.

**14.** A person who has been approved by the States of Guernsey Education Council as having successfully completed an induction period for teachers.

**15.** A person who has successfully completed an induction period for teachers under arrangements approved and supervised by the Isle of Man Department of Education.

**16.** A person who has successfully completed the Service Children's Education Schools Induction Programme in Germany or Cyprus.

**17.** A person who on or before 1 April 2003 —

- (a) was employed as a teacher at a relevant school in England or Wales; and
- (b) either —
  - (i) had successfully completed a course of initial training for teachers in schools at an educational institution in Scotland, or

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(1) O.J. No. L19, 24.1.89, p.16.  
(2) Cm.2073.  
(3) Cm.2183.  
(4) Cm.4904.

- (ii) was registered as a teacher of primary or secondary education with the General Teaching Council for Scotland.

**18.** A person who on or before 1 April 2003 —

- (a) was employed as a teacher at a relevant school in England or Wales; and
- (b) either —
  - (i) had successfully completed a course of initial training for teachers in schools at an educational institution in Northern Ireland, or
  - (ii) had been awarded confirmation of recognition as a teacher in schools in Northern Ireland by the Northern Ireland Department of Education, that confirmation not having been withdrawn at any time subsequent to the award.

**19.** A person who is a qualified teacher by virtue of regulation 5 of, and paragraph 12 of Schedule 2 to, the School Teachers' Qualifications Regulations or by virtue of regulation 10 of, and paragraph 10 of Schedule 3 to, the 1999 Regulations.

**20.** A person who is a qualified teacher by virtue of regulation 5 of, and paragraph 13 of Schedule 2 to, the School Teachers' Qualifications Regulations or by virtue of regulation 10 of, and paragraph 11 of Schedule 3 to, the 1999 Regulations.

**21.** A person who, under England's Induction Regulations, may be employed as a teacher in a relevant school in England without having satisfactorily completed an induction period.

**22.** A person who —

- (a) has successfully completed a programme of professional training for teachers in any country outside the United Kingdom and which is recognised as such by the competent authority in that country;
- (b) has no less than two years' full-time teaching experience, or its equivalent in the United Kingdom or elsewhere;
- (c) is a qualified teacher by virtue of regulation 5 of, and paragraph 9 or 10 of Schedule 2 to, the School Teachers' Qualifications Regulations or by virtue of regulation 10 of, and paragraph 7 of Schedule 3 to, the 1999 Regulations; and
- (d) has been assessed by a person approved by the National Assembly as meeting the standards mentioned in regulation 13.

**23.** A person who —

- (a) is a qualified teacher by virtue of regulation 5 of, and paragraph 10 of Schedule 2 to, the School Teachers' Qualifications Regulations and who became such a qualified teacher by satisfying the requirements of an employment based teacher training scheme otherwise than by successfully completing a period of training on the scheme; and
- (b) has been assessed by a person approved by the National Assembly as meeting the standards mentioned in regulation 13.

## SCHEDULE 2

### Regulation 17

## PROCEDURE FOR APPEAL AGAINST A DECISION OF THE APPROPRIATE BODY

### Interpretation

1. —(1) In this Schedule —

“appellant” (“*apelydd*”) means a person who brings an appeal pursuant to regulation 17 against a decision of the appropriate body under regulation 14;

“appropriate body” (“*corff priodol*”) means the appropriate body who took the decision subject to an appeal;

“disputed decision” (“*penderfyniad sy’n cael ei herio*”) means the matter in relation to which the appellant appeals to the Council; and

“proper officer” (“*swyddog priodol*”) means the person appointed by the Council to perform the duties of a proper officer under this Schedule.

### Time for and manner of making an appeal

2. —(1) An appeal is to be made by sending a notice of appeal to the proper officer so that it is received within the period of 20 working days beginning with the date on which the appellant received notice under regulation 14(5) (a) of the disputed decision.

(2) The Council may extend the time limit imposed by sub-paragraph (1), whether or not it has already expired, but must not do so unless it is satisfied that not to extend the time limit would result in substantial injustice.

(3) Where the appellant considers it likely that a notice of appeal will be received outside the time limit imposed by sub-paragraph (1) the notice of appeal may be accompanied by a statement of the reasons relied upon to justify the delay and the Council must consider any such statement in deciding whether or not to extend the time limit.

### **The notice of appeal**

3. —(1) The notice of appeal must state —

- (a) the name and address of the appellant;
- (b) the name and address of the school at which the appellant was employed at the end of the induction period;
- (c) the name and address of the appellant's employer, if any, at the date of the appeal;
- (d) the grounds of the appeal;
- (e) the name, address and profession of the person (if any) representing the appellant, and whether the Council should send documents concerning the appeal to the representative instead of to the appellant; and
- (f) whether the appellant requests that the appeal should be decided at an oral hearing.

(2) The notice of appeal must be signed by the appellant.

(3) The appellant must annex to the notice of appeal a copy of —

- (a) the notice given to the appellant by the appropriate body under regulation 14(5)(a) relating to the disputed decision;
- (b) any written statement given to the appellant by the appropriate body giving reasons for its decision; and
- (c) every other document on which the appellant relies for the purposes of the appeal.

### **Additional documents, amendment and withdrawal of the appeal**

4. —(1) The appellant may at any time before receiving notice of the date fixed for the hearing under paragraph 13 or of a decision of the Council under paragraph 11 —

- (a) send copies of such additional documents as he or she wishes to rely on for the purpose of the appeal to the proper officer;
- (b) amend or withdraw the appeal, or any part of it; or
- (c) amend or withdraw any material submitted in support of the appeal.

(2) The appellant may at any time take any step mentioned in sub-paragraph (1) with the leave of the Council.

(3) Where an appellant withdraws an appeal he or she may not bring a fresh appeal in relation to the disputed decision.

(4) An appeal may be amended or withdrawn by sending to the proper officer an amended notice of appeal or a notice stating that the appeal is withdrawn, as the case may be.

#### **Acknowledgement and notification of the appeal**

5. —(1) The proper officer must within the period of ten working days beginning with the date on which the Council received the notice of appeal —

- (a) send an acknowledgement of its receipt to the appellant;
- (b) send a copy of the notice of appeal and any accompanying documents to the appropriate body;
- (c) if a person or body other than the appropriate body is named as the appellant's employer in the notice of appeal, send a copy of the notice of appeal to that person or body; and
- (d) send a copy of the notice of appeal to the head teacher of the school or an FE college at which the appellant was employed at the completion of the induction period.

(2) Within the period of ten working days beginning with the date on which the Council received from the appellant any additional documents, amended grounds of appeal, amended documents submitted in support of an appeal or notice of withdrawal of an appeal, the proper officer must send a copy to the appropriate body.

#### **Request for further material**

6. —(1) Where the Council considers that the appeal could be decided more fairly and efficiently if the appellant provided further material, it may send to the appellant a notice inviting the appellant to supply that material within the period of ten working days beginning with the date of the notice.

(2) Where the Council sends a notice under sub-paragraph (1) the proper officer must at the same time inform the appropriate body that it has done so.

(3) The proper officer must within the period of ten working days beginning with the date on which the Council received further material under sub-paragraph (1) send a copy of it to the appropriate body.

#### **Reply by the appropriate body**

7. —(1) The appropriate body must send to the proper officer a reply fulfilling the requirements of paragraph 8 so that it is received within the period of 20 working days beginning with the date on which the appropriate body received a copy of the notice of appeal.

(2) The Council may extend the time limit imposed by sub-paragraph (1) whether or not it has already expired.

(3) The Council must allow the appeal where the appropriate body states in reply, or at any time states in writing, that it does not seek to uphold the disputed decision, and must do so within the period of ten working days beginning with the date on which the Council received notification that the appropriate body did not seek to uphold the disputed decision.

### **Contents of the reply**

**8.** —(1) The reply must state —

- (a) the name and address of the appropriate body;
- (b) whether the appropriate body seeks to uphold the disputed decision; and
- (c) in cases where the appropriate body seeks to uphold the disputed decision —
  - (i) the appropriate body's answer to each of the grounds of appeal supplied by the appellant,
  - (ii) whether or not the appropriate body requests an oral hearing, and
  - (iii) the name, address and profession of the person (if any) representing the appropriate body, and whether the Council should send documents concerning the appeal to that representative instead of to the appropriate body.

(2) The appropriate body must annex to the reply —

- (a) a copy of any document on which it wishes to rely for the purpose of opposing the appeal; and
- (b) where the appellant has not sent to the proper officer a copy of a written statement given to the appellant by the appropriate body giving reasons for its decision, a statement giving reasons for the decision.

### **Additional documents, amendment and withdrawal of the reply**

**9.** —(1) The appropriate body may at any time before it receives notice of the date fixed for the hearing under paragraph 13 or of a decision of the Council under paragraph 11 —

- (a) send copies of such additional documents as it wishes to rely on for the purpose of opposing the appeal to the proper officer;
- (b) amend or withdraw its reply, or any part of it;

- (c) amend or withdraw any material submitted in support of the reply.

(2) The appropriate body may at any time take any step mentioned in sub-paragraph (1) with the leave of the Council.

(3) A reply may be amended or withdrawn by sending to the proper officer an amended reply or a notice stating that the reply is withdrawn, as the case may be.

#### **Acknowledgement and notification of the reply**

**10.** —(1) The proper officer must within the period of ten working days beginning with the date on which the Council received the reply —

- (a) send an acknowledgement of its receipt to the appropriate body; and
- (b) send a copy of the reply and any accompanying documents to the appellant.

(2) Within the period of ten working days beginning with the date on which the Council received from the appropriate body any additional documents, amended reply, amended documents submitted in support of a reply, or notice of withdrawal of a reply, the proper officer must send a copy to the appellant.

#### **Power to decide the appeal without a hearing**

**11.** —(1) Where following the expiry of the period within which the appropriate body is required to send its reply neither the appellant nor the appropriate body has requested an oral hearing, and the Council does not consider an oral hearing is necessary, the Council may decide the appeal without an oral hearing.

(2) Where following the expiry of the period within which the appropriate body is required to send its reply the appropriate body has not done so, the Council may allow the appeal without an oral hearing.

(3) If the Council decides the appeal without an oral hearing, it must send notice of its decision as required by paragraph 17 so that it is received by the appellant and the appropriate body within the period of 20 working days beginning with the day following the day on which the time limit for sending a reply expired.

#### **Appeal hearing**

**12.** Paragraphs 13 to 16 apply where the appeal is to be decided on the basis of an oral hearing.

#### **Fixing a date for the hearing**

**13.** —(1) The Council must —



- (a) within the period of 20 working days beginning with the day following the date on which the time sending a reply expired; and
- (b) not before the day following the date on which the time for sending a reply expired,

fix a date for the hearing.

(2) The proper officer must on the same day as the Council fixes a date for the hearing send to the appellant and the appropriate body a notice —

- (a) informing them of the time and place of the hearing of the appeal;
- (b) giving guidance regarding the procedure which will apply to the hearing;
- (c) advising them of the consequences of not attending the hearing; and
- (d) informing them of the right to submit written representations if they do not attend the hearing.

(3) The date fixed for the hearing must not be less than 15 working days after the date of the notice.

#### **Action by the appellant and appropriate body on receiving notice of the hearing**

**14.** —(1) Not less than ten working days before the date fixed for the hearing the appellant and the appropriate body —

- (a) must inform the proper officer whether or not they intend to appear or be represented at the hearing;
- (b) must inform the proper officer which, if any, witnesses they intend to call at the hearing;
- (c) may, if they do not intend to appear or be represented at the hearing send to the proper officer any written representations in support of the material already sent to the proper officer.

(2) The proper officer must within the period of three working days beginning with the date on which representations are received send to each party a copy of any representations received by the proper officer from the other party under this paragraph.

#### **Alteration of place or time of the hearing**

**15.** —(1) The Council may alter the place or time of the hearing in such circumstances as it considers appropriate, provided that the altered date of the hearing is not earlier than the original date.

(2) Where the Council alters the place or time of the hearing the proper officer must without delay and in any event within the period of three working days beginning with the date on which the alteration was

made send a notice to the appellant and the appropriate body informing them of the alteration.

### **Procedure at the hearing**

**16.**—(1) Subject to the following provisions of this paragraph the Council must determine the procedure at the hearing of the appeal.

(2) The hearing of the appeal must be in public unless the Council determines that it is fair and reasonable for the hearing or any part of it to be in private.

(3) The appellant and the appropriate body may appear at the hearing and may be represented or assisted by any person.

(4) If the appellant or the appropriate body fails to attend the hearing, the Council may hear, and provided it has considered any representations made by the party concerned under paragraph 14, determine, the appeal in that party's absence.

(5) Subject to sub-paragraph (6) the appellant and the appropriate body may give evidence, call witnesses, question any witnesses and address the Council both on the evidence and generally on the subject matter of the appeal.

(6) The Council may at any point in the hearing limit the rights of either party under sub-paragraph (5) provided it is satisfied that to do so will not prevent the appeal from being decided fairly.

(7) The Council may adjourn the hearing, but must not do so unless it is satisfied that it is necessary to do so in order for the appeal to be decided fairly.

(8) The time and place for an adjourned hearing must either be announced before the adjournment or the Council must without delay and in any event within the period of three working days beginning with the date of the adjournment send notice to the appellant and the appropriate body informing them of the time and place of the adjourned hearing.

### **Decision of the Council**

**17.**—(1) The decision of the Council may be made and announced at the end of the hearing, but in any event, whether there has been a hearing or not, must be recorded immediately it is made in a document which must also contain a statement of the reasons for the decision and must be signed and dated by a person authorised by the Council.

(2) The Council must within the period of five working days beginning with the date on which it made its decision —

- (a) send a copy of the document referred to in sub-paragraph (1) to the appellant, the

appropriate body and the head teacher of the school or an FE college at which the appellant was employed at the completion of the induction period; and

- (b) if a person or body other than the appropriate body is named as the appellant's employer in the notice of appeal, notify that body or person of its decision.

### **Irregularities**

**18.**—(1) Any irregularity resulting from failure to comply with any provision of this Schedule before the Council has reached its decision shall not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Council it may, and must if it considers either party may have been prejudiced by the irregularity, give such directions as it thinks just, before reaching its decision, to cure or waive the irregularity.

### **Documents**

**19.**—(1) Anything required to be sent to a person for the purposes of an appeal under this Schedule may be —

- (a) delivered to that person personally; or
- (b) sent to that person at his or her appropriate address by post; or
- (c) sent to him or her by facsimile or electronic mail or other similar means which are capable of producing a document containing the text of the communication, in which case the document is to be regarded as sent when it is received in a legible form.

(2) A person's appropriate address is the address stated in the notice of appeal or reply, or such other address as may be subsequently notified to the proper officer.