

SL(5)565 – The Education (Induction Arrangements for School Teachers) (Wales) (Amendment) (Coronavirus) Regulations 2020

Background and Purpose

The Education (Induction Arrangements for School Teachers) (Wales) (Amendment) (Coronavirus) Regulation 2020 (“the Regulations”) are made under sections 17 and 47(1) of the Education (Wales) Act 2014. The Regulations amend the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2015 (“the 2015 Regulations”).

The 2015 Regulations provide that newly qualified teachers (“NQTs”) must undertake a statutory induction period comprising of three school terms, or 380 sessions, in a school or, in certain circumstances, another institution. NQTs can count periods of employment undertaken on a full-time or part-time basis towards this requirement. Due to the re-purposing of schools in response to the Covid-19 pandemic, some NQTs who are undertaking their induction on a part-time basis are not able to meet the 380 session requirement during the current academic year. This is likely to also affect the 2020-2021 academic year.

The Regulations therefore amend the 2015 Regulations to:-

- (i) allow the “appropriate body”, namely the local authority, to reduce the required induction period for a person to a minimum of 110 school sessions, provided that the person consents (the standards required of the person undertaking the induction will remain unchanged); and
- (ii) allow sessions of professional learning to count towards a person’s induction period, subject to certain conditions. These sessions must not exceed 16% of the total length of the induction period.

Procedure

Negative.

Technical Scrutiny

One point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. That for any particular reason its form or meaning needs further explanation.

Regulation 7 of the Regulations inserts a new Regulation 7A into the 2015 Regulations. This states that a session of professional learning undertaken by a person may count towards that person’s induction period, subject to three conditions. One of the conditions is that the learning takes place between 26 March 2020 and 31 August 2021 and another condition is that such learning is approved by the appropriate body, which would be the relevant local authority.

It is not clear from the drafting of Regulation 7A:

- (i) What standards a local authority is required to apply in order to approve professional learning sessions. The Regulations do not define what is meant by “professional learning sessions”. They



are silent as to what form or content a learning session should have in order for it to be approved and they do not provide for any guidance to be issued on this point. Alternatively, the Regulations are silent as to whether it is entirely at the discretion of the local authority as to what form or content the sessions must have in order to gain the approval of the authority.

- (ii) Whether the local authority is required to have approved any professional learning sessions prior to the sessions taking place or whether they may approve them after the event. If it is the case that the sessions must be approved before taking place then this means that any sessions which took place after 26 March 2020 but before the Regulations come into force on 15 July 2020 will not be able to achieve the status of professional learning sessions for the purpose of the Regulations. Alternatively, if the local authority is permitted to retrospectively approve sessions which took place after 26 March 2020 but before the Regulations come into force on 15 July 2020, the power to do so should be included on the face of the Regulations for the purpose of clarity.

It is noted that paragraph 5.2 of the Explanatory Memorandum states that "Revised guidance will be published and shared with stakeholders prior to the 2020 Regulations coming into force to ensure that those involved in induction will be able to clearly understand the changes made." There is no indication as to whether this guidance will address the issues raised in this technical scrutiny point.

Merits Scrutiny

Three points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

Regulation 7 inserts a new Regulation 7A into the 2015 Regulations. This permits a session of professional learning undertaken by a person to count towards that person's induction period, subject to three conditions. One of the conditions is that the sessions must have taken place during the period commencing on 26 March 2020 and ending on 31 August 2021. The start date for this period pre-dates the date upon which the Regulations will come into force on 15 July 2020. Consideration has been given as to whether this gives the Regulations retrospective effect, in that they change the law of the past. It is considered that these Regulations do not have retrospective effect as they do not change the law of the past, but state that any sessions of professional learning which were undertaken since 26 March 2020 will, from the date upon which these Regulations come into force, be treated as professional learning sessions for the purpose of the induction arrangements, as amended by these Regulations.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

Regulation 2 of the Regulations states that the Regulations expire on 31 August 2021. The Explanatory Memorandum to the Regulations sets out that:

"This is considered a suitable expiry date because it should allow sufficient time for the current cohort of NQTs and those starting in September 2020 to complete their induction period. Welsh Government will review the 2020 Regulations following the conclusion of one school term of the 2020/21 academic year to consider whether they are still appropriate and will continue to review them termly thereafter."



The Regulations will continue to have limited effect after 31 August 2021 in that where a person undertakes a session of professional learning which satisfies the conditions of the new Regulation 7A of the 2015 Regulations (as inserted by these Regulations), then such sessions may count towards that person's induction period as if they were school sessions after the expiry of these Regulations (provided that the maximum number of such sessions is 18). The expiry of the Regulations on 31 August 2021 will not affect the validity of anything done under the Regulations before that date.

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

It is noted that no formal consultation has taken place in relation to the Regulations. The Explanatory Memorandum notes that this is due to the urgency required to introduce this change of policy in response to the COVID-19 situation. The Explanatory Memorandum further notes that officials have engaged with key stakeholders and workforce unions in the development of the Regulations.

Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A Welsh Government response is required in relation to both parts of the technical scrutiny point.

Legal Advisers

Legislation, Justice and Constitution Committee

30 June 2020



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee