

Draft Order laid before the National Assembly for Wales under section 150(2) of the Welsh Language (Wales) Measure 2011, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2011 No. (W.)

WELSH LANGUAGE, WALES

**The Welsh Language
Commissioner (Appointment)
Regulations 2011**

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Welsh Language (Wales) Measure 2011 (“the Measure”) creates the office of Welsh Language Commissioner (“the Commissioner”). Section 2 of the Measure provides that the Commissioner is appointed by the First Minister.

In appointing the Commissioner, the First Minister is under a duty to comply with regulations that make provision about the appointment (referred to in the Measure as “appointment regulations”).

Paragraph 7(1) of Schedule 1 to the Measure imposes a duty upon the Welsh Ministers to make appointment regulations.

Paragraph 7(2) of Schedule 1 to the Measure provides that appointment regulations must make provision about the establishment of a panel of persons who are to interview candidates for appointment as Commissioner and make recommendations to the First Minister in relation to that appointment (referred to in the Measure as a “selection panel”).

Paragraphs 7(3) to (6) of Schedule 1 to the Measure provide that appointment regulations may make provision about the principles to be followed in appointing the Commissioner and the knowledge of, and proficiency in, the Welsh language of the Commissioner, amongst other matters.

The Welsh Ministers make these regulations to comply with their duty to make appointment regulations. These regulations make provision about

convening a selection panel and its membership. These regulations also make provision about the principles to be followed by the First Minister in appointing the Commissioner and the Welsh language knowledge and proficiency that a person appointed as Commissioner must have.

Regulation 2 imposes a duty upon the Welsh Ministers to convene a selection panel when requested by the First Minister to do so. A selection panel established for appointing the Commissioner will include a member of staff of the Welsh Assembly Government (known as “the Welsh Government”); an independent assessor; a person with experience of the promotion of the use of Welsh and/or another language; and an Assembly Member nominated by a committee of the National Assembly for Wales. In the event that a committee declines or fails to make a nomination, regulation 2 permits the Welsh Ministers to convene a section panel which does not include an Assembly Member.

Regulation 3 prevents a person who holds or has held the post of Commissioner or Deputy Welsh Language Commissioner from sitting on a selection panel.

Regulation 4 imposes a duty upon the First Minister, in appointing the Commissioner, to follow the principles of ministerial responsibility; merit; independent scrutiny; equal opportunities; probity; openness and transparency; and proportionality taking into account the description of those principles set out in the Commissioner for Public Appointments’ Code of Practice for Ministerial Appointments to Public Bodies of August 2009. A copy of the Code of Practice of August 2009 can be found on the Commissioner for Public Appointments’ website: www.publicappointmentscommissioner.org/

Regulation 5 makes provision in relation to the knowledge of, and proficiency in, the Welsh language that a person appointed as Commissioner must have.

A Regulatory Impact Assessment for these regulations has been prepared and a copy can be obtained from the Welsh Language Unit, Department for Education and Skills, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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Made

Coming into force

29 June 2011

The Welsh Ministers, in exercise of the powers conferred by section 2(3) of, and paragraph 7 of Schedule 1 to, the Welsh Language (Wales) Measure 2011⁽¹⁾, make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Welsh Language Commissioner (Appointment) Regulations 2011.

(2) These Regulations come into force on the 29 June 2011 and apply in relation to Wales.

Establishment of a selection panel

2.—(1) Upon being requested to do so by the First Minister the Welsh Ministers must convene a selection panel for the purposes of paragraph 7(2) of Schedule 1 to the Welsh Language (Wales) Measure 2011.

(2) Subject to paragraph (3), a selection panel must comprise of—

- (a) a member of staff of the Welsh Assembly Government;
- (b) a person accredited by the Office of the Commissioner for Public Appointments to act as an independent appointments assessor;

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- (c) a person who appears to the Welsh Ministers to possess relevant experience; and
 - (d) a member of the National Assembly for Wales nominated by a relevant committee.
- (3) Where a relevant committee either:
- (a) declines to make a nomination; or
 - (b) fails to make a nomination within a reasonable time,
- paragraph (2)(d) of this regulation does not apply.
- (4) In this regulation—
- “relevant committee” (*“pwyllgor perthnasol”*) means a committee of the National Assembly for Wales invited by the Welsh Ministers to make a nomination;
- “relevant experience” (*“profiad perthnasol”*) means experience of the promotion of the use of Welsh and/or another language.

Disqualified persons

3. A person who holds or has held the post of the Commissioner or the Deputy Commissioner is disqualified from sitting on a selection panel.

Principles to be followed

4. In appointing the Commissioner the First Minister must follow the principles of ministerial responsibility, merit, independent scrutiny, equal opportunities, probity, openness and transparency and proportionality taking into account the description of those principles in the Commissioner for Public Appointments’ Code of Practice for Ministerial Appointments to Public Bodies of August 2009.

Welsh language knowledge and proficiency

5.—(1) In interviewing candidates for appointment as Commissioner, a selection panel must assess each candidate’s knowledge of, and proficiency in, the Welsh language.

(2) A selection panel’s recommendations to the First Minister in relation to the appointment must include the panel’s assessment of the knowledge of, and proficiency in, the Welsh language of each candidate.

(3) Before appointing a person as Commissioner the First Minister must be satisfied that the person has sufficient knowledge of, and proficiency in, the Welsh language to exercise the functions of the Commissioner.

Name

Minister for Education and Skills, one of the Welsh
Ministers

Date