

2013 No. 3139 (W. 312)

WELSH LANGUAGE, WALES

**The Welsh Language Tribunal
(Appointment) Regulations 2013**

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Welsh Language (Wales) Measure 2011 (“the Measure”) establishes a Welsh Language Tribunal (“the Tribunal”). The Tribunal will comprise of a President, legally qualified members and lay members. Section 120 of the Measure provides that the Welsh Ministers appoint the members of the Tribunal.

Paragraph 9(1) of Schedule 11 to the Measure enables the Welsh Ministers to make provision, by way of regulations, about the appointment of members of the Tribunal (referred to in the Measure as “appointment regulations”).

Paragraph 9 of Schedule 11 to the Measure also provides that the appointment regulations may, amongst other things;

- (a) make provision about principles to be followed in making any appointment to the Tribunal (paragraph 9(2)(a));
- (b) make provision about the knowledge of, and proficiency in, the Welsh language which the members of the Tribunal must have (paragraph 9(2)(b));
- (c) apply (with or without modifications) any code of practice that is concerned with appointments to public bodies (paragraph 9(3)(a));
- (d) make other provision relating to any such code (paragraph 9(3)(b));
- (e) confer functions on the Welsh Ministers (as well as any other person) including functions involving the exercise of a discretion (paragraph 9(4)).

These Regulations place duties on the Welsh Ministers in making appointments to the Tribunal.

Regulation 2 requires appointments by the Welsh Ministers to be on the grounds of merit, and that the person appointed must be of good character. Regulation 3 requires them to have regard to the need to uphold the independence of the Tribunal and the rule of law when making appointments. Under regulation 4, the Welsh Ministers must not appoint a person to be President unless they are satisfied that the person has sufficient knowledge of, and proficiency in, the Welsh language. When appointing the other members of the Tribunal, the Welsh Ministers are under a duty to have regard to the knowledge of, and proficiency in, the Welsh language of the Tribunal's members, when taken as a whole.

Regulation 5 requires the Welsh Ministers to have regard to the need to encourage diversity in the range of people they appoint as members of the Tribunal.

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

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(Appointment) Regulations 2013**

Made 10 December 2013

Laid before the National Assembly for Wales
12 December 2013

Coming into force 7 January 2014

The Welsh Ministers, in exercise of the powers conferred by section 120(4) of, and paragraph 9 of Schedule 11 to, the Welsh Language (Wales) Measure 2011(1), make the following Regulations:

Title and commencement

1.—(1) The title of these Regulations is the Welsh Language Tribunal (Appointment) Regulations 2013.

(2) These Regulations come into force on 7 January 2014.

Merit and good character

2.—(1) The Welsh Ministers must appoint members of the Tribunal(2) based on the merit of those persons to be appointed.

(2) The Welsh Ministers must not appoint a person as a Tribunal member unless they are satisfied that the person to be appointed is of good character.

Principles to be followed

3. In appointing the members of the Tribunal the Welsh Ministers must have regard to the need to uphold the principles of the—

- (a) independence of the Tribunal; and
- (b) the rule of law.

(1) 2011 nawm 1.

(2) See section 120(2) of the Measure.

Welsh language, knowledge and proficiency

4.—(1) The Welsh Ministers must not appoint a person to be the President of the Tribunal unless they are satisfied that the person has sufficient knowledge of, and sufficient proficiency in, the Welsh language.

(2) When appointing members of the Tribunal, other than the President, the Welsh Ministers must have regard to the knowledge and proficiency in the Welsh language of the Tribunal's members, when taken together.

(3) This regulation is subject to regulations 2 and 3.

Encouragement of diversity

5. The Welsh Ministers must have regard to the need to encourage diversity in the range of persons they appoint as members of the Tribunal.

Carwyn Jones

The First Minister of Wales

10 December 2013