
WELSH STATUTORY INSTRUMENTS

2003 No. 542 (W.76)

EDUCATION, WALES

**The Education (Supply of Information)
(Wales) Regulations 2003**

Made - - - - - *5th March 2003*

Coming into force - - - - - *31st March 2003*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by sections 15, 15A and 42(6) and (7) of, and Schedule 2 to, the Teaching and Higher Education Act 1998⁽¹⁾ and now vested in the National Assembly for Wales⁽²⁾, and after consulting the General Teaching Council for Wales in accordance with section 42(9) of the Act.

Name, commencement and application

1.—(1) These Regulations are called the Education (Supply of Information) (Wales) Regulations 2003 and shall come into force on 31st March 2003.

(2) These Regulations apply to Wales.

Revocation

2. Regulation 4 of the Education (Restriction of Employment) (Wales) Regulations 2000⁽³⁾ and regulation 28 of the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001⁽⁴⁾ are revoked.

Interpretation

3. Except where the context otherwise requires, in these Regulations —

“the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998;

“agent” (“*asiant*”) has the meaning given by section 15A(1) of the 1998 Act;

(1) 1998 c. 30. Schedule 2 applies in relation to the Council by virtue of section 9 of the 1998 Act and the General Teaching Council for Wales Order 1998 (S.I.1998/2911). Section 15 is substituted and section 15A is inserted by paragraph 83 of Schedule 21 to the Education Act 2002 (c. 32). For the meaning of prescribed see section 43(1) of the 1998 Act.

(2) See section 211 of the Education Act 2002 and the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(3) S.I. 2000/2906 (W.186).

(4) S.I. 2001/1424 (W.99).

“arrangements” (“*arrangements*”) means arrangements of the kind referred to in section 15A(1) of the 1998 Act for a worker to carry out work in Wales;

“Committee” (“*Pwyllgor*”) means an Investigating Committee, a Professional Competence Committee or a Professional Conduct Committee established under the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001;

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

“Investigating Committee” (“*Pwyllgor Ymchwilio*”) means a committee established under regulation 3(1) of the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001;

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

“registered teacher” (“*athro neu athrawes gofrestredig*”) means —

- (a) a person for the time being registered under section 3 of the 1998 Act;
- (b) a person who was registered under section 3 of the 1998 Act at the time of any alleged conduct or offence on his or her part; or
- (c) a person who has made an application to be registered under section 3 of the 1998 Act;

“relevant employer” (“*cyflogwr perthnasol*”) has the meaning given by section 142 of the Education Act 2002(5);

“relevant issue” (“*mater perthnasol*”) means an issue which arises where the circumstances of the case, including occasions of conduct other than that in question, are such as to raise an issue concerning the safety and welfare of children;

“services” (“*gwasanaethau*”) means services provided to a relevant employer in Wales and includes professional and voluntary services; and

“worker” (“*gweithiwr*”) has the meaning given to it by section 15A(1) of the 1998 Act.

Employer’s reports

4. Where a relevant employer —

- (a) has ceased to use a person’s services on a ground —
 - (i) that the person is unsuitable to work with children;
 - (ii) relating to the person’s misconduct; or
 - (iii) relating to the person’s health where a relevant issue is raised, or
- (b) might have ceased to use a person’s services on such a ground had the person not ceased to provide those services,

the employer must report the facts of the case and provide all the information listed in Part I of the Schedule that is available to the employer in relation to such person to the National Assembly.

5.—(1) Where a relevant employer —

- (a) has ceased to use the services of a person who is a registered teacher on a ground relating to his or her professional incompetence; or
- (b) might have ceased to use the services of a person who is a registered teacher on a ground relating to his or her professional incompetence had he or she not ceased to provide those services,

the employer must report the facts of the case and provide all the information listed in Part I of the Schedule that is available to the employer in relation to such person to the Council.

(2) The Council must make all information provided to them under this regulation available to an Investigating Committee.

Agent's reports

6. Where an agent —

- (a) has terminated arrangements on a ground —
 - (i) that the worker is unsuitable to work with children;
 - (ii) relating to the worker's misconduct; or
 - (iii) relating to the worker's health where a relevant issue is raised;
- (b) might have terminated arrangements on such a ground if the worker had not terminated them; or
- (c) might have refrained from making new arrangements for a worker on such a ground if the worker had not ceased to make himself or herself available for work,

the agent must report the facts of the case and provide all the information listed in Part II of the Schedule that is available to the agent in relation to the worker to the National Assembly.

7.—(1) Where an agent —

- (a) has terminated arrangements for a worker who is a registered teacher to carry out work on a ground relating to his or her professional incompetence;
- (b) might have terminated arrangements on a ground relating to his or her professional incompetence if the worker had not terminated them; or
- (c) might have refrained from making new arrangements for a worker who is a registered teacher on a ground relating to his or her professional incompetence if the worker had not ceased to make himself or herself available for work,

the agent must report the facts of the case and provide all the information listed in Part II of the Schedule that is available to the agent in relation to the registered teacher to the Council.

(2) The Council must make all information provided to them under this regulation available to an Investigating Committee.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(6)

5th March 2003

D. Elis-Thomas
The Presiding Officer of the National Assembly

SCHEDULE

PART 1

Information to be supplied by a relevant employer

1. A statement of reasons for ceasing to use the person's services.
2. Employer's records relating to the cessation of the use of the person's services or any contemplated cessation, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the employer.
3. Employer's records relating to the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his or her services, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the employer.
4. Employer's letters, warnings or notices issued to a person in relation to the cessation of the use of his or her services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his or her services, and the person's replies or representations in relation thereto.
5. Any other statements, representations and evidence submitted by a person to the employer in relation to the cessation of the use of his or her services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his or her services.
6. Letter advising a person's intention to cease to provide services.
7. Any other document or information which the employer considers is relevant to any investigation which may be carried out by an Investigating Committee or any proceedings which may be taken by a Committee against a registered teacher.

PART II

INFORMATION TO BE SUPPLIED BY AN AGENT

1. A statement of reasons for terminating the arrangements.
2. Any records relating to the termination of the arrangements or any contemplated termination, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the agent.
3. Any records relating to the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself or herself available for work, have led the agent to refrain from making new arrangements, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the agent.
4. Agent's letters, warnings or notices issued to a person in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself or herself available for work, have led the agent to refrain from making new arrangements, and the worker's replies or representations in relation thereto.

5. Any other statements, representations and evidence submitted by a person to the agent in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself or herself available for work, have led the agent to refrain from making new arrangements.

6. Worker's letter terminating arrangements or ceasing to make himself or herself available for work.

7. Any other document or information which the agent considers is relevant to any investigation which may be carried out by an Investigating Committee or any proceedings which may be taken by a Committee against a registered teacher.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require the employers of teachers and of others whose work relates to the provision of education and supply agencies to report cases of misconduct to the National Assembly for Wales ("the National Assembly"), and cases of incompetence to the General Teaching Council for Wales ("the Council").

Employers must make a report to the National Assembly if they cease to use a person's services on a specified ground or if they might have done so had that person not already ceased to provide his or her services. The specified grounds are a person's unsuitability to work with children, a person's misconduct and a person's health where that concerns the safety and welfare of children. Where the ground relates to a registered teacher's incompetence, the report must be made to the Council.

Agents must make a report to the National Assembly if they have arranged for a worker to carry out work on behalf of a local education authority, a governing body or a proprietor of an independent school and terminate those arrangements on a specified ground, or might have done so had the worker not already terminated the arrangements or ceased to be available for work. The specified grounds are a person's unsuitability to work with children, a person's misconduct and a person's health where that concerns the safety and welfare of children. Where the ground relates to a registered teacher's incompetence, the report must be made to the Council.

The Schedule sets out the information to be provided in the reports.