



# Education (Wales) Act 2014

2014 anaw 5

## PART 1

### INTRODUCTION

#### 1 Overview

- (1) This Part gives an overview of the content of this Act.
- (2) Part 2 makes provision about—
  - (a) the reform of the General Teaching Council for Wales and its renaming as the Education Workforce Council;
  - (b) the registration of certain persons who educate children and young people;
  - (c) the regulation of registered persons, including—
    - (i) the obligation of registered persons to comply with a code specifying the standards of professional conduct and practice;
    - (ii) the action that can be taken against a registered person;
  - (d) the sharing of information about registered persons.
- (3) Part 3 makes provision about—
  - (a) the fixing of term and holiday dates for schools in Wales;
  - (b) the times of school sessions;
  - (c) the appointment of persons to Her Majesty's Inspectorate of Education in Wales;
  - (d) education functions of local authorities which, by virtue of section 25 or 26 of the School Standards and Organisation (Wales) Act 2013, are to be treated for all purposes as exercisable by persons directed by the Welsh Ministers.
- (4) Part 4 makes general provision in relation to the Act.
- (5) An index of the defined words and expressions used in this Act is provided in Schedule 4.

## **PART 2**

### **EDUCATION WORKFORCE**

#### *Education Workforce Council*

#### **2 Education Workforce Council**

- (1) The body corporate established in pursuance of section 8 of the [Teaching and Higher Education Act 1998 \(c. 30\)](#) and known as the General Teaching Council for Wales—
  - (a) is to continue to exist, but
  - (b) is to change its name to (and now be known as) the “Education Workforce Council” (in this Act referred to as “the Council”).
- (2) Schedule 1 (which makes provision about the constitution and powers of the Council) has effect.

#### **3 Aims of the Council**

The principal aims of the Council are—

- (a) to contribute to improving the standards of teaching and the quality of learning in Wales, and
- (b) to maintain and improve standards of professional conduct amongst teachers and persons who support teaching and learning in Wales.

#### **4 Functions of the Council**

- (1) The Council’s main functions are—
  - (a) to provide advice on matters related to the persons which it regulates and teaching and learning in accordance with section 7;
  - (b) to undertake activities to promote careers in registrable professions in accordance with section 8;
  - (c) to establish and maintain a register in accordance with section 9;
  - (d) to keep itself informed about the induction of persons in accordance with section 17 and to hear appeals in relation to induction decisions in accordance with section 19;
  - (e) to review and revise the code which specifies standards of professional conduct and practice for registered persons in accordance with section 24;
  - (f) to investigate unacceptable professional conduct and professional incompetence and take appropriate action in respect of registered persons in accordance with section 26;
  - (g) to hold such information about persons as may be specified in accordance with section 33 and to provide information to such bodies as may be specified in accordance with section 35.
- (2) The Council also has the additional functions conferred on it by virtue of—
  - (a) this Act;
  - (b) an order under section 5;
  - (c) any other enactment.

- (3) The functions conferred on the Council by or under this Part are exercisable by it only in relation to Wales.

## **5 Power to add functions**

- (1) The Welsh Ministers may by order confer or impose on the Council such additional functions as they consider appropriate.
- (2) Before making an order under subsection (1) the Welsh Ministers must consult such persons as they consider appropriate.

## **6 Directions**

- (1) The Council must comply with any direction (general or specific) given to it by the Welsh Ministers.
- (2) A direction may not be given in respect of—
- (a) a specific application for registration under section 9;
  - (b) an appeal relating to such an application;
  - (c) a specific disciplinary case under section 26.
- (3) The Welsh Ministers must publish a direction given under this section in such manner as they consider appropriate.
- (4) The Welsh Ministers may vary or revoke a direction (and subsection (3) applies in relation to any document varying or revoking a direction as it applies to a direction).

### *Provision of advice and promotion of careers*

## **7 Provision of advice by the Council**

- (1) The Welsh Ministers may require the Council to provide advice—
- (a) to them on—
    - (i) a relevant matter, or
    - (ii) any other matter relating to teaching or learning, and
  - (b) to another person on a relevant matter.
- (2) For the purposes of this section the “relevant matters” are—
- (a) standards of services provided by registered persons;
  - (b) standards of conduct for registered persons;
  - (c) the fitness to practise of registered persons;
  - (d) the roles of the professions represented in the categories of registration;
  - (e) the standing of each of those professions;
  - (f) the training, career development and performance management of registered persons;
  - (g) the recruitment to and retention of registered persons in each category of registration;
  - (h) the supply of registered persons.
- (3) The Council may also provide such advice on relevant matters as it considers appropriate to such persons as it may determine.

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- (4) The Council must, every two months, notify the Welsh Ministers in writing of any advice it has given on relevant matters during the preceding two months, and of the recipient of that advice.
- (5) Advice given under this section in relation to relevant matters must be of a general nature.
- (6) The Council may, with the consent of the Welsh Ministers, publish any advice it gives under this section.

## **8 Promotion of careers**

- (1) The Council must undertake such activities as the Welsh Ministers may require with a view to promoting careers, and the development of careers, in the registrable professions in Wales.
- (2) The activities that may be required may include, in particular—
  - (a) giving advice;
  - (b) organising conferences and lectures;
  - (c) publishing promotional materials.
- (3) For the purposes of section 4(1)(b) and this section, the reference to careers in the registrable professions is a reference to careers providing the services described in relation to a category of registration (for example, teaching).

### *Registration of education workforce*

## **9 Register**

- (1) The Council must establish and maintain a register for the purposes of this Part.
- (2) The register must contain the name of every person who is eligible for registration under section 10 and applies to be registered.
- (3) The register must comprise the categories set out and described in table 1 of Schedule 2 (the “categories of registration”).
- (4) Each registered person must be registered in at least one category of registration.
- (5) A person may be registered on a provisional basis.

## **10 Eligibility for registration**

- (1) A person is eligible for registration if the person meets the conditions in this section.
- (2) The first condition is that the person—
  - (a) meets the description of a category of registration and has satisfactorily completed any period of induction required by virtue of section 17, or
  - (b) satisfies such requirements for provisional registration as the Welsh Ministers may by regulations specify.
- (3) The second condition is that the person is not—

- (a) barred from regulated activity relating to children (within the meaning of section 3(2) of the [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#)),
  - (b) subject to a disciplinary order made under this Act by virtue of which the person is ineligible to register, or
  - (c) disqualified from working in a post equivalent to the category of registration for which registration is sought in another part of the United Kingdom.
- (4) The third condition is that, at the time of registration, the Council is satisfied that the applicant is a suitable person to be registered in the category of registration for which registration is sought.
- (5) In exercising its functions under subsection (4), the Council must have regard to any guidance issued by the Welsh Ministers.
- (6) The Welsh Ministers may by order amend subsection (3) to specify such additional grounds of ineligibility as they consider necessary or expedient.
- (7) Before making an order under subsection (6) the Welsh Ministers must consult such persons or bodies as they consider appropriate.

## **11 Appeals against refusal of registration**

- (1) A person whose application for registration has been refused by the Council on the ground that the Council was not satisfied as to the applicant's suitability under section 10(4) may appeal against the decision to the High Court.
- (2) An appeal under subsection (1) must be made within the period of 28 days beginning with the date on which the notice of the decision is served on the applicant.
- (3) In respect of such an appeal, the High Court may make any order which it considers appropriate.
- (4) The decision of the High Court is final (and may not be appealed).

## **12 Registration fees**

- (1) The Welsh Ministers may by regulations make provision about the fees which may be payable in connection with registration (including fees for restoration to, or retention in, the register).
- (2) Regulations under this section may, in particular, make provision—
- (a) authorising the Council to charge and recover fees;
  - (b) about the amount of the fees (and who is to determine the amount);
  - (c) about any exceptions and exemptions which may or must apply;
  - (d) requiring employers of registered persons—
    - (i) to deduct (or arrange for the deduction) from the salary of a registered person any fee payable, and
    - (ii) to remit that fee to the Council;
  - (e) about the arrangements to be adopted by employers in pursuance of paragraph (d);
  - (f) about the administration charges which may be deducted by employers from any fees remitted to the Council;

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- (g) about the consequences of failing to pay fees (which may include refusal to register, or removal from the register).
- (3) In this section, “salary” includes any remuneration payable in respect of services provided by a registered person.

### **13 Registration: further provision**

- (1) The Welsh Ministers may by regulations make such further provision about the register and registration as they consider necessary or expedient.
- (2) Regulations under this section may, in particular, make provision about—
- (a) the form and content of the register;
  - (b) the form and manner in which applications for registration are to be made;
  - (c) the documentary and other evidence which is to accompany applications;
  - (d) how an applicant is to be informed of—
    - (i) the decision on whether to grant or refuse an application for registration, and
    - (ii) in the case of a refusal to register, the grounds on which the application was refused and the applicant’s right to appeal the decision;
  - (e) the matters which are to be recorded in the register against the names of those registered in it;
  - (f) the restoration and alteration of entries;
  - (g) the removal of entries from the register in such circumstances as the regulations may specify;
  - (h) the issue and form of certificates of registration;
  - (i) the information contained in the register which may be made available for inspection by members of the public and the circumstances in which and the conditions subject to which that information may be made available.

*Requirements to be satisfied to provide services*

### **14 School teachers and school learning support workers**

- (1) The Welsh Ministers may by regulations provide that specified services may not be provided by a person in a school unless—
- (a) the person—
    - (i) is a qualified teacher (see section 132 of the 2002 Act), or
    - (ii) satisfies specified requirements, and
  - (b) the person is registered in a specified category of registration.
- (2) Regulations under subsection (1) specifying services for the purpose of this section may make provision by reference to—
- (a) one or more specified activities, or
  - (b) the circumstances in which activities are carried out.
- (3) Provision made by virtue of subsection (2) may, in particular, be made by reference to an activity specified in a document of the kind mentioned in section 124(3) of the 2002 Act.

- (4) A requirement of regulations under subsection (1) may, in particular, relate to—
  - (a) the possession of a specified qualification or experience of a specified kind;
  - (b) participation in or completion of a specified programme or course of training;
  - (c) compliance with a specified condition;
  - (d) an exercise of discretion by the Welsh Ministers, another specified person or another person of a specified description.
- (5) Regulations under subsection (1) may limit the period of time during which work may be provided by a person in reliance on subsection (1)(a)(ii).
- (6) In this section, “school” means—
  - (a) a school maintained by a local authority in Wales, and
  - (b) a special school in Wales not so maintained.

## **15 Further education teachers**

- (1) The Welsh Ministers may by regulations—
  - (a) provide that education may not be provided by a person in or for a further education institution in Wales unless the person—
    - (i) has a specified qualification, and
    - (ii) is registered in the category of further education teacher;
  - (b) specify conditions to be complied with by or in respect of a person providing education in or for a further education institution in Wales.
- (2) Regulations under subsection (1) may provide that a specified provision of the regulations is not to apply where a specified condition (which may refer to the opinion of a specified person) is satisfied.
- (3) Regulations under subsection (1) may impose a function on—
  - (a) a local authority in Wales;
  - (b) a governing body (within the meaning of section 90(1) of the [Further and Higher Education Act 1992 \(c. 13\)](#)) of a further education institution in Wales.
- (4) For the purposes of this section, “education” has the meaning given by section 140(3) of the 2002 Act.

## **16 Further education learning support workers**

- (1) The Welsh Ministers may by regulations provide that a person may not (directly or indirectly) provide the services described in subsection (2) in or for a further education institution in Wales unless the person—
  - (a) satisfies any specified requirements, and
  - (b) is registered in the category of further education learning support worker.
- (2) The services are—
  - (a) enabling or assisting a learner to participate in education,
  - (b) supporting a learner’s independence, achievement or progression, or
  - (c) supporting a person who is providing education in or for a further education institution.
- (3) A requirement of regulations under subsection (1) may, in particular, relate to—

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- (a) the possession of a specified qualification or experience of a specified kind;
  - (b) participation in or completion of a specified programme or course of training;
  - (c) compliance with a specified condition;
  - (d) an exercise of discretion by the Welsh Ministers, another specified person or another person of a specified description.
- (4) For the purposes of this section, “education” has the meaning given by section 140(3) of the 2002 Act.

*Induction and appraisal of registered persons*

**17 Requirement to undertake period of induction**

- (1) The Welsh Ministers may by regulations make provision for, and in connection with, requiring a person to have satisfactorily completed such period of induction in a place or setting of such description as may be specified before the person may be registered (otherwise than on a provisional basis).
- (2) Regulations under subsection (1) may make provision—
- (a) about the circumstances in which a person may be exempted from the requirement to have satisfactorily completed a period of induction;
  - (b) about the period and process of induction including, in particular, provision relating to—
    - (i) the periods of employment which may count towards the period of induction;
    - (ii) the approvals which may be required before a person may undertake a period of induction;
    - (iii) the circumstances in which induction is not to occur at a place or setting of a specified description;
    - (iv) the circumstances in which a person may undertake more than one period of induction;
  - (c) about the training and supervision of a person during a period of induction;
  - (d) about the assessment of persons who are undertaking a period of induction, including, in particular, provision—
    - (i) specifying the person or body who is responsible for deciding whether a person has satisfactorily completed a period of induction (“the appropriate body”);
    - (ii) requiring a relevant principal to make a recommendation to the appropriate body as to whether a person has met the required standards determined under section 18;
    - (iii) specifying circumstances in which the appropriate body may or must decide that a person’s period of induction should be extended;
  - (e) about the consequences of a person completing a period of induction (whether satisfactorily or not), including, in particular, provision—
    - (i) requiring the appropriate body to inform the Welsh Ministers and the Council when a person has completed a period of induction or had it extended;
    - (ii) requiring that the employer of a person who has not satisfactorily completed a period of induction terminate the person’s employment



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- or otherwise secure that the person stops providing relevant services for the employer;
- (iii) requiring that the person only provides such relevant services for the person's employer as may be determined in accordance with the regulations;
- (f) about such other matters relating to periods of induction as the Welsh Ministers consider necessary or expedient, including (for example) provision—
  - (i) requiring an appropriate body which is not a local authority to include a representative of such an authority,
  - (ii) conferring further functions on the appropriate body, and
  - (iii) authorising the appropriate body, in such circumstances as may be specified, to make such charges in connection with the exercise of its functions as it may determine.
- (3) A person or body exercising a function under this section or any regulations made under it must have regard to any relevant guidance issued by the Welsh Ministers.

## **18 Induction assessment standards**

- (1) The Welsh Ministers may determine the standards against which a person is to be assessed for the purpose of deciding whether or not that person has satisfactorily completed a period of induction under section 17.
- (2) Different standards may be determined for different categories of registration.
- (3) The Welsh Ministers must consult the Council before making a determination under this section.

## **19 Appeals against induction decisions**

- (1) A person who is aggrieved by a decision of the appropriate body under section 17(2) (d) may appeal against the decision to the Council.
- (2) Any decision made on such an appeal is final (and may not be appealed).
- (3) The Welsh Ministers may by regulations make provision about such matters relating to appeals under this section as the Welsh Ministers consider necessary or expedient.

## **20 Induction: intervention powers**

- (1) Chapter 2 of Part 2 of the 2013 Act (intervention in local authorities) has effect in relation to duties imposed and powers conferred by virtue of section 17 as if references to the local authority included—
  - (a) the governing body (within the meaning given by section 90(1) of the Further and Higher Education Act 1992) of a further education institution, and
  - (b) an appropriate body other than a governing body of a school maintained by a local authority, the governing body of a special school not so maintained or a local authority.
- (2) For the purposes of subsection (1), a direction given by the Welsh Ministers under Chapter 2 of Part 2 of the 2013 Act is enforceable by an injunction (rather than a mandatory order) on application by, or on behalf of, the Welsh Ministers.

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- (3) This section is without prejudice to Part 2 of the 2013 Act as it applies to—
- (a) governing bodies of—
    - (i) schools maintained by a local authority in Wales,
    - (ii) special schools in Wales which are not so maintained, and
  - (b) local authorities in Wales,
- in respect of any duties imposed or powers conferred on them by virtue of section 17.

## 21 Induction: interpretation

For the purposes of sections 17 to 20—

“appropriate body” is to be construed in accordance with section 17(2)(d);

“relevant principal” means—

- (a) the head teacher of a school,
- (b) the principal of a further education institution, and
- (c) any other person with overall responsibility for registered persons providing relevant services.

## 22 Special provision for maintained schools with delegated budgets

- (1) This section applies where a person—
- (a) has undertaken a period of induction at a relevant maintained school with a view to becoming a school teacher or a school learning support worker,
  - (b) has not satisfactorily completed such period of induction, and
  - (c) in accordance with a requirement imposed by virtue of section 17(2)(e)(iii), is providing only such relevant services at the school as have been determined in accordance with the regulations.
- (2) Any costs incurred by the local authority in respect of the person’s remuneration are not to be met from the school’s budget share for any financial year except in so far as the authority has good reason for deducting those costs, or any part of those costs, from that share.
- (3) In this section—
- (a) a “period of induction” means a period of induction required under regulations under section 17(1);
  - (b) a “relevant maintained school” is a school maintained by a local authority in Wales which has a delegated budget;
  - (c) a reference to a school’s budget share or to its having a delegated budget has the same meaning as in Part 2 of the School Standards and Framework Act 1998.

## 23 Appraisal of registered persons

- (1) The Welsh Ministers may by regulations require the appraisal of the performance of registered persons—
- (a) in a manner specified by the regulations, and
  - (b) at times specified by or determined in accordance with the regulations.
- (2) Regulations under subsection (1) may impose a duty on—

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- (a) a local authority;
  - (b) the governing body of a school or a further education institution;
  - (c) any other employer of registered persons providing relevant services;
  - (d) the head teacher of a school or the principal of a further education institution;
  - (e) any other person with overall responsibility for registered persons providing relevant services.
- (3) Regulations under subsection (1) may—
- (a) require or permit an appraisal to be carried out in a manner which confers a discretion on a person specified by, or chosen or determined in accordance with, the regulations;
  - (b) permit a person on whom a duty is imposed under subsection (2) to delegate that duty in whole or in part.
- (4) Regulations under subsection (1) may require or permit a person listed in subsection (2) to have regard to the results of an appraisal in the performance of a function specified by the regulations.
- (5) The results of an appraisal may be used in determining a school teacher’s remuneration.
- (6) Before making regulations under this section the Welsh Ministers must consult such persons or bodies as they consider appropriate.
- (7) In this section, “school” means—
- (a) a school maintained by a local authority in Wales, and
  - (b) a special school in Wales not so maintained.

*Code of conduct and practice for registered persons*

**24 Code of conduct and practice**

- (1) The Welsh Ministers must prepare and publish a code specifying the standards of professional conduct and practice expected of registered persons.
- (2) The code may provide for different standards for different categories of registered person.
- (3) In preparing the code, the Welsh Ministers must consult such persons and bodies as they consider likely to have an interest in the code.
- (4) The Council must review the code and make such revisions to it as it considers appropriate—
  - (a) within 3 years of each date of its publication (under subsection (1) or (5)), and
  - (b) when a new category of registration is added.
- (5) After each review under subsection (4), the Council must publish the code in a manner which the Council considers likely to bring it to the attention of registered persons and anyone else who it considers may have an interest in the code.
- (6) In exercising its functions under subsection (4), the Council must consult such persons and bodies as it considers likely to have an interest in the code.

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## **25 Code of conduct and practice: further provision**

- (1) The Welsh Ministers may by regulations make provision about and in connection with the code described in section 24.
- (2) Regulations under this section may, in particular, make provision about—
  - (a) the form and content of the code, and
  - (b) the consequences of any failure by a registered person to comply with the code, which may include disciplinary proceedings under section 26.

### *Disciplinary functions of the Council*

## **26 Disciplinary functions**

- (1) The Council must carry out such investigations as it considers appropriate in cases where—
  - (a) it is alleged that a registered person—
    - (i) is guilty of unacceptable professional conduct or serious professional incompetence, or
    - (ii) has been convicted (at any time) of a relevant offence, or
  - (b) it appears to the Council that a registered person may be so guilty or have been so convicted.
- (2) The Council must decide, after carrying out an investigation under subsection (1), what further action to take in respect of the case.
- (3) The actions the Council may take are—
  - (a) if it considers that there is no case to answer, to discontinue the case;
  - (b) if it considers that there is (or may be) a case to answer—
    - (i) to hold a hearing in respect of the case, or
    - (ii) with the consent of the person to whom the investigation relates, to determine the case without a hearing;
  - (c) to discontinue the case on some other basis.
- (4) Where the Council holds a hearing or the person consents to the case being determined without a hearing, the Council may determine—
  - (a) that there is no case to answer;
  - (b) that the person is guilty of unacceptable professional conduct, serious professional incompetence or has been convicted of a relevant offence.
- (5) Where the Council determines that a person—
  - (a) is guilty of unacceptable professional conduct or serious professional incompetence, or
  - (b) has been convicted of a relevant offence,
 the Council may make a disciplinary order in relation to the person.
- (6) The Welsh Ministers may by regulations make provision for any functions conferred on the Council under this section to be excluded or restricted in such manner as may be specified in or determined under the regulations.
- (7) The provision that may be made under subsection (6) includes such provision for excluding or restricting any such functions as the Welsh Ministers consider appropriate

with a view to taking account of the powers exercisable by the Disclosure and Barring Service under the [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#).

## **27 Disciplinary functions: interpretation**

- (1) For the purposes of section 26—
  - “registered person” includes—
    - (a) a person who was registered at the time of any alleged conduct or offence (whether under section 9 or under section 3 of the 1998 Act), and
    - (b) a person who has applied to be so registered;
  - “relevant offence”, in relation to a registered person, means—
    - (a) in the case of a conviction in the United Kingdom, a criminal offence other than one having no material relevance to the person’s fitness to be a registered person in the relevant category of registration;
    - (b) in the case of a conviction elsewhere, an offence which, if committed in England and Wales, would constitute such an offence as is mentioned in paragraph (a).
- (2) In this Part, a “disciplinary order” means—
  - (a) a reprimand;
  - (b) a conditional registration order;
  - (c) a suspension order;
  - (d) a prohibition order.
- (3) Where regulations under paragraph 12(1)(b) of Schedule 1 require the Council to establish a committee for the purpose of discharging any of the functions conferred on the Council under section 26, references in that section to the Council are to be construed as references to that committee.

## **28 Disciplinary functions: further provision**

- (1) The Welsh Ministers may by regulations make provision about or in connection with the functions of the Council under section 26.
- (2) Regulations under subsection (1) may, in particular, make provision—
  - (a) about the procedure relating to any investigation or proceedings (including notice requirements, compelling attendance, admissibility of evidence and the administration of oaths);
  - (b) about disciplinary orders (including service requirements, when orders take effect, and the review of orders);
  - (c) about the action that may be required of and in relation to the employer of a person who is the recipient of a disciplinary order (including dismissing the recipient of the order).
- (3) No person is to be required by virtue of regulations under this section to give any evidence or produce any document or other thing which that person could not be compelled to give or produce in civil proceedings in any court in England and Wales.

**29 Conditional registration orders**

- (1) Subsection (2) applies where a conditional registration order is made in relation to a person.
- (2) The person—
  - (a) remains eligible for registration under section 9, but
  - (b) must comply with such conditions relevant to the person's employment as a registered person as may be specified in the order.
- (3) The conditions specified may (among other things)—
  - (a) require the person to take any specified steps that will, in the opinion of the Council, help the person become a competent registered person;
  - (b) involve expenditure on the part of the person.
- (4) Any condition specified in a conditional registration order is to have effect—
  - (a) for such period as may be so specified, or
  - (b) without limit of time.
- (5) But the Council may, on the application of a person who has received a conditional registration order, vary or revoke any condition specified in the order.
- (6) An application under subsection (5) must be made in accordance with any regulations made for that purpose under section 28.

**30 Suspension orders**

- (1) Subsections (2) and (3) apply where a suspension order is made in relation to a person.
- (2) The person's name must be removed from the register (if it has not already been removed).
- (3) The person becomes ineligible for registration under section 9 for the period (not exceeding two years) specified in the order.
- (4) A suspension order may specify conditions to be complied with by the person to whom the order relates and, in that case—
  - (a) the person is to become eligible again for registration under section 9 at the end of the period specified under subsection (3) if the person has complied with the conditions, and
  - (b) if the person has not complied with the conditions, the person remains ineligible for registration until the person has complied with the conditions.
- (5) Any condition specified in a suspension order is to have effect—
  - (a) for such period as may be so specified, or
  - (b) without limit of time.
- (6) But the Council may, on the application of a person who has received a suspension order, vary or revoke any condition specified in the order.
- (7) An application under subsection (6) must be made in accordance with any regulations made for that purpose under section 28.

### **31 Prohibition orders**

- (1) Subsections (2) and (3) apply where a prohibition order is made in relation to a person.
- (2) The person's name must be removed from the register (if it has not already been removed).
- (3) The person becomes ineligible for registration under section 9.
- (4) The Council may, on the application of a person who has received a prohibition order, determine that a person is eligible again for registration.
- (5) An application under subsection (4) must be made in accordance with any regulations made for that purpose under section 28.
- (6) No such application may be made before the end of the period of two years beginning with the date when the prohibition order takes effect or such longer period as may be specified in the order.

### **32 Appeals against disciplinary orders**

- (1) A person in respect of whom a disciplinary order has been made may appeal against the order to the High Court.
- (2) An appeal under subsection (1) must be made within the period of 28 days beginning with the date on which notice of the order is served on the person.
- (3) In respect of such an appeal the High Court may make any order which it considers appropriate.
- (4) The decision of the High Court is final (and may not be appealed).

#### *Information duties*

### **33 Council to maintain records about certain persons**

- (1) For the purposes of this Part, the Welsh Ministers may by regulations require the Council to maintain such records about such persons as may be specified in the regulations.
- (2) Regulations under subsection (1) may, in particular—
  - (a) make provision about the form and content of the records, and
  - (b) require the Council to maintain records about persons who are not eligible to be registered.

### **34 Supply of information: Ministers**

- (1) The Welsh Ministers may provide the Council with such information relating to individual registered persons—
  - (a) as the Council may request for the purposes of carrying out any of the functions conferred on it by or under this Part, or
  - (b) as the Welsh Ministers consider it to be necessary or desirable for the Council to have for the purposes of carrying out such functions.

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- (2) The Secretary of State may provide the Council with such information relating to individual teachers in schools—
- (a) as the Council may request for the purposes of carrying out any of the functions conferred on it by or under this Part, or
  - (b) as the Secretary of State considers it to be necessary or desirable for the Council to have for the purposes of carrying out such functions.

### **35 Supply of information: the Council**

- (1) The Council must provide the Welsh Ministers with such information as they may reasonably require.
- (2) The Council must, following a request by a registered person, provide that person with a copy of the information entered in the register against that person's name.
- (3) The Council must, following a request by a person (other than a registered person) in respect of whom it maintains records in accordance with section 33, provide that person with a copy of any records it holds about that person.
- (4) The Welsh Ministers may by regulations require the Council to provide information—
  - (a) to such other person or body as may be specified, and
  - (b) for such purposes and subject to such conditions as may be specified.

### **36 Supply of information: employers**

- (1) A relevant employer must provide the Council with—
  - (a) the name of any registered person it employs or engages to provide relevant services in Wales, and
  - (b) such other information about such a registered person as the Council may reasonably require in connection with the performance of its functions.
- (2) Where a relevant employer—
  - (a) ceases to use the services of a registered person in Wales on a ground mentioned in subsection (3), or
  - (b) might have ceased to use the services of the registered person in Wales on a ground mentioned in subsection (3) had the person not stopped providing those services,

the relevant employer must provide the Council with such information as may be specified in regulations made by the Welsh Ministers.

- (3) The grounds are—
  - (a) unacceptable professional conduct;
  - (b) professional incompetence;
  - (c) conviction of a relevant offence.

- (4) In this section—
 

“relevant employer” means a person who employs or otherwise engages registered persons to provide relevant services in Wales;

“relevant offence” has the same meaning as in section 27(1).



### **37 Supply of information: agents and contractors**

- (1) This section applies to arrangements made by one person (the “agent”) for a registered person to provide relevant services at the request of or with the consent of a relevant employer (whether or not under a contract).
- (2) Where an agent—
  - (a) has terminated the arrangements on a ground mentioned in section 36(3),
  - (b) might have terminated the arrangements on a ground mentioned in section 36(3) if the registered person had not terminated them, or
  - (c) might have refrained from making new arrangements for the registered person on a ground mentioned in section 36(3) if the registered person had not ceased offering to provide the services,the agent must provide the Council with such information as may be specified in regulations made by the Welsh Ministers.
- (3) In this section, “relevant employer” has the same meaning as in section 36(4).

### **38 Directions to secure compliance with information duties**

- (1) This section applies if the Welsh Ministers consider that—
  - (a) a relevant employer has failed or is likely to fail to comply with a duty arising under section 36, or
  - (b) an agent has failed or is likely to fail to comply with a duty arising under section 37.
- (2) The Welsh Ministers may direct the employer or (as the case may be) agent to comply with the duty.
- (3) A direction under subsection (2) may, on the application of the Welsh Ministers, be enforced by an injunction.
- (4) In this section—
  - “agent” is to be construed in accordance with section 37;
  - “relevant employer” has the same meaning as in section 36(4).

#### *Transitional and transitory provision*

### **39 Transfer of registrations of persons already registered**

- (1) Where, immediately before the date on which this section comes into force—
  - (a) a person was registered in the register maintained under section 3 of the 1998 Act, and
  - (b) the person had satisfactorily completed a period of induction for the purposes of section 19 of that Act,the person is deemed on and after that date to be registered in the category of school teacher in the register maintained under section 9 of this Act.
- (2) Where, immediately before the date on which this section comes into force—
  - (a) a person was registered in the register maintained under section 3 of the 1998 Act, but

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- (b) the person had not satisfactorily completed a period of induction for the purposes of section 19 of that Act,  
the person is deemed on and after that date to be registered on a provisional basis in the category of school teacher in the register maintained under section 9.

#### **40 Transitory matters relating to eligibility for registration**

For the purposes of section 10(3)—

- (a) a person who is subject to a direction under section 142(1)(a) of the 2002 Act (prohibition from teaching etc.) remains ineligible for registration, and  
(b) a reference to a disciplinary order under this Act includes a reference to an equivalent disciplinary order made under the 1998 Act.

#### *Interpretation of Part 2*

#### **41 Interpretation of Part 2**

- (1) In this Part, except where the context otherwise requires—  
“category of registration” (“*categori cofrestru*”) is to be construed in accordance with section 9(3);  
“further education institution” (“*sefydliad addysg bellach*”) has the meaning given in section 140 of the 2002 Act;  
“registered person” (“*person cofrestredig*”) means (subject to section 27) a person registered in the register established under section 9 (including those registered on a provisional basis);  
“relevant services” (“*gwasanaethau perthnasol*”) are services which may be provided only by a registered person;  
“the register” (“*y gofrestr*”) means the register established and maintained under section 9(1).
- (2) In this Part, a reference to a person being provisionally registered (however expressed) is a reference to a person who has been registered on a provisional basis.

### **PART 3**

#### MISCELLANEOUS PROVISION

#### *Term and holiday dates and times of school sessions*

#### **42 Dates of terms and holidays and times of school sessions**

After section 32 of the 2002 Act insert—

#### **“32A Responsibility for fixing term and holiday dates in Wales**

- (1) A local authority in Wales must determine the term dates for each community, voluntary controlled or community special school or maintained nursery school in its area.

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- (2) A governing body of a foundation or voluntary aided school in Wales (a “relevant governing body”) must determine the term dates for its school.
- (3) In exercising its functions under subsection (1), a local authority must co-operate and co-ordinate with—
  - (a) each relevant governing body in its area, and
  - (b) every other local authority in Wales,to ensure that the term dates determined are the same (or as similar as can be) for every maintained school in Wales.
- (4) In exercising its functions under subsection (2), a relevant governing body must co-operate and co-ordinate with—
  - (a) the local authority, and
  - (b) every other relevant governing body in the local authority’s area,to ensure that the term dates determined are the same (or as similar as can be) for every maintained school in Wales.
- (5) Each local authority in Wales must notify the Welsh Ministers of the term dates which have been determined for a school year in respect of all the maintained schools in its area.
- (6) The Welsh Ministers may by regulations make provision about the requirements of notification under subsection (5) including, in particular, provision about—
  - (a) the form and content of notifications;
  - (b) the period in which notification must be given;
  - (c) the procedure for notification.
- (7) A local authority or a relevant governing body may alter the term dates which have been notified to the Welsh Ministers only if all the parties mentioned in subsection (8) agree to the alteration.
- (8) The parties are—
  - (a) the local authority,
  - (b) each relevant governing body in the local authority’s area, and
  - (c) the Welsh Ministers.
- (9) In this section—

“maintained school” means a school in Wales which is a community, foundation or voluntary school, a community special school or a maintained nursery school;

“term dates” means the dates on which the school terms and holidays are to begin and end.

### **32B Welsh Ministers’ power to direct determination of term dates**

- (1) The Welsh Ministers may direct a local authority in Wales or a relevant governing body to determine such term dates for a maintained school in Wales as may be specified in the direction.
- (2) A direction under subsection (1) may, in particular—
  - (a) require different dates to be determined for different schools;

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- (b) be made in respect of such descriptions of schools as may be specified in the direction (for example, all community schools or all schools within a specified area);
  - (c) require the determination of different dates from those already determined or altered under section 32A.
- (3) Before making a direction under subsection (1) the Welsh Ministers must carry out such consultation as they consider appropriate.
- (4) The Welsh Ministers may, by regulations, make such further provision about such consultation as they consider necessary or expedient.
- (5) The Welsh Ministers must publish a direction under subsection (1) electronically.
- (6) In this section—
- “maintained school” has the same meaning as in section 32A(9);
  - “relevant governing body” means the governing body of a foundation or voluntary aided school in Wales;
  - “term dates” means the dates on which the school terms and holidays are to begin and end.

### **32C Responsibility for fixing times of school sessions in Wales**

- (1) Except in the circumstances described in subsection (2), a governing body of a maintained school must determine the times of the school sessions for the school.
- (2) The circumstances are—
- (a) that the local authority in whose area the school is situated have given notice to the governing body that the times of the school sessions are to be determined in accordance with subsection (4), and
  - (b) that the notice has not been withdrawn by the local authority.
- (3) A local authority must not give a notice under this section unless they consider that a change in the times of the school sessions is necessary or expedient in order to—
- (a) promote the use of sustainable modes of travel within the meaning of section 11 of the [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), or
  - (b) improve the effectiveness or efficiency of travel arrangements made, or to be made, by the authority under that Measure.
- (4) In the circumstances described in subsection (2)—
- (a) where there are 2 sessions on the relevant school day—
    - (i) the local authority must determine the time each day at which the first school session starts and the second school session ends, and
    - (ii) the governing body must determine the time each day at which the first school session ends and the second school session starts,
  - (b) where there is one school session on the relevant school day the local authority must determine the time each day at which the school session starts and ends.

- (5) The Welsh Ministers may by regulations make provision—
- (a) as to the procedure to be followed where the governing body of a community, voluntary controlled or community special school or maintained nursery school proposes to make any change in the time of the school sessions;
  - (b) as to the implementation of any such proposal;
  - (c) for enabling the local authority to determine, for any purposes of the regulations, whether any person is to be treated as a parent of a registered pupil at the school;
  - (d) as to the procedure to be followed where the local authority propose to give a notice under this section;
  - (e) as to the form and content of such a notice;
  - (f) as to the implementation of a determination made under subsection (4).
- (6) A local authority must have regard to any guidance given by the Welsh Ministers when giving a notice under subsection (2) or discharging any function conferred by this section or regulations made under it.
- (7) In this section—
- “maintained school” means a school in Wales which is a community, foundation or voluntary school, a community special school or a maintained nursery school;
  - “the times of the school sessions” means the times at which each of the school sessions or, if there is only one, the school session, is to begin and end on any day.”

*Her Majesty’s Inspectorate of Education and Training in Wales*

**43 Her Majesty’s Inspectorate of Education and Training in Wales**

In section 19 of the [Education Act 2005 \(c. 18\)](#) (Her Majesty’s Inspectorate of Education and Training in Wales), omit subsection (6) (Welsh Ministers to advise Secretary of State on recommendations to Her Majesty on the exercise of powers of appointment and removal under subsections (1), (2) and (4)(c)).

*Local authority education functions - intervention*

**44 Local authority education functions exercisable by the persons directed**

- (1) The 2013 Act is amended as follows.
- (2) In section 25 (power to require performance of functions by other persons on behalf of authority), after subsection (3), insert—
- “(4) If a direction under subsection (2) is in force, the functions of the local authority to which it relates are to be treated for all purposes as being exercisable by the specified person.”
- (3) In section 26 (power to require performance of functions by Welsh Ministers or nominee), after subsection (3), insert—

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“(4) If a direction under subsection (2) is in force, the functions of the local authority to which it relates are to be treated for all purposes as being exercisable by the Welsh Ministers or their nominee.”.

## PART 4

### GENERAL PROVISION

#### 45 Status as an Education Act

This Act is to be included in the list of Education Acts set out in section 578 of the 1996 Act.

#### 46 Ancillary provision

- (1) The Welsh Ministers may by order make such incidental, consequential, supplemental, transitional, transitory or saving provision as they consider appropriate for the purposes of, or in connection with, giving full effect to any provision made by or under this Act.
- (2) An order under this section may modify this or any other enactment.

#### 47 Orders and regulations

- (1) Any power of the Welsh Ministers to make an order or regulations under this Act (except an order under section 50) is exercisable by statutory instrument and includes power to—
  - (a) make such incidental, consequential, supplemental, transitional, transitory or saving provision as the Welsh Ministers consider necessary or expedient for the purposes of, or in connection with, this Act, and
  - (b) make different provision for different purposes including, in particular, making different provision for different categories of registration.
- (2) A statutory instrument which contains (alone or with other provision)—
  - (a) an order under section 5;
  - (b) an order under section 10(6);
  - (c) regulations under section 12;
  - (d) an order under section 46 which includes provision which adds to, amends or omits the text of an Act of Parliament or a Measure or Act of the National Assembly for Wales;
  - (e) an order under paragraph 3 of Schedule 1 or paragraph 2 of Schedule 2,may not be made unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.
- (3) Any other statutory instrument containing an order or regulations under this Act (except an order under section 50) is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.

#### **48 Minor and consequential amendments and repeals**

Schedule 3 (which makes minor and consequential amendments and repeals) has effect.

#### **49 General interpretation**

- (1) In this Act, unless the context requires otherwise—
- “1996 Act” (“*Deddf 1996*”) means the [Education Act 1996 \(c. 56\)](#);
  - “1998 Act” (“*Deddf 1998*”) means the [Teaching and Higher Education Act 1998 \(c. 30\)](#);
  - “2002 Act” (“*Deddf 2002*”) means the [Education Act 2002 \(c. 32\)](#);
  - “2013 Act” (“*Deddf 2013*”) means the [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#);
  - “enactment” (“*deddfiad*”) means a provision contained in any of the following (whenever enacted or made)—
    - (a) an Act of Parliament;
    - (b) a Measure or an Act of the National Assembly for Wales;
    - (c) subordinate legislation within the meaning of the Interpretation Act 1978 (including subordinate legislation made under an Act of Parliament or under a Measure or an Act of the National Assembly for Wales);
  - “modify” (“*addasu*”), in relation to an enactment, includes amend or repeal;
  - “specified” (“*penodedig*”) means specified in an order or regulations made under this Act.
- (2) Other expressions, if used in this Act and the 1996 Act, have the same meaning in this Act as in the 1996 Act.
- (3) But where an expression is given for the purposes of any provision of this Act a meaning different from that given to it for the purposes of the 1996 Act, that meaning is to apply for the purposes of that provision instead of the one given for the purposes of the 1996 Act.

#### **50 Commencement**

- (1) The following provisions come into force on the day on which this Act receives Royal Assent—
- (a) section 1;
  - (b) section 45;
  - (c) section 46;
  - (d) section 47;
  - (e) section 49;
  - (f) this section;
  - (g) section 51.
- (2) Section 42 comes into force on the day on which this Act receives Royal Assent but only to the extent necessary for regulations to be made under section 32A(6) or 32B(4) of the 2002 Act.

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- (3) Paragraph 2 of Part 1 of Schedule 3 comes into force at the end of the period of two months beginning with the day on which this Act receives Royal Assent.
- (4) The other provisions of this Act come into force on such day as the Welsh Ministers may by order made by statutory instrument appoint.
- (5) An order under subsection (4) may—
  - (a) appoint different days for different purposes, and
  - (b) include such transitional, transitory or saving provision as the Welsh Ministers consider necessary or expedient.

## **51 Short title**

The short title of this Act is the Education (Wales) Act 2014.