



Tertiary Education and Research (Wales) Act 2022

2022 asc 1

PART 2

REGISTRATION AND REGULATION OF TERTIARY EDUCATION PROVIDERS

CHAPTER 1

REGISTRATION OF TERTIARY EDUCATION PROVIDERS

De-registration

41 De-registration

- (1) The Commission must remove a tertiary education provider from a category of the register if the Commission becomes aware that the provider—
 - (a) is no longer a tertiary education provider in Wales, or
 - (b) no longer provides, or has provided on its behalf, the kind of tertiary education that relates to the category.
- (2) The Welsh Ministers may, by regulations, specify other circumstances in which a registered provider must be removed from one or more categories of the register or all categories of the register.
- (3) The Commission may remove a registered provider from a category of the register if condition A or B is satisfied.
- (4) Condition A is satisfied if—
 - (a) the Commission has previously exercised its powers under section 39 (directions in respect of failure to comply with ongoing registration conditions) in relation to breach of one of the tertiary education provider's ongoing registration conditions that apply to the category of registration, and

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Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, Cross Heading: De-registration. (See end of Document for details)

- (b) it appears to the Commission that—
 - (i) there is again a breach, or a continuing breach, of that condition, or
 - (ii) there is or has been a breach of a different one of the provider’s ongoing registration conditions that apply to the category of registration.
- (5) Condition B is satisfied if it appears to the Commission that—
 - (a) there is or has been a breach of one of the tertiary education provider’s ongoing registration conditions that apply to the category of registration, and
 - (b) its powers under section 39 are insufficient to deal with the breach (whether or not they have been, are being or are to be, exercised in relation to it).
- (6) The Welsh Ministers may, by regulations, make transitional or saving provision in connection with the removal of a tertiary education provider from a category of the register under this section.
- (7) Regulations under subsection (6) may include provision treating the tertiary education provider as a registered provider for such purposes as the regulations may specify.
- (8) The Commission must—
 - (a) maintain a list of tertiary education providers removed from a category of the register under this section,
 - (b) include in that list reference to any regulations made under subsection (6), and
 - (c) make the list publicly available by such means as it considers appropriate.

Commencement Information

I1 S. 41 not in force at Royal Assent, see [s. 148\(2\)](#)

I2 S. 41 in force at 4.9.2023 for specified purposes by [S.I. 2023/919, art. 3\(x\)](#)

PROSPECTIVE

42 De-registration: procedure

- (1) Before removing a registered provider from a category of the register under section 41, the Commission must notify the governing body of the provider that it proposes to do so.
- (2) The notice must specify—
 - (a) the Commission’s reasons for proposing to remove the provider from a category of the register,
 - (b) the period during which the governing body of the provider may make representations about the proposal (“the specified period”), and
 - (c) the way in which those representations may be made.
- (3) The specified period must not be less than 28 days beginning with the date on which the notice is received.
- (4) The Commission must have regard to any representations made by the governing body of the provider in accordance with the notice in deciding whether to remove it from a category of the register.

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- (5) Having decided whether or not to remove the provider from a category of the register, the Commission must notify the governing body of the provider of its decision.
- (6) Where the decision is to remove the provider from a category of the register, the notice must specify the date on which the removal takes effect.
- (7) The notice must also specify—
 - (a) the grounds for the removal,
 - (b) information as to the right of review, and
 - (c) the period specified in regulations under section 79(4)(c) within which an application for review may be made.
- (8) A removal under section 41 may not take effect at any time when—
 - (a) an application for a review under section 45(c) or (d) could be brought in respect of the decision to remove, or
 - (b) a review or a decision by the Commission following such a review is pending.
- (9) But that does not prevent a removal taking effect if the governing body of the provider notifies the Commission that it does not intend to apply for a review.
- (10) Where subsection (8) ceases to prevent a removal taking effect on the date specified under subsection (6), the Commission must determine a future date on which the removal takes effect.
- (11) But that is subject to what has been determined by the Commission following any review under section 45(c) or (d) in respect of the decision to remove.

Commencement Information

I3 S. 42 not in force at Royal Assent, see [s. 148\(2\)](#)

43 Voluntary de-registration and de-registration with consent

- (1) The Commission must remove a registered provider from a category of the register if—
 - (a) the governing body of the provider applies to the Commission for the provider to be removed from that category of the register, and
 - (b) the application complies with any requirements imposed under subsection (6).
- (2) But if the application under subsection (1)(a) specifies that it is combined with an application under section 25(4)(a) for registration in another category, the duty in subsection (1) does not apply unless the condition in subsection (3) applies or both of the conditions in subsection (4) apply.
- (3) The condition in this subsection is that the Commission is required to register the provider in the other category in accordance with the application under section 25(4)(a).
- (4) The conditions in this subsection are—
 - (a) that the Commission would be required to register the provider in the other category in accordance with the application under section 25(4)(a) were it not for the effect of section 25(4)(e) in relation to the categories of registration

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- that are the subject of the application under subsection (1)(a) and section 25(4)(a), and
- (b) that the Commission would be required to register the provider in the other category if the provider is removed from the category in respect of which the application under subsection (1)(a) is made.
- (5) The Commission may remove a registered provider from a category of the register if the governing body of the provider consents.
- (6) The Commission may determine—
- (a) the form of an application under subsection (1),
 - (b) the information to be contained in it or provided with it, and
 - (c) the way in which an application is to be submitted.
- (7) The Commission must notify the governing body of the provider of the date on which the provider is removed from the category of the register under this section (“the removal date”).
- (8) The Commission may vary the removal date at any time before that date by notifying the governing body of the provider.
- (9) A removal under this section may not take effect at any time when—
- (a) an application for a review under section 45(d) could be brought in respect of the decision to remove, or
 - (b) a review or a decision by the Commission following a such review is pending.
- (10) But that does not prevent a removal taking effect if the governing body of the provider notifies the Commission that it does not intend to apply for a review.
- (11) Where subsection (9) ceases to prevent a removal taking effect on the date specified under subsection (7), the Commission must determine a future date on which the removal takes effect.
- (12) But that is subject to what has been determined by the Commission following any review under section 45(d) in respect of the decision to remove.
- (13) The Welsh Ministers may, by regulations, make transitional or saving provision in connection with the removal of a provider from a category of the register under this section.
- (14) Regulations under subsection (13) may include provision treating the provider as a registered provider in that category for such purposes as the regulations may specify.
- (15) The Commission must—
- (a) maintain a list of tertiary education providers removed from categories of the register under this section,
 - (b) include in that list reference to any regulations made under subsection (13), and
 - (c) make the list publicly available by such means as it considers appropriate.

Commencement Information

I4 S. 43 not in force at Royal Assent, see [s. 148\(2\)](#)

I5 S. 43 in force at 4.9.2023 for specified purposes by [S.I. 2023/919](#), [art. 3\(y\)](#)

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PROSPECTIVE

44 Change of registration category without application

Where a registered provider is removed from a category of the register under section 41(3) or 43(5), the Commission may register the provider in another category without an application under section 25(4)(a) if—

- (a) the governing body of the provider consents,
- (b) it continues to be a tertiary education provider in Wales,
- (c) it provides, or has provided on its behalf, the kind of tertiary education that relates to the other category,
- (d) it satisfies the initial registration conditions applicable to it in respect of the registration in the other category (see section 27), and
- (e) registration in the other category is not prohibited by provision made in regulations under section 25(5).

Commencement Information

16 S. 44 not in force at Royal Assent, see [s. 148\(2\)](#)

Status:

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Changes to legislation:

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