



# Tertiary Education and Research (Wales) Act 2022

2022 asc 1

## PART 7

### MISCELLANEOUS AND GENERAL

#### *General*

#### **141 Data Protection**

- (1) This section applies to a duty or power to disclose or use information where the duty or power is imposed or conferred by or under any provision of this Act.
- (2) A duty or power to which this section applies does not operate to require or authorise the disclosure or use of information which would contravene the data protection legislation; but the duty or power is to be taken into account in determining whether the disclosure or use would contravene that legislation.
- (3) In this section, “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

#### **Commencement Information**

- 11** S. 141 not in force at Royal Assent, see [s. 148](#)  
**12** S. 141 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(s\)](#)

#### **142 Publication**

- (1) Where this Act imposes a duty to publish anything, it must be published—
  - (a) electronically, and
  - (b) in such other manner as the person subject to the duty considers appropriate.

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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: General. (See end of Document for details)*

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- (2) The duty to publish electronically is—
- (a) a duty to provide access free of charge, and
  - (b) a duty to publish on the person’s own website, if the person has one.
- (3) Copies of anything published under subsection (1)(b) may be supplied free of charge or on payment of such fee, not exceeding the cost of supplying the copy, as the person subject to the duty to publish may determine.

**Commencement Information**

- I3** S. 142 not in force at Royal Assent, see [s. 148](#)  
**I4** S. 142 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(t\)](#)

**143 Regulations**

- (1) A power to make regulations under this Act is to be exercised by statutory instrument.
- (2) A power to make regulations under this Act includes power to make—
- (a) different provision for different purposes or different areas;
  - (b) incidental, supplementary, consequential, transitory, transitional or saving provision.
- (3) A statutory instrument to which this subsection applies may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (4) Subsection (3) applies to a statutory instrument containing regulations under any of the following provisions—
- (a) from Part 1, section 22(1);
  - (b) from Part 2, sections 25(2), 27(6), 32(2)(b), 34, 41(2), 46(6), 80(1)(c) and (2) and 83(4);
  - (c) from Part 3, sections 88(3), 94(3) and (7)(b), 98(2), 99(6), 104(5) and 105(4);
  - (d) from Part 4, sections 111(4), 112(1)(c) and 113(1);
  - (e) from this Part—
    - (i) section 145;
    - (ii) section 146, but only where the regulations amend, repeal or otherwise modify a provision of an Act of Parliament, a Measure of the National Assembly for Wales or an Act of Senedd Cymru.
- (5) A statutory instrument containing regulations made by the Welsh Ministers under this Act to which subsection (4) does not apply is subject to annulment in pursuance of a resolution of Senedd Cymru.

**Commencement Information**

- I5** S. 143 in force at 9.9.2022, see [s. 148\(1\)\(a\)](#)

**144 General interpretation**

- (1) In this Act—

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“additional learning needs” (“*anghenion dysgu ychwanegol*”) has the meaning given by section 2 of the [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#);

“additional learning provision” (“*darpariaeth ddysgu ychwanegol*”) has the meaning given by section 3 of the [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#);

“the Commission” (“*y Comisiwn*”) means the Commission for Tertiary Education and Research (see section 1);

“facilities for Wales” (“*cyfleusterau i Gymru*”) includes—

- (a) facilities in Wales, and
- (b) other facilities available to persons ordinarily resident in Wales;

“financial resources” (“*adnoddau ariannol*”) means financial resources of any kind including grants, loans and other payments;

“functions” (“*swyddogaethau*”) means powers and duties;

“governing body” (“*corff llywodraethu*”)—

- (a) in relation to a training provider who but for this section would not be regarded as an institution, means any persons responsible for the provider’s management;
- (b) in relation to a school, means its proprietor within the meaning given by section 579(1) of the [Education Act 1996 \(c. 56\)](#);
- (c) in relation to a provider designated under section 83, means any persons responsible for the provider’s management;
- (d) in relation to any other institution, has the meaning given by section 90(1) of the [Further and Higher Education Act 1992 \(c. 13\)](#), but subject to any provision made by virtue of section 90(2) of that Act;

“higher education” (“*addysg uwch*”) means education provided by means of a course of any description mentioned in Schedule 6 to the [Education Reform Act 1988 \(c. 40\)](#);

“institution” (“*sefydliad*”) includes any training provider (whether or not the training provider would otherwise be regarded as an institution);

“local authority” (“*awdurdod lleol*”) means the council of a county or county borough in Wales;

“maintained school” (“*ysgol a gynhelir*”) means a community, foundation or voluntary school, or a community special school;

“notice” (“*hysbysiad*”) means notice in writing;

“the register” (“*y gofrestr*”) means the register established and maintained under section 25;

“registered provider” (“*darparwr cofrestredig*”) means a tertiary education provider which is registered in the register; and references to “registration” (“*cofrestru*”) are to be read accordingly;

“school” (“*ysgol*”) has the meaning given by section 4 of the [Education Act 1996 \(c. 56\)](#);

“secondary education” (“*addysg uwchradd*”) has the meaning given by section 2 of the [Education Act 1996 \(c. 56\)](#);

“tertiary education” (“*addysg drydyddol*”) means higher education, further education or training;

“tertiary education provider in Wales” (“*darparwr addysg drydyddol yng Nghymru*”) means an institution providing tertiary education, including

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tertiary education provided on its behalf, whose activities are wholly or mainly carried on in Wales;

“trade union” has the meaning given by the [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#);

“Welsh tertiary education” (“*addysg drydyddol Gymreig*”) means tertiary education—

- (a) provided by, or on behalf of, a tertiary education provider in Wales, or
- (b) funded or otherwise secured by the Commission.

- (2) References in this Act to further education are to education (other than higher education) suitable to the requirements of persons who are over compulsory school age and organised leisure-time occupation connected with such education.
- (3) Accordingly for the purposes of this Act, further education includes education suitable to the requirements of pupils over compulsory school age but under 19 which is provided at a school at which secondary education is also provided.
- (4) References in this Act to training are to training suitable to the requirements of persons who are over compulsory school age and organised leisure-time occupation connected with such training.
- (5) For the purposes of subsections (2) and (4)—
  - (a) education includes both full-time and part-time education;
  - (b) training includes both full-time and part-time training;
  - (c) training includes vocational, social, physical and recreational training.
- (6) In this Act—
  - (a) references to institutions within the further education sector are references to institutions falling within section 91(3) of the [Further and Higher Education Act 1992 \(c. 13\)](#), and
  - (b) references to institutions within the higher education sector are references to institutions falling within section 91(5) of the [Further and Higher Education Act 1992](#).
- (7) Subsections (2) and (3) of section 8 of the [Education Act 1996 \(c. 56\)](#) apply to determine, for the purposes of this Act, whether a person is of compulsory school age, so far as that section applies in relation to Wales.
- (8) References in this Act (however expressed) to the provision of tertiary education by, or on behalf of, a tertiary education provider in Wales (including a registered provider or specified provider) include courses of tertiary education provided—
  - (a) at one or more places in Wales or elsewhere,
  - (b) by means of correspondence, equipment or other facility that enables persons who are not in the same place (whether in Wales or elsewhere) to participate in the tertiary education, or
  - (c) by a combination of the ways described in paragraphs (a) and (b).
- (9) In subsection (1), “training provider” means a person who provides training for members of the school workforce (within the meaning given by section 100 of the [Education Act 2005 \(c. 18\)](#)).
- (10) For the purposes of this Act, tertiary education provided outside Wales is to be treated as provided in Wales if it is provided as part of a course that is provided mainly in Wales.

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**Commencement Information**

**I6** S. 144 in force at 9.9.2022, see [s. 148\(1\)\(a\)](#)

**145 Power to provide for the Open University to be treated as a tertiary education provider in Wales**

- (1) The Welsh Ministers may, by regulations, provide for the Open University to be treated as a tertiary education provider in Wales for the purpose of any provision in, or made under, this Act.
- (2) Regulations under subsection (1) may modify the effect of a provision in, or made under, this Act so far as it applies to the Open University, whether as a tertiary education provider in Wales or a registered provider (if it becomes one).

**Commencement Information**

**I7** S. 145 in force at 9.9.2022, see [s. 148\(1\)\(a\)](#)

**146 Power to make consequential and transitional provision etc.**

- (1) If the Welsh Ministers consider it appropriate for the purposes of, in consequence of, or for giving full effect to any provision of this Act, they may, by regulations, make—
  - (a) supplementary, incidental or consequential provision;
  - (b) transitional, transitory or saving provision.
- (2) Regulations under subsection (1) may amend, modify, repeal or revoke any enactment (including an enactment contained in this Act).

**Commencement Information**

**I8** S. 146 in force at 9.9.2022, see [s. 148\(1\)\(a\)](#)

**147 Minor and consequential amendments**

Schedule 4 makes minor provision and provision in consequence of this Act.

**Commencement Information**

**I9** S. 147 not in force at Royal Assent, see [s. 148](#)  
**I10** [S. 147](#) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(u\)](#)

**148 Coming into force**

- (1) The following provisions of this Act come into force on the day after the day on which this Act receives Royal Assent—
  - (a) sections 143 to 146;
  - (b) this section;

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- (c) section 149.
- (2) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (3) An order under subsection (2) may—
  - (a) appoint different days for different purposes;
  - (b) make transitory, transitional or saving provision in connection with the coming into force of a provision brought into force by the order.

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**Commencement Information**

**I11** S. 148 in force at 9.9.2022, see [s. 148\(1\)\(b\)](#)

**149 Short title**

- (1) The short title of this Act is the Tertiary Education and Research (Wales) Act 2022.
- (2) This Act is to be included in the list of Education Acts set out in section 578 of the [Education Act 1996 \(c. 56\)](#).

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**Commencement Information**

**I12** S. 149 in force at 9.9.2022, see [s. 148\(1\)\(c\)](#)

**Changes to legislation:**

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