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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under sections 21(3) (general responsibility for conduct of school) and 131 (appraisal) of the Education Act 2002 (2002 c. 32) and after appropriate consultation in accordance with section 131(7) of that Act.

The Regulations provide for the appraisal of the performance of school teachers (including unqualified teachers and nursery school teachers) at community, voluntary, foundation, community special, foundation special or maintained nursery schools. The Regulations also provide for the appraisal of the performance of teachers employed by local authorities who are not attached to one particular school or who teach outside school settings.

These Regulations revoke and replace the School Teacher Appraisal (Wales) Regulations 2002 (S.I. 2002/1394 (W. 137)), as amended.

Part I of the Regulations contains introductory provisions, including the duty of the governing body and head teacher to secure that the performance of all school teachers at a school is appraised regularly (regulation 4), the duty on head teachers, the governing body and the local authority to determine a performance management policy and for the head teacher to make an annual written report on the effectiveness of appraisal procedures to the governing body (regulation 5).

Part II of the Regulations deals with the appraisal of head teachers.

Regulation 7 provides for the governing body to appoint at least two governors as appraisers for a head teacher and for the local authority to appoint one or two appraisers as appraisers of the head teacher. Special provision is made for schools which have a religious character.

Regulations 8 and 9 make provision in relation to the appraisal cycle. The appraisal cycle normally lasts for one year, although the local authority and governing body can decide on a different length for a head teacher's first appraisal cycle. On moving to a new post as head teacher or on becoming a head teacher, the appraisal cycle begins again.

Regulation 10 imposes a duty on the governing body to ensure that a head teacher's first appraisal cycle begins no later than 31 January 2012. Regulation 11 provides for the local authority to decide on the procedures for appraisal.

Regulation 12 provides for a meeting to be held between the appraisers and the head teacher at which they plan the appraisal and objectives are agreed or set. It also provides for the head teacher to maintain during the appraisal cycle an up-to-date record which must include an assessment by the head teacher of performance against the objectives, details of any training undertaken and particulars of any factors they consider may be affecting their performance. Regulation 13 provides that these objectives may be revised by the appraisers. Regulation 14 requires the procedures for monitoring performance to be set or agreed and provides for the obtaining of information by the appraisers.

Regulation 15 provides that an appraisal review must be held towards the end of the cycle. The head teacher must submit the record which includes the head teacher's own assessment of performance, to be considered at the review. After the review the appraisers must prepare a written statement.

Regulation 16 gives the head teacher the right to appeal against an appraisal and sets out the procedures for appeal.

Regulations 17 and 18 provide for the disclosure, retention and use of appraisal statements. Copies must be given to certain people. Statements must be kept for three years.

Regulation 19 contains a transitional provision.

Part III of the Regulations deals with the appraisal of school teachers other than head teachers.

Regulation 21 provides for the head teacher to appoint an appraiser for each school teacher at a school. The appraiser can be the head teacher or another school teacher.

Regulations 22 and 23 make provision in relation to the appraisal cycle. The appraisal cycle normally lasts for one year, although the head teacher can decide on a different length for the first appraisal cycle which may last up to 18 months but not be less than nine months. On moving to a new post in another school, the appraisal cycle begins again, but on moving to a new post in the same school, it is for the head teacher to decide whether or not the cycle begins again.

Regulation 24 imposes a duty on the governing body to ensure that a school teacher's first appraisal begins by 31 January 2012.

Regulation 25 provides that the appraisal of school teachers at a school must be in accordance with the performance management policy.

Regulation 26 provides for a meeting to be held between the appraiser and the school teacher at which they plan the appraisal and objectives are agreed or set. It also provides for the school teacher to maintain during the appraisal cycle an up-to-date record which must include an assessment by the school teacher of performance against the objectives, details of any training undertaken and particulars of any factors they consider may be affecting their performance. Regulation 27 provides that these objectives may be revised. Regulation 28 requires the procedures for monitoring performance to be set or agreed. The appraiser must observe the school teacher teaching on at least one occasion. It also provides for the obtaining of information by the appraisers.

Regulation 29 provides that an appraisal review must be held towards the end of the cycle. The school teacher must submit the record which includes the school teacher's own assessment of performance to be considered at the review. After the review the appraiser must prepare a written statement.

Regulation 30 gives the school teacher the right to appeal against an appraisal and sets out the procedures for appeal.

Regulations 31 and 32 provide for the disclosure, retention and use of appraisal statements. Copies must be given to certain people. Statements must be kept for three years.

Regulation 33 contains a transitional provision.

Part IV of the Regulations deals with the appraisal of unattached teachers. Those responsible for appraising unattached teachers may obtain information from other places at which the teacher works.

Regulation 35 requires a local authority to have a performance management policy setting out how they will appraise unattached teachers, and to implement that policy.

Regulation 36 provides for local authorities to be responsible for appraising the performance of unattached teachers. Local authorities may delegate some of their responsibilities to the school where an unattached teacher spends the predominant part of their working time or to another suitable person.

Regulation 37 makes provision in relation to the appraisal cycle for unattached teachers. The appraisal cycle normally lasts for one year, although the local authority can decide on a different length. For teachers employed under a fixed term contract of less than one year, the appraisal cycle will be the length of the contract. Where an unattached teacher transfers to a new post part way through an appraisal cycle, the local authority must determine whether the cycle will begin again.

Regulation 38 provides that the local authority will determine the appraisal procedures for unattached teachers, or, in certain circumstances, the governing body of the school where the unattached teacher spends the predominant part of their working time.

Regulation 39 provides for a meeting to be held between the appraiser and the unattached teacher at which they plan the appraisal and objectives are agreed or set. It also provides for the unattached teacher to maintain during the appraisal cycle an up-to-date record which must include an assessment

by the unattached teacher of performance against the objectives, details of any training undertaken and particulars of any factors they consider may be affecting performance.

Regulation 40 provides that these objectives may be revised. Regulation 41 requires the procedures for monitoring performance to be set or agreed. The appraiser must observe the school teacher teaching on at least one occasion. It also provides for the obtaining of information by the appraisers.

Regulation 42 provides that an appraisal review must be held towards the end of the cycle. The unattached teacher must submit the record which includes the unattached teacher's own assessment of performance to be considered at the review. After the review the appraiser must prepare a written statement.

Regulation 43 gives the unattached teacher the right to appeal against an appraisal and sets out the procedures for appeal.

Regulations 44 and 45 provide for the disclosure, retention and use of appraisal statements. Copies must be given to certain people. Statements must be kept for three years.

Regulation 46 contains a transitional provision.

Regulation 47 amends the School Government (Terms of Reference) (Wales) Regulations 2000.

The Schedule has savings and general transitional provisions. Paragraph 1 provides for how head teachers, school teachers and unattached teachers who have completed an appraisal cycle under the 2002 Regulations may appeal against the appraisal. Paragraph 2 of the Schedule provides that for those who are part-way through an appraisal cycle when these Regulations come into force, the appraisal cycle must be deemed to have come to an end and a new cycle will commence under these Regulations.