
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Welsh Language (Wales) Measure 2011 (“the Measure”) establishes a Welsh Language Tribunal (“the Tribunal”). The Tribunal will comprise of a President, legally qualified members and lay members. Section 120 of the Measure provides that the Welsh Ministers appoint the members of the Tribunal.

Paragraph 9(1) of Schedule 11 to the Measure enables the Welsh Ministers to make provision, by way of regulations, about the appointment of members of the Tribunal (referred to in the Measure as “appointment regulations”).

Paragraph 9 of Schedule 11 to the Measure also provides that the appointment regulations may, amongst other things;

- (a) make provision about principles to be followed in making any appointment to the Tribunal (paragraph 9(2)(a));
- (b) make provision about the knowledge of, and proficiency in, the Welsh language which the members of the Tribunal must have (paragraph 9(2)(b));
- (c) apply (with or without modifications) any code of practice that is concerned with appointments to public bodies (paragraph 9(3)(a));
- (d) make other provision relating to any such code (paragraph 9(3)(b));
- (e) confer functions on the Welsh Ministers (as well as any other person) including functions involving the exercise of a discretion (paragraph 9(4)).

These Regulations place duties on the Welsh Ministers in making appointments to the Tribunal.

Regulation 2 requires appointments by the Welsh Ministers to be on the grounds of merit, and that the person appointed must be of good character. Regulation 3 requires them to have regard to the need to uphold the independence of the Tribunal and the rule of law when making appointments. Under regulation 4, the Welsh Ministers must not appoint a person to be President unless they are satisfied that the person has sufficient knowledge of, and proficiency in, the Welsh language. When appointing the other members of the Tribunal, the Welsh Ministers are under a duty to have regard to the knowledge of, and proficiency in, the Welsh language of the Tribunal’s members, when taken as a whole.

Regulation 5 requires the Welsh Ministers to have regard to the need to encourage diversity in the range of people they appoint as members of the Tribunal.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.