
WELSH STATUTORY INSTRUMENTS

2017 No. 940 (W. 233)

EDUCATION, WALES

**The Education (Supply of Information about the
School Workforce) (Wales) Regulations 2017**

<i>Made</i>	- - - -	<i>20 September 2017</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>26 September 2017</i>
<i>Coming into force</i>	- -	<i>31 October 2017</i>

The Welsh Ministers in exercise of the powers conferred on the National Assembly for Wales by sections 114(1)(c), (2)(c), (3), (6) and (8) and 120(2) of the Education Act 2005⁽¹⁾, and now exercisable by them make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Supply of Information about the School Workforce) (Wales) Regulations 2017.

(2) These Regulations come into force on 31 October 2017.

(3) These Regulations apply in relation to maintained schools and local authorities in Wales.

Interpretation

2.—(1) In these Regulations—

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996⁽²⁾;

“the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002⁽³⁾;

“the 2005 Act” (“*Deddf 2005*”) means the Education Act 2005;

“the 2014 Act” (“*Deddf 2014*”) means the Education (Wales) Act 2014⁽⁴⁾;

“the administrator of the Teacher’s Pension Scheme” (“*gweinyddwr y Cynllun Pensiwn Athrawon*”) means the person exercising, in pursuance of Article 3 of the Contracting Out

(1) 2005 c. 18. Section 114(10) of the 2005 Act defines “prescribed” and “regulations”. The functions of the National Assembly for Wales were transferred to the Welsh Ministers under section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(2) 1996 c. 56.

(3) 2002 c. 32.

(4) 2014 anaw 5.

(Administration of the Teacher’s Pension Scheme) Order 2003⁽⁵⁾, the functions set out in that Order;

“areas of learning” (“*meysydd dysgu*”) means the areas of learning set out in an order made under section 108(2)(a) of the 2002 Act⁽⁶⁾;

“census date” (“*dyddiad y cyfrifiad*”) means the date specified in a request for information made under these Regulations;

“census period” (“*cyfnod y cyfrifiad*”) means the period specified in a request for information made under these Regulations;

“the Council” (“*y Cyngor*”) means the Education Workforce Council continued in existence by section 2 of the 2014 Act;

“the Document” (“*y Ddogfen*”) means a document by reference to which provision for the remuneration and other conditions of employment of school teachers is made in an order made by the Secretary of State under section 122 of the 2002 Act;

“foundation phase” (“*cyfnod sylfaen*”) is to be construed in accordance with section 102 of the 2002 Act;

“key stage” (“*cyfnod allweddol*”) means any of the periods set out in paragraphs (b) to (d) of section 103(1) of the 2002 Act;

“local authority” (“*awdurdod lleol*”) means the local authority that maintains the school;

“PLASC census” (“*cyfrifiad CYBLD*”) means the pupil level annual school census completed by local authorities in respect of schools in their area and submitted to the Welsh Ministers on an annual basis pursuant to section 29 of the 1996 Act;

“qualified teacher” (“*athro cymwysedig neu athrawes gymwysedig*”) means a teacher who is qualified in accordance with section 132 of the 2002 Act;

“registered person” (“*person cofrestredig*”) means a person registered in the register kept by the Council under section 9 of the 2014 Act;

“school teacher” (“*athro neu athrawes ysgol*”) has the meaning given to it in Table 1 in paragraph 1 of Schedule 2 to the 2014 Act;

“subjects” (“*pynciau*”) means the subjects set out in section 105(2) and (3) and section 106(2) and (3) of the 2002 Act;

“working day” (“*diwrnod gwaith*”) means any day other than a Saturday, a Sunday or a day which is a bank holiday within the meaning of section 1 of the Banking and Financial Dealings Act 1971⁽⁷⁾ or other public holiday.

Persons about whom information may be supplied

3. These Regulations apply only in respect of a qualifying worker⁽⁸⁾ and qualifying trainee⁽⁹⁾—
 - (a) who on the census date is employed or otherwise engaged to work at the school; or
 - (b) during all or part of the census period—
 - (i) is or has been employed or otherwise engaged to work at the school for at least 28 working days (“the Period”); or
 - (ii) will have completed the Period by the end of their contract.

⁽⁵⁾ S.I. 2003/1668.

⁽⁶⁾ The current Order is the Education (National Curriculum) (Foundation Phase) (Wales) Order 2014 (S.I. 2014/1996 (W. 198)).

⁽⁷⁾ 1971 c.80.

⁽⁸⁾ As defined in section 113(2) of the 2005 Act.

⁽⁹⁾ As defined in section 113(3) of the 2005 Act.

Persons to whom a school proprietor or a local authority may be required to supply information

4. For the purposes of section 114(2)(c) of the 2005 Act, a local authority is a prescribed person.

Provision of information to local authorities by schools maintained by them

5. On receiving a request from a local authority, the proprietor(10) of that school must provide to that local authority such of the information set out in the Schedule as is requested in relation to—

- (a) a qualifying worker; or
- (b) a qualifying trainee.

Provision of information by local authorities to the Welsh Ministers

6. Within 27 working days of receiving a request from the Welsh Ministers, a local authority must provide the Welsh Ministers with any information—

- (a) supplied to that local authority under regulation 5; or
- (b) set out in the Schedule as is so requested in relation to—
 - (i) a qualifying worker; or
 - (ii) a qualifying trainee.

Persons to whom the Welsh Ministers may supply information for qualifying purposes

7.—(1) For the purposes of section 114(3) of the 2005 Act, the following are prescribed persons—

- (a) Her Majesty’s Chief Inspector of Education and Training in Wales;
- (b) the Secretary of State;
- (c) the administrator of the Teacher’s Pension Scheme;
- (d) a local authority in Wales;
- (e) the Council;
- (f) the proprietor of a school in Wales;
- (g) the office of manpower economics(11); and
- (h) persons conducting research relating to qualifying workers or qualifying trainees which may be expected to be of public benefit.

(2) The Welsh Ministers may provide such of the information referred to in the Schedule in respect of persons who are or have been qualifying workers or qualifying trainees to any person prescribed in paragraph (1).

Supply by the Welsh Ministers of information to persons who lawfully held or could have required the supply of that information

8.—(1) For the purposes of section 114(6) of the 2005 Act, the following are prescribed persons—

- (a) a local authority in Wales;
- (b) the proprietor of the school at which—

(10) The term “proprietor” has the meaning given to it in section 579(1) of the 1996 Act. That section provides that in relation to a community, foundation or voluntary or community or foundation special school, or a maintained nursery school “proprietor” means the governing body. The definition of “proprietor” in the 1996 Act is to be read as if it were contained in the 2005 Act by virtue of section 122(2) of the 2005 Act. There are no foundation special schools in Wales.

(11) This is a non-departmental body established by the UK Government. It is funded by the Department for Business, Innovation and Skills.

- (i) the qualifying worker works or is due to start working;
 - (ii) the qualifying trainee is training or is due to start training; and
 - (c) Her Majesty's Chief Inspector of Education and Training in Wales.
- (2) The Welsh Ministers may provide any information in respect of persons who are or have been qualifying workers or qualifying trainees to any person prescribed in paragraph (1).

Prohibition on further disclosure

9. No person to whom information is supplied by virtue of these Regulations may further disclose that information other than pursuant to an order of the court, an enactment or rule of law.

20 September 2017

Kirsty Williams
Cabinet Secretary for Education, one of the
Welsh Ministers

SCHEDULE

Regulation 5

Provision of Information by Schools and Local Authorities

1. The person's—
 - (a) gender;
 - (b) date of birth;
 - (c) national insurance number;
 - (d) full name;
 - (e) ethnic group (if known);
 - (f) whether the person has a disability within the meaning of section 6(1) of the Equality Act 2010⁽¹²⁾ (if known); and
 - (g) official reference number assigned by the Council, where such a number is held⁽¹³⁾.
2. The post held by the person and the role or roles the person carries out.
3. Whether the person has met the standards required for higher level teaching assistants published by the Welsh Ministers from time to time⁽¹⁴⁾.
4. In respect of the contract of employment or contract for services—
 - (a) whether the person is engaged under a contract of employment or a contract for services (“the Contract”);
 - (b) the date when that Contract started;
 - (c) the hours and weeks (if any) stipulated in the Contract that must be worked; and
 - (d) where applicable, the date on which that Contract ended or is due to end.
5. Where the person has been engaged on a contract of employment or a contract for services since the previous census date or end of the previous census period, details of that person's employment or otherwise immediately prior to that start, if known.
6. Where the person was or is employed or engaged to work in a period of continuous employment, the date that period started.
7. The person's remuneration including, where applicable—
 - (a) the annual salary;
 - (b) the pay range⁽¹⁵⁾ applicable to that person;
 - (c) the position of the annual salary on any applicable pay range;
 - (d) whether any part of the annual salary is safeguarded within the meaning of Part 5 of the Document;

⁽¹²⁾ 2010 c. 15.

⁽¹³⁾ The official reference number is assigned to a registered person by the Education Workforce Council and is recorded by the Council in the register by virtue of paragraph 4 of Schedule 2 to the Education Workforce Council (Main Functions) (Wales) Regulations 2015. The register is maintained by the Education Workforce Council in accordance with section 9 of the Education (Wales) Act 2014.

⁽¹⁴⁾ The current guidance was published in September 2011 and is contained in circular 020/2011 entitled “Revised professional standards for education practitioners in Wales”. A copy of the guidance is available at www.learning.gov.wales.

⁽¹⁵⁾ For school teachers the current applicable pay ranges are set out in the Document and are the leadership pay range (see section 9 of the Document), main pay range (see section 13 of the Document), upper pay range (see 14 section of the Document), leading practitioner pay range (see section 16 of the Document) or unqualified teacher pay range (section 17 of the Document). In respect of school learning support workers the pay range will be determined by the employer who may be either the local authority which maintains the school, or the governing body of the school where the person works.

Status: This is the original version (as it was originally made).

- (e) whether a daily rate of pay is payable(16); and
- (f) any additional payments(17) as provided for by—
 - (i) the Document; or
 - (ii) a code which conveys that information.
- 8. In relation to the teaching carried out by the person (“P”)—
 - (a) the areas of learning or subjects taught by P;
 - (b) whether P teaches the foundation phase;
 - (c) whether P teaches the key stages and if so which key stages;
 - (d) whether P teaches areas of learning or subjects through the medium of Welsh other than the Welsh language development area of learning or the subject of Welsh;
 - (e) the national curriculum school year P teaches;
 - (f) the name given to the primary school class by the head teacher for the purpose of identifying that class and which is included in the PLASC census and which class is taught by P; and
 - (g) the amount of tuition P has provided or is expected to provide in the classroom during the period of 7 days starting on the Monday immediately prior to the census date.
- 9. Where the person is absent on the census date, the fact of that absence.
- 10. In respect of each occasion on which a person was absent from work at any time during the census period or on the census date—
 - (a) the reason for the absence; and
 - (b) for that period of absence, the first and, where applicable, the last day in which the person was absent and the number of working days lost.
- 11. Where the person’s (“P”) contract of employment or contract for services was terminated during the census period—
 - (a) the reason for that termination;
 - (b) if known, whether P has secured further employment, and if so, its location and type;
 - (c) the national curriculum school years taught by P during that census period; and
 - (d) if known, the number of years teaching experience since becoming a qualified teacher gained by P at the time P’s post was terminated.
- 12. Whether or not the person is able to teach through the medium of Welsh.
- 13. The level of a person’s Welsh language skills.
- 14. In respect of each vacancy for teaching staff at the school which has been advertised during the census period—
 - (a) whether the vacant post has been filled;
 - (b) if the vacant post has been filled, the date a person was appointed to the post;
 - (c) if the vacant post has not been filled the reason for it not being filled;
 - (d) the job title for the vacant post;

(16) Paragraph 43 of the Document published by the Department for Education in September 2016 states that teachers employed on a day-to-day or other short notice basis must be paid in accordance with the provisions of the Document on a daily basis calculated on the assumption that a full working year consists of 195 days, periods of employment for less than a day being calculated pro rata. The Document is updated by the Secretary of State annually.

(17) Paragraph 26 of the Document published by the Department for Education in September 2016 makes provision about additional payments.

- (e) the areas of learning a successful applicant will be required to teach;
- (f) the subjects a successful applicant will be required to teach;
- (g) the key stages the successful applicant will be required to teach;
- (h) the national curriculum school year the successful applicant will be required to teach;
- (i) whether the vacant post requires the ability to teach through the medium of Welsh;
- (j) the number of applications for the vacant post received; and
- (k) the date the vacant post was first advertised.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose requirements on schools and local authorities in Wales to supply information relating to qualifying workers or qualifying trainees (as defined in section 113(2) and (3) of the Education Act 2005 (“the 2005 Act”)).

Section 114(1) of the 2005 Act provides that the information which may be authorised or required to be supplied must be for a qualifying purpose. Section 114(5) of the 2005 Act defines qualifying purpose as information supplied for evaluation, planning, research, statistical purposes or any other prescribed purpose. These Regulations do not set out any other prescribed purposes for section 114(5)(b) of the 2005 Act. The information which may be required by virtue of these Regulations will be used for a qualifying purpose.

The effect of regulation 4 is that a local authority is added to the list of persons and bodies that a proprietor of a school may be required to supply information to. Accordingly, regulation 5 requires the governing body of any maintained school, on receiving a written request from a local authority by which the school is maintained, to supply such of the information referred to in the Schedule as may be requested to that local authority. There is a similar duty in regulation 6 which requires local authorities to supply to the Welsh Ministers information requested by them.

Regulation 7 prescribes the persons to whom the Welsh Ministers, for the purposes of section 114(3) of the 2005 Act are authorised to share the information with. The information may only be used for a qualifying purpose as specified in section 114(5) of the 2005 Act.

Regulation 8 prescribes the persons to whom the Welsh Ministers, for the purposes of section 114(6) of the 2005 Act, is authorised to share the information with.

Regulation 9 forbids the further disclosing of information by any persons to whom information has been supplied under these Regulations, subject to the exceptions of where the information is supplied pursuant to a court order, or under the provisions of an Act of statutory instrument, or as a rule of law.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Workforce Strategy Unit in the Department for Education and Public Services in the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

Status: *This is the original version (as it was originally made).*