

Explanatory Memorandum to the Tertiary Education and Research (Wales) Act 2022 (Consequential Amendments) Regulations 2025

This Explanatory Memorandum has been prepared by the Education, Culture and Welsh Language Department of the Welsh Government and is laid before Senedd Cymru in conjunction with the above regulations and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Tertiary Education and Research (Wales) Act 2022 (Consequential Amendments) Regulations 2025.

Vikki Howells MS
Minister for Further and Higher Education
4 March 2025

1. Description

The Tertiary Education and Research (Wales) Act 2022 (Consequential Amendments) Regulations 2025 (“the Regulations”) make necessary amendments to primary and secondary legislation as a consequence of commencing paragraph 29 of Schedule 4 to the Tertiary Education and Research (Wales) Act 2022 (“the 2022 Act”), which provides for amendments to the School Standards and Organisation (Wales) Act 2013 (“the 2013 Act”).

This provision is to be commenced on 5 April 2025, through the Tertiary Education and Research (Wales) Act 2022 (Commencement No. 5 and Transitory and Transitional Provisions) Order 2025.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

The powers enabling these Regulations to be made are contained in section 146 of the 2022 Act. Section 146(1)(a) which provides the Welsh Ministers with a power to make regulations containing supplementary, incidental or consequential provisions for the purposes of, in consequence of, or for giving full effect to, any provision of that Act. Section 146(2) provides that such regulations may amend, modify, repeal or revoke any enactment.

Section 143(3) and (4)(e)(ii) of the 2022 Act provides that any Regulations made under section 146 of that Act, which amend primary legislation, cannot be made unless they have been laid in draft before, and approved by a resolution of, Senedd Cymru.

Subject to the Regulations being approved by the Senedd, the Tertiary Education and Research (Wales) Act 2022 (Commencement No. 5 and Transitory and Transitional Provisions) Order 2025 will be made alongside the Regulations to commence the relevant parts of the Act.

4. Purpose and intended effect of the legislation

Paragraph 29 of Schedule 4 to the 2022 Act provides for amendments to the 2013 Act in relation to school reorganisation of school sixth forms. These amendments include removing Welsh Ministers’ powers to make proposals to restructure local authority maintained school sixth form education and providing the Commission for Tertiary Education and Research (“Medr”), through the insertion of a new Chapter 3A into the 2013 Act, with powers to reorganise sixth form education.

The Regulations provide for two amendments in consequence of the above amendments.

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 ('ALNET')

Schedule 1 to ALNET makes minor and consequential amendments and repeals; with paragraph 22(4) amending section 74 of the 2013 Act.

Section 74 of the 2013 Act is repealed by paragraph 29(8) of Schedule 4 to the 2022 Act, and as such the Regulations remove paragraph 22(4) from Schedule 1 to ALNET.

The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015 ('the 2015 Regulation')

The 2015 Regulations make provision for the involvement of communities in the disposal of playing fields by a local authority, the regulations ensure that there is a consultation and sets out the procedure. Regulation 4 of the 2015 Regulations set outs exceptions to when the consultation requirements apply, including where the Welsh Ministers have consulted on the proposed decision to dispose of the playing field under section 72(1) of the 2013 Act.

Section 72 of the 2013 Act is repealed by paragraph 29(8) of Schedule 4 to the 2022 Act, with equivalent provision included within the new section 63D being inserted by paragraph 29(7) of Schedule 4 to the 2022 Act. As such the Regulations replace the reference to the Welsh Ministers with a reference to Medr, whilst the reference to section 72(1) is replaced with a reference to section 63D(2).

5. Consultation

No formal consultation has taken place as the Regulations make only consequential technical amendments.

6. Regulatory Impact Assessment (RIA)

A regulatory impact assessment has not been prepared in respect of these Regulations as they make consequential and technical amendments to existing legislation and do not impose or reduce costs for business, charities or voluntary bodies or the public sector. This is in line with the policy set out in the Welsh Ministers' Code of Practice for carrying out Regulatory Impact Assessments for subordinate legislation.