

Explanatory Memorandum to the Official Statistics (Wales) (Amendment) Order 2024

This Explanatory Memorandum has been prepared by the Education, Social Justice and Welsh Language Department of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation 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 Official Statistics (Wales) (Amendment) Order 2024.

Rebecca Evans MS
Minister for Finance and Local Government
09 January 2024

1. Description

The Official Statistics (Wales) (Amendment) Order 2024 ('the Order') provides for the addition of the Commission for Tertiary Education and Research ('the Commission') to the list of official statistics producers in Wales.

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

None.

3. Legislative background

Under section 6(1)(a) of the Statistics and Registration Service Act 2007 ('the 2007 Act') all statistics produced by the Statistics Board (the UK Statistics Authority), government departments, the Scottish Administration, a Welsh ministerial authority, a Northern Ireland department or any other person acting on behalf of the Crown are "official statistics". The 2007 Act also provides that the Welsh Ministers are able to make orders specifying other bodies as producers of official statistics (section 6(1)(b)(iii)).

The Official Statistics (Wales) Order 2017, made by Welsh Ministers under the 2007 Act, provides that the statistics produced, or to be produced, by the 20 bodies now listed in the Schedule are official statistics. Most recently, the Official Statistics (Wales) (Amendment) Order 2021 added the newly established body, Digital Health and Care Wales, to the list.

The Commission was established as a legal entity on 15 December 2022 through the commencement of section 1 of the Tertiary Education and Research (Wales) Act 2022 (as provided for by the Tertiary Education and Research (Wales) Act 2022 (Commencement No. 1) Order 2022).

The Commission was fully established on 4 September 2023, when the CEO and five ordinary members took up their posts and following the making of the Tertiary Education and Research (Wales) Act 2022 (Commencement No. 2 and Transitory Provision) Order 2023.

The Order is subject to the draft affirmative procedure by virtue of sections 6(1)(b)(iii), 6(2) and 65(7) of the 2007 Act.

Subject to approval by the Senedd, the Order will be made by the Minister for Finance and Local Government and will come into force on 1 April 2024.

4. Purpose & intended effect of the legislation

The Commission will be responsible for the strategy, funding and oversight of the following sectors in Wales:

- further education, including colleges and school sixth-forms;
- higher education, including research and innovation;

- adult education and adult community learning; and
- apprenticeships.

Key functions relating to the collection, analysis and dissemination of this data, which are currently delivered by Welsh Government, will transfer to the Commission.

The Order makes provision for the Commission to be added to the list of bodies whose statistics are specified as official statistics. This will include some official statistics currently published by Welsh Government.

The impact of specifying statistics produced by particular bodies as “official statistics” is that:

- a) the production and publication of official statistics is subject to monitoring and reporting by the Statistics Board (the UK Statistics Authority) (section 8 of the 2007 Act);
- b) the persons producing official statistics designated as “National Statistics” are required to fully comply with the Code of Practice for Statistics (‘the Code’), in order to maintain that designation (section 13 of the 2007 Act). For official statistics that are not designated as “National Statistics” compliance with the Code is not a statutory requirement but is best practice to be observed;
- c) the persons producing official statistics must comply with the relevant rules and principles relating to the granting of pre-release access to official statistics to the extent applicable to them. These rules are outlined in the Pre-release Access to Official Statistics (Wales) Order 2009; and
- d) the person responsible for any official statistics in respect of which an assessment is being made under section 12 of the 2007 Act must provide the Statistics Board with such information about the statistics as it may reasonably require.

5. Consultation

Before making an order under section 6 of the 2007 Act, the Welsh Ministers are required to consult with the UK Statistics Authority. On the 12 September 2023, the Minister for Finance and Local Government agreed for officials to engage with the UK Statistics Authority on her behalf. The Welsh Government’s Chief Statistician wrote to the National Statistician of the UK Statistics Authority on 13 September 2023 to formally seek opinions on the inclusion of the Commission as an official statistics provider. On 26 September 2023, the National Statistician signalled that he was content for the Commission to be included in the Order. The UK Statistics Authority Board also noted the request at its meeting on the 26 October 2023.

6. Regulatory Impact Assessment (RIA)

As the Order makes a routine technical amendment relating to the transfer of functions from one organisation to another and no major policy impact is anticipated, an RIA is not required. 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. The [RIA](#) that accompanied the Tertiary Education and Research (Wales) Bill included reference to the Commission becoming an official statistical body and included costings in relation to resources.