

Explanatory Memorandum to the Federation of Maintained Schools (Wales) (Amendment) Regulations 2021

This Explanatory Memorandum has been prepared by the Education Directorate and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Federation of Maintained Schools (Wales) (Amendment) Regulations 2021.

Jeremy Miles MS
Minister for Education and Welsh Language

15 December 2021

PART 1

1. Description

1.1 The Federation of Maintained Schools (Wales) (Amendment) Regulations 2021 (“the Amendment Regulations”) amend the Federation of Maintained Schools (Wales) Regulations 2014 (“the 2014 Regulations”).

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

2.1 None.

3. Legislative background

3.1 The Federation of Maintained Schools (Wales) Regulations 2014 were made under sections 19(2), (3) and (8), 20(2), (3) and (4A), 34(5), 35(4) and (5), 36(4) and (5), 210(7), and 214 of the Education Act 2002, and came into force on 22 May 2014.

3.2 The 2014 Regulations set out the process local authorities and governing bodies are required to follow to federate, de-federate or dissolve a federation, set out the constitution and membership of a federated governing body, impose a cap on the number of schools which may federate, and set out the governance framework within which federated governing bodies operate and conduct their business.

3.3 Regulation 15 (3) provides disqualification criteria for teacher governors if that person:

(a) has previously been elected as a teacher governor to the same governing body within the last two years; or

(b) is employed to work at the same federated school as any person elected as a teacher governor to that governing body within the last two years.

3.4 Regulation 16 provides the same criteria for staff governors.

3.5 These criteria provide an anomaly for federated governing bodies of two schools making it unnecessarily difficult to comply with the constitution requirements and have proper representation from each school on the governing body.

3.6 These Regulations are subject to the made negative procedure.

4. Purpose and intended effect of the legislation

4.1 The Amendment Regulations provide a caveat in regulation 15 and 16 to the effect that that subparagraphs (a) and (b) above do not apply to federations made up of two schools.

4.2 The amendment is made to allow federated governing bodies to appoint teacher and staff governors from the same school as the outgoing governor. This makes complying with the Regulations more straightforward and allows proper representation from across all schools in the federation.

4.3 The remaining requirements as set out in the 2014 Regulations, as amended, are unaffected.

5. Consultation

5.1 As the Amendment Regulations are made to correct a technical anomaly in the Regulations and is intended only to bring the Regulations in line with the existing policy intention, no consultation was undertaken.

6. Regulatory Impact Assessment

6.1 There are no costs or savings resulting from this amendment, and there are no changes to the policy intent in making these Regulations, therefore a Regulatory Impact Assessment has not been completed. No impact on business, charities or voluntary bodies is foreseen.

6.2 An Integrated Impact Assessment has been carried out in the making of the 2021 Amendment Regulations.

Welsh Language

6.3 There are no positive or adverse impacts specific to the Welsh Language.

Children's Rights

6.4 There are no positive or adverse impacts specific to Children's Rights.

Equality and Human Rights

6.5 There are no positive or adverse impacts specific to Equality and Human Rights.

Privacy

6.6 The provisions in the General Data Protection Regulation 2016 are not affected by the amendment to these Regulations.

Justice Impact Assessment (JIA)

6.7 Whilst no formal JIA has been undertaken, no impacts have been identified when considering these Regulations.