

## **Explanatory Memorandum to the Digital Government (Welsh Bodies) Regulations 2024**

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 Digital Government (Welsh Bodies) Regulations 2024.

Lynne Neagle MS  
Cabinet Secretary for Education  
09 July 2024

## **1. Description**

The Digital Government (Welsh Bodies) Regulations 2024 ('the Regulations') amends the list of relevant Welsh authorities in Part 2 of Schedule 8 to the Digital Economy Act 2017 ('the 2017 Act') in order to add the Commission for Tertiary Education and Research ('the Commission') and remove the Higher Education Funding Council for Wales ('HEFCW').

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

The Legislation, Justice and Constitution Committee will wish to note that these Regulations amend the 2017 Act.

## **3. Legislative background**

The powers enabling these Regulations to be made are contained in section 56(6) of the 2017 Act which includes an express power for the Welsh Ministers to amend the list of Welsh public authorities in Schedule 8 to that Act.

Section 56(7) of the 2017 Act provides that Regulations under subsection (6) may add an entry relating to a person or a description of person to Schedule 8 only if the conditions in section 56(7) and (8) are satisfied.

These Regulations are subject to the affirmative resolution procedure by virtue of section 62(6) of the 2017 Act.

Subject to approval by the Senedd, these Regulations will be made by the Cabinet Secretary for Education and come into force on 1 August 2024.

## **4. Purpose and intended effect of the legislation**

The Commission was established by section 1 of the Tertiary Education and Research (Wales) Act 2022 ('the 2022 Act') (as commenced by the Tertiary Education and Research (Wales) Act 2022 (Commencement No. 1) Order 2022). Section 23 of the 2022 Act will dissolve HEFCW.

The 2017 Act currently includes references to HEFCW in relation to the provisions in respect of combating fraud against the public sector. The regulations provide for the reference to HEFCW to be replaced with a reference to the Commission in the list of specified persons in Part 2 of Schedule 8, as a consequence of the changes made by the 2022 Act coming into force.

## 5. Consultation

In accordance with section 56(12) of the 2017 Act, the Welsh Ministers have consulted with the specified persons:

- a) the Information Commissioner,
- b) the Commissioners for Her Majesty's Revenue and Customs,
- c) each other person who is the appropriate national authority in relation to regulations under section 56(6) of the 2017 Act,
- d) the Minister for the Cabinet Office, and
- e) such other persons as the Welsh Ministers consider appropriate.

A general consultation was also issued from 2 October 2023 until 22 December 2023 and 4 responses were received. A [summary of the responses](#) to the consultation was published on 5 February 2024.

## 6. Regulatory Impact Assessment (RIA)

As these Regulations make factual amendments to update subordinate legislation and the amendments do not alter the policy (or its impact) in any significant way or how it is applied in a given situation, they do not require an RIA in their own right. 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. However, the [RIA](#) to accompany the 2022 Act at its introduction to the Senedd assessed the potential costs and benefits associated with establishing the Commission, which would include the changes made by these Regulations.