

Explanatory Memorandum to The General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2012

This Explanatory Memorandum has been prepared by the Department for Education and Skills (DfES) and is laid before the National Assembly for Wales 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 General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2012.

Leighton Andrews

Minister for Education and Skills

20 January 2012

1. Description

The regulations amend the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001 (“the 2001 Regulations”) as a consequence of the Education Act 2011 which provides for the abolition of the General Teaching Council for England and makes new provisions in relation to the prohibition of persons from carrying out teaching work.

2. Matters of special interest to Constitutional and Legislative Affairs Committee

None.

3. Legislative background

The statutory powers of the Welsh Ministers to make the regulations are found in sections 6 and 42(6) and (7) of, and paragraph 1(1) and (4) of Schedule 2, to, the Teaching and Higher Education Act 1998.

The regulations will follow the negative resolution procedure.

4. Purpose & intended effect of the legislation

The General Teaching Council for Wales (GTCW) is the independent professional body for teachers in Wales established under the Teaching and Higher Education Act 1998 on 1 September 2000. The General Teaching Council for England was established at the same time and has similar powers and functions as the GTCW.

The 2001 Regulations make provision about the disciplinary functions of the GTCW.

The Education Act 2011 provides for the abolition of the General Teaching Council for England on a date to be appointed by the Secretary of State and gives responsibility to the Secretary of State to regulate teachers’ conduct in England including issuing a prohibition order (i.e. a bar) against a teacher if found guilty of professional misconduct. The Secretary of State’s powers to issue a prohibition order in this respect are provided for by the Education Act 2011 which inserts a new section 141B into the Education Act 2002 (“the 2002 Act”). The 2001 Regulations will need to be amended to reflect this change. The proposed amendments are:

Regulation 2(2) amends the “definitions” provision of the 2001 Regulations to account for the abolition of the General Teaching Council for England and the new provisions inserted into the 2002 Act, which provide for the Secretary of State to have the power to make a prohibition order prohibiting a person from carrying out teaching work;

Regulation 2(3) amends regulation 9(1)(b) of the 2001 Regulations by adding a provision whereby an Investigating Committee of the GTCW, as

established under regulation 3(1) of the 2001 Regulations, has no functions in relation to investigation of a registered teacher, in circumstances where the Secretary of State wishes to consider the case with a view to exercising the Secretary of State's powers under section 141B of the 2002 Act.

Regulation 2(4) substitutes a new provision for regulation 25 of the 2001 Regulations which provides that a prohibition order made by the Secretary of State under section 141B of the 2002 Act shall apply to Wales as it applies in England. The previous wording of regulation 25 that is being removed made a similar provision in relation to the General Teaching Council for England.

5. Consultation

No formal consultation exercise has taken place as the proposed amendments are technical in nature and are consequential following the abolition of the General Teaching Council for England.

The GTCW has, however, been consulted on the amending regulations in line with regulation 42(9) of the Teaching and Higher Education Act 1998, and they support the proposed change.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment has not been prepared as the regulations do not impose any additional costs on businesses, employers or third parties. No additional requirements will be placed on the GTCW as a consequence of the regulations.