

Explanatory Memorandum to the Staffing of Maintained Schools (Wales) (Amendment) Regulations 2009 WSI 2009/2708 (W.226)

This Explanatory Memorandum has been prepared by the Department for Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

The Staffing of Maintained Schools (Wales) (Amendment) Regulations 2009 (“these regulations”) amend the Staffing of Maintained Schools (Wales) Regulations 2006 (“the 2006 regulations”) to include provisions relating to Head Teacher’s Work/Life Balance and to impose a new duty on governing bodies to manage staff in accordance with their conditions of employment.

Matters of Special Interest to the Subordinate Legislation Committee

None.

Legislative Background

The Welsh Ministers have the power to make these regulations by way of sections 72 and 138 of the School Standards and Framework Act 1998 and sections 19, 34, 35, 36 and 210 of the Education Act 2002.

Purpose and intended Effect of the Legislation

The 2006 regulations came into force on 1 April 2006. The 2006 regulations are amended so that a duty is placed on a governing body to ensure that the head teacher achieves a satisfactory work/life balance. This duty is currently provided in regulation 5 of The Education (Review of Staffing Structure) (Wales) Regulations 2005 (“the 2005 regulations”). The rest of the 2005 regulations are now spent because they were transitional in nature. These regulations therefore revoke the 2005 regulations but restate what was regulation 5 as new regulation 5A in the 2006 regulations.

The 2006 regulations are also amended to place a new duty on governing bodies to ensure head teachers comply with the duties imposed on them by the Secretary of State by order under section 122 of the Education Act 2002. The duties themselves are to be seen in the School Teachers Pay and Conditions Document. This amendment mirrors the current duty on head teachers set out in the School Teachers’ Pay and Conditions Document to manage and deploy all their staff in a manner consistent with their conditions of employment.

Implementation

It is intended that these regulations will come into force on 2nd November 2009.

If the amended regulations are annulled head teachers in Wales would not be afforded the same statutory provisions relating to work/life balance and conditions of employment as other teachers

Also, these would be different to England which is currently amending The School Staffing (England) Regulations 2003 to include provisions relating to Head Teacher's Work/Life Balance and to impose a new duty on governing bodies to manage staff in accordance with their conditions of employment.

Consultation

A public consultation on the 'Proposal to amend the Staffing of Maintained Schools (Wales) Regulations 2006' sought views and comments on the proposals to amend the existing regulations. The consultation ran from 18 May to 17 July 2009 and eight responses were received.

87.5 % of respondents were content with the proposals to amend the regulations for use in Wales. The summary of consultation responses can be found at
<http://wales.gov.uk/consultations/education/proposalstaffschool/?lang=en&status=closed>

Regulatory Impact Assessment

A Regulatory Impact Assessment is not required as there are no financial implications for local authorities or schools. The costs associated with administering the provisions of the 2006 regulations are included within the local authority Revenue Support Grant.