

## **Explanatory Memorandum to the Welsh Language Schemes (Public Bodies) Order 2008**

This Explanatory Memorandum has been prepared by the Welsh Language Unit and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

### **(i) Description**

This Order specifies 57 persons as public bodies for the purposes of Part II of the Welsh Language Act 1993. As a result, the Welsh Language Board will be able to serve notice on these persons under the 1993 Act requiring each of them to prepare a Welsh Language Scheme.

### **(ii) Matters of special interest to the Subordinate Legislation Committee**

None

### **(iii) Legislative background**

The powers enabling this Instrument to be made are contained in Section 6(1)(o) of the Welsh Language Act 1993. The functions of the Secretary of State under section 6(1)(o) of the 1993 Act were transferred to the National Assembly for Wales as constituted by the Government of Wales Act 1998. Those functions were subsequently transferred to the Welsh Ministers.

### **(iv) Purpose & intended effect of the legislation**

The purpose of the Order is to specify 57 persons as 'public bodies' for the purposes of Part II of the Welsh Language Act 1993. Under Part II of the Welsh Language Act 1993, the Welsh Language Board may give notice in writing to any organisation which is a 'public body' to produce a Welsh Language Scheme. A Welsh Language Scheme specifies the measures a public body will take as to the use of the Welsh language in the services it provides to the public in Wales for the purpose of giving effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that in the conduct of public business and the administration of justice in Wales, the English and Welsh languages should be treated on a basis of equality. The effect of this Order will be to open the way for the Board to give notice to a further 57 public bodies that they should prepare Welsh language schemes.

When the Welsh Language Act 1993 received Royal Assent, the intention was that coverage of the public sector would be comprehensive. The reason why Paragraph 6 of Part II is so broadly drafted is that the Secretary of State (& subsequently Welsh Ministers) would be able to specify a broad spectrum of bodies carrying out functions of a public nature.

A list of the bodies included in the order is at **Annex A**.

### **(v) Implementation**

Should this Order be annulled, there would be a detrimental effect on the accessibility of public services to people wishing to communicate with public bodies through the medium of Welsh.

It is intended that the instrument will come into force in August 2008 (dates TBC)

**(vi) Consultation**

A full consultation process was undertaken in Spring 2007 before deciding to include the 59 bodies (which has since been reduced to **57**) under this Order.

The full details of the consultation are included under the relevant subsection below.

**(vii) Regulatory Impact Assessment**

**(a) Options**

**1) Do nothing**

If the 57 bodies are not specified this would ultimately mean that less services would be available to the public through the medium of Welsh.

**2) Specify the 57 bodies in an Order**

This would mean that more services could be made available to the public in Welsh as a result of these bodies being specified in an Order. It would then be open to the Welsh Language Board to notify these bodies that they are required to produce a Welsh Language Scheme.

**(b) Benefits**

The Order will allow up to 57 new, statutory Welsh Language Schemes to be developed, approved and implemented. These schemes will improve the accessibility of public services to people wishing to communicate with public bodies through the medium of Welsh. The detailed benefits to service users in Wales will depend on the terms of each Welsh language scheme, and cannot be foreseen precisely at this stage.

The Order will enable the application of the principle that English and Welsh should be treated on a basis of equality to be further extended. The Order is consistent with the Welsh Assembly Government's policy of supporting bilingualism. It also contributes to one of the priorities of the Assembly Government's 'One Wales' progressive agenda, which seeks to extend access to, and awareness of, the Welsh Language.

**(c) Costs**

The Welsh Language Act 1993 makes clear that Welsh language schemes must be prepared with a view to what is "reasonably practicable and appropriate in the circumstances" for an individual scheme. The Act therefore provides a safeguard against any organisation named in this Order having to take measures which are not "reasonably practicable" for it to take.

The cost of implementing a Welsh Language Scheme will also depend on the existing and planned level of Welsh language services by the organisation concerned. Bilingual practices are increasingly the norm in the public services in Wales. Where an organisation has already been moving in the direction of bilingualism, the costs imposed as a result of this Order will tend to be lower than if the same organisation has to date taken only some steps. Where an

organisation has made little or no progress in this area to date, the costs of implementing a scheme may be correspondingly higher.

For completeness, each of the bodies proposed for inclusion in the Order was given the opportunity (during the original consultation process in February & March 2007) to provide, if it wished to, an estimate of the costs which, in its own view, it might need to meet in implementing a Welsh language scheme after the passing of this Order. A few organisations have indicated that there would be additional costs but none has estimated or quantified these. Some organisations do not foresee additional costs.

It is not possible to foresee precisely the detailed benefits which will accrue to service users in Wales as a result of the Welsh language schemes which this Order will make possible. The Assembly Government's view is that it is also not possible at this stage accurately to forecast the costs of individual schemes.

No costs are likely to be incurred by the Welsh Assembly Government.

There will be no additional cost implications for the Welsh Language Board, who will be charged with advising on the development of the schemes and their implementation in due course, as any costs will be met from within their current resources.

**(d) Competition Assessment**

Having undertaken the competition filter test, we feel it is unlikely that the regulation will have a detrimental effect on competition.

**(e) Consultation**

A list of bodies proposed for inclusion in a new Order was drawn up in consultation with the Welsh Language Board in 2006-07.

Following detailed consideration of the criteria for specification of persons as public bodies for the purposes of Part II of the Welsh Language Act 1993, the previous Culture Minister agreed in March 2007 to consult with a total of 59 bodies on specifying them as public bodies for the purposes of the Welsh Language Act 1993.

The legislation made in 2007 to establish the Commission for Equality and Human Rights made provision for that body to be specified as a public body for the purposes of Part II of the Welsh Language Act 1993. The Milk Development Council has been dissolved since the start of the process last year.

Therefore, the total number of organisations it is proposed to specify is **57**.

**(f) Post-implementation review**

The effect of the Order will be monitored on an on-going, quarterly basis between Welsh Assembly Government officials and those of the Welsh Language Board.

**(g) Summary**

As this Order encompasses numerous bodies in different sectors of public life, no single sector bears the costs and benefits identified.

## Annex A

### List of Bodies contained in the Order

Auditor General for Wales
Bank of England
Big Lottery Fund
British Council
Community Development Foundation
Competition Commission
Consumer Council for Water
Council for Regulation of Healthcare Professionals (commonly known as the Council for Healthcare Regulatory Excellence)
Electoral Commission
FFORWM
Finance Wales / Cyllid Cymru
Gambling Commission
General Chiropractic Council
General Optical Council
General Osteopathic Council
Independent Police Complaints Commission
Local Government Data Unit
National Lottery Commission
National Policing Improvement Agency
NESTA (National Endowment for Science, Technology and the Arts)
Ofcom
Olympic Delivery Authority
Pensions Regulator
Royal Mail Group plc
Royal Pharmaceutical Society of Great Britain
Security Industry Authority
Special Educational Needs Tribunal for Wales
Sustainable Development Commission
The Carbon Trust
The Energy Saving Trust Limited
UK Sport
Welsh Books Council

### Sector Skills Councils x 25

Asset Skills
Automotive Skills
Cogent SSC Ltd
Construction Skills
Creative and Cultural SSC
Energy and Utility Skills
e-Skills
Financial Services SSC
Go Skills

Government Skills SSC
Improve
Lantra
Lifelong Learning UK
People 1 <sup>st</sup>
Proskills
SEMTA ( <i>Science, Engineering, Manufacturing Technologies Alliance</i> )
Skillfast
Skills for Care and Development
Skills for Health
Skills for Justice
Skills for Logistics
SkillsActive
Skillset
Skillsmart
Summit Skills