

2009 No. 1350 (W.126)

EDUCATION, WALES

**The Education (Supply of
Information) (Wales) Regulations
2009**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require the employers of teachers registered with the General Teaching Council for Wales (“the Council”) and supply agencies to report cases of misconduct and incompetence to the Council other than those cases they are required to provide information about to the Independent Barring Board under the Safeguarding Vulnerable Groups Act 2006. They revoke the Education (Supply of Information) (Wales) Regulations 2003 which required misconduct cases to be reported to the Welsh Ministers and incompetence cases to be reported to the Council. Under these new Regulations all cases are to be reported to the Council.

Employers must make a report to the Council if they cease to use a registered teacher’s services on a specified ground or if they might have done so had that teacher not already ceased to provide his or her services. Agents must make a report to the Council if they have arranged for a registered teacher to carry out work on behalf of a local education authority, a governing body or a proprietor of an independent school and terminate those arrangements on a specified ground, or might have done so had the teacher not already terminated the arrangements or ceased to be available for work. The specified grounds are misconduct, professional incompetence and conviction of a relevant offence. A relevant offence is an offence other than one having no material relevance to a person’s fitness to be a registered teacher.

The Schedule sets out the information to be provided in the reports.

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**The Education (Supply of
Information) (Wales) Regulations
2009**

Made 2 June 2009

Laid before the National Assembly for Wales
4 June 2009

Coming into force 12 October 2009

The Welsh Ministers make the following Regulations in exercise of the powers conferred on the Secretary of State by sections 6, 15, 15A and 42(6) and (7) of, and Schedule 2 to, the Teaching and Higher Education Act 1998⁽¹⁾ and now vested in the Welsh Ministers⁽²⁾, and after consulting the General Teaching Council for Wales in accordance with section 42(9) of the Act.

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Supply of Information) (Wales) Regulations 2009 and they come into force on 12 October 2009.

(2) These Regulations apply in relation to Wales.

(3) These Regulations do not apply where a relevant employer or an agent is required to provide information to the Independent Barring Board under section 35, 36 or 39 of the Safeguarding Vulnerable

(1) 1998 c.30. Schedule 2 applies in relation to the Council by virtue of section 9 of the 1998 Act. Section 15 was substituted and section 15A was inserted by paragraph 83 of Schedule 21 to the Education Act 2002 (c.32) and both sections were subsequently amended by paragraphs 5 and 6 of Schedule 9 to Safeguarding Vulnerable Groups Act 2006 (c.47). For the meaning of “prescribed” see section 43(1) of the 1998 Act.

(2) The Secretary of State’s functions were transferred to the National Assembly for Wales by virtue of section 211 of the Education Act 2002 and the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

Groups Act 2006⁽¹⁾ in relation to a registered teacher's case, the facts of which they would otherwise be required to report under regulation 4(1) or 5(1) of these Regulations.

Revocation

2. The Education (Supply of Information) (Wales) Regulations 2003⁽²⁾ are revoked.

Interpretation

3. Except where the context otherwise requires, in these Regulations—

“the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998;

“agent” (“*asiant*”) has the meaning given by section 15A(1) of the 1998 Act;

“arrangements” (“*trefniadau*”) means arrangements of the kind referred to in section 15A(1) of the 1998 Act for a worker who is a registered teacher to carry out work in Wales;

“Committee” (“*Pwyllgor*”) means an Investigating Committee, a Professional Competence Committee or a Professional Conduct Committee established under the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001⁽³⁾;

“the Council” (“*y Cyngor*”) means the General Teaching Council for Wales;

“Investigating Committee” (“*Pwyllgor Ymchwilio*”) means a committee established under regulation 3(1) of the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001;

“registered teacher” (“*athro cofrestredig neu athrawes gofrestrdig*”) means –

- (a) a person for the time being registered under section 3 of the 1998 Act;
- (b) a person who was registered under section 3 of the 1998 Act at the time of any alleged conduct or offence on his or her part; or
- (c) a person who has made an application to be registered under section 3 of the 1998 Act;

“relevant employer” (“*cyflogwr perthnasol*”) has the meaning given by section 15(5) of the 1998 Act; and

“services” (“*gwasanaethau*”) means services provided to a relevant employer in Wales and includes professional and voluntary services.

⁽¹⁾ 2006 c.47.

⁽²⁾ S.I. 2003/542 (W.76).

⁽³⁾ S.I. 2001/1424 (W.99).

Employer's reports

- 4.—(1) Where a relevant employer—
- (a) has ceased to use the services of a registered teacher on the ground of —
 - (i) misconduct;
 - (ii) professional incompetence; or
 - (iii) conviction of a relevant offence within the meaning of paragraph 8 of Schedule 2 to the 1998 Act, or
 - (b) might have ceased to use a registered teacher's services on such a ground had the teacher not ceased to provide those services,

the employer must report the facts of the case and provide all the information listed in Part 1 of the Schedule that is available to the employer in relation to the teacher to the Council.

(2) The Council must make all information provided to them under this regulation available to an Investigating Committee.

Agent's reports

- 5.—(1) Where an agent—
- (a) has terminated arrangements on the ground of—
 - (i) misconduct;
 - (ii) professional incompetence; or
 - (iii) conviction of a relevant offence within the meaning of paragraph 8 of Schedule 2 to the 1998 Act;
 - (b) might have terminated arrangements on such a ground if the registered teacher had not terminated them; or
 - (c) might have refrained from making new arrangements for a registered teacher on such a ground if the teacher had not ceased to make himself or herself available for work,

the agent must report the facts of the case and provide all the information listed in Part 2 of the Schedule that is available to the agent in relation to the teacher to the Council.

(2) The Council must make all information provided to them under this regulation available to an Investigating Committee.

Jane Hutt

Minister for Children, Education, Lifelong Learning
and Skills, one of the Welsh Ministers

2 June 2009

SCHEDULE

Regulations 4 and 5

PART 1

Information to be supplied by a relevant employer

1. A statement of reasons for ceasing to use the person's services.

2. Employer's records relating to the cessation of the use of the person's services or any contemplated cessation, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the employer.

3. Employer's records relating to the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his or her services, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the employer.

4. Employer's letters, warnings or notices issued to a person in relation to the cessation of the use of his or her services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his or her services, and the person's replies or representations in relation thereto.

5. Any other statements, representations and evidence submitted by a person to the employer in relation to the cessation of the use of his or her services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his or her services.

6. Letter advising a person's intention to cease to provide services.

7. Any other document or information which the employer considers is relevant to any investigation which may be carried out by an Investigating Committee or any proceedings which may be taken by a Committee against a registered teacher.

PART 2

Information to be supplied by an agent

1. A statement of reasons for terminating the arrangements.

2. Any records relating to the termination of the arrangements or any contemplated termination, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the agent.

3. Any records relating to the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself or herself available for work, have led the agent to refrain from making new arrangements, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the agent.

4. Agent's letters, warnings or notices issued to a person in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself or herself available for work, have led the agent to refrain from making new arrangements, and the worker's replies or representations in relation thereto.

5. Any other statements, representations and evidence submitted by a person to the agent in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself or herself available for work, have led the agent to refrain from making new arrangements.

6. Worker's letter terminating arrangements or ceasing to make himself or herself available for work.

7. Any other document or information which the agent considers is relevant to any investigation which may be carried out by an Investigating Committee or any proceedings which may be taken by a Committee against a registered teacher.