

## **Explanatory Memorandum to the School Teacher Appraisal (Amendment) (Wales) Regulations 2009**

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**

These Regulations amend the School Teacher Appraisal (Wales) Regulations 2002 (S.I. 2002 No 1394 (W 137)) ("the 2002 Regulations"). The 2002 Regulations have been amended to bring within scope the appraisal of the performance of those who are currently outside the existing regulations: -

- Nursery school teachers;
- Teachers employed by local authorities for more than one school term;
- Teachers employed by local authorities who are not attached to one particular school; and
- Teachers who teach outside school settings

### **Matters of Special Interest to the Subordinate Legislation Committee**

None.

### **Legislative Background**

The enabling powers are sections 21 and 131 of the Education Act 2002, which re-enacted section 38 of the School Standards and Framework Act 1998 and sections 49 and section 63(3) of the Education (No 2) Act 1986 respectively. The power to make regulations in those sections by implication include power to amend regulations. Negative procedure applies, by virtue of section 210 of the Education Act 2002 and paragraph 34 (2) of Schedule 11 to the Government of Wales Act 2006.

### **Purpose and intended Effect of the Legislation**

Performance Management offers teachers an annual assessment of their performance and a proper, informed opportunity for professional dialogue with their team leader or head about their work and their professional development.

The performance management system aims:

- to ensure that all schools have performance management policies and appraisal procedures in place, which are consistent and fair in their approach;
- to provide a clearer procedure for assessing teachers' performance in relation to agreed priorities and objectives, which should help teachers improve their effectiveness;

- to help ensure that training and professional development needs are identified, and steps taken to meet them on a consistent and regular basis.

The 2002 Regulations provide for the appraisal of the performance of school teachers (including unqualified teachers) at community, voluntary and foundation schools with the exception of those employed in non standards settings, those employed with contracts of less than a year, nursery teachers, teachers in Pupil Referral Units and unattached teachers.

These amended regulations now include these teachers in the performance management arrangements.

The principal provisions of these Regulations: -

- a) require head teachers to exercise their functions under these regulations with a view to securing that the performance of school teachers (including nursery school teachers and those teachers who are employed for more than one school term) in discharging their functions at the school is regularly appraised in accordance with these regulations;
- b) require local authorities to establish and implement a performance management policy for unattached teachers;
- c) require local authorities to be responsible for appraising unattached teachers; and
- d) allow local authorities to delegate some of their responsibilities to the school where the unattached teacher spends the predominant part of their working time, or to another suitable person.

### **Implementation**

The amended regulations will come into force on 1<sup>st</sup> September 2009.

If the amended regulations are annulled those teachers currently excluded from the School Teacher Appraisal (Wales) Regulations 2002 would not have the same access to statutory performance management as other teachers; this is inequitable.

Also, the situation would be different to England which includes those teachers currently excluded in Wales in its statutory provisions.

### **Consultation**

A public consultation on the 'Proposals to extend the School Teachers' Performance Management arrangements' sought views and comments on the proposals to extend the existing regulations to cover those teachers currently outside them. A draft of the Regulations, which are now the subject to this Explanatory Memorandum, was included in the consultation paper. The

consultation ran from 20 April to 19 June 2009 and 10 responses were received.

90% of respondents were content with the proposals to adopt the revised regulations for use in Wales. Comments were received about the definition for 'peripatetic teachers' which was subsequently removed from the regulations following the consultation. The Welsh Assembly Government decided to proceed subject to this amendment. The summary of consultation responses can be found at <http://wales.gov.uk/consultations/closedconsultations/education/proposalschoolteacher/?lang=en>

### **Regulatory Impact Assessment**

A Regulatory Impact Assessment is not required as there are no financial implications for local authorities or schools. The costs of administering the performance management system are included within the local authority Revenue Support Grant.