WELSH STATUTORY INSTRUMENTS

2009 No. 2159 (W.183)

EDUCATION, WALES

The School Teacher Appraisal (Amendment) (Wales) Regulations 2009

Made - - - -	*4 August 2009*
Laid before the National Assembly for Wales - -	*6 August 2009*
Coming into force - -	*1 September 2009*

The Welsh Ministers in exercise of the powers conferred on the National Assembly for Wales by sections 21(3), 131 and 210 of the Education Act 2002(**1**) and now vested in them make the following Regulations.

In accordance with section 131(7) of that Act the Welsh Ministers have consulted with such of the following as appeared to them to be appropriate: associations of local education authorities in Wales; local education authorities in Wales; bodies representing the interests of governing bodies in Wales; and bodies representing the interests of teachers in Wales.

Title, Commencement and Application

1.—(1) The title of these Regulations is the School Teacher Appraisal (Amendment) (Wales) Regulations 2009 and they come into force on 1 September 2009.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) Except where the context otherwise requires, in these Regulations—

"2002 Regulations" means the School Teacher Appraisal (Wales) Regulations 2002(**2**).

(2) Any reference in these Regulations to—

(a) a numbered regulation is a reference to the regulation bearing that number in the 2002 Regulations; and

(b) a numbered paragraph is a reference to the paragraph bearing that number in the regulation in which the reference appears.

(**1**) 2002 c. 32; conferred upon the National Assembly for Wales in the Education Act 2002 and transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**2**) S.I.2002/1394 (W. 137).

Amendment of the 2002 Regulations

3. The 2002 Regulations are amended as follows.

4.—(1) In regulation 3(1) insert the following at the appropriate places in alphabetical order—

""authority" ("*awdurdod*") in relation to an unattached teacher means the local education authority by which the teacher is employed and if employed by more than one authority then each such authority;

"relevant date" ("*y dyddiad perthnasol*") means 1 September 2009;

"school term" ("*tymor ysgol*") includes (a) a period of time short of a full school term by no more than one week and (b) two consecutive half terms;

"short term contract" ("*contract cyfnod byr*") means a contract of employment for a fixed term of less than one school term;

"unattached teacher" ("*athro neu athrawes ddigyswllt*") means a teacher employed by the authority falling within one of the following categories—

(a) a teacher not attached to a particular school;

(b) a teacher employed to provide primary or secondary education otherwise than at a school;

(c) a teacher employed at a pupil referral unit (including a teacher in charge of a unit);

but does not include a teacher employed under a short term contract.".

(2) In the definition of "school teacher" ("*athro neu athrawes ysgol*") from line 5 onwards omit "under a fixed term contract of employment the term of which is less than one year" and insert "under a short term contract".

5. In regulation 4 insert the following after (2)—

"(3) Where a school is appointed as appraiser in accordance with regulation 36(2) it is the duty of the governing body and head teacher of that school to exercise their functions under these Regulations with a view to securing that the performance of the unattached teacher concerned in discharging their duties at that school and at other schools is regularly appraised in accordance with these Regulations.

(4) It is the duty of the authority to exercise their functions under these Regulations with a view to securing that the performance of unattached teachers in discharging their duties to the authority is regularly appraised in accordance with these Regulations.".

6. In regulation 15(1) omit "and" from line 3 of (b) and insert the following at the end of line 2 of (c)—

"; and

(d) determining whether there has been a successful review of overall performance.".

7.—(1) Regulation 22 is amended as follows.

(2) In (2) line 1 insert before "(3)", "(2A)" and insert after (2)—

"(2A) In the case of a school teacher employed under a contract of employment for a fixed term of less than one year the length of the appraisal cycle is the period of the fixed term.".

(3) Insert the following after (4)—

"(4A) In the case of a school teacher at a nursery school in post on the relevant date, the head teacher may determine that the length of the first appraisal cycle is a period other than one year provided that it ends no sooner than 30 April 2010 and later than 30 September 2010.

(4B) In the case of a school teacher employed under a contract of employment for a fixed term of less than one year in post on the relevant date, his or her performance must be managed throughout the unexpired period of the contract as at the relevant date and reviewed at the end of the fixed term.".

8.—(1) In regulation 29(1) omit "and" from line 3 of (b) and in (c) after "needs" insert—

"; and

(d) determining whether there has been a successful review of overall performance.".

9. Insert the following as Part IV after regulation 33—

"PART IV

APPRAISAL OF UNATTACHED TEACHERS

Application of Part IV

34.—(1) Regulations 35 to 45 apply to the appraisal of unattached teachers.

(2) In this Part IV "school" includes a pupil referral unit and references to a head teacher include reference to a teacher in charge of a pupil referral unit.

Requirement on authority to produce a performance management policy

35.—(1) The authority must no later than 1 November 2009 establish a written policy ("the performance management policy") setting out how the appraisal of unattached teachers is to be implemented.

(2) The authority must review the performance management policy every school year.

(3) Following such review the authority must if it sees fit amend the performance management policy.

(4) Before establishing or amending the performance management policy the authority must consult all their unattached teachers about the formulation of the performance management policy or its amendment.

(5) The authority must implement the performance management policy.

(6) The authority must make a copy of the performance management policy available for inspection at any reasonable time by:

(a) any unattached teacher;

(b) any person involved in the inspection of the operation of the unattached teacher appraisal system;

(c) any appraiser appointed in accordance with these Regulations.

Appointment of appraisers for unattached teachers

36.—(1) Subject to the following paragraphs the authority is the appraiser for every unattached teacher.

(2) The authority may delegate some or all of the duties imposed on an appraiser to a school teacher at a school where the unattached teacher spends the predominant part of his or her working time or to such other person whom they consider best placed to manage and review the unattached teacher's performance.

(3) The authority may appoint a new appraiser in place of an existing appraiser at any time or they may perform those duties themselves.

The appraisal cycle

37.—(1) Subject to the following provisions of this regulation the authority must determine the timing of the appraisal cycle for every unattached teacher employed by it.

(2) Except as provided for in paragraphs (3), (4) and (5) the length of an appraisal cycle is one year.

(3) In the case of the first appraisal cycle under these Regulations of an unattached teacher in post on the relevant date, the authority may determine that the length of the appraisal cycle is a period other than one year.

(4) In the case of the first appraisal cycle under these Regulations of an unattached teacher not in post on the relevant date, the authority may determine that the length of the first appraisal cycle is a period of less than one year.

(5) In the case of an unattached teacher employed under a contract of employment for a fixed term of less than one year, his or her performance must be managed throughout the term of the contract and reviewed at the end of that term.

(6) The authority must take all reasonable steps to secure that the first appraisal cycle for every unattached teacher in post on the relevant date begins no later than 31 October 2010.

(7) Once begun, appraisal cycles for every unattached teacher shall be continuous.

(8) The appointment of a new appraiser shall not cause an unattached teacher's appraisal cycle to begin again save as may be provided for in paragraph (9).

(9) Where an unattached teacher transfers to a new post within the authority part way through an appraisal cycle, the authority must determine whether the cycle is to begin again and if so whether to appoint a new appraiser.

Appraisal procedures

38.—(1) Subject to paragraph (2) and to regulations 39 to 43 the authority must determine the procedures for the appraisal of unattached teachers.

(2) If some or all of the authority's duties in respect of an unattached teacher have been delegated to a teacher at a school in accordance with regulation 36(2) then subject to regulations 39 to 41 the procedures for the appraisal of that unattached teacher may be those determined by the school's governing body pursuant to regulation 25.

Planning of appraisal and setting of objectives

39.—(1) Before or at the start of the appraisal cycle the appraiser and the unattached teacher must meet to plan and prepare for the appraisal and to seek to agree objectives which must include objectives relating to—

(a) developing and improving the unattached teacher's professional practice;

(b) pupil progress.

(2) If objectives are not agreed under paragraph (1) the appraiser must set out in writing such objectives as the appraiser considers appropriate and the unattached teacher may add comments in writing.

(3) The objectives agreed under paragraph (1), or where objectives have not been agreed the objectives set out in writing under paragraph (2) and the unattached teacher's written comments, must be recorded in a written statement of objectives.