

TERTIARY EDUCATION AND RESEARCH (WALES) ACT 2022

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Information, Advice and Guidance

Section 130: Information and advice from the Commission and information from the Welsh Ministers

402. This section requires the Commission to provide the Welsh Ministers with such information and advice on matters related to its functions as the Welsh Ministers may request, in the format and manner requested. The Commission may also give the Welsh Ministers any information or advice it considers appropriate.
403. This section also allows the Welsh Ministers to provide the Commission with any information relating to the exercise of its functions.

Section 131: Persons required to provide information to the Commission

404. This section allows the Commission to issue a notice to request information for the purposes of the exercise of the Commission's functions from those listed in subsection (2), which include persons that it funds and/or regulates, such as higher education and further education institutions.
405. This section places restrictions on the information the Commission can require, to ensure the information requested by the Commission is relevant to the Commission's functions.
406. This section sets out what a notice may require including, but not limited to, the time within which the person must provide the information. Further, the Commission may enforce a request for such information by application for an injunction.
407. The Commission may also give information to those listed in this section, and any other person it considers appropriate, about any matter related to its functions.

Section 132: Powers to share information

408. This section lists the other government departments, bodies and organisations that may share information with the Commission, for the purposes of the exercise of any of the Commission's functions. For example, the Commission may wish to receive information on qualifications awarded in Wales.
409. The Commission may also give information, about any matter in relation to its functions, to those listed in this section and any other person it considers appropriate. For instance, the Commission may wish to share information with education bodies in England, such as the Office for Students.

410. The Welsh Ministers may by regulations specify other bodies or organisations that are allowed to share information with the Commission under this section. These could include any newly created public bodies or organisations.

Section 133: Power to require application-to-acceptance information

411. This section makes provision for the Welsh Ministers to require, by notice, “application-to-acceptance information” from bodies providing admissions services to Welsh higher education providers for use for “qualifying research”. The Welsh Ministers may direct this information is to be provided either to themselves or to the Commission. This section also defines “application-to-acceptance” information and “qualifying research”.
412. This section sets out what a notice may require including, but not limited to, the time within which the person must provide the information. Further, the Welsh Ministers may enforce a request for such information by application for an injunction.

Section 134: Use of application-to-acceptance information for research purposes

413. This section makes provision for how the Welsh Ministers may use the information obtained under section 133 and with whom the information may be shared. This section also makes provision for the circumstances in which a product of research using information obtained under section 133 may be published.
414. The Welsh Ministers must publish guidance setting out the factors that will be taken into account when approving a body or individual with whom the information may be shared. This section also defines what is meant by an “approved person”.

Section 135: Other information, advice and guidance

415. This section allows the Commission to give advice or issue guidance, as the Commission considers appropriate, to any persons, so long as it relates to the provision of tertiary education, or any matter connected with its functions. The Commission is required to identify good practice, give advice and issue guidance in relation to the sharing of information among those that it funds or regulates; for example, by issuing guidance dealing with IT systems and information security.
416. The Commission must publish all guidance issued under this section and it is envisaged that the Commission should review and update or replace its guidance as and when it considers necessary. The Commission must establish systems to collect information to inform its decisions on tertiary education and training.

Section 136: Research by the Commission or the Welsh Ministers

417. This section allows the Welsh Ministers or the Commission to carry out research or secure the provision of financial resources to undertake research and sets out the subject matters into which this research can be undertaken. Any outcomes may then be published, provided that no individual can be identified from the publication.
418. This section provides that the Commission may impose such terms and conditions as it considers appropriate to funding it allocates under this section. In particular, such terms and conditions may require the repayment of funds (including with interest) if the purposes for which the funding is allocated are not complied with.
419. This section also sets out the terms and conditions that the Commission may and must impose where it makes arrangements for another person to provide the Commission’s financial resources.