

WELSH STATUTORY INSTRUMENTS

2016 No. 1144

The Religious Character of Schools (Designation Procedure) (Wales) Regulations 2016

Title, commencement, application and revocation

1.—(1) The title of these Regulations is the Religious Character of Schools (Designation Procedure) (Wales) Regulations 2016 and they come into force on 1 January 2017.

(2) The Religious Character of Schools (Designation Procedure) Regulations 1998⁽¹⁾ are revoked in relation to Wales.

(3) Regulation 49 of the New Maintained Schools (Wales) Regulations 2005⁽²⁾ is revoked.

Commencement Information

II [Reg. 1](#) in force at 1.1.2017, see [reg. 1\(1\)](#)

Interpretation

2.—(1) In these Regulations—

“the 1998 Act” (“*Deddf 1998*”) means the School Standards and Framework Act 1998;

“the 2013 Act” (“*Deddf 2013*”) means the School Standards and Organisation (Wales) Act 2013⁽³⁾;

[^{F1}“the relevant religion or religious denomination” (“*y grefydd berthnasol neu'r enwad crefyddol perthnasol*”) means the religion or religious denomination in accordance with whose tenets teaching and learning in respect of Religion, Values and Ethics is provided—

(a) under paragraph 7(3) or paragraph 8(4) of Schedule 1 to the Curriculum and Assessment (Wales) Act 2021, or

(b) under section 61 of that Act, and in accordance with—

(i) any provisions of the school's trust deed that relate to teaching and learning in respect of the mandatory element of Religion, Values and Ethics, or

(ii) the tenets of the religion or religious denomination specified in relation to the school in an order under section 68A of the School Standards and Framework Act 1998.]

(2) In these Regulations—

(a) references to a “voluntary school” are references to such a school within the meaning of the 1998 Act including a new school which has a temporary governing body and which will be such a school when established; and

(b) references to a “governing body” include a temporary governing body.

⁽¹⁾ S.I. 1998/2535.

⁽²⁾ S.I. 2005/2912 (W 209).

⁽³⁾ 2013 anaw 1.

Textual Amendments

- F1** Words in [reg. 2\(1\)](#) substituted (with effect in accordance with reg. 12(2) of the amending S.I.) by [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Secondary Legislation\) \(No. 1\) Regulations 2022 \(S.I. 2022/666\)](#), regs. 1(2), **12(3)**

Commencement Information

- I2** [Reg. 2](#) in force at 1.1.2017, see [reg. 1\(1\)](#)

Procedure for new schools

3.—(1) Where proposals to establish a new voluntary school are approved under section 50 or 51 of the 2013 Act, or where the proposer determines to implement the proposals under section 53 of the 2013 Act, the Welsh Ministers must designate it as a school which has a religious character if the requirements set out in this regulation are satisfied.

(2) The proposers must have applied to the Welsh Ministers for the school to be designated as a school which has a religious character and, in the case of a new school which is intended to be a Church in Wales school⁽⁴⁾, a Roman Catholic Church school⁽⁵⁾ or a Church of England school⁽⁶⁾, such application must have been approved by the diocesan authority which is intended to be the appropriate diocesan authority when the school opens.

(3) A temporary governing body must have been constituted for the school.

(4) The proposals published under section 48 of the 2013 Act to establish the school must specify—

- (a) that the school is intended to be a school which has a religious character; and
- (b) the religion or religious denomination or religions or religious denominations with which the school is to be associated.

(5) The terms or the proposed terms of—

- (a) the trust deed; and
- (b) the instrument of government for the school,

must be consistent with the published proposals.

(6) The Welsh Ministers must be satisfied as to one or more of the following matters—

- (a) at least one member of the governing body of the school is a person appointed as a temporary foundation governor (within the meaning of the [New Maintained Schools \(Wales\) Regulations 2005](#)⁽⁷⁾) to represent the interests of one or more religions or religious denominations;
- (b) the premises provided or to be provided for the school are or are to be held on trust so that, in the event of the discontinuance of the school, the property concerned is held for, or is to be sold and the proceeds of sale applied for, the benefit of one or more religions or religious denominations;
- (c) the premises provided or to be provided for the school are or are to be held on trust in connection with—
 - (i) the provision of education, or

⁽⁴⁾ See section 142(1) of the 1998 Act.

⁽⁵⁾ See section 142(1) of the 1998 Act.

⁽⁶⁾ See section 142(1) of the 1998 Act.

⁽⁷⁾ [S.I. 2005/2912 \(W. 209\)](#).

(ii) the conduct of an educational institution,
in accordance with the tenets of one or more religions or religious denominations.

Commencement Information

I3 [Reg. 3](#) in force at 1.1.2017, see [reg. 1\(1\)](#)

Changes in designations and statements

4.—(1) Where the Welsh Ministers are at any time of the opinion—
(a) that a school has been incorrectly designated or not designated; or
(b) that the statement as to the relevant religion or religious denomination is incorrect
they must amend the order in question or make another order as they consider appropriate.
(2) Before making an order in accordance with paragraph (1) the Welsh Ministers must consult—
(a) the governing body and any trustees of the school; and
(b) such religious bodies set out in Schedule 1 as they consider appropriate.
(3) In so far as the Welsh Ministers make an order under section [^{F2}68A(1)] of the 1998 Act which—
(a) does not change the designation of a school, or the statement as to the relevant religion or religious denomination in relation to that school, made in a previous order (other than a provisional designation or statement); or
(b) removes an entry on the discontinuance of the school,
they need undertake no consultation in relation to that particular designation or statement before making such an order.

Textual Amendments

F2 Word in [reg. 4\(3\)](#) substituted (with effect in accordance with [reg. 12\(2\)](#) of the amending S.I.) by [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Secondary Legislation\) \(No. 1\) Regulations 2022 \(S.I. 2022/666\)](#), [regs. 1\(2\)](#), [12\(4\)](#)

Commencement Information

I4 [Reg. 4](#) in force at 1.1.2017, see [reg. 1\(1\)](#)

Manner of consultation with governing bodies and trustees

5.—(1) Where these Regulations require the Welsh Ministers to consult the governing body and any trustees of the school, they must do so by sending two copies of the consultation document (one for the governing body and one for the trustees) to the school.
(2) The governing body of a school must not delegate to a committee of the governing body or to the chair of the governing body any decision in relation to their response to a consultation referred to in paragraph (1) and any such response must indicate that it is the response of all, or the majority, of the members of the governing body and that no decision in relation to that response has been delegated.

Changes to legislation: There are currently no known outstanding effects for the *The Religious Character of Schools (Designation Procedure) (Wales) Regulations 2016*. (See end of Document for details)

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Commencement Information

I5 [Reg. 5](#) in force at 1.1.2017, see [reg. 1\(1\)](#)

Consequential amendments

6. The consequential amendments set out in Schedule 2 have effect.

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Commencement Information

I6 [Reg. 6](#) in force at 1.1.2017, see [reg. 1\(1\)](#)

Kirsty Williams
Cabinet Secretary for Education, one of the
Welsh Ministers

Changes to legislation:

There are currently no known outstanding effects for the The Religious Character of Schools (Designation Procedure) (Wales) Regulations 2016.