

Draft Regulations laid before the National Assembly for Wales under section 55(3) of the Higher Education (Wales) Act 2015, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2015 No. (W.)

EDUCATION, WALES

**The Higher Education (Designation
of Providers of Higher Education)
(Wales) Regulations 2015**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the designation of certain providers of higher education as institutions for the purpose of the Higher Education (Wales) Act 2015 (“the 2015 Act”). The Regulations also make provision for the withdrawal of a designation and the effect of a withdrawal of designation.

Section 3 of the 2015 Act enables the Welsh Ministers to designate certain providers of higher education as institutions in circumstances where the provider would not (but for the designation) be considered to be an institution. A provider of higher education for the purposes of section 3(2)(a) of the 2015 Act is one that provides higher education in Wales and is a charity.

Regulation 2 provides for an application for designation to be in writing. The regulation also sets out what an application must contain.

An application for designation must contain information relating to the applicant’s charitable status. Where the applicant is a registered charity the application must include the applicant’s charity registration number and details of the charity regulator with whom the applicant is registered. Where an applicant is not a registered charity, for example because it is an exempt or excepted charity, the application must explain why such registration is not required.

An application must also include information relating to the provision of higher education in Wales. Regulation 2(3) specifies those matters relating to the provision of higher education in Wales that must be included.

Regulation 3 requires an application to be accompanied by a copy of any prospectus published by the applicant and which relates to the provision of higher education in Wales by that applicant.

Regulation 4 requires an applicant that is not registered with a charity regulator to provide a copy of its governing document with its application.

Regulation 5 makes provision about the withdrawal of a designation. A designation may be withdrawn by notice in writing given by the Welsh Ministers to the provider in question. The notice must specify the reasons for the designation being withdrawn and the date on which the designation is withdrawn.

In deciding whether to withdraw a designation, the Welsh Ministers must take account of whether the provider no longer falls into section 3(2) of the 2015 Act.

Regulation 6 provides that where a designation is withdrawn those provisions of the 2015 Act specified in the regulation (which relate to fee limits, compliance with general requirements of fee and access plans and the quality of education) are to continue notwithstanding that a provider has ceased to be treated as an institution.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Cathays Park, Cardiff, CF10 3NQ.

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2015 No. (W.)

EDUCATION, WALES

**The Higher Education (Designation
of Providers of Higher Education)
(Wales) Regulations 2015**

Made ***

Coming into force ***

The Welsh Ministers, in exercise of the powers conferred on them by section 3(4) of the Higher Education (Wales) Act 2015(1), make the following Regulations.

In accordance with section 55(3) of the Higher Education (Wales) Act 2015 a draft of these Regulations was laid before and approved by a resolution of the National Assembly for Wales.

Title, commencement, interpretation and application

1.—(1) The title of these Regulations is the Higher Education (Designation of Providers of Higher Education) (Wales) Regulations 2015 and they come into force on 31 July 2015.

(2) In these Regulations—

- (a) “the 2015 Act” (“*Deddf 2015*”) means the Higher Education (Wales) Act 2015;
- (b) “charity regulator” (“*rheoleiddiwr elusennau*”) means the Charity Commission, the Office of the Scottish Charity Regulator or the Charity Commission for Northern Ireland;

(1) 2015 anaw 1.

- (c) “governing document” (*“dogfen lywodraethu”*) means—
 - (i) in the case of a provider of higher education conducted by a company, the company’s memorandum and articles of association;
 - (ii) in any other case a document providing for the constitution and conduct of the provider of higher education.

(3) These Regulations apply in relation to Wales.

Application for designation as an institution

2.—(1) An application by a provider of higher education⁽¹⁾ (“the applicant”) for designation under section 3(1) of the 2015 Act must be in writing and contain—

- (a) the applicant’s name and principal address;
- (b) any other names under which the applicant operates;
- (c) information, including those matters specified in paragraphs (2) and (3), that relate to the applicant’s charitable status and its provision of higher education in Wales.

(2) The information contained in an application must include either—

- (a) the applicant’s charity registration number and the name and address of a charity regulator with whom the applicant is registered; or
- (b) if the applicant is not registered with a charity regulator the reason why registration with a charity regulator is not required.

(3) The information contained in an application must also include—

- (a) a description of the higher education provided by the applicant in Wales;
- (b) a description of the award that may be conferred on a person as a result of the higher education provided in Wales by the applicant;
- (c) the number of persons in Wales undertaking that higher education as at the date of the application;
- (d) the locality in Wales where higher education is provided;
- (e) the address of any website maintained by the applicant relating to the provision of higher education in Wales by that applicant.

(1) Higher education is defined in section 57(1) of the Higher Education (Wales) Act 2015.

3. An application under section 3(1) of the 2015 Act must be accompanied by a copy of any prospectus published by the applicant that relates to the provision of higher education in Wales by that applicant.

4. An application under section 3(1) of the 2015 Act must also be accompanied by a copy of the applicant's governing document if the applicant is not registered with a charity regulator.

Withdrawal of designation

5.—(1) The Welsh Ministers may withdraw a designation made under section 3(1) of the 2015 Act by giving written notice to the provider of higher education.

(2) A notice must include—

- (a) the Welsh Ministers' reasons for withdrawing the designation; and
- (b) the date on which the designation is withdrawn.

(3) In determining whether to withdraw a designation the Welsh Ministers must take into account whether the provider is no longer within section 3(2) of the 2015 Act.

Application of the 2015 Act following withdrawal of designation

6.—(1) This regulation applies where a designation under section 3(1) of the 2015 Act has been withdrawn.

(2) A provider of higher education is to continue to be treated as an institution for the purposes of sections 10 to 12, 13, 14 and 26 of the 2015 Act.

Huw Lewis

Minister for Education and Skills, one of the Welsh Ministers

Date