Explanatory Memorandum to the Education Workforce Council (Further Education Teacher Qualifications, Periods of Absence from Work and Miscellaneous Amendments) (Wales) Regulations 2026

This Explanatory Memorandum has been prepared by the Tertiary Education Directorate and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education Workforce Council (Further Education Teacher Qualifications, Periods of Absence from Work and Miscellaneous Amendments) (Wales) Regulations 2026. I am satisfied the benefits justify the likely costs.

Vikki Howells MS
Minister for Further and Higher Education

25 February 2026

PART 1

Description

1. The Education Workforce Council (Further Education Teacher Qualifications, Periods of Absence from Work and Miscellaneous Amendments) (Wales) Regulations 2026 (the Regulations) replaces the tables of qualifications in Part 1 of Schedule 6 to the Education Workforce Council (Main Functions) (Wales) Regulations 2015 (the 2015 Regulations) to update the lists of qualifications which a person can hold in order to work as a further education teacher.

2. The Regulations also amend:

   Regulation 16 of the 2015 Regulations to add neonatal care leave and absence from work because of sickness or injury to the list of reasons that can be disregarded when calculating the period of time a person is permitted to carry out the specified work without qualified teacher status.

   Regulation 19(1E) of the 2015 Regulations to add neonatal care leave and absence from work because of sickness or injury to the list of reasons that can be disregarded when calculating the period of time a person has been working towards a FE teacher qualification.

   Article 4(5) of the Education Workforce Council (Additional Categories of Registration and Further Education Teacher Qualifications) (Wales) Order 2024 to add neonatal care leave and absence from work because of sickness or injury to the list of reasons that can be disregarded when calculating the period of time a person has been working forwards an adult learning practitioner qualification.

3. The Regulations also make minor corrections to the 2015 Regulations.

Matters of special interest to the Legislation, Justice and Constitution Committee

4. None.

Legislative background

5. Section 14(1) of the Education (Wales) Act 2014 (the 2014 Act) makes provision in respect of school teachers and provides that regulations may specify the types of services which a person cannot provide without meeting various requirements. Section 15(1) makes provision in respect of further education teachers and provides the power to impose, by regulations, restrictions on providing services unless certain requirements are met. Section 35(4) allows the Welsh Ministers to, by regulations, require the EWC to provide information to other persons and bodies for specified purposes.

6. Section 47(1) of the 2014 Act provides that any power of the Welsh Ministers to make an order or regulations under the 2014 Act includes power to make such incidental, consequential, supplemental, transitional, transitory, or saving provision as the Welsh Ministers consider necessary and make different provision for different purposes.

7. These Regulations are being made under the Senedd annulment procedure.

Purpose and intended effect of the legislation

8. The purpose of the Regulations is to capture as many relevant FE teacher teaching qualifications as possible within Schedule 6 to the 2015 Regulations, to ensure suitably qualified FE teachers can begin or continue to provide education within a further education institution (FEI).

9. The Regulations also add absence due to sickness or injury and neonatal care leave to the list of reasons to be disregarded when calculating the period of time permitted to work towards a specified FE teacher qualification or adult learning practitioner (ALP) qualification, in line with other rights to leave contained within the 2015 Regulations.

10. The Regulations will also add sick leave and neonatal care leave to the list of reasons to extend a set period of time for specified work, in line with other reasons contained within the 2015 Regulations.

Consultation

11. As the Regulations provide for limited amendments affecting a small number of individuals and other amendments which do not reflect or constitute a change in existing Welsh Government policy, a formal public consultation did not take place. However, a significant amount of informal consultation was undertaken with EWC, ColegauCymru, FEIs and trade union representatives to develop the updated list of FE teacher qualifications.

Regulatory Impact Assessment (RIA)

12. A regulatory impact assessment has been prepared in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.

PART 2 – REGULATORY IMPACT ASSESSMENT

1. The Education (Wales) Act 2014 (the 2014 Act) makes provision for a new list of FE teacher qualifications to be inserted into the Education Workforce Council (Main Functions) (Wales) Regulations 2015 (the 2015 Regulations).

2. Regulation 19 of the 2015 Regulations provides that no person may provide education in a Welsh FEI unless they are (a) registered with the Education Workforce Council (EWC) in the category of further education teacher and (b) have (or are working towards) at least one of the specified qualifications, or meet the alternative requirement specified in Part 2 of Schedule 6.

3. The amendments made by these Regulations relate to the requirement for FE teachers to have a specified teaching qualification in order to teach in a Welsh FEI. The lists of specified FE teaching qualifications contained within Part 1 of Schedule 6 to the 2015 Regulations have been reviewed and expanded to reflect relevant qualifications identified.

4. Section 14(1) of the 2014 Act makes provision in respect of school teachers and provides that regulations may specify the types of services which a person cannot provide without meeting various requirements.

5. The amendments made by these Regulations relate to the requirement to be registered with the EWC before being allowed to teach in Wales. Changes to the 2015 Regulations have been made in relation to the circumstances in which the EWC will extend a “specified period”.

6. Regulation 15 of the 2015 Regulations provides that no person may carry out specified work in a school unless they are (a) a qualified teacher, or (b) satisfy the requirements in at least one of the paragraphs in Schedule 3. Regulation 17 sets out what activities are ‘specified work’ for the purposes of the 2015 Regulations.

7. Schedule 3 to the 2015 Regulations sets out the requirements to be satisfied by persons who are not qualified teachers in order to carry out specified work in a school. Where the requirements include a specified period, as in paragraph 4(2) relating to overseas teachers, the person is permitted to carry out specified work in a school only for that specified period without qualified teacher status.

8. Under regulation 16 of the 2015 Regulations, the EWC will extend a specified period (whether arising under a requirement in Schedule 3 or regulation 18A) by a period equal to the aggregate of any period or periods during which the person is absent from work due to the exercise of the statutory rights stated in the regulation. The 2015 Regulations currently list only the rights to maternity leave, parental leave, paternity leave, adoption leave, parental bereavement leave and shared parental leave.

9. The Regulations amend regulation 16 of the 2015 Regulations to include neonatal care leave and sick leave in the list of statutory leave entitlements which the EWC will apply to extend a specified period a person is able to carry out specified work without qualified teacher status.

Options

10. Two options have been considered:

Option 1 – do nothing

Without updating the list of specified FE teacher qualifications, a significant number or FE teachers who hold relevant teaching qualifications cannot begin or continue to provide education at Welsh FEIs.

Without the neonatal care leave amendment, not all of the current statutory leave entitlements for parents are properly reflected in the 2015 Regulations.

Option 2 – make the Regulations now

Given the importance of these amendments, the Welsh Ministers have chosen option 2, to make the Regulations now.

Costs and benefits

11. There are no additional costs to the Welsh Government in making this legislation, and no identified additional costs to FEIs, schools or local authorities.

12. It is expected that the costs to FEIs associated with supporting existing FE teachers to obtain a specified qualification will be significantly reduced with the introduction of an updated list of FE teacher qualifications.

13. It is expected that the numbers of individuals affected by the neonatal care leave amendment will be very small in any given year, and in many cases their work is supervised by a qualified teacher, so no additional cover at a cost to the employer would be required.

14. The primary benefit of making this amendment is treating teachers in Wales with fairness and compassion, showing the value that is placed on the education workforce.

Competition Assessment

15. The competition filter test has been completed. The Regulations are not expected to impact on competition in Wales or the competitiveness of Welsh businesses.

Post implementation review

16. It is unlikely that any disruption will be caused by these amendments, however Welsh Government officials will continue to liaise with the EWC and FEIs once the Regulations are in force to monitor and address any issues.