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WELSH STATUTORY INSTRUMENTS

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**2012 No. 752 (W.102)**

**WELSH LANGUAGE, WALES**

**The Welsh Language Board (Transfer of Staff,  
Property, Rights and Liabilities) Order 2012**

<i>Made</i>	- - - -	<i>7 March 2012</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>9 March 2012</i>
<i>Coming into force</i>	- -	<i>1 April 2012</i>

The Welsh Ministers, in exercise of the powers conferred by sections 146 and 150(5) of, and paragraphs 1 and 2 of Schedule 12 to, the Welsh Language (Wales) Measure 2011(1), make the following Order:

**Title and commencement**

1.—(1) The title of this Order is the Welsh Language Board (Transfer of Staff, Property, Rights and Liabilities) Order 2012.

(2) This Order comes into force on the 1 April 2012.

**Interpretation**

2.—(1) In this Order, “transfer date” (“*dyddiad trosglwyddo*”) means 1 April 2012 and references in this Order to—

- (a) “persons A” (“*personau A*”) are to persons employed by the Board immediately before the transfer date who have been offered and have accepted before that date employment with the Welsh Assembly Government;
- (b) “persons B” (“*personau B*”) are to persons employed by the Board immediately before the transfer date who have been offered and have accepted before that date employment with the Commissioner;
- (c) “persons C” (“*personau C*”) are to persons who are or have been employed by the Board at any time before the transfer date and whose employment does not transfer to the Commissioner or Welsh Assembly Government as a result of this Order;
- (d) “records” (“*cofnodion*”) include written records and records conveying information by any other means.

### **Transfer of staff**

3.—(1) On the transfer date persons A transfer to the employment of the Welsh Assembly Government.

(2) On the transfer date persons B transfer to the employment of the Commissioner.

### **General transfer of the Board's property, rights and liabilities**

4.—(1) On the transfer date the property, rights and liabilities specified in the Schedule to which the Board was entitled or subject immediately before that date transfer to the Welsh Ministers.

(2) Subject to article 5 all other property, rights and liabilities to which the Board was entitled or subject immediately before the transfer date transfer on that date to the Commissioner.

### **Other rights and liabilities being transferred etc.**

5.—(1) On the transfer date the rights and liabilities arising under or in connection with the employment contracts of persons C to which the Board was entitled or subject immediately before that date transfer to the Welsh Ministers.

(2) Anything done before the transfer date by or in relation to the Board in respect of any person C or that person's contract of employment is to be treated from that date as having been done by or in relation to the Welsh Ministers.

### **Access to records**

6.—(1) Where records owned by the Board immediately before the transfer date have transferred to the Commissioner as a result of this Order, the Welsh Ministers may, after providing reasonable notice—

- (a) inspect those records; and
- (b) take, or be supplied with, copies of those records or any part of them.

(2) The Welsh Ministers' power under paragraph (1) does not apply to records relating to the employment of persons B.

(3) Where records owned by the Board immediately before the transfer date have transferred to the Welsh Ministers as a result of this Order, the Commissioner may, after providing reasonable notice—

- (a) inspect those records; and
- (b) take, or be supplied with, copies of those records or any part of them.

(4) The Commissioner's power under paragraph (3) does not apply to records that relate to the employment of persons A or C.

(5) The powers conferred by this article must be exercised during normal office hours.

### **General provision**

7. The transfers of property, rights and liabilities given effect by this Order are not affected by any provision (of whatever nature) which would otherwise prevent or restrict those transfers.

7 March 2012

*Leighton Andrews*  
Minister for Education and Skills, one of the  
Welsh Ministers

## SCHEDULE

Article 4

Board property, rights and liabilities transferring to the Welsh Ministers

## PART 1

## Property

- (a) (a) The Enigma S21 chair that bears the model number E760MF and serial number 101562;
- (b) property which relates exclusively to a relevant Board project; and
- (c) all records other than records relating exclusively to—
  - (i) grant agreements entered into by the Board with the Association of Welsh Translators and Interpreters;
  - (ii) grant agreements entered into by the Board with Bangor University;
  - (iii) employment by the Board of persons B;
  - (iv) research and data collection undertaken or commissioned by the Board in connection with the use of Welsh;
  - (v) the following Board projects—
    - (aa) 'Cymraeg yn y gweithle';
    - (bb) 'Iaith Gwaith';
    - (cc) 'Mae gen ti ddewis';
    - (dd) 'Enwau Lleoedd';
    - (ee) 'Estyn Llaw';
    - (ff) the standardisation of Welsh language terminology;
    - (gg) the development and promotion of the use of Welsh language information technology (including on-line dictionaries);
    - (hh) the co-ordination and regulation of the provision of translation services;
  - (vi) work undertaken by the Board to promote the benefits of using Welsh to the voluntary sector and businesses;
  - (vii) relevant Welsh language schemes;
  - (viii) work undertaken by the Board in anticipation of the establishment of the Commissioner's office; and
  - (ix) requests for information to which the Freedom of Information Act 2000(2) applies made to the Board regarding any of the matters described in Paragraphs (i) to (viii), above.

**Interpretation****2.** In this Part—

“relevant Board project” (*“prosiect Bwrdd perthnasol”*) means—

- (a) “Twf”;
- (b) “Mae dy Gymraeg di'n grêt”;

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(2) 2000 c. 36.

- (c) “Defnydd Cymdeithasol o'r Gymraeg gan bobl ifanc”;
- (d) “Cefnogi partneriaid cymunedol y Bwrdd”;
- (e) “Cefnogi'r Gymraeg mewn cymunedau sydd angen cymorth”; and
- (f) “Cerddoriaeth Gymraeg Gymunedol”;

“relevant Welsh language scheme” (“*cynllun iaith perthnasol*”) means any scheme prepared or adopted in accordance with Part 2 of the 1993 Act which is not a Welsh education scheme;

“request for information” (“*cais am wybodaeth*”) has the same meaning as in section 8 of the Freedom of Information Act 2000; and

“Welsh education scheme” (“*cynllun addysg Gymraeg*”) means any scheme prepared or adopted in accordance with Part 2 of the 1993 Act which deals only with the provision of Welsh medium education.

## PART 2

### Rights and Liabilities

3. Rights and liabilities arising in relation to—
- (a) any property transferring as a result of this Order to the Welsh Ministers;
  - (b) any relevant Board project; and
  - (c) any relevant grant agreement.

### Interpretation

4. In this Part—
- “relevant Board project” (“*prosiect Bwrdd perthnasol*”) has the same meaning as in Part 1; and
- “relevant grant agreement” (“*cytundeb grant perthnasol*”) means any grant agreement entered into by the Board to promote and facilitate the use of Welsh that does not fall within any of the following categories of agreement—
- (a) agreements relating exclusively to the 'Estyn Llaw' project;
  - (b) agreements with the Association of Welsh Translators and Interpreters;
  - (c) agreements with Bangor University.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Welsh Language (Wales) Measure 2011 (“the Measure”) provides for the abolition of the Welsh Language Board (“the Board”) and the establishment of the office of Welsh Language Commissioner (“the Commissioner”). Upon its abolition the majority of the Board’s current functions under the Welsh Language Act 1993 will transfer under the Measure to the Commissioner. The Board’s function of promoting and facilitating the use of the Welsh language under section 3 of the 1993 Act

will transfer to the Welsh Ministers as well as to the Commissioner. The transfer of the function to the Welsh Ministers will be given effect by virtue of an order made by the Welsh Ministers under section 154 of the Measure.

As a consequence of the Board's abolition and the transfer of its functions, specific legislative provision is required to deal with the transfer of the Board's staff, property, rights and liabilities. To that end, paragraphs 1 and 2 of Schedule 12 to the Measure provide the Welsh Ministers with the power to make provision, by order, relating to the transfer of the Board's staff to the employment of either the Commissioner or the Welsh Government and the transfer of the Board's property, rights and liabilities to either the Commissioner or the Welsh Ministers.

The Welsh Ministers make this Order in reliance upon the powers provided by paragraphs 1 and 2 of Schedule 12 to the Measure.

The Commissioner's office will be established on 1 April 2012 (defined in the Order as "the transfer date"). Those members of the Board's staff who have accepted an offer of employment with either the Commissioner or the Welsh Government before the transfer date will, on that date, transfer to their new employer as a result of article 3 of this Order.

The majority of the Board's property, rights and liabilities will transfer to either the Commissioner or the Welsh Ministers under article 4. Article 4(1) introduces the Schedule to this Order which specifies the property, rights and liabilities to which the Board was entitled or subject immediately before the transfer date that will become the property, rights and liabilities of the Welsh Ministers from that date. Subject to article 5, all other property, rights and liabilities to which the Board is entitled or subject prior to the transfer date will, on that date, transfer to the Commissioner.

Article 5 applies in relation to the employment contracts of persons who, prior to the transfer date, are or have been Board employees and who will not transfer to a new employer as a result of this Order. Any rights and liabilities of the Board arising in connection with these employees and former employees will transfer under article 5(1) to the Welsh Ministers. Article 5(2) ensures that anything done by or in relation to the Board in respect of the person or their contract of employment is treated after the transfer date as having been done by or in relation to the Welsh Ministers.

Article 6 makes provision about rights of access to Board records that will, as a result of this Order, transfer to the ownership of either the Commissioner or the Welsh Ministers on the transfer date.

Article 7 ensures that the transfers of property, rights and liabilities given effect by this Order are unaffected by any provision (of whatever nature) which would otherwise operate to prevent or restrict those transfers.

A Regulatory Impact Assessment for this Order has been prepared and a copy can be obtained from the Welsh Language Unit, Department for Education and Skills, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.