

Education (Wales) Bill: Summary of changes made at Stage 2

Introduction

This document sets out the main changes made to the **Education (Wales) Bill** (hereafter 'the Bill') during Stage 2 proceedings.

Background

The Bill was introduced by the Minister for Education and Skills on **1 July 2013** and the subject of an **oral statement** in Plenary the following day. The Bill was subsequently remitted to what is now the **Children, Young People and Education Committee** (hereafter 'the Committee') for Stage 1 scrutiny.

The Committee published its **Stage 1 report** in November 2013. The Constitutional and Legislative Affairs Committee also scrutinised the Bill, publishing a **report** the same month.

The general principles of the Bill were debated in Plenary on **3 December 2013**. An amendment tabled by the Conservatives 'regretting' that Part 3 of the Bill (Persons with learning difficulties) was not contained within a separate special educational needs (SEN) Bill for children and young people was defeated, with the Deputy Presiding Officer using his casting vote against the amendment. The general principles of the Bill were approved, with the Deputy Presiding Officer using his casting vote in favour of the original motion. The Bill proceeded to Stage 2.

Stage 2 commenced on 4 December 2013. A total of 77 amendments were tabled. Of these, 18 were tabled by the Welsh Government. The Committee met to consider and dispose of the amendments on 23 January 2014.

Further information about the Bill (as introduced) is available in a **Bill Summary** produced by the Research Service in July 2013.

Amendments at Stage 2

All of the 18 amendments tabled by the Welsh Government were agreed by the Committee.

Of the 59 non-Government amendments, 24 were agreed by the Committee. These related to the SEN provisions, which were all removed from the Bill, and a resulting change to the long title. 34 non-Government amendments fell and a further one was not moved following a commitment by the Minister.

The changes made to the Bill are summarised below.

SEN provision

Amendments 1 to 7 tabled by the Conservatives proposed **the removal of Part 3 of the Bill**. There were 17 consequential amendments also required for the removal of Part 3.

Part 3 proposed changes to the way in which the admission of learners with SEN to independent schools are approved and to the arrangements for the assessment of, and subsequent provision for, the needs of post-16 learners with SEN.

Despite saying during Stage 1 that Part 3 was a necessary part of the Bill to make improvements for these groups of learners now, ahead of the forthcoming wider SEN legislation, **the Minister signalled in a Cabinet Statement on 6 January 2014 that the government would in fact be supporting the amendment** at Stage 2 in Committee. The Minister highlighted the role that the Committee had played in scrutinising the Bill at Stage 1 and agreed, on balance, that these SEN provisions would be better placed as part of a cohesive SEN Reform Bill later in this Assembly.

Amendments 1 to 7 and the remaining 17 consequential amendments were agreed unanimously.

Local authority intervention powers

Amendment 14 tabled by the Welsh Government made a change to the *School Standards and Organisation (Wales) Act 2013*. The Minister explained that it was intended to clarify an intention of that Act so that persons appointed by Welsh Ministers to

exercise a local authority's education functions could make court applications in the name of that authority. This does not directly relate to the content of the Bill, although the Welsh Government felt it was the most appropriate legislative vehicle to make the change. Amendment 14 and six consequential amendments were agreed unanimously.

Technical amendments

Amendments 10 and 18 were technical drafting amendments tabled by the Welsh Government which did not introduce any change in policy.

Amendment 23 amended section 32 of the *Education Act 2002*, which concerns the setting of school term dates, so that it no longer applies to Wales given the Bill's provisions in this area.

All three amendments were agreed unanimously.

Training and professional development

Amendment 12 in the name of the Minister was supported unanimously. This adds **'the development of careers'** to the activities that the Education Workforce Council may be required to undertake in relation to the promotion of careers, in order to provide reassurances that continued professional development is covered on the face of the Bill. This had been an issue raised during Stage 1 and two further amendments from Plaid Cymru and two from the Liberal Democrats were not agreed by the Committee.

Provision of advice

Amendment 11 was tabled by the Welsh Government and **removes the requirement for the Education Workforce Council to obtain the consent of the Welsh Ministers before it can provide advice.**

However, the Council will need to notify the Welsh Ministers every two months of any advice it has given on relevant matters as well as to whom this was given. The amendment was unanimously agreed.

Legislative procedures

Amendments in this group reflected the recommendations of the Constitutional and Legislative Affairs Committee contained in its **report** dated November 2013. Two amendments tabled by the Welsh Government were agreed unanimously whilst a further 15 tabled by the Conservatives were defeated

with the Chair using her casting vote against the amendments.

The two successful Welsh Government amendments changed the requirement for two subordinate legislative powers to be exercised **using the affirmative rather than the negative procedure.**

These were in the areas where Welsh Ministers wish to **add functions** to the Education Workforce Council or **set registration fees.**

Membership of the Council

Three Welsh Government amendments on this subject were agreed unanimously. The lead amendment, **Amendment 19**, prescribes on the face of the Bill **the number of members of the Education Workforce Council as being 14.**

The other amendments enable regulations to be made to apply the code of practice for public appointments (that they be made fairly and on merit) to both members of the Council and its Chief Executive and other staff.

Independent schools

Amendment 22, tabled in the name of the Minister, gives the Welsh Ministers **the power to add, through subordinate legislation, education workers in independent schools** to those who need to register with the Education Workforce Council. The omission of staff in independent schools from the requirement to register was highlighted as a shortcoming by the Committee in its Stage 1 report.

The Minister said that providing for the potential extension to independent schools in the future was a response to the strength of feeling expressed during Stage 1 but that a better understanding was needed of the impact and implications this would have. In addition, the Minister highlighted the fact that the independent sector had not been consulted on a requirement for its staff to register and that this requirement should therefore not be introduced in this Bill.

Another amendment was tabled by Plaid Cymru calling for the Welsh Ministers to report to the Assembly within two years whether education workers in independent schools would be added to the requirement to register. In response, the Minister placed on record his commitment to report to the

Assembly on the impact such an extension would have. Subsequently, the amendment was not moved and did not become part of the Bill.

Other defeated amendments

There were other amendments that were defeated at Stage 2. These were in the areas of registration fees; replacing a number of Ministerial powers with Ministerial duties; the Education Workforce Council's Code of Conduct and Practice; grant funding for the Council; school holiday dates; and providing a definition for youth workers in Wales.

Commitments made by the Minister

In supporting the removal of Part 3 of the Bill at Stage 2, the Minister stated that Welsh Government officials are working on a **stand alone SEN Reform Bill** for learners with SEN that is cohesive and holistic. The Welsh Government has previously said that the legislation would be introduced during the lifetime of this Assembly.

The indication is the removal of the SEN provisions from the Education (Wales) Bill will only accelerate this process with the Minister saying the SEN Reform Bill will be brought forward '**at the earliest opportunity**'.

The Minister has also committed to **exploring the impact of adding education workers in independent schools to the requirement** to register with the Education Workforce Council and **reporting to the Assembly within two years** of the Education (Wales) Act receiving Royal Assent.

Next steps

An **amended version of the Bill** has been produced. Stage 3 commenced on 24 January 2014 (the day after Stage 2 proceedings were completed).

The **Business statement and announcement** has confirmed that the Stage 3 debate will take place on Tuesday 11 March 2014. Members may table amendments up to Tuesday 4 March by e-mailing legislationoffice@wales.gov.uk

Further Information

For further information on the *Education (Wales) Bill*, please contact **Michael Dauncey** (michael.dauncey@wales.gov.uk) in the National Assembly for Wales Research Service or **Gareth Rogers** (gareth.rogers@wales.gov.uk) Clerk of the Children, Young People and Education Committee.