

A Measure approved by the National Assembly for Wales to provide that the Welsh language, being the native language of Wales, shall be an official language in Wales; to give to the people of Wales the right to receive services through the medium of Welsh, to work through the medium of Welsh and to learn Welsh; to establish a Language Commissioner for Wales; to establish a Welsh Language Council; and for connected purposes.



WELSH LANGUAGE MEASURE 2007





WELSH LANGUAGE MEASURE 2007

Published March 2007
Printed by Y Lolfa

CYMDEITHAS YR IAITH GYMRAEG
GROUND FLOOR · PEN ROC · RHODFA'R MÔR
ABERYSTWYTH · CEREDIGION · SY23 2AZ
01970 624501 · 01970 627122
POST@CYMDEITHAS.ORG
WWW.CYMDEITHAS.ORG

WELSH LANGUAGE MEASURE 2007

A Measure approved by the National Assembly for Wales to provide that the Welsh language, being the native language of Wales, shall be an official language in Wales; to give to the people of Wales the right to receive services through the medium of Welsh, to work through the medium of Welsh and to learn Welsh; to establish a Language Commissioner for Wales; to establish a Welsh Language Council; and for connected purposes.

1. The Welsh Language as the Native Language of Wales

- (1) The Welsh language is the native language of Wales.

2. The Welsh Language as Official Language

- (1) The Welsh language is an official language in Wales.
- (2) For the avoidance of doubt, it is hereby declared that any thing done in Welsh shall be as valid as if it had been done in English.

3. The Right to Services in Welsh

- (1) Every person in Wales has the right to services in Welsh whether they are services provided on payment or without payment.
- (2) In accordance with section (1) above, service providers shall take every appropriate action to provide their services in Welsh.
- (3) For the purposes of this Part “appropriate action” means an action that takes account of but is not limited to the following —
- (a) the number of persons employed by the service provider;
 - (b) the location of the service provider;
 - (c) the linguistic nature of the area served by the service provider as described in the atlas commissioned by the Welsh Language Council referred to in subsection 7(2)(e);
 - (d) the nature of the service users; and
 - (e) the nature of the services provided.
- (4) The Welsh Ministers may determine by order what additional matters shall be considered in determining whether an action is appropriate in relation to sections (2) and (3) above.

- (5) For the purposes of this Part —
- (a) “services” include “goods”, “information” and “facilities”, and
 - (b) “service provider” means a person who provides services aimed at the public or at any section of the public in Wales and includes the following —
 - (i) Crown bodies
 - (ii) The National Assembly for Wales;
 - (iii) The Welsh Assembly Government, its agencies and its sponsored public bodies;
 - (iv) all public bodies specified as public bodies under the Welsh Language Act 1993;
 - (v) all regulated public utilities not included in (iv) above;
 - (vi) all financial, insurance and pension services;
 - (vii) all shops and other retail locations;
 - (viii) all entertainment and leisure facilities;
 - (ix) all premises that sell food or drink to the public; and
 - (x) all hotels, motels, bed and breakfast accommodation and other such accommodation.
- (6) (a) The Welsh Ministers may by order place any requirement on service providers as they deem necessary to give effect to this Measure.
- (b) Before making such orders, the Welsh Ministers shall consult with the Welsh Language Council and any other person with whom consultation is deemed appropriate.
- (c) In accordance with subsection (3)(a) of Part 7 of this Measure, the Welsh Language Council shall determine the basic minimum standards for all services in each one of the above areas by preparing codes of practice to be approved by the Welsh Ministers.
- (7) The Welsh Ministers may by order add other types of service providers to the list in section (5) above.
- (8) (a) Every service provider that provides services in areas of Wales where the Welsh language is the main means of communication shall make appropriate arrangements to provide those services giving priority to the Welsh language.
- (b) The atlas commissioned by the Welsh Language Council referred to in subsection (2)(e) of Part 7 shall be consulted when determining whether the Welsh language is the main means of communications within an area.
- (9) (a) Where the law requires that specific information be given to consumers in Wales, every consumer in Wales has the right to that information in Welsh
- (b) In accordance with subsection (a) above, all persons producing goods to be sold to consumers in Wales shall include that required information on the goods, on a label attached to the goods, or on a document that accompanies the goods, in Welsh.

- (10) For the purposes of this Part “appropriate arrangements” means arrangements that take account of but are not limited to the following —
- (a) the number of persons employed by the service provider;
 - (b) the location of the service provider;
 - (c) the linguistic nature of the area served by the service provider as described in the atlas commissioned by the Welsh Language Council referred to in subsection (2)(e) of Part 7;
 - (d) the nature of the service users; and
 - (e) the nature of the services provided.
- (11) The Welsh Ministers may by order add matters to be considered when determining whether or not an arrangement is appropriate under this Part.

Enforcement, process and remedy

- (12) A person who believes that another person has denied him or her his or her right under this Part may bring a civil action in connection with the matter in the same way as any other claim in tort to seek damages.
- (13) For the avoidance of doubt it is hereby declared that damages for the denial of a right under this Part may include compensation for injury to feelings whether or not it includes compensation under any other head.
- (14) Proceedings in England and Wales shall only be brought in a county court.
- (15) The remedies available in these proceedings are the remedies available in the High Court.

4. The Right to Work Through the Medium of Welsh

- (1) Every employer in Wales shall make appropriate arrangements to allow members of staff to work through the medium of Welsh.
- (2) An employer may not prohibit the use of the Welsh language between employees or between employees and those receiving services provided by them if both parties consent to use the Welsh language.
- (3) All persons employed in Wales have the right to basic personnel services in Welsh.
- (4) For the purposes of this Part “basic personnel services” include but are not limited to the following —
- (a) a contract or statement of employment in Welsh;
 - (b) employment terms and conditions in Welsh;
 - (c) information about the employer’s core policies in Welsh including language policy, equality policy, and health and safety policy; and
 - (d) Welsh language signage and notices in the workplace.

- (5) (a) All service providers located within an area of Wales where the Welsh language is the main means of communication shall make appropriate arrangements for the internal administration of those services to be mainly or exclusively in Welsh.
- (b) The atlas commissioned by the Welsh Language Council referred to in subsection (2)(e) of Part 7 shall be consulted when determining whether or not the Welsh language is the main means of communication within an area.
- (6) All persons in Wales who are members of a trade union have the right to participate in the activities of that union through the medium of Welsh and that union shall make appropriate arrangements to enable this with particular regard but not limited to the following —
- (a) information on membership terms;
 - (b) information on services to members;
 - (c) information on ballots including ballot papers; and
 - (d) access to union officers who can communicate in Welsh.
- (7) All persons in Wales required to have a professional certificate or diploma before they can lawfully practise their profession have the right to apply for the said certificate or diploma through the medium of Welsh in whole or in part, according to their wishes, and the bodies who award such certificates or diplomas shall make appropriate arrangements to enable this.
- (8) All persons in Wales required to be members of a professional body to lawfully practise their profession have the right —
- (a) to qualify for the said profession through the medium of Welsh in whole or in part, according to their wishes; and
 - (b) to participate in the activities of the said professional body through the medium of Welsh;
- and the said professional body shall therefore make appropriate arrangements to enable this.
- (9) The professional bodies referred to in section (8) above shall make appropriate arrangements to ensure that they have sufficient members, having regard to the sociolinguistic atlas commissioned by the Welsh Language Council, to practise their profession through the medium of Welsh.
- (10) For the purposes of this Part “appropriate arrangements” means arrangements that take account of but are not limited to the following —
- (a) the number of persons employed by the service provider, the number who are applying for a mandatory certificate or diploma, or the number who are members of the professional body, as the case may be;

- (b) the location of the service provider, the professional body, or the awarder of the professional certificate or diploma as the case may be;
 - (c) the linguistic nature of the area served by the service provider or the profession as described in the atlas commissioned by the Welsh Language Council referred to in subsection 7(2)(e) as the case may be;
 - (d) the nature of service users or the profession as the case may be; and
 - (e) the nature of the services provided.
- (11) The Welsh Ministers may by order add matters to be considered when determining whether or not an arrangement is appropriate under this Part.

Enforcement, process and remedy

- (12) A person who believes that another person has denied him or her his or her right under this Part may submit his or her complaint to an industrial tribunal.
- (13) Where an industrial tribunal decides that there are grounds for a complaint submitted to it under this Part, it shall take any one or more of the following steps as it considers just and equitable under the circumstances —
- (a) make a declaration on the right of the complainant and the respondent regarding the matters which are the subject of the complaint;
 - (b) order the respondent to pay the complainant compensation;
 - (c) recommend that the respondent takes, within a specified period, such actions as the tribunal consider appropriate under the circumstances to obviate or to reduce the adverse effect on the respondent caused by any matter which is the subject of the complaint.
- (14) For the avoidance of doubt it is hereby declared that damages for the denial of a right under this Part may include compensation for injury to feelings whether it includes compensation under any other head or not.

5. The Right to Welsh-Medium Education

- (1) The Welsh Ministers shall make appropriate arrangements to ensure that every child in Wales between 3 years old and primary school starting age is able to receive appropriate education through the medium of Welsh in whole or in part, according to his or her parents' wishes, within a reasonable distance of his or her home.
- (2) For the purposes of this Part, in interpreting "within a reasonable distance of his or her home", consideration should be given but not limited to the following:
- (a) the child's age;
 - (b) the child's health;

- (c) the child's safety with regard to transportation to school;
 - (d) the financial costs of transporting the child to school; and
 - (e) the effect of transporting the child to school
 - (i) on the child himself
 - (ii) on his or her family or guardians
 - (iii) on his or her neighbourhood; and
 - (iv) on the local education authority's five year scheme mentioned in subsection (10)(b) below.
- (3) (a) Every child in Wales of compulsory education age has the right to education through the medium of Welsh as a first or second language, as appropriate, in the school in Wales that he or she attends, whether that school is maintained by the relevant local education authority, an independent school or an independent special school
- (b) In accordance with subsection (a) above, every school in Wales shall make appropriate arrangements to ensure that every child in Wales that attends the school is enabled to learn Welsh as a first or second language as appropriate.
- (4) Every child in Wales of compulsory education age has the right to education through the medium of Welsh in whole or in part according to his or her wishes within the school in Wales that he or she attends, whether that education is provided by a school that is maintained by the relevant local education authority, an independent school or an independent special school, and in the case of schools maintained by the relevant local education authority, the child has the right to that education within a reasonable distance of his or her home.
- (5) Every local education authority in Wales shall —
- (a) determine, within three years of the date that this Part comes into force, for every school and college in its area whether the school or college is a category A school or college, a category B school or college, a category C school or college, or a category D school or college;
 - (b) notify all who live in the local education authority area and the Welsh Language Council of these school categories; and
 - (c) review the linguistic status of each school or college every five years and notify everyone who lives in the local education authority area and the Welsh Language Council of these changes.
- (6) (a) When a local education authority includes parts of Wales where Welsh is the main language of communication, it shall make appropriate arrangements to provide that education in those areas by means of category A schools or colleges.
- (b) The atlas commissioned by the Welsh Language Council mentioned in subsection (2)(e) of Part 7

- shall be consulted when deciding whether or not Welsh is the main language of communication in any area.
- (7) For the purposes of this Part —
- (a) a “category A school or college” means a school or college where it is possible for every pupil to study every subject taught there through the medium of Welsh;
- (b) a “category B school or college” means a school or college where it is possible for every pupil to study at least half the subjects taught there, including all National Curriculum core subjects, through the medium of Welsh;
- (c) a “category C school or college” means a school or college where it is possible for every pupil to study up to half the subjects taught there, including at least two of the core subjects, not including Welsh, through the medium of Welsh; and
- (d) a “category D school or college” means a school or college where it is not possible for any pupil to study any subject, with the exception of Welsh, through the medium of Welsh.
- (8) (a) Every young person over 16 years of age in Wales who wishes to continue his or her education in a tertiary college or a further education college in Wales has the right to do so through the medium of Welsh in part or in full according to his or her wishes within a reasonable distance of his or her home.
- (b) In accordance with subsection (a) above, every tertiary college and further education college in Wales shall make appropriate arrangements which enable tertiary college and further education college students to exercise the right conferred in subsection (a) above.
- (9) Every pupil with special needs has the right to special education which is linguistically appropriate for him or her, and local educational authorities in Wales or the owners of special schools not maintained by a local education authority shall ensure that the special education provided in the schools in its area gives due regard to the linguistic background of every pupil who receives special education in those schools.
- (10) Every local education authority in Wales shall within three years of the date that this Part comes into force, giving due regard to the rights and duties conferred by Parts 3 and 4 of this Measure —
- (a) establish the need for Welsh medium primary, secondary and further education in its area;
- (b) on the basis of those findings produce a five year scheme to be approved by the Welsh Language Council demonstrating how it intends to meet the need for Welsh medium education in its area; and
- (c) make appropriate arrangements to provide for that need within the framework of those four categories in section (7) above; and
- (d) review the scheme mentioned in subsection (b) above every five years.
- (10) (a) Every person in Wales who wishes to follow a study course in a higher education institution in Wales has the right to do so through the medium of Welsh in whole or in part according to his or her wishes.
- (b) In accordance with subsection (a) above, higher education institutions in Wales shall co-operate, giving due regard to the rights and duties conferred by Parts 3 and 4 of this Measure, to make appropriate arrangements enabling higher education students to exercise the right conferred in subsection (a) above.
- (11) Every educational institution in Wales that provides lifelong learning education shall establish the need for Welsh medium lifelong learning education in its area, giving due regard to the rights and duties conferred by Parts 3 and 4 of this Measure, and make appropriate arrangements to provide for that need.
- (12) (a) Everyone who lives in Wales has the right to learn Welsh.
- (b) In accordance with subsection (a) above, the Welsh Ministers, with due regard to the rights and duties conferred by Parts 3 and 4 of this Measure, shall establish the need for provision to learn Welsh as a second language on every level beyond compulsory education and for Welsh language skills improvement courses and make appropriate arrangements, including a five year scheme to be approved by the Welsh Language Council, to provide for that need in ways appropriate to the geographical, economic and employment circumstances of those who wish to learn.
- (13) For the purposes of this Part “appropriate arrangements” means arrangements which take account of but are not limited to the following —
- (a) the number of persons employed by the educational institution
- (b) the location of the educational institution;
- (c) the linguistic nature of the area served by the educational institution as described in the map commissioned by the Welsh Language Council referred to in subsection (2)(e) of Part 7 as the case may be;
- (d) the nature of the educational institution’s pupils and students; and
- (e) the nature of the education provided.
- (14) The Welsh Ministers may by order add matters to be considered when determining whether or not an arrangement is appropriate under this Part.

Enforcement, process and remedy

- (15) A person who believes that another person has denied him or her his or her right under this Part may bring a civil action in connection with the matter in the same way as any other claim in tort to seek damages.
- (16) For the avoidance of doubt it is hereby declared that damages for the denial of a right under this Part may include compensation for injury to feelings whether it includes compensation under any other head or not.
- (17) Proceedings in England and Wales shall only be brought in a county court.
- (18) The remedies available in these proceedings are the remedies available in the High Court.

6. Language Commissioner for Wales

- (1) (a) There shall be a Language Commissioner for Wales ("the Commissioner").
- (b) The Commissioner is to be appointed by the National Assembly for Wales.
- (c) The Commissioner is to be appointed for a term no longer than five years.
- (d) The Commissioner shall be given sufficient resources by the National Assembly for Wales to enable him or her to carry out his or her functions.
- (e) Subject to subsection (d) above the Commissioner shall appoint members of staff deemed by him or her to be necessary to enable him or her to carry out his or her functions.
- (f) The Commissioner shall carry out his or her responsibilities independently.

General duties

- (2) The general duties of the Commissioner include the following —
- (a) monitoring how service providers comply with the provisions of this Measure;
- (b) take all necessary action within his or her authority to ensure that service providers comply with the provisions of this Measure;
- (c) provide advice or other support to the public with regard to their rights under this Measure;
- (d) provide advice or other support to service providers, employers, education authorities, higher education institutions, Welsh Ministers and other relevant persons with regard to their duties under this Measure;
- (e) report on any matter falling within the functions of the Commissioner including providing an opinion to the National Assembly for Wales and the Welsh Ministers on legislation that may affect the future of the Welsh language generally and the rights of Welsh speakers and communities in particular;

- (f) produce an annual report on his or her work to be submitted to the National Assembly for Wales.

Investigatory duties

- (3) The Commissioner may —
- (a) investigate, on his or her own behalf or on behalf of another person, following a complaint made to him or her by any person that a service provider has failed to comply with the provisions of this Measure;
- (b) investigate, on his or her own behalf or on behalf of another person, following a complaint made to him or her by any person that a service provider has failed to comply with the provisions of another enactment in relation to the Welsh language.
- (4) The Commissioner may refuse or cease to investigate a complaint if in his or her opinion there are insufficient grounds to investigate or continue to investigate the complaint.
- (5) If the Commissioner refuses to or ceases to investigate a complaint, he or she shall inform the complainant of this decision and give reasons for it.
- (6) Before investigating a complaint under this Measure the Commissioner shall inform an appropriate person in the body being investigated of his or her intention to investigate.
- (7) The investigations carried out under this Measure are to be conducted in private.
- (8) No person has the right to demand a hearing in relation to an investigation under this Measure, but the Commissioner shall give the body being investigated a fair opportunity to answer every accusation or criticism.
- (9) The Commissioner may require information from the body in question when investigating a complaint under this Measure.
- (10) When carrying out an investigation, the Commissioner may summon witnesses to appear before him or her and to require them to give oral or written evidence under oath and to submit all such documents and things as the Commissioner considers necessary for carrying out the investigation.
- (11) When he or she has completed an investigation under this Measure, the Commissioner shall prepare a report to be submitted to the person being investigated and place it before the National Assembly for Wales.
- (12) In his or her report, the Commissioner may —
- (a) make any recommendations as he or she deems appropriate; and
- (b) require that the appropriate person in the body being investigated notifies the Commissioner within a specific period of the intention of the body in question to implement the recommendations and the timescale.

- (13) When he or she has completed an investigation under this Measure, the Commissioner shall within the appropriate period give a copy of his or her report to the complainant.
- (14) If the body in question confirms to the Commissioner its intention to implement the recommendations and indicates the intended timescale, the Commissioner shall inform the complainant of this within the appropriate period.
- (15) If a person refuses to comply with any requirement under this Part, or obstructs the Commissioner in the performance of his or her functions under this Part, he or she shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding six months, or both.
- (16) Where an offence under section (15) above has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of any director, manager, secretary or other similar officer, or of any person who was purporting to act in any such capacity, that officer or person shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
- (17) Proceedings for an offence under this Part may be brought by the Commissioner.
- (18) If a person believes that another person has denied him or her a right conferred in this Part he or she may apply to the Commissioner for assistance in relation to proceedings in court or tribunal that he or she intends to bring on the matter.
- (19) The Commissioner may grant the application to any person applying under section (18) above on any of the following grounds:
- (a) that the case raises a question of principle;
 - (b) that it is unreasonable to expect the applicant to deal with the case unaided (because of its complexity, because of the applicant's position in relation to another party, or for some other reason);
 - (c) that there is some special consideration which makes it appropriate for the Commissioner to provide assistance.
- (20) If the Commissioner grants an application, he or she may:
- (a) provide or arrange for the provision of legal advice;
 - (b) arrange for legal representation;
 - (c) in accordance with section (23) below, seek to settle the dispute;
 - (d) provide or arrange for the provision of any other assistance which he or she deems to be appropriate.

Court remedy

- (21) Any persons who believe that they have suffered an injustice due to the Commissioner's conduct of his or her investigation under this Measure may apply to the High Court for remedy.
- (22) An application to the Court for remedy must be made before the expiry of a hundred and twenty days after —
- (a) receiving the result of the investigation;
 - (b) receiving notification from the Commissioner of the body's intention to implement the recommendations;
 - (c) receiving notification from the Commissioner that he or she refuses to investigate or continue to investigate the complaint.
- (23) The Commissioner may make arrangements with any other person for the provision of arbitration services by that person in relation to disputes regarding language rights in this Measure.

7. Welsh Language Council

- (1) (a) There shall be a Welsh Language Council ("the Council").
- (b) The Council shall be given sufficient resources to enable it to carry out its functions.
- (2) The functions of the Council are to:
- (a) promote and facilitate an increase in the use and knowledge of the Welsh language as the native language of Wales and as an official language;
 - (b) promote knowledge about the Welsh language;
 - (c) advise the Welsh Ministers, or the National Assembly for Wales, at their request or voluntarily, on matters regarding the Welsh language;
 - (d) seek and receive representations from individuals and interest groups on matters regarding the sociolinguistic situation of the Welsh language;
 - (e) commission a sociolinguistic atlas that will show amongst other things Welsh language skills, use of Welsh and attitudes towards Welsh and any other aspect deemed relevant by the Council, by age, sex, economic class, place of birth, ethnicity and any other aspect deemed relevant by the Council, and specifically specifying the areas in Wales where Welsh is the main language of communication —
 - (i) this atlas shall be commissioned within three years of the date that this Part comes into force;
 - (ii) this atlas shall be revised every five years.
 - (d) commission other relevant research on the Welsh language.
- (3) (a) The Council shall draw up codes of practice on the basic minimum standards for services in each one of

- the service areas mentioned in section (5) of Part 3.
- (b) In determining these basic minimum standards, the Council shall give due regard to the content of Welsh language schemes made under section 5 of the Welsh Language Act 1993 and ensure that the basic minimum standards do not constitute a reduction in the commitments made in these schemes in relation to number, scope or quality.
- (c) Before issuing a code of practice under this Part the Council shall —
- (i) publish a draft of the code, and
 - (ii) consult with those persons with whom consultation is deemed appropriate by the Council.
- (d) Before issuing a code under this section the Council shall submit a draft code to the Welsh Ministers.
- (e) If the Welsh Ministers approve the draft, they shall —
- (i) notify the Council of that decision, and
 - (ii) lay a copy of it before the National Assembly
- (f) If the Welsh Ministers do not approve the draft, they shall write to the Council specifying their reasons.
- (g) If a draft code is laid before the National Assembly for Wales under subsection (3)(e) above and if the Assembly does not decide not to approve the code within 40 days,
- (i) the Council may issue the code in draft form; and
 - (ii) it will come into force in accordance with provision made by the Welsh Ministers by order.
- (h) Failure to conform to any provision of a code of practice will not of itself make a person liable to any proceedings, criminal or civil, but —
- (i) a code will be admissible evidence in criminal and civil proceedings, and
 - (ii) a code shall be considered by a court or tribunal in every case when it is considered relevant by the court or tribunal.
- (4) The Welsh Ministers may by order give the Council additional functions.
- (5) Where the Council advises the Welsh Ministers or the National Assembly for Wales, it shall before doing so —
- (a) consult with any relevant statutory body;
 - (b) consult with any individuals or relevant groups; and
 - (c) give due regard to the representations submitted to it following any consultation in relation to (a) and (b) above.
- (6) The Council shall be a body corporate.
- (7) It shall have a minimum of 10 members and no more than 20.
- (8) The Council shall be appointed by the National Assembly for Wales.
- (9) The National Assembly for Wales shall ensure when appointing members to the Council that each of the following experiences is represented on the Council —
- (a) an experience of the needs of particular groups of Welsh speakers, learners and/or professional knowledge of them;
 - (b) an experience of providing services in Welsh and/or professional knowledge of it;
 - (c) an experience of Welsh in the workplace and/or professional knowledge of it; and
 - (d) an experience of Welsh medium education and/or professional knowledge of it;
- (10) The National Assembly for Wales shall ensure when appointing members to the Council that at least half speak Welsh fluently.
- (11) Every member shall serve for five years.
- (12) The Council shall submit an annual report on its work to the National Assembly.
- (13) The Council's meetings shall be held in public.

8. Citation, commencement and application

- (1) This Measure may be cited as the Welsh Language Measure 2007.
- (2) Parts 1 and 2 and this Part shall come into force when the Measure is passed.
- (3) The other provisions of the Measure shall come into force on the day the Welsh Ministers prescribe them by order and different days may be prescribed for different purposes.