

Explanatory Memorandum to The Education (School Day and School Year) (Wales) (Amendment) (Coronavirus) Regulations 2020

This Explanatory Memorandum has been prepared by the Education and Public Services Department of the Welsh Government 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 (School Day and School Year) (Wales) (Amendment) (Coronavirus) Regulations 2020.

Kirsty Williams
Minister for Education
11 September 2020

1. Description

The Education (School Day and School Year) (Wales) (Amendment) (Coronavirus) Regulations 2020 amend The Education (School Day and School Year) (Wales) Regulations 2003.

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

None.

3. Legislative background

The Education (School Day and School Year) (Wales) Regulations 2003 were made under sections 551 and 569(4) and (5) of the Education Act 1996 and came into force on 31 December 2003.

Regulation 4(1) provides that every day on which a school meets is to be divided into two sessions which are to be separated by a break in the middle of the day unless exceptional circumstances make this undesirable. Regulation 4(2) provides that at least 380 school sessions are required during any school year. This excludes nursery schools.

Regulation 4(3) allows for sessions where a school is prevented from meeting to be treated as if it had met as intended.

Regulation 5 provides for the number of additional school training days permitted and this is periodically amended to account for changes to the education system such as training for the new curriculum.

4. Purpose & intended effect of the legislation

Schools in three local authorities – Conwy, Pembrokeshire and Powys – opened for an additional week at the end of summer term. In lieu of this extra week these schools will close for an additional week at the autumn half term break. Without these Regulations, these schools will not meet the required number of sessions during the 2020/21 school year.

On 9 July 2020, the Minister for Education announced ‘back to school’ plans for September. Schools are expected to welcome learners back to the classroom from 1 September 2020.

Many schools are holding planning and preparation days during the first week of the new autumn term. These are in addition to planned INSET training days. As such, without these Regulations, schools will not meet the required number of sessions during the 2020/21 school year.

Therefore, these Regulations amend the 2003 Regulations in two ways:

- i.) To allow schools which opened for an additional week at the end of the summer term of the 2019-2020 school year to hold at least 370 sessions during the 2020-2021 school year instead of at least 380 sessions.
- ii.) To allow for up to 4 sessions to count as sessions on which the school met if they were devoted to the preparation of schools and planning required to enable schools to open to all learners following a reduction in operations as a result of the incidence and transmission of Coronavirus. These sessions would be held during the first two weeks of the 2020-2021 school year.

The remaining requirements as set out in the 2003 Regulations are unaffected.

5. Consultation

During the period leading up to the laying of these Regulations, we have engaged with local authorities and the Welsh Local Government Association. In addition a letter from the Director of Education was issued to local authority directors on 29 July 2020. This set out the Welsh Government's intentions and local authorities were invited raise any concerns in response.

Three local authorities initially indicated, in response to letters from the Welsh Government, their view that two days' planning and preparation would not be sufficient for their schools. A follow up letter was issued to these authorities, reminding them of the statutory requirement and advising them that two planning and preparation days were considered sufficient and of the need to keep any further missed schooling for pupils to an absolute minimum. No further concerns have been raised by local authorities regarding the arrangements.

As the changes applied to the new school year and it is not customary to consult with schools over the summer holidays, there was insufficient time to undertake a full consultation. Not making the amended 2020 Regulations was not a viable option as we recognised that some schools needed extra time in order to properly prepare for the safe return of children and young people to full-time education. This is a one-off amendment to the Regulations in response to the effect of the coronavirus pandemic.

No issues have been raised with the Welsh Government in relation to the extended autumn half term break in those local authority areas where schools opened for an additional week at the end of the summer term.

6. Regulatory Impact Assessment

An Integrated Impact Assessment has been carried out in the making of the 2020 Amendment Regulations. The Impact Assessment and the Regulations will be kept under review during the period they are in force.

There are no costs or savings resulting from this amendment, therefore a Regulatory Impact Assessment has not been completed. No impact on business, charities or voluntary bodies is foreseen and the 2020 Amendment Regulations only have effect for the 2020/21 academic year.

The impact on the public sector is on the state-funded schools sector including local authorities and school governing bodies to the extent that these bodies are responsible for the delivery of school sessions. As a result of these amending regulations, schools that opened for an additional week in the summer term 2019/20 will not be penalised for taking an extended half term break in the autumn term of 2020/21. In addition schools will be given the flexibility at the start of the new academic year to hold up to two planning and preparation days to help prepare to welcome all learners back to school.

Welsh Language

There are no positive or adverse impacts specific to the Welsh Language.

Children's Rights

We have undertaken a Children's Rights Impact Assessment.

Children and young people have a right to education (article 28 of the UNCRC). It could be argued that a further week's loss of schooling as a result of a longer autumn half-term break for some schools could have a detrimental effect on learners. This has been to some extent mitigated by the extra week those schools would have been open at the end of this year's summer term and may be lessened further by the accelerated learning programme 'Recruit, Recover, Raise Standards'.

Equality and Human Rights

We have undertaken an Equality Impact Assessment.

Disadvantaged and vulnerable groups could be adversely affected by an extended half term break and by the two planning and preparation days at the start of term. Families who live in poverty or those whose income is reliant on actual hours worked may struggle with childcare for these extra days.

Early notification to the change of term dates for these local authority areas has given parents the time to plan for any additional childcare needs for the extended half term break.

Under the Childcare Act 2006 local authorities in Wales are required to secure sufficient childcare to help parents to work or train. For these authorities, where half term will run for two weeks as opposed to the usual one week, discussion with childcare providers around extended holiday childcare schemes will need to take place.

Welsh Government has taken steps to comply with regulation 8(1)(d) of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 by conducting impact assessments and ensuring local authorities are aware of their statutory responsibilities, both in providing the required number of school sessions and in providing sufficient childcare.

Privacy

The provisions in the General Data Protection Regulation 2016 are not affected by extending the amendment to these Regulations.

Justice Impact Assessment (JIA)

Whilst no formal JIA has been undertaken, no impacts have been identified when considering these Regulations.