

SL(6)201 – The Education (Revocation of Assessment Arrangements in the National Curriculum and Miscellaneous Amendments) (Wales) Regulations 2022

Background and Purpose

The Curriculum and Assessment (Wales) Act 2021 establishes a new framework for a curriculum and makes provision about assessment for pupils and children in Wales.

These Regulations amend and disapply existing statutory assessments in the National Curriculum for Wales. These changes are being made in readiness for, or as a result of, the new Curriculum for Wales roll out. These Regulations also make changes to reporting and publication requirements placed on schools, governing bodies and local authorities.

Assessment arrangements

Regulation 3 revokes the National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004 on 30 May 2022. That Order sets out the assessment arrangements for the final year of the second key stage (year 6 pupils). The revocation means that assessments under that Order will not take place in and after this school year (2021 to 2022).

Regulation 4 disapplies the National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005 for pupils in special schools from this school year (2021 to 2022) and revokes that Order for all other schools from 1 September 2024. That Order makes provision for the assessment of pupils in the final year of the third key stage in maintained schools in Wales (year 9 pupils). The revocation means that assessments under that Order will not take place for pupils in special schools in and after this school year (2021 to 2022) and for all other secondary schools from 1 September 2024.

Regulation 5 makes transitional provision in respect of the Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013. That Order applies to pupils in years 2 to 9. The tests required by the 2013 Order will continue to be administered by schools during the roll out of the new Curriculum for Wales to those years. The transitional provisions amend that Order so that it will continue to work with the new Curriculum for Wales.

Regulation 6 disapplies the National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014 to coincide with the roll out of the new Curriculum for Wales. That Order is revoked on 1 September 2024, when all pupils who are assessed pursuant to that Order will be following the Curriculum for Wales (so that Order will no longer be needed).



Regulation 7 revokes the National Curriculum (Moderation of Assessment Arrangements for the Second and Third Key Stages) (Wales) Order 2015 from 30 May 2022. That Order provides for the moderation of all statutory teacher assessments of pupils in maintained schools in Wales in the final year of the second and third key stages (years 6 and 9 respectively). This will mean that moderation under that Order will not take place in, and after, this school year (2021 to 2022).

Regulation 8 revokes Parts 3 and 4 of the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015 and fully revokes that Order on 1 September 2022. Parts 3 and 4 of that Order provide for assessments of pupils in the reception year and the final year of the foundation phase (year 2) respectively. This will mean that assessments under Part 3 will not take place after this school year and assessments under Part 4 will not take place in, or after, this school year (2021 to 2022).

Reporting requirements

Regulation 9 amends the Head Teacher's Report to Parents and Adult Pupils (Wales) Regulations 2011 so that head teachers are not required to report on the results of the statutory assessments that are revoked by these Regulations.

Regulation 10 amends the School Performance Information (Wales) Regulations 2011, which regulate the transfer of information relating to the educational performance of pupils from head teachers to school governing bodies, local authorities and the Welsh Ministers. Specifically, regulation 10:

- removes the requirement on a governing body of a maintained school to provide the results of the statutory assessments that are revoked by these Regulations; and
- substitutes a new Schedule 2, the effect of which is that the results of the reading and numeracy tests are excluded from the statutory assessments information that must be sent by a governing body of a school to the local authority that maintains that school.

Regulation 11 amends regulation 5 of the School Information (Wales) Regulations 2011 so as to remove the requirement for school local authorities to distribute copies of the composite prospectus without charge to parents and pupils who are in the final year at the school and might transfer to other such schools.

Procedure

Negative.

These Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.



Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

These Regulations revoke certain orders but do not revoke orders that amend those principal orders.

Regulation 3 revokes the National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004 ("2004 Order") on 30 May 2022. The 2004 Order was amended by:

- the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 ("2005 Qualifications Order"); and
- the National Curriculum (Amendments to the Key Stage 2 and Key Stage 3 Assessment Arrangements) (Wales) Order 2011 ("2011 Order").

As the 2004 Order is being revoked, it would seem appropriate to specifically revoke paragraph 14 of Schedule 2 to the 2005 Qualifications Order, which amends the 2004 Order.

Although regulation 4(2)(b) revokes the 2011 Order, that revocation does not occur until 1 September 2024. As the 2004 Order is being revoked on 30 May 2022, it would seem appropriate to specifically revoke article 2 of the 2011 Order, which amends the 2004 Order, on 30 May 2022.

Additionally, regulation 4 revokes the National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005 ("2005 Key Stage 3 Order") on 1 September 2024. The 2011 Order, which amends the 2005 Key Stage 3 Order is revoked on 1 September 2024 but these Regulations do not revoke the School Curriculum in Wales (Miscellaneous Amendments) Order 2008, which also amend the 2005 Key Stage 3 Order.

Welsh Government response

Merit Scrutiny point 1:

In respect of the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 the Welsh Government agrees that it would have been appropriate to have revoked paragraph 14 of Schedule 2. The primary legislation powers will be repealed in full for Key Stage 2 on 01/09/2022 and this Order will fall away in its entirety, and so we do not consider anyone will be misled.



In respect of the National Curriculum (Amendments to the Key Stage 2 and Key Stage 3 Assessment Arrangements) (Wales) Order 2011 the Welsh Government agrees it would have been appropriate to have revoked the amending paragraph on 30/05/2022 but the 2011 Order is revoked fully on 01/09/2022 and so we do not consider anyone will be misled.

In respect of the School Curriculum in Wales (Miscellaneous Amendments) Order 2008 the Welsh Government agrees it would have been appropriate to have revoked the amending paragraph on 01/09/2024. The primary legislation powers will be repealed for Key Stage 3 on 01/09/2024 and this Order will fall away in its entirety, and so we do not consider anyone will be misled.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 23 May 2022 and reports to the Senedd in line with the reporting point above.

