

SL(6)158 – The Curriculum and Assessment (Wales) Act 2021 (Transitional and Saving Provision) Regulations 2022

Background and Purpose

The [Regulations](#) make saving and transitional provision in respect of the minor consequential amendments and repeals set out in Schedule 2 to the Curriculum and Assessment (Wales) Act 2021 (“the 2021 Act”).

It is the Welsh Government’s intention that the new Curriculum for Wales under the 2021 Act will be rolled out in a phased manner. The Regulations include the saving and transitional provision required to allow for that phased roll out.

Procedure

Negative.

The 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

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Regulation 2(1) contains the definition of “child” by reference to “section 579(1) of the 1996 Act”. Section 579(1) of the Education Act 1996 contains a definition of “child” and it is presumed that this is the 1996 Act to which the provision refers. However, there is no definition of “1996 Act” within these Regulations.

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.



The Explanatory Notes to the Regulations state the Welsh Government's intention to roll out the new Curriculum for Wales in a phased manner between 1 September 2022 and 1 September 2026. It is noted that this is consistent with the implementation plan published by the Welsh Government but there are currently no provisions to commence the 2021 Act in this way.

It is not clear to the Committee why the Explanatory Notes set out the planned phased roll out without providing for this phased roll out within the Regulations. It would be helpful for the Committee to understand the reasons for this approach.

Welsh Government response

Technical Scrutiny point: Response

The Welsh Government agrees with the reporting point. We do not consider people will be misled and believe that the reference to the "1996 Act" will be read as a reference to the Education Act 1996 which is referred to in full in the definition of "pupil" in the Regulations. We will correct the definition of "child" so as to substitute the reference to the "1996 Act" for the "Education Act 1996" at the earliest opportunity.

Merit Scrutiny point: Response

The phased commencement of provisions in the 2021 Act will be dealt with in a number of commencement orders in the normal way. The amendment made by the Regulations is designed to enable that to happen given that section 84(1) of the 2021 Act commenced Schedule 2 the day after Royal Assent.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 28 February 2022 and reports to the Senedd in line with the reporting points above.

