

Explanatory Memorandum to the Education (Amendments Relating to the Co-ordination of School Admission Arrangements) (Wales) Regulations 2024

This Explanatory Memorandum has been prepared by the Education Directorate and is laid before the Senedd 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 (Amendments Relating to the Co-ordination of School Admission Arrangements) (Wales) Regulations 2024.

Lynne Neagle MS
Cabinet Secretary for Education
9 October 2024

1. Description

- 1.1 The Education (Amendments Relating to the Co-ordination of School Admission Arrangements) (Wales) Regulations 2024 (“the Amendment Regulations”) make corrections to regulations 2(1) and 7(3)(a) of the Education (Co-ordination of School Admission Arrangements and Miscellaneous Amendments) (Wales) Regulations 2024 (“the 2024 Regulations”) (regulation 2(2) of the Amendment Regulations).
- 1.2 The Amendment Regulations also substitute a new sub-paragraph (2) in paragraph 5A of Part 1 of Schedule 2 to the School Information (Wales) Regulations 2011 (“the 2011 Regulations”) (regulation 2(3) of the Amendment Regulations). The new sub-paragraph (2) contains a number of corrections.
- 1.3 The Amendment Regulations are made in response to the Legislation, Justice and Constitutional Committee Report into the 2024 Regulations.

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

- 2.1 The Amendment Regulations are made in response to the Legislation, Justice and Constitutional Committee Report into the 2024 Regulations ([SL\(6\)489](#)). The amendments address the following technical reporting points summarised below:
- 2.2 In regulation 2(1) of the 2024 Regulations in the definition of “Welsh Minister scheme”, the reference “subsection 89B(2) of the 1998 Act” is incorrectly described and it should be referred to as “section 89B(2) of the 1998 Act” (see WLW 6.16 about composite references). The same issue arises in regulation 9, in the definition of “the scheme for co-ordinating admission arrangements of the local authority” in new paragraph 5A(2)(b).
- 2.3 In regulation 2(1) of the 2024 Regulations the term “working day” is given a meaning which is implied in Welsh SIs such as these Regulations by Schedule 1 to the Legislation (Wales) Act 2019. Therefore, it was not necessary to define “working day” in any interpretation provisions found in these Regulations if the term was intended to bear the same meaning as given by Schedule 1 to that Act.
- 2.4 In regulation 7(3)(a) of the 2024 Regulations, there is an incorrect reference to “section 578(1) of the 1996 Act”. However, there is no subsection (1) found in section 578 of the 1996 Act.
- 2.5 In regulation 9 of the 2024 Regulations, a new paragraph 5A is inserted in Schedule 2 to the School Information (Wales) Regulations 2011:

in the new paragraph 5A(1), in paragraphs (a) and (e), the terms “application” and “common application form” respectively are used

which have been defined in regulation 2(1) for the purposes of the 2024 Regulations. These terms have not been included with the definitions listed in sub-paragraph (2) of the new paragraph 5A. Therefore, they have not been given the same meaning in paragraph 5A of Schedule 2 to the School Information (Wales) Regulations 2011,

in the Welsh text, the corresponding English definitions have been noted in italics and brackets after each definition. In the English text, the corresponding Welsh definitions have not been noted after each definition, and

in the definition of “the scheme for co-ordinating admission arrangements of the local authority”, in paragraph 5A(2)(a), there is a reference to a scheme adopted by a local authority “pursuant to regulation 2(1) of the 2024 Regulations”. It should have referred to regulation 4(1) of the 2024 Regulations which places an obligation on local authorities to adopt qualifying schemes. It is at the point of adoption that the scheme will be settled and it is information regarding that settled scheme that should be published.

- 2.6 The Amendment Regulations meet the criteria for the Free Issue Procedure and so will be issued free of charge to anyone who has purchased a hardcopy of the Kings Printer version of the 2024 Regulations.
- 2.7 It should be noted that the SI Registrar has now issued a correction slip in respect of technical reporting point 1 and a corrective re-print in respect of technical reporting point 7.

3. Legislative background

- 3.1 Part 3 of the School Standards and Framework Act 1998 (“the 1998 Act”) makes provision in relation to arrangements for school admissions.
- 3.2 In particular, section 86(1) of the 1998 Act provides that local authorities must make arrangements for parents to express a preference for a school. In practice local authorities fulfil this duty by issuing parental information which includes details of all schools in the local authority area and how to apply. For community and voluntary controlled schools, the local authority is generally the admission authority, and the local authority therefore makes application forms available. For voluntary aided and foundation schools, the governing body is the admission authority.
- 3.3 Section 86(2) of the 1998 Act provides that the admission authority must normally offer a place at the preferred school if there is a place available. The duty to offer the place therefore rests with the admission authority.
- 3.4 Section 86(2A) of the 1998 Act provides that arrangements made under subsection (1) may allow the parent of a child to express preferences for more than one school. However, they are not required to do this if, in accordance

with a qualifying scheme for co-ordinating admission arrangements adopted or made by a local authority by virtue of section 89B of the 1998 Act, the child is offered admission to a different school for which the parent has also expressed a preference.

- 3.5 Accordingly sections 89B and 89C of the 1998 Act make provision in relation to the co-ordination of admission arrangements for maintained schools in Wales. In particular section 89B(1) of the 1998 Act provide a power for the Welsh Ministers to make regulations which impose a duty on local authorities to formulate a qualifying scheme for co-ordinating the arrangements for the admission of pupils to maintained schools in their area. Section 89C provides that regulations may be made about the contents of qualifying schemes including the duties imposed by such schemes on local authorities and school admission authorities.
- 3.6 The powers to make the 2024 Regulations are contained in sections 89B(1), 89C(2), and 92 of the 1998 Act. The Amendment Regulations are subject to annulment in pursuant of a resolution of the Senedd, i.e. the negative resolution procedure.

4. Purpose and intended effect of the legislation

- 4.1 The purpose of the Amendment Regulations is to amend the 2024 Regulations so as to correct a number of errors in the 2024 Regulations.

5. Consultation

- 5.1 No consultation has been undertaken for the Amendment Regulations. This is because the Amendment Regulations make only technical corrections to the 2024 Regulations and do not alter or have any impact on the policy or how it is applied.

6. Regulatory Impact Assessment (RIA)

- 6.1 An RIA has not been prepared for this instrument as the Amendment Regulations make technical amendments to correct update subordinate legislation (i.e. the 2024 Regulations) and the amendments do not alter the policy (or its impact) in any significant way or how it is applied in a given situation. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.