
WELSH STATUTORY INSTRUMENTS

2018 No. 766 (W. 153)

EDUCATION, WALES

The Education (Amendments Relating to Teacher Assessment Information) (Wales) Regulations 2018

<i>Made</i>	- - - -	<i>26 June 2018</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>29 June 2018</i>
<i>Coming into force</i>	- -	<i>31 July 2018</i>

The Welsh Ministers, in exercise of the powers in sections 29(3) and (5)(1), 408(1)(2), 537(1)(3), 537A(1), (2) and (4)(4), and 569(4) and (5)(5) of the Education Act 1996, and in sections 19 and 54(3) and (4) of the Education Act 1997(6), and in sections 21(3), 30(1) and (2), 131(7) and 210 of the Education Act 2002(8), and in sections 22(3) and (4) and 32 of the Education (Wales) Measure 2011(9), and in sections 87 and 98 of the School Standards and Organisation (Wales) Act 2013(10) and exercisable by them(11), make the following Regulations.

In accordance with section 408(5) of the Education Act 1996 the Welsh Ministers have consulted with those persons with whom consultation appeared to the Welsh Ministers to be desirable.

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- (1) 1996 c. 56. Section 29(3) was amended by Schedule 30 and paragraph 67 of Schedule 31 to the School Standards and Framework Act 1998 (c. 31). The heading of section 29 and subsections (1), (3) and (5) were amended by S.I. 2010/1158.
 - (2) Section 408(1) was amended by paragraph 30(a) of Schedule 7 to the Education Act 1997 (c. 44), paragraph 106(a) of Schedule 30 to the School Standards and Framework Act 1998, paragraph 46(1) and (2) of Schedule 21 to the Education Act 2002 (c. 32), paragraphs 9, 11(1) and (2) of Schedule 12 to the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), paragraphs 5 and 7 of Schedule 8 to the Education Act 2011 (c. 21), paragraph 1(1) and (2)(a) of Schedule 4 to the Qualifications Wales Act 2015 (anaw 5) and by S.I. 2010/1158.
 - (3) Section 537(1) of the Education Act 1996 was substituted by paragraph 152(a) of Schedule 30 to the School Standards and Framework Act 1998 and amended by paragraph 9(1) and (15) of Schedule 13 to the Education Act 2011, and by S.I. 2010/1158.
 - (4) Section 537A of the Education Act 1996 was inserted by section 20 of the Education Act 1997, substituted by paragraph 153 of Schedule 30 to the School Standards and Framework Act 1998 and amended by S.I. 2010/1158.
 - (5) Section 569(4) was amended by section 8(1) and (5) of the Education (Wales) Measure 2009 (nawm 7).
 - (6) 1997 c. 44. Section 19 was amended by paragraph 213 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31) and by section 66(1) and (2) of the Deregulation Act 2015 (c. 20).
 - (7) Section 131 was amended so as to apply to England only by paragraph 1(1) and (3) of Part 1 of Schedule 3 to the Education (Wales) Act 2014 (anaw 5) (“the 2014 Act”). Section 131 was re-enacted with some changes in Wales in section 23 of the 2014 Act. The amendments made by the 2014 Act are not yet in force.
 - (8) 2002 c. 32. Section 21(3) was amended by S.I. 2010/1158. Section 30 was amended by section 103(1)(a) and (c) of the Education Act 2005 (c. 18) and by S.I. 2010/1158.
 - (9) 2011 nawm 7.
 - (10) 2013 anaw 1.
 - (11) The functions in the sections in the Education Act 1996 and the Education Act 1997 were conferred on the Secretary of State and were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers under paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32). The functions in the sections in the Education Act 2002 were conferred on the National Assembly for Wales and were transferred to the Welsh Ministers under paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006.

In accordance with section 131(7) of the Education Act 2002 the Welsh Ministers have consulted with such associations of local authorities in Wales, local authorities in Wales, bodies representing the interests of governing bodies in Wales and bodies representing the interests of teachers in Wales as appeared to them appropriate.

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Amendments Relating to Teacher Assessment Information) (Wales) Regulations 2018.

(2) These Regulations come into force on 31 July 2018.

(3) These Regulations apply in relation to Wales.

Education (Information About Individual Pupils) (Wales) Regulations 2007

2. The Education (Information About Individual Pupils) (Wales) Regulations 2007⁽¹²⁾ are amended as follows—

(a) in regulation 5(2)—

(i) omit sub-paragraph (c); and

(ii) in sub-paragraph (e) for “the Skills Funding Agency” substitute “the Education and Skills Funding Agency⁽¹³⁾”; and

(b) for paragraph 1 in Part 2 of Schedule 2 substitute—

“1.—(1) The following information—

(a) whether the pupil is or was studying towards a Welsh Baccalaureate Qualification; and

(b) the title of each learning activity the pupil is or was studying.

(2) This paragraph applies to each person who—

(a) is a pupil in the school’s sixth form during the school year in which the request for the information was made;

(b) was a pupil in the school’s sixth form at any previous time during the school year in which the request for the information was made; or

(c) was a pupil in the school’s sixth form in the year immediately preceding the school year in which the request for the information was made.”

School Governors’ Annual Reports (Wales) Regulations 2011

3. The School Governors’ Annual Reports (Wales) Regulations 2011⁽¹⁴⁾ are amended as follows

(a) in regulation 2 omit the definition of “literacy and numeracy comparative report”;

(b) in regulation 5(2)(a) omit “5,”; and

⁽¹²⁾ S.I. 2007/3562 (W. 312) as amended by S.I. 2010/1142 (W. 101), S.I. 2011/2325 (W. 242), S.I. 2013/3137 (W. 310), S.I. 2016/211 (W. 84), S.I. 2016/236 (W. 88) and S.I. 2016/837 (W. 211).

⁽¹³⁾ The Education and Skills Funding Agency (ESFA) is an executive agency sponsored by the Department for Education in England. The ESFA brings together the existing responsibilities of the Education Funding Agency and the Skills Funding Agency, creating a single funding agency accountable for funding education and training for children, young people and adults.

⁽¹⁴⁾ S.I. 2011/1939 (W. 1939) as amended by S.I. 2013/437 (W. 53), S.I. 2013/1561 (W. 142) and S.I. 2014/2677 (W. 265).

- (c) in Schedule 2 omit paragraphs 5 and 5A.

Head Teacher’s Report to Parents and Adult Pupils (Wales) Regulations 2011

4. Regulation 3 of the Head Teacher’s Report to Parents and Adult Pupils (Wales) Regulations 2011⁽¹⁵⁾ are amended as follows—

- (a) for paragraph (4) substitute—

“(4) In the case of pupils in the fourth key stage there must be included in the report the most recent “Summary of Secondary School Performance” document published by the Welsh Ministers from time to time in relation to the school on DEWi.”;

- (b) in paragraph (5) for “paragraphs (3) and (4)” substitute “paragraph (3)”; and
(c) in paragraph (8)(b) for “1 and 2(4)” substitute “1, 2(4), 3(4) and 8(1) and (2)”.

School Information (Wales) Regulations 2011

5. The School Information (Wales) Regulations 2011⁽¹⁶⁾ are amended as follows—

- (a) in regulation 2(1) omit the definition of “literacy and numeracy comparative report”; and
(b) in Schedule 3 omit paragraphs 27 and 31.

School Performance and Absence Targets (Wales) Regulations 2011

6.—(1) The School Performance and Absence Targets (Wales) Regulations 2011⁽¹⁷⁾ are amended as follows.

- (2) In regulation 2(1)—

- (a) omit the definition of “to achieve the core subject indicator”;
(b) in the definition of “data set” omit “teacher assessments,”; and
(c) in the appropriate place insert—

““fourth key stage pupils” (“*disgyblion cyfnod allweddol pedwar*”) means pupils who are in the fourth key stage referred to in section 103(1)(d) of the 2002 Act,”;
and

““Year 11” (“*Blwyddyn 11*”) means the final school year of the fourth key stage.”

- (3) In regulations 3(4)(b) and 4(4)(b) for “data set” substitute “data”.

- (4) In regulation 5—

- (a) in paragraph (1) for “have attained the age of 15 years” substitute “are in Year 11”;
(b) in paragraph (2) for “attain the age of 16 years during the school year in which” substitute “be in Year 11 when”;
(c) in each place it occurs in paragraphs (3) and (6) and in the heading to regulation 5, for “will attain the age of 16 years” substitute “will be in Year 11”; and
(d) in paragraph (4)—
(i) omit sub-paragraphs (a) and (e); and
(ii) in sub-paragraph (b) omit “teacher assessments as set out in”.

- (5) In regulation 8—

⁽¹⁵⁾ S.I. 2011/1943 (W. 210) as amended by S.I. 2013/437 (W. 53), S.I. 2014/1998 (W. 199), S.I. 2016/236 (W. 88) and S.I. 2016/837 (W. 211).

⁽¹⁶⁾ S.I. 2011/1944 (W. 211) as amended by S.I. 2013/437 (W. 53) and S.I. 2016/211 (W. 84).

⁽¹⁷⁾ S.I. 2011/1945 (W. 212) as amended by S.I. 2016/236 (W. 88).

- (a) in paragraph (1)(a) after “results” insert “for pupils in Year 11”;
 - (b) in paragraph (2)(a)(i) for “3(6)” substitute “3(5)”;
 - (c) in paragraph (2)(a)(iii) for “will attain the age of 16 years (as defined in regulation 5(7))” substitute “will be in Year 11 (as defined in regulation 5(6))”;
 - (d) in paragraph (2)(b) omit paragraphs (i) and (ii);
 - (e) in paragraphs (2)(b)(iii) and (3)(c) for “attained the age of 16 years” substitute “are in Year 11”;
 - (f) in paragraph (3) omit sub-paragraphs (a) and (b); and
 - (g) in paragraph (3)(c) omit paragraphs (i) and (vi).
- (6) In paragraphs 1(a) and (e)(i) and 3(a) and (e)(i) of Schedule 2, after “results” insert “in Year 11”.

School Teacher Appraisal (Wales) Regulations 2011

- 7.—(1) The School Teacher Appraisal (Wales) Regulations 2011⁽¹⁸⁾ are amended as follows.
- (2) In the following regulations for “development” substitute “professional learning”—
- (a) regulation 5(7);
 - (b) regulation 15(1)(c);
 - (c) regulation 17(5);
 - (d) regulation 29(1)(c);
 - (e) regulation 31(4); and
 - (f) regulation 44(4).
- (3) In the following regulations for “development” substitute “learning”—
- (a) regulation 12(7)(b);
 - (b) regulation 26(7)(b);
 - (c) regulation 39(7)(b); and
 - (d) regulation 42(1)(c).
- (4) In the following regulations for “developmental” substitute “professional learning”—
- (a) regulation 15(4);
 - (b) regulation 29(4); and
 - (c) regulation 42(4).

Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013

8.—(1) In regulation 2(1) of the Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013⁽¹⁹⁾ (“the 2013 Regulations”) in the definition of “the school performance data training” for “January 2016 and called “Training for school governors in Wales on understanding school data”” substitute “June 2018 and called “Training for school governors in Wales on understanding school data⁽²⁰⁾””.

(2) Paragraph (1) does not apply to a governor who, before the coming into force of these Regulations, completed the school performance data training required by the 2013 Regulations.

⁽¹⁸⁾ S.I. 2011/2940 (W. 316) as amended by S.I. 2014/2677 (W. 265).

⁽¹⁹⁾ S.I. 2013/2124 (W. 207) as amended by S.I. 2014/1132 (W. 111), S.I. 2014/2225 (W. 214) and S.I. 2016/137 (W. 137).

⁽²⁰⁾ Guidance document 238/2018.

Welsh in Education Strategic Plans and Assessing Demand for Welsh Medium Education (Wales) Regulations 2013

9. For regulation 8 of the Welsh in Education Strategic Plans and Assessing Demand for Welsh Medium Education (Wales) Regulations 2013⁽²¹⁾ substitute—

“**8.**—(1) Subject to paragraph (2) the local authority must publish the plan (or revised plan) by—

- (a) placing it on the local authority’s website; and
- (b) making copies of the plan available for inspection by members of the public at—
 - (i) the local authority’s office; and
 - (ii) any other place it considers appropriate.

(2) A local authority must not publish the supporting information set out in paragraphs 4 and 5 of Schedule 3.”

Education (School Development Plans) (Wales) Regulations 2014

10. The Education (School Development Plans) (Wales) Regulations 2014⁽²²⁾ are amended as follows—

- (a) in regulation 2(1) in the definition of “school comparative information” omit “teacher assessments,”; and
- (b) in the Schedule, in paragraph 3 and in the heading for “development” substitute “learning”.

26 June 2018

Kirsty Williams
Cabinet Secretary for Education, one of the
Welsh Ministers

⁽²¹⁾ S.I. 2013/3048 (W. 307).

⁽²²⁾ S.I. 2014/2677 (W. 265) as amended by S.I. 2016/236 (W. 88).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the—

- (a) Education (Information About Individual Pupils) (Wales) Regulations 2007 (“the Individual Pupil Information Regulations”);
- (b) School Governors’ Annual Reports (Wales) Regulations 2011 (“the Annual Report Regulations”);
- (c) Head Teacher’s Report to Parents and Adult Pupils (Wales) Regulations 2011 (“the Head Teacher Reporting Regulations”);
- (d) School Information (Wales) Regulations 2011 (“the School Information Regulations”);
- (e) School Performance and Absence Targets (Wales) Regulations 2011 (“the Targets Regulations”);
- (f) School Teacher Appraisal (Wales) Regulations 2011 (“the Teacher Appraisal Regulations”);
- (g) Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013 (“the Training Regulations”);
- (h) Welsh in Education Strategic Plans and Assessing Demand for Welsh Medium Education (Wales) Regulations 2013 (“the WESP Regulations”); and
- (i) Education (School Development Plans) (Wales) Regulations 2014 (“the Development Plans Regulations”).

The Individual Pupil Information Regulations require the governing body of a maintained school upon written request from the local authority that maintains the school to supply the individual pupil information requested and which is set out in Schedule 2 to those Regulations. The Individual Pupil Information Regulations also set out the persons to whom the Welsh Ministers may provide that individual pupil information. These Regulations update the list of persons to whom the information may be provided. These Regulations also make two further minor changes—

- (a) so as to allow the Welsh Ministers to collect individual pupil information for sixth form pupils in the year previous to the school year in which the request was submitted. This reflects the current collection practice; and
- (b) so as to remove reference to “basic skills” data as this is no longer collected by the Welsh Ministers (regulation 2).

The Annual Report Regulations set out the information that must be published by a school governing body in an annual report. These Regulations amend the Annual Report Regulations so that governing bodies no longer have to publish school comparative information or the literacy and numeracy report (“the Reports”) (regulation 3). In future the Welsh Ministers will not publish data comparing schools in respect of their teacher assessments and so the Reports will not be available to the school governing body for publication in their annual report.

The Head Teacher Reporting Regulations make provision as to the report the head teacher of a maintained school is required to send to parents and adult pupils each school year and the additional information a parent may request from the head teacher. These Regulations amend the Head Teacher Reporting Regulations so that head teachers do not have to include in the report the school’s most recent comparative information for pupils below the fourth key stage. As the Welsh Ministers will

not publish data comparing schools in respect of their teacher assessments in future the head teacher will not have school comparative information for pupils below the fourth key stage to include in the report to parents and adult pupils. These Regulations also make some minor amendments to correct cross references in regulation 3 of the Head Teacher Reporting Regulations (regulation 4).

The School Information Regulations set out the information about a school that must be published by local authority and the school governing body. These Regulations amend the School Information Regulations so that governing bodies no longer have to publish the most recent school comparative information (“the Report”) (regulation 5). In future the Welsh Ministers will not publish data comparing schools in respect of their teacher assessments and so the Report will not be available to local authorities or governing bodies.

The Targets Regulations set out the school performance targets that must be set by a school governing body. These Regulations amend the Targets Regulations so that—

- (a) the governing body is no longer required to set targets for achieving the core subject indicator or for the number of pupils leaving without relevant qualifications but are free to do so on a voluntary basis (regulation 6(2)(a), (4)(d)(i) and (5)(g));
- (b) the definition of “data set” is amended to omit reference to “teacher assessments” (regulation 6(2)(b));
- (c) amendments to regulations 3(4)(b) and 4(4)(b) mean a governing body will not have to have regard to “data sets” only supplied by the Welsh Ministers in respect of the second and third key stages. Instead a governing body will have to have regard to a range of data on pupil performance in teacher assessments which will be available from a range of sources (regulation 6(3));
- (d) instead of setting performance targets for pupils aged 16 in the fourth key stage the governing body will have to set targets for pupils in year 11 (regulation 6(2)(c), (4)(a) and (c) and (5)(c) and (e)); and
- (e) amendments to regulation 8 and Schedule 2 to the Targets Regulations reflect the fact that school governing bodies will no longer be required to publish pupil attainment data for the second and third key stages. This data will continue to be published for pupils in year 11 (regulation 6(5)(a), (d) and (f) and (6)).

The Teacher Appraisal Regulations provide for the appraisal of the performance of school teachers. These Regulations amend references in the Teacher Appraisal Regulations from the professional development of school teachers to the professional learning of school teachers (regulation 7). The change of wording is consistent with the wording used in non legislative documents and is therefore more familiar to the teaching profession.

The Training Regulations set out the training requirements for school governors. The training requirements in relation to school performance data are set out in a document entitled “Training for school governors in Wales on understanding school data” and is referred to in the definition of “the school performance data training” (“the 2016 Document”) in regulation 2 of the Training Regulations. These Regulations amend that definition so as to remove the reference to the 2016 Document and instead include a reference to the new school performance data training set out in a document entitled “Training for school governors in Wales on understanding school data” published in June 2018 (“the 2018 Document”) (regulation 8(1)). The 2016 document required school governors to be trained in certain school performance data which was provided to them by the Welsh Ministers (regulation 8). In future that data will no longer be provided.

Regulation 8(2) contains a saving provision the effect of which is that existing school governors do not have to complete the training in the 2018 Document if they have already completed the training required by the Training Regulations before these Regulations come into force.

Section 84 of the School Standards and Organisation (Wales) Act 2013 (“the 2013 Act”) requires a local authority to prepare a Welsh in education strategic plan (“WESP”) and carry out an assessment

of demand for Welsh medium education. The WESP Regulations set out the circumstances in which a local authority must carry out such a Welsh medium education assessment and make provision in respect of the form, content and publication of its WESP. In particular regulation 8 of the WESP Regulations makes provision for the publication of a local authority's WESP including the supporting information set out in Schedule 3 to the WESP Regulations. These Regulations substitute a new regulation 8 so as to no longer require the pupil assessment data set out in paragraphs 4 and 5 of Schedule 3 to the WESP Regulations be published as part of the WESP ("Assessment Data") (regulation 9). That Assessment Data will still form part of the Plan and will continue to assist a local authority discharge its functions in Part 4 of the 2013 Act but it will no longer be published.

The Development Plans Regulations place a duty on school governing bodies to draw up a school development plan which must deal with the matters set out in the Schedule to those Regulations. These Regulations amend the Development Plans Regulations so as to remove reference to "teacher assessments" from the definition of "school comparative information" in regulation 2. The Welsh Ministers will no longer include "teacher assessment" information in the school comparative information they provide to schools (regulation 10(a)). The other comparative information set out in the definition of "school comparative information" will continue to be provided.

These Regulations also amend the Schedule to the Development Plans Regulations so as to remove references to "professional development" and insert references instead to "professional learning". The change of wording is consistent with the wording used in non legislative documents and is more familiar to the teaching profession. This change also mirrors the changes made to the Teacher Appraisal Regulations (regulation 9(b)).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Curriculum and Assessment Division in the Department for Education and Public Services in the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.