

Explanatory Memorandum to The Education (Notification of School Term Dates) (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 (Notification of School Term Dates) (Wales) (Amendment) (Coronavirus) Regulations 2020.

Kirsty Williams
Minister for Education
23 June 2020

1. Description

1.1 The Education (Notification of School Term Dates) (Wales) (Amendment) (Coronavirus) Regulations 2020 amend The Education (Notification of School Term Dates) (Wales) Regulations 2014 (“the 2014 Regulations”).

1.2 The amendment is to the deadline by which local authorities must inform Welsh Ministers of their proposed term dates for the 2022/23 academic year. The deadline has been changed from the last working day in August 2020 to 31 December 2020.

1.3 This change is being made to allow more time for local authorities to work with schools and other local authorities to harmonise their school term dates for 2022/23 during the coronavirus (COVID-19) emergency. This is due to the restricted operation of schools necessitated by the pandemic and the significant pressure local authorities are currently under, meaning that complying with this requirement would place a disproportionate administrative burden on them at a time when they are already stretched.

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

2.1 None.

3. Legislative background

3.1 These Regulations are made under powers in section 32A and 210 of the Education Act 2002. They are subject to negative resolution procedure.

3.2 Under section 32A(1) of the Education Act 2002 (“the 2002 Act”), a local authority in Wales must determine the term dates for each community, voluntary controlled or community special school or maintained nursery school in its area. A governing body of a foundation or voluntary aided school in Wales (a “relevant governing body”) must determine the term dates for its school. In exercising its functions under section 32A(1), a local authority must cooperate and coordinate with each relevant governing body in its area, and every other local authority in Wales, to ensure that the term dates determined are the same (or as similar as can be) for every maintained school in Wales.

3.3 Under section 32B of the 2002 Act the Welsh Ministers may direct a local authority in Wales or a relevant governing body to determine such term dates for a maintained school in Wales, as may be specified in the direction. Before making such a direction the Welsh Ministers must carry out such consultation as they consider appropriate.

3.4 Regulation 4 of the 2014 Regulations, requires local authorities to notify the Welsh Ministers of all term dates which have been determined for the maintained schools in its area no later than the final working day in August in the year two years immediately preceding the beginning of the school year for

which the terms dates have been determined. In order to comply with this requirement local authorities will need to be co-ordinating with all their maintained schools as well as other local authorities over the summer.

4. Purpose & intended effect of the legislation

4.1 These Regulations amend the 2014 Regulations to amend the date in regulation 4 for the 2022/23 school year so that local authorities are required to notify the Welsh Ministers of their proposed term dates by 31 December 2020 instead of the last working day of August 2020.

4.2 The remaining requirements relating to the notification of school term dates are unaffected and are as set out in the 2014 Regulations.

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

5. Consultation

5.1 There is no statutory requirement to consult on these Regulations. However, during the period leading up to the laying of these Regulations, we have engaged with local authorities in Wales and diocesan authorities. The feedback has been positive and the extension of the deadline for completing the term dates harmonisation exercise, have been welcomed.

5.2 A statement was issued to interested parties on 7 May 2020. This set out the proposal and was intended to assist local authorities to plan their priority work over the summer period.

6. Regulatory Impact Assessment

6.1 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 Term Dates Regulations 2020 have effect only for the 2022/23 term dates exercise that must be completed in 2020.

6.2 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 setting and agreeing school term dates. As a result of these amending regulations, local authorities will have more flexibility as to how they can respond and deploy their resources during the coronavirus (COVID-19) outbreak. The extended deadline is welcomed by the sector.

Welsh Language

6.3 There are no positive or adverse impact implications on the Welsh Language.

Children's Rights

6.4 We have undertaken a Children's Rights Impact Assessment. No conflict with UNCRC has been identified and there are no negative impacts on children and young people. The purpose of the Term Dates Regulations 2020 is to ensure that parents, learners and other stakeholders can plan ahead for the 2022/23 academic year without undue burden on local authorities during the coronavirus (COVID-19) emergency.

Equality and Human Rights

6.5 The provisions in the Equality Act 2010 and Human Rights Act 1998 are not affected by extending the deadline to 31 December 2020.

6.6 An Integrated Impact Assessment has been undertaken as part of the legislative development process.

Privacy

6.7 The provisions in the General Data Protection Regulation 2016 are not affected by extending the deadline to 31 December 2020.

Justice Impact Assessment (JIA)

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