

SL(6)256 – The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential and Miscellaneous Amendments) Regulations 2022

Background and Purpose

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 ("the 2018 Act") reforms the law on education and training for children and young people with additional learning needs and renames the Special Educational Needs Tribunal for Wales as the Education Tribunal for Wales.

These Regulations make consequential amendments to the following sets of regulations as a result of certain elements of the 2018 Act coming into force:

- (i) The Education Standards Grants (Wales) Regulations 2002
- (ii) The Education (Admissions Forums) (Wales) Regulations 2003
- (iii) The School Councils (Wales) Regulations 2005
- (iv) The Education (Special Educational Needs) (Wales) Regulations 2002
- (v) The Special Educational Needs Tribunal for Wales Regulations 2012
- (vi) The Selection of the President of Welsh Tribunals Regulations 2017

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 points are 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.

In regulation 3(2)(b), the wording of the provision fails to identify with certainty where in the definition of "learning support assistant"¹ the new text should be inserted.

¹ in regulation 2(1) of the Education Standards Grants (Wales) Regulations 2002



This is due to the fact that "with" occurs in two places in that definition and therefore describing the text as being inserted after "with" is not sufficient to distinguish between them and precisely identify where the new text is to be inserted.

The error does not occur in the Welsh text of the Regulations.

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

Regulation 5(2)(a) provides that the new definitions should be inserted "*at the appropriate places*".

However, the existing definitions in regulation 2 of the 2005 Regulations² are not listed in alphabetical order. Therefore, the "appropriate" place to insert the new definitions in the existing list of definitions is not sufficiently clear.

The error does not occur in the Welsh text of the Regulations.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

Technical Scrutiny

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

The Welsh Government notes and accepts the point raised in the report. Action will be taken to amend the relevant provision at the earliest opportunity as part of the ongoing programme of secondary legislation being made to fully implement the ALNET Act 2018.

Point 2 - Standing Order 21.2(vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements.

The Welsh Government notes the point raised in the report. Action will be taken to amend the relevant provision at the earliest opportunity as part of the ongoing programme of secondary legislation being made to fully implement the ALNET Act 2018.

Legal Advisers

Legislation, Justice and Constitution Committee

5 September 2022

²The School Councils (Wales) Regulations 2005





Senedd Cymru
Pwyllgor Deddfwriaeth, Cyflawnder a'r Cyfansoddiad
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Welsh Parliament
Legislation, Justice and Constitution Committee