

SL(6)466 – The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) (Amendment) Regulations 2024

Background and Purpose

A [Pupil Referral Unit \("PRU"\)](#) is a type of school established by a local authority which has a duty to provide suitable education for children and young people who, by reason of exclusion, illness or otherwise, may not receive such education in a mainstream school.

The management committee of a PRU plays a strategic and advisory role in setting out and maintaining the vision, aims and objectives of the PRU in conjunction with the local authority.

These Regulations amend the *Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003* (the "**2003 PRU Regulations**") to:

- a) prescribe that the management committee of a PRU, instead of the local authority that maintains it, is to be the responsible body to consider whether an excluded pupil should be reinstated, and
- b) require the responsible body to consider whether pupils excluded permanently should be reinstated, in addition to those excluded for a fixed period in certain cases.

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 4 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 6(4)(b), in paragraph (i), the location of the existing text for amendment in regulation 7(2)(b) of the 2003 PRU Regulations is described as "*in the words before subparagraph (b)(i)*".



However, the opening words of regulation 6(4)(b) have already stated that the amendment is made "*in sub-paragraph (b)*". Therefore, the location of the text for amendment should have more correctly been described as "*in the words before paragraph (i)*".

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Regulation 10 amends the Schedule to the *Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003* (the "**Maintained Schools Exclusions Schedule**").

In particular, regulation 10(3) modifies the reference to regulation "7(1)" in paragraph 1(1) of the Maintained Schools Exclusions Schedule so that it reads as referring to regulation "8(1)".

This amendment does not seem to serve a purpose as paragraph 3 in the Schedule to the 2003 PRU Regulations already provides for this substitution in each place it occurs in the Maintained Schools Exclusions Schedule.

3. Standing Order 21.2(vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts.

Whilst this is a separate point to reporting point 2 (immediately above), it should be considered in conjunction with it.

In regulation 10(3), in the new paragraph 1A inserted in the Schedule to the 2003 PRU Regulations, in sub-paragraph (a), there is a difference between the English and Welsh texts.

In the English text, the existing reference that is modified is "7(1)" but in the Welsh text the modification is made to a reference to "6(1)". This is due to an historical error that exists in the Welsh text of paragraph 1(1) of the Maintained Schools Exclusions Schedule.

Therefore, the amendment made by the Welsh text attempts to modify that incorrect reference to "6(1)" so that it will also be read as "8(1)". However, this does not appear to be an appropriate approach as it fails to address the existing error in the Welsh text of paragraph 1(1) of the Maintained Schools Exclusions Schedule.

4. Standing Order 21.2(vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts.

In regulation 10(7), in the new paragraph 6 which is inserted in the Schedule to the 2003 PRU Regulations, in the Welsh text, "*there is substituted*" has been translated as "**rhodder**".

However, the existing modifications in the Welsh text of that Schedule have generally used a slightly different form of that verb "**rhoddir**", which has also been used in the new paragraph 1A inserted by regulation 10(3) of these Regulations.

Therefore, the translation of the new paragraph 6 is not consistent with the style of the Welsh text in the original Schedule. The drafting guidelines in paragraph 7.30(1) of Writing



Laws for Wales recommends that amendments should generally be consistent in their style with the original text.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

5. 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 Memorandum states that a consultation has not been undertaken in respect of these regulations because:

"[...] local authorities and Teachers in Charge of PRUs have informed us current practice is in line with the proposed amendments".

Welsh Government response

Technical Scrutiny point 1: The Welsh Government agrees with this technical point. However, as the reference is not incorrect and the location of the text to be amended is very clear, it is not considered that this needs to be corrected in order to avoid misleading readers.

Technical Scrutiny point 2: The Welsh Government agrees that it was not strictly necessary for regulation 10(3) to modify the reference to regulation "7(1)". However, it is not considered that this needs to be corrected in order to avoid misleading readers.

Technical Scrutiny point 3: The Welsh Government acknowledges that there is an error in the Welsh text of the Schedule to the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003 ("the Maintained School Regulations"). The reporting point does not relate to an error in the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) (Amendment) Regulations 2024 ("the 2024 PRU Regulations") but to an error in the Maintained School Regulations. The purpose and effect of the 2024 PRU Regulations is to change the law in relation to PRUs. We will make the necessary amendment to the Maintained Schools Regulations to correct the error the next time those Regulations are amended, which is anticipated to be later this year.

Technical Scrutiny Point 4: The Welsh Government accepts that the form of the verb "rhoddir" would have been more consistent in style with the original text rather than the form of the verb "rhodder". However, we consider that the meaning of the term is clear so that the reader would not be misled.

Legal Advisers

Legislation, Justice and Constitution Committee

20 March 2024



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—
Welsh Parliament
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