

SL(6)485 – The Education (Arrangements for Assessing Reading and Numeracy in the Curriculum for Wales) Regulations 2024

Background and Purpose

The Education (Arrangements for Assessing Reading and Numeracy in the Curriculum for Wales) Regulations 2024 (“these Regulations”) give legal effect to the assessment arrangements for reading and numeracy in the Curriculum for Wales for pupils who attend schools (other than a community special school established in a hospital) maintained by a local authority in Wales (“the national personalised assessments”).

The national personalised assessments replace the reading and numeracy tests (“the national tests”) which are given legal effect by the Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013 (“the 2013 Order”). The 2013 Order is to be revoked from 1 September 2024 by the Education (Revocation of Assessment Arrangements in the National Curriculum and Miscellaneous Amendments) (Wales) Regulations 2022 (“the 2022 Regulations”).

The national personalised assessments are sat online and assess the same skills as the national tests. However, there are some differences to the way the national personalised assessments will be administered in comparison to the way the national tests have been administered. These differences are listed in the Explanatory Note to these Regulations.

In addition, these Regulations amend the Provision of Information by Head Teachers to Parents and Adult Pupils (Wales) Regulations 2022 (“the Provision of Information Regulations”). Paragraph 6 of Schedule 2 to the Provision of Information Regulations requires the head teacher to provide a brief commentary on the results of the national tests (“the reporting obligation”). In consequence of the revocation of the 2013 Order from 1 September 2024, regulation 6 of these Regulations substitutes a reference to these Regulations for the reference to the 2013 Order in paragraph 6 of Schedule 2 to the Provision of Information Regulations. This amendment ensures that the reporting obligation continues in respect of the national personalised assessments.

Procedure

Negative.

This Order was made by the Welsh Ministers before it was laid before the Senedd. The Senedd can annul the Order within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date it was laid before the Senedd.

Technical Scrutiny



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

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following 4 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. 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

Regulation 2 of these Regulations defines “the NPA administration handbook” by reference to the document entitled the “National Reading and Numeracy Personalised Assessments: administration handbook”, which is statutory guidance published by the Welsh Ministers from time to time. The definition of “the NPA disapplication guidance” in regulation 2 also makes reference to that handbook.

Whilst it is noted that the version of the handbook currently published on the Welsh Government’s Hwb website relates to requirements for the 2023 to 2024 academic year, in order to aid accessibility it would have been helpful if these Regulations had contained a hyperlink, by way of a footnote, to the section of the Hwb website on which updated versions of the handbook will be made available from time to time.

2. 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

It is noted that pupils in year 4 to year 9 are subject to different requirements as to the National Reading Personalised Assessments that must be administered to them depending on the language-medium through which the majority of that pupil’s lessons are taught. This is the continuation of a policy that has existed under the 2013 Order in relation to the national tests.

Regulation 4 of these Regulations provides that a head teacher must make arrangements for the Welsh-medium National Reading Personalised Assessment (“NRPAW”) to be administered at least once in every school year to each pupil in year 2 to year 9 (as defined in regulation 2) where, in the opinion of the head teacher, the majority of that pupil’s lessons are taught through the medium of Welsh.

Similarly, regulation 3 of these Regulations provides that a head teacher must make arrangements for the English-medium National Reading Personalised Assessment (“NRPAE”) to be administered at least once in every school year to each pupil in year 2 and year 3 where, in the opinion of the head teacher, the majority of that pupil’s lessons are taught through the medium of English. Arrangements must also be made for the NRPAE to be administered at least once in every school year to each pupil in year 4 to year 9, but no distinction is made as to the medium through which the majority of those pupils’ lessons are taught.



In practice, this means that pupils in year 4 to year 9 in Welsh-medium education will be required to be administered both the NRPAW and the NRPAE at least once in every school year. This is in contrast to pupils in year 4 to year 9 in English-medium education, who will only be required to be administered the NRPAE.

This is summarised in statutory guidance entitled the "[National Reading and Numeracy Personalised Assessments: administration handbook](#)" published by the Welsh Ministers which details the administrative arrangements of the national personalised assessments. That document states, in the section titled "Requirements for learners receiving education through the medium of Welsh", that "*Learners in Years 4 to 9 in Welsh-medium education are required to take both the Welsh and English Reading personalised assessments. There is no Welsh Reading personalised assessment for learners in English-medium education.*"

3. 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

It is noted that no public consultation has taken place in respect of these Regulations. The Explanatory Memorandum to these Regulations explains that:

"The 2021 Act does not require a consultation prior to making provision for assessment pursuant to section 56(1), (3) and (6) or section 74(1)(a) of that Act. Further the purpose of these Regulations is to ensure the continuation of existing arrangements for assessing and reporting in respect of reading and numeracy skills. The national personalised assessments are sat online and assess the same skills as the national tests.

However, as noted above there are some differences to the way the national personalised assessments will be administered in comparison to the way the national tests have been administered. Those changes have been made to reflect the current practice and ease the burden on schools in administering the assessments. As such it was considered that a consultation was not necessary and would add unnecessarily to the burden of schools in considering the response.

These Regulations ensure the requirements for administering the assessments align with current practice in schools. It will not require head teachers or other school staff to do anything additional to current practice, and for some aspects, which are no longer relevant to online delivery of the assessments, requirements are being removed."

4. 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 to these Regulations explains that the [Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments](#) ("the RIA Code of Practice") was considered and that a Regulatory Impact Assessment ("RIA") has not been conducted for the reasons set out in section 6 (Regulatory Impact Assessment (RIA)) of the Explanatory Memorandum.

The RIA Code of Practice explains that the Welsh Ministers will always carry out an RIA for relevant Welsh subordinate legislation, subject to exceptions set out in paragraph 3.2 of the



RIA Code of Practice. This includes *“where factual amendments are being made to update subordinate legislation and which do not alter the policy (or its impact) in any significant way or how it is applied in a given situation”, or “where technical amendments are required to change the wording of the law rather than its purpose or effect.”*

It is noted that these Regulations do not amend existing subordinate legislation. They are standalone Regulations that are designed to essentially replace the 2013 Order (which are being revoked from 1 September 2024 by the 2022 Regulations), and give legal effect to the new assessment arrangements for reading and numeracy.

Whilst the national personalised assessments will assess the same skills as the national tests, they will be sat online and are subject to certain administrative changes, as explained in the Explanatory Memorandum to these Regulations, in order to *“reduce the burden on schools and reflect the current practice”*. For example, these Regulations do not require local authorities that maintain schools to monitor the administration of the national personalised assessments, in order to *“reduce the burden on local authorities and schools in their area”*. Currently under article 7 of the 2013 Order, which is to be revoked from 1 September 2024, there is an obligation on monitoring authorities to visit, in any school year, 10% of all *“relevant schools”* during one of the listed periods close to, or during, the administration of the national tests to pupils. As a result of this change, the Welsh Ministers will no longer be required to investigate any matter that may have been referred to them as a result of monitoring assessments or to correct any results as appropriate.

Some of these administrative changes and the giving of legal effect to the arrangements for the administration of the new national personalised assessments would appear to move beyond *“factual”* or *“technical”* amendments, and also affect how the policy *“is applied in a given situation”*. Whilst the Explanatory Memorandum states that *“the policy given legal effect in these Regulations remains the same”*, it then goes on to explain changes between the way the national personalised assessments will be administered in comparison to the way the national tests have been administered. Whilst the Explanatory Memorandum states that this reflects *“the current practice”*, that practice is to be given legal effect through these Regulations and the revocation of the 2013 Order by the 2022 Regulations.

It is suggested that an assessment of the costs and benefits through an RIA would have aided understanding and the scrutiny of these changes, and the reasons why they are considered beneficial.

Welsh Government response

Merit Scrutiny point 1: The Welsh Government notes the merits point. The Welsh Government is liaising with the National Archives to establish whether a correction slip can be published to include the relevant hyperlink for these Regulations. Inclusion of appropriate hyperlinks will be considered in any future revisions to the Regulations.



Merit Scrutiny point 4: The Committee's comments are noted. The Welsh Government will ensure that an RIA is completed in accordance with the Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments in respect of future substantive revisions of the Regulations.

Legal Advisers

Legislation, Justice and Constitution Committee

17 May 2024



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

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