

**2011 No. 1945 (W. 212)**

**EDUCATION, WALES**

**The School Performance and  
Absence Targets (Wales)  
Regulations 2011**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made under sections 19, 54(3) and (4) of the Education Act 1997 and sections 63 and 138(7) and (8) of the School Standards and Framework Act 1998. They repeal and re-enact with changes the Education (School Performance and Absence Targets) (Wales) Regulations 1999.

Regulation 3 requires school governing bodies to set performance targets for pupils in the second key stage. Regulation 4 requires governing bodies to set performance targets for pupils in the third key stage, and regulation 5 requires governing bodies to set performance targets for pupils in the fourth key stage.

Regulation 6 requires the governing body of every maintained school providing secondary education to set final, reviewed and provisional targets in respect of pupils' unauthorised absence from school for 1 and 2 years ahead. Information concerning these targets and the actual unauthorised absence rate will have to be published every year with the governing body's annual report.

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*Made* 29 July 2011

*Laid before the National Assembly for Wales*  
August 2011

*Coming into force* 1 September 2011

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 19 and 54(3) and (4) of the Education Act 1997<sup>(1)</sup> and sections 63 and 138(7) and (8) of the School Standards and Framework Act 1998<sup>(2)</sup>, and now vested in them<sup>(3)</sup>, make the following Regulations:

**Title, commencement, application and revocation**

1.—(1) The title of these Regulations is the School Performance and Absence Targets (Wales) Regulations 2011, and they come into force on 1 September 2011.

(2) These Regulations apply in relation to Wales.

(3) The regulations set out in Schedule 1 are revoked.

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(1) 1997 c.44. Sub-section (3) of section 19 of the Education Act 1997 was substituted by paragraph 213 of Schedule 30 to the School Standards and Framework Act 1998 (c.31).

(2) 1998 c.31. Sub-sections (1), (3) and (4) of section 63 were amended by section 53(1), (3) and (4) and Part 3 of Schedule 22 to the Education Act 2002, and sub-section (3A) was inserted by the section 53(1) and (3) of the Education Act 2002. Sub-section (7) of section 138 of the School Standards and Framework Act 1998 was amended by paragraph 3(1) and (4) of Schedule 17 to the Education and Inspections Act 2006 (c.40).

(3) The functions of the Secretary of State in sections 19 and 54 of the Education Act 1997 and sections 63 and 138 of the School Standards and Framework Act 1998 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 by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

## Interpretation

### 2.—(1) In these Regulations—

“the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002;

“to achieve the core subject indicator” (“*cyflawni’r dangosydd pynciau craidd*”) means in relation to pupils who will attain the age of 16 years during the school year in which they take the relevant examinations, that those pupils are to have achieved NQF level 2 or above with an equivalence of 20% or more in approved relevant qualifications;

“approved relevant qualification” (“*cymhwyster perthnasol a gymeradwywyd*”) is a qualification within the meaning of section 30(5) of the Education Act 1997(1);

“current school year” (“*y flwyddyn ysgol gyfredol*”) means the school year in which the review is taking place;

“core subjects” (“*y pynciau craidd*”) means the core subjects within the meaning of section 105(2) of the 2002 Act(2);

“data set” (“*set ddata*”) means the summary of a school’s performance in teacher assessments, approved qualifications and absence rates compiled and provided to the school by the Welsh Ministers;

“following school year” (“*y flwyddyn ysgol ddilynol*”) means the school year immediately following the school year in question;

“GCSE” (“*TGAU*”) means General Certificate of Secondary Education;

“GCSE examination” (“*arholiad TGAU*”) means an examination, the course leading to which is a full GCSE course of study;

“level 4” (“*lefel 4*”) means level 4 of the National Curriculum level scale as determined by the results of teacher assessments;

“level 5” (“*lefel 5*”) means level 5 of the National Curriculum level scale as determined by the results of teacher assessments;

“level 1 threshold” (“*trothwy lefel 1*”) means the achievement by a pupil of qualification at NQF level 1 which is equivalent to 5 GCSE qualifications at grades D to G;

“level 2 threshold” (“*trothwy lefel 2*”) means the achievement by a pupil of qualification at NQF

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(1) Sub-section (5) of section 30 was substituted by paragraph 15(6) of Schedule 12 to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22).

(2) Amended by section 21(1) and (6) of the Education (Wales) Measure 2009 (nawm 5).

level 2 which is equivalent to 5 GCSE qualifications at grades A\* to C;

“NQF” (*FfCC*) means the National Qualifications Framework comprising relevant qualifications within the meaning of section 30(5) of the Education Act 1997 which is awarded or authenticated by a body which is recognised by the Welsh Ministers under section 30(1)(e) of that Act in respect of the qualification;

“NQF level” (*lefel FfCC*) means the level or levels set out in NQF in relation to a relevant qualification;

“performance targets” (*targedau perfformiad*) means the targets which schools’ governing bodies are required to set by virtue of regulations 3, 4 and 5;

“previous school year” (*y flwyddyn ysgol flaenorol*) means the school year immediately preceding the school year in question;

“pupils’ attainment results” (*canlyniadau cyrhaeddiad disgyblion*) has the meaning specified in regulation 8(3);

“relevant school year” (*y flwyddyn ysgol berthnasol*) in relation to a school means the school year in relation to which the school’s annual report is published;

“school’s annual report” (*adroddiad blynyddol yr ysgol*) means the report to parents which the governing body of a school are required to prepare and publish for every school year by virtue of the school’s instrument of government or section 30 of the 2002 Act<sup>(1)</sup>;

“Schools’ Census enumeration date” (*dyddiad cyfrifo Cyfrifiad Ysgolion*) means the date by reference to which the Welsh Ministers annually require information to be provided relating to maintained schools pursuant to section 29(1) of the Education Act 1996<sup>(2)</sup>;

“school year” (*blwyddyn ysgol*) means a period of twelve months beginning on 1 September;

“school year in question” (*y flwyddyn ysgol o dan sylw*) in relation to the setting of any target means the school year in which the target is being set;

“school year next but one” (*y flwyddyn ysgol nesaf ond un*) means the school year beginning 2 years after the beginning of the school year in question;

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- (1) Sub-sections (1) and (2) of section 30 were amended by section 103(1)(a) of the Education Act 2005 (c.18). Sub-sections (3) and (4) of section 30 were amended by section 103(1)(b) of the Education Act 2005 (c.18).
- (2) 1996 c.56. Sub-section (1) was amended by S.I. 2010/1158.

“second key stage pupils” (“*disgyblion cyfnod allweddol dau*”) means pupils who are in the second key stage referred to in section 103(1)(b) of the 2002 Act;

“teacher assessments” (“*asesiadau athrawon*”) means the assessments of pupils carried out by teachers for the purpose of determining the level of attainment they have achieved in English, Welsh, science or mathematics, and for which assessment provision is made by or under orders made under section 108(3)(c) of the Education Act 2002(1) in force when the assessments are carried out;

“third key stage pupils” (“*disgyblion cyfnod allweddol tri*”) means pupils who are in the third key stage referred to in section 103(1)(c) of the 2002 Act;

“working day” (“*diwrnod gwaith*”) means any day other than a Saturday, Sunday or a day which is a bank holiday within the meaning of section 1 of the Banking and Financial Dealings Act 1971(2); and

“work-based learning provider” (“*darparnydd dysgu seiliedig ar waith*”) means an employer or body who provides a programme or programmes of education in the work place to pupils or students as part of a course on which they are enrolled or will be enrolled at any school or further education institution.

(2) Any reference in these Regulations to a pupil achieving or being awarded qualifications at a NQF level in an approved relevant qualification, by the end of any school year, is to be construed for the purposes of these Regulations as a reference to that pupil achieving or being awarded that qualification in the school year in which he or she—

- (a) takes that examination, or
- (b) (as the case may be) completes the course leading to the award of that qualification,

and irrespective of whether the decision to award the qualification is made in a later school year.

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(1) Section 103 was amended by paragraphs 11 and 15 of the Schedule to the Learning and Skills (Wales) Measure 2009 (nawm 1). The orders made under that section are the National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004 (S.I. 2004/2915 (W.254)) and the National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005 (S.I. 2005/1394 (W.108)).

(2) 1971 c.80.

### **Performance targets for pupils in the second key stage**

**3.—**(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils in the second key stage.

(2) The governing body of a school to which this regulation applies must, by no later than 31 December in every school year, set and submit to the local authority the targets specified in paragraph (3) for each of the achievements specified in paragraph (4) in connection with the performance in teacher assessments of pupils who will be in the final year of the second key stage when those assessments are carried out.

(3) The targets referred to in paragraph (2) are—

- (a) final targets in connection with the performance of the relevant group of second key stage pupils in teacher assessments to be carried out at or near the end of the current school year, being the reviewed targets set in the previous school year;
- (b) reviewed targets in teacher assessments to be carried out at or near the end of the following school year being the provisional targets set in the previous school year but revised if the governing body deem it necessary to do so; and
- (c) provisional targets in teacher assessments to be carried out at or near the end of the school year next but one.

(4) The achievements referred to in paragraph (2) are—

- (a) the percentage of pupils to achieve level 4 or above for each of the core subjects; and
- (b) the three achievements set by the governing body based on its evaluation of the performance of pupils at the school in teacher assessments as set out in the data set for that school in relation to the previous school year.

(5) In paragraph (3)(a) “the relevant group of second key stage pupils”, in relation to a school and to any school year means all persons who the governing body anticipate will, in the following school year—

- (a) be registered pupils at that school; and
- (b) be in the final year of the second key stage.

(6) Where the local authority is not satisfied with any target submitted by a governing body under paragraph (2), it must within 3 working days of receipt of the targets from the governing body give notice to the governing body of that fact and the governing body must submit a revised target within 21 working days of receipt of such a notice.

(7) Where the local authority is not satisfied with a revised target submitted under paragraph (6) it must set the target.

### **Performance targets for pupils in the third key stage**

4.—(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils in the third key stage.

(2) The governing body of a school to which this regulation applies must, by no later than 31 December in every school year, set and submit to the local authority the targets specified in paragraph (3) for each of the achievements specified in paragraph (4) in connection with the performance in teacher assessments of pupils who will be in the final year of the third key stage when those assessments are carried out.

(3) The targets referred to in paragraph (2) are—

- (a) final targets in connection with the performance of the relevant group of third key stage pupils in teacher assessments to be carried out at or near the end of the current school year, being the reviewed targets set in the previous school year;
- (b) reviewed targets in teacher assessments to be carried out at or near the end of the following school year, being the provisional targets set in the previous school year but revised if the governing body deem it necessary to do so; and
- (c) provisional targets in teacher assessments to be carried out at or near the end of the school year next but one.

(4) The achievements referred to in paragraph (2) are—

- (a) the percentage of pupils to achieve level 5 or above for each of the core subjects; and
- (b) the three achievements set by the governing body based on its evaluation of the performance of pupils at the school in teacher assessments as set out in the data set for that school in relation to the previous school year.

(5) In paragraph (3)(a) “the relevant group of third key stage pupils”, in relation to a school and to any school year means all persons who the governing body anticipate will, in the following school year—

- (a) be registered pupils at that school; and
- (b) be in the final year of the third key stage.

(6) Where the local authority is not satisfied with any target submitted by a governing body under paragraph (2), it must within 3 working days of receipt

of the targets from the governing body give notice to the governing body of that fact and the governing body must submit a revised target within 21 working days of receipt of such a notice.

(7) Where the local authority is not satisfied with a revised target submitted under paragraph (6) it must set the target.

### **Performance targets for pupils who will attain the age of 16 years**

5.—(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils who have attained the age of 15 years.

(2) The governing body of a school to which this regulation applies must, by no later than 31 December in every school year, set and submit to the local authority the targets specified in paragraph (3) for each of the achievements specified in paragraph (4) in connection with the performance in examinations of pupils who will attain the age of 16 years during the school year in which they take those examinations.

(3) The targets referred to in paragraph (2) are—

- (a) final targets in connection with the performance of the relevant group of pupils who will attain the age of 16 years, in examinations to be administered at or near the end of the current school year, being the reviewed targets set in the previous school year;
- (b) reviewed targets in examinations to be administered at or near the end of the following school year, being the provisional targets set in the previous school year but revised if the governing body deem it necessary to do so; and
- (c) provisional targets in examinations to be administered at or near the end of the school year next but one.

(4) The achievements referred to in paragraph (2) are—

- (a) the percentage of pupils to achieve the core subject indicator;
- (b) the three achievements set by the governing body based on its evaluation of the performance of pupils at the school in teacher assessments as set out in the data set for that school in relation to the previous school year;
- (c) the percentage of pupils to achieve the level 1 threshold;
- (d) the percentage of pupils to achieve the level 2 threshold including an approved relevant



qualification in English or Welsh first language and mathematics; and

- (e) the percentage of pupils to leave school without achieving an approved relevant qualification.

(5) In paragraph (4) references to pupils leaving school do not include pupils transferring to another educational institution on a full-time basis or a work-based learner provider.

(6) In paragraph (3)(a) “the relevant group of pupils who will attain the age of 16 years”, in relation to a school and to any school year means all persons—

- (a) who the governing body anticipate will be registered pupils at the Schools’ Census enumeration date in the following school year; and
- (b) who will attain the age of 16 years during that following school year.

(7) Where the local authority is not satisfied with any target submitted by a governing body under paragraph (2), it must within 3 working days of receipt of the targets from the governing body give notice to the governing body of that fact and the governing body must submit a revised target within 21 working days of receipt of such a notice.

(8) Where the local authority is not satisfied with a revised target submitted under paragraph (7) it must set the target.

### **Absence Targets**

6.—(1) By no later than 31 December in every school year, the governing body of every maintained school (other than a special school established in a hospital) must set and submit to the local authority the targets specified in paragraph (2) for the level to which the absence rate on the part of relevant day pupils at the school is to be reduced.

(2) Subject to paragraph (3), the targets referred to in paragraph (1) are—

- (a) a final target for the current school year, being the reviewed target set in the previous school year;
- (b) a reviewed target for the following school year, being the provisional target set in the previous school year but revised if the governing body deem it necessary to do so; and
- (c) a provisional target for the school year next but one.

(3) Where a governing body has not previously set absence targets under these regulations, paragraph (2)

is modified as follows in respect of the first occasion on which targets are required to be set—

- (a) in sub-paragraph (a), the word “final” and the words following “current school year” to the end of the sub-paragraph are omitted; and
- (b) in sub-paragraph (b), the word “reviewed” and the words following “following school year” to the end of the sub-paragraph are omitted.

(4) Where the local authority is not satisfied with any target submitted by a governing body under paragraph (2), it must within 3 working days of receipt of the targets from the governing body give notice to the governing body of that fact; and the governing body must submit a revised target within 21 working days of receipt of such a notice.

(5) Where the local authority is not satisfied with a revised target submitted under paragraph (4), it must set the target.

(6) In this regulation and in regulation 8—

- (a) “absence” means an occasion when a relevant day pupil is recorded as absent from a school in accordance with the Education (Pupil Registration) (Wales) Regulations 2010<sup>(1)</sup>;
- (b) “relevant day pupil” means a registered pupil of compulsory school age apart from a boarder;
- (c) “the absence rate” means the total number of absences expected in the applicable period during the school year, expressed as a percentage of the total possible attendances by pupils in that period;
- (d) “the applicable period” means—
  - (i) for primary school pupils the period starting with the beginning of a school year and finishing with the last day of the last school term in that school year; and
  - (ii) for secondary school pupils the period starting with the beginning of a school year and finishing with the end of the school day falling on the Friday before the last Monday in May in that school year; and
- (e) “the total possible attendances” means the number produced by multiplying the number of relevant day pupils at a school by the number of school sessions in the applicable period in a school year.

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(1) S.I. 2010/1954 (W.187).

### **Alteration of targets**

7.—(1) A performance target may not be modified after it has been set without the prior agreement of the local authority.

(2) A final absence target set by a governing body under regulation 6 must not be modified by the governing body without the prior agreement of the local authority.

### **Publication of information**

8.—(1) Subject to paragraph (2) the governing body of every school to which regulations 3, 4, 5, or 6 applies must publish with the school's annual report for every school year the information about—

- (a) pupils' attainment results,
- (b) performance targets,
- (c) the absence rate, and
- (d) absence targets,

specified in Schedule 2.

(2) In relation to any school to which regulations 3, 4 or 5 applies, paragraph (1) does not require the publication of any information—

- (a) about the performance targets referred to in those regulations in relation to—
  - (i) the relevant group of second key stage pupils (as defined in regulation 3(6)),
  - (ii) the relevant group of third key stage pupils (as defined in regulation 4(5)), or
  - (iii) the relevant group of pupils who will attain the age of 16 years (as defined in regulation 5(7)),

where that group, at the time when the governing body's duty to set such targets for that year arose, consisted of ten or fewer persons; and

- (b) about pupils' attainment results in any school year in relation to any group of pupils—
  - (i) at or near the end of the final year of the second key stage,
  - (ii) at or near the end of the final year of the third key stage, or
  - (iii) who attained the age of 16 years,

during the school year in question where the group consisted of ten or fewer persons.

(3) In this regulation "pupils' attainment results" means—

- (a) in relation to pupils at or near the end of the final year of the second key stage in any school year at a school to which regulation 3 applies the percentage who achieved—

- (i) level 4 or above in teacher assessments for each of the core subjects, and
  - (ii) the three achievements set by the governing body based on its evaluation of the performance of pupils at the school in teacher assessments as set out in the data set for that school in relation to the previous school year; and
- (b) in relation to pupils at or near the end of the final year of the third key stage in any school year at a school to which regulation 4 applies the percentage who achieved—
- (i) level 5 or above in teacher assessments for each of the core subjects, and
  - (ii) the three achievements set by the governing body based on its evaluation of the performance of pupils at the school in teacher assessments as set out in the data set for that school in relation to the previous school year; and
- (c) in relation to pupils who attained the age of 16 years in any school year at a school to which regulation 5 applies the percentage who—
- (i) achieve the core subject indicator;
  - (ii) achieve the three achievements set by the governing body based on its evaluation of the performance of pupils at the school in teacher assessments as set out in the data set for that school in relation to the previous school year;
  - (iii) achieve the level 1 threshold;
  - (iv) achieve the level 2 threshold;
  - (v) achieve the level 2 threshold including an approved relevant qualification in English or Welsh first language and mathematics; and
  - (vi) leave school without achieving an approved relevant qualification.

(4) Paragraph (6) of regulation 5 applies for the purposes of this regulation as it applies for the purposes of regulation 5.

(5) For the purposes of this regulation “pupil” in relation to a school and a school year, means a person who was registered as a pupil at that school on the Schools’ Census enumeration date in that year.

*Leighton Andrews*

Minister for Education and Skills, one of the Welsh Ministers

29 July 2011



SCHEDULE 1 Regulation 1

REGULATIONS REVOKED

<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Education (School Performance and Absence Targets) (Wales) Regulations 1999	S.I. 1999/1811	The whole regulations
The National Curriculum (Key Stage 2 Assessment Arrangements) (Consequential Amendments) (Wales) Regulations 2004	S.I. 2004/2914	Regulation 2
The National Curriculum Assessment Arrangements (Miscellaneous Amendments) (Wales) Regulations 2005	S.I. 2005/1396	Regulation 2
The Education (School Performance and Unauthorised Absence Targets) (Wales) (Amendment) Regulations 2006	S.I. 2006/125	The whole regulations

INFORMATION ABOUT PUPILS’  
ATTAINMENT RESULTS,  
PERFORMANCE TARGETS,  
ABSENCE RATES AND TARGETS  
FOR ABSENCES TO BE PUBLISHED  
IN ANNUAL REPORTS

**1.** Where a school’s annual report in relation to the relevant school year is published after the end of that year, the school’s annual report in relation to the relevant school year must contain the following information—

- (a) pupils’ attainment results in the relevant school year;
- (b) the performance targets specified in paragraph 2;
- (c) the school’s absence rate in the relevant school year;
- (d) the absence targets specified in paragraph 2; and
- (e) a statement setting out the extent to which—
  - (i) pupils’ attainment results, and
  - (ii) the school’s absence rate,in the relevant school year met the corresponding final targets set for the same year.

**2.** The targets referred to in paragraph 1(b) and (d) are—

- (a) all final targets set for the relevant school year;
- (b) all final targets set for the school year immediately following the relevant school year; and
- (c) all reviewed targets set for the school year next but one.

**3.** Where a school’s annual report in relation to the relevant school year is published in the course of that year, the school’s annual report in relation to the relevant school year must contain the following information—

- (a) pupils’ attainment results in the school year immediately preceding the relevant school year;
- (b) performance targets as specified in paragraph 4;

- (c) the school's absence rate in the school year immediately preceding the relevant school year;
- (d) the absence targets specified in paragraph 4; and
- (e) a statement setting out the extent to which—
  - (i) pupils' attainment results; and
  - (ii) the school's absence rate,in the school year immediately preceding the relevant school year met the corresponding final targets set for the same year.

4. The targets referred to in paragraph 3(b) and (d) are—

- (a) all final targets set for the school year immediately preceding the relevant school year; and
- (b) all targets specified in paragraph 2 of this Schedule.