

SL(5)417 – The School Performance and Absence Targets (Wales) (Amendment) Regulations 2019

Background and Purpose

These Regulations amend the target setting requirements in respect of Key Stage 4 pupils on school governing bodies in the *School Performance and Absence Targets (Wales) Regulations 2011*.

Procedure

Negative.

Technical Scrutiny

One point is 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 fails to fulfil statutory requirements

The preamble to the Regulations recites the following enabling powers, sections 19, 54 (3) and (4) of the Education Act 1997 and sections 30 (1) and (2) and 210 of the Education Act 2002.

Section 30 (2) of the Education Act 2002 does not appear to be relevant for the purposes of these Regulations.

Whilst only the relevant sub-sections of section 54 (Orders and Regulations) of the Education Act 1997 are relied on, the entirety of section 210 (Orders and Regulations) of the Education Act 2002 is relied on. It appears to the Committee that subsection (7) is the only subsection in section 210 which needs to be relied upon.

The fifth edition of *Statutory Instrument Practice* at paragraphs 3.11.21- 22 states that:-

“You should cite a provision that specifies whether the power is to be exercised by the making of Rules, Regulations, an Order or some other kind of subordinate legislation.....

You should not cite provisions that merely specify the relevant Parliamentary procedure, or merely provide that the relevant powers are to be exercisable by SI.”

Merits Scrutiny

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

Implications arising from exiting the European Union

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

Government Response

The Government agrees that the citation of paragraph (2) of section 30 of the Education Act 2002 was not necessary. In other respects, the necessary vires are cited. We do not consider that the citation of paragraph (2) in section 30 will mislead readers of the Regulations and therefore the Government does not propose to take any further action.



In relation to the citation of section 210 of the 2002 Act the Government is satisfied that this is correct, albeit the Government agrees it was only necessary to cite paragraph (7) of that section.

Legal Advisers
Constitutional and Legislative Affairs Committee
12 June 2019

