

SL(5)777 – The Independent Schools (Provision of Information) (Wales) (Amendment) Regulations 2021

Background and Purpose

These Regulations are made by the Welsh Ministers under sections 160(1), 168 and 210(1) and (7) of the Education Act 2002 (“the 2002 Act”). The Regulations amend the Independent Schools (Provision of Information) (Wales) Regulations 2003 (“the 2003 Regulations”) in connection with the implementation of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (“the 2018 Act”).

The Regulations relate to applications for registration of independent schools, and information to be provided to the Welsh Ministers by the proprietors of independent schools, under the 2002 Act. The Regulations require an application to enter an independent school in the register of independent schools in Wales to include information regarding the type(s) of additional learning provision made by the school for pupils with additional learning needs (if any), and for the Welsh Ministers to be provided with confirmation of the number of pupils at the school in respect of whom an individual development plan is maintained or who have otherwise been identified as having additional learning needs.

These Regulations come into force on 1 September 2021.

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

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

Merits Scrutiny

The following point is 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 3 of these Regulations inserts three definitions into regulation 2 of the 2003 Regulations by reference to sections 2, 3 and 10 of the 2018 Act, which are not yet in force, and a further two definitions by reference to section 312 of the Education Act 1996, which is prospectively repealed by paragraph 4(9) of Schedule 1 to the 2018 Act.

Paragraph 3.7 of the Explanatory Memorandum to these Regulations confirms that:

“The Welsh Ministers intend to exercise their commencement powers (under section 100 of the Act) to provide for functions under the Act to come into force on a phased basis from 1 September 2021.”

Sections 2, 3 and 10 of the 2018 Act will therefore need to be brought into force by 1 September 2021 pursuant to a Commencement Order made by the Welsh Ministers under section 100(3) of the 2018 Act, and additionally paragraph 4(9) of Schedule 1 to that Act must not be brought into force by that date, in order for the provisions of these Regulations to operate effectively.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

15 March 2021

