

**Explanatory Memorandum to the Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020**

This Explanatory Memorandum has been prepared by the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Minister/Deputy Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020

Kirsty Williams  
25 August 2020

## **PART 1**

### **1. Description**

These regulations amend paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020 (“the 2020 Act”) so as to add:

- Section 69 of, and Schedule 19 to, the School Standards and Framework Act 1998,
- section 43 of the Education Act 1997,
- Sections 101(1), 109, 110 and 116A to 116K of the Education Act 2002,

to the list of enactments that can be modified by the Welsh Ministers for a specified period by notice.

The provisions added to this list of enactment confer functions on local authorities, governing bodies, head teachers and others in relation to the basic curriculum for Wales. That basic curriculum includes the following:

- Religious education
- Sex education
- Work-related education
- Personal and social education
- National Curriculum for Wales and
- local curriculum.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

These Regulations are made in accordance with the procedure set out in paragraph 8 of Schedule 17 to the 2020 Act.

As set out in paragraph 8 of Schedule 17, the Regulations are made without a draft having been laid and approved by the Senedd. It is the opinion of the Welsh Ministers that, by reason of urgency, it is necessary to make the Regulations without a draft being so laid and approved. This is to ensure that the legislative requirements related to the provision of the curriculum can be modified prior to the start of the new academic year.

This is necessary to ensure schools have the flexibility to focus on the health and well-being of learners, supporting them to re-integrate back into a school environment. The flexibility will also allow schools to develop robust and coherent school-level plans to ensure that learning and teaching can continue

in all operational scenarios, including part-or full-closure of schools for periods as outlined in Welsh Government Learning Guidance.

The Regulations will be laid before the Senedd as soon as reasonably practicable after being made. The Regulations cease to have effect at the end of the period of 40 days (excluding recess) beginning with the day on which the instrument is made unless, during that period, the Regulations are approved by the Senedd.

### **3. Legislative background**

Paragraph 8 of Schedule 17 to the 2020 Act gives the Welsh Ministers the power to make regulations to add provisions relating to children, education or training to the list of enactments in paragraph 7(6) of the 2020 Act that can be modified by the Welsh Ministers for a specified period by notice.

These Regulations are being made under the made affirmative procedure.

### **4. Purpose and intended effect of the legislation**

Paragraph 7(6) of Schedule 17 to the 2020 Act sets out areas in respect of which the Welsh Ministers may issue notices to temporarily modify statutory education requirements to help mitigate the effects of the COVID-19 pandemic and enable the sector to adapt to the circumstances it is currently operating in. One of these areas is section 101 of the Education Act 2002 which places requirements on maintained schools in Wales to provide a basic curriculum including; the national curriculum, religious education, personal and social education, work related education and for secondary schools, sex education.

In preparing for the return to full operations of schools consideration has been given to current statutory requirements and whether schools and governing bodies could effectively meet these without a disproportionate administrative burden and in line with social distancing requirements. This identified the need to modify related curriculum provisions and associated assessment arrangements, namely:

- Section 69 of, and Schedule 19 to, the School Standards and Framework Act 1998 regarding the provision of religious education.
- Section 43 of the Education Act 1997 regarding provision of careers education in schools in Wales.
- Section 101(1) of the Education Act 2002 regarding the provision of the basic curriculum in maintained schools in Wales.
- Section 109 of the 2002 Act which requires the National Curriculum for Wales to be implemented in maintained schools in Wales and section 110 which requires it to be implemented in maintained nursery schools and some other nursery education settings in Wales.

- Sections 116A to 116K of the 2002 Act which make provision about the local curriculum including requirements that all young people are provided with a minimum offer of choices:
  - 25 choices at KS4 with a minimum of 3 vocational choices
  - 30 choices at post 16 with a minimum of 5 vocational choices

These provisions are not currently listed in paragraph 7(6) of Schedule 17 to the 2020 Act and as such regulations need to be made to add these provisions to paragraph 7(6) so that the Welsh Ministers may issue notices to temporarily modify statutory requirements.

#### *Rationale for proposed modification*

On 9 July, the Minister for Education announced that all pupils would be able to return to school in the autumn term, which would start on 1<sup>st</sup> September. Schools would have the flexibility to adopt a phased return to full operation, where needed, to reintegrate students and develop a plan for learning over the autumn term.

As such modification of the curriculum requirements and associated assessment arrangements to a reasonable endeavors basis will give schools and nursery settings the flexibility to respond to the unprecedented circumstances presented by COVID 19 and allow maintained schools and maintained nursery schools to focus and prioritise learning to meet the changing needs of learners in this time. Schools will be focusing on the health and well-being of learners and as they start to welcome learners back, further space and flexibility will be required to allow schools to focus on supporting learners back into a normal school environment, particularly where many learners will have faced different challenges and therefore progressed at different paces.

### **5. Consultation**

No formal consultation has taken place in relation to these Regulations, in light of the unprecedented situation created by the Coronavirus pandemic and the challenging timescales within which they need to be made.

However, regular engagement has taken place with key representative bodies such as ADEW and local authority representatives, to help inform the policy proposals around legislative requirements that are going to be modified or disapplied. These discussions have helped to inform the provisions that are included within these regulations.

### **6. Regulatory Impact Assessment (RIA)**

There has been no regulatory impact assessment completed in relation to these Regulations as there are no associated costs or benefits. These regulations only add areas to the list of enactments in paragraph 7(6) in respect

of which the Welsh Ministers can make notices to modify statutory requirements.

In respect of any notices that are made, the impact of these will be detailed in an integrated impact assessment. However there will be no costs or benefits to private or voluntary sectors or charity sectors. In respect of schools there is likely to be no net costs or benefits.