

SL(5)478 – The Welsh in Education Strategic Plans (Wales) Regulations 2019

Background and Purpose

The Welsh in Education Strategic Plans (Wales) Regulations 2019 (“the Regulations”) are being made using powers conferred by sections 84, 87 and 97 of the School Standards and Organisation (Wales) Act 2013 (“the Act”).

Section 84 of the Act requires a local authority to prepare a Welsh in education strategic plan, which must be submitted for the approval of the Welsh Ministers in accordance with section 85 of the Act.

The Regulations make provision for a local authority to prepare a 10 year plan, the first to have effect from 1 September 2021. The Regulations also make provision for:

- the form and content of the plan;
- the duration of the plan;
- the date by which the plan must be submitted to the Welsh Ministers for approval;
- the approval of the plan;
- arrangements for revising the plan;
- timescales for submitting a review report;
- arrangements for revising a plan;
- the persons and bodies that a local authority must consult on a draft plan;
- the date by which the plan must be published;
- the manner of publication of the plan;
- the revocation, with savings, of the Welsh in Education Strategic Plans and Assessing Demand for Welsh Medium Education (Wales) Regulations 2013.

Procedure

Negative.

Technical Scrutiny

One reporting point is identified for reporting under Standing Order 21.2 in respect of this instrument:

1. That its drafting appears to be defective or it fails to fulfil statutory requirements.

Paragraph 7 in the Schedule refers to “latecomers”. This term is defined in a footnote. All definitions should be included in the regulation dealing with interpretation, in this instance, regulation 2, and not in a footnote.



Merits Scrutiny

One reporting point is identified for reporting under Standing Order 21.3 in respect of this instrument:

2. That it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.

The penultimate line of page 7 of the Explanatory Memorandum states that "Subject to the views of the Assembly, the Regulations will come into force on 1 January 2020". The Regulations are subject to the negative procedure and therefore come into force before the expiration of the 40 day period within which regulations may be annulled by a motion of the Assembly. In light of the Christmas recess, they will in fact come into force before they have been considered by the Constitutional and Legislative Affairs Committee. There is nothing in the Regulations or in sections 84, 87 or 97 of the Act which requires the Assembly to give "its views" on the Regulations. Clarification is therefore sought as to why the words "Subject to the views of the Assembly" have been included in the Explanatory Memorandum.

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 Welsh Government has noted the point and confirm that "Subject to the views of the Assembly" was included in error. The Explanatory Memorandum will be withdrawn and corrected before re-laying.

Legal Advisers

Constitutional and Legislative Affairs Committee

11 December 2019

