
WELSH STATUTORY INSTRUMENTS

2022 No. 17 (W. 9)

EDUCATION, WALES

**The Education (Arrangements for Assessing in
the Curriculum for Wales) Regulations 2022**

Made - - - - 7 January 2022
Laid before Senedd Cymru 11 January 2022
*Coming into force in accordance with regulation 1(2)
to (6)*

The Welsh Ministers, in exercise of the powers conferred on them by sections 56 and 75(1) of the Curriculum and Assessment (Wales) Act 2021⁽¹⁾, make the following Regulations:

Title and commencement

1.—(1) The title of these Regulations is the Education (Arrangements for Assessing in the Curriculum for Wales) Regulations 2022.

(2) These Regulations come into force on 1 September 2022—

- (a) for pupils and children for whom nursery education⁽²⁾ is provided,
- (b) for pupils in a reception year at a maintained school,
- (c) for pupils in years 1 to 6 at a maintained school⁽³⁾,
- (d) for pupils in year 7 at a maintained school where the head teacher and governing body have adopted a relevant curriculum⁽⁴⁾ under Part 2 of the 2021 Act,
- (e) for pupils in years 1 to 6 at a pupil referral unit⁽⁵⁾,
- (f) for pupils in year 7 at a pupil referral unit where the local authority, the management committee (if any) and the teacher in charge have a relevant curriculum for that unit which meets the requirements of section 50 of the 2021 Act, and
- (g) for pupils and children in year 7 and who are provided with non-PRU EOTAS⁽⁶⁾ where the local authority has a relevant curriculum which meets the requirements of section 53 of the 2021 Act.

(1) 2021 asc 4.

(2) See regulation 2 for the definition of “nursery education”.

(3) See regulation 2 for the definition of “maintained school”.

(4) See regulation 2 for the definition of “relevant curriculum”.

(5) See regulation 2 for the definition of “pupil referral unit”.

(6) See regulation 2 for the definition of “non-PRU EOTAS”.

- (3) These Regulations come into force on 1 September 2023—
- (a) for pupils in year 7 at a maintained school and who, on 1 September 2022, are not within paragraph (2)(d),
 - (b) for pupils in year 7 at a pupil referral unit and who are not within paragraph (2)(f),
 - (c) for pupils and children in year 7 and who are provided with non-PRU EOTAS and who are not within paragraph (2)(f),
 - (d) for pupils in year 8 at a maintained school,
 - (e) for pupils in year 8 at a pupil referral unit, and
 - (f) for pupils and children in year 8 and who are provided with non-PRU EOTAS.
- (4) These Regulations come into force on 1 September 2024—
- (a) for pupils in year 9 at a maintained school,
 - (b) for pupils in year 9 at a pupil referral unit, and
 - (c) for pupils and children in year 9 and who are provided with non-PRU EOTAS.
- (5) These Regulations come into force on 1 September 2025—
- (a) for pupils in year 10 at a maintained school,
 - (b) for pupils in year 10 at a pupil referral unit, and
 - (c) for pupils and children in year 10 and who are provided with non-PRU EOTAS.
- (6) These Regulations come into force on 1 September 2026—
- (a) for pupils in year 11 at a maintained school,
 - (b) for pupils in year 11 at a pupil referral unit, and
 - (c) for pupils and children in year 11 and who are provided with non-PRU EOTAS.

Interpretation

2. In these Regulations—

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996⁽⁷⁾;

“the 2021 Act” (“*Deddf 2021*”) means the Curriculum and Assessment (Wales) Act 2021;

“child” (“*plentyn*”) has the meaning given to it in section 579(1) of the 1996 Act;

“compulsory school age” (“*oedran ysgol gorfodol*”) has the meaning given to it in section 8 of the 1996 Act⁽⁸⁾;

“funded non-maintained nursery education” (“*addysg feithrin a gyllidir ond nas cynhelir*”) has the meaning given to it in section 80(1)(a) of the 2021 Act;

“maintained school” (“*ysgol a gynhelir*”) has the meaning given to it in section 79(1)(a) of the 2021 Act;

“maintained nursery school” (“*ysgol feithrin a gynhelir*”) has the meaning given to it in section 79(1)(b) of the 2021 Act;

“nursery education” (“*addysg feithrin*”) means education provided to children and pupils below compulsory school age—

- (a) in a maintained school or a maintained nursery school, or
- (b) by the provider of funded non-maintained nursery education;

⁽⁷⁾ 1996 c. 56.

⁽⁸⁾ Subsection (2) was substituted by section 52(2) of the Education Act 1997 (c. 44). Subsection (4) was substituted by section 53(3) of the Education Act 1997.

“non-PRU EOTAS” (“*addysg ac eithrio yn yr ysgol nad yw mewn UCD*”) means education arranged or provided by a local authority under section 19A of the 1996 Act⁽⁹⁾ otherwise than at a pupil referral unit and which meets the requirements of section 53 of the 2021 Act;

“practitioner” (“*ymarferydd*”) means a person who provides teaching and learning in respect of the relevant curriculum;

“pupil” (“*disgybl*”) has the meaning given to it in section 3 of the 1996 Act⁽¹⁰⁾;

“pupil referral unit” (“*uned cyfeirio disgyblion*”) has the meaning given to it in section 81(1) of the 2021 Act;

“reception year” (“*blwyddyn derbyn*”) means a year group in which the majority of the pupils attain the age of 5;

“registered pupil” (“*disgybl cofrestredig*”) has the meaning given to it by section 434(5) of the 1996 Act;

“relevant curriculum” (“*cwricwlwm perthnasol*”) has the meaning given to it in section 56(5) of the 2021 Act;

“relevant person” (“*person perthnasol*”) means—

- (a) in relation to a maintained school or a maintained nursery school, the head teacher and the governing body of that school,
- (b) in relation to funded non-maintained nursery education, the provider of that education,
- (c) in relation to a pupil referral unit the teacher in charge, the management committee and the local authority which maintains that pupil referral unit, and
- (d) in relation to non-PRU EOTAS, the local authority arranging or providing the education under section 19A of the 1996 Act;

“school term” (“*tymor ysgol*”) means the dates on which the school terms and holidays are to begin and end;

“school year” (“*blwyddyn ysgol*”) means the period beginning with the first school term to begin after July and ending with the beginning of the first such term to begin after the following July;

“year 1” (“*blwyddyn 1*”) means a year group in which the majority of pupils attain the age of 6;

“year 2” (“*blwyddyn 2*”) means a year group in which the majority of pupils attain the age of 7;

“year 3” (“*blwyddyn 3*”) means a year group in which the majority of pupils attain the age of 8;

“year 4” (“*blwyddyn 4*”) means a year group in which the majority of pupils attain the age of 9;

“year 5” (“*blwyddyn 5*”) means a year group in which the majority of pupils attain the age of 10;

“year 6” (“*blwyddyn 6*”) means a year group in which the majority of pupils attain the age of 11;

“year 7” (“*blwyddyn 7*”) means a year group in which the majority of pupils attain the age of 12;

“year 8” (“*blwyddyn 8*”) means a year group in which the majority of pupils attain the age of 13;

“year 9” (“*blwyddyn 9*”) means a year group in which the majority of pupils attain the age of 14;

“year 10” (“*blwyddyn 10*”) means a year group in which the majority of pupils attain the age of 15;

“year 11” (“*blwyddyn 11*”) means a year group in which the majority of pupils attain the age of 16.

⁽⁹⁾ Section 19A was inserted by section 73 and paragraph 4 of Schedule 2 to the 2021 Act.

⁽¹⁰⁾ Subsection (1) was amended by section 57(1) and paragraph 9 of Schedule 7 to the Education Act 1997 and subsection (1) and (1A) were further amended by section 215(1) and paragraph 34 of Schedule 21 to the Education Act 2002 (c. 32).

Making of ongoing assessments throughout the school year

3.—(1) The persons set out in paragraph (2) must make arrangements for the ongoing assessment of every pupil and child throughout the school year by a practitioner in accordance with this regulation.

(2) The persons referred to in paragraph (1) are—

- (a) in relation to a maintained school or a maintained nursery school, the head teacher of that school,
- (b) in relation to funded non-maintained nursery education, the provider of that education,
- (c) in relation to a pupil referral unit, the teacher in charge, the management committee and the local authority which maintains that pupil referral unit, and
- (d) in relation to non-PRU EOTAS, the local authority arranging or providing the education under section 19A of the 1996 Act.

(3) The purpose of the assessment arrangements is to assess, in relation to the relevant curriculum—

- (a) the progress made by pupils and children,
- (b) the next steps in their progression, and
- (c) the teaching and learning needed to make that progress.

(4) The assessment arrangements must be suitable for pupils and children of differing ages, abilities and aptitudes.

(5) The persons set out in paragraph (2) must make the assessment arrangements at the same time as designing the relevant curriculum.

(6) A provider of funded non-maintained nursery education may adopt for the purposes of paragraph (1) the assessment arrangements published by the Welsh Ministers under regulation 9.

Implementation of ongoing assessments throughout the school year

4. The assessment arrangements in regulation 3 must be implemented by the relevant person.

Review and revision of ongoing assessment arrangements

5.—(1) The relevant person must keep the assessment arrangements in regulation 3 under review.

(2) The relevant person must revise the assessment arrangements in regulation 3—

- (a) if that person considers the assessment arrangements no longer meet the requirements of regulation 3,
- (b) if that person revises the curriculum under section 12, 16, 51 or 54 of the 2021 Act,
- (c) in relation to a provider who has adopted the assessment arrangements published by the Welsh Ministers under regulation 9, if the Welsh Ministers have revised the assessment arrangements published under regulation 10, or
- (d) if that person considers it appropriate to do so at any time.

Making of arrangements for assessing on entry

6.—(1) The persons set out in paragraph (2) must make arrangements for every pupil and child to be assessed by a practitioner in accordance with this regulation.

(2) The persons referred to in paragraph (1) are—

- (a) in relation to a maintained school or a maintained nursery school, the head teacher of that school,
 - (b) in relation to funded non-maintained nursery education, the provider of that education,
 - (c) in relation to a pupil referral unit, the teacher in charge, the management committee and the local authority which maintains that pupil referral unit, and
 - (d) in relation to non-PRU EOTAS, the local authority arranging or providing the education under section 19A of the 1996 Act.
- (3) The purpose of the assessment arrangements is to assess, in relation to the relevant curriculum the abilities and aptitudes of pupils and children in order to determine—
- (a) the next steps in their progression, and
 - (b) the teaching and learning needed to make that progress.
- (4) The assessment arrangements must—
- (a) be suitable for pupils and children of differing ages, abilities and aptitudes, and
 - (b) include arrangements for assessing—
 - (i) the numeracy and literacy skills of pupils and children, and
 - (ii) the physical, social and emotional development of pupils and children.
- (5) The assessments must take place—
- (a) within 6 weeks of the child or pupil first being provided with nursery education,
 - (b) within 6 weeks of the pupil first beginning in the reception year in a maintained school when they were not previously a registered pupil at that school,
 - (c) within 6 weeks of the pupil first beginning in year 1 in a maintained school,
 - (d) within 6 weeks of the pupil first registering as a pupil in a pupil referral unit,
 - (e) within 6 weeks of the pupil registering as a pupil at a maintained school or a pupil referral unit in any other circumstance not set out in paragraphs (b) to (d), and
 - (f) within 6 weeks of the child being provided with education under section 19A of the 1996 Act other than in a pupil referral unit.
- (6) A provider of funded non-maintained nursery education may adopt for the purposes of paragraph (1) the assessment arrangements published by the Welsh Ministers under regulation 9.

Implementation of arrangements for assessing on-entry

7. The assessment arrangements in regulation 6 must be implemented by the relevant person.

Review and revision of the arrangements for assessing on-entry

- 8.—(1) The relevant person must keep the assessment arrangements in regulation 6 under review.
- (2) The relevant person must revise the assessment arrangements made under regulation 6—
- (a) if that person considers the assessment arrangements no longer meet the requirements of regulation 6,
 - (b) if that person revises the curriculum under section 12, 16, 51 or 54 of the 2021 Act,
 - (c) in relation to a provider who has adopted the assessment arrangements published by the Welsh Ministers under regulation 9, if the Welsh Ministers have revised the assessment arrangements published under regulation 10, or
 - (d) if that person considers it appropriate to do so at any time.

Welsh Ministers' duty to publish assessment arrangements

9.—(1) Subject to paragraph (2) the Welsh Ministers must publish assessment arrangements for children provided with funded non-maintained nursery education (“regulation 9 assessment arrangements”).

(2) The Welsh Ministers must publish the regulation 9 assessment arrangements for the first time no later than 1 September 2023.

(3) The assessment arrangements must meet the requirements of regulations 3 and 6.

Review and revision of assessment arrangements published by the Welsh Ministers

10.—(1) The Welsh Ministers must—

- (a) keep the regulation 9 assessment arrangements under review, and
- (b) review the regulation 9 assessment arrangements when they review the relevant curriculum under section 14 of the 2021 Act.

(2) The Welsh Ministers must revise the regulation 9 assessment arrangements if they—

- (a) consider those assessment arrangements no longer meet the requirements in regulation 3(1) to (5) or 6(1) to (5),
- (b) revise the curriculum under section 16 of the 2021 Act, or
- (c) consider it appropriate to do so at any time.

7 January 2022

Jeremy Miles
Minister for Education and Welsh Language, one
of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Curriculum and Assessment (Wales) Act 2021 (“the Act”) establishes a new framework for a curriculum and makes provision about assessment for pupils and children in Wales. Section 56 of the Act provides that the Welsh Ministers must make provision by way of regulations for assessing in relation to the relevant curriculum. “Relevant curriculum” has the meaning given to it in section 56(5) of the Act.

Regulation 1 provides for the commencement of these Regulations by year groups. This will mirror the planned roll out of the Curriculum for Wales (“CfW”) which will be also be phased in over a period of time by year groups.

The CfW and these Regulations will become mandatory for the year groups in schools and other settings as follows—

- (a) on 1 September 2022 for—
 - (i) children receiving nursery education,
 - (ii) pupils in their reception year,
 - (iii) pupils in years 1 to 6,
- (b) on 1 September 2022 for pupils in year 7 in schools and other settings where there is a curriculum adopted or otherwise provided in accordance with the Act,
- (c) on 1 September 2023 for pupils in year 7 who are not within paragraph (b),
- (d) on 1 September 2023 for pupils in year 8,
- (e) on 1 September 2024 for pupils in year 9,
- (f) on 1 September 2025 for pupils in year 10, and
- (g) on 1 September 2026 for pupils in year 11.

These Regulations will apply to the following settings—

- (a) maintained schools,
- (b) maintained nursery schools,
- (c) funded non-maintained nursery education providers,
- (d) pupil referral units, and
- (e) a person who arranges or provides teaching and learning for a child otherwise than at a maintained school, maintained nursery school or pupil referral unit, by virtue of arrangements made under section 19A of the Education Act 1996.

Regulation 3(1) requires the persons prescribed to make arrangements for the ongoing assessment of pupils and children in accordance with the requirements set out in paragraphs (3) to (5) of regulation 3 (“ongoing assessments”).

Regulation 3(6) provides that a provider of funded non-maintained nursery education may adopt for the purposes of regulation 3(1) the assessment arrangements published by the Welsh Ministers under regulation 9 instead of designing the provider’s own ongoing assessments. The term “a provider of funded non-maintained nursery education” has the meaning given to it by section 80(2) of the Act. This means that such a provider must either design the provider’s own assessment arrangements or adopt those published by the Welsh Ministers under regulation 9.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

These Regulations do not require the ongoing assessments to be carried out at prescribed times. However, regulation 3(1) does require that assessments be ongoing and be carried out throughout the school year. The form of the assessment arrangements will vary and will draw on a range of assessment methods.

Regulation 4 makes provision for the implementation of the ongoing assessments. The implementation of the ongoing assessments involves the administration of those assessments.

Regulation 5 makes provision for the review and revision of the ongoing assessments.

Regulation 6 requires the persons prescribed in that regulation to make arrangements for the assessment of pupils and children in accordance with the requirements of paragraphs (4) and (5) of regulation 6 (“on-entry assessments”).

The purpose of the arrangements for assessing on-entry is set out paragraph (3) of regulation 6.

Regulation 6(5) provides that the on-entry assessments must be carried out within 6 weeks of the events set out in that paragraph.

Regulation 6(6) provides that a provider of funded non-maintained nursery education may adopt for the purposes of regulation 6(1) the assessment arrangements published by the Welsh Ministers under regulation 9 instead of designing their own assessments for assessing on-entry. This means that such a provider must either design their own assessment arrangements or adopt those published by the Welsh Ministers under regulation 9.

Regulation 7 makes provision for the implementation of the on-entry assessments. The implementation of the on-entry assessments involves the administration of those assessments.

Regulation 8 makes provision for the review and revision of the arrangements for assessing on-entry.

Regulation 9 requires the Welsh Ministers to publish assessment arrangements which may be adopted by a provider of funded non-maintained nursery education for the purposes of regulation 3(1) and 6(1) (“regulation 9 assessment arrangements”). The Welsh Ministers will publish the first set of regulation 9 assessment arrangements no later than 1 September 2023.

Regulation 10 makes provision for the review and revision of the regulation 9 assessment arrangements.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government at Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government website at www.gov.wales .