

EXPLANATORY MEMORANDUM
The Education (Pupil Registration) (Wales) Regulations 2010

This Explanatory Memorandum has been prepared by the Department for Children, Education and Lifelong Learning and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

DESCRIPTION

These Regulations consolidate with amendments the Education (Pupil Registration) Regulations 1995 (S.I. 1995/2089) to which there have been a number of subsequent amendments.

MINISTER'S DECLARATION

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Pupil Registration) (Wales) Regulations 2010 and I am satisfied that the benefits outweigh any costs.

Leighton Andrews

Minister for Education, Lifelong Learning and Skills

02 August 2010

MATTERS OF SPECIAL INTEREST TO THE SUBORDINATE LEGISLATION COMMITTEE

1. There are no matters of special interest in relation to these regulations.

LEGISLATIVE BACKGROUND

2. The powers to make these Regulations are contained in sections 434, 551(1) and 582(3) of the Education Act 1996 which were conferred on the Secretary of State, and then transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. These functions are now vested in the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
3. This Statutory Instrument will follow the negative resolution procedure.

PURPOSE AND INTENDED EFFECT OF THE LEGISLATION

4. The new Education (Pupil Registration) (Wales) Regulations 2010 re-enact with amendments the Education (Pupil Registration) Regulations as amended in 1997, 2001, 2003 and 2005. The new regulations would also put in place new requirements on schools which would assist the introduction of the new set of attendance codes and aim to remove some of the incentives that schools currently have not to keep some vulnerable groups on their roll.
5. The main changes are summarised below:
 - a. A new 5th statistical category of 'not required to attend' to be used for a small number of specific, infrequent circumstances. This category will cover absence due to the partial closure of a school e.g. where some of the pupils cannot attend due to bad weather (particularly snow). They would no longer be recorded as an authorised absence and would no longer affect a school's annual rate of absenteeism.
 - b. Where Traveller children are registered at more than one school and are present at one of those schools, the other school (s) at which they are registered can record them as receiving approved educational activity. They would no longer be recorded as an authorised absence.
 - c. There are additional requirements placed on schools before they can delete a pupil's name from the school record.
 - d. A young offender may now only be deleted from the school record where his or her period of custody is for at least four months and where the school has reasonable grounds for believing that the pupil will not be returning to school at the end of that period. He or she will be recorded as an authorised absence until his or her name is deleted from the register. Previously, a pupil's name could be deleted from the register if he or she had been absent for 4 weeks and had been detained by court order.

- e. The requirement that schools inform their local authority when a pupil's name is to be deleted from the school record has been extended.
- f. Where a school register is kept on computer, the school must ensure that it produces a back-up copy of the register, electronically, on micro-fiche or in print, at least once a month.

CONSULTATION

- 6. A consultation exercise took place at the end of 2009, seeking views on the introduction of the new Education (Pupil Registration) (Wales) Regulations 2010 and the revision of school attendance codes with updated guidance (agreed in SF/JH /01330 / 09).
- 7. We received 25 responses to the consultation. Respondents were in general, in favour of the introduction of a revised and standardised set of codes but some reservations were expressed over the additional administrative burden that would be placed on schools in the increase of the number of codes from 12 to 26. A reply to the responses was sent out, stating that we felt that the advantages of introducing the whole set of 26 codes, outweighed the disadvantages and therefore that we intend to introduce the 26 codes as proposed in the consultation document.

REGULATORY IMPACT ASSESSMENT

OPTIONS

Option 1: Do nothing

8. In the event of the instrument not coming into force, then we would continue to regulate attendance through the current Education (Pupil Registration) Wales Regulations 1995 as amended. We would not be able to facilitate the consistent use of attendance codes across Wales.

Option 2: Make the legislation

9. By making the legislation we would be able to facilitate the consistent use of attendance codes across Wales. We would also be able to introduce a new statistical category of 'attendance not required' which would cover absence due to partial closure of a school e.g. where some of the pupils cannot attend due to bad weather. This is currently recorded as an 'authorised absence' and can impact upon a school's overall attendance figures

COSTS & BENEFITS

10. These new Regulations have no direct financial implication for the Assembly.
11. Schools pay an annual licence fee to use their school software. Any costs that the software developers incur to modify their software to process the new attendance codes will be added to the annual fee. The fee is a lump sum and is not broken down by individual costs so the costs of this element in comparison with any changes will in effect be hidden. However these costs should be only a small proportion of any overall rise in the annual fee.
12. The main benefit of these regulations is that they support a more consistent approach to collecting school attendance data across Wales and allow greater potential for exploring further the reasons why pupils are absent. This should improve safeguarding and tracking pupils and help schools to put in place strategies to deal effectively with specific problems.

CONSULTATION

13. As paragraphs 6 and 7.

POST IMPLEMENTATION ASSESSMENT

14. The requirements as a result of these Regulations will be monitored through the local authority pupil level data return.

SUMMARY

15. The new Education (Pupil Registration) (Wales) Regulations 2010 would re-enact with amendments the Education (Pupil Registration) Regulations 1995, and subsequently amended in 1997, 2001, 2003 and 2005. The new regulations would also put in place new requirements on schools which would assist the introduction of the new set of attendance codes and aim to remove some of the incentives that schools currently have not to keep some vulnerable groups on their roll.