WELSH STATUTORY INSTRUMENTS

2011 No. 1945 (W.212)

EDUCATION, WALES

The School Performance and Absence Targets (Wales) Regulations 2011

Made - - - -	*29 July 2011*
Laid before the National Assembly for Wales - -	*4 August 2011*
Coming into force - -	*1 September 2011*

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 19 and 54(3) and (4) of the Education Act 1997(**1**) and sections 63 and 138(7) and (8) of the School Standards and Framework Act 1998(**2**), and now vested in them(**3**), make the following Regulations:

Title, commencement, application and revocation

1.—(1) The title of these Regulations is the School Performance and Absence Targets (Wales) Regulations 2011, and they come into force on 1 September 2011.

(2) These Regulations apply in relation to Wales.

(3) The regulations set out in Schedule 1 are revoked.

Interpretation

2.—(1) In these Regulations—

"the 2002 Act" ("*Deddf 2002*") means the Education Act 2002;

"to achieve the core subject indicator" ("*cyflawni'r dangosydd pynciau craidd*") means in relation to pupils who will attain the age of 16 years during the school year in which they take the relevant examinations, that those pupils are to have achieved NQF level 2 or above with an equivalence of 20% or more in approved relevant qualifications;

(**1**) 1997 c. 44. Sub-section (3) of section 19 of the Education Act 1997 was substituted by paragraph 213 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31).

(**2**) 1998 (c. 31). Sub-sections (1), (3) and (4) of section 63 were amended by section 53(1), (3) and (4) and Part 3 of Schedule 22 to the Education Act 2002, and sub-section (3A) was inserted by the section 53(1) and (3) of the Education Act 2002. Sub-section (7) of section 138 of the School Standards and Framework Act 1998 was amended by paragraph 3(1) and (4) of Schedule 17 to the Education and Inspections Act 2006 (c. 40).

(**3**) The functions of the Secretary of State in sections 19 and 54 of the Education Act 1997 and sections 63 and 138 of the School Standards and Framework Act 1998 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

"approved relevant qualification" ("*cymhwyster perthnasol a gymeradwywyd*") is a qualification within the meaning of section 30(5) of the Education Act 1997(**4**);

"current school year" ("*y flwyddyn ysgol gyfredol*") means the school year in which the review is taking place;

"core subjects" ("*y pynciau craidd*") means the core subjects within the meaning of section 105(2) of the 2002 Act(**5**);

"data set" ("*set ddata*") means the summary of a school's performance in teacher assessments, approved qualifications and absence rates compiled and provided to the school by the Welsh Ministers;

"following school year" ("*y flwyddyn ysgol ddilynol*") means the school year immediately following the school year in question;

"GCSE" ("*TGAU*") means General Certificate of Secondary Education;

"GCSE examination" ("*arholiad TGAU*") means an examination, the course leading to which is a full GCSE course of study;

"level 4" ("*lefel 4*") means level 4 of the National Curriculum level scale as determined by the results of teacher assessments;

"level 5" ("*lefel 5*") means level 5 of the National Curriculum level scale as determined by the results of teacher assessments;

"level 1 threshold" ("*trothwy lefel 1*") means the achievement by a pupil of qualification at NQF level 1 which is equivalent to 5 GCSE qualifications at grades D to G;

"level 2 threshold" ("*trothwy lefel 2*") means the achievement by a pupil of qualification at NQF level 2 which is equivalent to 5 GCSE qualifications at grades A* to C;

"NQF" ("*FfCC*") means the National Qualifications Framework comprising relevant qualifications within the meaning of section 30(5) of the Education Act 1997 which is awarded or authenticated by a body which is recognised by the Welsh Ministers under section 30(1)(e) of that Act in respect of the qualification;

"NQF level" ("*lefel FfCC*") means the level or levels set out in NQF in relation to a relevant qualification;

"performance targets" ("*targedau perfformiad*") means the targets which schools' governing bodies are required to set by virtue of regulations 3, 4 and 5;

"previous school year" ("*y flwyddyn ysgol flaenorol*") means the school year immediately preceding the school year in question;

"pupils' attainment results" ("*canlyniadau cyrhaeddiad disgyblion*") has the meaning specified in regulation 8(3);

"relevant school year" ("*y flwyddyn ysgol berthnasol*") in relation to a school means the school year in relation to which the school's annual report is published;

"school's annual report" ("*adroddiad blynyddol yr ysgol*") means the report to parents which the governing body of a school are required to prepare and publish for every school year by virtue of the school's instrument of government or section 30 of the 2002 Act(**6**);

(**4**) Sub-section (5) of section 30 was substituted by paragraph 15(6) of Schedule 12 to the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22).
(**5**) Amended by section 21(1) and (6) of the Education (Wales) Measure 2009 (nawm 5).
(**6**) Sub-sections (1) and (2) of section 30 were amended by section 103(1)(a) of the Education Act 2005 (c. 18). Sub-sections (3) and (4) of section 30 were amended by section 103(1)(b) of the Education Act 2005 (c. 18).

"Schools' Census enumeration date" ("*dyddiad cyfrifo Cyfrifiad Ysgolion*") means the date by reference to which the Welsh Ministers annually require information to be provided relating to maintained schools pursuant to section 29(1) of the Education Act 1996(**7**);

"school year" ("*blwyddyn ysgol*") means a period of twelve months beginning on 1 September;

"school year in question" ("*y flwyddyn ysgol o dan sylw*") in relation to the setting of any target means the school year in which the target is being set;

"school year next but one" ("*y flwyddyn ysgol nesaf ond un*") means the school year beginning 2 years after the beginning of the school year in question;

"second key stage pupils" ("*disgyblion cyfnod allweddol dau*") means pupils who are in the second key stage referred to in section 103(1)(b) of the 2002 Act;

"teacher assessments" ("*asesiadau athrawon*") means the assessments of pupils carried out by teachers for the purpose of determining the level of attainment they have achieved in English, Welsh, science or mathematics, and for which assessment provision is made by or under orders made under section 108(3)(c) of the Education Act 2002(**8**) in force when the assessments are carried out;

"third key stage pupils" ("*disgyblion cyfnod allweddol tri*") means pupils who are in the third key stage referred to in section 103(1)(c) of the 2002 Act;

"working day" ("*diwrnod gwaith*") means any day other than a Saturday, Sunday or a day which is a bank holiday within the meaning of section 1 of the Banking and Financial Dealings Act 1971(**9**); and

"work-based learning provider" ("*darparydd dysgu seiliedig ar waith*") means an employer or body who provides a programme or programmes of education in the work place to pupils or students as part of a course on which they are enrolled or will be enrolled at any school or further education institution.

(2) Any reference in these Regulations to a pupil achieving or being awarded qualifications at a NQF level in an approved relevant qualification, by the end of any school year, is to be construed for the purposes of these Regulations as a reference to that pupil achieving or being awarded that qualification in the school year in which he or she—

(a) takes that examination, or

(b) (as the case may be) completes the course leading to the award of that qualification,

and irrespective of whether the decision to award the qualification is made in a later school year.

Performance targets for pupils in the second key stage

3.—(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils in the second key stage.

(2) The governing body of a school to which this regulation applies must, by no later than 31 December in every school year, set and submit to the local authority the targets specified in paragraph (3) for each of the achievements specified in paragraph (4) in connection with the performance in teacher assessments of pupils who will be in the final year of the second key stage when those assessments are carried out.

(3) The targets referred to in paragraph (2) are—

(**7**) 1996 c. 56. Sub-section (1) was amended by S.I. 2010/1158.

(**8**) Section 103 was amended by paragraphs 11 and 15 of the Schedule to the Learning and Skills (Wales) Measure 2009 (nawm 1). The orders made under that section are the National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004 (S.I. 2004/2915 (W.254)) and the National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005 (S.I. 2005/1394 (W.108)).

(**9**) 1971 c. 80.

(a) final targets in connection with the performance of the relevant group of second key stage pupils in teacher assessments to be carried out at or near the end of the current school year, being the reviewed targets set in the previous school year;

(b) reviewed targets in teacher assessments to be carried out at or near the end of the following school year being the provisional targets set in the previous school year but revised if the governing body deem it necessary to do so; and

(c) provisional targets in teacher assessments to be carried out at or near the end of the school year next but one.

(4) The achievements referred to in paragraph (2) are—

(a) the percentage of pupils to achieve level 4 or above for each of the core subjects; and

(b) the three achievements set by the governing body based on its evaluation of the performance of pupils at the school in teacher assessments as set out in the data set for that school in relation to the previous school year.

(5) In paragraph (3)(a) "the relevant group of second key stage pupils", in relation to a school and to any school year means all persons who the governing body anticipate will, in the following school year—

(a) be registered pupils at that school; and

(b) be in the final year of the second key stage.

(6) Where the local authority is not satisfied with any target submitted by a governing body under paragraph (2), it must within 3 working days of receipt of the targets from the governing body give notice to the governing body of that fact and the governing body must submit a revised target within 21 working days of receipt of such a notice.

(7) Where the local authority is not satisfied with a revised target submitted under paragraph (6) it must set the target.

Performance targets for pupils in the third key stage

4.—(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils in the third key stage.

(2) The governing body of a school to which this regulation applies must, by no later than 31 December in every school year, set and submit to the local authority the targets specified in paragraph (3) for each of the achievements specified in paragraph (4) in connection with the performance in teacher assessments of pupils who will be in the final year of the third key stage when those assessments are carried out.

(3) The targets referred to in paragraph (2) are—

(a) final targets in connection with the performance of the relevant group of third key stage pupils in teacher assessments to be carried out at or near the end of the current school year, being the reviewed targets set in the previous school year;

(b) reviewed targets in teacher assessments to be carried out at or near the end of the following school year, being the provisional targets set in the previous school year but revised if the governing body deem it necessary to do so; and

(c) provisional targets in teacher assessments to be carried out at or near the end of the school year next but one.

(4) The achievements referred to in paragraph (2) are—

(a) the percentage of pupils to achieve level 5 or above for each of the core subjects; and

(b) the three achievements set by the governing body based on its evaluation of the performance of pupils at the school in teacher assessments as set out in the data set for that school in relation to the previous school year.

(5) In paragraph (3)(a) "the relevant group of third key stage pupils", in relation to a school and to any school year means all persons who the governing body anticipate will, in the following school year—

(a) be registered pupils at that school; and

(b) be in the final year of the third key stage.

(6) Where the local authority is not satisfied with any target submitted by a governing body under paragraph (2), it must within 3 working days of receipt of the targets from the governing body give notice to the governing body of that fact and the governing body must submit a revised target within 21 working days of receipt of such a notice.

(7) Where the local authority is not satisfied with a revised target submitted under paragraph (6) it must set the target.

Performance targets for pupils who will attain the age of 16 years

5.—(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils who have attained the age of 15 years.

(2) The governing body of a school to which this regulation applies must, by no later than 31 December in every school year, set and submit to the local authority the targets specified in paragraph (3) for each of the achievements specified in paragraph (4) in connection with the performance in examinations of pupils who will attain the age of 16 years during the school year in which they take those examinations.

(3) The targets referred to in paragraph (2) are—

(a) final targets in connection with the performance of the relevant group of pupils who will attain the age of 16 years, in examinations to be administered at or near the end of the current school year, being the reviewed targets set in the previous school year;

(b) reviewed targets in examinations to be administered at or near the end of the following school year, being the provisional targets set in the previous school year but revised if the governing body deem it necessary to do so; and

(c) provisional targets in examinations to be administered at or near the end of the school year next but one.

(4) The achievements referred to in paragraph (2) are—

(a) the percentage of pupils to achieve the core subject indicator;

(b) the three achievements set by the governing body based on its evaluation of the performance of pupils at the school in teacher assessments as set out in the data set for that school in relation to the previous school year;

(c) the percentage of pupils to achieve the level 1 threshold;

(d) the percentage of pupils to achieve the level 2 threshold including an approved relevant qualification in English or Welsh first language and mathematics; and

(e) the percentage of pupils to leave school without achieving an approved relevant qualification.

(5) In paragraph (4) references to pupils leaving school do not include pupils transferring to another educational institution on a full-time basis or a work-based learner provider.

(6) In paragraph (3)(a) "the relevant group of pupils who will attain the age of 16 years", in relation to a school and to any school year means all persons—