



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Explanatory Memorandum

The Education (Notification of School Term Dates) (Wales) Regulations 2014

Explanatory Memorandum to the Education (Notification of School Term Dates) (Wales) Regulations 2014

This Explanatory Memorandum has been prepared by the Department for Education and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Notification of School Term Dates) (Wales) Regulations 2014.

I am satisfied that the benefits outweigh any costs.

Huw Lewis
Minister for Education and Skills

12 May 2014

1. Description

The Education (Notification of School Term Dates) (Wales) Regulations 2014 (the Regulations) provide for how and by when local authorities in Wales are to inform the Welsh Ministers of the term dates which have been set for all maintained schools within their respective areas. The Regulations are required as a result of legislative changes to the way in which school term dates are set in Wales, which were made by section 42 of the Education (Wales) Act 2014 (the 2014 Act) inserting new sections 32A and B into the Education Act 2002 (the 2002 Act).

Section 42 also inserts a new section 32C into the 2002 Act to consolidate the law on school session times.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

These are the first set of regulations to be made using the new powers in section 32A(6) of the 2002 Act. Under section 50(2) of the 2014 Act these new powers, as well as the new regulation-making powers in section 32B(4) of the 2002 Act, came into force on Royal Assent, only to the extent necessary for regulations to be made under those powers.

While these Regulations are made and laid just after Royal Assent, they will not come in to force until 15 July 2014. The intention is that the remainder of sections 32A and B of the 2002 Act and section 32C will have been commenced by then.

3. Legislative Background

Section 42 of the 2014 Act made changes to the legislative arrangements for school term date setting in Wales by inserting sections 32A and B into the 2002 Act. It also consolidated the law on school session times by inserting section 32C into that Act.

Powers in section 32A(6) and 210 of the 2002 Act provide the Welsh Ministers with the power to make regulations which prescribe:

- the content and form of the notices which local authorities use to notify the Welsh Government of term dates;
- the time period within which the notices are given; and
- the procedure which must be followed when notifying the Welsh Government of term dates.

These Regulations are made subject to annulment by the National Assembly for Wales (i.e. negative resolution procedure).

4. Purpose and intended effect of the legislation

The Welsh Government's changes to legislative arrangements on term date setting into the 2002 Act aims to ensure that school term dates are harmonised for all

maintained schools across Wales, with variations in dates occurring very occasionally and only where they can be justified.

Section 32A(1) to (4) provides that local authorities and the governing bodies of voluntary aided and foundation schools (relevant governing bodies) retain the duty to set school term dates for their schools, but have a new duty placed on them to co-operate and co-ordinate with each other when setting term dates, so that the dates set are the same or as similar as can be.

The Welsh Government hopes that this will lead to the harmonisation of term dates for all maintained schools across Wales. However, it is possible that, despite their best efforts, local authorities and the relevant governing bodies are unable to agree on term dates. If this happens, or if the term dates which have been agreed need amending, the Welsh Ministers have the power to intervene and direct local authorities and the relevant governing bodies on what their term dates must be.

In order for the Welsh Ministers to know whether they need to consider using their powers to direct, they must first know of the term dates which have been set for all maintained schools across Wales. Therefore, new section 32A(5) of the 2002 Act places a duty on local authorities to notify the Welsh Government of the term dates for all maintained schools within their respective areas. This includes the term dates set by relevant governing bodies for their schools.

Section 32A(6) of the 2002 Act gives Welsh Ministers a regulation-making power to allow them to provide for how and by when local authorities are to notify them of those dates.

The Regulations provide:

- the information which must be contained in the term dates notices which local authorities are to send to the Welsh Ministers, and the form of those notices (regulation 3(1) and the Schedule);
- that a complete or a partial notice may be completed and sent electronically (regulation 3(2));and
- that local authorities must notify the Welsh Ministers of the term dates which have been set for the maintained schools within their areas by the final working day in August in the year two years immediately preceding the beginning of the first school year for which the term dates have been determined (regulation 4).

5. Consultation

Details of consultation undertaken are included in the RIA below.

PART 2 - REGULATORY IMPACT ASSESSMENT

Options

Two options have been considered in this Regulatory Impact Assessment:

- Option 1 – Do Nothing
- Option 2 – Make regulations to provide for how and by when local authorities are to inform the Welsh Ministers of the term dates which have been set for all maintained schools within their respective areas.

Costs & benefits

Option 1 - Do nothing

There are no additional costs associated with this option. However, doing nothing means that there is no regulatory process in place to tell local authorities how and by when they are to inform the Welsh Ministers of the term dates set for maintained schools within their areas.

This regulatory “gap” would mean that the practical implementation of the school term dates proposals in the Bill, and the desired result of harmonisation of term dates, would be jeopardised.

Option 2 – Make regulations

This option will ensure that there is an appropriate regulatory process in place for local authorities to follow when informing the Welsh Ministers of the term dates set for maintained schools within their areas.

There would be no additional costs to the Welsh Government associated with this option. As explained in the explanatory memorandum to the Bill which can be found at: <http://www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?lId=7186>.

The work involved in receiving and analysing the term date notices sent in by local authorities would be absorbed into the general work of the Department for Education and Skills.

There should be very minor costs for local authorities and the governing bodies of voluntary aided and foundation schools associated with this option. This is because a notice may be made up from several “partial” notices and completed and sent electronically, thus circumventing the need for the signatures of all chairs/vice chairs of relevant governing bodies and the local authority’s chief education officer to be attached to the same paper document. As an electronic signature will be acceptable, chairs or vice chairs of voluntary aided and foundation school governing bodies may complete the term date details for their schools electronically and scan in their signatures. The completed notice or “partial” may then be forwarded to the local

authority electronically. Similarly, local authorities may choose to complete the details for their schools electronically.

It should take only a few minutes for a chair/vice chair to complete their school's term date details and add an electronic signature; the time it takes for a local authority to complete term date details for its schools and obtain the signature of the chief education officer also should be minimal.

Sending electronic versions of "partial" notices to all appropriate school governing bodies with a standard covering email, then forwarding those completed notices to the Welsh Ministers, could be undertaken by a member of a local authority's staff in as little as a couple of hours. Exact costs will vary, depending on the grade of the member of staff and the number of hours taken. However, the costs are not expected to exceed £100 per local authority per annum

Benefits

Option 1 - Do Nothing

There are no additional benefits associated with this option.

Option 2 – Make regulations – preferred option

Making the regulations will ensure that there is an appropriate regulatory process in place for local authorities to follow when informing the Welsh Ministers of the term dates set for maintained schools within their areas. This will help to ensure that the benefits identified in the explanatory memorandum to the Bill are realised.

Consultation

The consultation on the proposed policy principles which underpin the Regulations commenced on 9 September 2013 and ran until 29 November 2013. The consultation document was published on the Welsh Government's website and promoted via direct electronic mailings to a 10% sample of governing bodies of maintained schools in Wales, teaching unions and other interested parties including Her Majesty's Inspectorate for Education and Training in Wales amongst others. An example of the proposed notice which local authorities would use to inform the Welsh Ministers of the school term dates for all maintained schools within their areas was included in the consultation documentation.

The 20 responders to the consultation may be categorised as follows:

Local Authorities	5
Diocesan Authorities	1
Unions	4
Schools	4
Representative and other bodies	5
Individuals/anonymous	1

One of the responses, from the Catholic Education Service, was from outside Wales.

Some responders to the consultation raised concerns that the gathering of signatures and term date information from the chairs and vice chairs of relevant school governing bodies would be administratively burdensome. The notice was therefore amended to clarify that electronic signatures are acceptable, and the regulations drafted to expressly provide that a notice could be completed and sent electronically.

A summary of consultation responses is available at:
<http://wales.gov.uk/consultations/education/term-dates-regulations/?status=closed&lang=en>

Competition Assessment

The making of these Regulations will not affect business, charities or voluntary organisations in ways which raise issues related to competition.

Post implementation Review

The Welsh Government expect to review how school term date setting is operating following school year 2016-17, and report in the autumn of 2018.

Summary

The Regulations are required to ensure that there is an appropriate regulatory process in place for local authorities to follow when informing the Welsh Ministers of the term dates set for maintained schools within their areas.