
WELSH STATUTORY INSTRUMENTS

2022 No. 517 (W. 124)

EDUCATION, WALES

The Education (Revocation of Assessment Arrangements in the National Curriculum and Miscellaneous Amendments) (Wales) Regulations 2022

<i>Made</i>	- - - -	8 May 2022
<i>Laid before Senedd Cymru</i>		9 May 2022
<i>Coming into force</i>	- -	30 May 2022

The Welsh Ministers, in exercise of the powers in sections 29(3) and (5)(1), 408(1)(2), 537(1), (4) and (7)(3), 537A(1), (2) and (3)(4) and 569(4)(5) of, and paragraph 3 of Schedule 1(6) to, the Education Act 1996(7), in section 108(2)(b)(iii) and (3)(c)(8), and in section 210(7)(9) of the Education Act 2002(10), make the following Regulations.

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- (1) 1996 c. 56. Section 29(3) was amended by paragraph 67 of Schedule 30 and Schedule 31 to the School Standards and Framework Act 1998 (c. 31). The heading of section 29 and subsections (1), (3) and (5) were amended by S.I. 2010/1158. There are other amendments to this section which are not relevant to these Regulations.
 - (2) Section 408(1) was amended by paragraph 30(a) of Schedule 7 to the Education Act 1997 (c. 44), paragraph 106(a) of Schedule 30, and Schedule 31, to the School Standards and Framework Act 1998, paragraphs 1 and 57(1) and (2) of Schedule 9 to the Learning and Skills Act 2000 (c. 21), paragraph 46(1) and (2) of Schedule 21 to the Education Act 2002 (c. 32), paragraphs 9, 11(1) and (2) of Schedule 12 to the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), paragraphs 5 and 7 of Schedule 8 to the Education Act 2011 (c. 21), paragraph 1(1) and (2)(a) of Schedule 4 to the Qualifications Wales Act 2015 (anaw 5) and by S.I. 2010/1158. There are other amendments to this section which are not relevant to these Regulations.
 - (3) Section 537(1) was amended by paragraph 152(a) of Schedule 30 to the School Standards and Framework Act 1998, by paragraph 9(1) and (15) of Schedule 13 to the Education Act 2011 and by S.I. 2010/1158. Subsection (4) was amended by paragraph 37 of Schedule 7 to the Education Act 1997. Subsection (7) was amended by paragraph 152(b) of Schedule 30, and Schedule 31 to the School Standards and Framework Act 1998, by paragraphs 1 and 60 of Schedule 9 to the Learning and Skills Act 2000, by paragraph 6(1) and (5) of Part 2 of Schedule 7 to the Education Act 2002 and by S.I. 2010/1158.
 - (4) Section 537A of the Education Act 1996 was inserted by section 20 of the Education Act 1997, substituted by paragraph 153 of Schedule 30 to the School Standards and Framework Act 1998 and further amended by S.I. 2010/1158 and by S.I. 2012/976.
 - (5) Section 569(4) was amended by section 8(1) and (5) of the Education (Wales) Measure 2009 (nawm 5) and by section 73 of, and paragraphs 1 and 22(b) of Schedule 2 to, the Curriculum and Assessment (Wales) Act 2021. There are other amendments which are not relevant to these Regulations. For the definitions of “prescribed” and “regulations” see section 579(1) of the Education Act 1996.
 - (6) Paragraph 3 of Schedule 1 was amended by S.I. 2010/1158.
 - (7) 1996 c. 56. The functions of the Secretary of State in the Education Act 1996 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and are now exercisable by the Welsh Ministers under section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
 - (8) The powers in section 108 were conferred on the National Assembly for Wales. Section 108(2) and (3) was amended so as to omit references to the National Assembly for Wales and replace it with references to the Welsh Ministers by paragraphs 11 to 13 of the Schedule to the Learning and Skills (Wales) Measure 2009 (nawm 1). Section 108 was repealed by paragraphs 44 and 45 of Schedule 2 to, the Curriculum and Assessment (Wales) Act 2021. That repeal is subject to the saving and transitional provision in S.I. 2022/111 (W. 39). For the definitions of “prescribed” and “regulations” see section 212(1) of the Education Act 2002.
 - (9) Section 210 was amended by paragraphs 44 and 46 of Schedule 2 to, the Curriculum and Assessment (Wales) Act 2021.
 - (10) 2002 c. 32.

The Welsh Ministers in accordance with section 408(5) of the Education Act 1996 have consulted such persons as appeared to the Welsh Ministers to be desirable.

PART 1

General

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Revocation of Assessment Arrangements in the National Curriculum and Miscellaneous Amendments) (Wales) Regulations 2022.

(2) These Regulations come into force on 30 May 2022.

(3) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

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

“the 2021 Act” (“*Deddf 2021*”) means the Curriculum and Assessment (Wales) Act 2021⁽¹¹⁾;

“class” (“*dosbarth*”) has the meaning given to it in section 82(1) of the 2021 Act;

“nursery year” (“*blwyddyn meithrin*”) means the school year in which the majority of the pupils in the class attain the age of 4;

“pupil” (“*disgybl*”) has the meaning given to it in section 3 of the 1996 Act⁽¹²⁾;

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

“school year” (“*blwyddyn ysgol*”) has the meaning given to it in section 579(1) of the 1996 Act;

“special school” (“*ysgol arbennig*”) has the meaning given to it in section 337(2) of the 1996 Act⁽¹³⁾;

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

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

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

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

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

⁽¹¹⁾ 2021 asc 4.

⁽¹²⁾ Subsection (1) was amended by paragraph 9 of Schedule 7 to the Education Act 1997 and subsection (1) and (1A) were further amended by paragraph 34 of Schedule 21 to the Education Act 2002 (c. 32).

⁽¹³⁾ Inserted by paragraph 4(1) and (10)(c) of Schedule 1 to the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2).

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

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

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

“year 9” (“*blwyddyn 9*”) means the school year in which the majority of pupils in the class attain the age of 14.

PART 2

Revocation, Disapplication and Transitional Provision

The National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004

3. The National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004⁽¹⁴⁾ is revoked.

The National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005

4.—(1) The National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005⁽¹⁵⁾ (“the 2005 Order”) does not apply to pupils in special schools from the school year 2021 to 2022.

(2) The following Orders are revoked on 1 September 2024—

- (a) the 2005 Order, and
- (b) the National Curriculum (Amendments to the Key Stage 2 and Key Stage 3 Assessment Arrangements) (Wales) Order 2011⁽¹⁶⁾.

The Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013

5.—(1) The Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013⁽¹⁷⁾ (“the 2013 Order”) is to apply subject to the transitional provisions in paragraphs (2) to (5).

(2) The transitional provisions apply to pupils—

- (a) in year 2, year 3, year 4, year 5 and year 6 from the school year 2022 to 2023,
- (b) in year 7 where the head teacher and governing body have adopted a relevant curriculum under Part 2 of the 2021 Act, from the school year 2022 to 2023,
- (c) in year 7 who on 1 September 2022, are not within sub-paragraph (b), from the school year 2023 to 2024,
- (d) in year 8 from the school year 2023 to 2024, and
- (e) in year 9 from the school year 2024 to 2025.

(3) In article 2(1) of the 2013 Order—

⁽¹⁴⁾ S.I. 2004/2915 (W. 254), amended by S.I. 2005/3239 (W. 244) and S.I. 2011/1937 (W. 206).

⁽¹⁵⁾ S.I. 2005/1394 (W. 108), amended by S.I. 2005/3239 (W.244), S.I. 2008/1899 (W. 181) and S.I. 2011/1937 (W. 206).

⁽¹⁶⁾ S.I. 2011/1937 (W. 206).

⁽¹⁷⁾ S.I. 2013/433 (W. 51), amended by S.I. 2018/811 (W. 163).

- (a) the definitions of “the NNT”, the “NRTE” and the “NRTW” are to be read as if the words “National Curriculum” were omitted,
- (b) the following definitions are to be treated as if they were omitted—
 - (i) “the Welsh document”,
 - (ii) “Welsh programme of study”, and
 - (iii) “Welsh second language programme of study”,
- (c) for the definition of “year 2” substitute—

““year 2” (“*blwyddyn 2*”) means the school year in which the majority of pupils in the class attain the age of 7;”,
- (d) for the definition of “year 3” substitute—

““year 3” (“*blwyddyn 3*”) means the school year in which the majority of pupils in the class attain the age of 8;”,
- (e) for the definition of “year 4” substitute—

““year 4” (“*blwyddyn 4*”) means the school year in which the majority of pupils in the class attain the age of 9;”,
- (f) for the definition of “year 5” substitute—

““year 5” (“*blwyddyn 5*”) means the school year in which the majority of pupils in the class attain the age of 10;”,
- (g) for the definition of “year 6” substitute—

““year 6” (“*blwyddyn 6*”) means the school year in which the majority of pupils in the class attain the age of 11;”,
- (h) for the definition of “year 7” substitute—

““year 7” (“*blwyddyn 7*”) means the school year in which the majority of pupils in the class attain the age of 12;”,
- (i) for the definition of “year 8” substitute—

““year 8” (“*blwyddyn 8*”) means the school year in which the majority of pupils in the class attain the age of 13; and
- (j) for the definition of year 9 substitute—

““year 9” (“*blwyddyn 9*”) means the school year in which the majority of pupils in the class attain the age of 14.”.
- (4) For article 3(1) substitute—

“(1) Subject to paragraph (4), this article applies to—

 - (a) a pupil in years 4 to 9; and
 - (b) a pupil in years 2 and 3 where, in the opinion of the head teacher, the majority of that pupil’s lessons are taught through the medium of English.”
- (5) For article 4(1) substitute—

“(1) Subject to paragraph (4), this article applies to a pupil in years 2 to 9 where, in the opinion of the head teacher, the majority of that pupil’s lessons are taught through the medium of Welsh.”
- (6) The following Orders are revoked on 1 September 2024—
 - (a) the 2013 Order; and

- (b) the Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) (Amendment) Order 2018(18).

The National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014

6.—(1) The National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014(19) (“the 2014 Order”) does not apply in the circumstances set out in paragraph (2).

- (2) The 2014 Order does not apply—
- (a) from the school year 2022 to 2023 to children and pupils in—
 - (i) the nursery year,
 - (ii) the reception year, and
 - (iii) year 1, year 2, year 3, year 4, year 5 and year 6,
 - (b) from the school year 2022 to 2023 to pupils in year 7 where the head teacher and governing body have adopted a relevant curriculum under Part 2 of the 2021 Act, and
 - (c) from the school year 2023 to 2024 to pupils in year 7 and year 8.
- (3) The 2014 Order is revoked on 1 September 2024.

The National Curriculum (Moderation of Assessment Arrangements for the Second and Third Key Stages) (Wales) Order 2015

7. The National Curriculum (Moderation of Assessment Arrangements for the Second and Third Key Stages) (Wales) Order 2015(20) is revoked on 30 May 2022.

The National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015

8.—(1) In the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015(21) (“the 2015 Order”) omit Parts 3 and 4.

- (2) The following Orders are revoked on 1 September 2022—
- (a) the 2015 Order, and
 - (b) the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) (Amendment) Order 2016(22).

(18) S.I. 2018/811 (W. 163).

(19) S.I. 2014/1999 (W. 200).

(20) S.I. 2015/1309 (W. 113).

(21) S.I. 2015/1596 (W. 195), amended by S.I. 2016/836 (W. 210).

(22) S.I. 2016/836 (W. 210).

PART 3

Consequential and Miscellaneous Amendments

The Amendment of the Head Teacher’s Report to Parents and Adult Pupils (Wales) Regulations 2011

9.—(1) The Head Teacher’s Report to Parents and Adult Pupils (Wales) Regulations 2011(**23**) are amended as set out in paragraphs (2) to (4).

(2) In regulation 2 for the definition of “statutory assessments” substitute—

““statutory assessments” (*“asesiadau statudol”*) means the assessment arrangements specified in—

- (a) the National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005(**24**);
- (b) the Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013(**25**);
- (c) the National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014(**26**); and
- (d) Part 3 of the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015(**27**) for the 2021 to 2022 school year only;”.

(3) In regulation 4A omit paragraphs (a) and (b).

(4) In the Schedule omit paragraph 2 of Part 1.

The Amendment of the School Performance Information (Wales) Regulations 2011

10.—(1) The School Performance Information (Wales) Regulations 2011(**28**) are amended as set out in paragraphs (2) to (3).

(2) In regulation 2(1) for the definition of “statutory assessments” substitute—

““statutory assessments” (*“asesiadau statudol”*) means the assessment arrangements specified in—

- (a) the National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005(**29**);
- (b) the Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013(**30**);
- (c) the National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014(**31**); and

(23) S.I. 2011/1943 (W. 210), amended by S.I. 2013/437 (W. 53), S.I. 2014/1998 (W. 199), S.I. 2016/236 (W. 88), S.I. 2016/837 (W. 211), S.I. 2018/766 (W. 153), S.I. 2020/729 (W. 164) and S.I. 2021/612 (W. 163).

(24) S.I. 2005/1394 (W. 108), amended by S.I. 2005/3239 (W. 244), S.I. 2008/1899 (W. 181) and S.I. 2011/1937 (W. 206).

(25) S.I. 2013/433 (W. 51), amended by S.I. 2018/811 (W. 163).

(26) S.I. 2014/1999 (W. 200).

(27) S.I. 2015/1596 (W. 195), amended by S.I. 2016/836 (W. 210).

(28) S.I. 2011/1963 (W. 217), amended by S.I. 2013/437 (W. 53), S.I. 2016/236 (W. 88), S.I. 2016/837 (W. 211), S.I. 2020/729 (W. 164) and S.I. 2021/612 (W. 163).

(29) S.I. 2005/1394 (W. 108), amended by S.I. 2005/3239 (W. 244), S.I. 2008/1899 (W. 181) and S.I. 2011/1937 (W. 206).

(30) S.I. 2013/433 (W. 51), amended by S.I. 2018/811 (W. 163).

(31) S.I. 2014/1999 (W. 200).

- (d) in Part 3 of the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015(32) for the 2021 to 2022 school year only;”.
- (3) For Schedule 2 substitute—

“SCHEDULE 2

Regulations 4, 5 and 6

Provision of Information to Governing Bodies, Local Authorities
and Welsh Ministers: Foundation Phase and Key Stage Results

1. Subject to paragraph 3, in respect of each registered pupil in the foundation phase, second key stage and third key stage, the results of the pupil’s statutory assessments.
2. Where some or all of the results set out in paragraph 1 are not available—
 - (a) whether the pupil was exempted from the statutory assessments under section 113 or 114 of the 2002 Act; or
 - (b) whether the results of the pupil’s statutory assessments are not available for reasons other than the pupil’s exemption under section 113 or 114 of the 2002 Act.
3. For the purposes of regulations 5 and 6, paragraph 1 does not include the results of the Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013(33).”

The Amendment to the School Information (Wales) Regulations 2011

11. In regulation 5 of the School Information (Wales) Regulations 2011(34) omit paragraph (2)(c).

8 May 2022

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

(32) S.I. 2015/1596 (W. 195), amended by S.I. 2016/836 (W. 210).

(33) S.I. 2013/433 (W. 51), amended by S.I. 2018/811 (W. 163).

(34) S.I. 2011/1944 (W. 211), amended by S.I. 2013/437 (W. 53), S.I. 2016/211 (W. 84), S.I. 2018/766 (W. 153), S.I. 2020/729 (W. 164), S.I. 2021/612 (W. 163), S.I. 2022/178 (W. 58).

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Curriculum and Assessment (Wales) Act 2021 (“the 2021 Act”) establishes a new legal framework for a curriculum and makes provision about assessment for pupils and children in Wales (“the CfW”).

The CfW will become mandatory as follows—

- (a) on 1 September 2022 for—
 - (i) children receiving funded nursery education,
 - (ii) pupils in their reception year,
 - (iii) children and pupils in years 1 to 6,
- (b) on 1 September 2022 for children and pupils in year 7 in those schools and other settings where there is a curriculum adopted or otherwise provided in accordance with the 2021 Act,
- (c) on 1 September 2023 for children and pupils in years 7 and 8,
- (d) on 1 September 2024 for children and pupils in year 9,
- (e) on 1 September 2025 for children and pupils in year 10, and
- (f) on 1 September 2026 for children and pupils in year 11.

Part 2 of these Regulations makes provision in readiness for the first phase of the roll out of the CfW to children and pupils in Wales on 1 September 2022 to amend and revoke a number of Orders made under section 108 of the Education Act 2002 (“the 2002 Act”). Those Orders make provision in relation to the assessment arrangements for the existing National Curriculum set out in Part 7 of the 2002 Act.

Regulation 3 of these Regulations revokes the National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004 (“the 2004 Order”) on 30 May 2022. This will mean that assessment under the 2004 Order will not take place in the school year 2021 to 2022. The 2004 Order sets out the assessment arrangements for the final year of the second key stage. That affects year 6. The CfW is not rolled out to pupils in that year until the school year 2022 to 2023.

The National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005 (“the 2005 Order”) makes provision for the assessment of pupils in the final year of the third key stage in maintained schools in Wales. That correlates to school year 9. The CfW will be rolled out to pupils in school year 9 in the school year 2024 to 2025. Regulation 4(1) disapplies the 2005 Order for pupils in special schools from the school year 2021 to 2022. Regulation 4(2) revokes the 2005 Order for all other schools from 1 September 2024.

Regulation 5 makes transitional provision in respect of the Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013 (“the 2013 Order”). The 2013 Order applies to those pupils in years 2 to 9. The tests required by the 2013 Order will continue to be administered by schools during the roll out of the new CfW to those years. The tests are widely known by practitioners as the “personalised assessments”. The transitional provisions amend the 2013 Order so that it will continue to work with the new CfW. The 2013 Order is revoked on 1 September 2024. From 1 September 2024 all pupils who are assessed pursuant to the 2013 Order will be following the CfW and the 2013 Order will no longer be needed. It is intended to make new Regulations in relation to reading and numeracy tests that will apply from 2024 onwards.

Regulation 6 disapplies the National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014 (“the 2014 Order”) to coincide with the roll out of the new CfW. The 2014 Order is revoked on 1 September 2024. From 1 September 2024 all pupils who are assessed pursuant to the 2014 Order will be following the CfW and the 2014 Order will no longer be needed.

Regulation 7 revokes the National Curriculum (Moderation of Assessment Arrangements for the Second and Third Key Stages) (Wales) Order 2015 from 30 May 2022.

Regulation 8 revokes Part 4 of the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015 (“the 2015 Order”) on 30 May 2022. Part 4 of the 2015 Order sets out the assessment arrangements for the final year of the foundation phase. That correlates to year 2 and the CfW will be rolled out to pupils in that year in the school year 2022 to 2023. The 2015 Order is fully revoked on 1 September 2022.

Part 3 of these Regulations makes amendments to the Head Teacher’s Report to Parents and Adult Pupils (Wales) Regulations 2011 (“the Reporting Regulations”) and the School Performance Information (Wales) Regulations 2011 (“the School Performance Regulations”) which are consequential on the revocation of the 2004 Order and the 2015 Order.

The Reporting Regulations make provision as to the report the head teacher of a maintained school is required to send to parents and adult pupils each school year and the additional information a parent may request from the head teacher. Regulation 9 of these Regulations amends the Reporting Regulations so that head teachers are not required to report on the results of the statutory assessments that are revoked by these Regulations.

The School Performance Regulations regulate the transfer of information relating to the educational performance of pupils from head teachers to school governing bodies, local authorities and the Welsh Ministers. Regulation 10(2) of these Regulations amends the School Performance Regulations so as to remove the requirement on a governing body of a maintained school to provide the results of the statutory assessments that are revoked by these Regulations to the local authority that maintains the school and to the Welsh Ministers.

Regulation 10(3) further amends the School Performance Regulations by substituting a new Schedule 2. The effect of that is that the results of the reading and numeracy tests are excluded from the statutory assessments information that must be sent by a governing body of a school to the local authority that maintains that school.

Regulation 11 amends regulation 5 of the School Information (Wales) Regulations 2011 so as to remove the requirement for school local authorities to distribute copies of the composite prospectus without charge to parents and pupils who are in the final year at the school and might transfer to other such schools.

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 Crown Building, Cathays Park, Cardiff CF10 3NQ and on the Welsh Government website at www.gov.wales.