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WELSH STATUTORY INSTRUMENTS

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**2019 No. 993 (W. 174)**

**EDUCATION, WALES**

**The School Performance and Absence Targets  
(Wales) (Amendment) Regulations 2019**

<i>Made</i>	- - - -	<i>5 June 2019</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>6 June 2019</i>
<i>Coming into force</i>	- -	<i>1 September 2019</i>

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 30(1) and (2) and 210 of the Education Act 2002(2) and now vested in them(3), make the following Regulations:

**Title and commencement**

1.—(1) The title of these Regulations is the School Performance and Absence Targets (Wales) (Amendment) Regulations 2019.

(2) These Regulations come into force on 1 September 2019.

**Interpretation**

2. In these Regulations, “the 2011 Regulations” means the School Performance and Absence Targets (Wales) Regulations 2011(4).

**Transitional**

3. In regulation 5(3) of the 2011 Regulations—

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- (1) 1997 c. 44. Section 19 has been repealed in relation to England by section 66(1) of the Deregulation Act 2015 (c. 20). Subsection (3) of section 19 was substituted by section 140(1) of, and paragraph 213 of Schedule 30 to, the School Standards and Framework Act 1998 (c. 31).
- (2) 2002 c. 32.
- (3) The functions of the Secretary of State in sections 19 and 54 of the Education Act 1997 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 section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). The functions of the National Assembly for Wales in the Education Act 2002 were transferred to the Welsh Ministers by section 162 of, and paragraphs 30 and 32 of Schedule 11, to the Government of Wales Act 2006.
- (4) S.I. 2011/1945 (W. 212), amended by S.I. 2016/236 (W. 88) and S.I. 2018/766 (W. 153).

- (a) in sub-paragraph (a), the words “, being the reviewed targets set in the previous school year” are to be treated as if they were omitted for the school year<sup>(5)</sup> 2019 to 2020; and
- (b) in sub-paragraph (b), the words “, being the provisional targets set in the previous school year but revised if the governing body deem it necessary to do so” are to be treated as if they were omitted for the school year 2019 to 2020.

#### **Amendment**

4.—(1) The 2011 Regulations are amended as follows.

(2) In regulation 2—

- (a) in paragraph (1), omit the definitions of “GCSE”, “GCSE examination”, “level 1 threshold”, “level 2 threshold”, “NQF” and “NQF level”; and
- (b) omit paragraph (2).

(3) In regulation 5—

(a) for paragraph (4) substitute—

“(4) The six achievements set by the governing body based on its evaluation of the performance of pupils at the school in relation to the previous school year.”; and

(b) omit paragraph (5).

(4) In regulation 8, for paragraph (3) substitute—

“(3) In this regulation, “pupils’ attainment results” means the percentage who achieve the six achievements set by the governing body in accordance with regulation 5(4).”

5 June 2019

*Kirsty Williams*  
Minister for Education, one of the Welsh  
Ministers

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(5) Section 56(2) of the Education Act 1997 (“the 1997 Act”) provides that the 1997 Act must be construed as one with the Education Act 1996 and as such the term “school year” has the meaning given to it in section 579(1) of the Education Act 1996 (c. 56).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The School Performance and Absence Targets (Wales) Regulations 2011 (“the 2011 Regulations”) require governing bodies of maintained schools in Wales to set targets relating to school performance and unauthorised absence rates of pupils.

Regulation 5(4) of the 2011 Regulations (*performance targets for pupils who will be in Year 11*) requires governing bodies to set performance targets for fourth key stage pupils in Year 11 (see the 2011 Regulations for definitions of “Year 11” and the “fourth key stage pupils”). In particular, regulation 5 of the 2011 Regulations requires the governing body to set targets in relation to—

- (a) three achievements to be determined by governing body based on its evaluation of pupils performance (“non-specified targets”); and
- (b) for the percentage of pupils in Year 11 to achieve the level 1 threshold and the level 2 threshold (“specified targets”).

From and including the 2019/2020 school year the specified targets will not be used by schools. Instead school governing bodies will be required to set more non-specified targets. Accordingly these Regulations amend regulation 5(4) of the 2011 Regulations so as to (regulation 4(3))—

- (a) increase the number of non-specified targets from three to six; and
- (b) omit the requirement to set the specified targets.

These Regulations also amend regulation 2(1) of the 2011 Regulations so as to omit some definitions relevant only to the specified targets (regulation 4(2)).

Regulation 8 of the 2011 Regulations (*publication of information*) requires governing bodies to publish in the school’s annual report the percentage of pupils in Year 11 who (see the 2011 Regulations for the definition of “school’s annual report”) (regulation 4(4))—

- (a) achieve the three non-specified targets; and
- (b) achieve the specified targets.

As a consequence of the amendment to regulation 5(4) of the 2011 Regulations these Regulations also amend regulation 8(3) of the 2011 Regulations so that the governing body—

- (a) must report the percentage of pupils in Year 11 who achieve the six non-specified targets; and
- (b) will no longer have to report on the percentage of pupils to achieve the specified targets.

The changes made by these Regulations will take effect for the first time in the school year 2019 to 2020 (“the transitional year”). Therefore governing bodies will not have set targets in the previous school year which can form the basis of its reviewed and final targets in the transitional year. The previous targets will have been set against performance measures which are no longer used. Regulation 3 makes transitional provision which allows the governing body to set provisional and final targets for the transitional year which are not based on targets set in previous school years.

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 Curriculum and Assessment Division in the Department for Education and Public Services in the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

**Status:** *This is the original version (as it was originally made).*