

**2021 No. (WG21-52)**

**CORONAVIRUS ACT 2020**

**Modification and Disapplication of  
Curriculum Requirements in Wales  
Notice (No. 3) 2021**

The Welsh Ministers, in exercise of the powers conferred by section 38(1) of, and paragraph 7 of Schedule 17 to, the Coronavirus Act 2020<sup>(1)</sup>, issue the following notice.

**Modification of curriculum requirements**

**1.** The following enactments are modified, for the period specified in paragraph 3, in the manner described in the table in paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020—

- (a) section 43 of the Education Act 1997<sup>(2)</sup> (provision of careers education in schools in Wales);
- (b) section 69 of the School Standards and Framework Act 1998<sup>(3)</sup> (duty to secure due provision of religious education);
- (c) section 101 of the Education Act 2002<sup>(4)</sup> (basic curriculum for maintained schools in Wales);
- (d) section 108 of the Education Act 2002 (establishment of National Curriculum for Wales by order), in relation to any duty imposed on a person by—
  - (i) the Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) Order 2013<sup>(5)</sup>;
  - (ii) the National Curriculum (Assessment Arrangements for the Foundation Phase

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(1) 2020 c. 7.  
(2) 1997 c. 44.  
(3) 1998 c. 31.  
(4) 2002 c. 32.  
(5) S.I. 2013/433 (W. 51).

- and the Second and Third Key Stages) (Wales) Order 2014(1);
- (iii) Part 3 (and Part 1 in so far as it relates to 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(2);
- (e) section 109 of the Education Act 2002 (implementation of the National Curriculum for Wales in schools);
- (f) section 110 of the Education Act 2002 (implementation of the National Curriculum for Wales in respect of nursery schools etc);
- (g) sections 116A to 116K of the Education Act 2002 (local curricula for pupils in Key Stage 4).

### **Disapplication of curriculum assessment requirements**

2. The following enactments are disapplied for the period specified in paragraph 3—

- (a) the National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004(3);
- (b) the National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005(4);
- (c) the National Curriculum (Moderation of Assessment Arrangements for the Second and Third Key Stages) (Wales) Order 2015(5);
- (d) Part 4 (and Part 1 in so far as it relates to 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 specified period**

3. The specified period is the period of 30 days beginning with 1 June 2021.

### **Reasons for issuing the notice**

4.—(1) The Welsh Ministers consider that the issuing of this notice is an appropriate and

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(1) S.I. 2014/1999 (W. 200).  
 (2) S.I. 2015/1596 (W. 195).  
 (3) S.I. 2004/2915 (W. 254).  
 (4) S.I. 2005/1394 (W. 108).  
 (5) S.I. 2015/1309 (W. 113).

proportionate action in all the circumstances relating to the incidence or transmission of coronavirus for the following reasons.

(2) Maintained schools, maintained nursery schools and other funded nursery education providers will continue to face additional burdens, which may limit their ability to perform their duties fully.

- During the specified period schools and providers may need to transition quickly from one operational scenario to another, whilst ensuring that the full range of learning continues to take place. Guidance has been issued by the Welsh Government<sup>(1)</sup> and at regional level to help schools and providers to ensure that teaching and learning can continue safely and that children's learning and progression is given priority in all operational scenarios.
- The schools and providers will continue to need to support children as a result of disruption to their physical attendance at the school or setting. Some children may be affected by the disruption and the schools and providers will continue to need flexibility in order to be able to invest time in developing their readiness to learn.
- The schools and providers will need to continue to respond to an increase in children's well-being needs. Time spent away from the school or setting may have a negative impact on the well-being of some children. The schools and providers will need the flexibility to be able to invest time in supporting children's well-being, as well as responding to a range of well-being needs which will place additional demands on their time.

(3) Maintained schools, maintained nursery schools and other funded nursery education providers will also continue to face a number of logistical challenges which will place increased administrative and logistical burdens upon them, even when operating fully on site.

- The schools and providers have needed to place children into contact groups and minimise the interaction between children in different contact groups. This limits, to a significant extent, their ability to mix staff and children. It may also require schools and providers to think differently, and to take

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(1) 'Guidance on learning in schools and settings: coronavirus', Welsh Government, January 2021 and 'Supporting information for learning in schools and setting from 15 March', Welsh Government, March 2021.

different approaches, in order to secure learning, and reflecting the priorities set out in Welsh Government guidance(1). It may also limit their ability to allow children to move to different parts of the school or nursery site in order to access the full breadth of the curriculum (e.g. for science, physical education, music or drama).

- The schools and providers will need to continue to estimate and manage risk in planning their operations. Welsh Government guidance(2) recommends that schools and providers should consider the full range of interactions and activities that ordinarily occur in school or nursery life in order to minimise the risk of coronavirus transmission. The schools and providers continue to need time and flexibility in order to be able to implement these plans. The schools and providers will also need to monitor and re-evaluate their plans over time, taking account of any further changes to their operations. These demands will go well beyond their normal administrative burdens.
- The schools and providers will need to continue to manage the implications of the Welsh Government’s “Test Trace Protect” strategy(3). This strategy may require a child’s contact group to self-isolate if the child tests positive for coronavirus. In relation to secondary schools, Welsh Government guidance(4) states that the child’s contact group may include the child’s entire year group and anyone who has shared transport with that child. Staff members may also need to self-isolate if they have been in close contact with the child. These matters mean that there may be prolonged periods during which members of staff and groups of children will be absent. This will cause disruption and will have a clear impact on the schools’ and providers’ ability to perform their duties fully.

(4) Given the operational circumstances of the last year and the potential gaps in the evidence base needed to draw final end phase and end stage assessment judgements, undertaking the assessments required by

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(1) ‘Guidance on learning in schools and settings; coronavirus’, Welsh Government, January 2021 and ‘Supporting information for learning in schools and setting from 15 March’, Welsh Government, March 2021.

(2) ‘Operational guidance for schools and settings from 12 April’, Welsh Government, March 2021.

(3) ‘Test Trace Protect’, Welsh Government, May 2020, as amended from time to time.

(4) ‘Operational guidance for schools and settings from 12 April’, Welsh Government, March 2021.

the Orders listed in paragraph 2 during the specified period would not provide meaningful results for schools and providers, children or parents in terms of the progress the child is making or the support that they might need.

(5) For these reasons, the application of the duties described in paragraph 1, in their unmodified form, and the application of the duties in paragraph 2, would place unrealistic demands on maintained schools, maintained nursery schools and other funded nursery education providers; would harm their ability to respond flexibly and effectively to the challenges arising as a result of coronavirus and its effects; and would be likely to have a detrimental impact on children.

*Jeremy Miles*

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

28 May 2021