WELSH STATUTORY INSTRUMENTS

2010 No. 1954 (W.187)

EDUCATION, WALES

The Education (Pupil Registration) (Wales) Regulations 2010

Made - - - -	*2 August 2010*
Laid before the National Assembly for Wales - -	*3 August 2010*
Coming into force - -	*1 September 2010*

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 434(1), (3) and (4), 551(1) and 569 of the Education Act 1996(**1**), and now vested in them, make the following Regulations:

Title and commencement

1.—(1) The title of these Regulations is the Education (Pupil Registration) (Wales) Regulations 2010 and they come into force on 1 September 2010.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

"local authority" ("*awdurdod lleol*") means in the case of a school maintained by a local authority that local authority, and in every other case the local authority for the area in which the school is situated;

"local curriculum" ("*cwricwlwm lleol*"), in relation to pupils in the fourth key stage, has the meaning given by section 97 of the Education Act 2002 and, in relation to pupils who are above compulsory school age but have not attained the age of nineteen, has the meaning given by section 33N of the Learning and Skills Act 2000(**2**); and

"relevant person" ("*person perthnasol*") means—

(**1**) The functions of the Secretary of State under sections 434, 551 and 569 were, so far as exercisable in relation to Wales, 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 under paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). Section 434 was amended by paragraph 111(a) and (b) of Schedule 30 to the School Standards and Framework Act 1998 (c. 31). Section 551 was amended by paragraph 166(a) and (b) of Schedule 30 to the School Standards and Framework Act 1998.

(**2**) Section 33N was inserted by section 35 of the Learning and Skills (Wales) Measure 2009, but is not in force at the time of making of these Regulations. The local curricula for students aged 16 to 18 must be formed in accordance with section 33A of the Learning and Skills Act 2000. Section 33A was inserted by section 22 of the Learning and Skills (Wales) Measure 2009.

(a) in relation to a pupil under the age of 18, a parent of the pupil;

(b) in relation to a pupil who has attained that age, the pupil.

Revocation

3. The Education (Pupil Registration) Regulations 1995(**3**) are revoked.

Registers to be kept

4. The proprietor of every school must cause to be kept—

(a) an admission register; and

(b) except in the case of a school of which all the pupils are boarders, an attendance register.

Contents of admission register

5.—(1) The admission register for every school must contain an index in alphabetical order of all the pupils at the school and must also contain the following particulars in respect of every such pupil—

(a) name in full;

(b) sex;

(c) the name and address of every person known to the proprietor of the school to be a parent of the pupil and, against the entry on the register of the particulars of any parent with whom the pupil normally resides, an indication of that fact and a note of least one telephone number at which the parent can be contacted in an emergency;

(d) day, month and year of birth;

(e) day, month and year of admission or re-admission to the school; and

(f) name and address of the school last attended, ifany.

(2) In the case of every school which includes boarding pupils a statement as to whether each pupil of compulsory school age is a boarder or a day pupil must be added to the particulars specified in paragraph (1), and that statement must be amended accordingly where a registered pupil at the school becomes or ceases to be a boarder at the school.

(3) For the purpose of this regulation a pupil is a pupil at the school from the beginning of the first day on which the school has agreed, or has been notified, that the pupil will attend the school.

Contents of attendance register

6.—(1) The following particulars must be recorded in the attendance register at the commencement of each morning session and once during each afternoon session—

(a) in the case of every pupil whose name is entered in and not deleted from the admission register whether the pupil is—

(i) present;

(ii) absent;

(iii) attending an approved educational activity within paragraph (4); or

(iv) unable to attend due to exceptional circumstances within paragraph (5);

(b) in the case of any such pupil of compulsory school age who is absent, a statement whether or not the absence is authorised in accordance with paragraph (2);

(**3**) S.I. 1995/2089; as amended by S.I. 1997/2624, S.I. 2001/1109 (W.53), S.I. 2003/3227 (W.308) and S.I. 2005/2913 (W.210).

(c) in the case of any such pupil of compulsory school age who is attending an approved educational activity the nature of that activity; and

(d) in the case of a pupil unable to attend due to exceptional circumstances, the nature of those circumstances,

but this paragraph does not apply in respect of the pupil who is a boarder.

(2) In the case of a pupil who is not a boarder, an absence is to be treated as authorised for the purposes of this regulation if—

(a) the pupil has been granted leave of absence in accordance with regulation 7;

(b) the pupil is unable to attend—

(i) by reason of sickness or any unavoidable cause;

(ii) on a day exclusively set apart for religious observance by the religious body to which his or her parent belongs; or

(iii) because the local authority has failed to make suitable transport arrangements for the pupil which it is under a duty to provide under section 3 or 4 of the Learner Travel (Wales) Measure 2008(**4**).

(3) Where the reason for a pupil's absence cannot be established at the time when the register is taken, that absence must be recorded as unauthorised and any subsequent correction to the register recording that absence as authorised must be made in accordance with regulation 13 and as soon as practicable after the reason for the absence is established by the person with responsibility for completing the register.

(4) An approved educational activity is—

(a) an activity which takes place outside the school premises and which is—

(i) approved by a person authorised in that behalf by the proprietor of the school;

(ii) of an educational nature, including work experience under section 560 of the Education Act 1996(**5**) and a sporting activity; and

(iii) supervised by a person authorised in that behalf by the proprietor or the head teacher of the school;

(b) attendance at another school at which the pupil is a registered pupil; or

(c) attendance on a course of study within the local curriculum at a place other than the school.

(5) The exceptional circumstances in which a pupil may be marked as unable to attend are where—

(a) the school site, or part of it, is closed due to unavoidable cause at a time when pupils are due to attend;

(b) in the case of a pupil for whom the local authority is under a duty to make suitable transport arrangements which it is under a duty to provide under section 3 or 4 of the Learner Travel (Wales) Measure 2008, that transport is not available; or

(c) a local or national emergency has resulted in widespread disruption to travel which has prevented the pupil from attending school.

(6) The name of a pupil may only be deleted from the attendance register when the pupil's name has been deleted from the admission register for that school in accordance with regulation 8.

(**4**) 2008 nawm 2.
(**5**) 1996 c. 56. Sub-sections (1) and (2) of section 560 were substituted by section 112(1) of the School Standards and Framework Act 1998. Sub-section (3) of section 560 was further amended by section 112(3) of, and Schedule 31 to, the 1998 Act.

Leave of absence

7.—(1) Leave of absence may only be granted by a person authorised in that behalf by the proprietor of the school.

(2) Leave of absence must not be granted to enable a pupil to undertake employment (whether paid or unpaid) during school hours except—

(a) employment for the purpose of taking part in a performance within the meaning of section 37 of the Children and Young Persons Act 1963(**6**) under the authority of a licence granted by the local authority under that section; or

(b) employment abroad for a purpose mentioned in section 25 of the Children and Young Persons Act 1933(**7**) where a licence has been granted under that section by a justice of the peace.

(3) Subject to paragraph (4), on application made by a parent with whom the pupil normally resides, a pupil may be granted leave of absence from the school to enable the pupil to go away on holiday.

(4) Save in exceptional circumstances, a pupil must not in pursuance of paragraph (3) be granted more than ten school days leave of absence in any school year.

(5) This regulation applies only in relation to a maintained school and a special school not maintained by a local authority.

Deletions from admission register

8.—(1) The following are prescribed as the grounds on which the name of a pupil of compulsory school age must be deleted from the admission register—

(a) where the pupil is registered at the school in accordance with the requirements of a school attendance order, that another school is substituted by the local authority for that named in the order or the order is revoked by the local authority on the ground that arrangements have been made for the child to receive efficient full-time education suitable to the child's age, ability and aptitude otherwise than at school;

(b) except where it has been agreed by the proprietor that the pupil should be registered at more than one school, in a case not falling within sub-paragraph (a) or regulation 9, that the pupil has been registered as a pupil of another school;

(c) where a pupil is registered at more than one school, and in a case not falling within sub-paragraph (j) or (m) and except as provided in regulation 9 that the pupil has ceased to attend the school and the proprietor of any other school at which the pupil is registered has given consent to the deletion;

(d) in a case not falling within sub-paragraph (a), that the pupil has ceased to attend the school and the proprietor has received written notification from the parent that the pupil is receiving education otherwise than at school;

(e) except in the case of a boarder, that the pupil has ceased to attend the school and no longer ordinarily resides at a place which is a reasonable distance from the school at which the pupil is registered;

(f) in the case of a pupil granted leave of absence exceeding ten school days for the purpose of a holiday in accordance with regulation 7(3), that—

(**6**) 1963 c. 37; amended by S.I. 1998/276, paragraph 32 of Schedule 6 to the Licensing Act 2003 (c. 17), paragraph 6 of Schedule 20 to the Broadcasting Act 1990 (c. 42) and paragraph 10 of Schedule 37 to the Education Act 1996 (c. 56).

(**7**) 1933 c. 12; amended by S.I. 1998/276, paragraph 3 of Schedule 13 to the Children Act 1989 (c. 41), paragraph 10 of Part 3 of Schedule 3 to the Employment Act 1989 (c. 38), paragraph 7 of Schedule 5 to the Children and Young Persons Act 1963 and by paragraph 73 of Schedule 8 to the Courts Act 2003 (c. 39).

(i) the pupil has failed to attend the school within the ten school days immediately following the expiry of the period for which such leave was granted;

(ii) the proprietor is not satisfied that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; and

(iii) both the proprietor and the local authority have failed, after reasonable enquiry, to ascertain where the pupil is;

(g) that the pupil is certified by the school medical officer as unlikely to be in a fit state of health to attend school before ceasing to be of compulsory school age, and neither the pupil nor the pupil's parent has indicated to the school the intention to continue to attend the school after ceasing to be of compulsory school age;

(h) that the pupil has been continuously absent from school for a period of not less than twenty school days and—

(i) at no time was his or her absence during that period authorised by the proprietor in accordance with regulation 6(2);

(ii) the proprietor is not satisfied that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; and

(iii) both the proprietor of the school and the local authority have failed, after reasonable enquiry, to ascertain where the pupil is;

(i) that the pupil has been detained in pursuance of a final order made by a court or of an order of recall made by a court or the Secretary of State, that order being for a period of not less than 4 months, and the proprietor does not have reasonable grounds to believe that the pupil will return to the school at the end of that period;

(j) that the pupil has died;

(k) that the pupil will cease to be of compulsory school age before the school next meets and the relevant person has indicated that the pupil intends to cease to attend the school;

(l) in the case of a pupil at a school other than a maintained school, that the pupil has ceased to be a pupil of the school;

(m) where the pupil is registered at a maintained school, that the pupil has been permanently excluded from the school; or

(n) where the pupil has been admitted to the school to receive nursery education, the pupil has not on completing such education transferred to a reception class, or higher class, at the school.

(2) In a case not covered by paragraph (1)(a), (j) or (m), or regulation 9, the name of a child who has under arrangements made by a local authority become a registered pupil at a special school must not be removed from the admission register of that school without the consent of that authority or, if that authority refuse to give consent, without a direction of the Welsh Ministers.

(3) The following are prescribed as grounds on which the name of a pupil not of compulsory school age is to be deleted from the admission register—

(a) that the pupil has ceased to attend the school, or, in the case of a boarder, that he or she has ceased to be a pupil of the school;

(b) that the pupil has been continuously absent from the school for a period of not less than twenty school days—

(i) at no time was the absence during that period agreed by the proprietor;

(ii) the proprietor is not satisfied that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; and

(iii) the proprietor of the school has failed, after reasonable enquiry, to locate the pupil;