WELSH STATUTORY INSTRUMENTS

2009 No. 3355 (W.294)

EDUCATION, WALES

The Education (Information About Children in Alternative Provision) (Wales) Regulations 2009

Made - - - -	*17 December 2009*
Laid before the National Assembly for Wales - -	*21 December 2009*
Coming into force - -	*12 January 2010*

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 537A, 537B and 569 of the Education Act 1996(**1**), and now vested in them, make the following Regulations:

Title and commencement

1. The title of these Regulations is the Education (Information About Children in Alternative Provision) (Wales) Regulations 2009 and they come into force on 12 January 2010.

Interpretation

2. In these Regulations—

"the 1996 Act" ("*Deddf 1996*") means the Education Act 1996;

"approved external qualification" ("*cymhwyster allanol a gymeradwywyd*") is a qualification within the meaning of sections 96(5) and 97(5) of the Learning and Skills Act 2000 that, at the relevant time, is approved under section 99 of the Learning and Skills Act 2000(**2**) for the purposes of sections 96 and 97 of the Learning and Skills Act 2000;

(**1**) 1996 c. 56. Section 537A was inserted by section 20 of the Education Act 1997 (c. 44), and substituted by paragraph 153 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31). Section 537B was inserted by section 164 of the Education and Inspections Act 2006 (c. 40). The functions of the Secretary of State under sections 537A and 569 of 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 then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). Functions under section 537B were transferred to the National Assembly for Wales by virtue of section 180 of the Education and Inspections Act 2006 and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

(**2**) 2000 c. 21. Sub-sections (7) and (8) of section 99 were repealed by article 1(1) of the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239 (W.244)).

"funded independent school education" ("*addysg ysgol annibynnol a ariennir*") has the meaning given to it by regulation 3(b);

"funded provision" ("*darpariaeth a ariennir*") has the meaning given to it by regulation 3;

"individual information" ("*gwybodaeth am unigolion*") means, in relation to funded independent school education and pupil referral units, individual pupil information, and in relation to funded education, individual child information;

"attendance record" ("*cofnod presenoldeb*") means the record of a pupil's school attendance contained in the register kept in accordance with section 434 of the 1996 Act and the Education (Pupil Registration) Regulations 1995(**3**);

"relevant local authority" ("*awdurdod lleol perthnasol*") means the local education authority in Wales that funds or will fund the funded provision;

"result" ("*canlyniad*") in relation to any teacher assessment means the result of the assessment as determined and recorded by a teacher;

"special educational needs" ("*anghenion addysgol arbennig*") has the meaning given to it by section 312 of the 1996 Act(**4**);

"teacher assessment" ("*asesiad athrawon*") means an assessment by a teacher of a child's subject level of attainment in the subjects and activities forming part of the curriculum that child has been taught;

"unique pupil number" ("*Rhif unigryw disgybl*") means a combination of numbers which together with a letter or letters are allocated to a pupil and are unique to him or her, by use of a formula determined by the Welsh Ministers; and

"unit or credit" ("*uned neu gredyd*"), in relation to a qualification, means a module or part of a course leading to that qualification which, when successfully completed, can be counted together with other modules or parts towards obtaining that qualification.

Application

3. These Regulations apply in relation to—

(a) funded education provided under arrangements made by a relevant local authority;

(b) education provided at an independent school arranged and funded by a local education authority in Wales pursuant to section 19 of the 1996 Act (in these Regulations referred to as "funded independent school education"); and

(c) education provided in a pupil referral unit funded by a relevant local authority,

and in these Regulations a reference to funded provision is a reference to such funded education, such funded independent school education and such education in a pupil referral unit.

Requirement to provide individual information to Welsh Ministers

4. Within 14 days of receiving a request in writing from the Welsh Ministers a person who provides funded provision must provide to the Welsh Ministers, such of the individual information referred to in Schedule 1 as is requested.

(**3**) S.I. 1995/2089 as amended by the Education (Pupil Registration) (Amendment) (Wales) Regulations 1997 (S.I. 1997/2624), the Education (Pupil Registration) (Amendment) (Wales) Regulations 2001 (S.I. 2001/1109 (W.53)), the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003 (S.I. 2003/3227 (W.308)), the Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2005 (S.I. 2005/2913 (W.210)).

(**4**) Section 312 has been amended by section 140(1) and paragraph 72 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31) and section 195 and 215(1) of, and paragraphs 1 and 2 of Schedule 18 and paragraph 36 of Schedule 21 to, the Education Act 2002.

Requirement to provide individual information to relevant local authority

5.—(1) For the purposes of sections 537A(2)(b) and 537B(2)(b), the relevant local authority is a prescribed person.

(2) Within 14 days of receiving a request in writing from the relevant local authority a person who provides funded provision must provide to the authority such of the individual information referred to in paragraphs 1 to 6 of Schedule 1 as is requested.

Other persons to whom individual information supplied may be passed in addition to the relevant local authority

6. For the purposes of sections 537A(3)(b) and 537(3)(b) of the 1996 Act a prescribed person is the Careers Wales companies established to provide careers services in Wales under sections 2, 8 and 10 of the Employment and Training Act 1973(**5**).

Additional persons to whom Welsh Ministers may provide individual information

7.—(1) For the purposes of sections 537A(4)(b) and 537B(4)(b) of the 1996 Act a prescribed person is any of the following—

(a) the relevant local authority;

(b) Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru; and

(c) the Careers Wales companies established to provide careers services in Wales under sections 2, 8 and 10 of the Employment and Training Act 1973.

(2) A prescribed category for the purposes of sections 537A(4)(c) and 537B(4)(c) of the 1996 Act is that of persons who are conducting research into the educational achievements of children and who require individual information for that purpose.

Additional persons to whom information collators may provide individual information

8.—(1) For the purposes of sections 537A(5)(b)(i) and 537B(5)(b)(i) of the 1996 Act a prescribed person is—

(a) the relevant local authority;

(b) Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.

(2) A prescribed category for the purposes of sections 537A(5)(b)(ii) and 537B(5)(b)(ii) of the 1996 Act is that of persons who are conducting research into the educational achievements of children and who require individual information for that purpose.

Report to parents

9.—(1) The teacher in charge of a pupil referral unit and the proprietor of an independent school must make available to the parent of each child of compulsory school age to whom it provides funded provision, each school year, a report in writing containing the individual information specified in Schedule 2.

(2) The parent of each child of compulsory school age to whom the teacher in charge of a pupil referral unit or the proprietor of an independent school provides funded provision, is a prescribed person for the purposes of section 537A(2)(b) of the 1996 Act.

(**5**) 1973 (c. 50). Section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19). Sub-sections (4) and (6) of section 8 were repealed by Part I of Schedule 7 to the Employment Act 1989 (c. 38). Sections 8 and 10 were substituted by section 45 of the Trade Union Reform and Employment Rights Act 1993 (c. 19).