WELSH STATUTORY INSTRUMENTS

2004 No. 1805 (W.193)

EDUCATION, WALES

The Education (Pupil Exclusions and Appeals) (Wales) (Miscellaneous Amendments) Regulations 2004

Made - - - -	*13th July 2004*
Coming into force - -	*1st September 2004*

In exercise of the powers conferred on the National Assembly for Wales by sections 52(3), (4) and (5) and 210(7) of the Education Act 2002(**1**), and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(**2**), the National Assembly for Wales makes the following Regulations:

Name, commencement and application

1.—(1) These Regulations are called the Education (Pupil Exclusions and Appeals) (Wales) (Miscellaneous Amendments) Regulations 2004 and come into force on 1st September 2004.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations —

"the 2003 Regulations" ("*Rheoliadau 2003*") means the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003(**3**);

"the 2003 PRU Regulations" ("*Rheoliadau UCD 2003*") means the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003(**4**).

Provision of information

3. In regulation 5(1)(a) of the 2003 Regulations insert the words "date of birth," before the word "gender".

4. In regulation 6(1)(a) of the 2003 PRU Regulations insert the words "date of birth," before the word "gender".

(**1**) 2002 c. 32; *see* section 212(1) for the meaning of "regulations" and "prescribed".
(**2**) 1992 c. 53, amended by paragraph 22 of Schedule 21 to the Education Act 2002.
(**3**) S.I.2003/3227 (W.308).
(**4**) S.I. 2003/3246 (W.321).

Functions of governing body in relation to excluded pupils

5.—(1) For regulation 6(3) of the 2003 Regulations substitute —

"(3) The governing body must consider whether or not the pupil should be reinstated and where they consider that the pupil should be reinstated, they must in addition consider whether he or she should be reinstated immediately or reinstated by a particular date and whether it would not be practical for the head teacher to comply with a direction requiring the reinstatement of the pupil.".

(2) In regulation 6(4), insert after the words "they must" the words ", unless they consider that it would not be practical for the head teacher to comply with a direction requiring the reinstatement of the pupil,".

(3) In regulation 6(6) —

(i) in the Welsh language version substitute for the words "y dylid derbyn disgybl yn ôl" the words "na ddylid derbyn disgybl yn ôl", and

(ii) insert after the words "should not be reinstated" the words ", or, having decided that the pupil should be reinstated, decide not to give a direction to the head teacher requiring the reinstatement of the pupil".

Functions of local education authority in relation to pupils excluded for a fixed period

6.—(1) For regulation 7(3) of the 2003 PRU Regulations substitute —

"(3) The local education authority must consider whether or not the pupil should be reinstated and they must in addition consider whether he or she should be reinstated immediately or reinstated by a particular date and whether it would not be practical for the teacher in charge to comply with a direction requiring the reinstatement of the pupil.".

(2) In regulation 7(4), insert after the words "they must" the words ", unless they consider that it would not be practical for the teacher in charge to comply with a direction requiring the reinstatement of the pupil,".

(3) In regulation 7(6), insert after the words "should not be reinstated" the words ", or, having decided that the pupil should be reinstated, decide not to give a direction to the teacher in charge requiring the reinstatement of the pupil".

Exclusions — standard of proof

7. After regulation 8 of the 2003 Regulations insert —

"**Exclusions — standard of proof**

8A. Where it falls to—

(a) the head teacher, in exercise of the power conferred by section 52(1) of the 2002 Act,

(b) the governing body, in exercise of functions under regulation 6, or

(c) an appeal panel constituted in accordance with paragraph 2 of the Schedule, in exercise of functions under regulation 7,

to establish any fact, any question as to whether that fact is established must be decided on a balance of probabilities.".

8. After regulation 9 of the 2003 PRU Regulations insert —