WELSH STATUTORY INSTRUMENTS

2004 No. 1026 (W.123)

EDUCATION, WALES

The Education (Pupil Information) (Wales) Regulations 2004

Made - - - -	*30th March 2004*
Coming into force - -	*30th April 2004*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by sections 408, 563 and 569(4) and (5) of the Education Act 1996(**1**) and now vested in the National Assembly for Wales(**2**) and after consulting with those persons with whom consultation appeared to the National Assembly to be desirable pursuant to section 408(5) of the Education Act 1996:

Name, commencement and application

1.—(1) These Regulations are called the Education (Pupil Information) (Wales) Regulations 2004 and come into force on 30th April 2004.

(2) These Regulations apply only in relation to Wales.

Interpretation

2.—(1) In these Regulations—

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

"the 2002 Act" ("*Deddf 2002*") means the Education Act 2002(**3**);

"ACCAC" ("*ACCAC*") means the Qualifications, Curriculum and Assessment Authority for Wales or Awdurdod Cymwysterau, Cwricwlwm ac Asesu Cymru(**4**);

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

(**1**) 1996 c. 56. Section 408 was amended by the Education Act 1997 (c. 44), Schedule 7, paragraph 30, the School Standards and Framework Act 1998 (c. 31), Schedule 30, paragraphs 57 and 106, the Learning and Skills Act 2000 (c. 21), Schedule 9, paragraph 57 and the Education Act 2002 (c. 32), Schedule 21, paragraph 46. For the definition of "prescribed" and of "regulations" *see* section 579 of the 1996 Act.
(**2**) *See* the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).
(**3**) 2002 c. 32.
(**4**) *See* section 27 of the Education Act 1997 (c. 44).
(**5**) 2000 c. 21.

"the associated documents" ("*y dogfennau cysylltiedig*") means the documents published by ACCAC, setting out levels of attainment, attainment targets and programmes of study in relation to the relevant subjects, which documents have effect by virtue of the respective orders made under section 108(3)(a) and (b) of the 2002 Act for those subjects for the time being in force;

"attendance record" ("*cofnod presenoldeb*") means the record of a pupil's school attendance contained in the Attendance Register kept in accordance with section 434 of the 1996 Act and the Education (Pupil Registration) Regulations 1995(**6**);

"AVCE" ("*TAAU*") means Advanced Vocational Certificate of Education;

"education welfare officer" ("*swyddog lles addysg*") means any person who is employed by a local education authority, and whose duties include securing the regular attendance at school of pupils of compulsory school age;

"external marking agency" ("*asiantaeth farcio allanol*") means a body nominated by ACCAC and approved by the National Assembly to mark NC tests;

"GCE "A" level""*TAG Safon Uwch*") and "GCE "AS""("TAG Uwch Gyfrannol") mean General Certificate of Education advanced level and advanced subsidiary respectively;

"GCSE" ("*TGAU*") means General Certificate of Secondary Education;

"institution of further education" ("*sefydliad addysg bellach*") means an institution which —

(a) provides further education and is maintained by a local education authority, or

(b) is within the further education sector;

"key stage" ("*cyfnod allweddol*") means any of the periods set out in paragraphs (a) to (d) of section 103(1) of the 2002 Act, and a reference to the first, second, third or fourth key stage is a reference to the periods set out respectively in the said paragraphs (a) to (d);

"LEA number" ("*rhif AALl*") is a combination of numbers allocated to a local education authority which is particular to that authority, determined by the National Assembly;

"maintained school" ("*ysgol a gynhelir*") means a community, foundation or voluntary school or a community or foundation special school (other than one established in a hospital) and, unless the context otherwise requires, a nursery school maintained by a local education authority or a pupil referral unit;

"the National Assembly" ("*y Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"NC tests" ("profion y Cwricwlwm Cenedlaethol") and "NC tasks" ("*tasgau'r Cwricwlwm Cenedlaethol*") mean, respectively, National Curriculum tests and National Curriculum tasks administered to pupils in accordance with the statutory asssessments;

"NQF" ("*NQF*") means the National Qualifications Framework comprising qualifications accredited by ACCAC, the Qualifications and Curriculum Authority and the Northern Ireland Council for the Curriculum Examinations and Assessment and "NQF level" ("*lefel NQF*") means the level(s) to which qualifications are accredited within the NQF;

"relevant subjects" ("*pynciau perthnasol*") means—

(a) in relation to teacher assessment and any key stage, all those subjects in respect of which the pupil or pupils concerned are required to be assessed by teacher assessment;

(b) in relation to NC tests and any key stage, all those subjects in respect of which the pupil or pupils concerned are required to be assessed by the administration of such tests; and

(c) in relation to NC tasks and any key stage, all those subjects in respect of which such tasks are required to be administered to the pupil or pupils concerned,

(**6**) S.I. 1995/2089 as amended by S.I. 1997/2624, S.I. 2001/1109 (W.53), S.I. 2003/3227 (W.308).

in that key stage in accordance with the statutory asssessments;

"responsible person" ("*person cyfrifol*") means—

(a) the head teacher or proprietor of an independent school; or

(b) the teacher in charge of a pupil referral unit; or

(c) the governing body of any other school; or

(d) the person responsible for the conduct of any institution of further education or other place of education or training to which a pupil transfers or may transfer;

"result" ("*canlyniad*") in relation to any assessment under the statutory assessments means (subject to regulation 7(11) to (13)) the result of the assessment as determined and recorded in accordance with those arrangements;

"school day" ("*diwrnod ysgol*") has the meaning given by section 579(1) of the 1996 Act(**7**);

"school number" ("*rhif ysgol*") is a combination of numbers allocated to a school which is particular to that school, determined by the National Assembly;

"special educational needs" ("*anghenion addysgol arbennig*") has the meaning given by section 312(1) of the 1996 Act;

"statutory assessments" ("*asesiadau statudol*") means such assessment arrangements as are specified by the National Assembly in an order made under section 108(3)(c) of the 2002 Act(**8**);

"teacher assessment" ("*asesiad athrawon*") means assessment by a teacher in accordance with the statutory asssessments;

"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 particular to that pupil, by use of a formula determined by the National Assembly; 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.

(2) In these Regulations references to levels of attainment and attainment targets are references to the levels and targets set out in the associated documents.

(3) In these Regulations, unless the context otherwise requires, any reference to a head teacher or governing body is, in relation to a pupil referral unit, a reference to the teacher in charge of the pupil referral unit.

(4) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is a reference to a regulation bearing that number in these Regulations and any reference in a regulation to a numbered paragraph is to a paragraph of the regulation or Schedule bearing that number in which the reference is made, and any reference to a sub-paragraph is a reference to a sub-paragraph of the paragraph in which the reference is made.

Meanings of curricular record and educational record

3.—(1) In these Regulations "curricular record" ("*cofnod cwricwlaidd*") means a formal record of a pupil's academic achievements, the pupil's other skills and abilities and his or her progress in school, as detailed in Schedule 2.

(**7**) Section 579(1) was amended by paragraph 43 of Scedule 7 to the Education Act 1997.

(**8**) The current Orders are the Education (National Curriculum) (Assessment Arrangements for English, Welsh, Mathematics and Science) (Key Stage 1) (Wales) Order 2002 (S.I. 2002/45 (W.4)), the Education (National Curriculum) (Assessment Arrangements for English, Welsh, Mathematics and Science) (Key Stage 2) (Wales) Order 1997 (S.I. 1997/2009) and the Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (Wales) Order 1997 (S.I. 1997/2010), as amended by S.I. 1998/1976 and S.I. 2001/889 (W.40).

(2) In these Regulations "educational record" ("*cofnod addysgol*") means any record of information, including a pupil's curricular record, which—

(a) is processed by or on behalf of the governing body of, or a teacher at, any school specified in paragraph (3);

(b) relates to any person who is or has been a pupil at the school; and

(c) originated from or was supplied by or on behalf of any of the persons specified in paragraph (4),

other than information which is processed by a teacher solely for the teacher's own use.

(3) The schools referred to in paragraph (2)(a) are—

(a) a maintained school; and

(b) a special school which is not maintained by a local education authority.

(4) The persons referred to in paragraph (2)(c) are—

(a) an employee of the local education authority which maintains the school;

(b) in the case of—

(i) a voluntary aided, foundation or foundation special school; or

(ii) a special school which is not maintained by a local education authority,

a teacher or other employee at the school (including an educational psychologist engaged by the governing body under a contract for services);

(c) the pupil to whom the record relates; and

(d) a parent of that pupil(**9**).

Duties of head teacher-curricular records

4. The head teacher of every maintained school and of every special school not maintained by a local education authority must keep a curricular record, updated at least once a year, in respect of every registered pupil at the school.

Duties of head teacher-educational records

5.—(1) Within fifteen school days of receiving a written request by a parent for disclosure of a pupil's educational record, the head teacher of a maintained school and of a special school not maintained by a local education authority must make it available for inspection, free of charge, to the parent.

(2) Within fifteen school days of receiving a written request by a parent for a copy of a pupil's educational record, the head teacher of such a school must give the parent a copy of it on payment of such fee (not exceeding the cost of supply), if any, as the governing body may prescribe.

(3) In every case where the pupil is under consideration for admission to another school (including an independent school) or to an institution of further education or any other place of education or training, the head teacher must transfer the pupil's educational record to the responsible person, free of charge, if that person so requests, within fifteen school days of receiving the request.

(4) The record supplied under paragraph (3) must not include the results of any assessment of the pupil's achievements.

(**9**) This definition of "educational record" is the same as the one contained in Schedule 11 to the Data Protection Act 1998 (c. 29).

(5) When complying with a request for disclosure or a copy of a pupil's educational record under paragraph (1), (2) or (3) of this regulation, a head teacher must not disclose any documents which are subject to any order under section 30(2) of the Data Protection Act 1998(**10**).

Transfer of information when a pupil changes school

6.—(1) In this regulation "common transfer information" ("*gwybodaeth drosglwyddo gyffredin*") means the information listed in Schedule 1.

(2) Where this regulation requires information to be transferred in machine readable form, that requirement may be met by transferring the information—

(a) through a secure internet website provided for that purpose by or on behalf of the National Assembly,

(b) by floppy disk, or

(c) through an intranet provided for that purpose by or on behalf of a local education authority, and for the purposes of this regulation an intranet means a closed network that can only be accessed—

(i) by the local education authority,

(ii) by or on behalf of a governing body of a school within that authority,

(iii) by a teacher at a school within that authority,

save that where a pupil transfers to a maintained school maintained by another local education authority the requirement must be met by transferring the information through a secure internet website provided for that purpose by or on behalf of the National Assembly.

(3) Subject to paragraph (8), where a pupil ceases to be a registered pupil at a maintained school (the "old school") and becomes a registered pupil at another school (the "new school"), the pupil's common transfer information and educational record must be transferred to the head teacher of the new school within fifteen school days after the day on which the pupil ceases to be registered at the old school.

(4) The information and record referred to in paragraph (3) must be transferred by the head teacher of the old school or, where this has been agreed between that head teacher and the local education authority, that authority.

(5) The common transfer information must be transferred in machine readable form.

(6) The educational record may be transferred in machine readable form or in paper form or in a combination of both forms.

(7) Where it is not reasonably practicable for the head teacher of the old school to ascertain the pupil's new school, or where the head teacher is aware that the pupil is moving to a school other than a maintained school in Wales or England, the requirements in paragraphs (3) and (4) of this regulation do not apply but the head teacher of the old school must transfer the common transfer information to a secure internet website provided for that purpose by or on behalf of the National Assembly.

(8) Where a pupil has been registered at a maintained school for less than four weeks, it is to be sufficient compliance for the purposes of paragraphs (3) and (4) if the head teacher of that school or, where applicable, the local education authority transfers such information and record as they have received under this regulation from the school at which the pupil was previously registered in the form in which it was received by them.

(9) For the purposes of paragraph (8), the reference in paragraph (3) to "fifteen school days" is a reference to the number of days after the day on which the pupil ceases to be registered at the school

(**10**) 1998 c. 29.