WELSH STATUTORY INSTRUMENTS

2004 No. 1025 (W.122)

EDUCATION, WALES

The Education (School Performance 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 29(3), 408, 537, 537A(1) and (2) 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 for Wales to be desirable pursuant to section 408(5) of the Education Act 1996:

PART 1

General

Name, commencement and application

1.—(1) These Regulations are called the Education (School Performance 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, except where the context otherwise requires—

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

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

(**1**) 1996 c. 56. Section 29(3) was substituted by paragraph 67 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31). Section 408 was amended by paragraph 30 of Schedule 7 and Schedule 8 to the Education Act 1997 (c. 44), paragraphs 57 and 106 of Schedule 30 and Schedule 31 to the School Standards and Framework Act 1998 and paragraph 57 of Schedule 9 to the Learning and Skills Act 2000 (c. 21). Section 537 was amended by paragraph 37 of Schedule 7 to the Education Act 1997, paragraphs 57 and 152 of Schedule 30 to the School Standards and Framework Act 1998 and paragraph 60 of Schedule 9 to the Learning and Skills Act 2000. Section 537A was substituted by paragraph 153 of Schedule 30 to the School Standards and Framework Act 1998. For the meaning of "prescribed" and "regulations" *see* section 579(1) of the Education Act 1996.

(**2**) *See* the National Assembly for Wales (Transfer of Functions) Order 1999 (1999/672).

(**3**) 2002 c. 32.

"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;

"authority" ("*awdurdod*") means—

(i) in relation to a school maintained by a local education authority that authority; and

(ii) in relation to a non-maintained special school or an independent school, the local education authority in whose area the school is situated;

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

"maintained school" ("*ysgol a gynhelir*") means—

(i) any community, foundation or voluntary school, or

(ii) any community or foundation special school which is not established in a hospital,

but excludes any nursery school;

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

"National Data Collection Agency" ("*Asiantaeth Casglu Data Cenedlaethol*") means a body which, for the purposes of or in connection with the functions of the National Assembly relating to education, is responsible for collating information relating to pupils;

"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 assessments;

"non-maintained special school" ("*ysgol arbenig nas gynhelir*") means a special school which is not maintained by an authority;

"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,

in that key stage in accordance with the statutory assessments;

"reporting school year" ("*blwyddyn adrodd yr ysgol*") means the school year immediately preceding the school year in which information provided to the National Assembly is to be published by the National Assembly or, as the case may be, local education authorities;

"school day" ("*diwrnod ysgol*") has the meaning given by section 579(1) of the 1996 Act(**6**);

"school year" ("*blwyddyn ysgol*") has the meaning given by section 579(1) of the 1996 Act;

(**4**) *See* section 27 of the Education Act 1997.
(**5**) 2000 c. 21.
(**6**) Section 579(1) was amended by paragraph 43 of Schedule 7 to the Education Act 1997.

"special school" ("*ysgol arbennig*") has the meaning given by section 337 of the 1996 Act(**7**);

"Statutory Assessment and Reporting Arrangements guidance" ("*Canllawiau ar yr Asesu Stadudol a'r Trefniadau Adrodd*") means the guidance published by ACCAC each school year on the administration of statutory assessments;

"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 and "level" ("*lefel*") is to be construed in accordance with the provisions of such orders;

"unauthorised absence" ("*absenoldeb heb ei awdurdodi*") means an occasion on which a pupil is recorded as absent without authority pursuant to the Education (Pupil Registration) Regulations 1995 and "authorised absence" ("*absenoldeb wedi'i awdurdodi*") is to be construed accordingly; and

"unique pupil number" ("*Rhif unigryw disgybl*") means a combination of numbers which together with a letter or letters is allocated to a pupil and are particular to that pupil, by use of a formula determined by the National Assembly.

(2) In these Regulations, except where the context otherwise requires—

(a) references to pupils of a particular age are to pupils who attained that age during the period of twelve months ending on the 31st August preceding the commencement of the reporting school year, where the reporting school year begins after that date, or the 31st August which falls within the reporting school year, where the reporting school year begins on or before that date, and who were registered pupils at the school on the third Thursday in January in the reporting school year;

(b) references to approved external qualifications for which pupils at the school were entered include approved external qualifications for which they were entered otherwise than in pursuance of section 402 of the 1996 Act(**8**); and

(c) references to key stages are references to the periods set out in section 103(1) of the 2002 Act.

(3) Where these Regulations require or permit 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 an authority, and for the purposes of this regulation an intranet means a closed network that can only be accessed—

(i) by the 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.

(4) For the purposes of these Regulations any attainment of a pupil determined by an NC test or NC task during a previous school year or any approved external qualification for which a pupil was entered during a previous school year is to be treated as such an attainment or entry during the reporting school year.

(5) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule bearing that number in these Regulations and any reference in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number.

(**7**) Section 337 was substituted by paragraphs 57 and 80 of Schedule 30 to the School Standards and Framework Act 1998.
(**8**) Section 402 was amended by paragraphs 57 and 101 of Schedule 30 to the School Standards and Framework Act 1998 and by paragraph 45 of Schedule 21 to the Education Act 2002.

Qualification of duties

3. The duties of governing bodies, authorities and proprietors to make available or provide information apply only to the extent that that information is available to them in time for it to be reasonably practicable for them to make available, provide or publish that information before the latest occasion on which that information is required to be made available, provided or published, as the case may be.

Revocations and savings

4.—(1) Subject to paragraph (2), the Regulations referred to in Schedule 4 are revoked.

(2) The revocation of the Regulations referred to in Schedule 4 is not to relieve any person of any duty to make available, provide or publish information which has not been performed before the date that these Regulations come into force.

PART 2

Provision of Information by Head Teacher

Provision of information by head teacher to governing body

5. The head teacher of every maintained school must, each year, make available to the governing body information about the matters mentioned in Schedules 1 to 3 for the purpose of enabling the governing body to comply with their obligations in respect of those matters.

PART 3

Provision of Information to the National Assembly and Local Education Authorities

Provision of first key stage assessment results to local education authorities

6. The governing body of every maintained school which, in the reporting school year, has registered pupils in the first key stage who are eligible for statutory assessments must, each year, provide to the authority the information relating to statutory assessments referred to in Schedule 1, where reasonably practicable in machine readable form, as specified in the Statutory Assessment and Reporting Arrangements guidance.

Provision of first key stage assessment results to the National Assembly

7. The authority must by 31st July each year provide the National Assembly with the information relating to statutory assessments referred to in Schedule 1 in relation to all the schools which it maintains which have registered pupils in the first key stage who are eligible for statutory assessments in the reporting school year.

Provision of results of approved external qualifications to the National Assembly

8. The governing body of every maintained school and the proprietor of every non-maintained special school or independent school with pupils aged 15, 16, 17 or 18 must provide the National Assembly with such particulars as the National Assembly requests relating to approved external qualifications for which registered pupils at the school were entered, and such other information as is referred to—

(a) in the case of a school providing information in respect of pupils aged 15, in Part 1 of Schedule 2; or

(b) in the case of a school providing information in respect of pupils aged 16, 17 or 18, in Part 2 of Schedule 2

upon receiving a written request from the National Assembly for such information within the period specified by the National Assembly in such a request.

Provision of information about authorised and unauthorised absence to the National Assembly

9. The governing body of every maintained school and the proprietor of every non-maintained special school or independent school must provide the National Assembly with the information the National Assembly requests about authorised and unauthorised absences for the reporting school year upon receiving a written request from the National Assembly for such information within the period specified by the National Assembly in such a request.

PART 4

Provision of Information

Provision of information about second and third key stage assessments to the National Data Collection Agency

10.—(1) The governing body of every maintained school which, in the reporting school year, has registered pupils in the second key stage who are eligible for statutory assessments, must, each year, on or before the date specified in the Statutory Assessment and Reporting Arrangements guidance for the reporting year, provide to the National Data Collection Agency the information relating to statutory assessments referred to in Part 1 of Schedule 3, where reasonably practicable in machine readable form, specified in the Statutory Assessment and Reporting Arrangements guidance.

(2) The governing body of every maintained school which, in the reporting school year, has registered pupils in the third key stage who are eligible for statutory assessments, must, each year, on or before the date specified in the Statutory Assessment and Reporting Arrangements guidance for the reporting year, provide to the National Data Collection Agency the information relating to statutory assessments referred to in Part 2 of Schedule 3, where reasonably practicable in machine readable form, specified in the Statutory Assessment and Reporting Arrangements guidance.

Provision of information about second and third key stage assessments to the external marking agency

11.—(1) The governing body of every maintained school which, in the reporting school year, has registered pupils in the second or third key stage who are eligible for statutory assessments, must, each year, as soon as reasonably practicable after the last school day on which NC tests are administered to those pupils in each relevant subject, provide the information referred to in Part 3 of Schedule 3 in respect of pupils in the second key stage, and the information referred to in Part 4 of Schedule 3 in respect of pupils in the third key stage, to the external marking agency.

(2) The governing body of every maintained school which, in the reporting school year, has registered pupils who are in the second or third key stage who are eligible for statutory assessments, must, each year, on or before the date specified in the Statutory Assessment and Reporting Arrangements guidance for the reporting year, provide to the external marking agency in machine readable form the information referred to in Part 5 of Schedule 3.