

2011 No. 107(W. 26)

EDUCATION, WALES

The Education (Local Curriculum
for Students Aged 16 to 18) (Wales)
Regulations
2011

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Learning and Skills (Wales) Measure 2009 (“the Measure”) inserted new provisions into Part 2 of the Learning and Skills Act 2000 (“the 2000 Act”). Part 2 of the 2000 Act concerns school sixth forms and further education institutions in Wales. As a result of Part 2 of the Measure the curriculum in school sixth forms and institutions in the further education sector in Wales, are expanded to include the local curriculum entitlements of pupils who have ceased to be of compulsory school age, but who have not yet attained the age of 19. These Regulations make provision as to the elections a student may make, the head teacher’s or principal’s decision as to entitlement, the determination of a pupil’s relevant school or institution and the head teacher’s or principal’s decision to remove an entitlement.

Regulation 3 provides that a request by a pupil for a determination by a head teacher of their relevant school or institution must be made within 15 working days of the start of the spring term. Regulation 3 further provides that a head teacher must make the determination within 5 working days following the head teacher receiving notice of the pupil’s request for such a determination.

Regulation 4 provides that a pupil may not elect to follow a course or courses of study if the aggregate points of such course or courses exceed 200. Such election must be made during the spring term in the year preceding that which the pupil ceases to be of compulsory school age (regulation 5).

Regulation 6 provides for the procedure to be followed by the head teacher or principal when he or

she determines, pursuant to section 33G(1) of the 2000 Act, whether the student is entitled to follow a course or courses of study. Regulation 6 also provides for the procedure to be followed if a student wishes to request the head teacher or a principal to review his or her determination under section 33G(1) of the 2000 Act.

Regulation 7 provides for the procedure to be followed by the head teacher or principal when he or she determines, pursuant to section 33I(1) of the 2000 Act, whether the student is no longer entitled to follow a course or courses of study. Regulation 7 also provides for the procedure to be followed if a student wishes to request the head teacher or principal to review his or her determination under section 33I(1) of the 2000 Act.

Regulation 8 makes provision for determining the time limits for notices under these Regulations.

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Made 20 January 2011

Laid before the National Assembly for Wales
21 January 2011

Coming into force 14 February 2011

The Welsh Ministers in exercise of the powers conferred on them by sections 33D(3), 33E(3), 33G(3), 33I(3), and 152 of the Learning and Skills Act 2000⁽¹⁾ make the following Regulations.

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Local Curriculum for Students Aged 16 to 18) (Wales) Regulations 2011 and they come into force on 14 February 2011.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the 2000 Act” (“*Deddf 2000*”) means the Learning and Skills Act 2000;

“institution” (“*sefydliad*”) means an institution within the meaning given to it by section 33N(1) of the 2000 Act but excludes the institutions listed in Schedule 1;

(1) 2000 c.21. Section 33D was inserted by section 25 of the Learning and Skills (Wales) Measure 2009 (nawm 1). Section 33E was inserted by section 26 of the Learning and Skills (Wales) Measure 2009. Section 33G was inserted by section 28 of the Learning and Skills (Wales) Measure 2009 and section 33I was inserted by section 30 of the Learning and Skills (Wales) Measure 2009.

“key skill qualification” (*“cymhwyster sgil allweddol”*) means a qualification listed as such in the Database of Approved Qualifications in Wales⁽¹⁾ maintained and published by the Welsh Ministers from time to time;

“points” (*“pwyntiau”*) means the points allocated to a course or courses of study by the Database of Approved Qualifications in Wales;

“registered pupil” (*“disgybl cofrestredig”*) has the same meaning as in section 434 of the Education Act 1996⁽²⁾;

“spring term” (*“tymor y gwanwyn”*) means the second school term in the school year for the school at which the pupil is a registered pupil and which occurs in the school year immediately before the school year in which the pupil will cease to be of compulsory school age; and

“working day” (*“diwrnod gwaith”*) means any day other than a Saturday, a Sunday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971⁽³⁾.

Determination of a pupil’s relevant school or institution

3.—(1) A request by a registered pupil for a determination by a head teacher of the pupil’s relevant school or institution under section 33D(1) of the 2000 Act must be made in writing to the head teacher within 15 working days of the start of the spring term.

(2) Subject to paragraph (3) a head teacher must make a determination under section 33D(1) of the 2000 Act of the pupil’s relevant school or institution within 5 working days of receipt of the request by a registered pupil.

(3) Before making a determination under section 33D(1) of the 2000 Act a head teacher must consult—

- (a) the pupil and parent of the pupil;
- (b) the head teacher of any other school as he or she considers necessary;
- (c) the principal of any institution as he or she considers necessary; and
- (d) such other persons as the head teacher thinks fit.

(4) Any notice in writing given by the pupil to the head teacher which states that he or she does not intend to request the head teacher to make a determination under section 33D(1) is final.

(1) The website address for the Database of Approved Qualifications in Wales is www.daqw.org.uk.

(2) 1996 c.56.

(3) 1971 c.80.

Pupil's choices of local curriculum courses

4. A pupil may not elect to follow a course or a combination of courses of study within a local curriculum if the aggregate points of such a course or such combination of courses of study exceed 200 points excluding any points allotted to a course or courses of study leading to a key skill qualification or a Welsh baccalaureate qualification which a pupil has elected to follow.

Period during which a pupil's election must be made

5. A pupil must elect during the spring term to follow a course or courses of study within a local curriculum.

Head teacher's or principal's decision as to entitlement

6.—(1) Where a head teacher or principal of a student's relevant school or institution decides under section 33G(1) of the 2000 Act that a student is not entitled to follow a course or courses of study he or she must do so within whichever is the earlier of—

- (a) 3 working days before the start of the entitlement period, or
- (b) 3 working days before the start of the course or courses of study which the student has elected to follow under section 33E of the 2000 Act.

(2) Where a head teacher or principal of a student's relevant school or institution so decides he or she must within 3 working days of that decision inform the pupil and the parent of the pupil in writing of the following matters—

- (a) of the decision and the reasons for it;
- (b) that the pupil or the parent of the pupil may request the head teacher or principal review that decision;
- (c) the period within which such a request must be made; and
- (d) that the pupil or the parent of the pupil may make representations in writing about that decision to the head teacher or principal.

(3) A request by a pupil or the parent of the pupil under paragraph (2)(b) and any representations under paragraph (2)(d) must be made within 5 working days of his or her receipt of notice of the head teacher's or principal's decision.

(4) Where a pupil or the parent of the pupil requests under paragraph (2)(b) that a head teacher or principal review his or her decision the head teacher or principal must make a determination within 10 working days of

receipt of the request and in so doing he or she must consider—

- (a) the circumstances in which his or her decision was made;
- (b) any written representations made by a pupil or parent of the pupil about that decision; and
- (c) any other circumstances he or she considers relevant.

(5) The head teacher or principal must within 3 working days of his or her determination pursuant to paragraph (4), inform the pupil and the parent of the pupil in writing of it and the reasons for it.

(6) This regulation applies only in relation to the first election a student makes under section 33E(1) of the 2000 Act in accordance with regulation 5 (and not in relation to any subsequent election).

Head teacher's or principal's decision to remove an entitlement

7.—(1) Where a head teacher or principal of a student's relevant school or institution decides under section 33I(1) of the 2000 Act that a student is no longer entitled to follow a course or courses of study, he or she must within 3 working days of that decision inform the student of the following matters—

- (a) of the decision and the reasons for it;
- (b) that the student may request the head teacher or principal review that decision;
- (c) the period within which such a request must be made; and
- (d) that the student may make representations in writing about that decision to the head teacher or principal.

(2) A student is not entitled to follow the course or courses of study from the date of the head teacher's or principal's decision under section 33I(1) of the 2000 Act.

(3) A request by a student under paragraph (1)(b) and any representations under paragraph (1)(d) must be made within 5 working days of his or her receipt of notice of the head teacher's or principal's decision.

(4) Where a student requests under paragraph (1)(b) that a head teacher or principal review his or her decision, the head teacher or principal must make a determination within 10 working days of receipt of the request and in so doing he or she must consider—

- (a) the circumstances in which his or her decision was made;
- (b) any written representations made by a student about that decision; and

(c) any other circumstances he or she considers relevant.

(5) The head teacher or principal must within 3 working days of his or her determination pursuant to paragraph (4), inform the student in writing of it and the reasons for it.

Time limits

8. For the purpose of calculating the periods referred to in regulations 3(1) and (2), 6(2), (3), (4) and (5) and 7(1), (3), (4), and (5), the notice or request is to be taken to have been received by the person in question—

- (a) where the first class post is used, on the second working day after the date of posting;
- (b) where the notice is delivered by hand, on the date of delivery;
- (c) where the electronic mail is used, on the day of sending,

unless the contrary is shown.

Leighton Andrews
Minister for Children, Education and Lifelong Learning, one of the Welsh Ministers

20 January 2011

THE SCHEDULE Regulation 2

**Institutions to which these Regulations
do not apply**

- 1.** The Workers' Educational Association – North Wales District.
- 2.** The Workers' Educational Association – South Wales District.
- 3.** The National Council of Young Men's Christian Associations of Wales.