

2009 No. 3355 (W. 294)

EDUCATION, WALES

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the supply of information about children receiving education which is funded by a local authority outside mainstream schools, usually referred to as 'alternative provision'. Alternative provision includes education other than at school, education at an independent school or at a pupil referral unit. Under regulations 4 and 5 the providers of such education must supply information about individual children to the Welsh Ministers and the local authority which is funding the education when requested. Schedule 1 sets out the items of individual information to be supplied.

Regulation 6 allows the Welsh Ministers to require a relevant local authority, which has received information about individual children pursuant to these Regulations, to pass such information to the Careers Wales companies. Regulation 7 sets out the persons (in addition to information collators) to whom the Welsh Ministers may supply information about individual children. Regulation 8 sets out the persons (in addition to the Welsh Ministers, other information collators and the providers of the alternative provision) to whom an information collator may supply individual information.

Regulation 9 makes provision about the report a teacher in charge of a pupil referral unit and a proprietor of an independent school is required to send each school year to parents of children receiving alternative provision. Schedule 2 sets out the information to be included in the reports.

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;

(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.

“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(1) for the purposes of sections 96 and 97 of the Learning and Skills Act 2000;

“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(2);

“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(3);

“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;

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- (1) 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)).
- (2) 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)).
- (3) 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.

“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.

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(1).

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.

(1) 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).

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.

(3) Nothing in this regulation prevents the individual information specified in Schedule 2 being contained in more than one report provided that, subject to paragraph (5), the provider of the funded provision must each school year send such information by post or otherwise before the end of the summer term.

(4) The period to which a report containing the individual information in Schedule 2 relates must in all cases begin with the later of—

- (a) the date on which the person providing funded provision began providing such education to the child; or
- (b) the end of the period to which the last report on such matters made pursuant to these Regulations related.

(5) Where any of the particulars necessary to provide the information specified in paragraphs 6, 7 or 8 of Schedule 2 are not received by the provider of the funded provision until after the end of the summer term, he or she must make available such information as soon as practicable and in any event not later than the following 30 September.

Leighton Andrews

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

17 December 2009

SCHEDULE 1 regulations 4 and 5

Provision of individual information to the Welsh Ministers and relevant local authority

1. The following information about the child—

- (a) current unique pupil number (if relevant);
- (b) surname;
- (c) first name, or if more than one, each first name;
- (d) middle name, or if more than one, each middle name;
- (e) gender;
- (f) date of birth;
- (g) ethnic group and source of this information;
- (h) national identity and source of this information; and
- (i) national curriculum year group in which the child would be taught if he or she were a registered pupil at a maintained school.

2. The postcode of the home where the child normally resides.

3. Whether, pursuant to section 512(3) and 512ZB(1) of the 1996 Act, the child has applied and been found eligible for free school meals.

4. Whether the child has special educational needs and, if so, confirmation of—

- (a) the child's primary and secondary need identified; and
- (b) the level and type of special educational needs provision forming part of the graduated approach pursuant to the "The Special Educational Needs Code of Practice for Wales", which was issued under section 313 of the 1996 Act and came into force on 1 April 2002, that is being made for the child.

5. Whether the child is a child looked after by the relevant local authority.

6. The type of funded provision attended, that is whether it is—

(1) Substituted, together with sections 512 and 512ZA for section 512, as originally enacted by section 201 of the Education Act 2002 (c.32). Paragraphs (a)(ia) and (b) (ia) of sub-section (4) were inserted by paragraph 16(1) and (3) of Schedule 3 to the Welfare Reform Act 2007 (c.5).

- (a) in a pupil referral unit;
- (b) in an independent school;
- (c) in a hospital (other than a school established in a hospital); or
- (d) provided in a place other than those referred to in sub-paragraphs (a) to (c), and if so, a brief description of the type of provision.

7. The type of funded provision in accordance with paragraph 6 attended by the child, and the number of hours of funded provision which the child received in the week prior to a request by the Welsh Ministers pursuant to regulation 4.

SCHEDULE 2 regulation 9

Provision of individual information to parents of the child

- 1.** Brief particulars of achievements in all subjects and activities forming part of the curriculum.
- 2.** Comments on general progress of the child during the school year.
- 3.** Particulars of the arrangements under which the report may be discussed with the child's teacher.
- 4.** A summary of the child's attendance record during the period to which the information relates showing the number of authorised and unauthorised absences (within the meaning of the Education (Pupil Registration) Regulations 1995) and the number of possible attendances.
- 5.** The results of any teacher assessment.
- 6.** The name of any subject in which the child was entered in respect of an approved external qualification and the grade (if any) achieved.
- 7.** The average number of points scored by the child in such subject examinations entered by the pupil.
- 8.** Details of any unit or credit towards such qualification obtained by the child during the period to which the report relates.