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WELSH STATUTORY INSTRUMENTS

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**2007 No. 3562 (W.312)**

**EDUCATION, WALES**

**The Education (Information About Individual Pupils) (Wales) Regulations 2007**

<i>Made</i>	- - - -	<i>17 December 2007</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>20 December 2007</i>
<i>Coming into force</i>	- -	<i>14 January 2008</i>

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 537A(1), (2) and (4) and 569(4) and (5) of the Education Act 1996<sup>(1)</sup> and now vested in them<sup>(2)</sup> make the following Regulations.

**Title, commencement and application**

1.—(1) The title of these Regulations is the Education (Information About Individual Pupils) (Wales) Regulations 2007 and come into force on 14 January 2008.

(2) These Regulations apply in relation to Wales.

**Revocation**

2. The regulations in Schedule 1 are revoked.

**Interpretation**

3. In these Regulations—

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996;

“the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002<sup>(3)</sup>;

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(1) 1996 c. 56. Section 537A was inserted by section 20 of the Education Act 1997 (c. 44) and substituted by the School Standards and Framework Act 1998 (c. 31), Schedule 30, paragraph 153.

(2) The functions of the Secretary of State under these sections 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).

(3) 2002 c. 32.

“child looked after by a local authority” (*plentyn sy'n derbyn gofal gan awdurdod lleol*) has the meaning assigned to it by section 22(1) of the Children Act 1989(4);

“GCE “A” level examinations” (*arholiadau TAG Safon Uwch*) and “GCE “AS” examinations” (*arholiadau Uwch Gyfrannol*) mean General Certificate of Education Advanced Level examinations and General Certificate of Education Advanced Subsidiary examinations respectively;

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

“GNVQ” (*GNVQ*) means General National Vocational Qualification;

“individual pupil information” (*gwybodaeth am ddisgyblion unigol*) means information within the meaning of section 537A(9) of the 1996 Act, namely information relating to and identifying individual pupils or former pupils (at schools in Wales), whether obtained under section 537A(1) of the 1996 Act or otherwise;

“information collator” (*cydlynnydd gwybodaeth*) means an information collator within section 537A(9) of the 1996 Act, namely any body which, for the purposes of or in connection with the functions of the Welsh Ministers relating to education, is responsible for collating or checking information relating to pupils;

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

“learning activity reference” (*cyfeirnod gweithgaredd dysgu*) means a combination of numbers which together with a letter are allocated to a course of study or other learning activity and are particular to that course or learning activity, and are determined by the Welsh Ministers;

“learning difficulty” (*anhawster dysgu*) has the meaning given to it in section 312(2) of the 1996 Act(5);

“permanently excluded” (*wedi ei wahardd yn barhaol*) in relation to a pupil means a pupil who has been permanently excluded from a school on disciplinary grounds;

“permanent exclusion date” (*dyddiad gwahardd parhaol*) means the date on which the name of a permanently excluded pupil is deleted from the register;

“register” (*cofrestr*) means the register of pupils kept under section 434(6) of the 1996 Act and in accordance with the Education (Pupil Registration) Regulations 1995(7);

“school” (*ysgol*) means a school maintained by a local education authority, but does not include a pupil referral unit;

“school sessions” (*sesiynau ysgol*) is to be interpreted in accordance with regulation 4 of the Education (School Day and School Year) (Wales) Regulations 2003(8);

“school year” (*blwyddyn ysgol*) means the period beginning with the first school term to begin after July and ending with the beginning of the first such term to begin after the following July;

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(4) 1989 c. 41. Section 22(1)(b) was amended by paragraph 19 of Schedule 5 to the Local Government Act 2000 (c. 22), and by section 2(1) and (2) of the Children (Leaving Care) Act 2000 (c. 35), and by section 116(2) of the Adoption and Children Act 2002 (c. 38).

(5) As amended by paragraphs 1 and 56 of Schedule 9 to the Learning and Skills Act 2000 (c. 21) and by paragraphs 2 and 3 of Schedule 1 to the Education and Inspections Act 2006 (c. 40). Sub-section (2)(c) was amended by paragraphs 23(a) and (b) of Schedule 7 and Schedule 8 to the Education Act 1997 (c. 44).

(6) Sub-section (4)(c)(i) was amended by paragraph 111(a) of Schedule 30 to the School Standards and Framework Act 1998 (c. 31). Sub-section (4)(c)(ii) was repealed by paragraph 111(b) of Schedule 31 to the School Standards and Framework Act 1998.

(7) S.I. 1995/2089.

(8) S.I. 2003/3231 (W.311).

“sixth form pupil” (“*disgybl chweched dosbarth*”) means a pupil at a school, which is not a special school, who is in receipt of education suitable to the requirements of pupils above compulsory school age;

“special school” (“*ysgol arbennig*”) has the meaning given by section 337 of the 1996 Act<sup>(9)</sup>;

“special educational needs” (“*anghenion addysgol arbennig*”) has the meaning given to it by section 312 of the 1996 Act;

“unauthorised absence” (“*absenoldeb nas awdurdodwyd*”) 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 a awdurdodwyd*”) is to be construed accordingly; and

“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 Welsh Ministers.

#### **Provision of information by schools maintained by local education authorities to their local education authorities**

4. Within fourteen days of receiving a request in writing from the local education authority by which a school is maintained, the governing body must provide to the authority in machine readable format, through a secure internet website provided for that purpose by the Welsh Ministers, such of the information referred to in Schedule 2 to these Regulations as is so requested.

#### **Prescribed Persons**

5.—(1) For the purposes of section 537A(4) of the 1996 Act, the Welsh Ministers prescribe as a person to whom they may provide individual pupil information —

- (a) any person referred to in paragraph (2) below; and
- (b) any person falling within the category referred to in paragraph (3) below.

(2) The persons referred to in paragraph (1)(a) above are—

- (a) the local education authority which maintains the school at which the pupil who is the subject of that information is or was registered or, in the case of a school which is not so maintained, the local education authority for the area in which the school is situated, at which the pupil who is the subject of that information is or was registered;
- (b) a person holding the Office of Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru;
- (c) Local Government Data Unit-Wales; and
- (d) the Careers Wales companies established to provide careers services in Wales under sections 2, 8, and 10 of the Employment and Training Act 1973<sup>(10)</sup>.

(3) The category referred to in paragraph (1)(b) above is that of persons conducting research into the educational achievements of pupils and who require individual pupil information for that purpose.

(4) For the purposes of section 537A(5)(b) of the 1996 Act, the Welsh Ministers prescribe as a person to whom an information collator may provide individual pupil information—

- (a) any person referred to in paragraph (6) below; and

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<sup>(9)</sup> Section 337 was substituted by paragraph 80 of Schedule 30 to the School Standards and Framework Act 1998.

<sup>(10)</sup> 1973 c. 50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19). Section 2(4) and (6) were repealed by Part 1 of Schedule 7 to the Employment Act 1989 (c. 38). Section 2(3A) and (3B) were inserted by section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19). Sections 8 and 10 were substituted by section 45 of the Trade Union Reform and Employment Rights Act 1993.

- (b) any person falling within the category referred to in paragraph (7) below.
- (5) The individual pupil information which an information collator may so provide, at such times as the Welsh Ministers may determine, in accordance with section 537A(5)(b) of the 1996 Act, is any such information relating to the educational achievements of pupils in—
- (a) any National Curriculum assessment of pupils in the first, second or third key stage;
  - (b) any GCSE subjects;
  - (c) any GCE “A” level examinations;
  - (d) any GCE “AS” examinations;
  - (e) any GNVQ subjects; and
  - (f) any course of study provided to pupils of compulsory school age in any school maintained by a local education authority which leads to a qualification which is approved by the Welsh Ministers or a body designated by the Welsh Ministers under section 99 of the Learning and Skills Act 2000<sup>(11)</sup> (other than a qualification of the kind referred to in subparagraph (b) or (e) above).
- (6) The persons referred to in paragraph (4)(a) above are—
- (a) the local education authority which maintains the school at which the pupil who is the subject of that information is or was registered or, in the case of a school which is not so maintained, the local education authority for the area in which the school is situated, at which the pupil who is the subject of that information is or was registered; and
  - (b) a person holding the Office of Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.
- (7) The category referred to in paragraph (4)(b) above is that of persons conducting research into the educational achievements of pupils and who require individual pupil information for that purpose.

17 December 2007

*Jane Hutt*  
The Minister for Children, Education, Lifelong  
Learning and Skills, one of the Welsh Ministers

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<sup>(11)</sup> 2000 c. 21. Sub-sections 6 and 7 were repealed by article 9(1), paragraph 30 of Schedule 1 to 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).

SCHEDULE 1

(Regulation 2)

REVOCATIONS

<i>Regulations revoked</i>	<i>References revocation</i>	<i>Extent of</i>
The Education (Information About Individual Pupils) (Wales) Regulations 2003	<a href="#">SI 2003/3237 (W.317)</a>	The whole regulation
The Education (Individual Pupil Information) (Prescribed Persons) (Wales) Regulations 2004	<a href="#">SI 2004/549 (W.53)</a>	The whole regulation
The Education (Information About Individual Pupils) (Wales) (Amendment) Regulations 2005	<a href="#">SI 2005/35 (W.2)</a>	The whole regulation
The Education (Information About Individual Pupils) (Wales) (Amendment) Regulations 2006	<a href="#">SI 2006/30 (W.4)</a>	The whole regulation

SCHEDULE 2

(Regulation 4)

Provision of Information about Individual Pupils

**PART 1**

**All Pupils**

1. The following information about the pupil—
  - (a) current unique pupil number and, where the school has held a previous unique pupil number for that pupil, the previous number;
  - (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;
  - (h) national identity;
  - (i) date of admission to the school; and
  - (j) National Curriculum year group in which the pupil is taught.
2. The postcode of the home where the pupil normally resides.

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3. Whether the information as to the pupil's ethnic group and national identity provided by virtue of this Part was provided by—
  - (a) the pupil;
  - (b) a parent;
  - (c) the school;
  - (d) a former school; or
  - (e) any other source.
4. The pupil's level of fluency in the Welsh language.
5. Whether the pupil studies Welsh as a first or second language.
6. Whether the information as to the pupil's level of fluency in the Welsh language provided by virtue of this Part was provided by—
  - (a) the pupil;
  - (b) a parent;
  - (c) the school;
  - (d) a former school; or
  - (e) any other source.
7. Whether the pupil studies any subject, other than Welsh as a first or second language, through the medium of Welsh.
8. Whether, pursuant to sections 512(3) and 512ZB of the 1996 Act<sup>(12)</sup>, the pupil has applied and been found eligible for free school meals.
9. Whether the pupil has special educational needs and, if so, confirmation of—
  - (a) the pupil's primary need and any secondary need identified;
  - (b) the level and the type of special educational needs provision forming part of the graduated approach adopted pursuant to "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 that pupil; and
  - (c) the support being provided.
10. Where the pupil is, to the knowledge of the governing body, a child looked after by the local authority, that fact and the name of the local authority.
11. Whether the pupil has been, to the knowledge of the governing body, a child looked after by the local authority whilst on the school's register and, if so, the name of the local authority by which the pupil was most recently looked after.
12. In the case of a special school that is not a special school established in a hospital whether the pupil boards at the school and, if so, whether the pupil boards for seven nights per week or less than seven nights per week.
13. Whether the pupil is a registered pupil at one school or more than one school and, where the pupil is registered as a pupil at more than one school, whether the return is being made by the school that the pupil attends for the majority of his or her time.
14. Whether the pupil is part-time, and, for the purposes of this paragraph, "part-time" ("*rhan-amser*") means that the pupil is attending fewer than ten school sessions in any week during which the school meets.

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(12) Sections 512 and 512ZB were substituted by section 202(1) of the 2002 Act.

15. In the case of a school which is not a special school, whether the pupil is receiving education in—

- (a) a nursery class;
- (b) a special class which has been so designated by the local education authority or so organised by the school; or
- (c) a mainstream class that has not been designated as a special class by the local education authority or organised as a special class by the school.

16. The total number of—

- (a) school sessions in the school year during which the pupil was registered at the school;
- (b) such sessions in the school year attended by the pupil; and
- (c) the number of authorised and unauthorised absences for the pupil.

## PART 2

### Sixth Form Pupils

1. The following information about each person who is, or was at any previous time during the school year in which the request for the information was made, a pupil in the school's sixth form—

- (a) whether the pupil is studying towards a Welsh Bacalaureate Qualification;
- (b) the title of each learning activity the pupil is studying; and
- (c) whether the pupil was screened to identify any basic skills needs for literacy and numeracy at the beginning and end of the pupil's programme of learning activities in the sixth form and, if so whether any basic skills in relation to each of literacy and numeracy were—
  - (i) not assessed because no basic skills were identified when the pupil was screened; or
  - (ii) assessed and the pupil's basic skills were identified as being—
    - (aa) below entry level,
    - (bb) entry level 1,
    - (cc) entry level 2,
    - (dd) entry level 3,
    - (ee) level 1, or
    - (ff) above level 1; or
  - (iii) not known or the pupil refused to be assessed.
- (d) what support was offered to the pupil and what support the pupil accepted where the pupil has been assessed under sub-paragraph (c)(ii) and the basic skills of the pupil were identified as being below entry level 1.

2. In relation to each learning activity the pupil is studying—

- (a) the learning activity reference;
- (b) the date the pupil commenced the learning activity;
- (c) the expected end date of the learning activity;
- (d) the identity of the provider of the learning activity;
- (e) whether the learning activity is delivered through the medium of English, the medium of Welsh, or bilingually through the media of English and Welsh;

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- (f) whether the pupil has a learning difficulty or a disability, or both, and if so whether the pupil is undertaking a discrete learning activity or a mainstream learning activity;
  - (g) whether the pupil is continuing to study or has completed or withdrawn from the learning activity; and
  - (h) whether the pupil has completed or withdrawn from the learning activity, the date upon which the pupil completed or withdrew from the learning activity and whether the pupil has begun to study a new learning activity.
3. The following information about a pupil who during the school year in which the request for information is made stopped attending the school's sixth form—
- (a) the date the pupil left the school; and
  - (b) the reason for the pupil leaving the school, if known.

## **PART 3**

### **Excluded Pupils**

1. The following information about each pupil permanently excluded from the school and whose permanent exclusion date was in the year ending on 31 August preceding the date on which the request for information is made—
- (a) current unique pupil number;
  - (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; and
  - (g) the date the permanent exclusion began.

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### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations revoke the Education (Information About Individual Pupils) (Wales) Regulations 2003 and the Education (Individual Pupil Information) (Prescribed Persons) (Wales) Regulations 2004 and substantially re-enact them as amended. These Regulations require the governing body of any maintained school on receiving a written request from the local education authority by which the school is maintained to supply within fourteen days such of the information referred to in the Schedule as may be requested by the authority in respect of pupils at the school.

Regulation 5 prescribes which persons may be provided with individual pupil information by the Welsh Ministers under section 537A(4) of the Education Act 1996 and which individual pupil information may be provided by “information collators”. Applying the definition of an information collator in section 537A(9) of the Education Act 1996 to Wales, an information collator is any body

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which, for the purposes of or in connection with the education functions of the Welsh Ministers, is responsible for collating or checking information relating to pupils. The information which they may provide by these Regulations relates to the educational achievements of pupils in any GCE “A” level examinations, any GCE “AS” examinations, any GNVQ subjects and any course of study provided to pupils of compulsory school age in a school maintained by a local education authority leading to a qualification which is approved by the Welsh Ministers or by a body designated by the Welsh Ministers under section 99 of the Learning and Skills Act 2000.