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WELSH STATUTORY INSTRUMENTS

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**2002 No. 152**

**The Education (Special Educational Needs) (Wales) Regulations 2002**

**PART 1**

**GENERAL**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Education (Special Educational Needs) (Wales) Regulations 2002.

(2) These Regulations shall come into force on 1st April 2002.

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

**Interpretation**

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Education Act 1996;

“annual review” (“*adolygiad blynyddol*”) means a review of a child’s statement of special educational needs carried out within 12 months of making the statement or the previous review under section 328(5)(b) of the Act;

“assessment” (“*asesiad*”) means an assessment of a child’s educational needs under section 323 of the Act;

“authority” (“*awdurdod*”) means a local education authority;

“Careers Service” (“*Gwasanaeth Gyrfaoedd*”) means a body (whether or not having a distinct legal personality) established to provide careers services under sections 8 to 10 of the Employment and Training Act 1973(1);

“early education provider” (“*darparnydd addysg gynnar*”) means a provider of relevant nursery education except that it shall not include an authority in respect of a maintained nursery school;

“head of SEN” (“*pennaeth AAA*”) means the person responsible for co-ordinating the day to day provision of education for pupils with special educational needs;

“head teacher” (“*pennaeth*”) includes any person to whom the duties or functions of a head teacher under these Regulations have been delegated by the head teacher in accordance with regulation 3;

“health authority” (“*awdurdod iechyd*”) has the same meaning as in the National Health Service Act 1977 (2);

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(1) 1973 c. 50. Sections 8, 9 and 10 were substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 45.  
(2) 1977 c. 49. Amended by the Health Authorities Act 1995 (c. 17) and the Health Act 1999 (c. 32).

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

“parent partnership services” (“*gwasanaethau partneriaeth rhieni*”) means the arrangements made by an authority under section 332A of the Act for the provision of advice and information about matters relating to special educational needs to parents of children with special educational needs;

“social services authority” (“*awdurdod gwasanaethau cymdeithasol*”) means a local authority for the purposes of the Local Authority Social Services Act 1970<sup>(3)</sup> acting in the discharge of such functions as are referred to in section 1A of that Act;

“statement” (“*datganiad*”) means a statement of a child’s special educational needs made under section 324 of the Act ;

“target” (“*targed*”) means the knowledge, skills and understanding which a child is expected to have by the end of a particular period;

“tenth year of compulsory education” (“*degfed flwyddyn o addysg orfodol*”) means the ninth school year after the school year in which a child reaches compulsory school age;

“transition plan” (“*cynllun trosiannol*”) means a document which sets out the appropriate arrangements for a young person during the period beginning with the commencement of the tenth year of compulsory education and ending when aged 19 years, including arrangements for special educational provision and for any other necessary provision, for suitable employment and accommodation and for leisure activities, and which will facilitate a satisfactory transition from childhood to adulthood;

“Tribunal” (“*Tribiwnlys*”) means the Special Educational Needs Tribunal having the jurisdiction granted to it by section 333 of the Act;

“working day” (“*diwrnod gwaith*”) means a day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday within the meaning of the Banking and Financial Dealings Act 1971<sup>(4)</sup>;

“the 1994 Regulations” (“*Rheoliadau 1994*”) means the Education (Special Educational Needs) Regulations 1994<sup>(5)</sup>.

(2) The expressions used in these Regulations set out in the first column of the table below have the meaning given by (or, as the case may be, are to be interpreted in accordance with), the provisions referred to in the second column of that table:

“compulsory school age” (“ <i>oedran ysgol gorfodol</i> ”)	Section 5 of the Act
“maintained school” (“ <i>ysgol a gynhelir</i> ”)	Section 312 of the Act
“parent” (“ <i>rhiant</i> ”)	Section 576 of the Act
“qualified teacher” (“ <i>athro neu athrawes gymwysedig</i> ”)	Section 218 of the Education Reform Act 1988 <sup>(6)</sup>
“relevant nursery education” (“ <i>addysg feithrin berthnasol</i> ”)	Section 509A(5) of the Act
“responsible body” (“ <i>corff cyfrifol</i> ”)	Section 329A(13) of the Act
“school day” (“ <i>diwrnod ysgol</i> ”)	Section 579(1) of the Act

<sup>(3)</sup> 1970 c. 42. Section 1A was inserted by the Local Government Act 2000 (c. 22), s102(3).

<sup>(4)</sup> 1971 c. 80.

<sup>(5)</sup> S.I.1994/1047.

<sup>(6)</sup> 1988 c. 40.

“school year” (“ <i>blwyddyn ysgol</i> ”)	Section 579(1) of the Act
“special school” (“ <i>ysgol arbennig</i> ”)	Section 337 of the Act
“young offender institution” (“ <i>sefydliad tramgwyddwyr ifanc</i> ”)	Section 43 of the Prison Act 1952(7)

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(3) In these Regulations any reference to the health authority or the social services authority is, in relation to a particular child, a reference to the health authority or social services authority in whose area that child lives.

- (4) Where a thing is required to be done under these Regulations—
- (a) within a period after an action is taken, the day on which that action was taken shall not be counted in the calculation of that period, and
  - (b) within a period and the last day of that period is not a working day, the period shall be extended to include the following working day.
- (5) Unless the context otherwise requires references in these Regulations—
- (a) to a section are references to a section of the Act;
  - (b) to a Schedule are references to a Schedule of the Act;
  - (c) to a regulation are references to a regulation in these Regulations.

### **Delegation of functions**

3. Where a head teacher has any functions or duties under these Regulations he or she may delegate those functions or duties—

- (a) generally to a member of the staff of the school who is a qualified teacher, or
- (b) in a particular case to a member of the staff of the school who teaches the child in question.

### **Notices**

4. Any notice required to be given by these Regulations shall be given in writing.

### **Service of documents**

5.—(1) Where any provision in Part IV of the Act or in these Regulations authorises or requires any document to be served or sent to a person or any notice to be given to a person the document may be served or sent or the notice may be given by properly addressing, pre-paying and posting a letter containing the document or notice.

- (2) For the purposes of this regulation, the proper address of a person is—
- (a) in the case of the child’s parent, the parent’s last known address;
  - (b) in the case of a head teacher or other member of the staff of a school, the school’s address;
  - (c) in the case of any other person, the last known address of the place where the person carries on business, profession or other employment.

(3) Where first class post is used, the document or notice shall be treated as served, sent or given on the second working day after the date of posting, unless the contrary is shown.

(4) Where second class post is used, the document or notice shall be treated as served, sent or given on the fourth working day after the date of posting, unless the contrary is shown.

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(5) The date of posting shall be presumed, unless the contrary is shown, to be the date shown in the post-mark on the envelope in which the document is contained.