
WELSH STATUTORY INSTRUMENTS

2024 No. 26

The Independent Schools (Provision of Information) (Wales) Regulations 2024

PART 1

GENERAL

Title, coming into force and application

1.—(1) The title of these Regulations is the Independent Schools (Provision of Information) (Wales) Regulations 2024, and they come into force on 14 February 2024.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996⁽¹⁾;

“the 1997 Act” (“*Deddf 1997*”) means the Police Act 1997⁽²⁾;

“the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002;

“the 2006 Act” (“*Deddf 2006*”) means the Safeguarding Vulnerable Groups Act 2006⁽³⁾;

“the 2018 Act” (“*Deddf 2018*”) means the Additional Learning Needs and Education Tribunal (Wales) Act 2018⁽⁴⁾;

“the 2003 Regulations” (“*Rheoliadau 2003*”) means the Independent Schools (Provision of Information) (Wales) Regulations 2003⁽⁵⁾;

“additional learning needs” (“*anghenion dysgu ychwanegol*”) has the meaning given in section 2 of the 2018 Act;

“additional learning provision” (“*darpariaeth ddysgu ychwanegol*”) has the meaning given in section 3 of the 2018 Act;

“application” (“*cais*”) means an application to the registration authority for the registration of an independent school made by the proprietor pursuant to section 160(1)(b) of the 2002 Act;

“DBS certificate” (“*tystysgrif GDG*”) means an enhanced criminal record certificate issued under section 113B(1)⁽⁶⁾ of the 1997 Act, which includes, in such cases as are from time to time prescribed under section 113BA(1) of that Act, suitability information relating to children;

(1) 1996 c. 56.

(2) 1997 c. 50.

(3) 2006 c. 47.

(4) 2018 anaw 2.

(5) S.I. 2003/3230 (W. 310).

(6) Section 113B was inserted into the Police Act 1997 (c. 50) by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15). Section 113B(1) was amended by articles 36 and 37(c) of the Protection of Freedoms Act 2012 (Disclosure and

“DBS up-date service” (“*gwasanaeth diweddaru’r GDG*”) means the service operated by the Disclosure and Barring Service that provides relevant “up-date information” within the meaning given in section 116A(8)(b)(i)(7) or 116A(8)(c)(i) of the 1997 Act;

“independent school” (“*ysgol annibynnol*”) has the meaning given in section 463 of the 1996 Act(8);

“individual development plan” (“*cynllun datblygu unigol*”) has the meaning given in section 10 of the 2018 Act;

“local authority” (“*awdurdod lleol*”) has the meaning given in section 579(1) of the 1996 Act(9);

“looked after by a local authority” (“*sy’n derbyn gofal gan awdurdod lleol*”) has the meaning given in section 74(1) of the Social Services and Well-being (Wales) Act 2014(10) or, as the case may be section 22(1) of the Children Act 1989(11);

“proprietor” (“*perchennog*”) has the meaning given in section 579(1)(12) of the 1996 Act;

“pupil” (“*disgybl*”) has the meaning given in section 3(1) of the 1996 Act(13);

“the register” (“*y gofrestr*”) means the register of independent schools kept by the registration authority under section 158(3)(14) of the 2002 Act;

“registered independent school” (“*ysgol annibynnol gofrestredig*”) means an independent school whose name is entered in the register;

“school year” (“*blwyddyn ysgol*”) has the meaning given in section 579(1) of the 1996 Act(15);

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

“special educational provision” (“*darpariaeth addysgol arbennig*”) has the meaning given in section 312 of the 1996 Act.

(2) Any reference in these Regulations to a person employed at an independent school is a reference to a person—

- (a) providing education at an independent school;
- (b) taking part in the management of an independent school, or
- (c) carrying on work which—
 - (i) brings that person regularly into contact with children who are pupils at the independent school, and
 - (ii) is carried out at the request of or with the consent of the proprietor of an independent school (whether or not under a contract).

(3) For the purposes of paragraph 23(d) of the Schedule, a DBS certificate or DBS up-date service check is only relevant where an individual is or will be engaging in—

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- Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), sections 97(2), 112(2) of and Part 8 of Schedule 8 to the Policing and Crime Act 2009 (c. 26) and section 80(1) of the Protection of Freedoms Act 2012 (c. 9).
 - (7) Section 116A was inserted by section 83 of the Protection of Freedoms Act 2012 (c. 9) and amended by articles 36 and 37(g) of the Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006).
 - (8) Section 463 was substituted by section 172 of the Education Act 2002 (c. 32). Subsection (1) was amended by section 26 of and paragraph 4 of Schedule 1 to the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2) and by S.I. 2010/1158 and S.I. 2016/463 (W. 131). There are other amending instruments but none is relevant to these Regulations.
 - (9) Definition of “local authority” was substituted by article 3(1) and (2)(b) of S.I. 2010/1158.
 - (10) 2014 anaw 4.
 - (11) 1989 c. 41. Section 22(1) was amended by regulations 55 and 69(a) of S.I. 2016/413 (W. 131).
 - (12) Definition of “proprietor” was amended by section 140(1) of and paragraph 183(a)(iii) of Schedule 30 to the School Standards and Framework Act 1998 (c. 31). There are other amending instruments not relevant to these Regulations.
 - (13) Section 3(1) was amended by section 57(1) of and paragraph 9 of Schedule 7 to the Education Act 1997 (c. 44).
 - (14) Section 158(3) was amended by section 169(1) of and Schedule 1, paragraphs 13 and 17(b) to the Education and Skills Act 2008 (c. 25).
 - (15) Definition of “school year” was inserted by section 57(1) of and paragraph 43 of Schedule 7 to the Education Act 1997 (c. 44).

- (a) regulated activity within the meaning of Part 1 of Schedule 4 to the 2006 Act, or
- (b) regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the 2006 Act as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012.

Application for registration of an independent school

3. Every application must—

- (a) be in the form of an online application which is accessed from the pages of the website maintained by the Welsh Government which have been established for the purpose of notifying applicants about the procedure for registration under section 158(1) and (3) of the 2002 Act,
- (b) state the first date on which the proprietor intends the independent school to admit pupils,
- (c) contain the information specified in Part 2 of the Schedule, and
- (d) contain a certificate signed by the proprietor or by a person authorised by the proprietor to give the certificate on the proprietor’s behalf that, to the best of their knowledge and belief, the statements made in the application are accurate.

Initial return

4.—(1) If requested to do so by the registration authority, the proprietor of a registered independent school must provide the registration authority with an initial return for the independent school.

(2) Each initial return must—

- (a) be in the form of an online application which is accessed from the pages of the website maintained by the Welsh Government which have been established for this purpose,
- (b) be made up to the date specified by the registration authority,
- (c) contain the information specified in Part 3 of the Schedule, and
- (d) contain a certificate signed by the proprietor or by a person authorised by the proprietor to give the certificate on the proprietor’s behalf that, to the best of their knowledge and belief, the statements made in the initial return are accurate.

(3) An initial return must be provided within the period of 90 days beginning with—

- (a) the admission date, or
- (b) where the registration authority’s request for the initial return is made after the admission date, the date of the request.

(4) The “admission date” is the first date on which—

- (a) five or more pupils are admitted to the school, if the school is an independent school by virtue of section 463(1)(a) of the 1996 Act, or
- (b) one pupil is admitted to the school, if the school is an independent school by virtue of section 463(1)(b) of that Act.

Annual return

5.—(1) In every school year the proprietor of a registered independent school must deliver to the registration authority an annual return for that independent school within 30 days of being requested to do so by the registration authority.

(2) Each annual return must—

- (a) be in the form of an online application which is accessed from the pages of the website maintained by the Welsh Government which have been established for this purpose,
- (b) be made up to the date specified by the registration authority,
- (c) contain the information specified in Part 4 of the Schedule, and
- (d) contain a certificate signed by the proprietor or by a person authorised by the proprietor to give the certificate on the proprietor's behalf that, to the best of their knowledge and belief, the statements made in the annual return are accurate.

Removal of an independent school from the register

6. If the registration authority is satisfied that the proprietor of an independent school has failed to comply with any requirement specified in regulation 4 or 5, it may remove the independent school from the register.

Offence

7. If the proprietor of an independent school fails to comply with any requirement specified in regulation 4 or 5 they are guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Revocations

8. The Independent Schools (Provision of Information) (Wales) Regulations 2003 are revoked.

9. The Independent Schools (Miscellaneous Amendments) (Wales) Regulations 2007(16) are revoked.

10. The Independent Schools (Provision of Information) (Wales) (Amendment) Regulations 2021(17) are revoked.

Consequential Amendments

11. The Education (Miscellaneous Amendments relating to Safeguarding Children) (Wales) Regulations 2009(18) are amended as follows—

- (a) omit regulation 4;
- (b) omit regulation 5.

Transitional Provision

12. Where before the coming into force of these Regulations—

- (a) a proprietor is required to deliver a return under regulation 4 of the 2003 Regulations, or
- (b) an annual return is requested by the registration authority under regulation 5 of the 2003 Regulations,

the 2003 Regulations continue to have effect in relation to that return, any decision of the registration authority to remove from the register the independent school in relation to which the return has been made and any appeal against that decision.

(16) S.I. 2007/947 (W. 81).

(17) S.I. 2021/217 (W. 54).

(18) S.I. 2009/2544 (W. 206).

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Jeremy Miles
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of the Welsh Ministers