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STATUTORY INSTRUMENTS

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**2009 No. 3256 (W.284)**

**EDUCATION, WALES**

**The Education (Local Curriculum for Pupils  
in Key Stage 4) (Wales) Regulations 2009**

<i>Made</i>	- - - -	<i>8 December 2009</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>10 December 2009</i>
<i>Coming into force</i>	- -	<i>1 January 2010</i>

The Welsh Ministers in exercise of the powers conferred on them by sections 116A(5), 116D(2), 116F(3), 116H(3), and 210 of the Education Act 2002(1) make the following Regulations.

**Title, commencement and application**

1.—(1) The title of these Regulations is the Education (Local Curriculum for Pupils in Key Stage 4) (Wales) Regulations 2009 and they come into force on 1 January 2010.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2. In these Regulations—

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

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

“local authority area A” (“*ardal awdurdodau lleol A*”) consists of Blaenau Gwent County Borough Council, Caerphilly County Borough Council, Cardiff Council, Denbighshire County Council, Monmouthshire County Council, Newport City Council, City and County of Swansea Council, Vale of Glamorgan Council, Wrexham County Borough Council;

“local authority area B” (“*ardal awdurdodau lleol B*”) consists of Carmarthenshire County Council, Neath Port Talbot County Borough Council, Pembrokeshire County Council, Rhondda Cynon Taff County Borough Council, Torfaen County Borough Council;

“local authority area C” (“*ardal awdurdodau lleol C*”) consists of Isle of Anglesey County Council, Bridgend County Borough Council, Ceredigion County Council, Conwy County

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(1) 2002 c. 32. Section 116A was inserted by section 4 of the [Learning and Skills \(Wales\) Measure 2009](#) (nawm 1). Section 116D was inserted by section 7 of the Learning and Skills (Wales) Measure 2009. Section 116F was inserted by section 9 of the Learning and Skills (Wales) Measure 2009 and section 116G was inserted by section 10 of the Learning and Skills (Wales) Measure 2009.

Borough Council, Flintshire County Council, Gwynedd Council, Merthyr Tydfil County Borough Council, Powys County Council;

“key skill qualification” (“*cymhwyster sgil allweddol*”) means a qualification listed as such in the Database of Approved Qualifications in Wales<sup>(2)</sup> maintained and published by the Welsh Ministers from time to time;

“NQF” (“*NQF*”) means the National Qualifications Framework comprising qualifications accredited by the Welsh Ministers, the Qualifications and Curriculum Authority and the Council for the Curriculum, Examinations and Assessment in Northern Ireland;

“NQF level” (“*lefel NQF*”) means the level or levels to which qualifications are accredited within the NQF;

“points” (“*pwytiau*”) 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<sup>(3)</sup>;

“relevant person” (“*person perthnasol*”) means both the pupil and a parent of his or hers;

“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 enter the fourth key stage;

“summer term” (“*tymor yr haf*”) means the third school term in 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 enter the fourth key stage; 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<sup>(4)</sup>.

### **Formation of local curriculum**

**3.** A local authority must form for its area one or more local curricula in accordance with section 116A of the 2002 Act and these Regulations in sufficient time before the start of a school year to enable pupils to elect to follow a course of study in accordance with regulation 8.

### **Minimum number of courses of study of local curricula**

**4.—(1)** Subject to paragraph (4) the local curriculum for every maintained secondary school in local authority area A for the school year 2010 to 2011 and every subsequent school year must include a minimum of 30 courses of study at NQF level 2, of which at least 5 must be vocational.

(2) Subject to paragraph (4) the local curriculum for every maintained secondary school in local authority area B must include—

- (a) for the school year 2010 to 2011 a minimum of 28 courses of study at NQF level 2, of which at least 4 must be vocational; and
- (b) for every subsequent school year a minimum of 30 courses of study at NQF level 2, of which at least 5 must be vocational.

(3) Subject to paragraph (4) the local curriculum for every maintained secondary school in local authority area C must include—

- (a) for the school year 2010 to 2011 a minimum of 26 courses of study at NQF level 2, of which at least 4 must be vocational;

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(2) The website address for the Database of Approved Qualifications in Wales is [www.daqw.org.uk](http://www.daqw.org.uk).

(3) 1996 c. 56.

(4) 1971 c. 80.

- (b) for the school year 2011 to 2012 a minimum of 28 courses of study at NQF level 2, of which at least 4 must be vocational; and
  - (c) for every subsequent school year a minimum of 30 courses of study at NQF level 2, of which at least 5 must be vocational.
- (4) A local authority may include a course of study at NQF level 1 instead of a course at NQF level 2 in the local curriculum for a maintained secondary school in its area if the same course is not available at NQF level 2 for pupils in the fourth key stage.
- (5) The minimum number of vocational courses of study required by paragraphs (1), (2) and (3) must fall within at least 3 of the learning domains.

#### **Minimum number of points of courses of study of local curricula**

- 5.—(1) Where a local curriculum consists of 26 or 27 courses of study such courses must have a combined points value of no less than 680 points.
- (2) Where a local curriculum consists of 28 or 29 courses of study such courses must have a combined points value of no less than 720 points.
- (3) Where a local curriculum consists of 30 or more courses of study such courses must have a combined points value of no less than 780 points.

#### **Minimum number of points of vocational courses of study of local curricula**

- 6.—(1) Where a local curriculum consists of 4 vocational courses of study such courses must have a combined points value of no less than 220 points.
- (2) Where a local curriculum consists of 5 or more vocational courses of study such courses must have a combined points value of no less than 260 points.

#### **Pupil's choices of local curriculum courses**

7. 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 180 points excluding any points allotted to a course or courses of study leading to a key skill qualification which a pupil has elected to follow.

#### **Period during which a pupil's election must be made**

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

#### **Head teacher's decision as to entitlement**

- 9.—(1) Where a head teacher decides under section 116F(1) of the 2002 Act that a pupil is not entitled to follow a course or courses of study he or she must do so within 28 working days following the start of the summer term.
- (2) Where a head teacher so decides he or she must within 3 working days of that decision inform the relevant person in writing of the following matters—
- (a) of the decision and the reasons for it;
  - (b) that the relevant person may request the head teacher review that decision;
  - (c) the period within which such a request must be made; and
  - (d) that the relevant person may make representations in writing about that decision to the head teacher.

(3) A request by a relevant person 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 decision.

(4) Where a relevant person requests under paragraph (2)(b) that a head teacher review his or her decision the head teacher 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 relevant person about that decision; and
- (c) any other circumstances he or she considers relevant.

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

(6) This regulation applies only in relation to the first election a pupil makes under section 116D(1) of the 2002 Act in accordance with regulation 7 (and not in relation to any subsequent election).

#### **Head teacher's decision to remove an entitlement**

**10.**—(1) Where a head teacher decides under section 116H(1) of the 2002 Act that a pupil 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 relevant person of the following matters—

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

(2) A pupil is not entitled to follow the course or courses of study from the date of the head teacher's decision under section 116H(1) of the 2002 Act.

(3) A request by a relevant person 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 decision.

(4) Where a relevant person requests under paragraph (1)(b) that a head teacher review his or her decision, the head teacher 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 relevant person about that decision; and
- (c) any other circumstances he or she considers relevant.

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

#### **Time limits and notices waiving right to review**

**11.** For the purpose of calculating the periods referred to in regulations 9(2), (3), (4) and (5) and 10(1), (3), (4) and (5), the notice is to be taken to have been given to 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 electronic mail is used, on the date of sending,

unless the contrary is shown.

8 December 2009

*John Griffiths*  
Deputy Minister for Skills under authority of  
the Minister for Children, Education, Lifelong  
Learning and Skills, one of the Welsh Ministers

## EXPLANATORY NOTE

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

The [Learning and Skills \(Wales\) Measure 2009 \(nawm 1\)](#) (“the Measure”) inserted new provisions into Part 7 of the Education Act 2002 (“the 2002 Act”). Part 7 concerns the curriculum in maintained schools in Wales. As a result of Part 1 of the Measure the curriculum in maintained secondary schools in Wales is expanded to include the local curriculum entitlements of pupils in key stage 4. These Regulations make provision as to the formation of the local curriculum, the elections a pupil may make, the head teacher’s decision as to entitlement, and the head teacher’s decision to remove an entitlement.

Regulation 3 provides that a local authority must form one or more local curricula for its area in sufficient time to enable pupils to elect to follow a course of study in accordance with regulation 8.

Regulation 4 provides for a minimum number of courses and vocational courses to be included in a local curriculum. By the school year 2012-2013 all local curricula must contain at least 30 courses of study at NQF level 2, of which at least 5 must be vocational.

Regulation 5 provides that each local curriculum must have a minimum points value. Where a curriculum consists of 30 courses of study such courses must have a combined points value of no less than 780. The points value for each course of study is set out in the Database of Approved Qualifications in Wales ([www.daqw.org.uk](http://www.daqw.org.uk)). Regulation 6 provides for the minimum points value of vocational courses included in a local curriculum. Where a local curriculum consists of 5 vocational courses they must have a combined points value of no less than 260.

Regulation 7 provides that a pupil may not elect to follow a course or courses of study if the aggregate points of such a course or courses exceed 180. Such election must be made during the spring term in the year preceeding that which the pupil enters key stage 4 (regulation 8).

Regulation 9 provides for the procedure to be followed by the head teacher when he or she determines, pursuant to section 116F(1) of the 2002 Act, whether the pupil is entitled to follow a course or courses of study. Regulation 9 also provides for the procedure to be followed if a pupil wishes to request the head teacher to review his or her determination under section 116F(1) of the 2002 Act.

Regulation 10 provides for the procedure to be followed by the head teacher when he or she determines, pursuant to section 116H(1) of the 2002 Act, whether the pupil is no longer entitled to follow a course or courses of study. Regulation 10 also provides for the procedure to be followed if a pupil wishes to request the head teacher to review his or her determination under section 116H(1) of the 2002 Act.

Regulation 11 makes provision for determining the time limits for notices under these Regulations.