
WELSH STATUTORY INSTRUMENTS

2024 No. 27

The Independent School Standards (Wales) Regulations 2024

PART 1

GENERAL

Title, coming into force, application and revocation

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

(2) These Regulations apply in relation to Wales.

(3) The Independent School Standards (Wales) Regulations 2003⁽¹⁾ are revoked.

Interpretation

2.—(1) In these Regulations—

“the 1989 Act” (“*Deddf 1989*”) means the Children Act 1989⁽²⁾;

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996⁽³⁾;

“the 1997 Act” (“*Deddf 1997*”) means the Police Act 1997⁽⁴⁾;

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

“the 2006 Act” (“*Deddf 2006*”) means the Safeguarding Vulnerable Groups Act 2006⁽⁵⁾;

“the 2008 Act” (“*Deddf 2008*”) means the Education and Skills Act 2008⁽⁶⁾;

“the 2010 Act” (“*Deddf 2010*”) means the Equality Act 2010⁽⁷⁾;

“the 2014 Act” (“*Deddf 2014*”) means the Education (Wales) Act 2014⁽⁸⁾;

“the 2018 Act” (“*Deddf 2018*”) means the Additional Learning Needs and Education Tribunal (Wales) Act 2018⁽⁹⁾;

“the school premises regulations” (“*y rheoliadau mangreoedd ysgolion*”) means regulations made under section 542(1) of the 1996 Act⁽¹⁰⁾;

⁽¹⁾ S.I. 2003/3234 (W. 314) amended by S.I. 2005/2929 (W. 214), S.I. 2007/947 (W. 81), S.I. 2009/2544 (W. 206) and S.I. 2010/1142 (W. 101).

⁽²⁾ 1989 c. 41.

⁽³⁾ 1996 c. 56.

⁽⁴⁾ 1997 c. 50.

⁽⁵⁾ 2006 c. 47.

⁽⁶⁾ 2008 c. 25.

⁽⁷⁾ 2010 c. 15.

⁽⁸⁾ 2014 anaw 5.

⁽⁹⁾ 2018 anaw 2.

⁽¹⁰⁾ Section 542(1) was amended by article 5(1) of and paragraph 7(1) and (3) of Part 1 of Schedule 2 to the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158) and by section 140(1) and (3) of and paragraph 158(a) of Schedule 30, and Schedule 31, to the School Standards and Framework Act 1998. The current Regulations are the Education (School Premises) Regulations 1999 (S.I. 1999/2) amended by S.I. 2010/1142 (W. 101) and S.I. 2012/1943.

“boarder” (“*disgybl sy’n byrddio*”) means a pupil for whom an independent school provides accommodation, whether or not the pupil is a registered pupil at that independent school;

“boarding accommodation” (“*llety byrddio*”) means overnight accommodation arranged or provided by the independent school at the independent school or elsewhere, but excluding accommodation for pupils being accommodated away from the independent school premises during a school trip;

“chair” (“*cadeirydd*”) as a reference to the chair of the independent school is a reference to an individual who is the chair of a body of persons corporate or unincorporate named as the proprietor of the independent school in the register or in an application to enter the independent school in the register and includes a reference to a similar officer;

“Chief Inspector” (“*Prif Arolygydd*”) has the meaning given in section 171(11) of the 2002 Act;

“the Convention” (“*y Confensiwn*”) means the United Nations Convention on the Rights of the Child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989(12);

“DBS certificate” (“*tystysgrif GDG*”) means an enhanced criminal record certificate issued under section 113B(1)(13) 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;

“DBS up-date service” (“*gwasanaeth diweddarau’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)(14) or 116A(8)(c)(i) of the 1997 Act;

“employment business” (“*busnes cyflogi*”) has the meaning given in section 13(3) of the Employment Agencies Act 1973(15);

“further education” (“*addysg bellach*”) has the meaning given in section 2(3) of the 1996 Act;

“independent school” (“*ysgol annibynnol*”) has the meaning given in section 463 of the 1996 Act(16);

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

“interim prohibition order” (“*gorchymyn gwahardd interim*”) has the meaning given in section 141C(7)(17) of the 2002 Act;

“interim suspension order” (“*gorchymyn atal dros dro interim*”) has the meaning given in article 2 of the Education Workforce Council (Interim Suspension Orders) (Additional Functions) (Wales) Order 2021(18);

“local authority” (“*awdurdod lleol*”) has the meaning given in section 579(1) of the 1996 Act(19);

(11) Section 171 was amended by section 169 of, and paragraphs 13 and 24(1), (2)(a) and 2(b) of Schedule 1 and Schedule 2 to the Education and Skills Act 2008 (c. 25). There are other amendments to section 171 not relevant to these Regulations.

(12) Treaty Series No. 44 (1992) Cm 1976.

(13) 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 S.I. 2012/3006, sections 97(2), 112(2) and Part 8 of Schedule 8 of the Policing and Crime Act 2009 (c. 26) and section 80(1) of the Protection of Freedoms Act 2012 (c. 9).

(14) 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 S.I. 2012/3006.

(15) 1973 c. 35.

(16) 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. 2016/413 (W. 131). There are other amending instruments, but none is relevant to these Regulations.

(17) Section 141C was inserted into the Education Act 2002 (c. 32) by section 8(1) of the Education Act 2011 (c. 21).

(18) S.I. 2021/350 (W. 102).

(19) Definition of “local authority” was substituted by article 3(1) and (2)(b) of S.I. 2010/1158.

“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(20) or, as the case may be section 22(1) of the 1989 Act(21);

“maintained school” (“*ysgol a gynhelir*”) has the meaning given in section 99(1) of the 2018 Act(22);

“the National Minimum Standards for Boarding Schools(23)” (“*y Safonau Gofynnol Cenedlaethol ar gyfer Ysgolion Preswyl y Brif Ffrwd*”) means the statement of national minimum standards published under that title under section 87C(1)(24) of the 1989 Act;

“the National Minimum Standards for Residential Special Schools(25)” (“*y Safonau Gofynnol Cenedlaethol ar gyfer Ysgolion Arbennig Preswyl*”) means the statement of national minimum standards published under that title under section 87C(1) of the 1989 Act;

“parent” (“*rhiant*”) has the meaning given in section 576 of the 1996 Act(26);

“premises” (“*mangre*”) has the meaning given in section 579(1) of the 1996 Act(27);

“prohibition order” (“*gorchymyn gwahardd*”) means an order made by the Education Workforce Council under section 26(5) and having the effect described in section 31(2) and (3) of the 2014 Act or, as the case may be has the meaning given in section 141B(4)(28) of the 2002 Act;

“proprietor” (“*perchennog*”) has the meaning given in section 579(1)(29) of the 1996 Act;

“pupil” (“*disgybl*”) has the meaning given in section 3(1) of the 1996 Act(30);

“the register” (“*y gofrestr*”) means the register of independent schools kept by the registration authority under section 158(3)(31) of the 2002 Act;

“registered pupil” (“*disgybl cofrestredig*”) has the meaning given in section 434(5) of the 1996 Act;

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

“secondary education” (“*addysg uwchradd*”) has the meaning given in section 2(2) of the 1996 Act;

“staff” (“*staff*”) means any person working at the independent school whether under a contract of employment, under a contract for services or otherwise under a contract, but does not include supply staff or volunteers;

(20) 2014 anaw 4.

(21) Section 22(1) was amended by section 107 of and paragraph 19 of Schedule 5 to the Local Government Act 2000 (c. 22), 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). It was also amended by regulations 55 and 69(a) of S.I. 2016/413.

(22) Section 99(1) has been amended but those amendments are not relevant to these Regulations.

(23) ISBN 0 7504 3077 X.

(24) Section 87C was inserted by section 107 of the Care Standards Act 2000 (c. 14). The functions of the Secretary of State, so far as exercisable in relation to Wales were transferred to the National Assembly for Wales, by article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(25) ISBN 0 7504 3076 1.

(26) Section 576 was amended by section 140(1) and (3) of and paragraph 180 of Schedule 30 and Schedule 31, to the School Standards and Framework Act 1998 (c. 31).

(27) Section 579(1) has been amended but those amendments are not relevant to these Regulations.

(28) Section 141B was inserted into the Education Act 2002 (c. 32) by section 8(1) of the Education Act 2011 (c. 21).

(29) 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.

(30) Section 3(1) was amended by section 57(1) of and paragraph 9 of Schedule 7 to the Education Act 1997 (c. 44).

(31) 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).

“statement” (“*datganiad*”) means a statement of special educational needs made under section 324(1)(32) of the 1996 Act;

“supply staff” (“*staff cyflenwi*”) means any person working at the independent school supplied by an employment business;

“suspension order” (“*gorchymyn atal dros dro*”) means an order made by the Education Workforce Council under section 26(5) and having the effect described in section 30(2) and (3) of the 2014 Act;

“well-being” (“*llesiant*”) has the meaning given in section 2 of the Social Services and Well-being (Wales) Act 2014.

(2) In these Regulations, where an element of a standard is information or a document being “made available”, that element of the standard is met—

- (a) in a case where the independent school has a website, if—
 - (i) the information or a copy of the document is available on the website in a form accessible to pupils, parents of pupils and parents of prospective pupils and available for inspection at the independent school’s premises during the school day, and
 - (ii) the proprietor takes reasonable steps to ensure that pupils, parents of pupils and parents of prospective pupils are aware that the information or a copy of the document is available and the form in which it is available,
- (b) in a case where the independent school has a website but the information or a copy of the document is not available on the website, or where the independent school does not have a website, if—
 - (i) the proprietor takes reasonable steps to ensure that pupils, parents of pupils and parents of prospective pupils are made aware that they may request the information or a copy of the document, and
 - (ii) the information or a copy of the document is sent or given to such pupils or parents free of charge, in response to a request.

(3) In these Regulations, where an element of a standard is information or a document being “provided” to a person, that element of the standard is met—

- (a) where the person has given the independent school an email address, by sending to that address—
 - (i) the information or a copy of the document in electronic form, or
 - (ii) the address for a website where the information or a copy of the document can be downloaded by the person,

in which case the information or copy of the document must be available for inspection by the person at the independent school’s premises during the school day, or

- (b) by sending or giving the information or a copy of the document to the person.

(4) For the purposes of paragraphs 20(2)(e), 21(2)(a)(i)(bb), 22(3)(b), (5)(b) and (6)(b)(i) of the Schedule, a DBS certificate or DBS up-date service check is only relevant where an individual is or will be engaging in—

- (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.

Independent School Standards

3. The provisions contained in the Schedule are prescribed as the independent school standards for the purposes of Chapter 1 of Part 10 of the 2002 Act.

11 January 2024

Jeremy Miles
Minister for Education and Welsh Language, one
of the Welsh Ministers