

*Draft Regulations laid before Senedd Cymru under section *** of the *** Act ***, for approval by resolution of Senedd Cymru.*

DRAFT WELSH STATUTORY
INSTRUMENTS

202X No. (W.)

**CHILDREN AND YOUNG
PERSONS, WALES**

EDUCATION, WALES

**The Children Act 2004 (Children
Missing Education Database)
(Wales) Regulations 202X**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 29 of the Children Act 2004 and apply to the establishment and operation of a children missing education (“CME”) database in Wales. The Regulations come into force on XXX.

Each local authority in Wales will be required to establish and operate a CME database (regulation 3) that will contain the information set out in the Schedule to the Regulations in respect of children of compulsory school age who are ordinarily resident in the local authority’s area.

A Local Health Board and general medical services contractor in Wales will be required to disclose to a local authority such information specified in the Schedule that is held by them (regulation 4). A local authority must take reasonable steps to ensure that the information in the database is accurate (regulation 5).

Regulations 6 to 11 detail the occasions when a child’s name must be removed from the CME database.

Regulation 12 details who may have access to the database and for which education functions it might be used.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessment was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from [], Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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Made ***

Laid before Senedd Cymru ***

Coming into force ***

The Welsh Ministers in exercise of the powers conferred by sections 29 and 66 of the Children Act 2004(1) [and with the consent of the Secretary of State(2)], make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Children Act 2004 (Children Missing Education Database) (Wales) Regulations 202X.

(2) These Regulations come into force on XX.

(3) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

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

(1) 2004 c. 31.

(2) See section 29(12) of the 2004 Act.

(3) 1996 c. 56.

“the 2018 Act” (“*Deddf 2018*”) means the Additional Learning Needs and Education Tribunal (Wales) Act 2018(1);

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

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

“child” (“*plentyn*”) means a person of compulsory school age within the meaning of section 8 of the 1996 Act;

“CME” (“*PCA*”) means children missing education;

“the CME database” (“*y gronfa ddata PCA*”) means the database established and operated, or to be established and operated by a local authority under section 29 of the Children Act 2004;

“CME record” (“*cofnod PCA*”) in relation to a child means the information relating to that child contained in the CME database;

“GMS contract” (“*contract GMC*”) means a general medical services contract under section 42 of the National Health Service (Wales) Act 2006(2) (general medical services contracts: introductory);

“GMS contractor” (“*contractwr GMC*”) means a party to a GMS contract, other than the Local Health Board;

“local authority” (“*awdurdod lleol*”) means the council of a county or county borough in Wales, except where specific reference is made to a local authority in England;

“parent” (“*rhiant*”) means any person with parental responsibility for the child (within the meaning of section 3 of the Children Act 1989(3)) or who has care of the child at any time;

“registered pupil” (“*disgybl cofrestredig*”) means a child registered as a pupil at a school in a register kept under section 434 of the 1996 Act;

“school” (“*ysgol*”) has the same meaning as in section 4 of the 1996 Act;

“suitable education” (“*addysg addas*”) has the same meaning as in section 436A(3) of the 1996 Act;

“usually resident” (“*preswyllo fel arfer*”) has the same meaning as in regulation 2(2) and (3) of the

(1) 2018 anaw. 2.

(2) 2006 c. 42.

(3) 1989 c. 41.

Local Health Boards (Directed Functions) (Wales) Regulations 2009⁽¹⁾.

(2) In these Regulations any reference to a person employed includes a person employed whether under a contract of service or a contract for services, and a person seconded to the local authority in question.

Establishment of CME database

3.—(1) A local authority must establish and operate a CME database.

(2) Where the conditions in paragraph (3) are met in relation to a particular child the CME database must include the information set out in the Schedule that is available to the local authority in relation to that child.

(3) The conditions are that—

- (a) the child is ordinarily resident in the local authority's area,
- (b) the child is not a registered pupil, and
- (c) it appears to the local authority that the child is not, or may not be, receiving a suitable education.

Local Health Board and GMS contractor duty to disclose

4. A Local Health Board and GMS contractor must disclose to a local authority, within a period of 28 days beginning with 1 February each year, the information specified in paragraphs 1 to 4 of the Schedule that is held by it and relating to a child who is usually resident in that local authority's area.

Procedure for ensuring the accuracy of information in the CME database

5. Where it appears to a local authority that a CME record for which it is responsible is, or may be inaccurate or incomplete, the local authority must take reasonable steps to correct the inaccuracy or to complete the record.

Procedure for removal of a CME record

6. Where a local authority becomes aware that a child whose name is included in the CME database has, or is likely to become ordinarily resident in the area of another local authority or a local authority in England (“the receiving local authority”) it must—

- (a) inform the receiving local authority of the child's CME record within 28 days of the date that it became aware, and

(1) S.I. 2009/1511 (W. 147).

- (b) remove that child's CME record from the CME database as soon as reasonably practicable after the child has left its area.

7. Where a local authority becomes aware that a child whose name is included in the CME database has left its area and it does not know where the child has become ordinarily resident, the local authority must remove that child's CME record from the CME database as soon as is reasonably practicable.

8. Where a local authority becomes aware that a child whose name is included in the CME database has become a registered pupil, the local authority must remove that child's CME record from the CME database as soon as is reasonably practicable.

9. Where a local authority is satisfied that a child whose name is included in the CME database is receiving a suitable education, the local authority must remove that child's CME record from the CME database as soon as is reasonably practicable.

10. Where a local authority becomes aware that a child whose name is included in the CME database has died, the local authority must remove that child's CME record from the CME database as soon as is reasonably practicable.

11. Where a local authority becomes aware that a child whose name is included in the CME database ceases to be of compulsory school age, the local authority must remove that child's CME record from the CME database as soon as is reasonably practicable.

Access to the CME database

12.—(1) Only a person employed in relation to the exercise by, or on behalf of a local authority of the functions specified in paragraph (2) may have access to the CME database for the purpose of adding or reading information.

(2) The functions referred to in paragraph (1) are functions under—

- (a) Part 6 (school admissions, attendance and charges) of the 1996 Act,
- (b) section 175 of the Education Act 2002⁽¹⁾ (duties of local authorities and governing bodies in relation to welfare of children), or
- (c) Part 2 (additional learning needs) of the 2018 Act.

Name

(1) 2002 c. 32.

Minister for Education and Welsh Language, one of
the Welsh Ministers
Date

**Information to be included in the CME
database**

1. The child's name (including any former name).
2. The child's address (or last known address) including postcode.
3. The child's date of birth.
4. The child's gender or if the child's gender has not been specified a statement to that effect.
5. The name, address and postcode, telephone number and email address of all parents of the child.
6. The name and address of the person providing all or part of the education.
7. Any additional learning needs that the child may have and any additional learning provision that is called for.