
WELSH STATUTORY INSTRUMENTS

2002 No. 3161 (W.296)

**SOCIAL CARE, WALES
CHILDREN AND YOUNG PERSONS, WALES**

The Inspection of Boarding Schools and Colleges
(Powers and Fees)(Wales) Regulations 2002

Made - - - - 17th December 2002

Coming into force - - 1st February 2003

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred by sections 87(6), 87D(2) and 104(4) of the Children Act 1989(1).

Citation, interpretation, application and commencement

1.—(1) These regulations may be cited as The Inspection of Boarding Schools and Colleges (Powers and Fees) (Wales) Regulations 2002.

(2) In these regulations—

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

“authorised person” (“*person awdurdodedig*”) means a duly authorised person who is exercising the power of entry conferred by section 87(5) of the 1989 Act; and

“relevant school or college” (“*ysgol neu goleg perthnasol*”) means a school or college which provides accommodation for any child and to which section 87(1) of the 1989 Act applies.

(3) These regulations apply in relation to Wales.

(4) These Regulations shall come into force on 1st February 2003.

Inspection of Premises

2.—(1) An authorised person may inspect any premises, or part of any premises, which are, or are to be, the premises of a relevant school or college.

(2) An authorised person may carry out such examination into the state and management of the premises inspected under paragraph (1) as he considers necessary for the purposes of the inspection.

(1) 1989 c. 41. The powers are exercisable by the Secretary of State. In relation to Wales the functions are transferred to the National Assembly for Wales by Article 2 of, and the entry for the 1989 Act in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) and section 120(2) of the Care Standards Act 2000.

- (3) An inspection under paragraph (1) may take place without notice to the relevant person⁽²⁾.

Inspection of records

3.—(1) An authorised person may inspect any record of a relevant school or college which is relevant to the discharge of the National Assembly for Wales' duty under section 87(3) of the 1989 Act.

(2) The power in paragraph (1) includes power to require the relevant person to produce any records, wherever kept, for inspection on the premises.

(3) In this regulation, a reference to a record includes a record which is kept by means of a computer.

Inspection of Children

4.—(1) Subject to the provisions of this regulation, an authorised person may, for the purpose of enabling the National Assembly for Wales to discharge its duty under section 87(3) of the 1989 Act, carry out an inspection of children who are provided with accommodation by a relevant school or college.

(2) An inspection may include a physical examination of a child by the authorised person, provided that—

- (a) the authorised person is a registered medical practitioner or a registered nurse;
- (b) the authorised person has reasonable cause to believe that the welfare of the child in question is not being adequately safeguarded or promoted by the relevant person⁽²⁾; and
- (c) the child consents to the examination, or is incapable of giving consent.

(3) An examination under paragraph (2) shall take place in private.

(4) Subject to paragraph (5), an authorised person may interview in private, or solicit written or verbal expressions of opinion from any child or group of children who consent to be interviewed or to express their views, as the case may be.

(5) An authorised person may not interview any individual child in private unless—

- (a) the child concerned has expressly asked to be interviewed alone and in private; or
- (b) the authorised person considers on reasonable grounds that such an interview is necessary to enable the National Assembly for Wales to discharge its duty under section 87(3) of the 1989 Act.

(6) No inspection may be carried out under this regulation in respect of—

- (a) any child of a member of staff of a relevant school or college; or
- (b) any other child living with such a member of staff as a member of his or her household,

unless the child is also a pupil or student of the school or college.

Inspection — general

5. An authorised person may in carrying out any inspection under these Regulations—

- (a) require any person to afford him or her such facilities and assistance with respect to matters within that person's control as are necessary to enable the authorised person to exercise his or her powers under these Regulations; and

⁽²⁾ See section 87(11) and (12) of the 1989 Act for the meaning of "relevant person".

⁽²⁾ See section 87(11) and (12) of the 1989 Act for the meaning of "relevant person".

- (b) take such photographs, measurements and recordings as he or she considers necessary to enable the exercise of his or her powers.

Annual Fee

6.—(1) The Registration of Social Care and Independent Healthcare (Fees)(Wales) Regulations 2002⁽³⁾ are amended in accordance with the following provisions of this regulation.

(2) In the paragraph headed “Arrangement of Regulations”, the following line shall be added at the end “10. Annual fee — boarding schools and further education colleges”.

(3) In regulation 2—

- (a) in the definition of “annual fee”, after the words “section 16(3) of the Act, or” there shall be added “section 87D(2) of, or” and the phrase “(as the case may be)” shall be deleted;
- (b) in the definition of “approved place”, after the phrase “for the use of a service user at night;” there shall be added “or, in relation to a boarding school, residential special school or further education college, a bed provided for the use of a child accommodated at the school or college;”;
- (c) at the appropriate point in the alphabetical order of definitions, there shall be inserted the following definition—

““boarding school” means a school (not being a residential special school or a school which is a children’s home or a care home) providing accommodation for any child, and “school” has the same meaning given to it in section 105(1) of the 1989 Act⁽⁴⁾.”;

(d) at the appropriate point in the alphabetical order of definitions, there shall be inserted the following definition—

““further education college” means a college as defined in section 87(10) of the 1989 Act which provides accommodation for any child;”;

(e) at the appropriate point in the alphabetical order of definitions, there shall be inserted the following definition—

““residential special school” means—

- (i) a special school in accordance with sections 337 and 347(1) of the Education Act 1996⁽⁵⁾; or
- (ii) an independent school not falling within (i) which has as its sole or main purpose the provision of places, with the consent of the National Assembly for Wales, for pupils with special educational needs or who are in public care, and which provides accommodation for any child;”.

(4) After regulation 9 (Annual fee — day care), there shall be inserted the following regulation—

“ Annual fee — boarding schools and colleges

10.—(1) The annual fee which shall be paid by the relevant person⁽⁶⁾ in respect of a boarding school, residential special school or further education college shall be the amount in column (2) of the table below added to the sum of the amounts in columns (3) and (4) multiplied in each case by the number of approved places specified in respect of that column.

(3) S.I. 2002/921 (W. 109).

(4) s.105(1) of the 1989 Act refers to the definition of school in the Education Act 1996 c. 56.

(5) 1996 c. 56.

(6) See section 87(11) and (12) of the 1989 Act for the meaning of “relevant person”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Column 1</i> <i>Type of school or college</i>	<i>Column 2</i> <i>Flat rate</i>	<i>Column 3</i> <i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column 4</i> <i>Rate payable for the 30th and each subsequent approved place</i>
Boarding school and further education college	£250	£15	£7.50
Residential Special Schools	£400	£40	£20

(2) In the case of a school or college which is providing accommodation for any child on 1st February 2003, the annual fee shall first be payable on 1st September 2003 and, in all other cases, on the date residential accommodation is first provided.

(3) The annual fee shall be payable every year on the anniversary of the date on which it was first payable.”.

Revocation

7. The Inspection of Premises, Children and Records (Independent Schools) Regulations 1991(7) are revoked.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(8)

17th December 2002

D. Elis-Thomas
The Presiding Officer of the National Assembly

(7) S.I. 1991/975.

(8) 1998 c. 38.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations set out the additional powers of those who inspect the welfare provision of boarding schools and colleges, under section 87(6) of the Children Act.

The regulations also introduce, through an amendment to The Registration of Social Care and Independent Healthcare (Fees)(Wales) Regulations 2002, an annual fee which is payable by the schools and colleges.