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Llywodraeth Cymru
Welsh Government

Welsh Government Consultation Document

Repealing provisions in the Education (Schools and Further and Higher Education) Regulations 1989 and the Education (Special Educational Needs) (Approval of Independent Schools) Regulations 1994

Date of issue: 14 June 2017

Action required: Responses by 26 July 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Repealing provisions in the Education (Schools and Further and Higher Education) Regulations 1989 and the Education (Special Educational Needs) (Approval of Independent Schools) Regulations 1994

Overview

This consultation document seeks your views on repealing Regulations relating to the granting of consent to use ionising radioactive materials in schools and further education institutions. It also seeks views regarding the repeal of provisions relating to the inspection of boarding hostels for learners with special education needs.

How to respond

Responses to this consultation should be e-mailed/posted to the address below to arrive by **26 July 2017** at the latest.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

The consultation documents can be accessed from the Welsh Government's website at www.gov.wales/consultations

Contact details

For further information:

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Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Summary

Introduction

This consultation document seeks your views on:

- repealing Regulations that require maintained schools, non maintained schools and further education institutions to apply to Welsh Ministers for consent to use ionising radioactive materials; and
- repealing provisions in Regulations relating to the inspection of boarding hostels for pupils with special educational needs.

Background

Regulation 7 of the Education (Schools and Further and Higher Education) Regulations 1989 and paragraph 7 of Schedule 1 of the Education (Special Educational Needs) (Approval of Independent Schools) Regulations 1994 require maintained and independent schools and further education institutions to gain approval from Welsh Ministers to procure and use ionising radioactive materials.

Approval is sought by schools using the Welsh Government form IR(C), which is submitted via their respective local authorities, to the Education Directorate. The form was evaluated by the Welsh Government's Chief Environmental Scientific Adviser in respect of the risk, and by Estyn regarding the curriculum requirement.

Regulation 9 of the Education (Schools and Further and Higher Education) Regulations 1989 provides for the inspection of boarding hostels for pupils with Special Educational Needs provided by the local authority.

Why do we want to remove the requirement for schools and further education institutions to seek approval from Welsh Ministers to use radioactive materials?

The Welsh Government has a number of reasons why it considers the requirement should be removed. These are:

- A previous consultation that was carried out in 2010/11 on the review of several consent systems, including the consent from Welsh Government to use ionising radioactive materials in schools, found that there was no appetite to retain the requirement.
- In reviewing the effectiveness and necessity of the consent system, local authorities in Wales were contacted and it was found that some of them were unaware of the requirement to gain approval from Welsh Government.
- There is no worth in the consent system as schools gain approval for radioactive materials which are otherwise controlled through more descriptive UK health and safety legislation.
- The consent system is complex and unnecessary and a burden for all involved.
- Very few applications have been made to the Welsh Government. Nineteen applications were made between 2008 and 2014 and only two were made from 2014 to date.

- The Welsh Government's Chief Environmental Scientific Advisor at the time identified the difficulty in judging the merit of applications and the Estyn advisor at the time strongly supported the reduction in bureaucracy in relation to radiation approvals.
- The post of the Chief Environmental Scientific Advisor in Wales no longer exists and the Welsh Government does not have the appropriate staff in place to consider any applications.
- Similar regulations in England (the Education (Hazardous Equipment and Materials in Schools) (Removal of Restrictions on Use) (England) Regulations 2008) have been repealed in England and guidance provided by the Administrative Memorandum 1/92 has been superseded in England through the Consortium of Local Authorities for the Provision of Science Services (CLEAPSS) guidance, which has also been adopted in Wales.

Why do we want to remove provisions relating to the inspection of boarding hostels for pupils with special educational needs?

The provisions relating to the inspection of boarding hostels for pupils with special educational needs are contained in the Education (Schools and Further and Higher Education) Regulations 1989. Welsh Government officials have consulted internally with special educational needs policy officials, and also with Estyn and CSSIW to ask whether this provision is used. All parties have advised that there are currently no boarding hostels for pupils with special educational needs in Wales and there are no plans to introduce any, therefore there is no requirement for the provision. The provision has also been repealed in England.

