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STATUTORY INSTRUMENTS

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**2008 No. 1036**

**CONSTITUTIONAL LAW  
DEVOLUTION, WALES**

**The National Assembly for Wales (Legislative  
Competence) (Education and Training) Order 2008**

*Made - - - - 9th April 2008*

*Coming into force in accordance with Article 1*

At the Court at Windsor Castle, the 9th day of April 2008

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 95(5) of the Government of Wales Act 2006(1), a draft of this order has been laid before, and approved by resolution of, the National Assembly for Wales and each House of Parliament.

Accordingly, Her Majesty, in pursuance of section 95(1) of the Government of Wales Act 2006, is pleased, by and with the advice of Her Privy Council, to order as follows: —

**Citation and commencement**

**1.** This Order may be cited as the National Assembly for Wales (Legislative Competence) (Education and Training) Order 2008 and it shall come into force on the day after the day on which it is made.

**Amendments to Schedule 5 to the Government of Wales Act 2006**

**2.—(1)** Field 5 (education and training) of Part 1 of Schedule 5 to the Government of Wales Act 2006 is amended in accordance with this article.

(2) In matter 5.10, for the words from “Provision about” to “any of the following—” substitute—  
“Arrangements for persons to travel to and from the places where they receive education or training.  
This matter applies to—

- (a) persons receiving nursery, primary, secondary or further education or training;
- (b) persons described in matter 5.17 receiving higher education.

This matter does not include any of the following—”.

- (3) After matter 5.16(2) insert—

*“Matter 5.17*

Education and training for—

- (a) persons who have a greater difficulty in learning than the majority of persons of the same age as those persons;
- (b) persons who have, or have had—
  - (i) a physical or mental impairment, or
  - (ii) a progressive health condition (such as cancer, multiple sclerosis or HIV infection) where it is at a stage involving no physical or mental impairment.

This matter does not include arrangements for persons to travel to and from the places where they receive education or training.”.

- (4) Under the heading “Interpretation of this field”, before the definition of “post-16 education” insert—

““nursery education” means education suitable for children who have not attained compulsory school age;”.

*Judith Simpson*  
Clerk of the Privy Council

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(2) In the field of education and training, matters 5.1 to 5.10 were added by the National Assembly for Wales (Legislative Competence)(Conversion of Framework Powers) Order 2007 (SI 2007/910) and matters 5.11 to 5.16 by section 27 of the Further Education and Training Act 2007 (c.25).

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## EXPLANATORY NOTE

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

This Order amends field 5 (education and training) in Part 1 of Schedule 5 to the Government of Wales Act 2006 (“the 2006 Act”). The Order extends the legislative competence of the National Assembly of Wales to make laws known as Measures of the National Assembly for Wales (referred to in the 2006 Act as “Assembly Measures”). The legislative competence conferred by this Order is subject to general limitations on the exercise of that legislative competence, which apply by virtue of section 94 of, and Schedule 5 to, the 2006 Act.

Article 2(2) amends matter 5.10, extending the National Assembly’s legislative competence on travel connected to education and training to cover—

persons receiving nursery education not already included within “primary education” (children under two years of age); and

persons mentioned in matter 5.17 (inserted by this Order) who are receiving higher education.

Paragraph (3) inserts matter 5.17, which is about education and training for—

persons who have a greater difficulty in learning than the majority of persons of the same age as those persons; and

persons who have, or have had, a physical or mental impairment or a progressive health condition where it is at a stage involving no physical or mental impairment.

Express provision is made in the new matter 5.17 to exclude the arrangements for persons to travel to and from the places where they receive education or training. The purpose of this provision is to ensure that the power of the National Assembly for Wales to enact provisions about travel arrangements related to education or training does not extend beyond the express exclusions in matter 5.10.

Paragraph (4) inserts a definition of “nursery education” into the interpretation provisions of field 5.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.