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## EXPLANATORY NOTE

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

These Regulations make modifications to the Education Act 2002 and make transitional provisions in connection with the bringing into force of provisions of the Act by the Education Act 2002 (Commencement No. 3) (Wales) Order 2003. They also make consequential amendments.

References below to sections and Schedules (without more) are references to sections of, and Schedules to, the Education Act 2002.

Regulations 3 to 5 make provision in connection with the coming into force of section 41 which makes new provision in relation to the financing of maintained schools and the determination of budgets. The new provisions are to have effect only in relation to financial years beginning on and after 1st April 2004.

Regulations 6 and 7 make provision in connection with the coming into force of section 52(1) to (6) which relates to the exclusion of pupils. Until section 52(11) comes into force (the effect of which is to include maintained nursery schools in the definition of maintained school), references in section 52 to a maintained school are to have effect as if they were references to a maintained school as defined in the School Standards and Framework Act 1998 (“the 1998 Act”), which does not include a maintained nursery school. In relation to pupil exclusions taking place before 9th January 2004 the relevant provisions of the 1998 Act and the Education (Pupil Referral Units) (Appeals against Permanent Exclusions) (Wales) Regulations 2003 are to continue to have effect.

Regulation 8 makes provision in connection with the coming into force of Part 10 of the Education Act 2002 which sets out a new system for regulating independent schools. The new provisions relating to action plans will not apply to schools which were provisionally registered under the Education Act 1996 until 1st January 2006. Where a contract to inspect an independent school approved under section 347 of the Education Act 1996 was awarded before 1st January 2004, provision is made allowing the inspection to be carried out under the School Inspection Act 1996 rather than under the new system. The new definition of independent school (which includes a school with one or more pupils with a statement of special educational needs or who is looked after) is not to apply until 1st September 2004 to a children’s home in relation to the carrying on of which a person was registered before 1st January 2004.

Regulation 9 makes provision in connection with the coming into force of section 207 which enables the National Assembly for Wales to make regulations providing for recoupment between local education authorities. Until new regulations are made under section 207, the Education (Inter-Authority Recoupment) Regulations 1994 are to continue in force.

Regulation 10 amends the Education (Infant Class Sizes) (Wales) Regulations 1998 so as to substitute the term “school teacher” for the term “qualified teacher”. This is consequential on the coming into force on 19th December 2002 of amendments made by Schedule 21 to sections 1 and 4 of the 1998 Act.