
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st December 2003, 4th December 2003, 1st January 2004 and 9th January 2004 those provisions of the Education Act 2002 specified in Parts I, II, III and IV of the Schedule to this Order.

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

In the case of provisions brought into force by this Order which amend existing legislation, references to the Secretary of State in those provisions are to be read, in relation to Wales, as references to the National Assembly for Wales — see section 211.

The effect of the provisions specified in Part I of the Schedule is as follows —

Section 46 inserts a new section 85A of the School Standards and Framework Act 1998 (“the 1998 Act”), requiring LEAs to establish admission forums in accordance with regulations to be made by the National Assembly for Wales (“the National Assembly”). The forums will advise LEAs on matters relating to school admissions.

Section 188 and paragraphs 1 to 3 of Schedule 16 amend the School Inspections Act 1996 so as to require the Chief Inspector for Wales to keep the National Assembly informed of the quality of the leadership in, and management of, schools in Wales, including whether financial resources are managed efficiently. This information is also to be included in a report by a registered inspector conducting an inspection of a school.

The effect of the provisions specified in Part II of the Schedule is as follows —

Section 41 inserts a new section 45A of the the 1998 Act which relates to the funding arrangements for LEAs and schools. New definitions of “LEA budget” and “schools budget” are introduced. Regulations will set out the details.

Section 42 inserts new sections 45B and 45C of the 1998 Act which enable the National Assembly to set a minimum schools budget for an LEA if the budget proposed by the LEA is inadequate or if the LEA have failed to notify the National Assembly of their proposed budget.

Section 215 and Schedules 21 and 22 make minor and consequential amendments and repeals.

The effect of the provisions specified in Part III of the Schedule is as follows —

Sections 157 to 171 provide for a new system for regulating independent schools. Regulations made by the National Assembly under section 157 will set out the standards independent schools will be required to meet. Section 158 provides for the continuation of the register of independent schools which is to be kept by the National Assembly. Section 159 makes it an offence to run an independent school which is not registered and gives the Chief Inspector for Education and Training in Wales rights of entry to premises.

Section 160 sets out the information to be included by a proprietor of a school in an application for registration and provides for the Chief Inspector to inspect the school. The National Assembly will decide under section 161 whether the school meets the independent school standards in which case it will register the school. Under section 162 the National Assembly can remove a school from the register if there has been a change of proprietor, a change of address or a specified change in relation to the pupils or accommodation, and that change has not been approved. Section 162 also makes provision in relation to applications for approval. Sections 163 and 164 make provision in relation to inspections of independent schools and

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

inspection reports. Section 165 provides that where a school is not meeting the independent school standards the National Assembly can remove the school from the register or require the school to prepare and implement an action plan. Sections 166 and 167 provide for a right of appeal to the tribunal established under the Protection of Children Act 1999, against a refusal to approve a material change, a decision to remove a school from the register, an order to take specified action or a refusal to vary or revoke such an order. The sections set out the procedures for making such an appeal and the powers of the tribunal.

Section 168 enables the National Assembly to make regulations requiring information about a school to be provided. Section 169 enables the National Assembly to remove a school from the register if any person is carrying out work at the school in contravention of a direction or order. Section 170 makes provision in relation to the service of notices and section 171 contains definitions.

Section 172 amends the definition of independent school in section 463 of the Education Act 1996 (“the 1996 Act”) so that it now includes a school which has at least one pupil with a statement of special educational needs or who is looked after by a local authority. Section 173 amends section 327 of the 1996 Act to give LEAs a right of access to independent schools to monitor provision made for children with special educational needs. Section 174 amends section 347 of the 1996 Act to provide that when giving consent to the placement of a child at an independent school, the National Assembly must be satisfied that there is a place available at the school.

Section 215 and Schedules 21 and 22 make minor and consequential amendments and repeals.

The effect of the provisions specified in Part IV of the Schedule is as follows —

Section 51 and Schedule 4, paragraphs 1 and 4, amend section 87 of the 1998 Act (which removes the requirement to admit a child who has been permanently excluded from two or more schools). Section 87 of the 1998 Act, as amended, provides that a child is not to be regarded as permanently excluded if a governing body or exclusion panel would have directed that the child be reinstated, had it been practical and appropriate to do so.

Section 52(1) to (6) gives the head teacher of a maintained school, and the teacher in charge of a pupil referral unit, the power to exclude a pupil on disciplinary grounds. The procedures in relation to exclusion, reinstatement and appeals are to be set out in regulations made by the National Assembly.

Section 207 re-enacts section 492 of the 1996 Act and provides for the National Assembly to make regulations in relation to inter-authority recoupment. Section 208 transfers to the National Assembly the power to make regulations under section 493 of the 1996 Act, which deals with recoupment in relation to permanently excluded pupils.

Section 215 and Schedules 21 and 22 make minor and consequential amendments and repeals.