
WELSH STATUTORY INSTRUMENTS

2004 No. 1728 (W.172) (C.67)

EDUCATION, WALES

The Education Act 2002 (Commencement
No. 5) (Wales) Order 2004

Made - - - - 13th July 2004

The National Assembly for Wales, in exercise of the power conferred upon it by section 216(4)(b) and (5) of the Education Act 2002⁽¹⁾, hereby makes the following Order:

Name, application and interpretation

1. This Order is called the Education Act 2002 (Commencement No.5) (Wales) Order 2004.
2. Provisions brought into force by this Order are brought into force only in relation to Wales.
3. In this Order, unless otherwise stated, references to sections and Schedules are references to sections of and Schedules to the Education Act 2002.

Appointed days

4. The day appointed for the coming into force of the provisions specified in Part 1 of the Schedule to this Order is 1st August 2004.
5. The day appointed for the coming into force of the provisions specified in Part 2 of the Schedule to this Order is 1st September 2004.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽²⁾.

13th July 2004

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

(1) 2002 c. 32.
(2) 1998 c. 38.

Status: This is the original version (as it was originally made).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

PART 1

Provisions coming into force on 1st August 2004

| Provision | Subject matter |
|---|--|
| Section 72 | Proposals relating to sixth forms |
| Section 215(1) in so far as it relates to the provisions of Schedule 21 below | Minor and consequential amendments |
| Schedule 9 | Proposals relating to sixth forms — implementation |
| Schedule 21 | Minor and consequential amendments |
| Paragraph 100(3) | |

PART 2

Provisions coming into force on 1st September 2004

| Provision | Subject matter |
|---|---|
| Section 21 | General responsibility for conduct of school |
| Section 22 | Training and support of governors |
| Section 30 | Governors' reports and other information |
| Section 32 | Responsibility for fixing dates of terms and holidays and times of sessions |
| Section 39(1) in so far as it relates to the definition of “statutory provision” | Interpretation of Chapter 1 |
| Section 155 | Inspection of nursery education |
| Section 176 | Consultation with pupils |
| Section 215(1) in so far as it relates to the provisions of Schedule 21 below | Minor and consequential amendments |
| Section 215(2) in so far as it relates to the provisions of Schedule 22 below | Repeals |
| Schedule 14, paragraphs 1 to 7 | Inspection of nursery education |
| Schedule 21 — | Minor and Consequential Amendments |
| Paragraph 39(1) and (5) | |
| Paragraph 63 except sub-paragraph (a) | |
| Paragraph 68 | |
| Paragraph 110(1) and (3) only for the purpose of omitting paragraph (e) of subsection (6) | |

| Provision | Subject matter |
|---|-----------------------|
| of section 127 of the School Standards and Framework Act 1998 | |
| Schedule 22, Part 3, the repeal of — | Repeals |
| Children Act 1989 ⁽³⁾ , section 79P(4)(d) and the preceding “and”; | |
| School Standards and Framework Act 1998 ⁽⁴⁾ . | |
| Section 38, Sections 41 and 42, Section 127(6) (e), in section 138, in subsection (4)(b), the words “paragraph 4 or 8 of Schedule 23 or”, and in subsection (5), paragraph (a)(ii) and (iii) and, in paragraph (b)(ii), the word “46”, in Part II of Schedule 11, paragraph 7, in Schedule 30, paragraph 204(b) | |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st August 2004 and 1st September 2004 those provisions of the Education Act 2002 specified in Parts 1 and 2 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 1 of the Schedule is as follows —

Section 72 and Schedule 9 amend the Learning and Skills Act 2000 so as to enable the National Council for Education and Training for Wales to propose the establishment, alteration or closure of sixth forms. Its proposals are to be submitted to the National Assembly for Wales (“the National Assembly”). Regulations will set out the procedures.

The effect of the provisions specified in Part 2 of the Schedule is as follows —

Sections 21, 22, 30 and 32 re-enact certain provisions of the School Standards and Framework Act 1998 (“the 1998 Act”) in relation to the government of maintained schools.

Section 21 provides that the governing body of a school is responsible for its conduct. It enables the National Assembly to make regulations setting out the roles and responsibilities of governing bodies, head teachers and LEAs.

Section 22 provides that an LEA must provide governors with information and training, free of charge.

(3) 1989 c. 41.

(4) 1998 c. 31.

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

Under section 30 a governing body must prepare an annual report. Regulations made by the National Assembly will set out requirements in relation to the content of annual reports and their distribution. Governing bodies must provide such reports to the LEA as it requires, and head teachers must provide such reports to governing bodies or LEAs as they require.

Section 32 sets out, in relation to different categories of school, the body which is responsible for determining the dates of school terms, school holidays and school session times. The National Assembly may make regulations as to proposals to change the times of school sessions.

Section 39 contains definitions.

Section 155 and Schedule 14 amend Schedule 26 to the 1998 Act which makes provision in relation to inspection of nursery education. These amendments will allow inspections to be carried out by members of the inspectorate as well as registered nursery inspectors, and allow Her Majesty's Chief Inspector of Education and Training in Wales to register those persons she considers appropriate and to take into account the need for inspectors in Wales. Previously she registered any person who satisfied the statutory criteria. Schedule 14 also contains amendments which will mean that appeals against decisions on registration will be made in England to the tribunal established under section 9 of the Protection of Children Act 1999. Appeals in Wales will continue to be made to the Registered Nursery Inspector's Tribunal, but there are some amendments which are consequential on the changes in England.

Section 176 imposes a duty on LEAs and governing bodies to have regard to National Assembly guidance about consultation with pupils in connection with taking decisions affecting them.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Education Act 2002 have been brought into force in relation to Wales by commencement order made before the date of this Order:

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|---------------------------|-----------------------------|-----------------------------------|
| Sections 14 to 17 | 31st March 2003 | 2002/3185 (W.301) |
| Section 18(2) | 31st March 2003 | 2002/3185 (W.301) |
| Section 19(6) (partially) | 1st September 2003 | 2003/1718 (W.185) |
| Sections 27 and 28 | 1st September 2003 | 2003/1718 (W.185) |
| Section 29 | 1st September 2003 | 2003/1718 (W.185) |
| Section 40 (partially) | 1st September 2003 | 2003/1718 (W.185) |
| Section 41 | 4th December 2003 | 2003/2961 (W.278) |
| Section 42 | 4th December 2003 | 2003/2961 (W.278) |
| Section 43 | 1st November 2003 | 2003/1718 (W.185) |
| Section 46 | 1st December 2003 | 2003/2961 (W.278) |
| Section 49 | 19th December 2002 | 2002/3185 (W.301) |
| Section 51 (partially) | 9th January 2004 | 2003/2961 (W.278) |
| (partially) | 31st March 2004 | 2004/912 (W.95) |

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|-------------------------------|-----------------------------|-------------------|
| Section 52 (partially) | 9th January 2004 | 2003/2961 (W.278) |
| Sections 54 to 56 | 19th December 2002 | 2002/3185 (W.301) |
| Sections 60 to 64 | 1st August 2003 | 2003/1718 (W.185) |
| Section 75 (partially) | 19th December 2002 | 2002/3185 (W.301) |
| Sections 97 and 98 | 19th December 2002 | 2002/3185 (W.301) |
| Section 99(1) | 19th December 2002 | 2002/3185 (W.301) |
| Section 100 (partially) | 19th December 2002 | 2002/3185 (W.301) |
| Section 101 (partially) | 19th December 2002 | 2002/3185 (W.301) |
| Section 103 | 19th December 2002 | 2002/3185 (W.301) |
| Sections 105 to 107 | 19th December 2002 | 2002/3185 (W.301) |
| Section 108 (partially) | 19th December 2002 | 2002/3185 (W.301) |
| Section 109 | 19th December 2002 | 2002/3185 (W.301) |
| Sections 111 to 118 | 19th December 2002 | 2002/3185 (W.301) |
| Section 119 | 1st October 2002 | 2002/2439 |
| Section 120(1) and (3) to (5) | 1st October 2002 | 2002/2439 |
| Section 120(2) | 1st August 2003 | 2003/1667 |
| Section 121 | 1st October 2002 | 2002/2439 |
| Section 122 to 129 | 1st August 2003 | 2003/1667 |
| Section 130 (partially) | 1st October 2002 | 2002/2439 |
| (fully) | 1st August 2003 | 2003/1667 |
| Section 131 | 19th December 2002 | 2002/3185 (W.301) |
| Sections 132 and 133 | 19th December 2002 | 2002/3185 (W.301) |
| Section 134 (partially) | 19th December 2002 | 2002/3185 (W.301) |
| Section 135 | 19th December 2002 | 2002/3185 (W.301) |
| Sections 136 to 140 | 1st September 2003 | 2003/1718 (W.185) |
| Section 141 | 19th December 2002 | 2002/3185 (W.301) |
| Sections 142 to 144 | 31st March 2003 | 2002/3185 (W.301) |
| Section 145 | 19th December 2002 | 2002/3185 (W.301) |
| Section 146 (partially) | 31st March 2003 | 2002/3185 (W.301) |
| Section 148 (partially) | 19th December 2002 | 2002/3185 (W.301) |
| Section 149 | 31st March 2003 | 2002/3185 (W.301) |
| Section 150 | 31st March 2003 | 2002/3185 (W.301) |
| Section 151(2) | 19th December 2002 | 2002/3185 (W.301) |
| Section 152 (partially) | 19th December 2002 | 2002/3185 (W.301) |

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

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|-------------------------|-----------------------------|--|
| Section 154 | 31st March 2004 | 2004/912 (W.95) |
| Section 156 | 31st March 2004 | 2004/912 (W.95) |
| Sections 157 to 174 | 1st January 2004 | 2003/2961 (W.278) |
| Section 177 | 1st August 2004 | 2004/912 (W.95) |
| Section 178(1) and (4) | 1st August 2003 | 2003/1718 (W.185) |
| Section 179 (partially) | 19th December 2002 | 2002/3185 (W.301) |
| Section 180 | 19th December 2002 | 2002/3185 (W.301) |
| Sections 181 to 185 | 1st September 2003 | 2003/1718 (W.185) |
| Section 188 (partially) | 19th December 2002 | 2002/3185 (W.301) |
| (partially) | 1st December 2003 | 2003/2961 (W.278) |
| Section 189 (partially) | 19th December 2002 | 2002/3185 (W.301) |
| Sections 191 to 194 | 19th December 2002 | 2002/3185 (W.301) |
| Section 195 (partially) | 31st March 2003 | 2002/3185 (W.301) |
| (fully) | 1st September 2003 | 2002/3185 (W.301) |
| Section 196 | 19th December 2002 | 2002/3185 (W.301) |
| Section 197 | 1st September 2003 | 2003/1718 (W.185) |
| Section 198 | 31st March 2004 | 2004/912 (W.95) |
| Section 199 | 1st September 2003 | 2003/1718 (W.185) |
| Section 200 | 31st March 2003 | 2002/3185 (W.301) |
| Section 201 (partially) | 31st March 2003 | 2002/3185 (W.301) |
| Sections 202 and 203 | 1st September 2003 | 2003/1718 (W.185) |
| Section 206 | 1st September 2003 | 2003/1718 (W.185) |
| Sections 207 and 208 | 9th January 2004 | 2003/2961 (W.278) |
| Section 215 (partially) | 19th December 2002 | 2002/3185 (W.301) |
| (partially) | 31st March 2003 | 2002/3185 (W.301) |
| (partially) | 1st August 2003 | 2003/1718 (W.185) and 2003/1667 |
| (partially) | 1st September 2003 | 2002/3185 (W.301) and 2003/1718 (W.185) |
| (partially) | 4th December 2003 | 2003/2961 (W.278) |
| (partially) | 1st January 2004 | 2003/2961 (W.278) |
| (partially) | 9th January 2004 | 2003/2961 (W.278) |
| (partially) | 31st March 2004 | 2004/912 (W.95) |
| (partially) | 1st August 2004 | 2004/912 (W.95) |

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|--|-----------------------------|-------------------|
| Schedule 1, paragraph 3 (partially) | 1st September 2003 | 2003/1718 (W.185) |
| Schedule 3, paragraphs 1 to 5 | 1st September 2003 | 2003/1718 (W.185) |
| Schedule 4, paragraphs 1 and 4 | 9th January 2004 | 2003/2961 (W.278) |
| Paragraph 12(1), (3) to (5) | 31st March 2004 | 2004/912 (W.95) |
| Schedule 5 | 19th December 2002 | 2002/3185 (W.301) |
| Schedule 10, paragraphs 1, 6, 11 and 15 | 19th December 2002 | 2002/3185 (W.301) |
| Schedule 11 | 1st October 2002 | 2002/2439 |
| Schedule 12, paragraphs 1, 2, 4(1) and (3), 6 and 7, | 19th December 2002 | 2002/3185 (W.301) |
| Paragraph 12(1) and (2) | 31st March 2003 | 2002/3185 (W.301) |
| Schedule 13, paragraphs 1 to 3, 5, 6, 7(1) and (3) and 8 | 19th December 2002 | 2002/3185 (W.301) |
| Schedule 16, 1st December 2003 paragraphs 1 to 3 | 2003/2961 | (W.278) |
| Paragraphs 4 to 9 | 19th December 2002 | 2002/3185 (W.301) |
| Schedule 17, paragraphs 5(1) to (4), (6) and 6 to 8 | 19th December 2002 | 2002/3185 (W.301) |
| Schedule 18, paragraphs 1, 4, 5 and 7, | 31st March 2003 | 2002/3185 (W.301) |
| Paragraph 8 (partially), | 31st March 2003 | 2002/3185 (W.301) |
| Paragraphs 13 to 15, | 31st March 2003 | 2002/3185 (W.301) |
| Paragraphs 2, 3, 6, 8 (fully), 9 to 12 and 16 to 18 | 1st September 2003 | 2002/3185 (W.301) |
| Schedule 19 | 1st September 2003 | 2003/1718 (W.185) |
| Schedule 20 | 1st September 2003 | 2003/1718 (W.185) |
| Schedule 21 (partially) | 1st October 2002 | 2002/2439 |
| (partially) | 19th December 2002 | 2002/3185 (W.301) |
| (partially) | 31st March 2003 | 2002/3185 (W.301) |
| (partially) | 1st August 2003 | 2003/1667 |
| (partially) | 1st September 2003 | 2003/1718 (W.185) |
| (partially) | 4th December 2003 | 2003/2961 (W.278) |
| (partially) | 1st January 2004 | 2003/2961 (W.278) |
| (partially) | 9th January 2004 | 2003/2961 (W.278) |
| (partially) | 31st March 2004 | 2004/912 (W.95) |
| Schedule 22 (partially) | 1st October 2002 | 2002/2439 |

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

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|------------------|-----------------------------|--|
| (partially) | 9th December 2002 | 2002/3185 (W.301) |
| (partially) | 31st March 2003 | 2002/3185 (W.301) |
| (partially) | 1st August 2003 | 2003/1718 (W.185) |
| (partially) | 1st September 2003 | 2002/3185 (W.301), 2003/1718 (W.185) and 2003/1667 |
| (partially) | 4th December 2003 | 2003/2961 (W.278) |
| (partially) | 1st January 2004 | 2003/2961 (W.278) |
| (partially) | 9th January 2004 | 2003/2961 (W.278) |
| (partially) | 31st March 2004 | 2004/912 (W.95) |
| (partially) | 1st August 2004 | 2004/912 (W.95) |

Various provisions of the Education Act 2002 have been brought into force in relation to England by the following Statutory Instruments: [S.I. 2002/2002](#) (as amended by [S.I. 2002/2018](#)), [S.I. 2002/2439](#) (as amended by [S.I. 2003/606](#) (revoked) and [2003/2992](#)), [S.I. 2002/2952](#), [S.I. 2003/124](#), [S.I. 2003/1115](#), [S.I. 2003/1667](#), [S.I. 2003/2071](#) and [S.I. 2004/1318](#).