
EXPLANATORY NOTE

(This note is not part of the Order)

This is the first commencement order under the Education Act 2005 (“*the 2005 Act*”) to be made by the National Assembly for Wales. It brings into force all the provisions of the 2005 Act which require an order of the National Assembly to bring them into force, with the exception of section 101 and Schedule 16 (and related consequential amendments and repeals in Schedules 18 and 19) concerning the financing of maintained schools, and section 70 (and a related consequential amendment in Schedule 12) concerning proposals for the discontinuance of rural primary schools. However, sections 41 and 42 are brought into force only in their application to special schools of the kind referred to in section 28(2)(d).

Apart from provisions relating to the careers services in Wales, which are brought into force by the Order on 1 April 2007 (see Schedule 3), the provisions brought into force by the Order are brought into force on 1 September 2006 (see Schedules 1 and 2). The provisions listed in Schedule 1 are brought into force in relation to Wales only. For technical reasons those listed in Schedules 2 and 3 are brought into force in relation to England and Wales, although, for practical purposes, they have no application in England.

The provisions brought into force by the Order are described briefly below. In what follows, references to sections and Schedules are to sections of, and Schedules to, the 2005 Act.

Provisions in Part 1 brought into force by the Order

For the main part, separate (and different) provisions apply to Wales from those which apply to England. Chapters 1 and 2 of Part 1 of the 2005 Act, which came into force on Royal Assent (7 April 2005), are new provisions applying only to England. They replace, in relation to England, the law relating to school inspections in the School Inspections Act 1996 (“*the 1996 Act*”). By virtue of section 62, a similar system can be introduced in Wales when and if the National Assembly so decide. In the meantime, the provisions of Part 1 (including Schedules 1 - 9) brought into force by this Order largely re-enact the 1996 Act in its application to Wales. That Act is repealed in its entirety by section 60. Apart from the re-enacted provisions, the provisions brought into force by this Order make provision for the inspection of the careers services, and effect some amendments (largely consequential) to various enactments relating to inspections (including enactments relating to the inspection of sixth forms; child minding, day care and nursery education; and independent schools) - Schedules 5 to 9.

Changes of substance include—

- new provision for the inspection of the careers services in Wales (sections 55 - 57)
- powers for the National Assembly to provide advice on the appointment or removal of the Chief Inspector for Wales, and to establish an advisory board to provide advice relating to the Chief Inspector’s functions (sections 19 and 22)
- changes in the provision for schools causing concern; in particular, in the way in which such schools are to be categorised in inspection reports (Chapter 5 of Part 1)
- In the case of inspections of religious education, a new requirement for church schools to consult persons specified in regulations made by the National Assembly before choosing an inspector (section 50)
- new provision enabling combined reports to be made in respect of inspections carried out under the 2005 Act and various other enactments relating to education and children (section 59)

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

Provisions in Parts 2 and 4 brought into force by the Order

Section 71 amends section 31 of the School Standards and Framework Act 1998 so as to require consultation in the case of certain proposals relating to a maintained special school.

Section 73 defines terms used in Part 2.

Section 105 inserts a new section 28A into the Education Act 2002 giving maintained schools limited powers to offer their pupils courses of higher education.

Section 106 inserts a new section 89(1A) into the School Standards and Framework Act 1998 concerning admission arrangements for looked after children.

Section 115 amends section 29(3) of the Education Act 2002 (concerning the power of the governing body of a school to direct pupils to attend alternative educational provision).

Section 116 inserts a new section 444ZA into the Education Act 1996 concerning failure to secure regular school attendance and penalty notices.

Section 117 introduces Schedule 18 which makes amendments to various enactments.

Section 118 defines “the 2002 Act” for the purposes of Part 4.

Section 123 introduces Schedule 19 (Repeals).

Transitional and saving provisions

Schedule 4 contains transitional and saving provisions.