

## SCHEDULE 1

(introduced by section 18)

### GOVERNING BODIES CONSISTING OF INTERIM EXECUTIVE MEMBERS

#### *Interpretation of Schedule*

- 1 (1) In this Schedule—
- “the appropriate authority” (“*yr awdurdod priodol*”) means—
    - (a) where this Schedule applies by virtue of a notice under section 7, the local authority that gave the notice, and
    - (b) where this Schedule applies by virtue of a notice under section 14, the Welsh Ministers;
  - “existing governors” (“*llywodraethwyr presennol*”), in relation to a school in respect of which a notice under section 7 or 14 has been given, means the governors who hold office immediately before the governing body becomes constituted in accordance with this Schedule;
  - “the interim period” (“*y cyfnod interim*”), in relation to a school in respect of which a notice under section 7 or 14 has been given, means the period during which the governing body is constituted in accordance with this Schedule;
  - “a normally constituted governing body” (“*corff llywodraethu a gyfansoddwyd yn normal*”) means a governing body constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002 (governing bodies).
- (2) In this Schedule any reference to the discontinuance of a maintained school is a reference to the local authority ceasing to maintain it.

#### *Governing body to consist of members appointed by appropriate authority*

- 2 (1) The governing body of the school is to consist of members appointed by the appropriate authority, instead of being constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002.
- (2) In the following provisions of this Schedule—
- (a) the governing body as constituted in accordance with this Schedule is referred to as “the interim executive board”, and
  - (b) the members of the governing body as so constituted are referred to as “interim executive members”.

#### *Effect of notice under section 7 or 14*

- 3 (1) On the date specified in the notice under section 7 or 14, the existing governors vacate office.
- (2) Sub-paragraph (1) does not prevent the appointment of an existing governor as an interim executive member.
- (3) During the interim period, any reference in any provision contained in, or made under, the Education Acts to a governor or foundation governor of a school has effect, in relation to the school, as a reference to an interim executive member.

- (4) During the interim period, section 83 of the School Standards and Framework Act 1998 (modification of provisions making governors of foundation or voluntary school ex officio trustees) has effect in relation to the school with the substitution for paragraphs (a) to (c) of a reference to the interim executive members.

*Number of interim executive members*

- 4 (1) The number of interim executive members must not be less than two.
- (2) The initial appointment of interim executive members must be made so as to take effect on the date specified in the notice under section 7 or 14.
- (3) The appropriate authority may appoint further interim executive members at any time during the interim period.

*Terms of appointment of interim executive members*

- 5 (1) Every appointment of an interim executive member must be made by an instrument in writing setting out the terms of the appointment.
- (2) An interim executive member—
- (a) holds office in accordance with the terms of the appointment and subject to paragraph 16, and
  - (b) may at any time be removed from office by the appropriate authority for incapacity or misbehaviour.
- (3) The terms of appointment of an interim executive member may provide for the appointment to be terminable by the appropriate authority by notice.

*Duty of appropriate authority to inform other persons*

- 6 (1) The appropriate authority must give a copy of the notice under section 7 or 14 and of every instrument of appointment of an interim executive member—
- (a) to every interim executive member,
  - (b) to every existing governor of the school,
  - (c) where the local authority is the appropriate authority, to the Welsh Ministers,
  - (d) where the Welsh Ministers are the appropriate authority, to the local authority, and
  - (e) in the case of a foundation or voluntary school—
    - (i) to the person who appoints the foundation governors, and
    - (ii) if the school has a religious character, to the appropriate religious body.
- (2) A failure to comply with sub-paragraph (1) does not invalidate the notice or appointment.

*Power to specify duration of interim period*

- 7 The appropriate authority may specify the duration of the interim period in the notice under section 7 or 14.

#### *Chair*

- 8 The appropriate authority may nominate one of the interim executive members to be chair of the interim executive board.

#### *Remuneration and allowances*

- 9 The appropriate authority may pay to any interim executive member such remuneration and allowances as the appropriate authority may determine, subject to any regulations made under paragraph 13(2).

#### *Duty of interim executive board*

- 10 (1) During the interim period, the interim executive board must conduct the school so as to secure, so far as is practicable to do so, the provision of a sound basis for future improvement in the conduct of the school.
- (2) Sub-paragraph (1) does not affect the other duties of the interim executive board as governing body.

#### *Proceedings of interim executive board*

- 11 (1) The interim executive board may determine its own procedure.
- (2) The interim executive board may make such arrangements as it thinks fit for the discharge of its functions by any other person.
- (3) This paragraph is subject to regulations made under paragraph 13(2).

#### *Effect on suspension of delegated budget*

- 12 (1) If immediately before the date specified in a notice under section 7 or 14 the school does not have a delegated budget, the suspension of the governing body's right to a delegated budget is by virtue of this sub-paragraph revoked with effect from that date.
- (2) If a notice under paragraph 1 of Schedule 15 to the School Standards and Framework Act 1998 (suspension of delegated budget for mismanagement etc) has been given to the governing body before the date specified in a notice under section 7 or 14 but has not yet taken effect, the notice ceases to have effect on that date.
- (3) During the interim period, the local authority may not exercise the power conferred by section 8 (power to suspend right to delegated budget).
- (4) Sub-paragraph (1) is to be construed in accordance with section 49(7) of the School Standards and Framework Act 1998.

#### *Exclusion of certain statutory provisions*

- 13 (1) Regulations made under section 19(2) or (3) of the Education Act 2002 (governing bodies) do not apply in relation to the interim executive board.
- (2) But regulations made under section 19(3)(f), (g), (i), (j), (k) or (l) of the Education Act 2002 (other than regulations under section 19(3)(l) relating to the constitution of governing bodies) may be applied in relation to the board (with or without modifications) by regulations.

- (3) The instrument of government of the school does not have effect in relation to the interim executive board in so far as it relates to the constitution of the governing body.
- (4) During the interim period—
  - (a) the local authority may not exercise any power conferred by section 6 (power to appoint additional governors), and
  - (b) the Welsh Ministers may not exercise any power conferred by section 13 (power to appoint additional governors).

*Closure of school*

- 14 (1) At any time during the interim period, the interim executive board may, if it thinks fit, make a report to the local authority and the Welsh Ministers recommending that the school be discontinued, and stating the reasons for that recommendation.
- (2) The interim executive board may not—
  - (a) publish under section 43 proposals to discontinue the school, or
  - (b) serve notice under section 80.
- (3) Sub-paragraph (4) applies if during the interim period—
  - (a) the Welsh Ministers give a direction under section 16 or 81 in relation to the school, or
  - (b) the local authority determine to discontinue the school.
- (4) The interim period is to continue until the discontinuance date, even where it would otherwise end before that date.
- (5) In this paragraph “the discontinuance date” means one of the following (as the case may be)—
  - (a) the date on which proposals for discontinuing the school are implemented under Part 1 of Schedule 3;
  - (b) the date on which the school is discontinued under section 80;
  - (c) the date specified in the direction under section 16 or 81(1).

*Notice of resumption of government by normally constituted governing body*

- 15 (1) The following sub-paragraph applies if—
  - (a) the notice under section 7 or 14 does not specify the duration of the interim period, and
  - (b) paragraph 14(4) does not apply.
- (2) The appropriate authority may give notice to the persons mentioned in sub-paragraph (3) specifying a date on which the governing body are to become a normally constituted governing body.
- (3) Those persons are—
  - (a) every interim executive member,
  - (b) where the local authority is the appropriate authority, the Welsh Ministers,
  - (c) where the Welsh Ministers are the appropriate authority, the local authority, and
  - (d) in the case of a foundation or voluntary school—
    - (i) the person who appoints the foundation governors, and

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(ii) if the school has a religious character, the appropriate religious body.

*Time when interim executive members cease to hold office*

- 16 (1) The interim executive members are to vacate office—
- (a) in a case where sub-paragraph (4) of paragraph 14 applies, on the discontinuance date within the meaning of that paragraph,
  - (b) in a case where that sub-paragraph does not apply and the notice under section 7 or 14 specified the duration of the interim period, at the end of the specified period, and
  - (c) in any other case, on the date specified under paragraph 15(2).
- (2) Sub-paragraph (1) does not prevent the termination of the appointment of an interim executive member at any earlier time under paragraph 5(2)(b) or in accordance with the terms of the appointment.

*Establishment of normally constituted governing body*

- 17 (1) Where interim executive members are to vacate office on the date referred to in paragraph 16(1)(b) or (c), the local authority must make arrangements providing for the constitution of the governing body on and after that date.
- (2) The Welsh Ministers may by regulations make provision with respect to the transition from an interim executive board to a normally constituted governing body, and may in connection with that transition—
- (a) modify any provision made under any of sections 19, 20 and 23 of the Education Act 2002 or by Schedule 1 to that Act,
  - (b) apply any such provision with or without modifications, and
  - (c) make provision corresponding to or similar to any such provision.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes, among other things, provision enabling governors to be elected or appointed, and to exercise functions, before the end of the interim period.

SCHEDULE 2

(Introduced by section 40)

REGULATED ALTERATIONS

**PART 1**

ALL MAINTAINED SCHOOLS

- 1 Paragraphs 2 and 3 describe regulated alterations in relation to community, foundation, voluntary schools, community special schools, and maintained nursery schools.

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### *Site transfers*

- 2 The transfer of a school to a new site or sites unless a main entrance of the school on its new site or sites would be within 1.609344 kilometres (one mile) of a main entrance of the school on its current site or sites.

### *Mixed sex and single-sex schools*

- 3 (1) An alteration to a school so that—
- (a) a school which admitted pupils of one sex only admits pupils of both sexes, or
  - (b) a school which admitted pupils of both sexes admits pupils of one sex only.
- (2) For the purposes of this paragraph a school is to be treated as admitting pupils of one sex only if the admission of pupils of the other sex—
- (a) is limited to pupils over compulsory school age; and
  - (b) does not exceed 25% of the number of pupils in the age group in question normally at the school.

## **PART 2**

### **ALL MAINTAINED SCHOOLS OTHER THAN MAINTAINED NURSERY SCHOOLS**

- 4 Paragraphs 5 to 8 describe regulated alterations in relation to community, foundation and voluntary schools, and community special schools.

### *Age range*

- 5 (1) The alteration by a year or more of the lowest age of pupils for whom education is normally provided at the school.
- (2) The alteration by a year or more of the highest age of pupils for whom education is normally provided at a school where the school, both before and after the alteration, provides education suitable to the requirements of pupils of compulsory school age and does not provide full time education suitable to the requirements of pupils over compulsory school age.

### *Sixth form provision*

- 6 (1) The introduction of the provision of full-time education suitable to the requirements of pupils over compulsory school age at a school which provides full time education suitable to the requirements of pupils of compulsory school age.
- (2) The ending of the provision of full time education suitable to the requirements of pupils over compulsory school age at a school which is to continue to provide full time education suitable to the requirements of pupils of compulsory school age.

### *Language medium – primary education*

- 7 (1) This paragraph applies to—
- (a) primary schools,
  - (b) special schools but only in relation to the provision of primary education to pupils at the schools, and

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- (c) middle schools but only in relation to the provision of primary education to pupils at the schools.
- (2) An alteration comes within this paragraph if the teaching of a class of pupils in an age group (or groups) at a school falls within a description in an entry in column 1 of table 1 below, and it is proposed to alter the teaching of the corresponding class of pupils in that age group (or those age groups) so that it falls within the description in the corresponding entry in column 2.
- (3) In this paragraph—
- (a) “age group” means—
- (i) a year group of the foundation phase (within the meaning given by section 102 of the Education Act 2002), or
- (ii) a year group of the second key stage (within the meaning given by section 103 of the Education Act 2002);
- (b) a reference to the teaching of a class of pupils does not include a school assembly or other school activities usually conducted with large groups of pupils.

TABLE 1

1	2
At least 20% but no more than 80% of the teaching is conducted through the medium of English	An increase or a decrease of more than 20% in the teaching which is conducted through the medium of Welsh
At least 20% but no more than 80% of the teaching is conducted through the medium of Welsh	An increase or a decrease of more than 20% in the teaching which is conducted through the medium of English
More than 80% of the teaching is conducted through the medium of English, and some teaching is conducted through the medium of Welsh	An increase of more than 10% in the teaching which is conducted through the medium of Welsh
More than 80% of the teaching is conducted through the medium of Welsh, and some teaching is conducted through the medium of English	An increase of more than 10% in the teaching which is conducted through the medium of English
No teaching is conducted through the medium of Welsh	More than 10% of teaching is conducted through the medium of Welsh
No teaching is conducted through the medium of English	More than 10% of teaching is conducted through the medium of English
Some teaching is conducted through the medium of English	No teaching is conducted through the medium of English
Some teaching is conducted through the medium of Welsh	No teaching is conducted through the medium of Welsh

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*Language medium - secondary education*

- 8 (1) This paragraph applies to—
- (a) secondary schools,
  - (b) special schools but only in relation to the provision of secondary education to pupils at the schools, and
  - (c) middle schools but only in relation to the provision of secondary education to pupils at the schools.
- (2) An alteration comes within this paragraph if the teaching of pupils in a year group at a school falls within a description in an entry in column 1 of table 2 below, and it is proposed to alter the teaching of pupils in that year group so that it falls within the description in the corresponding entry in column 2.
- (3) In this paragraph a “relevant subject” is any subject other than English and Welsh which is taught at the school to pupils in the year group concerned.

TABLE 2

1	2
Five or more relevant subjects are taught (wholly or mainly) through the medium of Welsh to any pupils	A decrease by four or more of the relevant subjects taught (wholly or mainly) through the medium of Welsh to any pupils
Five or more relevant subjects are taught (wholly or mainly) through the medium of English to any pupils	A decrease by four or more of the relevant subjects taught (wholly or mainly) through the medium of English to any pupils
Every relevant subject is taught (wholly or mainly) through the medium of Welsh to all pupils	Three or more relevant subjects are taught (wholly or mainly) through the medium of English to any pupils
Every relevant subject is taught (wholly or mainly) through the medium of English to all pupils	Three or more relevant subjects are taught (wholly or mainly) through the medium of Welsh to any pupils
One or more relevant subject is taught (wholly or mainly) through the medium of Welsh to any pupils	No relevant subject is taught (wholly or mainly) through the medium of Welsh to any pupils
One or more relevant subject is taught (wholly or mainly) through the medium of English to any pupils	No relevant subject is taught (wholly or mainly) through the medium of English to any pupils

**PART 3**

COMMUNITY, FOUNDATION AND VOLUNTARY SCHOOLS

- 9 Paragraphs 10 to 17 describe regulated alterations in relation to community, foundation and voluntary schools.



### *Alterations to premises*

- 10 (1) An enlargement of the premises of the school which would increase the capacity of the school by at least 25% or 200 pupils as compared with the school’s capacity on the appropriate date.
- (2) In determining an increase in capacity for the purpose of sub-paragraph (1), all enlargements that have taken place since the appropriate date are to be taken into account together with the proposed enlargement.
- (3) The “appropriate date” is the latest of—
- (a) the date falling five years before the date on which it is planned to implement the proposals to make the enlargement;
  - (b) the date when the school first admitted pupils;
  - (c) the date (or latest date) of implementation of proposals to make an alteration to the school consisting of an enlargement of its premises which proposals were published under—
    - (i) section 48, 59, 68 or 72, or
    - (ii) section 28 of the School Standards and Framework Act 1998 or paragraph 5 of Schedule 7 to that Act.
- (4) References in this paragraph to an enlargement do not include a temporary enlargement.
- 11 (1) An enlargement of the premises of the school which would increase the capacity of the school if the date on which it is planned to implement the proposals to make the enlargement falls within the period described in sub-paragraph (2).
- (2) The period is five years beginning with the date (or latest date) of implementation of proposals falling within paragraph 13 (reducing a school’s capacity).
- (3) “Enlargement” does not include a temporary enlargement.
- 12 The making permanent of a temporary enlargement which at the time of its making would have fallen within paragraph 10 (but for the fact that it was temporary).
- 13 An alteration of the premises of the school which would reduce the capacity of the school, where the proposed capacity would be lower than the highest number of registered pupils at the school at any time during the two years before the date on which the proposer formed the intention to make the proposed alteration.
- 14 For the purposes of paragraphs 10 to 13—
- (a) references to the capacity of a school are to the number of pupils the school can accommodate as determined in accordance with guidance given by the Welsh Ministers, and
  - (b) a “temporary enlargement” is an enlargement of a school’s premises which it is anticipated, at the time of its making, will be in place for fewer than three years.

### *Special educational needs*

- 15 (1) The establishment or discontinuance of provision which is recognised by the local authority as reserved for children with special educational needs.
- (2) Where there is provision which is recognised by the local authority as reserved for children with special educational needs, a change in the type of such provision.

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*Admission arrangements*

- 16 The introduction of admission arrangements to which section 101(1) of the School Standards and Framework Act 1998 (pupil banding) applies.

*Boarding provision*

- 17 (1) The introduction or ending of provision for boarding accommodation.
- (2) The alteration of provision for boarding accommodation so that the number of pupils for whom such provision is made is increased or decreased by 50 pupils or more or by 50% or more.

**PART 4**

**SPECIAL SCHOOLS**

- 18 Paragraphs 19 to 21 describe regulated alterations in relation to community special schools.

*Increase in pupils*

- 19 (1) Except where the school is established in a hospital, an increase in the number of pupils for whom the school makes provision which, when taken with all previous increases since the appropriate date, would increase the number of pupils at least by 10% or by the relevant number as compared with the number of pupils on the appropriate date.
- (2) In this paragraph—
- the “appropriate date” (“*dyddiad priodol*”) is the latest of—
- (a) 19 January 2012;
- (b) the date when the school first admitted pupils;
- (c) the date (or latest date) of implementation of proposals to make an alteration to the school to increase the number of pupils for whom the school makes provision which proposals were published under—
- (i) section 48, 59, 68 or 72, or
- (ii) section 31 of the School Standards and Framework Act 1998 or paragraph 5 of Schedule 7 to that Act; and
- “relevant number” (“*y nifer perthnasol*”) in relation to the number of pupils at a school, is—
- (a) where the school provides boarding accommodation only, 5, and
- (b) in any other case, 20.

*Boarding provision*

- 20 The alteration of the provision of boarding accommodation so that the number of pupils for whom such provision is made is increased or decreased by 5 pupils or more.

*Special educational needs provision*

- 21 A change in the type of special educational needs for which the school is organised to make provision.

## PART 5

### MAINTAINED NURSERY SCHOOLS

- 22 Paragraphs 23 to 25 describe regulated alterations in relation to maintained nursery schools.

#### *Teaching space*

- 23 (1) An enlargement of the teaching space, other than a temporary enlargement, by 50% or more.
- (2) The making permanent of a temporary enlargement of the teaching space by 50% or more.
- (3) In this paragraph—
- “teaching space” (“*man addysgu*”) means any area used wholly or mainly for the provision of nursery education excluding—
- (a) any area used wholly or mainly for the education of pupils whose educational needs are being assessed under section 323 of the Education Act 1996 and pupils with statements of special educational needs maintained under section 324 of that Act;
- (b) any area constructed, adapted or equipped so as to be unsuitable for general teaching purposes;
- (c) any area constructed, adapted or equipped primarily for the storage of apparatus, equipment or materials used in teaching;
- (d) any part of an area which is required for the movement of pupils through that area and which is used wholly or mainly for that purpose;
- a “temporary enlargement” (“*ehangu dros dro*”) is an enlargement of the teaching space which it is anticipated, at the time of its making, will be in place for fewer than three years.

#### *Special educational needs*

- 24 (1) The establishment or discontinuance of provision which is recognised by the local authority as reserved for children with special educational needs.
- (2) Where there is provision which is recognised by the local authority as reserved for children with special educational needs, a change in the type of such provision.

#### *Language medium*

- 25 (1) In the case of a school at which a group of pupils is taught wholly or mainly through the medium of Welsh, an alteration to the school so that all pupils would be taught wholly or mainly through the medium of English.
- (2) In the case of a school at which a group of pupils is taught wholly or mainly through the medium of English, an alteration to the school so that all pupils would be taught wholly or mainly through the medium of Welsh.

## PART 6

### SUPPLEMENTARY

#### *Power to amend*

- 26 (1) The Welsh Ministers may by order amend any provision of this Schedule.
- (2) An order under sub-paragraph (1) may make consequential amendments to any provision of Part 3 of this Act.

## SCHEDULE 3

(Introduced by section 55)

### IMPLEMENTATION OF STATUTORY PROPOSALS

## PART 1

### RESPONSIBILITY FOR IMPLEMENTATION

#### *Interpretation*

- 1 In this Part of this Schedule—
- (a) “proposals” means proposals falling to be implemented under section 55;
- (b) a reference to a local authority in relation to a school or proposed school is a reference to the local authority that maintains, or that will maintain, that school.

#### *Proposals relating to community or maintained nursery schools*

- 2 (1) This paragraph applies to proposals relating to a community or maintained nursery school or a proposed community or maintained nursery school.
- (2) Proposals made by a local authority under section 41, 42 or 43 must be implemented by the local authority.

#### *Proposals relating to foundation or voluntary controlled schools*

- 3 (1) This paragraph applies to proposals relating to a foundation or voluntary controlled school or a proposed voluntary controlled school.
- (2) Proposals made by a local authority under section 41(2) or 43(1)(a) must be implemented by the authority.
- (3) Proposals made by a local authority under section 42(1)(b) or (c) must be implemented by both the authority and governing body to the extent (if any) that the proposals provide for each of them to do so.
- (4) Proposals made under section 41(2) (other than by a local authority) must be implemented by the local authority and by the person who made the proposals to the extent (if any) that the proposals provide for each of them to do so.

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- (5) Proposals made by a governing body under section 42(2) must be implemented by the local authority and by the governing body to the extent (if any) that the proposals provide for each of them to do so.
- (6) Proposals made by a governing body under section 43(2) must be implemented by both the governing body and the local authority.

*Proposals relating to voluntary aided schools*

- 4 (1) This paragraph applies to proposals relating to a voluntary aided school or a proposed voluntary aided school.
- (2) Proposals made by a local authority under section 42(1)(b) or (c) must be implemented—
  - (a) so far as relating to the provision of relevant premises for the school, by the local authority, and
  - (b) otherwise by both the authority and the governing body to the extent (if any) that the proposals provide for each of them to do so.
- (3) Proposals made under section 41(2) must be implemented—
  - (a) where the local authority is the proposer, by the local authority, and
  - (b) where the local authority is not the proposer—
    - (i) so far as relating to the provision of relevant premises for the school, by the local authority, and
    - (ii) otherwise by the person who made the proposals.
- (4) Nothing in sub-paragraph (3)(b) requires a local authority to provide relevant premises where—
  - (a) the new voluntary aided school is to be established in place of one or more existing independent, foundation or voluntary schools falling to be discontinued on or before the date of implementation of the proposals, and
  - (b) those premises were part of the premises of any of the existing schools but were not provided by the authority.
- (5) Proposals made by a governing body under section 42(2) must be implemented—
  - (a) so far as relating to the provision of relevant premises for the school, by the local authority, and
  - (b) otherwise by the governing body.
- (6) “Relevant premises” means—
  - (a) playing fields, or
  - (b) buildings which are to form part of the school premises but are not to be school buildings.
- (7) Proposals made by a local authority under section 43(1) must be implemented by the authority.
- (8) Proposals made by the governing body under section 43(2) must be implemented by both the governing body and the local authority.

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*Proposals relating to community special schools*

- 5 (1) This paragraph applies to proposals relating to a community special school or a proposed community special school.
- (2) Proposals made by a local authority under section 44 must be implemented by the authority.

*Change of category*

- 6 If a school changes category from a community school after proposals have been published under section 48 but before they have been implemented, the proposals (to the extent that they have not been implemented) must be implemented by the local authority (despite paragraphs 3 and 4).

## PART 2

### PROVISION OF PREMISES AND OTHER ASSISTANCE

*Provision of site and buildings for foundation or voluntary controlled school*

- 7 (1) This paragraph applies where a local authority is required by virtue of paragraph 3(2), (3), (4) or (5) to provide a site for a foundation or voluntary controlled school or a proposed voluntary controlled school.
- (2) The authority must transfer its interest in the site and in any buildings on the site which are to form part of the school premises—
- (a) to the school’s trustees, to be held by them on trust for the purposes of the school, or
  - (b) if the school has no trustees, to the school’s foundation body or (in the absence of such a body) to the governing body, to be held by that body for the relevant purposes.
- (3) If any doubt or dispute arises as to the persons to whom the authority is required to make the transfer, it must be made to such persons as the Welsh Ministers think proper.
- (4) The authority must pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (5) Sub-paragraph (6) applies where—
- (a) a transfer is made under this paragraph, and
  - (b) the transfer is made to persons (“the transferees”) who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school.
- (6) The transferees must notify the local authority that sub-paragraph (5)(b) applies to them and they or their successors must pay to the local authority so much of that sum as, having regard to the value of the interest transferred, may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the Welsh Ministers.
- (7) In sub-paragraph (5)(b) the reference to proceeds of the sale of other premises includes a reference to—

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- (a) consideration for the creation or disposition of any kind of interest in other premises, including rent, and
  - (b) interest which has accrued in respect of any such consideration.
- (8) Any sum paid under sub-paragraph (6) is to be treated for the purposes of section 14 of the Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.
- (9) A determination may be made under sub-paragraph (6) in respect of any property subject to a trust which has arisen under section 1 of the Reverter of Sites Act 1987 (right of reverter replaced by trust for sale) if (and only if)—
  - (a) the determination is made by the Welsh Ministers, and
  - (b) they are satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.
- (10) Sub-paragraph (6) applies for the purpose of compensating the authority notified under that sub-paragraph only in relation to such part of the sum mentioned in sub-paragraph (5)(b) (if any) as remains after the application of paragraphs 1 to 3 of Schedule 22 to the School Standards and Framework Act 1998 (disposals of land - foundation, voluntary and foundation special schools) to that sum.
- (11) In this paragraph—
  - “the relevant purposes” (“*y dibenion perthnasol*”) means—
    - (a) in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts, or
    - (b) in relation to a transfer to a school’s governing body, the purposes of the school;
  - “site” (“*safle*”) does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

*Grants in respect of certain expenditure relating to existing or proposed voluntary aided school*

- 8
- (1) This paragraph applies where—
    - (a) the governing body of a voluntary aided school is required by virtue of paragraph 4(5) to implement proposals to make a regulated alteration to the school, or
    - (b) a person is required by virtue of paragraph 4(3)(b) to implement proposals to establish a new voluntary aided school.
  - (2) Paragraph 5 of Schedule 3 to the School Standards and Framework Act 1998 (grants to voluntary aided schools in respect of expenditure on premises or equipment)—
    - (a) applies in relation to the school mentioned in sub-paragraph (1)(a), and
    - (b) applies in relation to the new school mentioned in sub-paragraph (1)(b) as it applies in relation to an existing voluntary aided school.
  - (3) In the application of that paragraph in relation to a new voluntary aided school—
    - (a) the references to the governing body, in relation to any time before the governing body is constituted, are to the person who made the proposals under section 41(2), and

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- (b) where requirements are imposed in relation to grant paid by virtue of this paragraph to the person who made the proposals, the requirements must be complied with by the governing body, when it is constituted, as well as by that person.

*Assistance in respect of maintenance and other obligations relating to voluntary aided school*

- 9 A local authority may give to the governing body of a voluntary aided school such assistance as the authority thinks fit in relation to the carrying out by the governing body of any obligation arising by virtue of paragraph 4(5) in relation to proposals made by it under section 42(2).

*Assistance in respect of new voluntary aided school*

- 10 A local authority may give to persons required by virtue of paragraph 4(3)(b) to implement proposals to establish a voluntary aided school such assistance as it thinks fit in relation to the carrying out by those persons of any obligation arising by virtue of that paragraph.

*Duty to transfer interest in premises provided under paragraph 9 or 10*

- 11 (1) Where assistance under paragraph 9 or 10 consists of the provision of any premises for use for the purposes of a school, the local authority must transfer its interest in the premises—
- (a) to the trustees of the school to be held on trust for the purposes of the school, or
  - (b) if the school has no trustees, to the school's foundation body, to be held by that body for the purposes of the schools comprising the group for which that body acts.
- (2) If any doubt or dispute arises as to the persons to whom the authority is required to make the transfer it must be made to such persons as the Welsh Ministers think proper.
- (3) The authority must pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.

### PART 3

#### TRANSITIONAL EXEMPTION ORDERS FOR PURPOSES OF THE EQUALITY ACT 2010

*Single-sex schools*

- 12 (1) This paragraph applies to proposals to make a regulated alteration described in paragraph 3(1)(a) of Schedule 2 (school to cease to be one which admits pupils of one sex only).
- (2) Sub-paragraph (3) applies where such proposals are made under section 42 or 44 and, in accordance with section 48(4), the proposer sends a copy of the published proposals to the Welsh Ministers.



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- (3) The sending of the published proposals to the Welsh Ministers is to be treated as an application by the proposer for a transitional exemption order under the Equality Act 2010, and the Welsh Ministers may make such an order accordingly.
- (4) In this paragraph—  
“make” (“*gwneud*”), in relation to a transitional exemption order, includes vary or revoke;  
“transitional exemption order” (“*gorchymyn esemptio trosiannol*”) has the same meaning as in paragraph 3 of Schedule 11 to the Equality Act 2010.

## SCHEDULE 4

(Introduced by section 55)

### IMPLEMENTATION OF PROPOSALS TO CHANGE CATEGORY OF SCHOOL

#### PART 1

#### INTRODUCTORY

##### *Interpretation*

1 In this Schedule—

“group” (“*grwp*”) has the meaning given by section 21(4)(b) of the School Standards and Framework Act 1998;

“the implementation date” (“*y dyddiad gweithredu*”) means the date on which it is proposed that the change of category is to take place;

“publicly funded land” (“*tir wedi ei gyllido'n gyhoeddus*”) means land which was acquired—

- (a) from a local authority under a transfer under section 201(1)(a) of the Education Act 1996,
- (b) wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),
- (c) wholly by means of a grant made under regulations made under paragraph 4 of Schedule 32 to the School Standards and Framework Act 1998,
- (d) wholly by means of expenditure incurred for the purposes of the school and treated by the local authority as expenditure of a capital nature,
- (e) under a transfer under regulations made under paragraph 5 of Schedule 8 to the School Standards and Framework Act 1998,
- (f) wholly by means of financial assistance given under section 14 of the Education Act 2002,
- (g) under a transfer under this Schedule, or
- (h) wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (g);

“transfer agreement” (“*cytundeb trosglwyddo*”), in relation to a school, means an agreement—

- (a) made between the local authority and the trustees or the foundation body or the governing body of the school, and

- (b) providing for land to be transferred to, and vest in, the local authority on the implementation date (whether or not in consideration of payment by the authority).

### *Implementation*

- 2 On the implementation date the school is to change category in accordance with the proposals.

## **PART 2**

### TRANSFER OF STAFF

#### *Change to voluntary aided school*

- 3 (1) This paragraph applies where a community or voluntary controlled school changes category to become a voluntary aided school.
- (2) The contract of employment between P and the local authority has effect from the implementation date as if originally made between P and the governing body.
- (3) All the local authority's rights, powers, duties and liabilities under or in connection with the contract of employment are transferred to the governing body on the implementation date.
- (4) Anything done before that date by or in relation to the local authority in connection with that contract or P is to be treated from that date as having been done by or in relation to the governing body.
- (5) In this paragraph, "P" is a person who—
  - (a) immediately before the implementation date is employed by the local authority to work solely at the school in question, or
  - (b) before the implementation date, is appointed by the local authority to work at the school as from the implementation date or a later date.
- (6) But a reference to "P" does not include—
  - (a) a person whose contract of employment terminates on the day immediately preceding the implementation date, or
  - (b) a person employed by the local authority to work at the school solely in connection with the provision of meals.
- (7) This paragraph does not affect any right of an employee to terminate the contract if (apart from the change of employer) a substantial change is made to the employee's detriment in the employee's working conditions.

#### *Change to community or voluntary controlled school*

- 4 (1) This paragraph applies where a foundation or voluntary aided school changes category to become a community or voluntary controlled school.
- (2) The contract of employment between P and the governing body has effect from the implementation date as if originally made between P and the local authority.

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*Status: This is the original version (as it was originally enacted).*

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- (3) All the governing body's rights, powers, duties and liabilities under or in connection with the contract of employment are transferred to the local authority on the implementation date.
- (4) Anything done before that date by or in relation to the governing body in connection with that contract or P is to be treated from that date as having been done by or in relation to the local authority.
- (5) In this paragraph, "P" is a person who—
  - (a) immediately before the implementation date is employed by the governing body to work at the school in question, or
  - (b) before the implementation date, is appointed by the governing body to work at the school as from the implementation date or a later date.
- (6) But "P" does not include a person whose contract of employment terminates on the day immediately preceding the implementation date.
- (7) This paragraph does not affect any right of an employee to terminate the contract if (apart from the change of employer) a substantial change is made to the employee's detriment in the employee's working conditions.

*Change to voluntary aided school with a religious character*

- 5 (1) This paragraph applies where a voluntary controlled school or a foundation school with a religious character changes category to become a voluntary aided school with a religious character.
- (2) Sub-paragraph (3) applies if, immediately before the implementation date, a teacher at the voluntary controlled school or foundation school enjoys rights conferred by section 59(2) to (4) of the School Standards and Framework Act 1998 by virtue of section 60(2) of that Act.
- (3) That teacher is to continue to enjoy those rights while employed as a teacher at the voluntary aided school.

### **PART 3**

#### **TRANSFER OF LAND**

*Effect of transfers*

- 6 (1) Sub-paragraph (2) applies where—
  - (a) land is transferred to and vests in a body in accordance with this Schedule, and
  - (b) the transferor enjoys or incurs any rights or liabilities immediately before the implementation date in connection with that land.
- (2) Those rights or liabilities are also transferred to, and by virtue of this Schedule, vest in, that body.
- 7 Any reference in this Part of this Schedule, in relation to a school, to land being transferred to, and vesting in, a foundation body is a reference to its being transferred

to, and vesting in, that body for the purposes of the schools comprising the group for which that body acts.

8 Transfers of land under this Schedule do not affect the rights of the governing body in relation to the land under Schedule 13 to the School Standards and Framework Act 1998.

9 In its application to transfers under this Schedule, Schedule 10 to the Education Reform Act 1988 has effect as if references in it to the transfer date were references to the implementation date.

*Change from community school to voluntary aided school*

10 (1) Sub-paragraph (2) applies where—

- (a) proposals for a community school to become a voluntary aided school are required to be implemented under section 55(2), and
- (b) as from the implementation date the school will not be a member of the group for which a foundation body acts.

(2) Any land other than playing fields which, immediately before the implementation date, was held or used by a local authority for the purposes of the community school is, on that date, to be transferred to, and vest in, the trustees of the school, to be held by them on trust for the purposes of the school.

11 (1) Sub-paragraph (2) applies where—

- (a) proposals for a community school to become a voluntary aided school are required to be implemented under section 55(2), and
- (b) as from the implementation date the school will be a member of the group for which a foundation body acts.

(2) Any land other than playing fields or land held on trust which, immediately before the implementation date, was held or used by a local authority for the purposes of the community school is, on that date, to be transferred to, and vest in, the foundation body.

*Change from community school to voluntary controlled school*

12 (1) Sub-paragraph (2) applies where—

- (a) proposals for a community school to become a voluntary controlled school are required to be implemented under section 55(2), and
- (b) as from the implementation date the school will not be a member of the group for which a foundation body acts.

(2) Any land other than playing fields which, immediately before the implementation date, was held or used by a local authority for the purposes of the community school is, on that date, to be transferred to, and vest in, the trustees of the school, to be held by them on trust for the purposes of the school.

13 (1) Sub-paragraph (2) applies where—

- (a) proposals for a community school to become a voluntary controlled school are required to be implemented under section 55(2), and
- (b) as from the implementation date the school will be a member of the group for which a foundation body acts.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Any land other than playing fields or land held on trust which, immediately before the implementation date, was held or used by a local authority for the purposes of the community school is, on that date, to be transferred to, and vest in, the foundation body.

*Change from foundation school to community school*

- 14 (1) Sub-paragraphs (2) and (3) apply where proposals for a foundation school which is not a member of the group for which a foundation body acts to become a community school are required to be implemented under section 55(2).
- (2) Any publicly funded land which, immediately before the implementation date, was held by the trustees of the school or the governing body for the purposes of the school is, on that date, to be transferred to, and vest in, the local authority.
- (3) Any other land which, immediately before that date, was held by the trustees of the school or the governing body for the purposes of the school is to be transferred to, and vest in, the local authority in accordance with a transfer agreement.
- 15 (1) Sub-paragraphs (2) and (3) apply where proposals for a foundation school which is a member of the group for which a foundation body acts to become a community school are required to be implemented under section 55(2).
- (2) Any publicly funded land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the foundation school is, on that date, to be transferred to, and vest in, the local authority.
- (3) Any other land which, immediately before that date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the foundation school is to be transferred to, and vest in, the local authority in accordance with a transfer agreement.

*Change from foundation school to voluntary aided or voluntary controlled school*

- 16 (1) Sub-paragraph (2) applies where—
- (a) proposals for a foundation school which is not a member of the group for which a foundation body acts to become a voluntary aided or voluntary controlled school are required to be implemented under section 55(2), and
- (b) as from the implementation date the school will not be a member of the group.
- (2) Any land, other than land held on trust, which, immediately before the implementation date, was held by the governing body for the purposes of the foundation school is, on that date, to be transferred to, and vest in, the trustees of the school, to be held by them on trust for the purposes of the school.
- 17 (1) Sub-paragraph (2) applies where—
- (a) proposals for a foundation school which is not a member of the group for which a foundation body acts to become a voluntary aided or voluntary controlled school are required to be implemented under section 55(2), and
- (b) as from the implementation date the school will be a member of the group.

- (2) Any land, other than land held on trust, which, immediately before the implementation date, was held by the governing body for the purposes of the foundation school is, on that date, to be transferred to, and vest in, the foundation body.
- 18 (1) Sub-paragraph (2) applies where—
- (a) proposals for a foundation school which is a member of the group for which a foundation body acts to become a voluntary aided or voluntary controlled school are required to be implemented under section 55(2), and
  - (b) as from the implementation date the school will not be a member of the group.
- (2) Any land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the foundation school is, on that date, to be transferred to, and vest in, the trustees of the school, to be held by them on trust for the purposes of the school.

*Change from voluntary aided school to community school*

- 19 (1) Sub-paragraphs (2) and (3) apply where proposals for a voluntary aided school which is not a member of the group for which a foundation body acts to become a community school are required to be implemented under section 55(2).
- (2) Any publicly funded land which, immediately before the implementation date, was held by the trustees of the school or the governing body for the purposes of the school is, on that date, to be transferred to, and vest in, the local authority.
- (3) Any other land which, immediately before that date, was held by the trustees of the school or the governing body for the purposes of the school is to be transferred to, and vest in, the local authority in accordance with a transfer agreement.
- 20 (1) Sub-paragraphs (2) and (3) apply where proposals for a voluntary aided school which is a member of the group for which a foundation body acts to become a community school are required to be implemented under section 55(2).
- (2) Any publicly funded land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the voluntary aided school is, on that date, to be transferred to, and vest in, the local authority.
- (3) Any other land which, immediately before that date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the voluntary aided school is to be transferred to, and vest in, the local authority in accordance with a transfer agreement.

*Change from voluntary aided or voluntary controlled school to voluntary controlled or voluntary aided school*

- 21 (1) Sub-paragraph (2) applies where—
- (a) proposals for a voluntary aided school or a voluntary controlled school which is not a member of the group for which a foundation body acts to become a voluntary controlled school or a voluntary aided school are required to be implemented under section 55(2), and
  - (b) as from the implementation date the school will be a member of such a group.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Any land, other than land held on trust, which, immediately before the implementation date, was held by the governing body for the purposes of the school is, on that date, to be transferred to, and vest in, the foundation body.
- 22 (1) Sub-paragraph (2) applies where—
- (a) proposals for a voluntary aided school or a voluntary controlled school which is a member of the group for which a foundation body acts to become a voluntary controlled school or a voluntary aided school are required to be implemented under section 55(2), and
  - (b) as from the implementation date the school will not be a member of the group.
- (2) Any land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the school is, on that date, to be transferred to, and vest in, the trustees of the school to be held by them on trust for the purposes of the school.

*Change from foundation, voluntary aided or voluntary controlled school to voluntary controlled or voluntary aided school*

- 23 (1) Sub-paragraph (2) applies where—
- (a) proposals for a foundation, voluntary aided or voluntary controlled school which is a member of the group for which a foundation body acts to become a voluntary controlled or voluntary aided school are required to be implemented under section 55(2), and
  - (b) as from the implementation date the school will be a member of the group for which another foundation body acts.
- (2) Any land which, immediately before the implementation date, was held by the foundation body mentioned in sub-paragraph (1)(a) for the purposes of the schools in the group and used for the purposes of the school is, on that date, to be transferred to, and vest in, the foundation body mentioned in sub-paragraph (1)(b).

*Change from voluntary controlled school to community school*

- 24 (1) Sub-paragraphs (2) and (3) apply where proposals for a voluntary controlled school which is not a member of the group for which a foundation body acts to become a community school are required to be implemented under section 55(2).
- (2) Any publicly funded land which, immediately before the implementation date, was held by the trustees of the school or the governing body for the purposes of the school is, on that date, to be transferred to, and vest in, the local authority.
- (3) Any other land which, immediately before that date, was held by the trustees of the school or the governing body for the purposes of the school is to be transferred to, and vest in, the local authority in accordance with a transfer agreement.
- 25 (1) Sub-paragraphs (2) and (3) apply where proposals for a voluntary controlled school which is a member of the group for which a foundation body acts to become a community school are required to be implemented under section 55(2).
- (2) Any publicly funded land which, immediately before the implementation date, was held by the foundation body for the purposes of the schools in the group and used

for the purposes of the voluntary controlled school is, on that date, to be transferred to, and vest in, the local authority.

- (3) Any other land which, immediately before that date, was held by the foundation body for the purposes of the schools in the group and used for the purposes of the voluntary controlled school is to be transferred to, and vest in, the local authority in accordance with a transfer agreement.

#### *Outstanding transfers*

- 26 (1) Sub-paragraph (2) applies where immediately before the implementation date in relation to any change of category occurring in respect of a school—
- (a) any land vested in a local authority is by virtue of any statutory provision required to be transferred to the governing body or any trustees of the school, but
  - (b) the land has not yet been so transferred.
- (2) Paragraphs 10 to 25 of this Schedule apply to the school as if the land had been so transferred by that time.

#### *Transfer of right to use land*

- 27 (1) Sub-paragraph (2) applies if—
- (a) paragraph 10, 11, 12 or 13 applies to a school,
  - (b) any land held by a person or body other than a local authority was, immediately before the implementation date, used for the purposes of the school, and
  - (c) the local authority enjoyed or incurred any rights or liabilities immediately before the implementation date in connection with the use of the land.
- (2) Those rights and liabilities are, on the implementation date, to be transferred to, and vest in, the trustees of the school or, if there are no trustees, the governing body.
- 28 (1) Sub-paragraph (2) applies if—
- (a) paragraph 14, 15, 19, 20, 24 or 25 applies to a school,
  - (b) any land held by a person or body other than the governing body of the school was, immediately before the implementation date, used for the purposes of the school, and
  - (c) the governing body enjoyed or incurred any rights and liabilities immediately before the implementation date in connection with the use of the land.
- (2) Those rights and liabilities are, on the implementation date, to be transferred to, and vest in, the local authority.
- 29 (1) Sub-paragraph (2) applies if—
- (a) paragraph 14, 15, 19, 20, 24 or 25 applies to a school,
  - (b) any land held by a person or body other than any trustees or foundation body who hold any land for the purposes of the school was, immediately before the implementation date, used for the purposes of the school, and
  - (c) the trustees or foundation body enjoyed or incurred any rights or liabilities immediately before the implementation date in connection with the use of the land.



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- (2) Those rights and liabilities are, on the implementation date, to be transferred to, and vest in, the local authority in accordance with a transfer of rights and liabilities agreement.
- (3) A “transfer of rights and liabilities agreement” means an agreement—
- (a) made for the purposes of sub-paragraph (2) between the local authority and the trustees or foundation body, and
  - (b) providing for the rights or liabilities in question to be transferred to, and vest in, the authority on the implementation date, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

*Exclusions from transfer*

- 30 Nothing in paragraphs 10 to 25 has the effect of transferring to, or vesting in, any body—
- (a) any land, rights or liabilities excluded under paragraph 31 or 32,
  - (b) any rights or liabilities under a contract of employment,
  - (c) any liability of a local authority, governing body or trustees in respect of the principal of, or any interest on, any loan, or
  - (d) any liability in tort.
- 31 (1) Sub-paragraph (2) applies if before the implementation date in relation to any change of category—
- (a) the prospective transferee and transferor have agreed in writing that any land should be excluded from the operation of paragraphs 10 to 25, and
  - (b) the Welsh Ministers have given their written approval of the agreement.
- (2) The land (and any rights or liabilities relating to it) is to be so excluded.
- 32 (1) Sub-paragraph (2) applies if in the absence of agreement under paragraph 31—
- (a) the prospective transferee or transferor has applied to the Welsh Ministers to exclude any land from the operation of paragraphs 10 to 25, and
  - (b) the Welsh Ministers have directed its exclusion.
- (2) The land (and any rights or liabilities relating to it) is to be excluded.
- 33 (1) An agreement under paragraph 31 may provide for the land to be used or held for the purposes of the school on such terms as may be specified in or determined in accordance with the agreement.
- (2) Directions under paragraph 32—
- (a) may confer any rights or impose any liabilities that could have been conferred or imposed by an agreement under paragraph 31, and
  - (b) have effect as if contained in such an agreement.
- 34 In paragraphs 31 and 32—
- “the prospective transferee” (“*y trosglwyddai arfaethedig*”), in relation to any land, means the body to which (apart from paragraphs 31 and 32) the land would fall to be transferred under paragraphs 10 to 25, and
- “the prospective transferor” (“*y trosglwyddwr arfaethedig*”) is to be construed accordingly.

*Restrictions on disposal or use of land*

- 35 (1) For the purposes of paragraphs 36 and 37 the procedure for becoming a school of another category is pending in relation to a school when it has been started by the governing body in relation to the school and not terminated.
- (2) That procedure is to be regarded as started in relation to a school on receipt by the local authority of notice of a meeting of the governing body at which a motion for a resolution to consult about proposals to change category is to be considered.
- (3) That procedure is to be regarded as terminated—
- (a) if the meeting is not held,
  - (b) if the meeting is held but the motion is not moved or, though the motion is moved, the resolution is not passed,
  - (c) if consultation is not carried out in accordance with section 48,
  - (d) if the proposals in respect of which consultation was carried out are not published in accordance with section 48,
  - (e) if the proposals are rejected by the Welsh Ministers under section 50 or by a local authority under section 51 or are withdrawn or if the governing body has determined not to implement them under section 53, or
  - (f) on the date of implementation of the proposals.
- 36 (1) While the procedure for becoming a school of another category is pending in relation to a school, a local authority may not, without the consent of the Welsh Ministers—
- (a) dispose of any land used wholly or partly for the purposes of the school, or
  - (b) enter into a contract to dispose of such land.
- (2) Sub-paragraph (1) does not apply in relation to a disposal which is made in accordance with a contract entered into, or an option granted, before the procedure for becoming a school of another category was started in relation to the school.
- (3) Sub-paragraph (4) applies if—
- (a) proposals for becoming a school of another category are approved or the governing body has determined to implement them, and
  - (b) agreement is required to be reached under paragraph 2(1) of Schedule 10 to the Education Reform Act 1988 (identification of property, etc.) on any matter relating to any land to be transferred.
- (4) The procedure for becoming a school of another category is not to be treated as terminated for the purposes of this paragraph in relation to that land until the date on which that matter is finally determined.
- (5) A disposal or contract is not invalid or void by reason only that it has been made or entered into in breach of this paragraph and a person acquiring land, or entering into a contract to acquire land, from a local authority is not to be concerned to enquire whether any consent required by this paragraph has been given.
- (6) This paragraph has effect despite anything in section 123 of the Local Government Act 1972 (general power to dispose of land) or in any other enactment; and the consent required by this paragraph is in addition to any consent required by subsection (2) of that section or by any other enactment.
- (7) In this paragraph—
- (a) references to disposing of land include granting or disposing of any interest in land, and

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- (b) references to entering into a contract to dispose of land include granting an option to acquire land or such an interest.
- 37 (1) While the procedure for becoming a school of another category is pending in relation to a school, a local authority may not, without the consent of the Welsh Ministers, take any action in relation to any land of the authority used or held for the purposes of the school by which the land ceases to any extent to be so used or held.
- (2) Sub-paragraph (3) applies if in the case of any school—
- (a) proposals that a school become a school of another category are approved or the governing body have determined to implement them, and
  - (b) a local authority has, in relation to any land, taken action in breach of sub-paragraph (1).
- (3) The transfer of property provisions have effect as if, immediately before the implementation date, the property were used or held by the authority for the purposes for which it was used or held when the procedure for becoming a school of another category was started.
- (4) In this paragraph—
- (a) “the transfer of property provisions” means this Schedule and section 198 of, and Schedule 10 to, the Education Reform Act 1988, and
  - (b) the references to taking action include appropriating property for any purpose.

## **PART 4**

### **SUPPLEMENTAL**

#### *School government*

- 38 (1) The Welsh Ministers may by regulations make provision in connection with the implementation of proposals to change a school’s category with respect to the government of the school.
- (2) Those regulations may (amongst other things) make provision—
- (a) about the revision and replacement of the school’s instrument of government,
  - (b) about the reconstitution of its governing body,
  - (c) applying, with or without modifications, provision made by or under Chapter 1 of Part 3 of the Education Act 2002 (government of maintained schools), and
  - (d) about transitional matters.

#### *Transitional provisions - admissions*

- 39 (1) Where a community or voluntary controlled school becomes a voluntary aided school anything done before the implementation date by the local authority as admission authority under any provision in Chapter 1 of Part 3 of the School Standards and Framework Act 1998 (admission arrangements) has effect, from the implementation date, as if done by the governing body.

- (2) Where a foundation or voluntary aided school becomes a community or voluntary controlled school anything done before the implementation date by the governing body as admission authority under any provision in Chapter 1 of Part 3 of the School Standards and Framework Act 1998 has effect, from the implementation date, as if done by the local authority.

## SCHEDULE 5

(Introduced by section 99)

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

#### AMENDMENTS RELATING TO PART 2 (STANDARDS)

##### *Education Reform Act 1988*

- 1 (1) Section 219 of the Education Reform Act 1988 (powers of Welsh Ministers and Secretary of State in relation to certain educational institutions) is amended as follows.
- (2) In subsection (3) after “institution” insert “in England”.
- (3) After subsection (3) insert—
- “(3A) Chapter 1 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (“the 2013 Act”) (intervention in conduct of maintained schools) has effect in relation to an institution in Wales to which this section applies as if—
- (a) a reference to the governing body of a maintained school included a reference to the governing body of an institution to which this section applies;
  - (b) the only relevant grounds for intervention were grounds 5 and 6 in section 2 of the 2013 Act; and
  - (c) sections 3 to 9 and 12 to 16 of the 2013 Act did not apply.”

##### *Education Act 1996*

- 2 (1) The Education Act 1996 is amended as follows.
- (2) In section 409(4) (complaints and enforcement: maintained schools in Wales) for the words from “section 496” to “duties)” substitute “Chapter 1 or 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in conduct of maintained schools and local authorities)”.
- (3) In section 484(7) (education standards grants) for “sections 495 to 497” substitute “section 495 or in Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013”.
- (4) In section 496(2) (power to prevent unreasonable exercise of functions)—
- (a) in paragraph (a), after “local authority” insert “in England”;

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- (b) in paragraph (b), after “school” in each place it appears insert “in England”.
- (5) In section 497(2) (general default powers for failure to discharge duty)—
  - (a) in paragraph (a), after “local authority” insert “in England”;
  - (b) in paragraph (b), after “school” in each place it appears insert “in England”.
- (6) In section 497A(1) (power to secure proper performance of functions) for “a local authority’s education functions” substitute “the education functions of a local authority in England”.
- (7) In section 560(6) (work experience in last year of compulsory schooling) after “or 496” insert “or Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013”.
- (8) In paragraph 6(4) of Schedule 1 (pupil referral units) for the words from “section 496” to “powers)” substitute “Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in local authorities)”.

#### *Teaching and Higher Education Act 1998*

- 3 In section 19 of the Teaching and Higher Education Act 1998 (requirement to serve induction period) for subsection (12) substitute—
- “(12) Chapter 1 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (“the 2013 Act”) (intervention in conduct of maintained schools) has effect in relation to duties imposed and powers conferred by virtue of this section as if—
    - (a) references to functions under the Education Acts included duties imposed and powers conferred by virtue of this section;
    - (b) references to the governing body of a maintained school included—
      - (i) the governing body of a special school not maintained by a local authority,
      - (ii) the governing body (within the meaning given by section 90(1) of the Further and Higher Education Act 1992) of a further education institution, and
      - (iii) an appropriate body for the purposes of subsection (2);
    - (c) the only relevant grounds for intervention were grounds 5 and 6 in section 2 of the 2013 Act; and
    - (d) sections 3 to 9 and 12 to 16 of that Act did not apply.
  - (13) Chapter 2 of Part 2 of the 2013 Act (intervention in local authorities) has effect in relation to duties imposed and powers conferred by virtue of this section as if references to education functions included duties imposed and powers conferred on a local authority by virtue of this section.”

#### *School Standards and Framework Act 1998*

- 4 (1) The School Standards and Framework Act 1998 is amended as follows.
- (2) Chapter 4 of Part 1 (intervention in schools in Wales causing concern) is repealed.
  - (3) In section 51A (expenditure incurred for community purposes)—
    - (a) omit “section 17 or”;

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- (b) after “15” insert “or section 8 of the School Standards and Organisation (Wales) Act 2013”.
- (4) In section 62 (reserve power to prevent breakdown of discipline)—
  - (a) in subsection (1)—
    - (i) after “local authority” insert “in England”;
    - (ii) omit “or (3)”;
  - (b) omit subsection (3).
- (5) In section 89C(2) (further provision about schemes for co-ordinating admission arrangements) for “, sections 496” to the end substitute—
  - “(a) Chapter 1 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (“the 2013 Act”) (intervention in conduct of maintained schools) is to apply as if any obligations imposed on a governing body under the scheme were duties imposed by the Education Acts.
  - (b) Chapter 2 of Part 2 of the 2013 Act (intervention in local authorities) is to apply as if any obligation imposed on a local authority were an education function.”
- (6) In section 142(4)(b) (general interpretation) omit “of section 16(6) or (8)”.
- (7) In section 143 (index) in the entry for “maintained school”, omit the entry beginning “(in Chapter 4 of Part 1)”.
- (8) Omit Schedule 1A (governing bodies consisting of interim executive members).
- (9) In Schedule 22 (disposal of land), in paragraph 5(1)(b)(i) for “section 19(1)” substitute “section 16 of the School Standards and Organisation (Wales) Act 2013”.

#### *Local Government Act 2000*

- 5 (1) Schedule 1 to the Local Government Act 2000 (executive arrangements in Wales) is amended as follows.
- (2) For paragraph 10 substitute—
  - “10 Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in local authorities) applies to the performance of any duty imposed on a local authority by virtue of paragraph 8 or 9 as it applies to the performance by a local authority of a duty that is an education function but as if—
    - (a) the only relevant grounds for intervention were grounds 1 and 2 in section 21 of that Act; an
    - (b) sections 24 to 27 of that Act did not apply.”
- (3) In paragraph 11A for “9” substitute “10”.

#### *Education Act 2002*

- 6 (1) The Education Act 2002 is amended as follows.
- (2) In section 34(7) (arrangements for government of new schools) after “State)” insert “and Chapter 1 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in conduct of maintained schools in Wales)”.

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- (3) In section 35(7) (staffing of community, voluntary controlled, community special and maintained nursery schools)—
  - (a) omit “section 17 of, or”;
  - (b) after “2006” insert “, or section 8 of the School Standards and Organisation (Wales) Act 2013”.
- (4) In section 36(7) (staffing of foundation, voluntary aided and foundation special schools) —
  - (a) omit “section 17 of, or”;
  - (b) after “2006” insert “, or section 8 of the School Standards and Organisation (Wales) Act 2013”.
- (5) In section 37(11) (payments in respect of dismissal, etc)—
  - (a) omit “section 17 of, or”;
  - (b) after “1998 (c 31)” insert “or section 8 of the School Standards and Organisation (Wales) Act 2013”.
- (6) Omit sections 55 to 59 and section 63 (powers of intervention).
- (7) In section 64 (provisions supplementary to powers to require local authorities to obtain advisory services)—
  - (a) in subsection (1)—
    - (i) omit “or 63”;
    - (ii) omit “or the National Assembly for Wales”;
    - (iii) omit “or it”;
    - (iv) omit “or the Assembly” (in both places);
  - (b) in subsection (2) omit “or 63”;
  - (c) in subsection (7) omit “or 63” and “or 63(2)”.
- (8) Omit Schedules 5 and 6 (amendments relating to schools causing concern and governing bodies consisting of interim executive members).
- (9) In Schedule 21 (minor and consequential amendments) omit paragraphs 92 to 94 and 103.
- (10) See also the amendment made by paragraph 21(11) of this Schedule to paragraph 5(2)(b)(iii) of Schedule 1 (which is in part consequential on Part 2 of this Act).

#### *Children Act 2004*

- 7 (1) The Children Act 2004 is amended as follows.
- (2) In section 50 (intervention)—
  - (a) in subsection (1) after “local authority” insert “in England”;
  - (b) in subsection (2)(c) omit “or under sections 25, 26 and 29 above (in the case of a local authority in Wales)”;
  - (c) in the heading after “Intervention” insert “- England”.
- (3) After section 50 insert—

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### “50A Intervention – Wales

- (1) Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in local authorities) applies in relation to the functions of a local authority in Wales which are specified in subsection (2) as it applies in relation to a local authority’s education functions but as if the only relevant ground for intervention were ground 3 in section 21 of that Act.
- (2) The functions of a local authority are—
  - (a) functions conferred on or exercisable by the authority which are social services functions, so far as those functions relate to children;
  - (b) the functions conferred on the authority under sections 23C to 24D of the Children Act 1989 (so far as not falling within paragraph (a)); and
  - (c) the functions conferred on the authority under sections 25, 26 and 29 above.
- (3) In the application of Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 by virtue of this section, section 27 of that Act (power to direct exercise of other education functions) has effect as if the reference to education functions included (for all purposes) the functions of the local authority which are specified in subsection (2).
- (4) In this section—
 

“education functions” has the meaning given by section 579(1) of the Education Act 1996;

“social services functions” has the same meaning as in the Local Authority Social Services Act 1970.”

### *Education Act 2005*

- 8 (1) The Education Act 2005 is amended as follows.
- (2) Omit section 45 (power to direct closure of school).
- (3) In section 114(8) (supply of information about school workforce)—
  - (a) omit “and” at the end of paragraph (a);
  - (b) in paragraph (b) at the beginning insert “in relation to England,”;
  - (c) after paragraph (b) insert—
 

“and

    - (c) in relation to Wales, provide that Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in local authorities) is to have effect as if—
      - (i) references to a local authority included a reference to a prescribed person,
      - (ii) duties imposed by virtue of this section were education functions,
      - (iii) the only relevant ground for intervention were ground 1 in section 21, and
      - (iv) sections 24 to 27 did not apply.”



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- (4) In Schedule 9 (amendments relating to school inspection) omit paragraphs 14 to 20.
- (5) See also the amendment made by paragraph 22(2)(b) of this Schedule to section 28(4)(c) of the Education Act 2005 (which is in part consequential on Part 2 of this Act).

#### *Education and Inspections Act 2006*

- 9 (1) The Education and Inspections Act 2006 is amended as follows.
- (2) In Schedule 7 (amendments relating to schools causing concern) omit paragraphs 3 to 14, 16, 17, 18, 19(b) and 21.
- (3) In Schedule 17 (miscellaneous amendments) omit paragraphs 1, 2 and 6.

#### *Childcare Act 2006*

- 10 For section 29 of the Childcare Act 2006 (powers of Welsh Ministers to secure proper performance etc) substitute—

##### **“29 Powers of intervention of Welsh Ministers**

- (1) Chapter 2 of Part 2 the School Standards and Organisation (Wales) Act 2013 (intervention in local authorities) applies in relation to a Welsh local authority and the powers conferred or the duties imposed on it by, under or for the purposes of this Part as it applies in relation to the education functions (as defined by section 579(1) of the Education Act 1996) of such an authority.
- (2) In the application of Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 by virtue of this section, section 27 of that Act (power to direct exercise of other education functions) has effect as if the reference to education functions included (for all purposes) functions of a Welsh local authority under this Part.”

#### *Equality Act 2010*

- 11 (1) Section 87 of the Equality Act 2010 (application of certain powers under Education Act 1996) is amended as follows.
- (2) At the beginning insert—
  - “(A1) Subsections (1) and (2) do not apply in the case of a school in Wales.”
- (3) After subsection (2) insert—
  - “(3) In the case of a school in Wales—
    - (a) Chapter 1 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (“the 2013 Act”) (intervention in conduct of maintained schools) applies to the performance of a duty under section 85, but as if—
      - (i) the only relevant grounds for intervention were grounds 5 and 6 in section 2 of that Act, and
      - (ii) sections 3 to 9 and 12 to 16 of that Act did not apply;
    - (b) Chapter 2 of Part 2 of the 2013 Act (intervention in local authorities) applies to the performance of a duty under section 85, but as if—

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- (i) the only relevant grounds for intervention were grounds 1 and 2 in section 21 of that Act, and
  - (ii) sections 24 to 27 of that Act did not apply.
- (4) But neither of Chapters 1 and 2 of Part 2 of the 2013 Act applies to the performance of a duty under section 85 by the proprietor of an independent educational institution (other than a special school).”

*Apprenticeships, Skills, Children and Learning Act 2009*

- 12 In the Apprenticeships, Skills, Children and Learning Act 2009 omit section 205 and Schedule 14 (powers in relation to schools causing concern).

*Education (Wales) Measure 2011*

- 13 (1) The Education (Wales) Measure 2011 is amended as follows.
- (2) Omit section 16 (federation of schools causing concern by direction of the Welsh Ministers).
- (3) In section 18(1) (federations: supplementary provisions)—
- (a) for paragraph (a) substitute—
    - “(a) Chapter 1 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in conduct of maintained schools), or”;
  - (b) in paragraph (b) for “that Act” substitute “the School Standards and Framework Act 1998”.

## PART 2

### AMENDMENTS RELATING TO PART 3 (SCHOOL ORGANISATION)

*Education Reform Act 1988*

- 14 (1) The Education Reform Act 1988 is amended as follows.
- (2) In section 198(1) (transfers under Parts 1 and 2) after paragraph (c) insert—
- “or
- (d) Part 3 of Schedule 4 to the School Standards and Organisation (Wales) Act 2013;”.

*Diocesan Boards of Education Measure 1991*

- 15 (1) The Diocesan Boards of Education Measure 1991 is amended as follows.
- (2) In section 3 (transactions for which advice or consent of the Board is required)—
- (a) omit subsection (1)(a)(ii), (b)(ii) and (d);
  - (b) in subsection (1)(c) for “1998 Act” substitute “School Standards and Framework Act 1998 (“the 1998 Act”)”.

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- (3) In section 7 (powers of Board to give directions to governing bodies of voluntary aided church schools)—
- (a) in subsection (1)—
    - (i) omit paragraphs (a)(ii), (b)(ii) and (c);
    - (ii) in paragraph (b)(i) for “1998 Act” substitute “School Standards and Framework Act 1998”;
  - (b) in subsection (1A) omit “or paragraph 2 or 3 of Schedule 8 to the 1998 Act”;
  - (c) in subsection (3)—
    - (i) in paragraph (a) omit “or section 28(2)(b) of the 1998 Act”;
    - (ii) omit paragraph (b);
    - (iii) in the words after paragraph (b) omit “the 1998 Act and”.

#### *Further and Higher Education Act 1992*

- 16 (1) The Further and Higher Education Act 1992 is amended as follows.
- (2) In section 58 (reorganisation of schools involving establishment of further education corporation)—
- (a) in subsection (3), for paragraph (b) substitute—
    - “(b) a relevant alteration has been made to the school,”;
  - (b) omit subsection (4);
  - (c) at the end insert—
    - “(5) In subsection (3)(b) “relevant alteration” means—
      - (a) in the case of a school in England, a prescribed alteration within the meaning of section 18 of the Education and Inspections Act 2006, and
      - (b) in the case of a school in Wales, a regulated alteration within the meaning of Chapter 2 of Part 3 of the School Standards and Organisation (Wales) Act 2013.”

#### *Education Act 1996*

- 17 (1) The Education Act 1996 is amended as follows.
- (2) In section 5(3A)(b) (primary schools, secondary schools and middle schools)—
- (a) the words after “Wales,” become sub-paragraph (i);
  - (b) after “1998” insert—
    - “, and
    - (ii) section 48, 59 or 68 of the School Standards and Organisation (Wales) Act 2013”.
- (3) In section 394 (determination of cases in which requirement for Christian collective worship is not to apply), omit subsection (9)(b).
- (4) In section 409(2) (complaints and enforcement: maintained schools in Wales), omit “or foundation special”.
- (5) In section 529(2) (power to accept gifts on trust for educational purposes)—

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- (a) for “28 and 31 of the School Standards and Framework Act 1998” substitute “41 and 44 of the School Standards and Organisation (Wales) Act 2013”;
  - (b) for the words from “(so that” to “in Wales” substitute “and sections 48 to 55 of, and Schedule 3 to, that Act (school organisation proposals”.
- (6) In section 530(3)(b) (compulsory purchase of land) for the words from “paragraph 18” to the end substitute “paragraph 9 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013 (assistance in respect of maintenance and other obligations relating to voluntary aided schools) (including that paragraph as applied by section 76(3) of that Act”.

#### *Education Act 1997*

- 18 (1) The Education Act 1997 is amended as follows.
- (2) In section 29 (functions of the Welsh Ministers in relation to curriculum and assessment—
- (a) in subsection (5) in the definition of “maintained school”, omit “or foundation”;
  - (b) in subsection (6) omit “or foundation”.
- (3) In section 43(2)(c) (provision of careers education in schools in Wales), omit “or foundation”.

#### *School Standards and Framework Act 1998*

- 19 (1) The School Standards and Framework Act 1998 is amended as follows.
- (2) In section 20(2A)(b) (new categories of maintained schools) after “this Act” insert “or sections 45 to 55 of, and Schedule 4 to, the School Standards and Organisation (Wales) Act 2013”.
- (3) In section 21(6) (kinds of foundation and voluntary schools and types of foundations) —
- (a) in paragraph (a)—
    - (i) omit “in accordance with Schedule 8 or”, and
    - (ii) after “Act 2006” insert “or in accordance with proposals made under section 45 of the School Standards and Organisation (Wales) Act 2013”;
  - (b) in paragraph (f)—
    - (i) in sub-paragraph (i), omit “under paragraph 2 of Schedule 8 or” and after “Act 2006” insert “or under section 48 of the School Standards and Organisation (Wales) Act 2013”,
    - (ii) in sub-paragraph (ii), for “that paragraph or that section” substitute “either of those sections”,
    - (iii) omit sub-paragraph (iii).
- (4) Omit sections 28 and 29 (proposals for establishment, alteration and discontinuance of mainstream schools).
- (5) In section 30 (notice by governing body to discontinue foundation or voluntary school)—
- (a) in subsection (1) after “voluntary school” insert “in England”;

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- (b) in subsection (3) omit paragraph (b);
  - (c) in subsection (9) omit paragraph (a);
  - (d) in the heading after “voluntary school” insert “in England”.
- (6) Omit sections 31 to 35 (provisions relating to special schools, rationalisation of school places and change of category of schools).
- (7) In section 49(6) (maintained schools to have delegated budgets)—
- (a) omit “paragraph 14(2) of Schedule 6, paragraph 3(3) of Schedule 7A to the Learning and Skills Act 2000”,
  - (b) after “2002” insert “section 75(2)(b) of, or paragraph 4 of Schedule 3 to, the School Standards and Organisation (Wales) Act 2013”.
- (8) In section 82(1) (modification of trust deeds) for “or the Academies Act 2010” substitute “, the Academies Act 2010 or the School Standards and Organisation (Wales) Act 2013”.
- (9) Omit section 101(3) (permitted selection: pupil banding).
- (10) In section 103(2)(b) (permitted selection: introduction, variation or abandonment of provision for such selection) for “prescribed alteration for the purposes of section 28” substitute “regulated alteration within the meaning of Chapter 2 of Part 3 of the School Standards and Organisation (Wales) Act 2013”.
- (11) In section 143 (index)—
- (a) omit the entry beginning “alteration”;
  - (b) omit the entry beginning “area”;
  - (c) omit the entry beginning “discontinuing”;
  - (d) omit the entry beginning “promoters”;
  - (e) omit the entry beginning “school opening date”.
- (12) In Schedule 3 (funding of foundation, voluntary and foundation special schools)—
- (a) in paragraph 2(2)(a)(ii), for the words from “or promoters” to “proposals” substitute “or the person by whom proposals were made is required to provide by virtue of Part 2 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013 (provision of premises and other assistance)”;
  - (b) in paragraph 7—
    - (i) in sub-paragraph (3)(a) after “28,” insert—
      - “(ia) the implementation of proposals made under section 42 of the School Standards and Organisation (Wales) Act 2013 to make a regulated alteration to a school,”;
    - (ii) in sub-paragraph (5) for “to the promoters” substitute—
      - (a) in relation to England, to the promoters, and
      - (b) in relation to Wales, to the person who made the proposals under section 41(2) of the School Standards and Organisation (Wales) Act 2013”.
- (13) Omit Schedules 6 to 8 (provisions about procedure and implementation of statutory proposals, rationalisation of school places and changes of category of schools).
- (14) In Schedule 22 (disposals of land)—

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- (a) in paragraph 1,—
  - (i) in sub-paragraph (1) for “, voluntary or foundation special” substitute “or voluntary”;
  - (ii) after sub-paragraph (1)(a) insert—
    - “(aa) any land acquired under paragraph 7 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under that paragraph as applied by section 76(1) of that Act or under Part 3 of Schedule 4 to that Act.”;
- (b) in paragraph 2, after sub-paragraph (1)(a) insert—
  - “(aa) any land acquired under paragraph 7 or 11 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under either of those paragraphs as applied by section 76(1) or (3) of that Act or under Part 3 of Schedule 4 to that Act.”;
- (c) in paragraph 2A—
  - (i) in sub-paragraph (1) omit “or foundation special”;
  - (ii) after sub-paragraph (1)(a) insert—
    - “(aa) any land acquired under paragraph 7 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under that paragraph as applied by section 76(1) of that Act or under Part 3 of Schedule 4 to that Act.”;
  - (iii) in sub-paragraph (1)(b) after “(a)” insert “or (aa)”;
  - (iv) in sub-paragraph (1)(c) omit “or foundation special”;
  - (v) in sub-paragraph (2)(a)(ii) after “(a)” insert “or (aa)”;
  - (vi) in sub-paragraph (2)(b) after “(a)” insert “or (aa)”;
  - (vii) in sub-paragraph (6) omit “or foundation special”;
  - (viii) in the heading omit “or foundation special school”;
- (d) in paragraph 3—
  - (i) in sub-paragraph (1) for “, voluntary or foundation special” substitute “or voluntary”;
  - (ii) after sub-paragraph (1)(a) insert—
    - “(aa) any land acquired under paragraph 7 or 11 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under those paragraphs as applied by section 76(1) or (3) of that Act or under Part 3 of Schedule 4 to that Act.”;
  - (iii) in sub-paragraph (3) after “(a),” insert “(aa),”;
  - (iv) in sub-paragraph (4)(c)(ii) after “this Act” insert “or under paragraph 7(6) of Schedule 3 to the School Standards and Organisation (Wales) Act 2013”;
  - (v) in sub-paragraph (8)(b)(i) for “, voluntary or foundation special” substitute “or voluntary”;
  - (vi) in sub-paragraph (8)(b)(ii) for “foundation, voluntary or foundation special” substitute “voluntary”;
  - (vii) in sub-paragraph (12) for “, voluntary or foundation special” substitute “or voluntary”;

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- (viii) in the heading for “, voluntary or foundation special” substitute “or voluntary”;
- (e) in paragraph 4(1)(a)(i) for “, voluntary or foundation special” substitute “or voluntary”;
- (f) in paragraph 5—
  - (i) in sub-paragraph (1)(b)(i) for “, voluntary or foundation special” substitute “or voluntary”;
  - (ii) omit sub-paragraph (1)(b)(ii);
  - (iii) in sub-paragraph (4)(c) after “alteration” insert “or regulated alteration”;
  - (iv) in sub-paragraph (4A) omit “or foundation special” and after “(a),” insert “(aa),”;
  - (v) in sub-paragraph (4B)(b)(ii) omit “or foundation special”;
  - (vi) in sub-paragraph (4B)(d) after “alteration” insert “or regulated alteration”;
  - (vii) in sub-paragraph (6)(a) after “2A(1)(a),” insert “(aa),”;
- (g) in paragraph 6—
  - (i) in sub-paragraph (1) after “section 30(1)” insert “or section 80 of the School Standards and Organisation (Wales) Act 2013”;
  - (ii) in sub-paragraph (2)(a) after “section 30(2)” insert “or section 80(2) of the School Standards and Organisation (Wales) Act 2013”;
- (h) in paragraph 8—
  - (i) in sub-paragraph (1) after “section 30(10)” insert “or section 80(11) of the School Standards and Organisation (Wales) Act 2013”;
  - (ii) in sub-paragraph (2) after “section 30(2)(a) to (d)” insert “or section 80(2) of the School Standards and Organisation (Wales) Act 2013”;
- (i) in paragraph 10 after sub-paragraph (1)(e) insert—
  - “(f) “regulated alteration” has the same meaning as in Chapter 2 of Part 3 of the School Standards and Organisation (Wales) Act 2013.”

### *Learning and Skills Act 2000*

- 20 (1) The Learning and Skills Act 2000 is amended as follows.
- (2) In section 33P(3)(b)(i) (application of local curriculum provisions to students who are registered pupils of special schools or who have learning difficulties) omit “or foundation”.
  - (3) After section 83(9) (area inspections) insert—
    - “(9A) For provision on reporting on sixth forms found to be causing concern in an area inspection, see sections 44C and 44E of the Education Act 2005.”
  - (4) Omit sections 113 and 113A.
  - (5) In section 126(3)(b) (educational institutions: information and access) omit “or foundation”.
  - (6) Omit the following provisions—
    - (a) Schedules 7 and 7A;

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- (b) paragraphs 84, 89 and 90 of Schedule 9.

*Education Act 2002*

- 21 (1) The Education Act 2002 is amended as follows.
- (2) In section 19(2)(e) (governing bodies) omit “, a foundation special school”.
- (3) Omit section 72 (restructuring sixth form education).
- (4) In section 97 (interpretation of Part 7)—
- (a) in paragraph (b) in the definition of “maintained school” omit “or foundation”;
  - (b) in the definition of “maintained secondary school” omit “or foundation”.
- (5) In section 111(4) (development work and experiments) for “, voluntary aided or foundation special” substitute “or voluntary aided”.
- (6) In section 116N(3)(b) (application of local curriculum provisions to children who are registered pupils of special schools) omit “or foundation”.
- (7) In section 129(6)(b) (transfer of employment) after “1998” insert “or Part 3 of the School Standards and Organisation (Wales) Act 2013”.
- (8) In section 153(4) (powers of local authority in respect of funded nursery education) in the definition of “maintained school” omit “or foundation”.
- (9) Omit section 154 (establishment or alteration of maintained nursery schools).
- (10) Omit sections 191 to 193 (regional provision for special educational needs).
- (11) In paragraph 5(2)(b) of Schedule 1 (incorporation and powers of governing body) for paragraphs (i) to (iii) substitute—
- “(i) the date on which proposals for discontinuing the school are implemented under Part 3 of the School Standards and Organisation (Wales) Act 2013,
  - (ii) the date on which the school is discontinued under section 80 of the School Standards and Organisation (Wales) Act 2013, or
  - (iii) the date specified in a direction given under section 16(2) or 81(1) of the School Standards and Organisation (Wales) Act 2013”.
- (12) Omit Schedules 9 and 10 (proposals relating to sixth forms and establishment of schools).
- (13) In Schedule 21 (minor and consequential amendments) omit paragraphs 98, 115, 116 and 126.

*Education Act 2005*

- 22 (1) The Education Act 2005 is amended as follows.
- (2) In section 28 (duty to arrange regular inspections of certain schools)—
- (a) in subsection (2)(b) omit “and foundation”;
  - (b) in subsection (4)—



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- (i) in paragraph (a) omit “or foundation”;
  - (ii) in paragraph (b) for “section 30 of the [School Standards and Framework Act 1998 \(c31\)](#)” substitute “section 80 of the School Standards and Organisation (Wales) Act 2013”;
  - (iii) in paragraph (c) omit “or foundation” and for “section 19 or 32 of that Act” substitute “section 16(2) or 81(1) of the School Standards and Organisation (Wales) Act 2013”;
  - (iv) in paragraph (d) omit “or foundation”.
- (3) In section 31(1) (interpretation of Chapter 3) in the definition of “maintained school” omit “or foundation”.
- (4) In section 41(3) (destination of reports: non-maintained schools) omit “or foundation”.
- (5) In section 42(4) (statement to be prepared by proprietor of school) omit “or foundation”.
- (6) In section 43 (interpretation of Chapter 4) in the definition of “maintained school” omit “or foundation”.
- (7) Omit the following provisions—
- (a) section 46 (sixth forms requiring significant improvement);
  - (b) sections 68, 69, 70, 71 (school organisation).
- (8) In paragraph 1 of Schedule 4 (school inspections in Wales under section 28) in the definition of “appropriate authority” omit “or foundation”.
- (9) Omit the following provisions—
- (a) Schedule 5 (sixth forms requiring significant improvement);
  - (b) paragraphs 7, 8, 13 and 14 of Schedule 12 (amendments relating to school organisation).

#### *Education and Inspections Act 2006*

- 23 (1) The Education and Inspections Act 2006 is amended as follows.
- (2) Omit section 54(1)(e) (pupil banding).
  - (3) In Schedule 3 (amendments relating to school organisation) omit paragraphs 14(b)(ii), 18, 20, 22 to 26, 33 to 36, 46 and 50.
  - (4) In Schedule 14 (minor and consequential amendments) omit paragraphs 61 and 66.

#### *National Health Service (Wales) Act 2006*

- 24 (1) The National Health Service (Wales) Act 2006 is amended as follows.
- (2) In paragraph 5(1)(a) and (b) of Schedule 1 (further provision about the Welsh Ministers and services under this Act) for “, voluntary or foundation special” substitute “or voluntary”.

#### *Learner Travel (Wales) Measure 2008*

- 25 (1) The Learner Travel (Wales) Measure 2008 is amended as follows.

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*Status: This is the original version (as it was originally enacted).*

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- (2) In section 24(1) (general interpretation) in the definition of “maintained school” omit “or foundation”.

*Learning and Skills (Wales) Measure 2009*

- 26 (1) The Learning and Skills (Wales) Measure 2009 is amended as follows.
- (2) In section 44 (learning pathways: interpretation) in the definition of “maintained school” omit “or foundation”.

*Healthy Eating in Schools (Wales) Measure 2009*

- 27 (1) The Healthy Eating in Schools (Wales) Measure 2009 is amended as follows.
- (2) In section 11 (interpretation) in the definition of “maintained school” omit “or foundation”.

*Equality Act 2010*

- 28 (1) The Equality Act 2010 is amended as follows.
- (2) In paragraph 4 of Schedule 11 (single-sex schools turning co-educational)—
- (a) in sub-paragraph (2) for the words from “paragraph 22” to “1998” substitute “section 82 of, or Part 3 of Schedule 3 to, the School Standards and Organisation (Wales) Act 2013”;
  - (b) omit sub-paragraph (5).

*Education (Wales) Measure 2011*

- 29 (1) The Education (Wales) Measure 2011 is amended as follows.
- (2) In section 8 (interpretation of Part 1) in the definition of “maintained school” omit “or foundation”.
- (3) In section 13(b) (single governing body for federations) for the words from “Chapter 2” to the end substitute “Part 3 of the School Standards and Organisation (Wales) Act 2013 (school organisation) or in Part 3 of the School Standards and Framework Act 1998 (school admissions)”.
- (4) Omit section 20 (minor and consequential amendments to the Education Act 2005).
- (5) In section 21(1) (interpretation of Chapter 1) in the definition of “maintained school” omit “or foundation”.
- (6) Omit sections 26 to 30 (foundation schools).

*Welsh Language (Wales) Measure 2011*

- 30 (1) The Welsh Language (Wales) Measure 2011 is amended as follows.
- (2) In paragraph 2 of Schedule 6 in the definition of “governing body of a school” omit “or foundation”.

### PART 3

#### AMENDMENTS RELATING TO PART 5 (MISCELLANEOUS SCHOOLS DUTIES)

##### *Education Act 1996 and orders made under it*

- 31 (1) In section 512A(6) of the Education Act 1996 (transfer of functions under section 512 to governing bodies), omit from “and such” to the end.
- (2) In the [Education \(Transfer of Functions Concerning School Lunches\) \(Wales\) Order 1999 \(SI 1999/610\)](#), omit article 4.
- (3) In the [Education \(Transfer of Functions Concerning School Lunches\) \(Wales\) \(No. 2\) Order 1999 \(SI 1999/1779\)](#), omit article 4.

##### *Education Act 2002*

- 32 In Schedule 21 to the Education Act 2002 (minor and consequential amendments) omit paragraph 110.

##### *Education Act 2005*

- 33 In section 103 of the Education Act 2005 (annual parents’ meetings) omit subsection (2) and (3)(a)(ii).

##### *Education and Inspections Act 2006*

- 34 (1) The Education and Inspections Act 2006 is amended as follows.
- (2) Omit section 58 (code of practice as to relationships between local authorities and maintained schools).
- (3) In section 87 (power to charge for provision of meals)—
- (a) in subsection (1), omit paragraph (b);
  - (b) in subsection (2), omit paragraph (b).

##### *Healthy Eating in Schools (Wales) Measure 2009*

- 35 In section 8(2)(b) of the Healthy Eating in Schools (Wales) Measure 2009 (which provides for a new subsection (4A) to be inserted into section 512 of the Education Act 1996), for “7(5)” substitute “4”.

##### *Education Act 2011*

- 36 In section 35 of the Education Act 2011 (duties in relation to school meals)—
- (a) in subsection (2) omit paragraph (b);
  - (b) in subsection (3) omit paragraph (b).