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STATUTORY INSTRUMENTS

2002 No. 2952 (C.93)

EDUCATION, ENGLAND

The Education Act 2002 (Commencement No. 3 and Savings and Transitional Provisions) Order 2002

Made - - - - 26th November 2002

In exercise of the powers conferred by sections 216(4) and (5) of the Education Act 2002⁽¹⁾, the Secretary of State for Education and Skills hereby makes the following Order:

Citation and Interpretation

1.—(1) This Order may be cited as the Education Act 2002 (Commencement No. 3 and Savings and Transitional Provisions) Order 2002.

(2) In this Order “the 2002 Act” means the Education Act 2002.

Provisions coming into force

2. The following provisions of the 2002 Act shall come into force on 20th January 2003:
- sections 11 and 12;
 - section 46;
 - section 50;
 - section 51 so far as it is not already in force;
 - section 52(1) to (6);
 - section 66;
 - section 178(3);
 - section 199;
 - section 215 to the extent that it relates to the provisions of Schedules 21 and 22 specified below;
 - Schedule 4 so far as it is not already in force;
 - Schedule 19; in Schedule 21, paragraphs 1, 2, 4, 22, and 27(1) and (2);

(1) 2002 (c. 32). As the commencement provisions are made under section 216(4) they apply except in relation to Wales.

in Schedule 22–

the repeal of section 25(5)(b) of the Local Government Act 1974,
the repeal of paragraph 90 in Schedule 8 to the Further and Higher Education Act 1992,
the repeal of section 509(6) of the Education Act 1996,
the repeal of paragraphs 27 and 28 in Schedule 7 to the Education Act 1997 in so far as those paragraphs are not already repealed,
the repeal of sections 64 to 68 of, and Schedules 18, 24 and 25, and paragraphs 3(3), 47(a), 133(b) in Schedule 30 to, the School Standards and Framework Act 1998,
the repeal of sub-paragraphs (6)(b), (7)(b) and (c) and (8) of paragraph 59 in Schedule 9 to the Learning and Skills Act 2000.

3. The Schedule to this Order shall have effect for the purposes of making transitional provision and savings in relation to the provisions to which it refers.

26th November 2002

David Miliband
Minister of State
Department for Education and Skills

SCHEDULE

TRANSITIONAL AND SAVING PROVISIONS

Interpretation

1. In this Schedule—

“the 1996 Act” means the Education Act 1996⁽²⁾;

“the 1998 Act” means the School Standards and Framework Act 1998⁽³⁾;

“maintained school” has the meaning given to it by section 84(6) of the 1998 Act;

“maintained nursery school” has the meaning given to it by section 97 of the 2002 Act;

“pupil referral unit” has the meaning given to it by section 19(2) of the 1996 Act;

“school year”, in the context of references to the admission of a child to a maintained school or a maintained nursery school in any particular year, means the school year in which he would first take up a place in consequence of a decision to admit him.

Nursery education, special schools and children with statements

2. Despite the coming into force of paragraph 12 of Schedule 4 to the 2002 Act, in relation to the amendment of section 98 of the 1998 Act,

(a) the amendment made by sub-paragraph (2) shall not have effect in relation to the admission of a child to a maintained school for nursery education for any school year earlier than the 2004-05 school year;

(b) the amendments made by sub-paragraphs (3), (4) and (5) shall not have effect in relation to the admission of a child to—

(i) a maintained school for nursery education, or (as the case may be)

(ii) a maintained nursery school,

for any school year earlier than the 2003-04 school year; and

(c) the amendment made by sub-paragraph (6) shall not have effect in relation to the admission to a maintained school of a child for whom a statement is maintained under section 324 of the 1996 Act for any school year earlier than the 2004-05 school year.

Admission appeals

3.—(1) This sub-paragraph applies in relation to a decision as mentioned in section 94(1) or (2) of the 1998 Act concerning the admission of a child to a maintained school in any school year earlier than 2004-05 where, before 20th January 2003—

(a) notice of appeal against that decision has been given by a parent; but

(b) the appeal has not been determined by an appeal panel constituted in accordance with Schedule 24 to the 1998 Act.

(2) Despite the coming into force of—

(a) section 50 of the 2002 Act,

(b) paragraphs 2 and 8 of Schedule 4 to the 2002 Act, and

(c) the repeal of Schedule 24 to the 1998 Act,

(2) 1996 c. 56

(3) 1998 c. 31.

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the following provisions of the 1998 Act as originally enacted, namely—

- (i) section 84(6),
- (ii) section 94, and
- (iii) Schedule 24,

shall continue to have effect in relation to an appeal to which sub-paragraph (1) applies.

(3) This sub-paragraph applies in relation to a decision as mentioned in section 95 of the 1998 Act concerning the admission of a child to a community or voluntary controlled school in any school year earlier than 2004-05 where, before 20th January 2003—

- (a) notice of appeal against that decision has been given by a governing body; but
 - (b) the appeal has not been determined by an appeal panel constituted in accordance with Schedule 25 to the 1998 Act.
- (4) Despite the coming into force of—
- (a) paragraphs 2 and 9 of Schedule 4 to the 2002 Act, and
 - (b) the repeal of Schedule 25 to the 1998 Act,

the following provisions of the 1998 Act as originally enacted, namely—

- (i) section 84(6),
- (ii) section 87,
- (iii) section 95, and
- (iv) Schedule 25,

shall continue to have effect in relation to an appeal to which sub-paragraph (3) applies.

Exclusions

4.—(1) This sub-paragraph applies where a pupil is excluded before 20th January 2003 by the head teacher of a maintained school or (as the case may be) the teacher in charge of a pupil referral unit.

- (2) Despite the coming into force of—
- (a) sections 52(1) to (6) of the 2002 Act, and
 - (b) the repeal of sections 64 to 68 of, and Schedule 18 to, the 1998 Act,

the following provisions, namely—

- (i) sections 64 to 68 of, and Schedule 18 to, the 1998 Act, and
- (ii) the Education (Pupil Referral Units) (Appeals against permanent exclusions) (England) Regulations 2002(4),

shall continue to have effect, as appropriate, in relation to an exclusion to which sub-paragraph (1) applies.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Education Act 2002 on 20th January 2003. The provisions are sections 11 and 12 (powers of governing bodies to form companies etc), 46, 50, 51 and the remaining provisions of Schedule 4 (admission forums, admission appeals and other admission arrangements), 52 (exclusion of pupils) (but not 52(11) which extends this to nursery schools), 66 (admission of pupils to Academies), 178(3) (area inspections in England), and 199 and Schedule 19 (transport for persons over compulsory school age), together with associated consequential amendments and repeals to those provisions in Schedules 21 and 22.

All provisions are commenced for England only, in accordance with the Secretary of State's power under subsection (4) of section 216.

The Order also makes transitional and saving provisions in respect of the admission of pupils to school years before 2004-05, and pupil exclusions taking place before the commencement date.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

Provision	Date of Commencement	S.I. No.
Section 1 (partially)	1 st October 2002	2002/2439
Sections 2 to 5	1 st October 2002	2002/2439
Sections 14 to 17	1 st October 2002	2002/2439
Section 19(6)	1 st October 2002	2002/2439
Sections 27 and 28	2 nd September 2002	2002/2002 as amended by 2002/2018
Section 30	1 st October 2002	2002/2439
Section 37	1 st October 2002	2002/2439
Section 39(1)(partially)	1 st October 2002	2002/2439
Section 39(2)	1 st October 2002	2002/2439
Section 40	2 nd September 2002	2002/2002
Section 41(1) and (3)	1 st October 2002	2002/2439
Section 42	1 st October 2002	2002/2439
Section 43	2 nd September 2002	2002/2002
Sections 47 to 49	1 st October 2002	2002/2439
Section 51 (partially)	1 st October 2002	2002/2439

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Provision	Date of Commencement	S.I. No.
Sections 54 to 59	2 nd September 2002	2002/2002
Sections 60 and 61	26 st July 2002	2002/2002
Sections 62 to 64	1 st October 2002	2002/2439
Sections 65, 67 to 69	26 st July 2002	2002/2002
Section 76 and 77	1 st October 2002	2002/2439
Section 78 (partially)	26 st July 2002	2002/2002
(fully)	1 st October 2002	2002/2439
Sections 79 to 96	1 st October 2002	2002/2439
Section 119	1 st October 2002	2002/2439
Section 120(1), and (3) to (5)	1 st October 2002	2002/2439
Section 121	1 st October 2002	2002/2439
Section 130 (partially)	1 st October 2002	2002/2439
Section 131	1 st October 2002	2002/2439
Section 148 (partially)	1 st October 2002	2002/2439
Sections 149 to 150	1 st October 2002	2002/2439
Section 151(1)	1 st October 2002	2002/2439
Section 152 (partially)	2 nd September 2002	2002/2002
Section 152 (partially)	1 st October 2002	2002/2439
Section 155 (partially)	2 nd September 2002	2002/2002
(fully)	1 st October 2002	2002/2439
Section 156	1 st October 2002	2002/2439
Section 177	1 st October 2002	2002/2439
Section 178(1) and (2)	1 st October 2002	2002/2439
Section 179 and 180	1 st October 2002	2002/2439
Section 187	1 st October 2002	2002/2439
Section 188 (partially)	1 st October 2002	2002/2439
Section 189 (partially)	1 st October 2002	2002/2439
Section 204	2 nd September 2002	2002/2002
Sections 205 and 206	1 st October 2002	2002/2439
Section 215 (partially)	26 st July 2002	2002/2002

Provision	Date of Commencement	S.I. No.
(partially)	2 nd September 2002	2002/2002
(partially)	1 st October 2002	2002/2439
Schedule 1, (partially)	2 nd September 2002	2002/2002
(fully)	1 st October 2002	2002/2439
Schedule 3, paragraphs 1 to 5	2 nd September 2002	2002/2002
Schedule 4, paragraphs 1, 3, 5 to 7, 10, 11, 13 and 14	1 st October 2002	2002/2439
Schedules 5 and 6	2 nd September 2002	2002/2002
Schedule 7	26 st July 2002	2002/2002
Schedule 11	1 st October 2002	2002/2439
Schedule 12, paragraphs 1, 2, 4(1), and (3), 6, 9, 11 and 12(1) and (2)	1 st October 2002	2002/2439
Schedule 13, paragraphs 1 to 3,	1 st October 2002	2002/2439
paragraphs 4 and 5,	2 nd September 2002	2002/2002
6, 7(1) and (3), and (8)	1 st October 2002	2002/2439
Schedule 14, paragraphs 1 to 4	2 nd September 2002	2002/2002
remaining paragraphs	1 st October 2002	2002/2439
Schedule 15 fully except for the words “(b) nursery school” in paragraphs 2(2)	1 st October 2002	2002/2439
Schedule 16, paragraphs 7 to 9	1 st October 2002	2002/2439
Schedule 17, paragraphs 1 to 4 and 9	1 st October 2002	2002/2439
Schedule 20	1 st October 2002	2002/2439
Schedule 21 (partially)	2 nd September 2002	2002/2002
(partially)	1 st October 2002	2002/2439
Schedule 22, (partially)	26 st July 2002	2002/2002
(partially)	2 nd September 2002	2002/2002
(partially)	1 st October 2002	2002/2439