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WELSH STATUTORY INSTRUMENTS

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**2004 No. 1576 (W.162)**

**EDUCATION, WALES**

**The School Organisation Proposals by the National Council  
for Education and Training for Wales Regulations 2004**

*Made* - - - - 22 June 2004  
*Coming into force* - - 1 August 2004

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by section 138(7) and (8) of, and paragraph 5 of Schedule 8 to, the School Standards and Framework Act 1998<sup>(1)</sup> and now vested in the National Assembly for Wales<sup>(2)</sup>, and in exercise of the powers conferred on it by sections 113A and 152(5) and (6) of, and paragraphs 20(2), 21, 22, 28(2), 29, 30, 39(2), 40, 41, 42(4) and 43(4) of Schedule 7 to, and paragraph 1 of Schedule 7A to, the Learning and Skills Act 2000<sup>(3)</sup>.

**PART 1**

Preliminary

**Name, commencement and application**

1.—(1) These Regulations are called the School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004 and come into force on 1st August 2004.

(2) These Regulations apply to Wales.

**Interpretation**

2.—(1) In these Regulations —

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

“the 2000 Act” (“*Deddf 2000*”) means the Learning and Skills Act 2000;

“16 to 19 institution” (“*sefydliad 16 i 19 oed*”) means a maintained school which —

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(1) 1998 c. 31.

(2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).

(3) 2000 c. 21; section 113A and Schedule 7A were inserted by section 72 of and Schedule 9 to the Education Act 2002. Schedule 7 was amended by paragraphs 11 and 15 of Schedule 10 to the Education Act 2002.

- (a) provides full-time education suitable to the requirements of pupils over compulsory school age, and
- (b) does not provide full-time education suitable to the requirements of pupils of compulsory school age;

“the Council” (“*y Cyngor*”) means the National Council for Education and Training for Wales;  
 “further education college” (“*coleg addysg bellach*”) means an institution within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992)<sup>(4)</sup>;

“mainstream school” (“*ysgol brif ffrwd*”) means a maintained school other than a special school;

“maintained school” (“*ysgol a gynhelir*”) has the same meaning as in the 1998 Act;

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“proposals to discontinue a sixth form” (“*cynigion i gau chweched dosbarth*”) means proposals such as are mentioned in paragraph 20(1) of Schedule 7;

“relevant age group” (“*grŵp oedran perthnasol*”) has the meaning given to it by section 142(1) of the 1998 Act;

“relevant sixth form age group” (“*grŵp chweched dosbarth perthnasol*”) means an age group in which pupils are normally admitted (or, as the case may be, will normally be admitted) to the school for sixth form education;

“sixth form education” (“*addysg chweched dosbarth*”) means full-time education at a school suitable to the requirements of pupils over compulsory school age but below the age of 19;

“special school” (“*ysgol arbennig*”) means a community or foundation special school;

“statement of special educational needs” (“*datganiad o achos anghenion addysgol arbennig*”) means a statement of special educational needs maintained under Part IV of the Education Act 1996<sup>(5)</sup>;

“the upper age limit” (“*terfyn uchaf oedran*”) of a school means the highest age of pupils for whom education is normally provided at the school.

(2) Any reference to section 113A, Schedule 7 or Schedule 7A is a reference to section 113A of, or Schedule 7 or Schedule 7A to, the 2000 Act as appropriate.

(3) For the purposes of these Regulations the capacity of a school is to be determined in accordance with Schedule 1 to the Education (School Organisation Proposals) (Wales) Regulations 1999<sup>(6)</sup>.

(4) For the purposes of these Regulations the date of publication of proposals is —

- (a) the date on which the requirements of regulation 5 or 12 (as the case may be) are satisfied; or
- (b) where different requirements are satisfied on different dates, the last of such dates.

(5) Part 1 of Schedule 3 applies for the purpose of the interpretation of the terms contained in Parts 2 to 6 of that Schedule.

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(4) 1992 c. 13.

(5) 1996 c. 56.

(6) S.I. 1999/1671.

## PART 2

### Proposals made under section 113A

#### Alterations for which proposals may be made

3.—(1) This regulation prescribes the descriptions of alterations to maintained schools for the purposes of section 113A(4)(b).

(2) The descriptions of alterations are —

- (a) an enlargement of the premises of a 16 to 19 institution which would increase the capacity of the school by 25% or more;
- (b) an enlargement of the premises of any other secondary school with a view to an increase by 25% or more in the number of pupils who will be provided with sixth form education at the school;
- (c) an alteration of the upper age limit of the school so that —
  - (i) the school will provide sixth form education, or
  - (ii) the school will cease to provide sixth form education; or
- (d) an alteration of the upper age limit of the school (being an age limit over compulsory school age) by a year or more (not falling within sub-paragraph (c) above).

#### Consultation

4. Before making proposals under section 113A the Council must consult such persons as it considers appropriate, setting out the considerations that have led to the proposals and the supporting evidence.

#### Publication of proposals

5.—(1) The Council must publish a notice of any proposals it makes under section 113A in the manner specified in paragraphs (2) and (3) below, and any such notice must contain the information specified in Schedule 1.

(2) Where the proposals are to establish a new 16 to 19 institution the Council is to publish the notice —

- (a) by posting it in a conspicuous place in the area to be served by the school, where the school is to be a mainstream school, or in the area of the local education authority whom it is proposed should maintain the school, where the school is to be a special school; and
- (b) in at least one newspaper circulating in that area.

(3) Where the proposals are to make an alteration to a maintained school or to discontinue a 16 to 19 institution the Council is to publish the notice —

- (a) by posting it in a conspicuous place in the area served by the school, where the school the subject of the proposals is a mainstream school, or in the area of the local education authority who maintain the school, where the school the subject of the proposals is a special school;
- (b) in at least one newspaper circulating in that area; and
- (c) by posting it at or near the main entrance to the school or, if there is more than one main entrance, all of them.

(4) The Council must send a copy of the notice to the following persons —

- (a) the National Assembly;

- (b) the governing body of any school the subject of the proposals (except where the proposals are to establish a new 16 to 19 institution);
  - (c) the local education authority who maintain, or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain, any school the subject of the proposals;
  - (d) any adjoining local education authority;
  - (e) the Diocesan Board of Education (or other body responsible for education) for any diocese of the Church in Wales and the Bishop of any Roman Catholic Church diocese, any part of which is comprised in the area of the local education authority who maintain the school or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain the proposed school;
  - (f) such other persons as the Council considers appropriate.
- (5) Where the proposals relate to a special school the Council must send a copy of the notice to —
- (a) each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school;
  - (b) the parents of each registered pupil at the school;
  - (c) any Local Health Board in whose area the school is situated; and
  - (d) any National Health Service Trust who have responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority who maintain the school.
- (6) Where the proposals relate to a proposed special school the Council must send a copy of the notice to the bodies referred to in sub-paragraphs (c) and (d) of paragraph (5).
- (7) In this regulation “parent” has the same meaning as in section 576 of the Education Act 1996.

### **Objections to proposals**

6. Any person may send written objections to proposals made under section 113A to the Council within two months after the date of publication of the proposals.

### **Submission of proposals etc. to the National Assembly**

7. Within one month after the end of the period within which objections may be made under regulation 6 the Council must send to the National Assembly —
- (a) copies of all objections received pursuant to regulation 6 (other than objections withdrawn in writing within the period mentioned in that regulation), together with its observations thereon; and
  - (b) the information specified in Part 2 of Schedule 3 to these Regulations, where the school is a mainstream school;
  - (c) the information specified in Part 3 of Schedule 3 to these Regulations where the school is a special school;
  - (d) the information specified in Part 4 of Schedule 3 to these Regulations, where the proposal is to discontinue a sixth form; or
  - (e) the information specified in Part 6 of Schedule 3 to these Regulations, where the proposals are to enlarge the premises of an existing sixth form or 16 to 19 institution or to provide additional sixth form education or to establish a new sixth form.

### **Withdrawal of proposals**

8. The Council may withdraw proposals at any time before they are determined under section 113A(4) by giving written notice to the National Assembly.

### **Decision by the National Assembly**

9.—(1) The National Assembly must notify the following persons of each decision taken under section 113A —

- (a) the Council;
- (b) the local education authority who maintain the school or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain the proposed school;
- (c) where the proposals relate to an existing special school, each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school;
- (d) the governing body of the school (except where the proposals are to establish a new 16 to 19 institution);
- (e) the Diocesan Board of Education (or other body responsible for education) for any diocese of the Church in Wales and the Bishop of any Roman Catholic Church diocese, any part of which is comprised in the area of the local education authority who maintain the school or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain the proposed school; and
- (f) subject to paragraph (2), each objector.

(2) Where objections to a proposal take the form of a petition (that is to say a document containing the text of one objection signed by more than one objector) the National Assembly may comply with the requirement in paragraph (1) by —

- (a) notifying the person (if any) who appears to the Assembly to have arranged for the petition to be sent to the Council (if an address has been provided for that person); or
- (b) if there is no such person (or an address has not been provided for that person), notifying any one objector whose name appears on the petition.

(3) The National Assembly may only approve proposals with modifications if the Council has consented to the modifications.

### **Implementation of proposals**

10.—(1) The Council is prescribed for the purposes of paragraph 1(3) of Schedule 7A (which provides that at the request of persons prescribed, the National Assembly may modify proposals or specify a later date by which an event must occur).

(2) For the purposes of paragraphs 1(3) and (4) of Schedule 7A (which provides that after consulting prescribed persons the National Assembly may modify proposals which have been approved, specify a later date by which an event must occur, or determine that paragraph 1(2) of Schedule 7A should not apply) the following persons are prescribed —

- (a) the Council;
- (b) the governing body of the school (or, in the case of a proposal to establish a new 16 to 19 institution, the temporary governing body within the meaning of the 1998 Act or 2002 Act);
- (c) the local education authority who maintain, or whom it is proposed should maintain, the school; and

- (d) where the school is a special school each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school.

## **PART 3**

### **Proposals made under Schedule 7**

#### **Information to be contained in published proposals**

**11.**—(1) This regulation prescribes for the purposes of paragraphs 20(2) and 28(2) of Schedule 7, the information which proposals published under paragraph 20 or 28 of Schedule 7 must contain.

- (2) Such proposals must contain the information specified in Schedule 2 to these Regulations.

#### **Manner of publication of proposals**

**12.**—(1) This regulation prescribes for the purposes of paragraphs 20(2) and 28(2) of Schedule 7 the manner of publication of proposals required to be published under paragraph 20 or 28 of Schedule 7.

- (2) Where the school is a maintained school, such proposals are to be published —
- (a) by being posted in a conspicuous place in the area served by the school;
  - (b) in at least one newspaper circulating in that area; and
  - (c) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.
- (3) Where the school is a special school, such proposals are to be published —
- (a) in at least one newspaper circulating in the area of the local education authority who maintain the school; and
  - (b) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.

#### **Information to be sent to the National Assembly**

**13.**—(1) This regulation prescribes for the purposes of paragraphs 21(1)(b) and 29(1)(b) of Schedule 7 the information which the Council must send to the National Assembly.

(2) The Council is to send to the National Assembly the information specified in Part 2 of Schedule 3 to these Regulations, where the school is a mainstream school, or Part 3 of that Schedule, where the school is a special school, together with —

- (a) the information specified in Part 4 of that Schedule, where the proposals are to discontinue a sixth form; or
- (b) the information specified in Part 5 of that Schedule, where the proposals are to discontinue a 16 to 19 institution.

#### **Bodies to whom a copy of the published proposals must be sent — special schools**

**14.**—(1) This regulation prescribes for the purposes of paragraphs 21(2) and 29(2) of Schedule 7 the bodies or persons to whom, in the case of a special school, the Council must also send a copy of the published proposals.

- (2) The Council must send a copy of the published proposals to —
- (a) the local education authority who maintain the school;

- (b) each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school;
- (c) the parents of each registered pupil at the school;
- (d) any Local Health Board in whose area the school is situated; and
- (e) any National Health Service Trust who have responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority who maintain the school.

### **Objections to proposals**

**15.**—(1) This regulation prescribes for the purposes of paragraph 41 of Schedule 7 the period within which objections to the proposals may be sent to the National Assembly.

(2) Objections are to be sent to the National Assembly within one month after the date of publication of the proposals.

### **Conditional approvals**

**16.**—(1) This regulation prescribes kinds of events for the purposes of paragraph 42(4) of Schedule 7 (which provides that approval of proposals may be subject to the occurrence by a specified time of a specified event which is of a prescribed kind).

(2) The kinds of events are any of the following events relating to any other school or proposed school in respect of which proposals have been published under section 28 or 31 of the 1998 Act —

- (a) the grant of planning permission under Part III of the Town and Country Planning Act 1990(7);
- (b) the acquisition of a site on which the new school, a proposed enlargement of the premises of the school or other alteration of the premises of the school is to be constructed;
- (c) the acquisition of playing fields to be provided for the school;
- (d) the securing of any necessary access to a site or playing fields referred to in sub-paragraphs (b) and (c) of this paragraph;
- (e) the entering into of a private finance transaction within the meaning of regulation 16 of the Local Authorities (Capital Finance) Regulations 1997(8); and
- (f) the making of any scheme relating to any charity connected with the school or proposed school.

### **Provision of information by the National Assembly**

**17.**—(1) The National Assembly must notify the following persons of each decision taken under paragraph 42(1) or 43(2) of Schedule 7 —

- (a) the Council;
- (b) the local education authority who maintain the school;
- (c) where the school is a special school, each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school;
- (d) the governing body of the school to which the proposals relate; and
- (e) subject to paragraph (3), each objector for whom an address has been provided to the National Assembly.

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(7) 1990 c. 8.

(8) S.I. 1997/319; amended by S.I. 1998/371.

(2) Where, pursuant to paragraph (1), the National Assembly notifies the persons referred to in that paragraph of a decision it must also notify them of the reasons for that decision.

(3) Where objections to a proposal take the form of a petition (that is to say a document containing the text of one objection signed by more than one objector) the National Assembly may comply with paragraph (1)(e) by —

- (a) notifying the person (if any) who appears to them to have arranged for the petition to be sent to the National Assembly (if an address has been provided for that person); or
- (b) if there is no such person (or an address has not been provided for that person), notifying any one objector whose name appears on the petition.

### **Proposals published under paragraph 43(4) of Schedule 7**

**18.** Schedule 4 to these Regulations has effect in relation to proposals under paragraph 43(4) of Schedule 7 (proposals previously published and approved under Schedule 7 not to be implemented).

## **PART 4**

### **Supplementary**

#### **Change of category of school**

**19.** Where, after proposals have been published under section 113A or Schedule 7 but before they have been implemented, a school changes category under Schedule 8 to the 1998 Act from a community or community special school; the proposals (to the extent that they have not been implemented) are to be implemented by the local education authority (notwithstanding paragraph 44 of Schedule 7 or paragraphs 3 or 4 of Schedule 7A).

#### **Consequential amendment**

**20.—**(1) The Education (Grants in respect of Voluntary Aided Schools) Regulations 1999<sup>(9)</sup> are hereby amended in relation to Wales as follows.

(2) In regulation 3(2)(c) after paragraph (ii) there shall be inserted the following paragraph —

“(iii) any proposals for an alteration to a school published under section 113A of the Learning and Skills Act 2000 approved under subsection (5) of that section; or”.

#### **Revocation**

**21.** The School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2002<sup>(10)</sup> are hereby revoked.

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<sup>(9)</sup> S.I. 1999/2020 to which there are amendments not relevant to these Regulations.

<sup>(10)</sup> S.I. 2002/432 (W.55).



Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998**(11)**.

22 June 2004

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

SCHEDULE 1

Regulation 5

INFORMATION TO BE CONTAINED IN PROPOSALS PUBLISHED UNDER SECTION 113A

1. A statement that the proposals are published by the Council.
2. Details of the relevant objective or objectives set out in section 113A which the proposals are intended to promote and details of how the proposals would promote the stated objective or objectives.
3. The date on which the proposals are planned to be implemented or, where the proposals are planned to be implemented in stages, the date on which each stage is planned to be implemented.
4. Where the proposals are to establish a new 16 to 19 institution or to alter the upper age limit of the school so that the school will provide sixth form education —
  - (a) information on the number of students for whom sixth form education will be provided;
  - (b) the proposed upper age limit of the school; and
  - (c) the proposed arrangements for transport of pupils to the school.
5. An analysis of the long-term impact of the proposals on the school to which the proposals relate.
6. Where the proposals relate to a foundation or voluntary school with a religious character, details of the religion or religious denomination concerned.
7. Where the proposals have the effect that any provision for sixth form education is to be discontinued, details of the schools or further education colleges which pupils who are at the school and for whom provision is to be discontinued may attend, including any interim arrangements.
8. The proposed arrangements for transport of such pupils to other schools or further education colleges.
9. Details of any other measures proposed to be taken to increase the number of school or further education college places available in consequence of a proposed discontinuance of provisions.
10. Except where the proposals —
  - (a) are to discontinue a school;
  - (b) are to make an alteration to the upper age limit of the school so that the school will cease to provide sixth form education; or
  - (c) relate to a special school;the number of pupils to be admitted to the school (or, as the case may be, to the new school) in each relevant sixth form age group in the first school year in which the proposals have been implemented or, where it is intended that the proposals should be implemented in stages, the number of pupils to be so admitted in the first school year in which each stage has been implemented.
11. Where the proposals are to make an alteration to a foundation or voluntary controlled school, a statement as to whether the proposals are to be implemented by the local education authority or the governing body and, if the proposals are to be implemented by both, a statement as to the extent to which they are to be implemented by each body.
12. A statement that the proposal will require the approval of the National Assembly.
13. A statement of the effect of regulation 6 including the address to which objections to the proposals should be sent.

## SCHEDULE 2

Regulation 11

### INFORMATION TO BE CONTAINED IN PROPOSALS PUBLISHED UNDER SCHEDULE 7

1. A statement that the proposals are published by the Council.
2. The date on which the proposals are planned to be implemented or, where the proposals are planned to be implemented in stages, the date on which each stage is planned to be implemented.
3. Details of the schools or further education colleges which pupils who are at the school and for whom provision is to be discontinued may attend, including any interim arrangements.
4. The proposed arrangements for transport of such pupils to other schools or further education colleges.
5. An analysis of the long-term impact of the proposals on the school to which the proposals relate.
6. Details of any other measures proposed to be taken to increase the number of school or further education college places available in consequence of the proposed discontinuance of provision.
7. Where the proposals are to discontinue a sixth form, the number of pupils to be admitted to the school in each relevant age group in the first school year in which the proposals have been implemented or, where it is intended that the proposals should be implemented in stages, the number of pupils to be admitted to the school in the first school year in which each stage has been implemented.
8. Where proposals are to discontinue a sixth form at —
  - (a) a community or community special school, a statement that the duty to implement the proposals is a duty of the local education authority;
  - (b) a voluntary, foundation or foundation special school, a statement that the duty to implement the proposals is a duty of the governing body.
9. Where the proposals are to discontinue —
  - (a) a 16 to 19 institution which is a community or community special school, a statement that the duty to implement the proposals is a duty of the local education authority;
  - (b) a 16 to 19 institution which is a voluntary or foundation school, a statement that the duty to implement the proposals is a shared duty of the governing body and the local education authority.
10. A statement explaining the effect of paragraph 41 of Schedule 7 and regulation 15, including the date by which objections must be sent to the National Assembly.
11. The address of the National Assembly, to which objections must be sent.

SCHEDULE 3

Regulations 7 and 13

INFORMATION TO BE SENT TO THE NATIONAL ASSEMBLY IN CONNECTION  
WITH PROPOSALS PUBLISHED UNDER SECTION 113A OR SCHEDULE 7

**PART I**

**INTERPRETATION**

1. In this Schedule —

“the current school year” (“*y flwyddyn ysgol gyfredol*”) means the school year in which the proposals are published;

“GCE ‘A’ level examinations” (“*arholiadau TAG Safon Uwch*”) and “GCE ‘AS’ examinations” (“*arholiadau TAG Uwch Gyfrannol*”) mean General Certificate of Education advanced level examinations and General Certificate of Education advanced supplementary examinations respectively;

“GCSE” (“*TGAU*”) means General Certificate of Secondary Education;

“GNVQ” (“*GNVQ*”) means General National Vocational Qualification;

“NVQ” (“*NVQ*”) means National Vocational Qualification;

“the relevant radius” (“*y radiws perthnasol*”) means a radius of 4.828032 kilometres (three miles); and

“relevant standard number” (“*rhif safonol perthnasol*”) has the meaning given to it by section 84(6) of the 1998 Act.

**PART 2**

**INFORMATION TO BE SENT IN CONNECTION WITH  
PROPOSALS UNDER SECTION 113A OR SCHEDULE 7  
WHERE THE SCHOOL IS A MAINSTREAM SCHOOL**

2. The objectives of the proposal.

3. Details of the consultation which took place before the proposals were published including —

- (a) copies of the consultation documents; and
- (b) the views and responses from the persons consulted.

4. A map showing the location of the school the subject of the proposals and all other community, voluntary and foundation schools within the relevant radius of the school.

5. A list of all secondary schools within the relevant radius of the school the subject of the proposals, stating which of such schools are maintained by a different local education authority, together with the following information in respect of each such school for the current school year, and (except for the information specified in sub-paragraph (d)) the previous school year;

- (a) the relevant standard number for each relevant age group;
- (b) the number of year groups;
- (c) the capacity of the school; and
- (d) the number of pupils at the school,

and a forecast of the matters specified in sub-paragraphs (b) to (d) for each of the subsequent five school years.

6. Where the proposal involves an alteration to existing sixth form education, the following details of the sixth form education currently provided at the school —

- (a) courses leading to GCE ‘A’ level and ‘AS’ examinations,
- (b) courses leading to advanced vocational qualifications (in particular advanced GNVQs),
- (c) other courses, and
- (d) the number of pupils attending each course.

7. Details of any impact of the proposals on the school in relation to the provision of education through the medium of the Welsh language.

8. Where the proposals are made under Schedule 7, copies of the reports of the two inspections under Part I of the School Inspections Act 1996(12) as a result of which Parts II and III of Schedule 7 apply in relation to the school.

9. Where the proposals are to discontinue provision which is recognised by the local education authority as reserved for children with special educational needs —

- (a) details of alternative provision for pupils for whom such provision is currently made;
- (b) details of the number of pupils for whom such provision was made during each of the four school years preceding the current school year;
- (c) proposals for amendment of the statements of special educational needs of the pupils for whom provision is currently made; and
- (d) details of provision made outside the area of the local education authority for pupils whose needs will not be able to be met in the area of that authority as a result of the discontinuance of the provision.

10. Where the proposals are to establish a provision which is recognised by the local education authority as reserved for children with special educational needs —

- (a) a description of the types of learning difficulties in respect of which education is to be provided;
- (b) details of any additional specialist features to be provided;
- (c) the proposed numbers of pupils for which the provision is to be made;
- (d) details of how the provision is to be funded;
- (e) a statement as to whether the education will be provided for children with special educational needs who are not registered pupils at the school to which the proposals relate;
- (f) a statement as to whether the expenses of the provision would be met from the school’s delegated budget; and
- (g) the location of the provision if it is not to be established on the existing site of the school.

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(12) 1996 c. 57.

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

### **PART 3**

#### **INFORMATION TO BE SENT IN CONNECTION WITH PROPOSALS UNDER SECTION 113A OR SCHEDULE 7 WHERE THE SCHOOL IS A SPECIAL SCHOOL**

11. The objectives of the proposal.
12. Details of the consultation before the proposals were published including —
  - (a) copies of the consultation documents; and
  - (b) the views and responses from the persons consulted.
13. A map showing the location of the school the subject of the proposals.
14. A list of all —
  - (a) special schools which provide education for pupils over compulsory school age, and
  - (b) other schools maintained by a local education authority which provide education for pupils over compulsory school age at which there is provision which is recognised by the local education authority as reserved for children with special educational needs,

in the area of the local education authority who maintain the school.

15. Information as to —
  - (a) the number of pupils over compulsory school age at each school referred to in paragraph 14(a), and
  - (b) the number of pupils over compulsory school age at each school referred to in paragraph 14(b) for whom the provision referred to in that sub-paragraph is made,

in the current school year together with a forecast of that number in each of the subsequent five school years.

16. Information as to the numbers of pupils over compulsory school age with special educational needs of each type for whom the local education authority maintain a statement of special educational needs in the current school year together with a forecast of such numbers for each of the subsequent five school years.

17. Details of any impact of the proposals on the school in relation to the provision of education through the medium of the Welsh language.

18. Where the proposals are made under Schedule 7, copies of the reports of the two inspections under Part I of the School Inspections Act 1996 as a result of which Parts II and III of Schedule 7 apply in relation to the school.

### **PART 4**

#### **ADDITIONAL INFORMATION TO BE SENT WHERE THE PROPOSALS ARE MADE UNDER SECTION 113A TO DISCONTINUE A SIXTH FORM OR TO ALTER THE UPPER AGE LIMIT OF A SCHOOL OR UNDER SCHEDULE 7 TO DISCONTINUE A SIXTH FORM**

19. Where the school is a mainstream school, the following information relating to the school for the current school year and (except for the information specified in paragraph (c)), the previous school year —

- (a) the number of year groups,

- (b) the capacity of the school, and
- (c) the number of pupils at the school,

and a forecast of those numbers for each of the subsequent five school years, on the assumption that the proposals are approved.

**20.** Where the school is a special school, the following information relating to the school for the current school year and the preceding four school years —

- (a) the number of pupils at the school,
- (b) the number of pupils of each age group and each sex, and
- (c) the number of pupils with each type of special educational needs for which provision is made at the school,

and a forecast of those numbers for each of the subsequent five school years on the assumption that the proposals are approved.

**21.** Where the proposals relate to a voluntary school, a statement as to whether, as a result of the proposals, premises used for the purposes of the school will no longer be required and if so —

- (a) a statement as to whether those premises will be sold, and, if so, the estimated sale proceeds, and
- (b) if the premises are not to be sold a statement as to the proposed use of the premises,

if such information has been made available to the Council.

**22.** Details of the number of pupils over compulsory school age in each year group remaining at the school the subject of the proposals in the two school years before the current school year.

**23.** Details of the number of pupils over compulsory school age in each age group who have transferred from the school the subject of the proposals to another institution providing full-time or part-time education during the period referred to in paragraph 22.

**24.** Details of the institutions to which the pupils referred to in paragraph 23 transferred indicating how many pupils went to each such institution.

**25.** The number of pupils referred to in paragraphs 22 and 23 in each year group as a proportion of the total number of pupils in that year group.

**26.** Details of the schools or further education colleges to which it is proposed that pupils currently receiving sixth form education may transfer if the proposals are approved, including an assessment of the quality of those institutions and any transitional arrangements which will apply.

**27.** Where the school is a mainstream school, details of the following examination results for the two school years before the current school year at the school which is the subject of the proposals and at each maintained school, city technology college, city college for the technology of the arts and further education college named in accordance with paragraph 24 —

- (a) results of GCSE examinations limited, in the case of schools other than the school the subject of the proposals and further education colleges, to the results of GCSE examinations taken by pupils over compulsory school age;
- (b) results of GCE 'A' level and 'AS' examinations, and
- (c) NVQs, GNVQs and other vocational qualifications attained by pupils over compulsory school age.

**28.** The number of places available at those institutions named in accordance with paragraphs 24 and 26 which are schools.

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**29.** Details of the distance, measured by the nearest available route, between the school and all of the institutions named in accordance with paragraph 24 together with details as to the availability of public transport to the institutions named in accordance with paragraph 26 (where such information is not already contained in any proposed arrangements for transport contained in published proposals pursuant to paragraph 7 of Schedule 1 or paragraph 4 of Schedule 2).

**30.** A development plan for the school setting out the long-term effect of the proposals.

**31.** Details of any recurrent costs following implementation of the proposals and any savings in expenditure as a result of implementation of the proposals.

## **PART 5**

### **ADDITIONAL INFORMATION TO BE SENT WHERE THE PROPOSALS ARE MADE UNDER SCHEDULE 7 TO DISCONTINUE A 16 TO 19 INSTITUTION**

**32.** Where the school is a mainstream school, the following information relating to the school for the current school year and (except for the information specified in sub-paragraph (d)), the previous school year —

- (a) the relevant standard number for each relevant age group;
- (b) the number of year groups;
- (c) the capacity of the school; and
- (d) the number of pupils at the school.

**33.** Where the school is a special school, the following information relating to the school for the current school year and the preceding four school years —

- (a) the number of pupils at the school;
- (b) the number of pupils of each age group and sex; and
- (c) the number of pupils with each type of special educational needs for whom provision is made at the school.

**34.** The following information relating to the accommodation at the school —

- (a) the location of the accommodation;
- (b) whether the school occupies a single or split site; and
- (c) details of general and specialist accommodation.

**35.** Details of schools and further education colleges which pupils who might otherwise have attended the school may, in the opinion of the Council, reasonably be expected to be able to attend after ceasing to be of compulsory school age if the proposals are approved, including an assessment of the quality of those institutions and any transitional arrangements which will apply.

**36.** Where the school is a mainstream school, details of the examination results referred to in sub-paragraphs (a) to (c) of paragraph 27 for the two school years before the current school year at the school which is the subject of the proposals and at each maintained school, city technology college, city college for the technology of the arts and further education college named in accordance with paragraph 35.

**37.** The number of places available at institutions named in accordance with paragraph 35 which are schools.



**38.** Details of the distance, measured by the nearest available route between the school and all the institutions specified in paragraph 35 together with details as to the availability of public transport to those institutions (where such information is not already contained in any proposed arrangements for transport contained in published proposals pursuant to paragraph 4 of Schedule 2).

## **PART 6**

### **ADDITIONAL INFORMATION TO BE SENT WHERE THE PROPOSALS ARE MADE UNDER SECTION 113A TO ENLARGE THE PREMISES OF AN EXISTING SIXTH FORM OR 16 TO 19 INSTITUTION, TO PROVIDE ADDITIONAL SIXTH FORM EDUCATION, OR TO ESTABLISH A NEW SIXTH FORM**

**39.** Where the proposals are to make an enlargement of the premises of the school or 16 to 19 institution —

- (a) details of how it is intended to fund the implementation of the proposals;
- (b) details of any transport or other recurrent costs or savings arising as a consequence of the proposals.

**40.** Where the proposals are to alter the upper age limit of the school so that the school provides sixth form education or additional sixth form education, the following information —

- (a) the proposed numbers of pupils over compulsory school age in the school year in which the proposals are intended to be implemented and the subsequent school year if the proposals are approved;
- (b) details of any full-time sixth form education currently provided;
- (c) details of the number of pupils over compulsory school age in each year group leaving the school and transferring to other institutions providing full-time education together with the names of the institutions in question for the most recent school year ending before that in which the proposals were published;
- (d) the number of pupils referred to in sub-paragraph (c) in each year group as a proportion of the total number of pupils in that year group;
- (e) details of the following examination results, for the two school years before the current school year, at the school the subject of the proposals and at each maintained school, city technology college and institution within the further education sector named in accordance within sub-paragraph (c) —
  - (i) results of GCSE examinations, limited in the case of schools other than the school the subject of the proposals and institutions in the further education sector, to the results of GCSE examinations taken by pupils over compulsory school age,
  - (ii) results of GCE ‘A’ level and ‘AS’ examinations,
  - (iii) NVQs, GNVQs and other vocational qualifications attained by pupils over compulsory school age;
- (f) a development plan for the school setting out the long-term effect of the proposals;
- (g) details of the courses to be offered (if the proposals are approved) leading to GCE ‘A’ level and ‘AS’ examinations and advanced vocational qualifications and the forecast demand for each such course, including details of how the requirement for religious education of pupils over compulsory school age will be met;
- (h) the proposed number of pupils who will be provided with sixth form education if the proposals are approved;

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- (i) the capacity of the proposed accommodation for pupils who will be provided with sixth form education if the proposals are approved;
- (j) the number of places available at institutions named in accordance with sub-paragraph (c) which are schools;
- (k) details of any recurrent costs following implementation of the proposals and any savings in expenditure as a result of implementation of the proposals; and
- (l) details of —
  - (i) any additional specialist resources to support the proposed provision,
  - (ii) arrangements to inform pupils and parents about the opportunities for education in the area, suitable to the requirements of pupils over compulsory school age and
  - (iii) the present and proposed arrangements for co-operation and the exchange of information between the school the subject of the proposals, other maintained schools and institutions within the further education sector.

#### SCHEDULE 4

Regulation 18

#### PROPOSALS UNDER PARAGRAPH 43(4) OF SCHEDULE 7

1. In this Schedule —
  - “the new proposals” (“*y cynigion newydd*”) means proposals such as are mentioned in paragraph 43(4) of Schedule 7; and
  - “the original proposals” (“*y cynigion gwreiddiol*”) means the proposals approved under Part III of Schedule 7 to which the new proposals relate.
2. The new proposals shall —
  - (a) where the school is a mainstream school be published —
    - (i) by being posted in a conspicuous place in the area served by the school;
    - (ii) in at least one newspaper circulating in that area; and
    - (iii) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.
  - (b) where the school is a special school be published —
    - (i) in at least one newspaper circulating in the area of the local education authority who maintain the school; and
    - (ii) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.
3. The new proposals shall contain —
  - (a) the information contained in the original proposals, and
  - (b) a statement as to why it is proposed that the original proposals should not be implemented.
4. Before publishing the new proposals the Council shall, having regard to any guidance issued by the National Assembly, consult such persons as they consider appropriate.
5. The Council shall send to the National Assembly —
  - (a) a copy of the published new proposals;
  - (b) a copy of the information sent to the National Assembly under paragraph 21(1)(b) or 29(1)(b) of Schedule 7 and regulation 13 when the original proposals were published; and

(c) the information referred to in regulation 13 which would have been applicable if the original proposals had been published at the time when the new proposals were published.

6. Where the school the subject of the new proposals is a special school the Council shall send a copy of the published new proposals to the bodies or persons to whom a copy of the original proposals was sent under paragraphs 21(2) and 29(2) of Schedule 7 and regulation 14.

7. Any person may send objections to the new proposals to the National Assembly within one month after the date of publication of the proposals.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Under section 113A of, and Schedule 7A to, the Learning and Skills Act 2000 “the 2000 Act”, as inserted by section 72 of the Education Act 2002, the National Council for Education and Training for Wales “the Council” may, in specified circumstances, make proposals for —

- the establishment of a sixth form maintained school,
- an alteration of a prescribed description to sixth form provision in a maintained school or schools, or
- the discontinuance of a sixth form maintained school.

Under Schedule 7 to the 2000 Act the Council may, in specified circumstances, publish proposals for the alteration of a maintained school so that it no longer provides sixth form education, or for the discontinuance of a sixth form maintained school.

The 2000 Act lays down procedures for the exercise of these powers by the Council. In particular, the Council must publish proposals which require the approval of the National Assembly. The framework for these procedures is laid down in the 2000 Act, but much of the detail is to be prescribed in Regulations made by the National Assembly. These Regulations prescribe those details and, in the case of the provisions made in Part 3 (with respect to Schedule 7 to the 2000 Act), replace (with some changes) provisions contained in the School Organisation proposals by the National Council for Education and Training for Wales Regulations 2002.

Part 1 of the Regulations contains preliminary provisions.

*Regulation 2* defines terms used in the Regulations.

Part 2 of the Regulations makes provision with respect to proposals under section 113A.

*Regulation 3* prescribes the descriptions of alterations to maintained schools for which proposals may be made.

*Regulation 4* provides for the consultation process by the Council before making a proposal.

*Regulation 5* with Schedule 1 prescribes the information to be contained in a proposal and the requirements to publish the proposals and notify the persons specified in that regulation.

*Regulation 6* provides for objections to proposals.

*Regulation 7 — with parts 2, 3, 4 and 6 of Schedule 3* makes provision for the Council to submit proposals together with objections and with prescribed additional information to the National Assembly.

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*Regulation 8* provides that the Council may withdraw proposals before they are determined.

*Regulation 9* requires the National Assembly to provide information about its decisions to the persons specified in that regulation.

*Regulation 10* prescribes the Council as the person who may request the National Assembly to modify proposals and prescribes the persons who the National Assembly must consult before determining that the requirement to implement the proposals shall cease to apply.

Part 3 of the Regulations makes provision with respect to proposals under Schedule 7.

*Regulation 11 with Schedule 2* prescribes the information which must be contained in published proposals.

*Regulation 12* prescribes the manner in which proposals must be published.

*Regulation 13 with parts 2 to 5 of Schedule 3* prescribes additional information which must be sent to the National Assembly with the published proposals.

*Regulation 14* prescribes other bodies to whom a copy of the proposals must be sent in the case of special schools.

*Regulation 15* provides for the time limits for objections to proposals.

*Regulation 16* prescribes events which can be specified in the case of a conditional approval of proposals.

*Regulation 17* requires the National Assembly to provide information about its decisions to the persons specified in that regulation.

*Regulation 18 with Schedule 4* makes provision for proposals by the Council that previous proposals which the National Assembly has approved should not be implemented.

Part 4 of the Regulations contains supplementary provisions.

*Regulation 19* makes special provision for implementation of proposals where a school changes category from being a community or community special school.

*Regulation 20* makes a consequential amendment and regulation 21 repeals the earlier Regulations.