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WELSH STATUTORY INSTRUMENTS

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**2004 No. 912 (W.95) (C.40)**

**EDUCATION, WALES**

**The Education Act 2002 (Commencement No. 4  
and Transitional Provisions) (Wales) Order 2004**

Made - - - - 24th March 2004

The National Assembly for Wales, in exercise of the power conferred upon it by section 216(3), (4) (b) and (5) of the Education Act 2002<sup>(1)</sup>, hereby makes the following Order:

**Name and application**

1. This Order is called Education Act 2002 (Commencement No.4 and Transitional Provisions) (Wales) Order 2004.
2. Provisions brought into force by this Order are brought into force only in relation to Wales (except in relation to section 198).

**Interpretation**

- 3.—(1) In this Order “the 1998 Act” (“*Deddf 1998*”) means the School Standards and Framework Act 1998<sup>(2)</sup>.
- (2) In this Order, unless otherwise stated, references to sections and Schedules are references to sections of and Schedules to the Education Act 2002.

**Appointed days**

4. The day appointed for the coming into force of the provisions specified in Part 1 of the Schedule to this Order is 31st March 2004.
5. The day appointed for the coming into force of the provisions specified in Part 2 of the Schedule to this Order is 1st August 2004.

**Transitional provision — establishment or alteration of maintained nursery schools**

6. Despite the coming into force of section 154, the new paragraphs (aa) and (d) in subsection (1) of section 28 of the 1998 Act are not to apply where a local education authority in Wales have

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(1) 2002 c. 32.  
(2) 1998 c. 31.

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taken a decision before 31st March 2004 to establish a new maintained nursery school or to make a prescribed alteration to a maintained nursery school.

**Transitional provision — admission arrangements for nursery education**

7. Despite the coming into force of paragraph 12(1), (3) to (5) of Schedule 4 amending section 98 of the 1998 Act, the amendments made by paragraph 12(3), (4) and (5) are not to apply to a school year earlier than the 2004 to 2005 school year in relation to the admission of a child to a maintained school for nursery education.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(3).

24th March 2004

*John Marek*  
The Deputy Presiding Officer of the National  
Assembly

## SCHEDULE

Articles 4 and 5

**PART 1**

## Provisions coming into force on 31st March 2004

<i>Provision</i>	<i>Subject matter</i>
Section 51 in so far as it relates to the provisions of Schedule 4 below	Admission arrangements — nursery education
Section 154	Establishment or alteration of maintained nursery schools
Section 156	Meaning of nursery school and primary education
Section 198	Transition from primary to secondary school
Section 215(1) in so far as it relates to the provisions of Schedule 21 below	Minor and consequential amendments
Section 215(2) in so far as it relates to the provisions of Schedule 22 below	Repeals
Schedule 4, paragraph 12(1), (3) to (5)	Admission arrangements — nursery education
Schedule 21	Minor and consequential amendments
Paragraph 98(2) in so far as not already in force	
Paragraph 115(5) except sub-paragraph (b)	
In Schedule 22, Part 3, the repeal of —	Repeals
Education Act 1996(4), in section 4(1) the words “part-time education suitable to the requirements of junior pupils or”,	
in section 5(1) the words “part-time education suitable to the requirements of junior pupils or”,	
in section 548(8), paragraph (c),	
School Standards and Framework Act 1998(5), in section 33(1), the word “and” at the end of paragraph (b), section 39.	

**PART 2**

## Provisions coming into force on 1st August 2004

<i>Provision</i>	<i>Subject matter</i>
Section 177	Meaning of “secondary education”

(4) 1996 c. 56.

(5) 1998 c. 31.

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<i>Provision</i>	<i>Subject matter</i>
Section 215(2) in so far as it relates to the provisions of Schedule 22 below	Repeals
In Schedule 22, Part 3, the repeal of — Education Act 1996, in section 2(3)(a) the words “(including vocational, social, physical and recreational training)”.	Repeals

### EXPLANATORY NOTE

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

This Order brings into force on 31st March 2004 and 1st August 2004 those provisions of the Education Act 2002 specified in Parts 1 and 2 of the Schedule to this Order.

References below to sections and Schedules (without more) are references to sections of and Schedules to the Education Act 2002.

In the case of provisions brought into force by this Order which amend existing legislation, references to the Secretary of State in those provisions are to be read, in relation to Wales, as references to the National Assembly for Wales — see section 211.

The effect of the provisions specified in Part 1 of the Schedule is as follows —

Section 51 and Schedule 4, paragraph 12(1), (3) to (5) amend section 98 of the School Standards and Framework Act 1998 (the 1998 Act) so as to clarify that the admission authority for a maintained school is responsible for admitting or refusing to admit children to the school for nursery education.

Section 154 amends section 28 of the 1998 Act so as to require an LEA to publish proposals to establish or make prescribed alterations to a maintained nursery school.

Section 156 amends the definition of “nursery school” in section 6 of the Education Act 1996 (the 1996 Act), so as to provide that a school used wholly or mainly for the provision of education for children aged between two and compulsory school age, is a nursery school. Previously the definition referred to a school used mainly for the provision of such education. Section 156 also extends the definition of “primary education” in section 2 of the 1996 Act to include part-time education suitable to the requirements of children aged between two and compulsory school age. Previously the definition referred only to full-time education.

Section 198 enables the National Assembly for Wales to require the governing bodies of secondary schools and their feeder primary schools to draw up plans to facilitate the transition of pupils from one to the other.

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

Section 177 extends the definition of “secondary education” in section 2 of the 1996 Act so as to include education received partly at a school and partly at another institution or any other establishment, and so as to make it clear that it includes vocational, social, physical and recreational training. The National Assembly for Wales is also given the power to modify the

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Education Acts in relation to persons receiving secondary education partly at a school and partly at another institution or any other establishment.

Article 6 of the Order makes transitional provision in connection with the coming into force of section 154. The new requirements to publish proposals will not apply in relation to decisions taken before 31st March 2004.

Article 7 makes transitional provision in connection with the coming into force of the amendments made to section 98 of the 1998 Act relating to responsibility for admissions to a school for nursery education. The amendments are not to have effect until the school year 2004-2005.

### NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

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

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 14 17	31st March 2003	2002/3185 to (W.301)
Section 18(2)	31st March 2003	2002/3185 (W.301)
Section 19(6) (partially)	1st September 2003	2003/1718 (W.185)
Sections 27 and 28	1st September 2003	2003/1718 (W.185)
Section 29	1st September 2003	2003/1718 (W.185)
Section 40 (partially)	1st September 2003	2003/1718 (W.185)
Section 41	4th December 2003	2003/2961 (W.278)
Section 42	4th December 2003	2003/2961 (W.278)
Section 43	1st November 2003	2003/1718 (W.185)
Section 46	1st December 2003	2003/2961 (W.278)
Section 49	19th December 2002	2002/3185 (W.301)
Section 51 (partially)	9th January 2004	2003/2961 (W.278)
Section 52 (partially)	9th January 2004	2003/2961 (W.278)
Sections 54 to 56	19th December 2002	2002/3185 (W.301)
Sections 60 to 64	1st August 2003	2003/1718 (W.185)
Section 75 (partially)	19th December 2002	2002/3185 (W.301)
Sections 97 and 98	19th December 2002	2002/3185 (W.301)
Section 99(1)	19th December 2002	2002/3185 (W.301)
Section 100 (partially)	19th December 2002	2002/3185 (W.301)
Section 101 (partially)	19th December 2002	2002/3185 (W.301)
Section 103	19th December 2002	2002/3185 (W.301)
Sections 105 to 107	19th December 2002	2002/3185 (W.301)
Section 108 (partially)	19th December 2002	2002/3185 (W.301)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 109	19th December 2002	2002/3185 (W.301)
Sections 111 to 118	19th December 2002	2002/3185 (W.301)
Section 119	1st October 2002	2002/2439
Section 120(1) and (3) to (5)	1st October 2002	2002/2439
Section 120(2)	1st August 2003	2003/1667
Section 121	1st October 2002	2002/2439
Section 122 to 129	1st August 2003	2003/1667
Section 130 (partially)	1st October 2002	2002/2439
(fully)	1st August 2003	2003/1667
Section 131	19th December 2002	2002/3185 (W.301)
Sections 132 and 133	19th December 2002	2002/3185 (W.301)
Section 134 (partially)	19th December 2002	2002/3185 (W.301)
Section 135	19th December 2002	2002/3185 (W.301)
Sections 136 to 140	1st September 2003	2003/1718 (W.185)
Section 141	19th December 2002	2002/3185 (W.301)
Sections 142 to 144	31st March 2003	2002/3185 (W.301)
Section 145	19th December 2002	2002/3185 (W.301)
Section 146 (partially)	31st March 2003	2002/3185 (W.301)
Section 148 (partially)	19th December 2002	2002/3185 (W.301)
Section 149	31st March 2003	2002/3185 (W.301)
Section 150	31st March 2003	2002/3185 (W.301)
Section 151(2)	19th December 2002	2002/3185 (W.301)
Section 152 (partially)	19th December 2002	2002/3185 (W.301)
Sections 157 to 174	1st January 2004	2003/2961 (W.278)
Section 178(1) and (4)	1st August 2003	2003/1718 (W.185)
Section 179 (partially)	19th December 2002	2002/3185 (W.301)
Section 180	19th December 2002	2002/3185 (W.301)
Sections 181 to 185	1st September 2003	2003/1718 (W.185)
Section 188 (partially)	19th December 2002	2002/3185 (W.301)
(partially)	1st December 2003	2003/2961 (W.278)
Section 189 (partially)	19th December 2002	2002/3185 (W.301)
Sections 191 to 194	19th December 2002	2002/3185 (W.301)
Section 195 (partially)	31st March 2003	2002/3185 (W.301)
(fully)	1st September 2003	2002/3185 (W.301)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 196	19th December 2002	2002/3185 (W.301)
Section 197	1st September 2003	2003/1718 (W.185)
Section 199	1st September 2003	2003/1718 (W.185)
Section 200	31st March 2003	2002/3185 (W.301)
Section 201 (partially)	31st March 2003	2002/3185 (W.301)
Sections 202 and 203	1st September 2003	2003/1718 (W.185)
Section 206	1st September 2003	2003/1718 (W.185)
Section 207 and 208	9th January 2004	2003/2961 (W.278)
Section 215 (partially)	19th December 2002	2002/3185 (W.301)
(partially)	31st March 2003	2002/3185 (W.301)
(partially)	1st August 2003	2003/1718 (W.185) and 2003/1667
(partially)	1st September 2003	2002/3185 (W.301) and 2003/1718 (W.185)
(partially)	4th December 2003	2003/2961 (W.278)
(partially)	1st January 2004	2003/2961 (W.278)
(partially)	9th January 2004	2003/2961 (W.278)
Schedule 1, paragraph 3 (partially)	1st September 2003	2003/1718 (W.185)
Schedule 3, paragraphs 1 to 5	1st September 2003	2003/1718 (W.185)
Schedule 4, paragraphs 1 and 4	9th January 2004	2003/2961 (W.278)
Schedule 5	19th December 2002	2002/3185 (W.301)
Schedule 10, paragraphs 1, 6, 11 and 15	19th December 2002	2002/3185 (W.301)
Schedule 11	1st October 2002	2002/2439
Schedule 12, paragraphs 1, 2, 4(1) and (3), 6 and 7,	19th December 2002	2002/3185 (W.301)
Paragraph 12(1) and (2)	31st March 2003	2002/3185 (W.301)
Schedule 13, paragraphs 1 to 3, 5, 6, 7(1) and (3) and 8	19th December 2002	2002/3185 (W.301)
Schedule 16, paragraphs 1 to 3	1st December 2003	2003/2961 (W.278)
Paragraphs 4 to 9	19th December 2002	2002/3185 (W.301)
Schedule 17, paragraphs 5(1) to (4), (6) and 6 to 8	19th December 2002	2002/3185 (W.301)
Schedule 18, paragraphs 1, 4, 5 and 7,	31st March 2003	2002/3185 (W.301)
Paragraph 8 (partially),	31st March 2003	2002/3185 (W.301)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Paragraphs 13 to 15,	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Paragraphs 2, 3, 6, 8 (fully), 9 to 12 and 16 to 18	1st September 2003	<a href="#">2002/3185 (W.301)</a>
Schedule 19	1st September 2003	<a href="#">2003/1718 (W.185)</a>
Schedule 20	1st September 2003	<a href="#">2003/1718 (W.185)</a>
Schedule 21 (partially)	1st October 2002	<a href="#">2002/2439</a>
(partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
(partially)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
(partially)	1st August 2003	<a href="#">2003/1667</a>
(partially)	1st September 2003	<a href="#">2003/1718 (W.185)</a>
(partially)	4th December 2003	<a href="#">2003/2961 (W.278)</a>
(partially)	1st January 2004	<a href="#">2003/2961 (W.278)</a>
(partially)	9th January 2004	<a href="#">2003/2961 (W.278)</a>
Schedule 22 (partially)	1st October 2002	<a href="#">2002/2439</a>
(partially)	9th December 2002	<a href="#">2002/3185 (W.301)</a>
(partially)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
(partially)	1st August 2003	<a href="#">2003/1718 (W.185)</a>
(partially)	1st September 2003	<a href="#">2002/3185 (W.301)</a> , <a href="#">2003/1718 (W.185)</a> and <a href="#">2003/1667</a>
(partially)	4th December 2003	<a href="#">2003/2961 (W.278)</a>
(partially)	1st January 2004	<a href="#">2003/2961 (W.278)</a>
(partially)	9th January 2004	<a href="#">2003/2961 (W.278)</a>

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