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WELSH STATUTORY INSTRUMENTS

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**2006 No. 879 (W.84)(C.21)**

**EDUCATION, WALES**

**The Education Act 2002 (Commencement No. 9  
and Transitional Provisions) (Wales) Order 2006**

*Made* - - - -

*21 March 2006*

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

**Title, application and interpretation**

1. The title of this Order is the Education Act 2002 (Commencement No. 9 and Transitional Provisions) (Wales) Order 2006.
2. Provisions brought into force by this Order are brought into force in relation to Wales.
3. In this Order, unless otherwise stated, references to sections and Schedules are references to sections of and Schedules to the Education Act 2002.

**Appointed day**

4. The day appointed for the coming into force of the provisions specified in the Schedule to this Order is 1 April 2006.

**Transitional Provision**

5. Until regulations are made under section 31 in relation to Wales, the reference in paragraph 9 of Schedule 2 to “any transfer of control authorised by regulations under section 31” is to have effect as though it were a reference to “any transfer of control agreement under Schedule 13” of the School Standards and Framework Act 1998<sup>(2)</sup>.

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

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

21 March 2006

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

## THE SCHEDULE

Article 4

## Provisions coming into force on 1 April 2006

<b>Provision</b>	<b>Subject matter</b>
Section 35	Staffing of community, voluntary controlled, community special and maintained nursery schools
Section 36	Staffing of foundation, voluntary aided and foundation special schools
Section 37	Payments in respect of dismissal, etc.
Section 40 in so far as not already in force	Amendments of Part 2 of School Standards and Framework Act 1998
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 2	Effect on staffing of suspension of delegated budget
Schedule 3 in so far as not already in force	Amendments of Part 2 of School Standards and Framework Act 1998
Schedule 21, paragraph 30, paragraph 107, paragraph 110(3)(b) in so far as it relates to paragraphs (f) and (k) of subsection (6) of section 127 of the School Standards and Framework Act 1998, paragraph 110(3)(c) in so far as it relates to new paragraphs (p) and (q) of sub section (6) of section 127 of the School Standards and Framework Act 1998	Minor and consequential amendments
Schedule 22, Part 3, the repeal of— Education Reform Act 1988, section 218(1)(d), School Standards and Framework Act 1998, sections 54 to 57, section 127(6)(f) and (k), Schedules 16 and 17, Employment Relations Act 1999, section 40.	Repeals

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## EXPLANATORY NOTE

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

This Order brings into force on 1 April 2006 those provisions of the Education Act 2002 specified in 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 of the Schedule to this Order is as follows—

Section 35 makes provision in relation to the staffing of community, voluntary controlled, community special and maintained nursery schools. It replaces the arrangements set out in section 54 of, and Schedule 16 to, the School Standards and Framework Act 1998 (“the 1998 Act”). It provides that the LEA is the employer of staff at such schools and requires such staff to include a head teacher. It enables the National Assembly to make regulations on the appointment, discipline, suspension and dismissal of staff at such schools.

Section 36 makes provision in relation to the staffing of foundation, voluntary aided and foundation special schools, replacing the arrangements set out in section 55 of, and Schedule 17 to, the 1998 Act. It provides that, unless regulations state otherwise, the governing body is the employer of staff at such schools. The staff must include a head teacher. The National Assembly is given the power to make regulations on the appointment, discipline, suspension and dismissal of staff at such schools.

Schedule 2 provides for the staffing arrangements which are to apply instead of regulations under section 34 or 35 if a school’s delegated budget is suspended.

Section 37 re-enacts section 57 of the 1998 Act and makes provision in connection with payments in respect of dismissal of staff from maintained schools.

Section 40 and Schedule 3 make amendments to the 1998 Act consequential on the new staffing provisions.

## 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 to 17	31 March 2003	<a href="#">2002/3185 (W.301)</a>
Section 18(2)	31 March 2003	<a href="#">2002/3185 (W.301)</a>
Section 19(6) (partially)	1 September 2003	<a href="#">2003/1718 (W.185)</a>
Section 19 (1) to (7) (fully)	31 October 2005	<a href="#">2005/2910 (W.207)</a>
Section 20 (1) to (3), (5)	31 October 2005	<a href="#">2005/2910 (W.207)</a>

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 21 and 22	1 September 2004	2004/1728 (W.172)
Section 23	31 October 2005	2005/2910 (W.207)
Sections 27 and 28	1 September 2003	2003/1718 (W.185)
Section 29	1 September 2003	2003/1718 (W.185)
Section 30	1 September 2004	2004/1728 (W.172)
Section 32	1 September 2004	2004/1728 (W.172)
Sections 33 and 34	31 October 2005	2005/2910 (W.207)
Section 39(1) (partially)	1 September 2004	2004/1728 (W.178)
Section 39 (fully)	31 October 2005	2005/2910 (W.207)
Section 40 (partially)	1 September 2003	2003/1718 (W.185)
Section 41	4 December 2003	2003/2961 (W.278)
Section 42	4 December 2003	2003/2961 (W.278)
Section 43	1 November 2003	2003/1718 (W.185)
Section 46	1 December 2003	2003/2961 (W.278)
Section 49	19 December 2002	2002/3185 (W.301)
Section 50	31 May 2005	2005/1395 (W.109)
Section 51 (partially)	9 January 2004	2003/2961 (W.278)
(partially)	31 March 2004	2004/912 (W.95)
(partially)	31 May 2005	2005/1395 (W.109)
Section 52 (partially)	9 January 2004	2003/2961 (W.278)
(fully)	31 October 2005	2005/2910 (W.207)
Section 53	31 October 2005	2005/2910 (W.207)
Sections 54 to 56	19 December 2002	2002/3185 (W.301)
Sections 60 to 64	1 August 2003	2003/1718 (W.185)
Section 72	1 August 2004	2004/1728 (W.172)
Section 75 (partially)	19 December 2002	2002/3185 (W.301)
Sections 97 and 98	19 December 2002	2002/3185 (W.301)
Section 99(1)	19 December 2002	2002/3185 (W.301)
Section 100 (partially)	19 December 2002	2002/3185 (W.301)
Section 101 (partially)	19 December 2002	2002/3185 (W.301)
Section 103	19 December 2002	2002/3185 (W.301)
Sections 105 to 107	19 December 2002	2002/3185 (W.301)
Section 108 (partially)	19 December 2002	2002/3185 (W.301)
Section 109	19 December 2002	2002/3185 (W.301)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 111 to 118	19 December 2002	2002/3185 (W.301)
Section 119	1 October 2002	2002/2439
Section 120(1) and (3) to (5)	1 October 2002	2002/2439
Section 120(2)	1 August 2003	2003/1667
Section 121	1 October 2002	2002/2439
Section 122 to 129	1 August 2003	2003/1667
Section 130 (partially)	1 October 2002	2002/2439
(fully)	1 August 2003	2003/1667
Section 131	19 December 2002	2002/3185 (W.301)
Sections 132 and 133	19 December 2002	2002/3185 (W.301)
Section 134 (partially)	19 December 2002	2002/3185 (W.301)
Section 135	19 December 2002	2002/3185 (W.301)
Sections 136 to 140	1 September 2003	2003/1718 (W.185)
Section 141	19 December 2002	2002/3185 (W.301)
Sections 142 to 144	31 March 2003	2002/3185 (W.301)
Section 145	19 December 2002	2002/3185 (W.301)
Section 146 (partially)	31 March 2003	2002/3185 (W.301)
Section 148 (partially)	19 December 2002	2002/3185 (W.301)
Section 149	31 March 2003	2002/3185 (W.301)
Section 150	31 March 2003	2002/3185 (W.301)
Section 151(2)	19 December 2002	2002/3185 (W.301)
Section 152 (partially)	19 December 2002	2002/3185 (W.301)
Section 154	31 March 2004	2004/912 (W.95)
Section 155	1 September 2004	2004/1728 (W.172)
Section 156	31 March 2004	2004/912 (W.95)
Sections 157 to 174	1 January 2004	2003/2961 (W.278)
Section 176	1 September 2004	2004/1728 (W.172)
Section 177	1 August 2004	2004/912 (W.95)
Section 178(1) and (4)	1 August 2003	2003/1718 (W.185)
Section 179 (partially)	19 December 2002	2002/3185 (W.301)
Section 180	19 December 2002	2002/3185 (W.301)
Sections 181 to 185	1 September 2003	2003/1718 (W. 185)
Section 188 (partially)	19 December 2002	2002/3185 (W.301)
(partially)	1 December 2003	2003/2961 (W.278)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 189 (partially)	19 December 2002	2002/3185 (W.301)
Sections 191 to 194	19 December 2002	2002/3185 (W.301)
Section 195 (partially)	31 March 2003	2002/3185 (W.301)
(fully)	1 September 2003	2002/3185 (W.301)
Section 196	19 December 2002	2002/3185 (W.301)
Section 197	1 September 2003	2003/1718 (W.185)
Section 198	31 March 2004	2004/912 (W.95)
Section 199	1 September 2003	2003/1718 (W.185)
Section 200	31 March 2003	2002/3185 (W.301)
Section 201 (partially)	31 March 2003	2002/3185 (W.301)
Sections 202 and 203	1 September 2003	2003/1718 (W.185)
Section 206	1 September 2003	2003/1718 (W.185)
Section 207 and 208	9 January 2004	2003/2961 (W.278)
Section 215 (partially)	19 December 2002	2002/3185 (W.301)
(partially)	31 March 2003	2002/3185 (W.301)
(partially)	1 August 2003	2003/1718 (W.185) and 2003/1667
(partially)	1 September 2003	2002/3185 (W.301) and 2003/1718 (W.185)
(partially)	4 December 2003	2003/2961 (W.278)
(partially)	1 January 2004	2003/2961 (W.278)
(partially)	9 January 2004	2003/2961 (W.278)
(partially)	31 March 2004	2004/912 (W.95)
(partially)	1 August 2004	2004/912 (W.95) and 2004/1728 (W.172)
(partially)	1 September 2004	2004/1728 (W.172)
(partially)	31 May 2005	2005/1395 (W.109)
(partially)	31 October 2005	2005/2910 (W.207)
Schedule 1, paragraph 3 (partially)	1 September 2003	2003/1718 (W.185)
Schedule 1 (fully)	31 October 2005	2005/2910 (W.207)
Schedule 3, paragraphs 1 to 5	1 September 2003	2003/1718 (W.185)
Schedule 4, paragraphs 1 and 4	9 January 2004	2003/2961 (W.278)
Paragraphs 2, 3(1), (2), (3), (4), (5), (7), (8), 8, 9, 10, 11	31 May 2005	2005/1395 (W.109)
Paragraph 12(1), (3) to (5)	31 March 2004	2004/912 (W.95)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 5	19 December 2002	2002/3185 (W.301)
Schedule 9	1 August 2004	2004/1728 (W.172)
Schedule 10, paragraphs 1, 6, 11 and 15	19 December 2002	2002/3185 (W.301)
Schedule 11	1 October 2002	2002/2439
Schedule 12, paragraphs 1, 2, 4(1) and (3), 6 and 7,	19 December 2002	2002/3185 (W.301)
Paragraph 12(1) and (2)	31 March 2003	2002/3185 (W.301)
Schedule 13, paragraphs 1 to 3, 5, 6, 7(1) and (3) and 8	19 December 2002	2002/3185 (W.301)
Schedule 14, paragraphs 1 to 7	1 September 2004	2004/1728 (W.172)
Schedule 16, paragraphs 1 to 3	1 December 2003	2003/2961 (W.278)
Paragraphs 4 to 9	19 December 2002	2002/3185 (W.301)
Schedule 17, paragraphs 5(1) to (4), (6) and 6 to 8	19 December 2002	2002/3185 (W.301)
Schedule 18, paragraphs 1, 4, 5 and 7,	31 March 2003	2002/3185 (W.301)
Paragraph 8 (partially),	31 March 2003	2002/3185 (W.301)
Paragraphs 13 to 15,	31 March 2003	2002/3185 (W.301)
Paragraphs 2, 3, 6, 8 (fully), 9 to 12 and 16 to 18	1 September 2003	2002/3185 (W.301)
Schedule 19	1 September 2003	2003/1718 (W.185)
Schedule 20	1 September 2003	2003/1718 (W.185)
Schedule 21 (partially)	1 October 2002	2002/2439
(partially)	19 December 2002	2002/3185 (W.301)
(partially)	31 March 2003	2002/3185 (W.301)
(partially)	1 August 2003	2003/1667
(partially)	1 September 2003	2003/1718 (W.185)
(partially)	4 December 2003	2003/2961 (W.278)
(partially)	1 January 2004	2003/2961 (W.278)
(partially)	9 January 2004	2003/2961 (W.278)
(partially)	31 March 2004	2004/912 (W.95)
(partially)	1 August 2004	2004/1728 (W.172)
(partially)	1 September 2004	2004/1728 (W.172)
(partially)	31 May 2005	2005/1395 (W.109)
(partially)	31 October 2005	2005/2910 (W.207)



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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 22 (partially)	1 October 2002	2002/2439
(partially)	9 December 2002	2002/3185 (W.301)
(partially)	31 March 2003	2002/3185 (W.301)
(partially)	1 August 2003	2003/1718 (W.185)
(partially)	1 September 2003	2002/3185 (W.301), 2003/1718 and 2003/1667 (W.185)
(partially)	4 December 2003	2003/2961 (W.278)
(partially)	1 January 2004	2003/2961 (W.278)
(partially)	9 January 2004	2003/2961 (W.278)
(partially)	31 March 2004	2004/912 (W.95)
(partially)	1 August 2004	2004/912 (W.95)
(partially)	1 September 2004	2004/1728 (W.172)
(partially)	31 May 2005	2005/1395 (W.109)
(partially)	31 October 2005	2005/2910 (W.207)

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](#), [S.I. 2003/2071](#) and [S.I. 2004/1318](#).