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STATUTORY INSTRUMENTS

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**2003 No. 124 (C. 7)**

**EDUCATION, ENGLAND**

**The Education Act 2002 (Commencement No.4  
and Transitional and Saving Provisions) Order 2003**

Made - - - - 28th January 2003

In exercise of the powers conferred on the Secretary of State by section 216(2),(4) and (5) of the Education Act 2002<sup>(1)</sup>, 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. 4 and Transitional and Saving Provisions) Order 2003.

(2) In this Order—

“the 1996 Act” means the Education Act 1996<sup>(2)</sup>.

“the 2002 Act” means the Education Act 2002.

**Provisions coming into force on 1<sup>th</sup> March 2003**

2. The following provisions of the 2002 Act shall come into force except in relation to Wales on 1<sup>th</sup> March 2003:

section 19(2) to (5) and (7);

section 20(2) and (3);

section 21(3);

section 23;

section 26;

section 33(3);

section 215(1) to the extent that it relates to the paragraphs of Schedule 21 specified below;  
in Schedule 21—

paragraphs 45, 46(4) and (5), 48, 66, 104, 105, and 117 to the extent that they are not already in force, and

paragraph 70.

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(1) 2002 (c. 32).

(2) 1996 (c. 56).

### **Provisions coming into force on 1<sup>th</sup> April 2003**

3. Section 209 of the 2002 Act shall come into force on 1<sup>th</sup> April 2003.
4. The following provisions of the 2002 Act shall come into force except in relation to Wales on 1<sup>th</sup> April 2003:
  - section 18 except for the repeal of section 486 of the 1996 Act made by paragraph (g) of subsection (1);
  - in section 19(8) the words “regulations under this section may include provision with respect to the governing bodies of federations”;
  - in section 20(4) the words “regulations under subsection (2) may include provision with respect to instruments of government for federations”;
  - section 24(1) for the purpose of making regulations only;
  - section 24(2) to (6);
  - section 25;
  - section 34;
  - section 35(4) and (5);
  - section 36(4) and (5);
  - in section 39(1) the definition of “federation” and “federated school”;
  - section 44(1) to (6);
  - section 45;
  - section 72;
  - section 74 (2) and (3);
  - section 75 to the extent that it relates to the paragraphs of Schedule 10 specified below;
  - section 153;
  - sections 207 and 208;
  - Schedule 9;
  - in Schedule 10, paragraphs 1, 6, and 11 to 15;
  - section 215 to the extent that it relates to the provisions of Schedules 21 and 22 specified below;
  - in Schedule 21—
    - paragraph 3 except for sub-paragraph (a),
    - paragraph 7,
    - paragraph 49,
    - paragraph 53,
    - paragraph 59 except for sub-paragraph (a),
    - paragraph 85 to the extent that it is not already in force, except for sub-paragraph (c),
    - paragraph 89,
    - paragraphs 95 and 96,
    - paragraph 98(1), (2)(a) and (3),
    - paragraph 99(1) and (3)(b),
    - paragraph 100 to the extent that it is not already in force,
    - paragraph 106,

paragraph 109,  
in paragraph 110, sub-paragraph (1), in sub-paragraph (3), paragraph (a), paragraph (b)  
for the purpose of omitting paragraph (e) of subsection (6) of section 127 of the School  
Standards and Framework Act 1998, and paragraph (c) for the purpose of inserting  
paragraph (m) into that subsection,  
paragraph 112 for the purpose of inserting the definition of “exclude”,  
paragraph 113 to the extent that it is not already in force except for paragraphs (b) and (e),  
paragraph 114,  
paragraph 115(1), (2), (3)(b) and (4),  
paragraph 118 to the extent that it is not already in force, and  
paragraph 126;  
in Schedule 22, the repeal of—  
the Education Act 1967 (the whole Act, so far as unrepealed),  
in the Education Act 1986, section 1(1)(b) and the word “and” immediately preceding  
it, and sections 2 to 4,  
in the Education (No. 2) Act 1986, in section 50, in subsection (1), paragraph (b) and the  
word “and” immediately preceding it, and in subsection (3A), the words from “by the  
Secretary of State” to “teachers”,  
in the Education Reform Act 1988, sections 160, 210 and 211,  
in the Further and Higher Education Act 1992, in Schedule 8, paragraphs 46 and 47, the  
Nursery Education and Grant-Maintained Schools Act 1996 (the whole Act, so far as  
unrepealed),  
in the Education Act 1996—  
in section 318, in subsection (3A) paragraph (b) and the word “or” immediately  
preceding it,  
in section 484, in subsection (2) the words “England and” and subsection (6),  
sections 487 to 488,  
sections 490 to 492,  
in section 509A(5)(b), sub-paragraph (ii) and the word “or” immediately preceding  
it,  
in section 548(8), in paragraph (b), sub-paragraph (ii) and the word “or” preceding  
that sub-paragraph,  
in section 578, the entries relating to the Education Act 1967 and the Nursery  
Education and Grant-Maintained Schools Act 1996,  
in Schedule 37, paragraph 13, in paragraph 65(2), paragraph (b) and the word “and”  
immediately preceding it, and paragraph 131,  
in the Education Act 1997, in Schedule 7, paragraphs 8 and 36,  
in the School Standards and Framework Act 1998—  
section 3,  
section 7(10),  
in section 22(1), in paragraph (b) the words “under section 28 or 31” and in  
paragraph (c) the words “under section 28”,  
section 44,

in section 52(2) the word “and” at the end of paragraph (b),  
section 115,  
section 127(6)(e),  
in section 138, in subsection (5), paragraph (a)(ii) and (iii);  
in Schedule 6, the word “or” at the end of paragraph 4(3)(d) and the words “or (5)”  
at the end of paragraph 10(6),  
in Schedule 26, in paragraph 1, sub-paragraph (1)(c) and the word “or” preceding it,  
in Schedule 28, Part 2,  
in the Learning and Skills Act 2000—  
in Schedule 7, in paragraph 35(1), the word “or” at the end of paragraph (b),  
in Schedule 9 paragraphs 58 and 91.

### **Provisions coming into force on 6th April 2003**

5. The following provisions of the 2002 Act shall come into force except in relation to Wales on 6<sup>th</sup> April 2003:

section 200;  
section 201, except for –  
the following provisions in the substituted section 512 of the 1996 Act—  
in subsection (1), paragraph (c),  
in subsection (2), paragraph (b),  
in subsection (3) the words “or (c)”, and  
in subsection (6) the definition of “relevant funded nursery education”, and  
the words “or (c)” in subsection (3) of section 512ZB(3) of the 1996 Act;  
section 215(2) to the extent that it relates to the provisions of Schedule 22 specified below;  
in Schedule 22, the repeal of paragraph 117 of Schedule 14 to the Immigration and Asylum Act 1999.

### **Transitional and saving provisions**

6. A child receiving nursery education and for whom school lunches are being provided immediately before 6<sup>th</sup> April 2003 shall, until he ceases to receive nursery education, be treated as if there were no prescribed requirements applying to him under section 512(3)(a) of the 1996 Act (as substituted by section 201 of the 2002 Act).

7. Despite the amendment of section 484 of the 1996 Act made by subsection (2) of section 18 of, and paragraph 49 of Schedule 21 to, the 2002 Act

- (a) the Education Standards Fund (England) Regulations 2002 (3), and
- (b) the Education (Partnership Grant) Regulations 1998 (4)(to the extent that they are made under section 484 of the 1996 Act)

shall remain in force in relation to the period ending on 1st April 2004.

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(3) 2002 No. 510  
(4) 1998 No. 1222

28th January 2003

*David Miliband*  
Minister of State  
Department for Education and Skills

## EXPLANATORY NOTE

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

This Order brings into force provisions of the Education Act 2002 on 1<sup>th</sup> March, 1<sup>th</sup> April and 6<sup>th</sup> April 2003.

Article 2 commences certain subsections of sections 19, 20, 21, 33, 35 and 36, and sections 23 and 26 (powers to make regulations in respect of the government of maintained schools), and amendments in Schedules 21 consequential on certain Welsh provisions, on 1<sup>th</sup> March.

Article 3 commences section 209 (paid chairmen for local leaning and skills councils) on 1<sup>th</sup> April 2003.

Article 4 commences the repeal of specific grant making powers listed in section 18, certain subsections of sections 19, 20, 24, 74 and sections 25 and 34 (provisions in respect of federated schools and new schools), sections 44 (in part) and 45 (accounts and financial statements of maintained schools), section 72, Schedules 9 and part of 10 (reorganisation of sixth forms), section 153 (powers of LEAs in respect of funded nursery education), and sections 207 and 208 (recoupment) together with associated consequential amendments and repeals to those provisions in Schedules 21 and 22, on 1<sup>th</sup> April. Section 39(1) in respect of the inclusion of maintained nursery schools in the definition of maintained schools is still not commenced, and all related provisions relating to maintained nursery school governing bodies remain uncommenced.

Article 5 commences sections 200 (remission of charges) and 201 (LEA functions concerning school lunches, milk etc) – but not in respect of its application to funded nursery education – on 6<sup>th</sup> April 2003 to co-incide with the tax year.

The provision listed in article 3 only applies to England. It is brought into force for all purposes in accordance with the Secretary of State's power in section 216(2). The provisions listed in articles 2, 4 and 5 are brought into force for England only, in accordance with the Secretary of State's power in section 216(4).

The Order also makes transitional and saving provisions in respect of the entitlement to school lunches, and repeal of certain specific grant making regulations.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

The following provisions of this Act have been brought into force (or come into force at a later date) by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1 (partially), as to England	1 <sup>th</sup> October 2002	<a href="#">2002/2439</a>
Sections 2 to 5, as to England	1 <sup>th</sup> October 2002	<a href="#">2002/2439</a>
Sections 11 and 12, as to England	20 <sup>th</sup> January 2003	<a href="#">2002/2952</a>

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 14 to 17, as to England	1 <sup>th</sup> October 2002	2002/2439
Sections 14 to 17 and 18(2), as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
Section 19(6), as to England	1 <sup>th</sup> October 2002	2002/2439
Sections 27 and 28, as to England	2 <sup>th</sup> September 2002	2002/2002 as amended by 2002/2018
Section 30, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 37, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 39(1)(partially), as to England	1 <sup>th</sup> October 2002	2002/2439
Section 39(2), as to England	1 <sup>th</sup> October 2002	2002/2439
Section 40, as to England	2 <sup>th</sup> September 2002	2002/2002
Section 41(1) and (3), as to England	1 <sup>th</sup> October 2002	2002/2439
Section 42, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 43, as to England	2 <sup>th</sup> September 2002	2002/2002
Section 46, as to England	20 <sup>th</sup> January 2003	2002/2952
Sections 47 to 49, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 49, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 50, as to England	20 <sup>th</sup> January 2003	2002/2952
Section 51 (partially), as to England	1 <sup>th</sup> October 2002	2002/2439
fully, as to England	20 <sup>th</sup> January 2003	2002/2952
Section 52(1) to (6), as to England	20 <sup>th</sup> January 2003	2002/2952
Sections 54 to 59, as to England	2 <sup>th</sup> September 2002	2002/2002
Sections 54 to 56, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Sections 60 and 61, as to England	26 <sup>th</sup> July 2002	2002/2002
Sections 62 to 64, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 65	26 <sup>th</sup> July 2002	2002/2002
Section 66	20 <sup>th</sup> January 2003	2002/2952

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 67 to 69	26 <sup>th</sup> July 2002	2002/2002
Section 75 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 76 and 77	1 <sup>th</sup> October 2002	2002/2439
Section 78 (partially)	26 <sup>th</sup> July 2002	2002/2002
(fully)	1 <sup>th</sup> October 2002	2002/2439
Sections 79 to 96,	1 <sup>th</sup> October 2002	2002/2439
Sections 97, 98, 99(1),	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 100 (partially),	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 101 (partially),	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Sections 103, 105 to 107,	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 108 (partially),	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Sections 109, 111 to 118,	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 119	1 <sup>th</sup> October 2002	2002/2439
Section 120(1), and (3) to (5)	1 <sup>th</sup> October 2002	2002/2439
Section 121	1 <sup>th</sup> October 2002	2002/2439
Section 130 (partially)	1 <sup>th</sup> October 2002	2002/2439
Section 131, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 131, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 132 and 133 as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 134 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 135, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 141, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Sections 142 to 144, as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
Section 145, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 146 (partially), as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
Section 148 (partially), as to England	1 <sup>th</sup> October 2002	2002/2439
Section 148 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 148 (partially), as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
Section 149, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 149, as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
Section 150, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 150, as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
Section 151(1), as to England	1 <sup>th</sup> October 2002	2002/2439
Section 151(2), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 152 (partially), as to England	2 <sup>th</sup> September 2002	2002/2002
Section 152 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 155 (partially), as to England	2 <sup>th</sup> September 2002	2002/2002
(fully), as to England	1 <sup>th</sup> October 2002	2002/2439
Section 156, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 177, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 178(1) and (2), as to England	1 <sup>th</sup> October 2002	2002/2439
Section 178(3), as to England	20 <sup>th</sup> January 2003	2002/2952
Section 179, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 179 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 180, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 180, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 187, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 188 (partially), as to England	1 <sup>th</sup> October 2002	2002/2439
Section 188 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 189 (partially), for the purpose of introducing those paragraphs of Schedule 17 which apply except in relation to Wales	1 <sup>th</sup> October 2002	2002/2439
Section 189 (partially), for the purpose of introducing those	19 <sup>th</sup> December 2002	2002/3185 (W.301)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
paragraphs of Schedule 17 which apply in relation to Wales		
Section 191 to 194, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 195 (partially), as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
Section 195 (partially), as to Wales	1 <sup>th</sup> September 2003	2002/3185 (W.301)
Section 196, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 199, as to England	20 <sup>th</sup> January 2003	2002/2952
Section 200, as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
Section 201 (partially), as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
Section 204, as to England	2 <sup>th</sup> September 2002	2002/2002
Sections 205 and 206, as to England	1 <sup>th</sup> October 2002	2002/2439
Section 215 (partially), as to England	26 <sup>th</sup> July 2002	2002/2002
(partially), as to England	2 <sup>th</sup> September 2002	2002/2002
(partially), as to England	1 <sup>th</sup> October 2002	2002/2439
(partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
(partially), as to England	20 <sup>th</sup> January 2003	2002/2952
(partially), as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
(partially), as to Wales	1 <sup>th</sup> September 2003	2002/3185 (W.301)
Schedule 1, (partially), as to England	2 <sup>th</sup> September 2002	2002/2002
(fully), as to England	1 <sup>th</sup> October 2002	2002/2439
Schedule 3, paragraphs 1 to 5, as to England	2 <sup>th</sup> September 2002	2002/2002
Schedule 4, paragraphs 1, 3, 5 to 7, 10, 11, 13 and 14, as to England	1 <sup>th</sup> October 2002	2002/2439
Schedule 4, fully, as to England	20 <sup>th</sup> January 2003	2002/2952
Schedules 5 and 6, as to England	2 <sup>th</sup> September 2002	2002/2002
Schedule 5, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 7	26 <sup>th</sup> July 2002	2002/2002
Schedule 10, paragraphs 1, 6, 11 and 15, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 11	1 <sup>th</sup> October 2002	2002/2439
Schedule 12, paragraphs 1, 2, 4(1), and (3), 6, 9, 11 and 12(1) and (2), as to England	1 <sup>th</sup> October 2002	2002/2439
Schedule 12, paragraphs 1, 2, 4(1) and (3), 6 and 7, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 12, paragraphs 12(1) and (2), as to Wales	31 <sup>th</sup> March 2003	2002/3185 (W.301)
Schedule 13, paragraphs 1 to 3, as to England	1 <sup>th</sup> October 2002	2002/2439
paragraphs 4 and 5, as to England	2 <sup>th</sup> September 2002	2002/2002
paragraphs 6, 7(1) and (3), and (8), as to England	1 <sup>th</sup> October 2002	2002/2439
Schedule 13, paragraphs 1 to 3, 5, 6, 7(1) and (3), and 8, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 14, paragraphs 1 to 4, as to England	2 <sup>th</sup> September 2002	2002/2002
remaining paragraphs, as to England	1 <sup>th</sup> October 2002	2002/2439
Schedule 15 fully except for the words “(b) nursery school” in paragraphs 2(2)	1 <sup>th</sup> October 2002	2002/2439
Schedule 16, paragraphs 7 to 9, as to England	1 <sup>th</sup> October 2002	2002/2439
Schedule 16, paragraphs 4 to 9, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 17, paragraphs 1 to 4 and 9	1 <sup>th</sup> October 2002	2002/2439
Schedule 17, paragraphs 5(1) – (4), (6), and 6 to 8	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 18 paragraphs 1, 4, 5 and 7, 13 to 15	31 <sup>th</sup> March 2003	2002/3185 (W.301)
paragraph 8 (partially),	31 <sup>th</sup> March 2003	2002/3185 (W.301)
paragraphs 2,3, 6, 8 (fully), 9 to 12, and 16 to 18	1 <sup>th</sup> September 2003	2002/3185 (W.301)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 19	20 <sup>th</sup> January 2003	<a href="#">2002/2952</a>
Schedule 20, as to England	1 <sup>th</sup> October 2002	<a href="#">2002/2439</a>
Schedule 21 (partially), as to England	2 <sup>th</sup> September 2002	<a href="#">2002/2002</a>
(partially), as to England	1 <sup>th</sup> October 2002	<a href="#">2002/2439</a>
(partially), as to Wales	19 <sup>th</sup> December 2002	<a href="#">2002/3185 (W.301)</a>
(partially), as to England	20 <sup>th</sup> January 2003	<a href="#">2002/2952</a>
(partially), as to Wales	31 <sup>th</sup> March 2003	<a href="#">2002/3185 (W.301)</a>
Schedule 22, (partially), as to England	26 <sup>th</sup> July 2002	<a href="#">2002/2002</a>
(partially), as to England	2 <sup>th</sup> September 2002	<a href="#">2002/2002</a>
(partially), as to England	1 <sup>th</sup> October 2002	<a href="#">2002/2439</a>
(partially), as to Wales	19 <sup>th</sup> December 2002	<a href="#">2002/3185 (W.301)</a>
(partially), as to England	20 <sup>th</sup> January 2003	<a href="#">2002/2952</a>
(partially), as to Wales	31 <sup>th</sup> March 2003	<a href="#">2002/3185 (W.301)</a>
(partially), as to Wales	1 <sup>th</sup> September 2003	<a href="#">2002/3185 (W.301)</a>

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