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WELSH STATUTORY INSTRUMENTS

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**2002 No. 432 (W.55)**

**EDUCATION, WALES**

**The School Organisation Proposals by the National Council  
for Education and Training for Wales Regulations 2002**

*Made* - - - - 26th February 2002

*Coming into force* - - 1st April 2002

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 Assembly<sup>(2)</sup>, and in exercise of the powers conferred on it by section 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 the Learning and Skills Act 2000<sup>(3)</sup>.

**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 2002 and shall come into force on 1st April 2002.

(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—

- (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;

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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.

“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)(4);

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

“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;

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

“statement of special educational needs” (“*datganiad o anghenion addysgol arbennig*”) means a statement of special educational needs maintained under Part IV of the Education Act 1996(5).

(2) Any reference in these Regulations to Schedule 7 is a reference to Schedule 7 to the 2000 Act.

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

- (a) the date on which the requirements of regulation 4 are satisfied; or
- (b) where different requirements are satisfied on different dates, the last of such dates.

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

3.—(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 1 to these Regulations.

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

4.—(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 shall 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 shall 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.

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(4) 1992 c. 13.

(5) 1996 c. 56.

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

5.—(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 shall send to the National Assembly the information specified in Part II of Schedule 2 to these Regulations, where the school is a mainstream school, or Part III of that Schedule, where the school is a special school, together with—

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

(3) Part 1 of Schedule 2 applies for the purpose of the interpretation of terms used in Parts II to V of that Schedule.

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

6.—(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 shall also send a copy of the published proposals.

(2) The Council shall 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 Health Authority which acts for any area which includes any part of the area of the local education authority who maintain or who it is proposed should maintain the school; 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**

7.—(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 shall be sent to the National Assembly within one month after the date of publication of the proposals.

### **Conditional approvals**

8.—(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(6);

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(6) 1990 c. 8.

- (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 paragraphs (b) and (c) respectively 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<sup>(7)</sup>; 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**

9.—(1) The National Assembly shall 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.

(2) Where, pursuant to paragraph (1), the National Assembly notifies the persons referred to in that paragraph of a decision they shall 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**

10. Schedule 3 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).

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

11. Where, after proposals have been published under 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 shall (to the extent that they have not been implemented) be implemented by the local education authority (despite paragraph 44 of Schedule 7).

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

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(8).

26th February 2002

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

## SCHEDULE 1

Regulation 3

**INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS**

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. 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.
6. 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.
7. 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.
8. Where the proposals are to discontinue—
  - (a) a 16—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—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.
9. A statement explaining the effect of paragraph 41 of Schedule 7 and regulation 7 including the date by which objections must be sent to the National Assembly.
10. The address of the National Assembly to which objections must be sent.

## SCHEDULE 2

Regulation 5

**INFORMATION TO BE SENT TO THE NATIONAL ASSEMBLY****PART I****INTERPRETATION**

- 1.—(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 Safon Uwch TAG*”) and “GCE ‘AS’ examinations” (“*arholiadau Uwch Gyfrannol TAG*”) 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” means General National Vocational Qualification;

“NVQ” means National Vocational Qualification;

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

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

“sixth form education” (“*addysg chweched dosbarth*”) means full-time education suitable to the requirements of pupils over compulsory school age.

(2) For the purposes of this Schedule the capacity of the school shall be determined in accordance with Schedule 1 to the Education (School Organisation Proposals) (Wales) Regulations 1999<sup>(9)</sup>.

## PART II

### INFORMATION TO BE SENT IN ALL CASES WHERE THE SCHOOL IS A MAINSTREAM SCHOOL

2. The objectives of the proposal.
3. 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.
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 schooland a forecast of the matters specified in sub-paragraphs (b) to (d) for each of the subsequent five school years.
6. 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.

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<sup>(9)</sup> S.I. 1999/1671.

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7. Copies of the reports of the two inspections under Part I of the School Inspections Act 1996<sup>(10)</sup> as a result of which Parts II and III of Schedule 7 apply in relation to the school.

## **PART III**

### **INFORMATION TO BE SENT IN ALL CASES WHERE THE SCHOOL IS A SPECIAL SCHOOL**

8. The objectives of the proposal.
9. 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.
10. A map showing the location of the school the subject of the proposals.
11. 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.

12. Information as to—
  - (a) the number of pupils over compulsory school age at each school referred to in paragraph 11(a), and
  - (b) the number of pupils over compulsory school age at each school referred to in paragraph 11(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 5 school years.

13. Information as to the numbers of pupils over compulsory school age with special education 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 5 school years.

14. 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 IV**

### **ADDITIONAL INFORMATION TO BE SENT WHERE THE PROPOSALS ARE TO DISCONTINUE A SIXTH FORM**

15. 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

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(10) 1996 c. 57.



(c) the number of pupils at the school,

and a forecast of those matters specified in each of the subsequent 5 school years on the assumption that the proposals are approved.

**16.** Where the school is a special school, the following information relating to the school for the current school year and the preceding 4 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 5 school years on the assumption that the proposals are approved.

**17.** 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.

**18.** 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.

**19.** 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 18.

**20.** Details of the institutions to which the pupils referred to in paragraph 19 transferred indicating how many pupils went to each such institution.

**21.** The number of pupils referred to in paragraphs 18 and 19 in each year group as a proportion of the total number of pupils in that year group.

**22.** 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.

**23.** 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 20—

- (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.

**24.** The number of places available at those institutions named in accordance with paragraph 20 which are schools.

**25.** Details of the distance, measured by the nearest available route, between the school and all of the institutions named in accordance with paragraph 20 together with details as to the availability of public transport to the institutions named in accordance with paragraph 22 (where such information

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is not already contained in any proposed arrangements for transport contained in published proposals pursuant to paragraph 4 of Schedule 1).

## **PART V**

### **ADDITIONAL INFORMATION TO BE SENT WHERE THE PROPOSALS ARE TO DISCONTINUE A 16—19 INSTITUTION**

**26.** 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.

**27.** Where the school is a special school, the following information relating to the school for the current school year and the preceding 4 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.

**28.** 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.

**29.** 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.

**30.** Where the school is a mainstream school, details of the examination results referred to in sub-paragraphs (a) to (c) of paragraph 23 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 29.

**31.** The number of places available at institutions named in accordance with paragraph 29 which are schools.

**32.** Details of the distance, measured by the nearest available route between the school and all the institutions specified in paragraph 29 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 1).

## SCHEDULE 3

Regulation 10

### 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—
  - (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 5 when the original proposals were published; and
  - (c) the information referred to in regulation 5 which would have been applicable if the original proposals had been published at the time when the new proposals were published;to the National Assembly.
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 6.
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 Schedule 7 to the Learning and Skills Act 2000 the National Council for Education and Training for Wales (“the Council”) may publish proposals for the alteration of a maintained school so that it no longer provides sixth form education, or for the discontinuance of a maintained school which is a 16—19 institution if, broadly speaking, two successive reports state that the sixth form is inadequate or that a 16—19 institution requires special measures or has significant weaknesses.

The Schedule 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 Schedule, but much of the detail is to be prescribed in Regulations made by the National Assembly. These Regulations prescribe those details.

*Regulation 2* defines terms used in the Regulations.

*Regulation 3 with Schedule 1* prescribes the information which must be contained in published proposals.

*Regulation 4* prescribes the manner in which proposals must be published.

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

*Regulation 6* prescribes other bodies to whom a copy of the proposals must be sent in the case of special schools.

*Regulation 7* provides for the time limits for objections to proposals.

*Regulation 8* prescribes events which can be specified in the case of a conditional approval of proposals.

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

*Regulation 10 with Schedule 3* makes provision for proposals by the Council that previous proposals which the National Assembly has approved should not be implemented.

*Regulation 11* makes special provision for implementation of proposals where a school changes category from being a community or community special school.