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WELSH STATUTORY INSTRUMENTS

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**2003 No. 893 (W.113)**

**EDUCATION, WALES**

**The Education (Nursery Education and Early Years Development and Childcare Plans) (Wales) Regulations 2003**

*Made* - - - - 26th March 2003

*Coming into force* - - 31st March 2003

In exercise of the powers conferred on the Secretary of State by sections 118(1), 120(1) and (3), 121(1) and (9) and 138(7) and (8) of the School Standards and Framework Act 1998<sup>(1)</sup>, now vested in the National Assembly for Wales<sup>(2)</sup>, the National Assembly for Wales makes the following Regulations:

**Name, commencement and application**

1.—(1) These Regulations are called the Education (Nursery Education and Early Years Development and Childcare Plans) (Wales) Regulations 2003 and shall come into force on 31st March 2003.

(2) These Regulations apply in relation to Wales.

**Revocation**

2. These Regulations revoke the Education (Nursery Education and Early Years Development) (Wales) Regulations 1999<sup>(3)</sup>.

**Interpretation**

3. In these Regulations—

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

“authority” (“*awdurdod*”) means a local education authority;

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(1) 1998 c. 31. Section 120(1) is amended by section 150(5) of the Education Act 2002. Section 120(3) is substituted by section 150(3) of the Education Act 2002. Section 121(1) is amended by sections 150(4)(a) and (5) and 215(2) of, and Part 3 of Schedule 22 to, the Education Act 2002. Section 121(9) is amended by section 150(4)(i) and (5) of the Education Act 2002. For the definitions of “prescribed” and “regulations” see section 142(1).

(2) See the National Assembly for Wales (Transfer of Functions) (Order) 1999 (S.I. 1999/672) and section 211 of the Education Act 2002.

(3) S.I. 1999/1099.

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

“nursery education” (“*addysg feithrin*”) means nursery education (within the meaning of section 117 of the Act) the provision of which an authority are under a duty to secure is sufficient by virtue of section 118 of the Act and regulation 4 of these Regulations;

“the partnership” (“*y bartneriaeth*”) means, in relation to an authority, the early years development and childcare partnership established by the authority in accordance with section 119 of the Act<sup>(4)</sup>;

“the plan” (“*y cynllun*”) means, in relation to an authority, the early years development and childcare plan prepared by the authority in accordance with section 120 of the Act<sup>(5)</sup>; and

“proposals for nursery education” (“*cynigion am addysg feithrin*”) means the statement of the authority’s proposals for complying with their duty under section 118 of the Act which the authority are required to include in their plan in accordance with section 120(2)(a) of the Act<sup>(6)</sup>.

### **Duty to secure nursery education**

4.—(1) For the purposes of section 118(1)(b) of the Act (age of children in relation to whom the authority’s duty to secure sufficient provision of nursery education for their area applies) there is prescribed —

- (a) in the case of a child whose fourth birthday does not fall within one of the periods specified in paragraph (2) below, the age of the child at the start of the first term starting after the child’s fourth birthday; or
  - (b) in the case of a child whose fourth birthday falls within one of the periods specified in paragraph (2) below, the age of the child at the start of the term following the term referred to in that paragraph.
- (2) The periods referred to in paragraph (1) above are, in any year —
- (a) the period commencing 1st April and ending with the start of the Summer term of that year;
  - (b) the period commencing 1st September and ending with the start of the Autumn term of that year; and
  - (c) the period commencing 1st January and ending with the start of the Spring term of that year.

(3) For the purposes of paragraphs (1) and (2) of this regulation, “term” means the term kept in relation to the education provided, or to be provided, or under consideration, for the child and, in any year, Spring term, Summer term and Autumn term mean, respectively, the term which starts in January, in April and in September.

### **Preparation and submission of plans to the National Assembly for approval**

5.—(1) The first plan after the coming into force of these Regulations must be prepared and submitted to the National Assembly for approval under section 121(1) of the Act by 1st July 2003.

(2) The second plan must be prepared and submitted to the National Assembly for approval under section 121(1) of the Act by 20th October 2003.

(3) Subsequent plans must be prepared at one year intervals and submitted to the National Assembly for approval under section 121(1) of the Act by 20th October.

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(4) As amended by section 150(1) and (5) and section 215(2) of, and Part 3 of Schedule 22 to, the Education Act 2002.

(5) As amended by section 150(2), (3) and (5) and section 215(2) of, and Part 3 of Schedule 22 to, the Education Act 2002.

(6) As amended by section 150(5) and section 215(2) of, and Part 3 of Schedule 22 to, the Education Act 2002.

### **Proposals for nursery education**

6.—(1) Proposals for nursery education are to relate, in respect of the first plan, to the period of seven months beginning on 1st September 2003.

(2) Proposals for nursery education are to relate, in respect of the second and subsequent plans, to the period of one year beginning on 1st April in the year after which it is required to be submitted to the National Assembly for approval in accordance with section 121(1) of the Act and regulation 5(1), (2) or (3) above.

(3) Proposals for nursery education must deal with the matters referred to in the Schedule to these Regulations.

### **Publication of plans**

7.—(1) Where the National Assembly has approved—

- (a) an authority's plan under subsection (2) of section 121 of the Act, or
- (b) the modification of an authority's plan under subsection (8) of that section,

the authority must publish their plan, or their plan as modified, within 28 days after the date of approval of the plan or modification of the plan under subsection (2) or (8) of section 121.

(2) The authority must publish their plan, or their plan as modified, by making it available —

- (a) at their education offices,
- (b) at libraries in their area, and
- (c) as part of their service providing information to the public relating to the provision of childcare and related services in their area in accordance with section 118A(3) of the Act

for reference by members of the public.

(3) The authority must provide a copy of their plan, or their plan as modified, to—

- (a) the National Assembly, and
- (b) each of the members of the partnership

within 28 days after the date of approval of the plan or modification of the plan under subsection (2) or (8) of section 121 of the Act.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(7)

26th March 2003

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

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## SCHEDULE

Regulation 6(3)

### Matters to be included in proposals for nursery education

Proposals for nursery education must:

- (a) deal with children in the authority's area who have not attained compulsory school age but who have attained the age prescribed by regulation 4 of these Regulations ("relevant children");
- (b) explain how local demand for nursery education for relevant children will be met;
- (c) give an estimate of the number of nursery education places for relevant children available in each term of the year covered by the plan (whether at institutions maintained by the authority or at institutions not so maintained);
- (d) contain a list of all those persons providing nursery education who are (or will be) receiving financial assistance from the authority in respect of such provision or who are under consideration for such financial assistance by the authority, and whose provision of nursery education is taken into account by the authority in formulating their plan; and
- (e) provide evidence that the authority has considered what arrangements should be made for the provision of transport for the purpose of enabling relevant children to take advantage of the facilities for nursery education which are available, and set out the authority's policies on the provision of transport to and from the premises of any institutions at which such education is provided.

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## EXPLANATORY NOTE

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

These Regulations, which are made under sections 118(1), 120(1) and (3) and 121(1) and (9) of the School Standards and Framework Act 1998 and apply only in Wales, revoke and replace the Education (Nursery Education and Early Years Development) (Wales) Regulations 1999.

They prescribe, for the purposes of the duty under section 118 of the Act (under which a local education authority must secure sufficient provision of nursery education for their area), the minimum age in relation to which that duty applies (regulation 4).

The Regulations also make provision in connection with early years development and childcare plans which local education authorities are required to prepare under sections 120 and 121 of the Act. The requirement for the plans to cover childcare as well as early years development was added by section 150 of the Education Act 2002.

The Regulations prescribe—

- (a) the intervals at which early years development and childcare plans must be prepared and the dates by which the plans must be submitted to the National Assembly for Wales for their approval under section 120(1) of the Act (regulation 5);
- (b) the periods to which an authority's proposals for nursery education pursuant to their duty under section 118 of the Act contained in such a plan must relate (regulation 6(1) and (2));
- (c) the matters which must be dealt with in such proposals (regulation 6(3) and the Schedule);

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- (d) the period within which plans (and modified plans) must be published (regulation 7(1));
- (e) the manner of publication of such plans (regulation 7(2)); and
- (f) the persons to whom a copy of such a plan must be sent and the period within which those copies must be provided (regulation 7(3)).