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WELSH STATUTORY INSTRUMENTS

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**2004 No. 908 (W.91)**

**EDUCATION, WALES**

**The Education (School Organisation Proposals)  
(Wales) (Amendment) Regulations 2004**

*Made* - - - - 24th March 2004

*Coming into force* - - 31st March 2004

The National Assembly for Wales, in exercise of the powers in sections 28(1), (3), and (7), and 138(7) of, and paragraphs 7, 8(2) and 10 of Schedule 6 and paragraphs 5 and 12 of Schedule 7 to the School Standards and Framework Act 1998(1), makes the following Regulations —

**Title, application and commencement**

1. These Regulations may be cited as the Education (School Organisation Proposals) (Wales) (Amendment) Regulations 2004, they apply to Wales and come into force on 31 March 2004.

**Interpretation**

2. In these Regulations “the Principal Regulations” means the Education (School Organisation Proposals) (Wales) Regulations 1999 (2).

**Amendment of the Principal Regulations**

3. The Principal Regulations are amended in accordance with the provisions of regulations 4 to 10.

4. In regulation 2(1) the words “or a maintained nursery school” are inserted after “school” in the definition of “mainstream school”.

5. The following regulation is inserted after regulation 3 —

“**3A.** For the purposes of subsection 1(d) of section 28 of the Act, the alterations specified in Schedule 2A are prescribed as alterations for which proposals must be published under that section.”.

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(1) 1998 c. 31. Section 28 of the School Standards and Framework Act 1998 was amended by section 154 of the Education Act 2002 (c. 32). The functions of the Secretary of State in the cited provisions of the 1998 Act were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).  
(2) S.I. 1999/1671.

6. In paragraph 1 of Schedule 1 the words “,other than a nursery school,” are inserted after “primary school”.
7. After paragraph 6(7) of Schedule 2 the following sub-paragraph is inserted —
  - “(8) Sub-paragraphs (1), (2), (3) and (5) do not apply to an alteration that forms part of a Welsh language project approved by the National Assembly for Wales.”.
8. The provisions set out in the Schedule to these regulations are inserted after Schedule 2.
- 9.—(1) Schedule 3 is amended in accordance with the provisions of this regulation —
  - (2) For paragraph 5 the following paragraph is substituted —
    - “5. The category of school (that is to say, community school, foundation school, voluntary aided school, voluntary controlled school or maintained nursery school) into which the proposed school will fall.”.
- 10.—(1) Schedule 4 is amended in accordance with the provisions of this regulation.
  - (2) In paragraph 1(2)(a) the words “(including a nursery school)” are inserted after “primary school”.
  - (3) In paragraph 4 the words “voluntary, foundation and maintained nursery schools” are substituted for “voluntary and foundation schools”.
  - (4) In paragraph 6 —
    - (a) at the beginning the following words are inserted —
      - “Except where the proposed school is to be a maintained nursery school”;
    - (b) the word “and” is inserted after sub-paragraph (b) and omitted after sub-paragraph (c); and
    - (c) sub-paragraph (d) is revoked.
  - (5) Paragraph 7(e) is revoked.
  - (6) In paragraph 13 at the beginning there is inserted —
    - “Except where the proposed school is to be a maintained nursery school”.
  - (7) After paragraph 18 the following paragraph is inserted —
    - “18A. Where the proposed school will be a maintained nursery school or a primary school providing nursery education —
      - (a) the number of full-time and part-time pupils for which it is intended that nursery education is to be provided,
      - (b) the capacity of the accommodation to be provided for nursery education
      - (c) details of how the nursery education resulting from the proposals (if implemented) will be organised, including the number of sessions in each week,
      - (d) the extent to which the proposals, if approved, will integrate the education provided with child care services or are consistent with the integration of nursery education and child care,
      - (e) evidence of demand for additional provision of nursery education including the numbers of pupils receiving such education at schools maintained by the local education authority within a radius of 3.218688 kilometres (two miles),
      - (f) a statement of the reasons as to why any school which has unused capacity to accommodate children under compulsory school age cannot make provision for any forecast increase in the numbers of such children,

- (g) an estimate of the proportion of children under compulsory school age in the area of the local education authority who are educated at schools maintained by the local education authority,
  - (h) an estimate of the proportion of such children in the area of the local education authority who are educated at schools not maintained by the local education authority,
  - (i) an estimate of the proportion of children referred to in sub-paragraph (e) of this paragraph who are educated at schools maintained by the local education authority other than in reception classes (within the meaning of section 142 of the School Standards and Framework Act 1998),
  - (j) an estimate of the extent of deprivation in the area served by the school,
  - (k) whether child care will be provided outside school hours if the proposals are approved,
  - (l) a description of the areas of learning to be provided and how they will be delivered, and
  - (m) the number of staff to be employed within the nursery.”
- (8) After paragraph 29(e)(ix) the following paragraphs are inserted —
- “(x) a description of the areas of learning to be provided and how they will be delivered;
  - (xi) the number of staff to be employed within the nursery;
  - (xii) details of accommodation and capacity.”.

Signed on behalf of the National Assembly for Wales

24th March 2004

*John Marek*  
Deputy Presiding Officer

SCHEDULE

Regulation 8

“SCHEDULE 2A

Regulation 3A

ALTERATIONS TO NURSERY SCHOOLS FOR WHICH PROPOSALS MUST BE PUBLISHED

- 1.—(1) An enlargement, other than a temporary enlargement, of the teaching space by 50% or more.
- (2) The making permanent of a temporary enlargement of the teaching space by 50% or more.
- (3) In this paragraph, “teaching space” means any area used wholly or mainly for the provision of nursery education excluding —
  - (a) any area used wholly or mainly for the education of pupils subject to assessment and pupils with statements of special educational need;
  - (b) any area so constructed, adapted or equipped as to be unsuitable for general teaching purposes;
  - (c) any area constructed, adapted or equipped primarily for the storage of apparatus, equipment or materials used in teaching; and
  - (d) any part of an area which is required for the movement of pupils through that area and which is used wholly or mainly for that purpose.
2. The establishment or discontinuance of provision which is recognised by the local education authority as reserved for children with special educational needs.
3. An alteration to a school such that —
  - (a) a school which was an establishment which admitted pupils of one sex only becomes an establishment which admits pupils of both sexes, or
  - (b) a school which was an establishment which admitted pupils of both sexes becomes an establishment which admits pupils of one sex only.
- 4.—(1) In the case of a school at which there is any year group who are taught wholly or mainly through the medium of Welsh, an alteration to the school such that all pupils in that year group would be taught wholly or mainly through the medium of English.
- (2) In the case of a school at which there is any year group who are taught wholly or mainly through the medium of English, an alteration to the school such that all pupils in that year group would be taught wholly or mainly through the medium of Welsh.
5. The transfer of a school to a new site except where the main entrance of the school on its new site will be within 1.609344 kilometres (one mile) of the main entrance of the school on its old site.”

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## EXPLANATORY NOTE

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

These Regulations amend the Education (School Organisation Proposals) (Wales) Regulations 1999 (SI 1999/1671) (“the Principal Regulations”). The Regulations —

implement the amendment to section 28 of the School Standards and Framework Act 1998 made by section 154 of the Education Act 2002; and

amend the Principal Regulations so as to allow schools to participate in Welsh language pilot schemes approved by the National Assembly for Wales without publishing proposals (regulation 7).

The Regulations prescribe alterations to maintained nursery schools for which local education authorities must publish proposals (regulations 5 and 8).

Regulation 4 re-defines the term “mainstream school” to include maintained nursery schools. This has the effect of

prescribing information to be contained in published proposals;

prescribing the manner of publication of proposals;

prescribing certain matters in respect of objections; and

prescribing certain matters in relation to modifications,

where proposals relate to maintained nursery schools (regulation 4).

Regulation 9 makes consequential amendments to Schedule 3 of the Principal Regulations (information to be contained in published proposals).

Schedule 4 of the Principal Regulations (information to be provided to the Assembly) applies to proposals about maintained nursery schools by virtue of the amendments to section 28 of the 1998 Act made by section 154 of the 2002 Act and regulation 6 of the Principal Regulations. Regulation 10 amends Schedule 4 of the Principal Regulations to make specific further provision in relation to maintained nursery schools and nursery education to be provided at primary schools that are not nursery schools.