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WELSH STATUTORY INSTRUMENTS

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**2004 No. 1728 (W.172) (C.67)**

**EDUCATION, WALES**

The Education Act 2002 (Commencement  
No. 5) (Wales) Order 2004

Made - - - -

13th July 2004

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:

**Name, application and interpretation**

1. This Order is called the Education Act 2002 (Commencement No.5) (Wales) Order 2004.
2. Provisions brought into force by this Order are brought into force only 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 days**

4. The day appointed for the coming into force of the provisions specified in Part 1 of the Schedule to this Order is 1st August 2004.
5. The day appointed for the coming into force of the provisions specified in Part 2 of the Schedule to this Order is 1st September 2004.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(2)</sup>.

13th July 2004

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

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(1) 2002 c. 32.  
(2) 1998 c. 38.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## PART 1

### Provisions coming into force on 1st August 2004

<b>Provision</b>	<b>Subject matter</b>
Section 72	Proposals relating to sixth forms
Section 215(1) in so far as it relates to the provisions of Schedule 21 below	Minor and consequential amendments
Schedule 9	Proposals relating to sixth forms — implementation
Schedule 21	Minor and consequential amendments
Paragraph 100(3)	

## PART 2

### Provisions coming into force on 1st September 2004

<b>Provision</b>	<b>Subject matter</b>
Section 21	General responsibility for conduct of school
Section 22	Training and support of governors
Section 30	Governors' reports and other information
Section 32	Responsibility for fixing dates of terms and holidays and times of sessions
Section 39(1) in so far as it relates to the definition of “statutory provision”	Interpretation of Chapter 1
Section 155	Inspection of nursery education
Section 176	Consultation with pupils
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 14, paragraphs 1 to 7	Inspection of nursery education
Schedule 21 —	Minor and Consequential Amendments
Paragraph 39(1) and (5)	
Paragraph 63 except sub-paragraph (a)	
Paragraph 68	
Paragraph 110(1) and (3) only for the purpose of omitting paragraph (e) of subsection (6)	

<b>Provision</b>	<b>Subject matter</b>
of section 127 of the School Standards and Framework Act 1998	
Schedule 22, Part 3, the repeal of —	Repeals
Children Act 1989 <sup>(3)</sup> , section 79P(4)(d) and the preceding “and”;	
School Standards and Framework Act 1998 <sup>(4)</sup> .	
Section 38, Sections 41 and 42, Section 127(6) (e), in section 138, in subsection (4)(b), the words “paragraph 4 or 8 of Schedule 23 or”, and in subsection (5), paragraph (a)(ii) and (iii) and, in paragraph (b)(ii), the word “46”, in Part II of Schedule 11, paragraph 7, in Schedule 30, paragraph 204(b)	

## **EXPLANATORY NOTE**

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

This Order brings into force on 1st August 2004 and 1st September 2004 those provisions of the Education Act 2002 specified in Parts 1 and 2 of 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 Part 1 of the Schedule is as follows —

Section 72 and Schedule 9 amend the Learning and Skills Act 2000 so as to enable the National Council for Education and Training for Wales to propose the establishment, alteration or closure of sixth forms. Its proposals are to be submitted to the National Assembly for Wales (“the National Assembly”). Regulations will set out the procedures.

The effect of the provisions specified in Part 2 of the Schedule is as follows —

Sections 21, 22, 30 and 32 re-enact certain provisions of the School Standards and Framework Act 1998 (“the 1998 Act”) in relation to the government of maintained schools.

Section 21 provides that the governing body of a school is responsible for its conduct. It enables the National Assembly to make regulations setting out the roles and responsibilities of governing bodies, head teachers and LEAs.

Section 22 provides that an LEA must provide governors with information and training, free of charge.

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(3) 1989 c. 41.

(4) 1998 c. 31.

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Under section 30 a governing body must prepare an annual report. Regulations made by the National Assembly will set out requirements in relation to the content of annual reports and their distribution. Governing bodies must provide such reports to the LEA as it requires, and head teachers must provide such reports to governing bodies or LEAs as they require.

Section 32 sets out, in relation to different categories of school, the body which is responsible for determining the dates of school terms, school holidays and school session times. The National Assembly may make regulations as to proposals to change the times of school sessions.

Section 39 contains definitions.

Section 155 and Schedule 14 amend Schedule 26 to the 1998 Act which makes provision in relation to inspection of nursery education. These amendments will allow inspections to be carried out by members of the inspectorate as well as registered nursery inspectors, and allow Her Majesty's Chief Inspector of Education and Training in Wales to register those persons she considers appropriate and to take into account the need for inspectors in Wales. Previously she registered any person who satisfied the statutory criteria. Schedule 14 also contains amendments which will mean that appeals against decisions on registration will be made in England to the tribunal established under section 9 of the Protection of Children Act 1999. Appeals in Wales will continue to be made to the Registered Nursery Inspector's Tribunal, but there are some amendments which are consequential on the changes in England.

Section 176 imposes a duty on LEAs and governing bodies to have regard to National Assembly guidance about consultation with pupils in connection with taking decisions affecting them.

#### **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	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Section 18(2)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Section 19(6) (partially)	1st September 2003	<a href="#">2003/1718 (W.185)</a>
Sections 27 and 28	1st September 2003	<a href="#">2003/1718 (W.185)</a>
Section 29	1st September 2003	<a href="#">2003/1718 (W.185)</a>
Section 40 (partially)	1st September 2003	<a href="#">2003/1718 (W.185)</a>
Section 41	4th December 2003	<a href="#">2003/2961 (W.278)</a>
Section 42	4th December 2003	<a href="#">2003/2961 (W.278)</a>
Section 43	1st November 2003	<a href="#">2003/1718 (W.185)</a>
Section 46	1st December 2003	<a href="#">2003/2961 (W.278)</a>
Section 49	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 51 (partially)	9th January 2004	<a href="#">2003/2961 (W.278)</a>
(partially)	31st March 2004	<a href="#">2004/912 (W.95)</a>

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 52 (partially)	9th January 2004	2003/2961 (W.278)
Sections 54 to 56	19th December 2002	2002/3185 (W.301)
Sections 60 to 64	1st August 2003	2003/1718 (W.185)
Section 75 (partially)	19th December 2002	2002/3185 (W.301)
Sections 97 and 98	19th December 2002	2002/3185 (W.301)
Section 99(1)	19th December 2002	2002/3185 (W.301)
Section 100 (partially)	19th December 2002	2002/3185 (W.301)
Section 101 (partially)	19th December 2002	2002/3185 (W.301)
Section 103	19th December 2002	2002/3185 (W.301)
Sections 105 to 107	19th December 2002	2002/3185 (W.301)
Section 108 (partially)	19th December 2002	2002/3185 (W.301)
Section 109	19th December 2002	2002/3185 (W.301)
Sections 111 to 118	19th December 2002	2002/3185 (W.301)
Section 119	1st October 2002	2002/2439
Section 120(1) and (3) to (5)	1st October 2002	2002/2439
Section 120(2)	1st August 2003	2003/1667
Section 121	1st October 2002	2002/2439
Section 122 to 129	1st August 2003	2003/1667
Section 130 (partially)	1st October 2002	2002/2439
(fully)	1st August 2003	2003/1667
Section 131	19th December 2002	2002/3185 (W.301)
Sections 132 and 133	19th December 2002	2002/3185 (W.301)
Section 134 (partially)	19th December 2002	2002/3185 (W.301)
Section 135	19th December 2002	2002/3185 (W.301)
Sections 136 to 140	1st September 2003	2003/1718 (W.185)
Section 141	19th December 2002	2002/3185 (W.301)
Sections 142 to 144	31st March 2003	2002/3185 (W.301)
Section 145	19th December 2002	2002/3185 (W.301)
Section 146 (partially)	31st March 2003	2002/3185 (W.301)
Section 148 (partially)	19th December 2002	2002/3185 (W.301)
Section 149	31st March 2003	2002/3185 (W.301)
Section 150	31st March 2003	2002/3185 (W.301)
Section 151(2)	19th December 2002	2002/3185 (W.301)
Section 152 (partially)	19th December 2002	2002/3185 (W.301)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 154	31st March 2004	2004/912 (W.95)
Section 156	31st March 2004	2004/912 (W.95)
Sections 157 to 174	1st January 2004	2003/2961 (W.278)
Section 177	1st August 2004	2004/912 (W.95)
Section 178(1) and (4)	1st August 2003	2003/1718 (W.185)
Section 179 (partially)	19th December 2002	2002/3185 (W.301)
Section 180	19th December 2002	2002/3185 (W.301)
Sections 181 to 185	1st September 2003	2003/1718 (W.185)
Section 188 (partially)	19th December 2002	2002/3185 (W.301)
(partially)	1st December 2003	2003/2961 (W.278)
Section 189 (partially)	19th December 2002	2002/3185 (W.301)
Sections 191 to 194	19th December 2002	2002/3185 (W.301)
Section 195 (partially)	31st March 2003	2002/3185 (W.301)
(fully)	1st September 2003	2002/3185 (W.301)
Section 196	19th December 2002	2002/3185 (W.301)
Section 197	1st September 2003	2003/1718 (W.185)
Section 198	31st March 2004	2004/912 (W.95)
Section 199	1st September 2003	2003/1718 (W.185)
Section 200	31st March 2003	2002/3185 (W.301)
Section 201 (partially)	31st March 2003	2002/3185 (W.301)
Sections 202 and 203	1st September 2003	2003/1718 (W.185)
Section 206	1st September 2003	2003/1718 (W.185)
Sections 207 and 208	9th January 2004	2003/2961 (W.278)
Section 215 (partially)	19th December 2002	2002/3185 (W.301)
(partially)	31st March 2003	2002/3185 (W.301)
(partially)	1st August 2003	2003/1718 (W.185) and 2003/1667
(partially)	1st September 2003	2002/3185 (W.301) and 2003/1718 (W.185)
(partially)	4th December 2003	2003/2961 (W.278)
(partially)	1st January 2004	2003/2961 (W.278)
(partially)	9th January 2004	2003/2961 (W.278)
(partially)	31st March 2004	2004/912 (W.95)
(partially)	1st August 2004	2004/912 (W.95)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 1, paragraph 3 (partially)	1st September 2003	2003/1718 (W.185)
Schedule 3, paragraphs 1 to 5	1st September 2003	2003/1718 (W.185)
Schedule 4, paragraphs 1 and 4	9th January 2004	2003/2961 (W.278)
Paragraph 12(1), (3) to (5)	31st March 2004	2004/912 (W.95)
Schedule 5	19th December 2002	2002/3185 (W.301)
Schedule 10, paragraphs 1, 6, 11 and 15	19th December 2002	2002/3185 (W.301)
Schedule 11	1st October 2002	2002/2439
Schedule 12, paragraphs 1, 2, 4(1) and (3), 6 and 7,	19th December 2002	2002/3185 (W.301)
Paragraph 12(1) and (2)	31st March 2003	2002/3185 (W.301)
Schedule 13, paragraphs 1 to 3, 5, 6, 7(1) and (3) and 8	19th December 2002	2002/3185 (W.301)
Schedule 16, 1st December 2003 paragraphs 1 to 3	2003/2961	(W.278)
Paragraphs 4 to 9	19th December 2002	2002/3185 (W.301)
Schedule 17, paragraphs 5(1) to (4), (6) and 6 to 8	19th December 2002	2002/3185 (W.301)
Schedule 18, paragraphs 1, 4, 5 and 7,	31st March 2003	2002/3185 (W.301)
Paragraph 8 (partially),	31st March 2003	2002/3185 (W.301)
Paragraphs 13 to 15,	31st March 2003	2002/3185 (W.301)
Paragraphs 2, 3, 6, 8 (fully), 9 to 12 and 16 to 18	1st September 2003	2002/3185 (W.301)
Schedule 19	1st September 2003	2003/1718 (W.185)
Schedule 20	1st September 2003	2003/1718 (W.185)
Schedule 21 (partially)	1st October 2002	2002/2439
(partially)	19th December 2002	2002/3185 (W.301)
(partially)	31st March 2003	2002/3185 (W.301)
(partially)	1st August 2003	2003/1667
(partially)	1st September 2003	2003/1718 (W.185)
(partially)	4th December 2003	2003/2961 (W.278)
(partially)	1st January 2004	2003/2961 (W.278)
(partially)	9th January 2004	2003/2961 (W.278)
(partially)	31st March 2004	2004/912 (W.95)
Schedule 22 (partially)	1st October 2002	2002/2439

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
(partially)	9th December 2002	2002/3185 (W.301)
(partially)	31st March 2003	2002/3185 (W.301)
(partially)	1st August 2003	2003/1718 (W.185)
(partially)	1st September 2003	2002/3185 (W.301), 2003/1718 (W.185) and 2003/1667
(partially)	4th December 2003	2003/2961 (W.278)
(partially)	1st January 2004	2003/2961 (W.278)
(partially)	9th January 2004	2003/2961 (W.278)
(partially)	31st March 2004	2004/912 (W.95)
(partially)	1st August 2004	2004/912 (W.95)

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](#).