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WELSH STATUTORY INSTRUMENTS

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**2005 No. 2910 (W.207) (C.124)**

**EDUCATION, WALES**

The Education Act 2002 (Commencement  
No. 7) (Wales) Order 2005

*Made* - - - - 18 October 2005  
*Coming into force* - - 31 October 2005

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(1), hereby makes the following Order:

**Title, application and interpretation**

1. The title of this Order is the Education Act 2002 (Commencement No.7) (Wales) Order 2005.
2. Provisions brought into force by this Order are brought into force 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 day**

4. The day appointed for the coming into force of the provisions specified in the Schedule to this Order is 31 October 2005.

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

18 October 2005

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

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

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## THE SCHEDULE

Article 4

## Provisions coming into force on 31 October 2005

<b>Provision</b>	<b>Subject matter</b>
Section 19(1) to (7)	Governing bodies
Section 20(1) to (3), (5)	Instruments of government
Section 23	Clerk to the governing body
Section 33	Annual parents' meetings
Section 34	Arrangements for government of new schools
Section 39	Interpretation of Chapter 1
Section 52(11)	Exclusion of pupils
Section 53	Attendance targets
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 1 in so far as not already in force	Incorporation and Powers of Governing Body
Schedule 21	Minor and Consequential Amendments
Paragraph 12;	
Paragraphs 23 and 25;	
Paragraph 26;	
Paragraph 27(3);	
Paragraph 28;	
Paragraph 29;	
Paragraphs 35 to 38;	
Paragraph 39(2) to (4);	
Paragraphs 40 to 44;	
Paragraph 50;	
Paragraph 52;	
Paragraph 57 in so far as not already in force;	
Paragraph 58;	
Paragraph 59 in so far as not already in force;	
Paragraphs 60 to 62;	
Paragraph 63 in so far as it is not already in force;	
Paragraphs 64 and 65;	
Paragraph 67;	

Provision	Subject matter
Paragraphs 92 to 94;	
Paragraphs 98(3);	
Paragraph 99(2) and (3)(a);	
Paragraphs 101 to 103;	
Paragraph 106;	
Paragraph 110(2);	
Paragraph 110(3)(b) in so far as it relates to paragraph (h) of subsection (6) of section 127 of the School Standards and Framework Act 1998;	
Paragraph 110(3)(c) except in relation to the new paragraphs (n), (o), (p) and (q) of subsection (6) of section 127 of the School Standards and Framework Act 1998;	
Paragraph 112 in so far as not already in force;	
Paragraph 113 in so far as not already in force;	
Paragraph 118(6);	
Paragraph 127.	
Schedule 22, Part 3, the repeal of—	Repeals
Education Act 1994(3), section 4(4);	
Disability Discrimination Act 1995(4), in Schedule 4A, in the Table in paragraph 1, paragraph 3;	
Education Act 1996(5), section 29(6), in section 316A (11)(b) the words “a maintained nursery school or”, in section 317 subsection (3)(b) and the word “and” preceding it, in section 329A (13)(a), the words “ a maintained nursery school or”;	
School Inspections Act 1996(6), in section 11(5), paragraph (b), in section 15(4) (c) the words “except where the school is a maintained nursery school”, in section 21, in subsection (3)(b) the words “except in the case of a maintained nursery school”, in Schedule 3, in the definition of “appropriate authority” in paragraph 1, paragraph (b);	

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(3) 1994 c. 30.  
(4) 1995 c. 50.  
(5) 1996 c. 56.  
(6) 1996 c. 57.

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Provision	Subject matter
School Standards and Framework Act 1998(7). sections 36 and 37, section 43, section 44, in section 63, in subsections (1) and (3) the word “unauthorised” and, in subsection (4), the definition of “unauthorised absence”, section 127(6)(h), in section 138, in subsection (2)(b), the words “paragraph 3(5) or 4 of Schedule 10”, Schedules 9 and 10, Schedule 11 in so far as not already repealed, Schedule 12.	

## EXPLANATORY NOTE

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

This Order brings into force on 31 October 2005 those provisions of the Education Act 2002 specified in 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 the Schedule to this Order is as follows—

Sections 19, 20, 23, 33, 34, 39 and Schedule 1 make provision in relation to the government of maintained schools, replacing various provisions of the School Standards and Framework Act 1998 (“the 1998 Act”). Section 19 and Schedule 1 require every maintained school to have a governing body. Regulations made by the National Assembly will, set out the requirements relating to the membership and procedures of governing bodies.

Section 20 requires every maintained school to have an instrument of government which determines the constitution of the governing body and other matters relating to the school. National Assembly Regulations will set out the requirements as to the making and the content of instruments of government.

Section 23 enables the National Assembly to make regulations allowing governing bodies to work together by discharging their functions jointly or through joint committees.

Under section 33 a governing body must hold an annual parents' meeting. The National Assembly may make regulations setting out the circumstances in which a governing body is exempt from holding a meeting.

Section 34 sets out the arrangements for the government of new schools. The LEA is required to constitute a temporary governing body. Details as to the arrangements will be set out in regulations made by the National Assembly.

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(7) 1998 c. 31.

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Section 39 contains definitions. In particular the definition of 'maintained school' includes a 'maintained nursery school'. The effect of this is that maintained nursery schools are to have governing bodies.

Commencing section 52(11) means that the provisions relating to exclusion of pupils from schools contained in section 52 apply to maintained nursery schools.

Section 53 amends section 63 of the 1998 Act so as allow the Assembly to include authorised absences in the targets that governing bodies can be required to set by regulations.

#### **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	31 March 2003	<a href="#">2002/3185 (W.301)</a>
Section 18(2)	31 March 2003	<a href="#">2002/3185 (W.301)</a>
Section 19(6) (partially)	1 September 2003	<a href="#">2003/1718 (W.185)</a>
Sections 21 and 22	1 September 2004	<a href="#">2004/1728 (W.172)</a>
Sections 27 and 28	1 September 2003	<a href="#">2003/1718 (W.185)</a>
Section 29	1 September 2003	<a href="#">2003/1718 (W.185)</a>
Section 30	1 September 2004	<a href="#">2004/1728 (W.172)</a>
Section 32	1 September 2004	<a href="#">2004/1728 (W.172)</a>
Section 39(1) (partially)	1 September 2004	<a href="#">2004/1728 (W.172)</a>
Section 40 (partially)	1 September 2003	<a href="#">2003/1718 (W.185)</a>
Section 41	4 December 2003	<a href="#">2003/2961 (W.278)</a>
Section 42	4 December 2003	<a href="#">2003/2961 (W.278)</a>
Section 43	1 November 2003	<a href="#">2003/1718 (W.185)</a>
Section 46	1 December 2003	<a href="#">2003/2961 (W.278)</a>
Section 49	19 December 2002	<a href="#">2002/3185 (W.301)</a>
Section 50	31 May 2005	<a href="#">2005/1395 (W.109)</a>
Section 51 (partially)	9 January 2004	<a href="#">2003/2961 (W.278)</a>
(partially)	31 March 2004	<a href="#">2004/912 (W.95)</a>
(partially)	31 May 2005	<a href="#">2005/1395 (W.109)</a>
Section 52 (partially)	9 January 2004	<a href="#">2003/2961 (W.278)</a>
Sections 54 to 56	19 December 2002	<a href="#">2002/3185 (W.301)</a>
Sections 60 to 64	1 August 2003	<a href="#">2003/1718 (W.185)</a>
Section 72	1 August 2004	<a href="#">2004/1728 (W.172)</a>
Section 75 (partially)	19 December 2002	<a href="#">2002/3185 (W.301)</a>

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 97 and 98	19 December 2002	2002/3185 (W.301)
Section 99(1)	19 December 2002	2002/3185 (W.301)
Section 100 (partially)	19 December 2002	2002/3185 (W.301)
Section 101 (partially)	19 December 2002	2002/3185 (W.301)
Section 103	19 December 2002	2002/3185 (W.301)
Sections 105 to 107	19 December 2002	2002/3185 (W.301)
Section 108 (partially)	19 December 2002	2002/3185 (W.301)
Section 109	19 December 2002	2002/3185 (W.301)
Sections 111 to 118	19 December 2002	2002/3185 (W.301)
Section 119	1 October 2002	2002/2439
Section 120(1) and (3) to (5)	1 October 2002	2002/2439
Section 120(2)	1 August 2003	2003/1667
Section 121	1 October 2002	2002/2439
Section 122 to 129	1 August 2003	2003/1667
Section 130 (partially)	1 October 2002	2002/2439
(fully)	1 August 2003	2003/1667
Section 131	19 December 2002	2002/3185 (W.301)
Sections 132 and 133	19 December 2002	2002/3185 (W.301)
Section 134 (partially)	19 December 2002	2002/3185 (W.301)
Section 135	19 December 2002	2002/3185 (W.301)
Sections 136 to 140	1 September 2003	2003/1718 (W.185)
Section 141	19 December 2002	2002/3185 (W.301)
Sections 142 to 144	31 March 2003	2002/3185 (W.301)
Section 145	19 December 2002	2002/3185 (W.301)
Section 146 (partially)	31 March 2003	2002/3185 (W.301)
Section 148 (partially)	19 December 2002	2002/3185 (W.301)
Section 149	31 March 2003	2002/3185 (W.301)
Section 150	31 March 2003	2002/3185 (W.301)
Section 151(2)	19 December 2002	2002/3185 (W.301)
Section 152 (partially)	19 December 2002	2002/3185 (W.301)
Section 154	31 March 2004	2004/912 (W.95)
Section 155	1 September 2004	2004/1728 (W.172)
Section 156	31 March 2004	2004/912 (W.95)
Sections 157 to 174	1 January 2004	2003/2961 (W.278)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 176	1 September 2004	2004/1728 (W.172)
Section 177	1 August 2004	2004/912 (W.95)
Section 178(1) and (4)	1 August 2003	2003/1718 (W.185)
Section 179 (partially)	19 December 2002	2002/3185 (W.301)
Section 180	19 December 2002	2002/3185 (W.301)
Sections 181 to 185	1 September 2003	2003/1718 (W.185)
Section 188 (partially)	19 December 2002	2002/3185 (W.301)
(partially)	1 December 2003	2003/2961 (W.278)
Section 189 (partially)	19 December 2002	2002/3185 (W.301)
Sections 191 to 194	19 December 2002	2002/3185 (W.301)
Section 195 (partially)	31 March 2003	2002/3185 (W.301)
(fully)	1 September 2003	2002/3185 (W.301)
Section 196	19 December 2002	2002/3185 (W.301)
Section 197	1 September 2003	2003/1718 (W.185)
Section 198	31 March 2004	2004/912 (W.95)
Section 199	1 September 2003	2003/1718 (W.185)
Section 200	31 March 2003	2002/3185 (W.301)
Section 201 (partially)	31 March 2003	2002/3185 (W.301)
Sections 202 and 203	1 September 2003	2003/1718 (W.185)
Section 206	1 September 2003	2003/1718 (W.185)
Section 207 and 208	9 January 2004	2003/2961 (W.278)
Section 215 (partially)	19 December 2002	2002/3185 (W.301)
(partially)	31 March 2003	2002/3185 (W.301)
(partially)	1 August 2003	2003/1718 (W.185) and 2003/1667
(partially)	1 September 2003	2002/3185 (W.301) and 2003/1718 (W.185)
(partially)	4 December 2003	2003/2961 (W.278)
(partially)	1 January 2004	2003/2961 (W.278)
(partially)	9 January 2004	2003/2961 (W.278)
(partially)	31 March 2004	2004/912 (W.95)
(partially)	1 August 2004	2004/912 (W.95) and 2004/1728 (W.172)
(partially)	1 September 2004	2004/1728 (W.172)
(partially)	31 May 2005	2005/1395 (W.109)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 1, paragraph 3 (partially)	1 September 2003	2003/1718 (W.185)
Schedule 3, paragraphs 1 to 5	1 September 2003	2003/1718 (W.185)
Schedule 4, paragraphs 1 and 4	9 January 2004	2003/2961 (W.278)
Paragraphs 2, 3(1), (2), (3), (4), (5), (7), (8), 8, 9, 10, 11	31 May 2005	2005/1395 (W.109)
Paragraph 12(1), (3) to (5)	31 March 2004	2004/912 (W.95)
Schedule 5	19 December 2002	2002/3185 (W.301)
Schedule 9	1 August 2004	2004/1728 (W.172)
Schedule 10, paragraphs 1, 6, 11 and 15	19 December 2002	2002/3185 (W.301)
Schedule 11	1 October 2002	2002/2439
Schedule 12, paragraphs 1, 2, 4(1) and (3), 6 and 7,	19 December 2002	2002/3185 (W.301)
Paragraph 12(1) and (2)	31 March 2003	2002/3185 (W.301)
Schedule 13, paragraphs 1 to 3, 5, 6, 7(1) and (3) and 8	19 December 2002	2002/3185 (W.301)
Schedule 14, paragraphs 1 to 7	1 September 2004	2004/1728 (W.172)
Schedule 16, paragraphs 1 to 3	1 December 2003	2003/2961 (W.278)
Paragraphs 4 to 9	19 December 2002	2002/3185 (W.301)
Schedule 17, paragraphs 5(1) to (4), (6) and 6 to 8	19 December 2002	2002/3185 (W.301)
Schedule 18, paragraphs 1, 4, 5 and 7,	31 March 2003	2002/3185 (W.301)
Paragraph 8 (partially),	31 March 2003	2002/3185 (W.301)
Paragraphs 13 to 15,	31 March 2003	2002/3185 (W.301)
Paragraphs 2, 3, 6, 8 (fully), 9 to 12 and 16 to 18	1 September 2003	2002/3185 (W.301)
Schedule 19	1 September 2003	2003/1718 (W.185)
Schedule 20	1 September 2003	2003/1718 (W.185)
Schedule 21 (partially)	1 October 2002	2002/2439
(partially)	19 December 2002	2002/3185 (W.301)
(partially)	31 March 2003	2002/3185 (W.301)
(partially)	1 August 2003	2003/1667
(partially)	1 September 2003	2003/1718 (W.185)
(partially)	4 December 2003	2003/2961 (W.278)
(partially)	1 January 2004	2003/2961 (W.278)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
(partially)	9 January 2004	2003/2961 (W.278)
(partially)	31 March 2004	2004/912 (W.95)
(partially)	1 August 2004	2004/1728 (W.172)
(partially)	1 September 2004	2004/1728 (W.172)
(partially)	31 May 2005	2005/1395 (W.109)
Schedule 22 (partially)	1 October 2002	2002/2439
(partially)	9 December 2002	2002/3185 (W.301)
(partially)	31 March 2003	2002/3185 (W.301)
(partially)	1 August 2003	2003/1718 (W.185)
(partially)	1 September 2003	2002/3185 (W.301), 2003/1718 (W.185) and 2003/1667
(partially)	4 December 2003	2003/2961 (W.278)
(partially)	1 January 2004	2003/2961 (W.278)
(partially)	9 January 2004	2003/2961 (W.278)
(partially)	31 March 2004	2004/912 (W.95)
(partially)	1 August 2004	2004/912 (W.95)
(partially)	1 September 2004	2004/1728 (W.172)
(partially)	31 May 2005	2005/1395 (W.109)

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](#).