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WELSH STATUTORY INSTRUMENTS

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**2005 No. 3238 (W.243)**

**EDUCATION, WALES**

The National Council for Education and Training  
for Wales (Transfer of Functions to the National  
Assembly for Wales and Abolition) Order 2005

Made - - - - 22 November 2005

Coming into force - - 1 April 2006

The National Assembly for Wales, in accordance with the powers conferred upon it by section 28 of and Schedule 4 to the Government of Wales Act 1998(1), makes the following Order:

**Title, commencement and interpretation**

1.—(1) This Order is called the National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 and comes into force on 1 April 2006.

(2) In this Order:

“the Council” (“*y Cyngor*”) means the National Council for Education and Training for Wales;

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

“transfer date” (“*dyddiad trosglwyddo*”) means 1 April 2006.

**Transfer of Functions of the Council to the National Assembly**

2. Subject to article 9, on the transfer date all the functions of the Council are transferred to the National Assembly.

**Transfer of staff**

3. For the purposes of the Transfer of Undertaking (Protection of Employment) Regulations 1981(2)—

(a) the transfer of functions effected by article 2 is to be treated as a transfer of an undertaking;

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(1) 1998 c. 38. Schedule 4 amended by Section 149 of Learning and Skills Act 2000 (c. 21).

(2) S.I. 1981/1794: amended by S.I. 1987/442.

- (b) each person who was, immediately before the transfer date, employed by the Council under a contract of employment is to be treated as employed in the undertaking immediately before the transfer date.

#### **Transfer of property, rights and liabilities**

4.—(1) On the transfer date, all property, rights and liabilities to which the Council was entitled or subject immediately before the transfer date are transferred to the National Assembly.

(2) A certificate issued by the National Assembly that any property, rights or liabilities has been transferred by paragraph (1) shall be conclusive evidence of the transfer.

(3) The reference in paragraph (1) to rights and liabilities does not include rights and liabilities under a contract of employment transferred by virtue of article 3.

(4) Paragraph (1) has effect in relation to property, rights and liabilities—

- (a) despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer otherwise than by this order;
- (b) without any instrument or other formality being required.

#### **Provision for continuity in the exercise of functions**

5. Anything done by or in relation to the Council which has effect immediately before the transfer date shall so far as it is required for continuing its effect on and after the transfer date have effect as if done by or in relation to the National Assembly.

#### **Abolition of the Council**

- 6. On the transfer date the Council ceases to exist.

#### **Transitional Provisions**

7.—(1) Nothing in this Order affects the validity of anything done by or in relation to the Council before the transfer date.

(2) There may be continued by or in relation to the National Assembly anything (including legal proceedings) which is in the process of being done by or in relation to the Council before the transfer date.

(3) On or after the transfer date so far as is necessary or appropriate, references to the Council in any instruments, contracts or legal proceedings are to be treated as references to the National Assembly.

#### **Accounts**

8.—(1) The National Assembly must—

- (a) prepare a statement of accounts for the period from the date of the last statement of accounts prepared by the Council to the transfer date;
- (b) send a copy of the statement to the Auditor General for Wales before the end of the period 6 months beginning with the transfer date.

(2) The Auditor General for Wales must—

- (a) examine, certify and report on the statement received under this article;
- (b) lay a copy of the report on the statement before the National Assembly.

### **Consequential amendments to Acts and other legislation**

9.—(1) The Acts specified in Schedule 1 are amended in accordance with that Schedule.

(2) The subordinate legislation specified in Schedule 2 is amended in accordance with that Schedule.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(3).

22 November 2005

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

SCHEDULE 1

Article 9(1)

CONSEQUENTIAL AMENDMENTS TO PRIMARY LEGISLATION

**Superannuation Act 1972 (c. 11)**

1. In Schedule 1 to the Superannuation Act 1972 (kinds of employment, etc, referred to in section 1) omit “National Council for Education and Training for Wales.”.

**House of Commons Disqualification Act 1975 (c. 24)**

2. In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership) omit “Any member of the National Council for Education and Training for Wales in receipt of remuneration.”.

**Sex Discrimination Act 1975 (c. 65)**

3. The Sex Discrimination Act 1975 is amended as follows.
4. In section 23A (discrimination by Further Education and Higher Education Funding Councils):
  - (a) omit “the National Council for Education and Training for Wales”;
  - (b) insert “and for the National Assembly for Wales in carrying out its functions under Part 2 of the Learning and Skills Act 2000” after “2000”.
5. In section 25A (general duty: post-16 education and training etc.)—
  - (a) in subsection (1) for “and the National Council for Education and Training for Wales” substitute “and the National Assembly for Wales”;
  - (b) in subsection (2) for “or the National Council for Education and Training for Wales” substitute “or the National Assembly for Wales by virtue of its functions under Part 2 of the Learning and Skills Act 2000” .
  - (c) for subsection (3) substitute—
    - “(3) The provisions of section 25 of the Learning and Skills Act 2000 shall be the only sanction for breach of the general duty in subsection (1) by the Learning and Skills Council for England.”
    - (4) There shall be no sanction for breach of the general duty in subsection (1) by the National Assembly for Wales.
    - (5) Subsections (3) and (4) are without prejudice to the enforcement of section 23A under section 66 or otherwise (where the breach is also a contravention of that section).”

**Race Relations Act 1976 (c. 74)**

6. The Race Relations Act 1976 is amended as follows.
7. In section 18A (Further Education and Higher Education Funding Councils), omit “the National Council for Education and Training for Wales,”.
8. In Schedule 1A (bodies and other persons subject to general statutory duty) in Part 2 omit “The National Council for Education and Training for Wales.”

### **Education (Fees and Awards) Act 1983 (c. 40)**

**9.** In section 1(3)(g) of the Education (Fees and Awards) Act 1983 (fees at universities and further education establishments) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

### **Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)**

**10.** In section 5(9) of the Disabled Persons (Services, Consultation and Representation) Act 1986 (disabled persons leaving special education) in the definition of “the responsible authority”—

- (a) in paragraph (c), for “the National Council for Education and Training for Wales” substitute “the National Assembly for Wales”;
- (b) at the end of paragraph (c) insert “or the National Assembly as the case may be”.

### **Employment Act 1988 (c. 19)**

**11.** In section 26(1A) of the Employment Act 1988 (status of trainees etc), for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

### **Education Reform Act 1988 (c. 40)**

**12.** In section 128(1)(b)(v) of the Education Reform Act 1988 (dissolution of higher education corporations) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

### **Further and Higher Education Act 1992 (c. 13)**

**13.** The Further and Higher Education Act 1992 is amended as follows.

**14.** In section 19 (supplementary powers of a further education corporation)—

- (a) in subsection (4B) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales in the discharge of its functions under Part 2 of the Learning and Skills Act 2000”;
- (b) in subsection (4C) for “concerned” substitute “or the National Assembly for Wales (as the case may be)”;
- (c) in subsection (5) for “appropriate council” substitute “appropriate body”.

**15.** In section 22 (subsequent instruments and articles)—

- (a) in subsection (1) for “appropriate council” substitute “appropriate body”;
- (b) in subsection (3)(b) for “appropriate council” substitute “appropriate body”;
- (c) after subsection (6) insert—

“(7) Nothing in this section requires the National Assembly for Wales to consult itself.”.

**16.** In section 27 (dissolution of further education corporations)—

- (a) for subsection (3)(a) substitute—
  - “(a) the Learning and Skills Council for England, in the case of a further education corporation in England”;
- (b) in subsection (7)(b) in both places for “council” substitute “body”;
- (c) after subsection (7) insert—

“(8) Nothing in this section requires the National Assembly to consult itself.”

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**17.** In section 29(7A)(b) (government and conduct of designated institutions) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**18.** In section 31(2A)(b) (designated institutions conducted by companies) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**19.** In section 34 (making additional property available for use)—

(a) in subsection (3)(b) for “appropriate council” substitute “appropriate body”;

(b) after subsection (6) insert—

“(7) Nothing in this section requires the National Assembly to consult itself.”.

**20.** In section 38(2) (payments by council in respect of loan liabilities) for “A council” substitute “The Learning and Skills Council for England”.

**21.** In section 51 (publication of proposals)—

(a) in subsection (1) for “A council” substitute “The Learning and Skills Council for England”;

(b) in subsection (2)(b) for “the Council” substitute “the Learning and Skills Council for England”;

(c) in subsection (3)(a) for “a council” substitute “the Learning and Skills Council for England”;

(d) in subsection (3)(b) for “a council” substitute “the council”.

**22.** In section 52 (duty to provide for named individuals)—

(a) in subsection (2) for “A council” substitute “The Learning and Skills Council for England or the National Assembly for Wales”;

(b) in subsection (3)—

(i) for “a council” substitute “the Learning and Skills Council for England or the National Assembly for Wales”;

(ii) for “that council” substitute “the council or (as the case may be) the National Assembly for Wales”.

**23.** In section 54(1) (duty to give information)—

(a) for “a council” substitute “the Learning and Skills Council for England or the National Assembly for Wales”;

(b) for “they may require” substitute “the council or (as the case may be) the National Assembly for Wales may require”;

(c) for “their functions” substitute “the functions of the council or (as the case may be) the National Assembly for Wales.”

**24.** In section 61A (references to councils)—

(a) in the heading, for “councils” substitute “appropriate bodies”;

(b) omit subsection (1);

(c) in subsection (2) for “council” substitute “body”;

(d) in subsection (2)(b) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(e) in subsection (2)(c) for “council” in both places substitute “body”.

**25.** In section 82 (joint exercise of functions)—

(a) in subsections (1) and (2) for “councils” substitute “relevant authorities”;

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(b) in subsection (3)(a) for “council” substitute “authority”;

(c) for subsection (3)(a) substitute—

“(a) “relevant authority” means a higher education funding council, the Learning and Skills Council for England, the National Assembly for Wales to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000 or the Scottish Higher Education Funding Council, and”.

**26.** In section 83 (efficiency studies)—

(a) in subsection (1), for “A learning and skills council” substitute “The Learning and Skills Council for England, the National Assembly for Wales or a higher education funding council”;

(b) in subsection (2), for “council” substitute “, the Learning and Skills Council for England, the National Assembly for Wales or a higher education funding council”.

**27.** In section 90 (interpretation)—

(a) omit subsection (2A);

(b) omit subsection (2B).

**28.** In Schedule 4 (instruments and articles for government for further education corporations) in paragraph 1A for “the National Council for Education and Training for Wales” substitute “the National Assembly for Wales”.

### **Welsh Language Act 1993 (c. 38)**

**29.** In section 6(1) of the Welsh Language Act 1993 (meaning of “public body”) omit paragraph (j).

### **Value Added Tax Act 1994 (c. 23)**

**30.** In Item 5A of Group 6 of Part 2 of Schedule 9 to the Value Added Tax Act 1994 (exemptions) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

### **Education Act 1996 (c. 56)**

**31.** The Education Act 1996 is amended as follows.

**32.** In section 13(2) (general responsibility for education)—

(a) in paragraph (a) omit “or the National Council for Education and Training for Wales, or”;

(b) after paragraph (a) insert—

(aa) “the National Assembly for Wales under Part 2 of the Learning and Skills Act 2000, or”.

**33.** In section 509(1B) (provision of transport etc.), for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**34.** In section 509AA(2)(d) (provision of transport etc for persons of sixth form age) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**35.** In section 509AB(6)(c) (further provision about transport policy statements) omit “or the National Council for Education and Training for Wales (in the case of a local education authority in Wales)”.

**36.** In section 509AC(3) (interpretation of sections 509AA and 509AB)—

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- (a) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
- (b) for “that Council” substitute “the Assembly”.

#### **School Standards and Framework Act 1998 (c. 31)**

37. The School Standards and Framework Act 1998 is amended as follows.

38. In section 19(2)(ca) (power of Secretary of State to direct closure of school) omit “or the National Council for Education and Training for Wales (if the school is in Wales)”.

39. In section 30(3) (notice by governing body to discontinue foundation of voluntary school) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

40. In sub-paragraph 5(1)(a) of Schedule 22 (disposals of land in cases of certain schools and disposals on continuance) after “adopted” insert “, confirmed”.

#### **Government of Wales Act 1998 (c. 38)**

41. The Government of Wales Act 1998 is amended as follows.

42. In section 118(2) of the Government of Wales Act 1998 (meaning of “Welsh public records”) omit paragraph (ha).

43. In section 145B(1) (studies at request of educational bodies) in the second column of the table for “the National Council for Education and Training for Wales” substitute “the Assembly”.

44. In Part 1 of Schedule 4 (public bodies subject to reform by Assembly) omit paragraph 5.

#### **Care Standards Act 2000 (c. 14)**

45. The Care Standards Act 2000 is amended as follows.

46. In Schedule 2A (persons subject to review by the Children’s Commissioner for Wales under section 72B of that Act), omit paragraph 4.

47. In Schedule 2B (persons whose arrangements are subject to review by the Children’s Commissioner for Wales under section 73 of that Act), omit paragraph 5.

#### **Learning and Skills Act 2000 (c. 21)**

48. The Learning and Skills Act 2000 is amended as follows.

49. For the heading for Part 2, substitute “Further Education and Sixth Form Education: Wales”.

50. Omit section 30 (the Council) and the cross heading immediately preceding it .

51. In section 31 (education and training for persons aged 16 to 19)—

- (a) in subsection (1) for “Council” substitute “National Assembly for Wales (the National Assembly)”;
- (b) in subsection (3) for “Council” in each place substitute “National Assembly”;
- (c) omit subsection (3)(e);
- (d) omit subsection (4).

52. In section 32 (education and training for persons over 19)—

- (a) in subsection (1) for “Council” substitute “National Assembly”;
- (b) omit subsection (2);



- (c) in subsection (3) in each place for “Council” substitute “National Assembly”;
  - (d) omit subsection 3(e);
  - (e) omit subsection (4).
- 53.** In section 33 (encouragement of education and training) for “Council” substitute “National Assembly”.
- 54.** In section 34 (provision of financial resources)—
- (a) in subsections (1) and (3) for “Council” substitute “National Assembly”;
  - (b) in subsection (2) for “Council” in both places substitute “National Assembly”.
- 55.** In section 35 (financial resources: conditions)—
- (a) in subsection (1)—
    - (i) for “Council” substitute “National Assembly”;
    - (ii) after “financial resources” insert “under section 34”; and
  - (b) in subsection (2)—
    - (i) for “Council” in both places substitute “National Assembly”;
    - (ii) after “its functions” insert “under this Part”;
  - (c) in subsection (5) for “Council” in each place substitute “National Assembly”.
- 56.** In section 36(1) (funding of school sixth forms) for “Council” substitute “National Assembly”.
- 57.** In section 37 (assessment and means tests) in subsections (1) to (4) for “Council” substitute “National Assembly”.
- 58.** In section 38 (qualifying accounts and arrangements)—
- (a) in subsection (1) for “Council” substitute “National Assembly”;
  - (b) omit subsection (2).
- 59.** In section 39(1) (further education: governors) for “Council” substitute “National Assembly”.
- 60.** In section 40 (research and information)—
- (a) omit subsections (1) to (4);
  - (b) in subsections (5) and (6) for “Council” substitute “National Assembly”.
- 61.** In section 41 (persons with learning difficulties)—
- (a) in subsection (1) for “Council” substitute “National Assembly”;
  - (b) in subsections (2), (3) and (4) for “Council” in both places substitute “National Assembly”.
- 62.** Omit sections 42 to 51 (general provisions relating to the Council).
- 63.** In section 74(1) (some defined terms) omit the definition of “ Council”.
- 64.** In section 75(1) (the extended remit of the Chief Inspector for Wales) in both places for “Council” substitute “National Assembly in the discharge of its functions under Part 2”.
- 65.** In section 77(5) (inspections) omit paragraph (b).
- 66.** In section 83 (area inspections) in subsections (3) and (6) for “Council” substitute “National Assembly”.
- 67.** In section 84 (action plans following section 83 inspections)—
- (a) omit subsection (2);

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- (b) in subsection (4) omit “the Council or”.
- 68.** Omit section 91 (dissolution of FEFC for Wales).
- 69.** Omit section 93 (transfers: Wales).
- 70.** In section 94 (stamp duty)—
  - (a) in subsection (1) omit “or 91”;
  - (b) in subsection (2) for “, 92 or 93” substitute “or 92”.
- 71.** In section 95 (contracts of employment)—
  - (a) in subsection (1)(a) omit “or 91”;
  - (b) in subsection (1)(b) for “, 92 or 93” substitute “or 92”.
- 72.** In section 100(2) (authorised bodies) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.
- 73.** In section 113A (restructuring of sixth-form education)—
  - (a) in subsection (2) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
  - (b) after subsection (4) insert—
    - “(4A) Proposals under this section are to be published.”;
  - (c) In subsection (5) for “under this section are to be published and” substitute “under subsection (1) are to be”;
  - (d) after subsection (5) insert—
    - “(5A) In respect of proposals under subsection (2), the relevant authority shall, in accordance with regulations made under subsection (9), determine whether to—
      - (a) confirm them, with or without modification or subject to the occurrence of any event; or
      - (b) withdraw them.”;
  - (e) in subsection (7) omit “and the National Council for Education and Training for Wales”;
  - (f) in subsection (8) for “this section” substitute “subsection (1)”;
  - (g) in subsection (9)(f) for “the proposals” substitute “proposals under subsection (1)”;
  - (h) after subsection (9)(f) insert—
    - “(g) confirmation of proposals under subsection (2) by the relevant authority”;
  - (i) in subsection (11)—
    - (i) in the definition of “regulations” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
    - (ii) in the definition of “relevant authority” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.
- 74.** In section 125(2) (consultation and co-ordination) omit paragraph (b).
- 75.** In section 126(3)(f) (educational institutions: information and access) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales in the discharge of its functions under Part 2”.
- 76.** In section 138(3) (Wales: provision of information by public bodies), for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.
- 77.** In section 144 (designated institutions: disposal of land, & c.)—

- (a) in subsection (3) for “council” substitute “authority”;
  - (b) in subsection (4) in both places for “council” substitute “authority”;
  - (c) in subsection (4)(b) for “by the Secretary of State” substitute—
    - “(i) if the land is in England, the Secretary of State;
    - (ii) if the land is in Wales, by an arbitrator to be appointed (the expense of which shall be borne equally by the trustees and the National Assembly for Wales) in default of agreement, by the President of the Chartered Institute of Arbitrators”;
  - (d) in subsection (9)—
    - (i) for “council” substitute “authority”;
    - (ii) in paragraph (b) omit “National Council for Education and Training for Wales” and substitute “National Assembly for Wales”.
- 78.** In section 150(4)(a) (Wales) after “134” insert “, 144”.
- 79.** In section 151 (transitional provisions)—
- (a) in subsection (1)(a) for “Parts 1 and 2” substitute “Part 1” and for “contain” substitute “contains”;
  - (b) in subsection (1)(b) omit “and the National Council for Education and Training for Wales”.
- 80.** Omit Schedule 4 (National Council for Education and Training for Wales).
- 81.** Omit Schedule 5 (committees (Wales)).
- 82.**—(1) Schedule 7 is amended as follows.
- (2) In paragraph 20—
    - (a) in sub-paragraph (1) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
    - (b) in sub-paragraph (3)—
      - (i) for “Council” substitute “National Assembly for Wales”;
      - (ii) omit “, having regard to any guidance issued by the National Assembly for Wales,”.
  - (3) In paragraph 21—
    - (a) omit sub-paragraph (1);
    - (b) for sub-paragraph (2) substitute—
      - “(2) In the case of a community or foundation special school, the National Assembly for Wales shall send a copy of the published proposals to such persons as may be prescribed.”
  - (4) In paragraph 28—
    - (a) in sub-paragraph (1) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
    - (b) in sub-paragraph (3)—
      - (i) for “Council” substitute “National Assembly for Wales”;
      - (ii) omit “, having regard to any guidance issued by the National Assembly for Wales,”.
  - (5) In paragraph 29—
    - (a) omit sub-paragraph (1);
    - (b) for sub-paragraph (2) substitute—

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- “(2) In the case of a community or foundation special school, the National Assembly for Wales shall send a copy of the published proposals to such persons as may be prescribed.”
- (6) In paragraph 39(2) omit the definition of “the Council”.
- (7) In Paragraph 40—
- (a) for “any of the following” substitute “the National Assembly”;
  - (b) omit sub-paragraphs (a) and (b).
- (8) In paragraph 42—
- (a) for sub-paragraphs (1) and (2) substitute—
    - “(1) After the expiry of the period mentioned in paragraph 41, the National Assembly shall determine whether to—
      - (a) withdraw the proposals;
      - (b) confirm them without modification; or
      - (c) confirm them subject to modifications.    - (2) In making a determination under sub-paragraph (1), the National Assembly shall have regard to any objections made in accordance with paragraph 41 and not withdrawn.”;
  - (b) in sub-paragraph (3) for “approving” substitute “confirming”;
  - (c) in sub-paragraph (4)—
    - (i) for “An approval” substitute “A confirmation”;
    - (ii) for “the proposals shall fall to be considered afresh” substitute “the National Assembly shall reconsider its determination”;
  - (d) for sub-paragraph (5) substitute—
    - “(5) The National Assembly may withdraw its proposals at any time before a determination is made under this paragraph.”
- (9) In paragraph 43—
- (a) in sub-paragraph (1) for “approved” substitute “confirmed”;
  - (b) in sub-paragraphs (2)(b) and (c) for “approved” substitute “confirmed”;
  - (c) omit sub-paragraph (3);
  - (d) in sub-paragraph (4) for “the Council” substitute “the National Assembly for Wales”.
- 83.** Paragraph 1 of Schedule 7A is amended as follows:
- (a) in sub-paragraph (1) and (2) after “approval” insert “or confirmed”;
  - (b) in sub-paragraph (3)(b) and (4)(b) after “approval” insert “or confirmation”.
- 84.** In Schedule 10 (transitional provisions) omit Part 2.

#### **Freedom of Information Act 2000 (c. 36)**

**85.** In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) omit “The National Council for Education and Training For Wales.”

#### **Education Act 2002 (c. 32)**

- 86.** The Education Act 2002 is amended as follows.
- 87.** In section 131(7) (appraisal)—
- (a) in paragraph (c) after “in Wales,” insert “and”;

(b) omit paragraph (e) and the word “and” immediately preceding it.

88. In section 183(2) (transfer of functions relating to allowances under section 181 of that Act) omit paragraph (a).

#### **Children Act 2004 (c. 31)**

89. The Children Act 2004 is amended as follows.

90. In section 25(4) (co-operation to improve well-being: Wales) for paragraph (f) substitute—

“(f) the Assembly to the extent that it is discharging functions under Part 2 of the Learning and Skills Act 2000”.

91. In subsection 29(7) (information databases: Wales) for sub-paragraph (b) substitute—

“(b) the National Assembly for Wales to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000”.

#### **Public Services Ombudsman (Wales) Act 2005 (c. 10)**

92. The Public Services Ombudsman (Wales) Act 2005 is amended as follows.

93. In Schedule 2 (excluded matters) omit paragraph 7.

94. In Schedule 3 (listed authorities) omit “The National Council for Education and Training for Wales”.

#### **Education Act 2005 (c. 18)**

95. The Education Act 2005 is amended as follows.

96. In section 28(4)(a) (duty to arrange regular inspections of certain schools) after “adopted” insert “, confirmed”.

97. In section 38(6) (destination of reports: maintained schools) for “National Council for Education and Training for Wales” substitute “Assembly”.

98. In section 92(2) (joint exercise of functions) for “National Council for Education and Training for Wales” substitute “the Assembly to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000”.

### SCHEDULE 2

Article 9(2)

#### CONSEQUENTIAL AMENDMENTS TO STATUTORY INSTRUMENTS

#### **The Income Support (General) Regulations 1987 (S.I. 1987/1967)**

1. In the Income Support (General) Regulations 1987:

(1) In regulation 61(1)—

(a) in sub-paragraphs (a), (b) and (b)(ii) in the definition of “full-time course of advanced education” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(b) in sub-paragraphs (a), (b) and (b)(ii) in the definition of “full-time course of study” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”;

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(2) In Schedule 1B, in paragraph 28 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”

**The Housing Benefit (General) Regulations 1987 (S.I. 1987/1971)**

2. In regulation 46(1) of the Housing Benefit (General) Regulations 1987, in paragraphs (a), (b) and (b)(ii) in the definition of “full-time course of study” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”

**The Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814)**

3. In regulation 38(1) of the Council Tax Benefit (General) Regulations 1992, in paragraphs (a), (b) and (b)(ii) in the definition of “full-time course of study” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”

**The Education (Government of Further Education Corporations) (Former Sixth Form Colleges) Regulations 1992 (S.I. 1992/1957)**

4. In the Education (Government of Further Education Corporations) (Former Sixth Form Colleges) Regulations 1992:

(1) in Schedule 1—

(a) in paragraph 1(a)

(i) in the definition of “business member” for “TEC member” substitute “NAW member”;

(ii) omit the definition of “TEC member”;

(iii) insert a definition ““NAW member” means a person nominated by the National Assembly for Wales”;

(b) in paragraph 4(1)(d) for “TEC member” substitute “NAW member”;

(c) in paragraph 23

(i) in paragraph (2)(b) for “appropriate Further Education Funding Council” substitute “National Assembly for Wales”;

(ii) in paragraph (4) for “appropriate Further Education Funding Council” substitute “National Assembly for Wales.”

(2) in Schedule 2, in paragraph 15 for “appropriate Further Education Funding Council” substitute “National Assembly for Wales”.

**The Education (Government of Further Education Corporations) (Former Further Education Colleges) Regulations 1992 (SI 1992/1963)**

5. In the Education (Government of Further Education Corporations) (Former Further Education Colleges) Regulations 1992:

(1) in Schedule 1—

(a) in paragraphs 21(2)(b) and 21(4) for “appropriate Further Education Funding Council” substitute “National Assembly for Wales”;

(2) in Schedule 2 in paragraph 16 for “appropriate Further Education Funding Council” substitute “National Assembly for Wales”.

### **The Education (Designated Institutions in Further Education) (Wales) Order 1993 (S.I. 1993/215)**

6. In article 2 of the Education (Designated Institutions in Further Education) (Wales) Order 1993 paragraph (1) for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”.

### **The Coleg Menai (Government) Regulations 1994 (S.I. 1994/1450)**

7. In the Coleg Menai (Government) Regulations 1994:

(1) In Schedule 1 in paragraphs 21(2)(b) and 21(4) for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”;

(2) In Schedule 2 paragraph 16 for “Further Education Funding Council” substitute “National Assembly for Wales”.

### **The Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207)**

8. In the Jobseeker’s Allowance Regulations 1996:

(1) In regulation 1(3)—

(a) in sub-paragraphs (a), (b) and (b)(ii) in the definition for “full-time course of advanced education” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(b) in sub-paragraphs (b)(i), (b)(ii) and (b)(ii)(bb) in the definition for “full-time student” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In regulation 11(3) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”;

(3) In regulation 57(1), in the definition of “training” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”;

(4) In regulation 75(1)(b)(i), for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”;

(5) In regulation 170(2), for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”;

(6) In Schedule A1, in paragraph 16 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”.

### **The Housing Renewal Grants Regulations 1996 (S.I. 1996/2890)**

9. In regulation 41 of the Housing Renewal Grants Regulations 1996:

(1) In sub-paragraph (d) in the definition of “access funds” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In sub-paragraphs (a), (b) and (b)(ii) in the definition of “full-time course of study” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(3) Omit the definition “the NCETW means the National Council for Education and Training in Wales”.

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**The Local Education Authority (Behaviour Support Plans) Regulations 1998 (S.I. 1998/644)**

10. In regulation 3(2)(m) of the Local Education Authority (Behaviour Support plans) Regulations 1998 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**The Education (Publication of Local Education Authority Inspection Reports) Regulations 1998 (S.I. 1998/880)**

11. In regulation 4(1)(d) of the Local Education Authority (Publication of Local Education Authority Inspection Reports) Regulations 1998 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**The Education (School Inspection) (Wales) Regulations 1998 (S.I. 1998/1866)**

12. In the Education (School Inspection) (Wales) Regulations 1998:

(1) In regulation 5(1)(g) and 5(1)(i) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In regulation 6(c)(ii) and 6(d)(iv) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(3) In regulation 8(3)(b) and 8(3)(c) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**The General Teaching Council for Wales (Constitution) Regulations 1999 (S.I. 1999/1619)**

13. In Part 2 of the Schedule to the General Teaching Council for Wales (Constitution) Regulations 1999 omit “National Council for Education and Training for Wales”.

**The Education (Maintained Special Schools) (Wales) Regulations 1999 (S.I. 1999/1780)**

14. In regulation 7(2)(a) of the Education (Maintained Special Schools) (Wales) Regulations 1999 omit “the National Council for Education and Training for Wales, if the proposals affect the provision of education to which section 31(1) of the Learning and Skills Act 2000 applies”.

**The Education (School Information) (Wales) Regulations 1999 (S.I. 1999/1812)**

15. In the Education (School Information) (Wales) Regulations 1999:

(1) In regulation 6(9) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In paragraph 20 in Part 2 in Schedule 1, for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**The Further Education Corporations (Yale College) (Modification of Instrument of Government) Order 1999**

16. In article 20(2) of the Further Education Corporations (Yale College) (Modification of Instrument of Government) Order 1999 for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”.



**The Further Education Corporations (Yale College) (Modification of Instrument of Government) Order (No.2) 1999**

17. In the Further Education Corporations (Yale College) (Modification of Instrument of Government) Order (No.2) 1999:

(1) In articles 3(2) and 5(2) for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”;

(2) In article 5(3)—

(a) for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”;

(b) omit “pursuant to the fulfilment of the Council’s statutory functions”;

(3) In article 6—

(a) for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”;

(b) omit “from that Council”.

**The National Council for Education and Training for Wales (Interim Functions) Order 2000 (S.I. 2000/2539) (W.162)**

18. The National Council for Education and Training for Wales (Interim Functions) Order 2000 is revoked.

**The Whole of Government Accounts (Designation of Bodies) Order 2000 (S.I. 2000/3357)**

19. In the Schedule to the whole of Government Accounts (Designation of Bodies) Order 2000 omit “National Council for Education and Training for Wales”.

**The Education (Publication of Draft Proposals and Orders) (Further Education Corporations) (Wales) Regulations 2001 (S.I. 2001/2069) (W.141)**

20. The Education (Publication of Draft Proposal and Orders) (Further Education Corporations) (Wales) Regulations 2001 are revoked.

**The Inspection of Education and Training (Wales) Regulations 2001 (S.I. 2001/2501) (W.204)**

21. In regulation 4(3)(c) of the Inspection of Education and Training (Wales) Regulations 2001 omit “the National Council for Education and Training for Wales”.

**The Race Relations Act 1976 (Statutory Duties) Order 2001 (S.I. 2001/3458)**

22. In the Race relations Act 1976 (Statutory Duties) Order 2001:

(1) In Schedule 1 omit “The National Council for Education and Training for Wales”.

(2) In Part 4 of Schedule 2 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**The Whole of Government Accounts (Designation of Bodies) Order 2002 (S.I. 2002/454)**

23. In Schedule 2 to the Whole of Government Accounts (Designation of Bodies) Order 2002 omit “National Council for Education and Training in Wales”.

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**The Local Authorities (Goods and Services) (Public Bodies) (Wales) Order 2002 (S.I. 2002/1729) (W.163)**

24. In the Schedule to the Local Authorities (Goods and Services) (Public Bodies) (Wales) Order 2002 omit “The National Council for Education and Training for Wales”.

**The Child Tax Credit Regulations 2002 (S.I. 2002/2007)**

25. In regulation 2 of the Child Tax Credit Regulations 2002 in the definition “relevant training programme” in paragraph (aa) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**The Education (Teacher Student Loans) (Repayment etc) Regulations 2002 (S.I. 2002/2086)**

26. In the Education (Teacher Student Loans) (Repayment etc) Regulations 2002:

(1) In regulation 2 in the definition of “specialist college” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In regulation 4(3)(d) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**The Freedom of Information (Additional Public Authorities) Order 2002 (S.I. 2002/2623)**

27. In Schedule 1 of the Freedom of Information (Additional Public Authorities) Order 2002 omit “The National Council for Education and Training for Wales”.

**The National Assembly for Wales (Disqualification) Order 2003 (S.I. 2003/437)**

28. In Part 1 of the Schedule to the National Assembly for Wales (Disqualification) Order 2003 omit “The National Council for Education and Training for Wales”.

**The Whole of Government Accounts (Designation of Bodies) Order 2003 (S.I. 2003/489)**

29. In the Schedule Whole of Government Accounts (Designation of Bodies) Order 2003 omit “National Council for Education and Training for Wales”.

**The Child Benefit (General) Regulations 2003 (S.I. 2003/493)**

30. In regulation 1 of the Child Benefit (General) Regulations 2003 in the definition of “relevant training programme” in paragraph (b) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

**The Individual Learning Accounts Wales Regulations 2003 (S.I. 2003/918) (W.119)**

31. In regulation 1(2) of the Individual Learning Accounts Wales Regulations 2003 in the definition of “learning accounts administrator” (“*gweinyddydd cyfrifon dysgu*”) after “these regulations” add “or the National Assembly for Wales”.

**The Education (School Organisation Plans) (Wales) Regulations 2003 (S.I. 2003/1732) (W.190)**

32. In regulation 5(1)(viii) of the Education (School Organisation Plans) Regulations 2003 omit “the National Council for Education and Training for Wales”.

### **The Education (Teacher Student Loans) (Repayment etc) Regulations 2003 (S.I. 2003/1917)**

**33.** In the Education (Teacher Student Loans) (Repayment etc) Regulations 2003:

(1) In regulation 2 in the definition for “specialist college” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In regulation 4(3)(d) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

### **The Schools Forums (Wales) Regulations 2003 (S.I. 2003/2909) (W.275)**

**34.** In the Schools Forums (Wales) Regulations 2003:

(1) In regulation 1 in the definition of “relevant body” (“*corff perthnasol*”) add “)” after “and the authority itself” and omit “but excluding the National Council for Education and Training for Wales”.

(2) In regulation 6(4) for “National Council for Education and Training for Wales ”substitute “National Assembly for Wales”.

### **The LEA Budget, Schools Budget and Individual Schools Budget (Wales) Regulations 2003 (S.I. 2003/3118) (W.296)**

**35.** In regulation 2(8)(a) of the LEA Budget, Schools Budget and Individual Schools Budget (Wales) Regulations 2003 for “National Council for Education and Training for Wales ”substitute “National Assembly for Wales”.

### **The Education (Information About Individual Pupils) (Wales) Regulations 2003 (S.I. 2003/3237) (W.317)**

**36.** In the Education (Information About Individual Pupils) (Wales) Regulations 2003:

(1) In regulation 2 in the definition of “learning activity reference” (“*cyfeirnod gweithgaredd dysgu*”) for “National Council for Training and Education for Wales” substitute “National Assembly for Wales”;

(2) In regulation 4(2)(b) omit “the National Council for Training and Education for Wales”.

### **The Inspection of Youth Support Services in Wales Regulations 2004 (S.I. 2004/679) (W.67)**

**37.** In regulation 2(3) of the Inspection of Youth Support Services in Wales Regulations 2004 omit “(c) the National Council for Education and Training in Wales”.

### **The Schools Budget Shares (Wales) Regulations 2004 (S.I. 2004/2506)(W.224)**

**38.** In the Schools Budget Shares (Wales) Regulations 2004:

(1) In regulation 2 omit “the National Council (“*y Cyngor Cenedlaethol*”) means the National Council for Education and Training for Wales”;

(2) In regulation 7(3) omit “or the National Council”;

(3) In regulation 8(2) for “National Council” substitute “National Assembly”;

(4) In regulation 14(2) for “National Council” substitute “National Assembly”;

(5) In the heading at Regulation 15 for “National Council” substitute “National Assembly”;

(6) In regulation 15 for “National Council” substitute “National Assembly”.

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### **The School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004 (S.I. 2004/1576) (W.162)**

**39.** In the School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004:

(1) In the title of the Regulations for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In regulation 1(1) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(3) In regulation 2 omit “the Council means the National Council for Education and Training for Wales”;

(4) In regulation 4 for “Council” substitute “National Assembly”;

(5) In regulation 5—

(a) in paragraphs (1), (2) and (3) for “Council” substitute “National Assembly”;

(b) in paragraph (4) and sub-paragraph (f) for “Council” substitute “National Assembly”;

(c) in paragraph (4) omit “(a) the National Assembly”;

(d) in paragraph (5) and (6) for “Council” substitute “National Assembly”.

(6) In regulation 6 for “the Council” substitute “the National Assembly for Wales”.

(7) Regulation 7 is revoked.

(8) Regulation 8 is revoked.

(9) Insert the following after Regulation 6:

#### **Determination by the National Assembly**

**8A.**—(1) After the expiry of the period mentioned in regulation 6, the National Assembly shall determine whether to—

(a) withdraw the proposals,

(b) confirm them without modification; or

(c) confirm them subject to modifications.

(2) In making a determination under paragraph (1), the National Assembly shall have regard to any objections made in accordance with regulation 6 and not withdrawn.

(3) Before confirming the proposals subject to modifications the National Assembly shall consult such persons as it considers appropriate.

(4) A confirmation under sub-paragraph (1)(b) or (c) may be subject to the occurrence by a specified time of a specified event which is of a prescribed kind; and if the event does not occur by the specified time the National Assembly shall reconsider its determination under paragraph (1).

(5) The National Assembly may withdraw its proposals at any time before a determination is made under this regulation.

(10) In regulation 9—

(a) in paragraph (1) omit “(a) the Council”;

(b) in paragraph (2)(a) insert “National” after the words “appears to the” and for “Council” substitute “National Assembly”;

(c) paragraph (3) is revoked.

(11) In regulation 10—

(a) paragraph (1) is revoked;

- (b) in paragraph (2)—
  - (i) omit “(a) the Council”;
  - (ii) after “been approved” insert “or confirmed”.
- (12) Regulation 13 is revoked.
- (13) In regulation 14—
  - (a) in paragraph (1) for “Council” substitute “National Assembly”;
  - (b) in paragraph (2) for “Council” substitute “National Assembly” and after “proposals” insert “and any other relevant information”.
- (14) In regulation 16(1) for “that approval” substitute “that confirmation”.
- (15) In regulation 17 omit “(a) the Council”.
- (16) In Schedule 1—
  - (a) in paragraph 1 for “Council” substitute “National Assembly”;
  - (b) omit paragraph 12.
- (17) In Schedule 2, in paragraph 1 for “Council” substitute “National Assembly”.
- (18) Schedule 3 is revoked.
- (19) In Schedule 4—
  - (a) in paragraph 1 after “approved” insert “or confirmed”;
  - (b) in paragraph 4:
    - (i) for “Council” substitute “the National Assembly”;
    - (ii) delete “, having any regard to any guidance issued by the National Assembly,”;
  - (c) omit paragraph 5;
  - (d) in paragraph 6 for “the Council” substitute “the National Assembly”.

**The Whole of Government Accounts (Designation of Bodies) Order 2005 (S.I. 2005/486)**

**40.** In Schedule 1 to the Whole of Government Accounts (Designation of Bodies) Order 2005 omit “National Council for Education and Training for Wales”

**The St David’s Catholic College Incorporation Order 2005 (S.I. 2005/2293)**

- 41.** In the St David’s Catholic College Incorporation Order 2005:
- (1) In article 2 omit the definition of “the Council”.
  - (2) In article 7:
    - (a) in paragraph (1) for “consent of the Council” substitute “consent of the Assembly”;
    - (b) in paragraph (3) for “by the Council” substitute “by the Assembly”.
  - (3) In article 9 for “and the Council” substitute “and the Assembly”.
  - (4) In article 10:
    - (a) for paragraph (2)(a) substitute—
      - “(a) property acquired or enhanced in value wholly or partly by means of financial assistance provided by:
        - (i) the Assembly under section 34 of the Learning and Skills Act 2000 from 1 April 2006;

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- (ii) the National Council for Education and Training for Wales under section 34 of the Learning and Skills Act between 1 April 2001 and 31 March 2006;
  - (iii) the Further Education Funding Council for Wales under section 5 of the Further and Higher Education Act 1992 before 1 April 2001.”;
- (b) in paragraph (3)(a) for “vest in the Council” substitute “vest in the Assembly”.
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### **EXPLANATORY NOTE**

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

Section 28 of the Government of Wales Act 1998 gives the National Assembly for Wales (“the National Assembly”) powers with respect to the structure of certain public bodies in Wales listed in Schedule 4 to that Act.

It provides that the National Assembly may transfer the functions of some of those bodies to another such body, to a Welsh local authority or to itself; and that it may abolish such bodies where all their functions have been transferred.

This Order transfers the functions of the National Council for Education and Training for Wales (“the Council”) to the National Assembly, provides for the transfer of staff from the Council to the National Assembly and makes appropriate consequential, incidental, transitional and supplementary provisions.

Article 2 provides for the transfer of the Council’s functions to the National Assembly.

Article 3 provides for the transfer of the Council’s staff and applies the Transfer of Undertakings (Protection of Employment) Regulations 1981.

Article 4 provides for the transfer of property, rights and liabilities.

Article 5 provides for continuity in the exercise of functions.

Article 6 provides that upon the transfer of the functions, the Council is abolished.

Articles 7 and 8 make certain transitional provisions including in relation to the preparation by the National Assembly of accounts for the Council for the financial year 2005— 2006.

Article 9 provides for consequential amendments to primary and subordinate legislation.

A regulatory appraisal has been prepared and copies are available from the National Assembly for Wales, Cathays Park, Cardiff.