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WELSH STATUTORY INSTRUMENTS

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**2003 No. 1718 (W.185) (C.72)**

**EDUCATION, WALES**

**The Education Act 2002 (Commencement  
No. 2) (Wales) Order 2003**

*Made*     -   -   -   -

*9th July 2003*

The National Assembly for Wales, in exercise of the power conferred upon it by section 216(3), (4) (b), (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. 2) (Wales) Order 2003.
2. Provisions brought into force by this Order are brought into force only in relation to Wales (except in relation to sections 139 and 197).
3. In this Order, unless otherwise stated, references to Parts, sections and Schedules are references to Parts and 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 I of the Schedule to this Order is 1st August 2003.
5. The day appointed for the coming into force of the provisions specified in Part II of the Schedule to this Order is 1st September 2003.
6. The day appointed for the coming into force of the provisions specified in Part III of the Schedule to this Order is 1st November 2003.

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<sup>(1)</sup> 2002 c. 32.

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

9th July 2003

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

## SCHEDULE

Articles 4, 5 and 6

## PART I

## Provisions coming into force on 1st August 2003

<i>Provision</i>	<i>Subject matter</i>
Sections 60 to 64	Powers of intervention —
	Local education authorities
Section 178(1) and (4)	Area inspections
Section 215(2) in so far as it relates to the provisions of Schedule 22 below	Repeals
In Schedule 22, Part 3 the repeal of —	Repeals
Disability Discrimination Act 1995(3), section 28Q(12),	
Education Act 1996(4), Sections 483(3A), 483A(7), 490, 497A(3), in section 580, the entries relating to city academy, city college for the technology of the arts, city technology college,	
Learning and Skills Act 2000(5), Schedule 8.	

## PART II

## Provisions coming into force on 1st September 2003

<i>Provision</i>	<i>Subject matter</i>
Section 19(6) in so far as it relates to the provisions of Schedule 1 below	Governing bodies
Sections 27 and 28	Power of governing body to provide community facilities
Section 29	Additional functions of governing bodies
Section 40 in so far as it relates to the provisions of Schedule 3 below	Amendments of Part 2 of School Standards and Framework Act 1998
Section 136	Further education : provision of education
Section 137	Principals of further education institutions
Section 138	Training in provision of further education

(3) 1995 c. 50.

(4) 1996 c. 56.

(5) 2000 c. 21.

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<i>Provision</i>	<i>Subject matter</i>
Section 139	Wales : provision of higher education
Section 140	Further education : general
Sections 181 to 185	Allowances in respect of education or training
Section 197	Partnership agreements and statements
Section 199	Transport for persons over compulsory school age
Section 202	Further education institutions : records
Section 203	Further education institutions : hazardous material, etc
Section 206	Nuisance or disturbance on education premises
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, paragraph 3(1) (except paragraph (a)) and sub-paragraphs (3) to (8) so far as relating to the power conferred by sub-paragraph (1)(b)	Governing bodies
Schedule 3, paragraphs 1 to 5	Amendments of Part 2 of School Standards and Framework Act 1998
Schedule 19	Transport for persons over compulsory school age
Schedule 20	Nuisance or disturbance on educational premises
Schedule 21,	Minor and consequential amendments
Paragraph 4	
Paragraph 34	
In Schedule 22, Part 3, the repeal of	Repeals
Local Government (Miscellaneous Provisions) Act 1982 <sup>(6)</sup> , section 40,	
Further and Higher Education Act 1992 <sup>(7)</sup> , in Schedule 8, paragraph 90,	
Education Act 1996, section 509(6) and in Schedule 37, paragraph 55,	
Education Act 1997 <sup>(8)</sup> , in Schedule 7, paragraph 9(3),	

<sup>(6)</sup> 1982 c. 30.

<sup>(7)</sup> 1992 c. 13.

<sup>(8)</sup> 1997 c. 44.

<i>Provision</i>	<i>Subject matter</i>
School Standards and Framework Act 1998(9), in Schedule 30, paragraph 133(b)	

## PART III

### Provisions coming into force on 1st November 2003

<i>Provision</i>	<i>Subject matter</i>
Section 43	School Forums

## EXPLANATORY NOTE

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

This Order brings into force on 1st August 2003, 1st September 2003 and 1st November 2003, those provisions of the Education Act 2002 specified in Parts I to III 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 I of the Schedule is as follows —

Sections 60 to 64 relate to the powers of the National Assembly for Wales (the National Assembly) to direct LEAs.

Section 60 amends section 497A of the Education Act 1996 (the 1996 Act) so that a direction can relate to all functions of an LEA; so that a further direction can be made when a previous one comes to an end if the National Assembly is satisfied that if it did not make a further direction, the LEA would not perform the function in question to an adequate standard; so that the National Assembly can direct an LEA to take more specific action; and so as to enable the National Assembly to direct that a function is to be exercised by it or by its nominee. Section 61 inserts a new section 497AA of the 1996 Act which requires an LEA to co-operate with the National Assembly, or its nominee, if the National Assembly is contemplating making a direction. Section 62 makes consequential amendments to section 497B of the 1996 Act. Sections 63 and 64 enable the National Assembly in certain circumstances to direct an LEA to obtain advice from a specified person.

Section 178(1) and (4) amend the Learning and Skills Act 2000 to extend area inspections to persons who are aged over 14.

Section 215 and Schedules 21 and 22 make minor and consequential amendments and repeals.

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

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(9) 1998 c. 31.

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Section 27 enables the governing body of a maintained school to provide facilities or services for the benefit of the community. Section 28 sets limits on the exercise of this power. Section 19(6) and Schedule 1, paragraph 3(1), (3) to (8), and section 40 and Schedule 3, paragraphs 1 to 5 make provision consequential on the introduction of this power.

Section 29 re-enacts, with amendments, section 39 of the School Standards and Framework Act 1998 (the 1998 Act). Section 39(1) of the 1998 Act required governing bodies to establish a complaints procedure in accordance with regulations, but no regulations were made under that section. Section 29 (1) and (2) now requires a governing body to have a complaints procedure as set out in the section and in accordance with guidance. Section 29 (3) and (4) gives a governing body the power to require pupils to attend any place outside the school for curriculum purposes. Section 29(5) requires a governing body and a head teacher to comply with an LEA's directions in relation to health and safety.

Sections 136 to 140 contain regulation making powers in relation to the qualifications of further education teachers and principals, in relation to courses leading to such qualifications and in relation to the provision of courses of higher education at further education institutions.

Sections 181 to 185 enable the National Assembly to make regulations providing for allowances to be paid to eligible persons over compulsory school age taking part in education or training which is not higher education.

Section 197 enables the National Assembly to make regulations requiring LEAs and governing bodies to enter into partnership agreements, setting out how they will carry out their functions in relation to a school.

Section 199 and Schedule 19 amend provisions of the 1996 Act relating to transport. They require LEAs to prepare a policy statement setting out their arrangements for the provision of, or support for, transport for post 16 learners.

Section 202 contains regulation making powers in relation to educational records of further education institutions.

Section 203 contains regulation making powers in relation to the use of hazardous equipment and materials in further education institutions.

Section 206 and Schedule 20 amend the 1996 Act and the Further and Higher Education Act 1992, to extend the provisions relating to nuisance or disturbance on educational premises to non-maintained special schools, independent schools, premises provided by an LEA for instruction in sporting, recreational or outdoor activities and to institutions within the further education sector.

Section 215 and Schedules 21 and 22 make minor and consequential amendments and repeals.

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

Section 43 inserts a new section 47A of the 1998 Act, requiring LEAs to establish school forums. These will represent governing bodies and head teachers and will advise the LEA on matters relating to its schools budget.

## 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>

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 18(2)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Section 49	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Sections 54 to 56	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 75 (partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Sections 97 and 98	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 99(1)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 100 (partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 101 (partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 103	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Sections 105 to 107	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 108 s(partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 109	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Sections 111 to 118	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 119	1st October 2002	<a href="#">2002/2439</a>
Section 120(1) and (3) to (5)	1st October 2002	<a href="#">2002/2439</a>
Section 121	1st October 2002	<a href="#">2002/2439</a>
Section 130 (partially)	1st October 2002	<a href="#">2002/2439</a>
Section 131	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Sections 132 and 133	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 134 (partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 135	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 141	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Sections 142 to 144	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Section 145	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 146 (partially)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Section 148 (partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 149	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Section 150	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Section 151(2)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 152 (partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 179 (partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 180	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 188 (partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 189 (partially)	19th 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 191 to 194	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 195 (partially)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
(fully)	1st September 2003	<a href="#">2002/3185 (W.301)</a>
Section 196	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Section 200	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Section 201 (partially)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Section 215 (partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
(partially)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
(partially)	1st September 2003	<a href="#">2002/3185 (W.301)</a>
Schedule 5	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Schedule 10, paragraphs 1, 6, 11 and 15	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Schedule 11	1st October 2002	<a href="#">2002/2439</a>
Schedule 12, paragraphs 1, 2, 4(1) and (3), 6 and 7	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Paragraph 12(1) and (2)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Schedule 13, paragraphs 1 to 3, 5, 6, 7(1) and (3) and 8	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Schedule 16, paragraphs 4 to 9	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Schedule 17, paragraphs 5(1) to (4), (6) and 6 to 8	19th December 2002	<a href="#">2002/3185 (W.301)</a>
Schedule 18, paragraphs 1, 4, 5 and 7	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Paragraph 8 (partially)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Paragraphs 13 to 15	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Paragraphs 2, 3, 6, 8 (fully), 9 to 12 and 16 to 18	1st September 2003	<a href="#">2002/3185 (W.301)</a>
Schedule 21 (partially)	1st October 2002	<a href="#">2002/2439</a>
(partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
(partially)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
Schedule 22 (partially)	1st October 2002	<a href="#">2002/2439</a>
(partially)	19th December 2002	<a href="#">2002/3185 (W.301)</a>
(partially)	31st March 2003	<a href="#">2002/3185 (W.301)</a>
(partially)	1st September 2003	<a href="#">2002/3185 (W.301)</a>

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](#), S.I. [2002/2952](#), S.I. [2003/124](#) and S.I. [2003/1115](#).



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