WELSH STATUTORY INSTRUMENTS

2006 No. 879 (W.84)(C.21)

EDUCATION, WALES

The Education Act 2002 (Commencement No. 9 and Transitional Provisions) (Wales) Order 2006

Made - - - - 21 March 2006

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. 9 and Transitional Provisions) (Wales) Order 2006.

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 1 April 2006.

Transitional Provision

5. Until regulations are made under section 31 in relation to Wales, the reference in paragraph 9 of Schedule 2 to "any transfer of control authorised by regulations under section 31" is to have effect as though it were a reference to "any transfer of control agreement under Schedule 13" of the School Standards and Framework Act 1998(**2**).

(**1**) 2002 c. 32.
(**2**) 1998 c. 31.

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

D. Elis-Thomas

21 March 2006 — The Presiding Officer of the National Assembly

(**3**) 1998 c. 38.

THE SCHEDULE

Article 4

Provisions coming into force on 1 April 2006

Provision	Subject matter
Section 35	Staffing of community, voluntary controlled, community special and maintained nursery schools
Section 36	Staffing of foundation, voluntary aided and foundation special schools
Section 37	Payments in respect of dismissal, etc.
Section 40 in so far as not already in force	Amendments of Part 2 of School Standards and Framework Act 1998
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 2	Effect on staffing of suspension of delegated budget
Schedule 3 in so far as not already in force	Amendments of Part 2 of School Standards and Framework Act 1998
Schedule 21, paragraph 30, paragraph 107, paragraph 110(3)(b) in so far as it relates to paragraphs (f) and (k) of subsection (6) of section 127 of the School Standards and Framework Act 1998, paragraph 110(3)(c) in so far as it relates to new paragraphs (p) and (q) of sub section (6) of section 127 of the School Standards and Framework Act 1998	Minor and consequential amendments
Schedule 22, Part 3, the repeal of—	Repeals
Education Reform Act 1988, section 218(1)(d),	
School Standards and Framework Act 1998, sections 54 to 57, section 127(6)(f) and (k),	
Schedules 16 and 17,	
Employment Relations Act 1999, section 40.	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1 April 2006 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 of the Schedule to this Order is as follows—

Section 35 makes provision in relation to the staffing of community, voluntary controlled, community special and maintained nursery schools. It replaces the arrangements set out in section 54 of, and Schedule 16 to, the School Standards and Framework Act 1998 ("the 1998 Act"). It provides that the LEA is the employer of staff at such schools and requires such staff to include a head teacher. It enables the National Assembly to make regulations on the appointment, discipline, suspension and dismissal of staff at such schools.

Section 36 makes provision in relation to the staffing of foundation, voluntary aided and foundation special schools, replacing the arrangements set out in section 55 of, and Schedule 17 to, the 1998 Act. It provides that, unless regulations state otherwise, the governing body is the employer of staff at such schools. The staff must include a head teacher. The National Assembly is given the power to make regulations on the appointment, discipline, suspension and dismissal of staff at such schools.

Schedule 2 provides for the staffing arrangements which are to apply instead of regulations under section 34 or 35 if a school's delegated budget is suspended.

Section 37 re-enacts section 57 of the 1998 Act and makes provision in connection with payments in respect of dismissal of staff from maintained schools.

Section 40 and Schedule 3 make amendments to the 1998 Act consequential on the new staffing provisions.

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:

Provision	*Date of Commencement*	*S.I. No.*
Sections 14 to 17	31 March 2003	2002/3185 (W.301)
Section 18(2)	31 March 2003	2002/3185 (W.301)
Section 19(6) (partially)	1 September 2003	2003/1718 (W.185)
Section 19 (1) to (7) (fully)	31 October 2005	2005/2910 (W.207)
Section 20 (1) to (3), (5)	31 October 2005	2005/2910 (W.207)