WELSH STATUTORY INSTRUMENTS

2005 No. 2913 (W.210)

EDUCATION, WALES

The Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2005

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

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by section 214 of the Education Act 2002(**1**).

Title, commencement and application

1.—(1) The title of these Regulations is the Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2005 and they come into force on 31 October 2005.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"the 1996 Act" ("*Deddf 1996*") means the Education Act 1996(**2**);

"the 1998 Act" ("*Deddf 1998*") means the School Standards and Framework Act 1998(**3**); and

"the 2002 Act" ("*Deddf 2002*") means the Education Act 2002.

Modification of section 28D(7) the Disability Discrimination Act 1995

3. In section 28D(7)(a) of the Disability Discrimination Act 1995(**4**) (Accessibility strategies and plans), after the words "maintained schools" insert the words "and maintained nursery schools".

(**1**) 2002 c. 32.
(**2**) 1996 c. 56.
(**3**) 1998 c. 31.
(**4**) 1995 c. 50. Section 28D was inserted by section 14(1) of the Special Educational Needs and Disability Act 2001 (c. 10).

Modification of section 579(1) of the 1996 Act

4. In section 579(1) of the 1996 Act(**5**) (General interpretation), in the definition of "proprietor" after "foundation special school" there is inserted "or a maintained nursery school,".

Instruments of government

5. Despite the coming into force of section 20(1) of the 2002 Act and the repeal of section 37(1) of and Schedule 12 to the 1998 Act(**6**), all instruments of government of maintained schools are to remain in force until replaced by a new instrument of government made in accordance with the Government of Maintained Schools (Wales) Regulations 2005(**7**).

New schools

6.—(1) Despite the coming into force of section 34 of the 2002 Act and the repeal of section 44 of the 1998 Act(**8**), section 44 of the 1998 Act and the Education (New Schools) (Wales) Regulations 1999(**9**) are to continue to apply in relation to a temporary governing body constituted before 31 October 2005.

(2) Where paragraph (1) applies—

(a) provisions of the 1998 Act referred to in section 44 of the 1998 Act and in the Education (New Schools) (Wales) Regulations 1999 which have been revoked by the 2002 Act are to have effect as though they had not been revoked;

(b) section 44 of the 1998 Act is to have effect as though subsection (3)(b) were omitted and as though in subsection (4) there were substituted for "the school opening date" the words "the date notified to the temporary governing body by the local education authority"; and

(c) the Education (New Schools) (Wales) Regulations 1999 are to have effect as though for "the school opening date" in regulation 31(1) there were substituted the words "the date notified to the temporary governing body by the local education authority" and as though regulation 31(3) were omitted.

Maintained nursery schools

7.—(1) Despite the coming into force of the definition of maintained school in section 39 of the 2002 Act(**10**), the requirements imposed by sections 19(1) and 20(1) of the 2002 Act(**11**) in so far as they relate to maintained nursery schools need not be met until 31 March 2006.

(2) Until an instrument of government is in force for a maintained nursery school under section 20(1) of the 2002 Act, the relevant provisions have effect only for the purpose of enabling the instrument of government to be made and the governing body to be constituted for that school.

(3) Accordingly until such time, the National Assembly for Wales, local education authorities, governing bodies and head teachers are to continue to have those same functions in relation to maintained nursery schools as they had immediately before the commencement of the relevant provisions.

(**5**) The definition of "proprietor" was amended by section 140(1) of, and paragraph 183(a)(iii) of Schedule 30 to, the 1998 Act.
(**6**) Section 20(1) of the 2002 Act comes into force on 31 October 2005, and section 37(1) of and Schedule 12 to the 1998 Act are repealed by section 215(2) of and Part 3 of Schedule 22 to, the 2002 Act on 31 October 2005, by virtue of S.I.2005/2910 (W.207) (C.124).
(**7**) S.I. 2005/2914 (W. 211).
(**8**) Section 34 of the 2002 Act comes into force on 31 October 2005, and section 44 of the 1998 Act is repealed by section 215(2) of and Part 3 of Schedule 22 to, the 2002 Act on 31 October 2005, by virtue of S.I. 2005/2910 (W.207) (C.124).
(**9**) S.I. 1999/2243.
(**10**) Section 39 of the 2002 Act comes into force on 31 October 2005 by virtue of S.I. 2005/2910 (W.207) (C.124).
(**11**) Sections 19 and 20 of the 2002 Act come into force on 31 October 2005 by virtue of S.I. 2005/2910 (W.207) (C.124).

(4) In this regulation "the relevant provisions" means the provisions of the Education Act 2002 brought into force by the Education Act 2002 (Commencement No. 7) Order 2005(**12**) and the provisions of these Regulations, in so far as functions are conferred on the National Assembly for Wales, local education authorities, governing bodies or head teachers by or under those provisions in relation to maintained nursery schools.

Maintained nursery schools and delegated budgets

8. The application of Chapter 4 of Part 2 of the 1998 Act to maintained nursery schools, made by the amendment of section 45 of the 1998 Act by paragraph 99(2) of Schedule 21 to the 2002 Act(**13**), is to have effect in the period ending immediately before 1 April 2006 only for the purpose of financing maintained nursery schools in any financial year beginning on and after that date.

Membership of education committees

9. Despite the substitution of section 499(9)(b) of the 1996 Act made by paragraph 50 of Schedule 21 to the 2002 Act(**14**), a parent governor appointed or elected to a governing body constituted under section 36 of the 1998 Act is also to be treated as a parent governor for the purposes of section 499(6) and (8) of the 1996 Act.

Amendment of the Parent Governor Representatives and Church Representatives (Wales) Regulations 2001

10.—(1) The Parent Governor Representatives and Church Representatives (Wales) Regulations 2001(**15**) are amended as follows.

(2) In regulation 3, for the definition of "school" substitute the following—

""school" ("*ysgol*") means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;".

Amendment to the School Government (Terms of Reference) (Wales) Regulations 2000

11.—(1) The School Government (Terms of Reference) (Wales) Regulations 2000(**16**) are amended as follows.

(2) In regulation 2(2)(a) and (b) after the words "foundation special school" insert the words "or a maintained nursery school".

(3) In regulation 7 substitute for the words "Regulation 41 of the Education (School Government) (Wales) Regulations 1999" the words "regulation 50 of the Government of Maintained Schools (Wales) Regulations 2005(**17**)".

(4) Insert at the end of regulation 9 the following—

"(5) This regulation does not apply to maintained nursery schools."

(5) Insert at the end of regulation 10 the following—

"(11) This regulation does not apply to maintained nursery schools."

(**12**) SI 2005/2910 (W.207) (C.124).
(**13**) Paragraph 99 of Schedule 21 to the 2002 Act comes into force on 31 October 2005 by virtue of S.I. 2005/2910 (W.207) (C.124).
(**14**) Paragraph 50 of Schedule 21 to the 2002 Act comes into force on 31 October 2005 by virtue of S.I. 2005/2910 (W.207) (C.124).
(**15**) S.I. 2001/3711 (W.307).
(**16**) S.I. 2000/3027 (W.195) as amended by S.I. 2002/1396 (W.138).
(**17**) S.I. 2005/2914 (W.211).

Amendment of the Changing of School Session Times (Wales) Regulations 2000

12.—(1) The Changing of School Session Times (Wales) Regulations 2000(**18**) are amended as follows.

(2) In regulation 2(1) insert after the words "community special school" the words "or maintained nursery school".

Amendment of the Education (Payment for Special Educational Needs Supplies) Regulations 1999

13. The Education (Payment for Special Educational Needs Supplies) Regulations 1999(**19**) are amended by inserting in regulation 1(2) after "foundation special school" the words "or maintained nursery school".

Amendment of the Special Educational Needs (Provision of Information by Local Education Authorities) (Wales) Regulations 2002

14.—(1) The Special Educational Needs (Provision of Information by Local Education Authorities) (Wales) Regulations 2002(**20**) are amended as follows—

(a) regulation 1(4) is omitted;

(b) in paragraph 1 of the Schedule insert after the words "budget shares" the words "or maintained nursery schools' budget shares";

(c) in paragraph 3(b) of the Schedule insert after the words "maintained schools" the words "and maintained nursery schools".

(2) Regulations 2(a) and 3(1) to (3) of the Special Educational Needs (Provision of Information by Local Education Authorities) (Wales) Regulations 2002 apply in relation to the information required to be published as a result of the amendments made by paragraph (1) as though for "30 April 2002" and "31 July 2002" in regulation 3(2) and (3) there were substituted "30 April 2006" and "31 July 2006".

Amendment of the Education (Pupil Registration) Regulations 1995

15. Regulation 2 of the Education (Pupil Registration) Regulations 1995(**21**) is amended by inserting in the definition of "proprietor" after the words "foundation special school" the words "or a maintained nursery school".

Exclusions

16. Despite the coming into force of section 52 (11) of the Education Act 2002(**22**) and despite regulation 7 of these Regulations, the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003(**23**) apply in relation to maintained nursery schools only in relation to exclusions on or after 1 April 2006.

(**18**) S.I. 2000/2030 (W. 143).
(**19**) S.I. 1999/710.
(**20**) S.I. 2002/157 (W.23).
(**21**) S.I. 1995/ 2089 as amended by S.I. 1997/2624, 2001/1109 (W. 53).
(**22**) Section 52(11) of the 2002 Act comes into force on 31 October 2005 by virtue of S.I. 2005/2910 (W.207) (C.124).
(**23**) S.I. 2003/3227 (W.308) as amended by S.I. 2004/1805 (W. 193).