WELSH STATUTORY INSTRUMENTS

2004 No. 1576 (W.162)

EDUCATION, WALES

The School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004

Made - - - -	*22 June 2004*
Coming into force - -	*1 August 2004*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by section 138(7) and (8) of, and paragraph 5 of Schedule 8 to, the School Standards and Framework Act 1998(**1**) and now vested in the National Assembly for Wales(**2**), and in exercise of the powers conferred on it by sections 113A and 152(5) and (6) of, and paragraphs 20(2), 21, 22, 28(2), 29, 30, 39(2), 40, 41, 42(4) and 43(4) of Schedule 7 to, and paragraph 1 of Schedule 7A to, the Learning and Skills Act 2000(**3**).

PART 1

Preliminary

Name, commencement and application

1.—(1) These Regulations are called the School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004 and come into force on 1st August 2004.

(2) These Regulations apply to Wales.

Interpretation

2.—(1) In these Regulations —

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

"the 2000 Act" ("*Deddf 2000*") means the Learning and Skills Act 2000;

"16 to 19 institution" ("*sefydliad 16 i 19 oed*") means a maintained school which —

(**1**) 1998 c. 31.
(**2**) *See* the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).
(**3**) 2000 c. 21; section 113A and Schedule 7A were inserted by section 72 of and Schedule 9 to the Education Act 2002. Schedule 7 was amended by paragraphs 11 and 15 of Schedule 10 to the Education Act 2002.

(a) provides full-time education suitable to the requirements of pupils over compulsory school age, and

(b) does not provide full-time education suitable to the requirements of pupils of compulsory school age;

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

"further education college" ("*coleg addysg bellach*") means an institution within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992)(**4**);

"mainstream school" ("*ysgol brif ffrwd*") means a maintained school other than a special school;

"maintained school" ("*ysgol a gynhelir*") has the same meaning as in the 1998 Act;

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

"proposals to discontinue a sixth form" ("*cynigion i gau chweched dosbarth*") means proposals such as are mentioned in paragraph 20(1) of Schedule 7;

"relevant age group" ("*grŵp oedran perthnasol*") has the meaning given to it by section 142(1) of the 1998 Act;

"relevant sixth form age group" ("*grŵp chweched dosbarth perthnasol*") means an age group in which pupils are normally admitted (or, as the case may be, will normally be admitted) to the school for sixth form education;

"sixth form education" ("*addysg chweched dosbarth*") means full-time education at a school suitable to the requirements of pupils over compulsory school age but below the age of 19;

"special school" ("*ysgol arbennig*") means a community or foundation special school;

"statement of special educational needs" ("*datganiad o achos anghenion addysgol arbennig*") means a statement of special educational needs maintained under Part IV of the Education Act 1996(**5**);

"the upper age limit" ("*terfyn uchaf oedran*") of a school means the highest age of pupils for whom education is normally provided at the school.

(2) Any reference to section 113A, Schedule 7 or Schedule 7A is a reference to section 113A of, or Schedule 7 or Schedule 7A to, the 2000 Act as appropriate.

(3) For the purposes of these Regulations the capacity of a school is to be determined in accordance with Schedule 1 to the Education (School Organisation Proposals) (Wales) Regulations 1999(**6**).

(4) For the purposes of these Regulations the date of publication of proposals is —

(a) the date on which the requirements of regulation 5 or 12 (as the case may be) are satisfied; or

(b) where different requirements are satisfied on different dates, the last of such dates.

(5) Part 1 of Schedule 3 applies for the purpose of the interpretation of the terms contained in Parts 2 to 6 of that Schedule.

(**4**) 1992 c. 13.
(**5**) 1996 c. 56.
(**6**) S.I. 1999/1671.

PART 2

Proposals made under section 113A

Alterations for which proposals may be made

3.—(1) This regulation prescribes the descriptions of alterations to maintained schools for the purposes of section 113A(4)(b).

(2) The descriptions of alterations are —

(a) an enlargement of the premises of a 16 to 19 institution which would increase the capacity of the school by 25% or more;

(b) an enlargement of the premises of any other secondary school with a view to an increase by 25% or more in the number of pupils who will be provided with sixth form education at the school;

(c) an alteration of the upper age limit of the school so that —

(i) the school will provide sixth form education, or

(ii) the school will cease to provide sixth form education; or

(d) an alteration of the upper age limit of the school (being an age limit over compulsory school age) by a year or more (not falling within sub-paragraph (c) above).

Consultation

4. Before making proposals under section 113A the Council must consult such persons as it considers appropriate, setting out the considerations that have led to the proposals and the supporting evidence.

Publication of proposals

5.—(1) The Council must publish a notice of any proposals it makes under section 113A in the manner specified in paragraphs (2) and (3) below, and any such notice must contain the information specified in Schedule 1.

(2) Where the proposals are to establish a new 16 to 19 institution the Council is to publish the notice —

(a) by posting it in a conspicuous place in the area to be served by the school, where the school is to be a mainstream school, or in the area of the local education authority whom it is proposed should maintain the school, where the school is to be a special school; and

(b) in at least one newspaper circulating in that area.

(3) Where the proposals are to make an alteration to a maintained school or to discontinue a 16 to 19 institution the Council is to publish the notice —

(a) by posting it in a conspicuous place in the area served by the school, where the school the subject of the proposals is a mainstream school, or in the area of the local education authority who maintain the school, where the school the subject of the proposals is a special school;

(b) in at least one newspaper circulating in that area; and

(c) by posting it at or near the main entrance to the school or, if there is more than one main entrance, all of them.

(4) The Council must send a copy of the notice to the following persons —

(a) the National Assembly;

(b) the governing body of any school the subject of the proposals (except where the proposals are to establish a new 16 to 19 institution);

(c) the local education authority who maintain, or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain, any school the subject of the proposals;

(d) any adjoining local education authority;

(e) the Diocesan Board of Education (or other body responsible for education) for any diocese of the Church in Wales and the Bishop of any Roman Catholic Church diocese, any part of which is comprised in the area of the local education authority who maintain the school or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain the proposed school;

(f) such other persons as the Council considers appropriate.

(5) Where the proposals relate to a special school the Council must send a copy of the notice to —

(a) each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school;

(b) the parents of each registered pupil at the school;

(c) any Local Health Board in whose area the school is situated; and

(d) any National Health Service Trust who have responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority who maintain the school.

(6) Where the proposals relate to a proposed special school the Council must send a copy of the notice to the bodies referred to in sub-paragraphs (c) and (d) of paragraph (5).

(7) In this regulation "parent" has the same meaning as in section 576 of the Education Act 1996.

Objections to proposals

6. Any person may send written objections to proposals made under section 113A to the Council within two months after the date of publication of the proposals.

Submission of proposals etc. to the National Assembly

7. Within one month after the end of the period within which objections may be made under regulation 6 the Council must send to the National Assembly —

(a) copies of all objections received pursuant to regulation 6 (other than objections withdrawn in writing within the period mentioned in that regulation), together with its observations thereon; and

(b) the information specified in Part 2 of Schedule 3 to these Regulations, where the school is a mainstream school;

(c) the information specified in Part 3 of Schedule 3 to these Regulations where the school is a special school;

(d) the information specified in Part 4 of Schedule 3 to these Regulations, where the proposal is to discontinue a sixth form; or

(e) the information specified in Part 6 of Schedule 3 to these Regulations, where the proposals are to enlarge the premises of an existing sixth form or 16 to 19 institution or to provide additional sixth form education or to establish a new sixth form.

Withdrawal of proposals

8. The Council may withdraw proposals at any time before they are determined under section 113A(4) by giving written notice to the National Assembly.

Decision by the National Assembly

9.—(1) The National Assembly must notify the following persons of each decision taken under section 113A —

(a) the Council;

(b) the local education authority who maintain the school or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain the proposed school;

(c) where the proposals relate to an existing special school, each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school;

(d) the governing body of the school (except where the proposals are to establish a new 16 to 19 institution);

(e) the Diocesan Board of Education (or other body responsible for education) for any diocese of the Church in Wales and the Bishop of any Roman Catholic Church diocese, any part of which is comprised in the area of the local education authority who maintain the school or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain the proposed school; and

(f) subject to paragraph (2), each objector.

(2) Where objections to a proposal take the form of a petition (that is to say a document containing the text of one objection signed by more than one objector) the National Assembly may comply with the requirement in paragraph (1) by —

(a) notifying the person (if any) who appears to the Assembly to have arranged for the petition to be sent to the Council (if an address has been provided for that person); or

(b) if there is no such person (or an address has not been provided for that person), notifying any one objector whose name appears on the petition.

(3) The National Assembly may only approve proposals with modifications if the Council has consented to the modifications.

Implementation of proposals

10.—(1) The Council is prescribed for the purposes of paragraph 1(3) of Schedule 7A (which provides that at the request of persons prescribed, the National Assembly may modify proposals or specify a later date by which an event must occur).

(2) For the purposes of paragraphs 1(3) and (4) of Schedule 7A (which provides that after consulting prescribed persons the National Assembly may modify proposals which have been approved, specify a later date by which an event must occur, or determine that paragraph 1(2) of Schedule 7A should not apply) the following persons are prescribed —

(a) the Council;

(b) the governing body of the school (or, in the case of a proposal to establish a new 16 to 19 institution, the temporary governing body within the meaning of the 1998 Act or 2002 Act);

(c) the local education authority who maintain, or whom it is proposed should maintain, the school; and