WELSH STATUTORY INSTRUMENTS

2004 No. 912 (W.95) (C.40)

EDUCATION, WALES

The Education Act 2002 (Commencement No. 4 and Transitional Provisions) (Wales) Order 2004

Made - - - - 24th March 2004

The National Assembly for Wales, in exercise of the power conferred upon it by section 216(3), (4)(b) and (5) of the Education Act 2002(**1**), hereby makes the following Order:

Name and application

1. This Order is called Education Act 2002 (Commencement No.4 and Transitional Provisions) (Wales) Order 2004.

2. Provisions brought into force by this Order are brought into force only in relation to Wales (except in relation to section 198).

Interpretation

3.—(1) In this Order "the 1998 Act" ("*Deddf 1998*") means the School Standards and Framework Act 1998(**2**).

(2) In this Order, unless otherwise stated, references to sections and Schedules are references to 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 1 of the Schedule to this Order is 31st March 2004.

5. The day appointed for the coming into force of the provisions specified in Part 2 of the Schedule to this Order is 1st August 2004.

Transitional provision — establishment or alteration of maintained nursery schools

6. Despite the coming into force of section 154, the new paragraphs (aa) and (d) in subsection (1) of section 28 of the 1998 Act are not to apply where a local education authority in Wales have

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

taken a decision before 31st March 2004 to establish a new maintained nursery school or to make a prescribed alteration to a maintained nursery school.

Transitional provision — admission arrangements for nursery education

7. Despite the coming into force of paragraph 12(1), (3) to (5) of Schedule 4 amending section 98 of the 1998 Act, the amendments made by paragraph 12(3), (4) and (5) are not to apply to a school year earlier than the 2004 to 2005 school year in relation to the admission of a child to a maintained school for nursery education.

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

John Marek
The Deputy Presiding Officer of the National Assembly

24th March 2004

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

SCHEDULE Articles 4 and 5

PART 1

Provisions coming into force on 31st March 2004

Provision	*Subject matter*
Section 51 in so far as it relates to the provisions of Schedule 4 below	Admission arrangements — nursery education
Section 154	Establishment or alteration of maintained nursery schools
Section 156	Meaning of nursery school and primary education
Section 198	Transition from primary to secondary school
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 4, paragraph 12(1), (3) to (5)	Admission arrangements — nursery education
Schedule 21	Minor and consequential amendments
Paragraph 98(2) in so far as not already in force	
Paragraph 115(5) except sub-paragraph (b)	
In Schedule 22, Part 3, the repeal of —	Repeals
Education Act 1996(**4**), in section 4(1) the words “part-time education suitable to the requirements of junior pupils or”,	
in section 5(1) the words “part-time education suitable to the requirements of junior pupils or”,	
in section 548(8), paragraph (c),	
School Standards and Framework Act 1998(**5**), in section 33(1), the word “and” at the end of paragraph (b), section 39.	

PART 2

Provisions coming into force on 1st August 2004

Provision	*Subject matter*
Section 177	Meaning of “secondary education”

(**4**) 1996 c. 56.
(**5**) 1998 c. 31.

Provision	*Subject matter*
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
Education Act 1996, in section 2(3)(a) the words "(including vocational, social, physical and recreational training)".	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 31st March 2004 and 1st August 2004 those provisions of the Education Act 2002 specified in Parts 1 and 2 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 1 of the Schedule is as follows —

Section 51 and Schedule 4, paragraph 12(1), (3) to (5) amend section 98 of the School Standards and Framework Act 1998 (the 1998 Act) so as to clarify that the admission authority for a maintained school is responsible for admitting or refusing to admit children to the school for nursery education.

Section 154 amends section 28 of the 1998 Act so as to require an LEA to publish proposals to establish or make prescribed alterations to a maintained nursery school.

Section 156 amends the definition of "nursery school" in section 6 of the Education Act 1996 (the 1996 Act), so as to provide that a school used wholly or mainly for the provision of education for children aged between two and compulsory school age, is a nursery school. Previously the definition referred to a school used mainly for the provision of such education. Section 156 also extends the definition of "primary education" in section 2 of the 1996 Act to include part-time education suitable to the requirements of children aged between two and compulsory school age. Previously the definition referred only to full-time education.

Section 198 enables the National Assembly for Wales to require the governing bodies of secondary schools and their feeder primary schools to draw up plans to facilitate the transition of pupils from one to the other.

The effect of the provisions specified in Part 2 of the Schedule is as follows —

Section 177 extends the definition of "secondary education" in section 2 of the 1996 Act so as to include education received partly at a school and partly at another institution or any other establishment, and so as to make it clear that it includes vocational, social, physical and recreational training. The National Assembly for Wales is also given the power to modify the