



# School Standards and Organisation (Wales) Act 2013

2013 anaw 1

## PART 3

### SCHOOL ORGANISATION

#### CHAPTER 5

##### PROPOSALS FOR RESTRUCTURING SIXTH FORM EDUCATION

###### *Making and determining proposals*

#### **71 Welsh Ministers' powers to restructure sixth form education**

- (1) The Welsh Ministers may make proposals under this section for—
- (a) the establishment by a local authority of one or more new community or community special schools to provide secondary education suitable to the requirements of sixth formers (and no other secondary education);
  - (b) an alteration described in paragraph 6 of Schedule 2 to one or more maintained schools;
  - (c) the discontinuance of one or more maintained schools which provide secondary education suitable to the requirements of sixth formers (and no other secondary education).
- (2) A “sixth former” is a person who is above compulsory school age but below the age of 19.

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#### **Commencement Information**

**11** S. 71 in force at 1.10.2013 by S.I. 2013/1800, art. 3(d)

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## **72 Consultation, publication and objections**

- (1) Before publishing proposals made under section 71, the Welsh Ministers must consult on the proposals in accordance with the code issued under section 38(1) for the time being in force.
- (2) The Welsh Ministers must publish proposals made under section 71 in accordance with the code issued under section 38(1) for the time being in force.
- (3) Any person may object to the proposals.
- (4) Objections must be sent in writing to the Welsh Ministers before the end of 28 days beginning with the day on which the proposals were published.

### **Commencement Information**

**I2** S. 72 in force at 1.10.2013 by S.I. 2013/1800, art. 3(d)

## **73 Determination by Welsh Ministers**

- (1) After the end of the 28 days referred to in section 72(4), the Welsh Ministers must determine whether to—
  - (a) adopt the proposals, with or without modifications, or
  - (b) withdraw the proposals.
- (2) In making a determination under subsection (1), the Welsh Ministers must have regard to any objections made in accordance with section 72(4) and not withdrawn.
- (3) Before adopting proposals subject to modifications, the Welsh Ministers must consult such persons as they consider appropriate.
- (4) The adoption of proposals may be expressed to take effect only if an event specified in the adoption occurs by a date so specified.
- (5) If the event does not occur by the specified date the Welsh Ministers must reconsider their determination under subsection (1).
- (6) The Welsh Ministers may withdraw their proposals at any time before they make a determination under subsection (1).

### **Commencement Information**

**I3** S. 73 in force at 1.10.2013 by S.I. 2013/1800, art. 3(d)

### *Implementation of proposals for restructuring sixth form education*

## **74 Form of implementation**

- (1) This section applies to proposals which have been adopted by the Welsh Ministers under section 73.
- (2) The proposals must (subject to the following provisions of this section) be implemented in the form in which they were adopted.

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- (3) At the request of a specified body, the Welsh Ministers—
- (a) may modify proposals adopted under section 73 after consulting the specified bodies, and
  - (b) where the adoption of proposals was expressed to take effect subject to the occurrence of a specified event, may specify a later date by which that event must occur.
- (4) The Welsh Ministers may determine that subsection (2) does not apply to the proposals if they are satisfied, after consulting the specified bodies—
- (a) that implementation of the proposals would be unreasonably difficult, or
  - (b) that circumstances have so altered since the proposals were adopted that implementation of the proposals would be inappropriate.
- (5) Each of the following is a “specified body” for the purposes of subsections (3) and (4)—
- (a) the governing body of the school to which the proposals relate;
  - (b) in the case of a proposal to establish a new school, the temporary governing body constituted in accordance with arrangements made under section 34 of the Education Act 2002;
  - (c) the local authority that maintains, or that it is proposed will maintain, the school to which the proposals relate;
  - (d) where the school to which the proposals relate is a community special school each local authority which maintains [F1 a statement of special educational needs under Part 4 of the Education Act 1996][F1 an individual development plan under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018] in respect of a registered pupil at the school.

#### Textual Amendments

- F1** Words in s. 74(5)(d) substituted (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), [Sch. 1 para. 22\(4\)](#); S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, art. 2); S.I. 2021/1243, art. 3 (with arts. 4-23) (as amended by S.I. 2021/1428, art. 2); S.I. 2021/1244, art. 3 (with arts. 4-21) (as amended by S.I. 2021/1428, art. 3); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, art. 3 (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, art. 4; S.I. 2022/894, art. 3; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, art. 3 (with arts. 1(7), 4-22); S.I. 2022/897, art. 3 (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3

#### Commencement Information

- I4** S. 74 in force at 1.10.2013 by [S.I. 2013/1800](#), [art. 3\(d\)](#)

## 75 Responsibility for implementation

- (1) Proposals to establish a school must be implemented by the local authority that it is proposed will maintain the school.
- (2) Proposals to make an alteration described in paragraph 6 of Schedule 2 must be implemented—
  - (a) in the case of proposals relating to a community school, by the local authority that maintains the school;

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- (b) in the case of proposals relating to a voluntary aided school—
    - (i) so far as relating to the provision of any relevant premises, by the local authority that maintains the school, and
    - (ii) otherwise, by the local authority that maintains the school and the governing body of the school to the extent (if any) as the proposals provide for each of them to do so;
  - (c) in the case of proposals relating to any other school, by the local authority that maintains the school and the governing body of the school to the extent (if any) as the proposals provide for each of them to do so.
- (3) In subsection (2) “relevant premises” means—
- (a) playing fields, or
  - (b) buildings which are to form part of the school premises but are not to be school buildings.
- (4) Proposals to discontinue a school must be implemented—
- (a) in the case of proposals relating to a community or community special school, by the local authority that maintains the school, and
  - (b) in any other case, by the local authority that maintains the school and the governing body of the school.
- (5) If a school changes category from a community school after proposals have been published under section 72 but before they have been implemented, the proposals (to the extent that they have not been implemented) must be implemented by the local authority that maintains the school (despite subsections (2) and (4)).

**Commencement Information**

**I5** S. 75 in force at 1.10.2013 by S.I. 2013/1800, art. 3(d)

**76 Further provision as to implementation**

- (1) Where a local authority is required by virtue of section 75 to provide a site for a foundation or voluntary controlled school, paragraph 7 of Schedule 3 (provision of site and buildings for foundation or voluntary controlled school) applies as it applies in the circumstances mentioned in sub-paragraph (1) of that paragraph.
- (2) Paragraph 8 of Schedule 3 (grants in respect of certain expenditure relating to voluntary aided schools) applies in relation to the obligation under section 75(2)(b) (ii) as it applies in relation to the obligations referred to in paragraph 8(1)(a) of that Schedule.
- (3) Paragraph 9 of Schedule 3 (assistance from local authority in respect of voluntary aided schools) applies in relation to obligations imposed on the governing body of a voluntary aided school under section 75(2)(b)(ii) as it applies in relation to the obligations referred to in that paragraph 9, and paragraph 11 of that Schedule (duty on local authority to transfer interest in premises provided under paragraph 9 or 10) applies accordingly.

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#### Commencement Information

**16** S. 76 in force at 1.10.2013 by S.I. 2013/1800, art. 3(d)

### Supplementary

## 77 Consequential amendments to inspection reports on sixth form education

After section 44 of the Education Act 2005 insert—

*“Sixth forms requiring significant improvement in Wales*

#### **44A Schools with sixth forms**

- (1) Sections 44B to 44D apply to a maintained school in Wales which—
  - (a) provides full-time education suitable to the requirements of pupils over compulsory school age, and
  - (b) provides full-time education suitable to the requirements of pupils of compulsory school age.
- (2) For the purposes of those sections a school requires significant improvement in relation to its sixth form if—
  - (a) the school is failing to give its pupils over compulsory school age an acceptable standard of education, or
  - (b) in relation to its provision for pupils over compulsory school age, the school is performing significantly less well than it might in all the circumstances reasonably be expected to perform.

#### **44B Inspection reports on schools with sixth forms requiring significant improvement**

- (1) Where a person inspecting a school under Chapter 3 is of the opinion that the school requires significant improvement in relation to its sixth form, the provisions specified in subsection (2) apply (with the necessary modifications) as they apply where the person is of the opinion that special measures are required to be taken in relation to the school.
- (2) Those provisions are section 34(1) to (6) (registered inspectors) or, as the case requires, section 35(1) of that Act (members of the Inspectorate).

#### **44C Report after area inspection on schools with sixth forms requiring significant improvement**

- (1) This section applies if in the course of an area inspection under section 83 of the Learning and Skills Act 2000 the Chief Inspector forms the opinion that a school requires significant improvement in relation to its sixth form.
- (2) The Chief Inspector must make a report about the school stating that opinion.
- (3) The report is to be treated for the purposes of this Part as if it were a report of an inspection of the school under section 28.

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#### **44D Copies of report and action plan**

- (1) This section applies to a report of an inspection under Chapter 3 which—
  - (a) states an opinion that a school requires significant improvement in relation to its sixth form, and
  - (b) is made by a member of the Inspectorate or states that the Chief Inspector agrees with the opinion.
- (2) The person making the report must send a copy (together with a copy of the summary, if there is one)—
  - (a) to the Welsh Ministers, and
  - (b) if the person making the report is a member of the Inspectorate, to the appropriate authority for the school.
- (3) The following provisions apply (with the necessary modifications) in relation to a report to which this paragraph applies—
  - (a) section 38(2) (additional copies),
  - (b) section 38(4) (publication by appropriate authority),
  - (c) section 39 (action plan by appropriate authority), and
  - (d) where the local authority receives a copy of a report about a school the governing body of which have a delegated budget, section 40(2) and (3) (measures by local authority).
- (4) In the application of those provisions—
  - (a) a reference to a report and summary is to be taken as a reference to a report and, if there is one, its summary, and
  - (b) a reference to a summary alone is to be taken, in a case where there is no summary, as a reference to the report.

#### **44E Report on sixth form schools causing concern after area inspection**

- (1) This section applies if in the course of an area inspection under section 83 of the Learning and Skills Act 2000 the Chief Inspector forms the opinion that—
  - (a) special measures are required to be taken in relation to a sixth form school, or
  - (b) that a sixth form school requires significant improvement.
- (2) The Chief Inspector must make a report about the school stating that opinion.
- (3) The report is to be treated for the purpose of this Part as if it were a report of an inspection of the school under section 28.
- (4) A “sixth form school” is a maintained school which—
  - (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.

#### **44F Interpretation of sections 44A to 44E**

In sections 44A to 44E—

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“the appropriate authority”, in relation to a maintained school, means the school's governing body or, if the school does not have a delegated budget, the local authority;

“the Chief Inspector” means Her Majesty's Chief Inspector of Education and Training in Wales;

“maintained school” means a community, foundation or voluntary school or a community special school;

“member of the Inspectorate” means the Chief Inspector, any of Her Majesty's Inspectors of Education and Training in Wales and any additional inspector appointed under paragraph 2 of Schedule 2.”

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#### **Commencement Information**

**I7** S. 77 in force at 1.10.2013 by S.I. 2013/1800, art. 3(d)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 3 Ch. 3A inserted by [2022 asc 1 Sch. 4 para. 29\(7\)](#)
- s. 1(9A) inserted by [2022 asc 1 Sch. 4 para. 29\(2\)\(a\)](#)
- s. 38(2)(ca) inserted by [2022 asc 1 Sch. 4 para. 29\(3\)\(a\)](#)
- s. 38(5)(ca) inserted by [2022 asc 1 Sch. 4 para. 29\(3\)\(b\)](#)
- s. 39(1)(ca) inserted by [2022 asc 1 Sch. 4 para. 29\(4\)](#)
- Sch. 2 para. 19(2)(c)(i) word inserted by [2022 asc 1 Sch. 4 para. 29\(12\)\(b\)](#)