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STATUTORY INSTRUMENTS

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**2003 No.1115 (C.56)**

**EDUCATION, ENGLAND**

**The Education Act 2002 (Commencement No.5  
and Transitional and Saving Provisions) Order 2003**

*Made - - - - 14th April 2003*

In exercise of the powers conferred on the Secretary of State by section 216(2), (4) and (5) of the Education Act 2002(1), the Secretary of State for Education and Skills hereby makes the following Order:

**Citation and Interpretation**

1.—(1) This Order may be cited as the Education Act 2002 (Commencement No. 5 and Transitional and Saving Provisions) Order 2003.

(2) In this Order—

“the 1998 Act” means the School Standards and Framework Act 1998 (2),

“the 2002 Act” means the Education Act 2002.

**Provisions coming into force on 1<sup>st</sup> June 2003**

2. The following provisions of the 2002 Act shall come into force on 1<sup>st</sup> June 2003:

section 70;

section 71;

section 73;

Schedule 8.

3. The following provisions of the 2002 Act shall come into force except in relation to Wales on 1<sup>st</sup> June 2003:

section 74(1);

section 75 to the extent that it is not already in force;

sections 142 to 144;

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(1) 2002 (c. 32).

(2) 1998 (c. 31).

section 146 to the extent that it repeals section 218(6), (6ZA), (6A), (6B) and section 218A of the Education Reform Act 1988;

section 154(1) and (2);

Schedule 10 to the extent that it is not already in force;

section 215 to the extent that it relates to the provisions of Schedules 21 and 22 specified below; in Schedule 21–

paragraph 9,

paragraph 54,

paragraphs 71 to 73,

paragraph 75,

paragraph 76 except for sub-paragraph (a),

paragraph 77,

paragraph 83,

paragraph 86,

paragraph 97,

paragraph 98(2)(b),

paragraph 115 to the extent that it is not already in force,

paragraph 116,

paragraphs 120 to 123,

paragraph 128;

in Schedule 22, the repeal of –

in the Education Reform Act 1998, section 218(6), (6ZA), (6A), (6B) and section 218A,

in the Education Act 1997, section 49,

in the Police Act, in section 113, in subsection (3A), paragraph (a)(ii) and (iii), and in subsection (3B), paragraph (c) and the words from “and the reference “ to the end, and section 115(6A),(a)(ii) and (iii),

in the Teaching and Higher Education Act 1998, in Schedule 2, paragraph 1(5),

in the School Standards and Framework Act, in Schedule 6 –

in paragraph 3(2), the word “or” at the end at the end of paragraph (b),

in paragraph 4(5) the word “or” at the end of paragraph (a), and

in paragraph 5(9) the words “or (8)”,

in the Protection of Children Act –

section 5,

in section (7), subsection (1)(a)(ii) and (iii), the word “and” immediately preceding subsection (2)(c), and subsection (4),

in section 9(2), the word “or” at the end of paragraph (d), and

in section 12(2) the definition of “the 1998 Act”,

in the Criminal Justice and Court Services Act 2000, section 35(5), and in Schedule 7, paragraph 83.

### **Transitional and saving provisions**

**4.—**(1) Despite the coming into force of section 154(1) and (2) of the 2002 Act, where a local education authority in England has before 1<sup>st</sup> June 2003 taken a decision to establish a new maintained nursery school, section 28(1)(aa) of the 1998 Act shall not apply to the proposal.

(2) An authority's decision to establish a maintained nursery school shall only be treated as such if it conforms with its arrangements for the discharge of its functions in accordance with its executive arrangements as defined by section 10(1) of the Local Government Act 2000(3).

**5.** Despite the coming into force of paragraphs 2, 3(2), 4(2), 8 and 10(b) of Schedule 10 to the 2002 Act, the amendments to paragraphs 2, 3(1)(a)(i) and 4(1)(b) of Schedule 6 to, and paragraphs 7 and 9(1)(c) of Schedule 7 to, the 1998 Act shall not have effect in relation to any proposals published before 1<sup>st</sup> June 2003.

**6.** Despite the coming into force of paragraph 97 of Schedule 21 to the 2002 Act, where a local education authority has before 1<sup>st</sup> June 2003 commenced consultation, in accordance with section 28(5) of the 1998 Act, on the establishment of a community or foundation school which is an additional school within the meaning of section 70 of the 2002 Act, section 28(1)(a) of the 1998 Act shall apply to the proposal.

14th April 2003

*David Miliband*  
Minister of State  
Department for Education and Skills

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force provisions of the Education Act 2002 on 1<sup>st</sup> June 2003.

Article 2 commences sections 70, 71, 73 and Schedule 8 (proposals for additional secondary schools and proposals by governing bodies of community schools).

Article 3 commences sections 74(1) (the ability of a new school to be opened as a federated school), 75 and Schedule 10 to the extent that they are not already in force, (provisions consequential on sections 70, 71 and 73), and sections 142 to 144 (misconduct etc).

The provision listed in article 2 is brought into force for all purposes in accordance with the Secretary of State's power in section 216(2). The provisions listed in article 3 are brought into force for England only, in accordance with the Secretary of State's power in section 216(4).

The Order also makes transitional and saving provision in respect of the commencement of the school reorganisation changes.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of this Act have been brought into force (or come into force at a later date) by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1 (partially), as to England	1 <sup>st</sup> October 2002	<a href="#">2002/2439</a>
Sections 2 to 5, as to England	1 <sup>st</sup> October 2002	<a href="#">2002/2439</a>
Sections 11 and 12, as to England	20 <sup>th</sup> January 2003	<a href="#">2002/2952</a>
Sections 14 to 17, as to England	1 <sup>st</sup> October 2002	<a href="#">2002/2439</a>
Sections 14 to 17 and 18(2), as to Wales	31 <sup>st</sup> March 2003	<a href="#">2002/3185 (W.301)</a>
Section 18, except for the repeal of section 486 of the Education Act 1996 made by paragraph (g) of subsection (1), as to England	1 <sup>st</sup> April 2003	<a href="#">2003/124</a>
Section 19(2) to (5) and (7), as to England	1 <sup>st</sup> March 2003	<a href="#">2003/124</a>
Section 19(6), as to England	1 <sup>st</sup> October 2002	<a href="#">2002/2439</a>

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
In section 19(8), the words “regulations under this section may include provision with respect to the governing body of federations”, as to England	1 <sup>st</sup> April 2003	2003/124
Section 20(2) and (3), as to England	1 <sup>st</sup> March 2003	2003/124
In section 20(4), the words “regulations under subsection (2) may include provision with respect to instruments of government for federations”, as to England	1 <sup>st</sup> April 2003	2003/124
Section 21(3), as to England	1 <sup>st</sup> March 2003	2003/124
Section 23, as to England	1 <sup>st</sup> March 2003	2003/124
Section 24(1), for the purpose of making regulations only, as to England	1 <sup>st</sup> April 2003	2003/124
Section 24(2) to (6), as to England	1 <sup>st</sup> April 2003	2003/124
Section 25, as to England	1 <sup>st</sup> April 2003	2003/124
Section 26, as to England	1 <sup>st</sup> March 2003	2003/124
Sections 27 and 28, as to England	2 <sup>nd</sup> September 2002	2002/2002 as amended by 2002/2018
Section 30, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 33(3), as to England	1 <sup>st</sup> March 2003	2003/124
Section 34, as to England	1 <sup>st</sup> April 2003	2003/124
Section 35(4) and (5), as to England	1 <sup>st</sup> April 2003	2003/124
Section 36(4) and (5), as to England	1 <sup>st</sup> April 2003	2003/124
Section 37, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 39(1)(partially), as to England	1 <sup>st</sup> October 2002	2002/2439
In section 39(1), the definition of “federation” and “federated school”, as to England	1 <sup>st</sup> April 2003	2003/124
Section 39(2), as to England	1 <sup>st</sup> October 2002	2002/2439
Section 40, as to England	2 <sup>nd</sup> September 2002	2002/2002

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 41(1) and (3), as to England	1 <sup>st</sup> October 2002	2002/2439
Section 42, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 43, as to England	2 <sup>nd</sup> September 2002	2002/2002
Section 44(1) to (6), as to England	1 <sup>st</sup> April 2003	2003/124
Section 45, as to England	1 <sup>st</sup> April 2003	2003/124
Section 46, as to England	20 <sup>th</sup> January 2003	2002/2952
Sections 47 to 49, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 49, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 50, as to England	20 <sup>th</sup> January 2003	2002/2952
Section 51 (partially), as to England	1 <sup>st</sup> October 2002	2002/2439
fully, as to England	20 <sup>th</sup> January 2003	2002/2952
Section 52(1) to (6), as to England	20 <sup>th</sup> January 2003	2002/2952
Sections 54 to 59, as to England	2 <sup>nd</sup> September 2002	2002/2002
Sections 54 to 56, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Sections 60 and 61, as to England	26 <sup>th</sup> July 2002	2002/2002
Sections 62 to 64, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 65	26 <sup>th</sup> July 2002	2002/2002
Section 66	20 <sup>th</sup> January 2003	2002/2952
Sections 67 to 69	26 <sup>th</sup> July 2002	2002/2002
Section 72, as to England	1 <sup>st</sup> April 2003	2003/124
Section 74(2) and (3), as to England	1 <sup>st</sup> April 2003	2003/124
Section 75 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 75 (partially), as to England	1 <sup>st</sup> April 2003	2003/124
Section 76 and 77	1 <sup>st</sup> October 2002	2002/2439
Section 78 (partially)	26 <sup>th</sup> July 2002	2002/2002

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
(fully)	1 <sup>st</sup> October 2002	2002/2439
Sections 79 to 96,	1 <sup>st</sup> October 2002	2002/2439
Sections 97, 98, 99(1),	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 100 (partially),	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 101 (partially),	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Sections 103, 105 to 107,	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 108 (partially),	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Sections 109, 111 to 118,	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 119	1 <sup>st</sup> October 2002	2002/2439
Section 120(1), and (3) to (5)	1 <sup>st</sup> October 2002	2002/2439
Section 121	1 <sup>st</sup> October 2002	2002/2439
Section 130 (partially)	1 <sup>st</sup> October 2002	2002/2439
Section 131, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 131, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 132 and 133 as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 134 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 135, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 141, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Sections 142 to 144, as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
Section 145, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 146 (partially), as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
Section 148 (partially), as to England	1 <sup>st</sup> October 2002	2002/2439
Section 148 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 148 (partially), as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
Section 149, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 149, as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
Section 150, as to England	1 <sup>st</sup> October 2002	2002/2439

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 150, as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
Section 151(1), as to England	1 <sup>st</sup> October 2002	2002/2439
Section 151(2), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 152 (partially), as to England	2 <sup>nd</sup> September 2002	2002/2002
Section 152 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 153, as to England	1 <sup>st</sup> April 2003	2003/124
Section 155 (partially), as to England	2 <sup>nd</sup> September 2002	2002/2002
(fully), as to England	1 <sup>st</sup> October 2002	2002/2439
Section 156, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 177, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 178(1) and (2), as to England	1 <sup>st</sup> October 2002	2002/2439
Section 178(3), as to England	20 <sup>th</sup> January 2003	2002/2952
Section 179, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 179 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 180, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 180, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 187, as to England	1 <sup>st</sup> October 2002	2002/2439
Section 188 (partially), as to England	1 <sup>st</sup> October 2002	2002/2439
Section 188 (partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 189 (partially), for the purpose of introducing those paragraphs of Schedule 17 which apply except in relation to Wales	1 <sup>st</sup> October 2002	2002/2439
Section 189 (partially), for the purpose of introducing those paragraphs of Schedule 17 which apply in relation to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 191 to 194, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)



<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 195 (partially), as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
Section 195 (partially), as to Wales	1 <sup>st</sup> September 2003	2002/3185 (W.301)
Section 196, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Section 199, as to England	20 <sup>th</sup> January 2003	2002/2952
Section 200, as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
Section 200, as to England	6 <sup>th</sup> April 2003	2003/124
Section 201 (partially), as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
Section 201 (partially), as to England	6 <sup>th</sup> April 2003	2003/124
Section 204, as to England	2 <sup>nd</sup> September 2002	2002/2002
Sections 205 and 206, as to England	1 <sup>st</sup> October 2002	2002/2439
Sections 207 and 208, as to England	1 <sup>st</sup> April 2003	2003/124
Section 209	1 <sup>st</sup> April 2003	2003/124
Section 215 (partially), as to England	26 <sup>th</sup> July 2002	2002/2002
(partially), as to England	2 <sup>nd</sup> September 2002	2002/2002
(partially), as to England	1 <sup>st</sup> October 2002	2002/2439
(partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
(partially), as to England	20 <sup>th</sup> January 2003	2002/2952
(partially), as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
(partially), as to Wales	1 <sup>st</sup> September 2003	2002/3185 (W.301)
(partially), as to England	1 <sup>st</sup> March 2003	2003/124
(partially), as to England	1 <sup>st</sup> April 2003	2003/124
Section 215 (partially), as to England	6 <sup>th</sup> April 2003	2003/124
Schedule 1, (partially), as to England	2 <sup>nd</sup> September 2002	2002/2002
(fully), as to England	1 <sup>st</sup> October 2002	2002/2439
Schedule 3, paragraphs 1 to 5, as to England	2 <sup>nd</sup> September 2002	2002/2002

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 4, paragraphs 1, 3, 5 to 7, 10, 11, 13 and 14, as to England	1 <sup>st</sup> October 2002	2002/2439
Schedule 4, fully, as to England	20 <sup>th</sup> January 2003	2002/2952
Schedules 5 and 6, as to England	2 <sup>nd</sup> September 2002	2002/2002
Schedule 5, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 7	26 <sup>th</sup> July 2002	2002/2002
Schedule 9, as to England	1 <sup>st</sup> April 2003	2003/124
Schedule 10, paragraphs 1, 6, 11 and 15, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 10, paragraphs 1, 6 and 11 to 15, as to England	1 <sup>st</sup> April 2003	2003/124
Schedule 11	1 <sup>st</sup> October 2002	2002/2439
Schedule 12, paragraphs 1, 2, 4(1), and (3), 6, 9, 11 and 12(1) and (2), as to England	1 <sup>st</sup> October 2002	2002/2439
Schedule 12, paragraphs 1, 2, 4(1) and (3), 6 and 7, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 12, paragraphs 12(1) and (2), as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
Schedule 13, paragraphs 1 to 3, as to England	1 <sup>st</sup> October 2002	2002/2439
paragraphs 4 and 5, as to England	2 <sup>nd</sup> September 2002	2002/2002
paragraphs 6, 7(1) and (3), and (8), as to England	1 <sup>st</sup> October 2002	2002/2439
Schedule 13, paragraphs 1 to 3, 5, 6, 7(1) and (3), and 8, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 14, paragraphs 1 to 4, as to England	2 <sup>nd</sup> September 2002	2002/2002
Remaining paragraphs, as to England	1 <sup>st</sup> October 2002	2002/2439
Schedule 15 fully except for the words “(b) nursery school” in paragraphs 2(2)	1 <sup>st</sup> October 2002	2002/2439

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 16, paragraphs 7 to 9, as to England	1 <sup>st</sup> October 2002	2002/2439
Schedule 16, paragraphs 4 to 9, as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 17, paragraphs 1 to 4 and 9	1 <sup>st</sup> October 2002	2002/2439
Schedule 17, paragraphs 5(1) – (4), (6), and 6 to 8	19 <sup>th</sup> December 2002	2002/3185 (W.301)
Schedule 18 paragraphs 1, 4, 5 and 7, 13 to 15	31 <sup>st</sup> March 2003	2002/3185 (W.301)
paragraph 8 (partially),	31 <sup>st</sup> March 2003	2002/3185 (W.301)
paragraphs 2,3, 6, 8 (fully), 9 to 12, and 16 to 18	1 <sup>st</sup> September 2003	2002/3185 (W.301)
Schedule 19	20 <sup>th</sup> January 2003	2002/2952
Schedule 20, as to England	1 <sup>st</sup> October 2002	2002/2439
Schedule 21 (partially), as to England	2 <sup>nd</sup> September 2002	2002/2002
(partially), as to England	1 <sup>st</sup> October 2002	2002/2439
(partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
(partially), as to England	20 <sup>th</sup> January 2003	2002/2952
(partially), as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
(partially) as to England	1 <sup>st</sup> March 2003	2003/124
(partially) as to England	1 <sup>st</sup> April 2003	2003/124
Schedule 22, (partially), as to England	26 <sup>th</sup> July 2002	2002/200
(partially), as to England	2 <sup>nd</sup> September 2002	2002/2002
(partially), as to England	1 <sup>st</sup> October 2002	2002/2439
(partially), as to Wales	19 <sup>th</sup> December 2002	2002/3185 (W.301)
(partially), as to England	20 <sup>th</sup> January 2003	2002/2952
(partially), as to Wales	31 <sup>st</sup> March 2003	2002/3185 (W.301)
(partially), as to Wales	1 <sup>st</sup> September 2003	2002/3185 (W.301)
(partially) as to England	1 <sup>st</sup> April 2003	2003/124
(partially), as to England	6 <sup>th</sup> April 2003	2003/124

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