
WELSH STATUTORY INSTRUMENTS

2003 No. 2961 (W.278) (C.108)

EDUCATION, WALES

The Education Act 2002 (Commencement
No. 3) (Wales) Order 2003

Made - - - - 18th November 2003

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

Name, application and interpretation

1. This Order is called Education Act 2002 (Commencement No. 3) (Wales) Order 2003.
2. Provisions brought into force by this Order are brought into force only in relation to Wales.
3. In this Order, unless otherwise stated, references to Parts, sections and Schedules are references to Parts and 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 I of the Schedule to this Order is 1st December 2003.
5. The day appointed for the coming into force of the provisions specified in Part II of the Schedule to this Order is 4th December 2003.
6. The day appointed for the coming into force of the provisions specified in Part III of the Schedule to this Order is 1st January 2004.
7. The day appointed for the coming into force of the provisions specified in Part IV of the Schedule to this Order is 9th January 2004.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(2)

18th November 2003

D. Elis-Thomas
The Presiding Officer of the National Assembly

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PART III

Provisions coming into force on 1st January 2004

<i>Provision</i>	<i>Subject matter</i>
Sections 157 to 171	Regulation of independent schools
Sections 172 to 174	Independent schools: children with special educational needs
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 21, amendments	Minor and consequential
Paragraph 122(b), In Schedule 22, Part 3, the repeal of —	Repeals
Judicial Pensions and Retirement Act 1993(4), in Schedule 5, the reference to “Chairman of an Independent Schools Tribunal”, in Schedule 7, paragraph 5(5) (xxvii), Education Act 1996, sections 464 to 478, section 537(9) and (10), in section 568, in subsection (2) the words “section 468, 471(1) and 474”, in subsection (3) the words from “section 354(6)” to “401” and subsection (4), in section 580, the entries relating to register, registration; registered school; Registrar of Independent Schools, Schedule 34, School Inspections Act 1996(5), in section 10, subsection (3)(e) and, in subsection (4B), paragraph (f) and the preceding “or”, in section 11(5), in paragraph (a), “e”, in section 20(3), paragraph (b) and the preceding “or”, in section 21, in subsection (4), paragraph (b) and the preceding “or”, in Schedule 3, in the definition of “appropriate authority” in paragraph 1, in paragraph (c), “e”, Teaching and Higher Education Act 1998(6), in section 3, subsection (3)(c), Care Standards Act 2000(7), section 100, in Schedule 4, paragraph 24.	

(4) 1993 c. 8.
(5) 1996 c. 57.
(6) 1998 c. 30.
(7) 2000 c. 14.

PART IV

Provisions coming into force on 9th January 2004

<i>Provision</i>	<i>Subject matter</i>
Section 51 in so far as it relates to the provisions of Schedule 4 below	Children permanently excluded from two or more schools
Section 52(1) to (6)	Exclusions
Section 207	Recoupment: adjustment between local education authorities
Section 208	Recoupment: special cases
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, paragraphs 1 and 4 schools	Children permanently excluded from two or more
Schedule 21, amendments	Minor and consequential
Paragraph 1 only in so far as it relates to allowances for exclusion appeal panels, Paragraph 2 except sub-paragraph (a), Paragraph 22 only in so far as it substitutes a new paragraph 15(b) of Schedule 1 to the Tribunals and Inquiries Act 1992, Paragraph 27(1) and (2), Paragraph 112 except in so far as it inserts the definition of “foundation governor”, Paragraph 113 in so far as not already in force except subparagraphs (b) and (f), In Schedule 22, Part 3, the repeal of —	Repeals
Local Government Act 1974 (8) , section 25(5) (b), Education Act 1996 (9) , section 492, In Schedule 1, paragraph 7, Education Act 1997 (10) , In Schedule 7, paragraph 36, School Standards and Framework Act 1998, sections 64 to 68, Schedule 18.	

(8) 1974 c. 7.

(9) 1996 c. 56.

(10) 1997 c. 44.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st December 2003, 4th December 2003, 1st January 2004 and 9th January 2004 those provisions of the Education Act 2002 specified in Parts I, II, III and IV 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 I of the Schedule is as follows —

Section 46 inserts a new section 85A of the School Standards and Framework Act 1998 (“the 1998 Act”), requiring LEAs to establish admission forums in accordance with regulations to be made by the National Assembly for Wales (“the National Assembly”). The forums will advise LEAs on matters relating to school admissions.

Section 188 and paragraphs 1 to 3 of Schedule 16 amend the School Inspections Act 1996 so as to require the Chief Inspector for Wales to keep the National Assembly informed of the quality of the leadership in, and management of, schools in Wales, including whether financial resources are managed efficiently. This information is also to be included in a report by a registered inspector conducting an inspection of a school.

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

Section 41 inserts a new section 45A of the the 1998 Act which relates to the funding arrangements for LEAs and schools. New definitions of “LEA budget” and “schools budget” are introduced. Regulations will set out the details.

Section 42 inserts new sections 45B and 45C of the 1998 Act which enable the National Assembly to set a minimum schools budget for an LEA if the budget proposed by the LEA is inadequate or if the LEA have failed to notify the National Assembly of their proposed budget.

Section 215 and Schedules 21 and 22 make minor and consequential amendments and repeals.

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

Sections 157 to 171 provide for a new system for regulating independent schools. Regulations made by the National Assembly under section 157 will set out the standards independent schools will be required to meet. Section 158 provides for the continuation of the register of independent schools which is to be kept by the National Assembly. Section 159 makes it an offence to run an independent school which is not registered and gives the Chief Inspector for Education and Training in Wales rights of entry to premises.

Section 160 sets out the information to be included by a proprietor of a school in an application for registration and provides for the Chief Inspector to inspect the school. The National Assembly will decide under section 161 whether the school meets the independent school standards in which case it will register the school. Under section 162 the National Assembly can remove a school from the register if there has been a change of proprietor, a change of address or a specified change in relation to the pupils or accommodation, and that change has not been approved. Section 162 also makes provision in relation to applications for approval. Sections 163 and 164 make provision in relation to inspections of independent schools and

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inspection reports. Section 165 provides that where a school is not meeting the independent school standards the National Assembly can remove the school from the register or require the school to prepare and implement an action plan. Sections 166 and 167 provide for a right of appeal to the tribunal established under the Protection of Children Act 1999, against a refusal to approve a material change, a decision to remove a school from the register, an order to take specified action or a refusal to vary or revoke such an order. The sections set out the procedures for making such an appeal and the powers of the tribunal.

Section 168 enables the National Assembly to make regulations requiring information about a school to be provided. Section 169 enables the National Assembly to remove a school from the register if any person is carrying out work at the school in contravention of a direction or order. Section 170 makes provision in relation to the service of notices and section 171 contains definitions.

Section 172 amends the definition of independent school in section 463 of the Education Act 1996 (“the 1996 Act”) so that it now includes a school which has at least one pupil with a statement of special educational needs or who is looked after by a local authority. Section 173 amends section 327 of the 1996 Act to give LEAs a right of access to independent schools to monitor provision made for children with special educational needs. Section 174 amends section 347 of the 1996 Act to provide that when giving consent to the placement of a child at an independent school, the National Assembly must be satisfied that there is a place available at the school.

Section 215 and Schedules 21 and 22 make minor and consequential amendments and repeals.

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

Section 51 and Schedule 4, paragraphs 1 and 4, amend section 87 of the 1998 Act (which removes the requirement to admit a child who has been permanently excluded from two or more schools). Section 87 of the 1998 Act, as amended, provides that a child is not to be regarded as permanently excluded if a governing body or exclusion panel would have directed that the child be reinstated, had it been practical and appropriate to do so.

Section 52(1) to (6) gives the head teacher of a maintained school, and the teacher in charge of a pupil referral unit, the power to exclude a pupil on disciplinary grounds. The procedures in relation to exclusion, reinstatement and appeals are to be set out in regulations made by the National Assembly.

Section 207 re-enacts section 492 of the 1996 Act and provides for the National Assembly to make regulations in relation to inter-authority recoupment. Section 208 transfers to the National Assembly the power to make regulations under section 493 of the 1996 Act, which deals with recoupment in relation to permanently excluded pupils.

Section 215 and Schedules 21 and 22 make minor and consequential amendments and repeals.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Education Act 2002 have been brought into force in relation to Wales by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 14 to 17	31st March 2003	2002/3185 (W.301)
Section 18(2)	31st March 2003	2002/3185 (W.301)
Section 19(6) (partially)	1st September 2003	2003/1718 (W.185)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 27 and 28	1st September 2003	2003/1718 (W.185)
Section 29	1st September 2003	2003/1718 (W.185)
Section 40 (partially)	1st September 2003	2003/1718 (W.185)
Section 43	1st November 2003	2003/1718 (W.185)
Section 49	19th December 2002	2002/3185 (W.301)
Sections 54 to 56	19th December 2002	2002/3185 (W.301)
Sections 60 to 64	1st August 2003	2003/1718 (W.185)
Section 75 (partially)	19th December 2002	2002/3185 (W.301)
Sections 97 and 98	19th December 2002	2002/3185 (W.301)
Section 99(1)	19th December 2002	2002/3185 (W.301)
Section 100 (partially)	19th December 2002	2002/3185 (W.301)
Section 101 (partially)	19th December 2002	2002/3185 (W.301)
Section 103	19th December 2002	2002/3185 (W.301)
Sections 105 to 107	19th December 2002	2002/3185 (W.301)
Section 108 (partially)	19th December 2002	2002/3185 (W.301)
Section 109	19th December 2002	2002/3185 (W.301)
Sections 111 to 118	19th December 2002	2002/3185 (W.301)
Section 119	1st October 2002	2002/2439
Section 120(1) and (3) to (5)	1st October 2002	2002/2439
Section 120(2)	1st August 2003	2003/1667
Section 121	1st October 2002	2002/2439
Section 122 to 129	1st August 2003	2003/1667
Section 130 (partially)	1st October 2002	2002/2439
(fully)	1st August 2003	2003/1667
Section 131	19th December 2002	2002/3185 (W.301)
Sections 132 and 133	19th December 2002	2002/3185 (W.301)
Section 134 (partially)	19th December 2002	2002/3185 (W.301)
Section 135	19th December 2002	2002/3185 (W.301)
Sections 136 to 140	1st September 2003	2003/1718 (W.185)
Section 141	19th December 2002	2002/3185 (W.301)
Sections 142 to 144	31st March 2003	2002/3185 (W.301)
Section 145	19th December 2002	2002/3185 (W.301)
Section 146 (partially)	31st March 2003	2002/3185 (W.301)
Section 148 (partially)	19th December 2002	2002/3185 (W.301)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 149	31st March 2003	2002/3185 (W.301)
Section 150	31st March 2003	2002/3185 (W.301)
Section 151(2)	19th December 2002	2002/3185 (W.301)
Section 152 (partially)	19th December 2002	2002/3185 (W.301)
Section 178 (1) and (4)	1st August 2003	2003/1718 (W.185)
Section 179 (partially)	19th December 2002	2002/3185 (W.301)
Section 180	19th December 2002	2002/3185 (W.301)
Sections 181 to 185	1st September 2003	2003/1718 (W.185)
Section 188 (partially)	19th December 2002	2002/3185 (W.301)
Section 189 (partially)	19th December 2002	2002/3185 (W.301)
Sections 191 to 194	19th December 2002	2002/3185 (W.301)
Section 195 (partially)	31st March 2003	2002/3185 (W.301)
(fully)	1st September 2003	2002/3185 (W.301)
Section 196	19th December 2002	2002/3185 (W.301)
Section 197	1st September 2003	2003/1718 (W.185)
Section 199	1st September 2003	2003/1718 (W.185)
Section 200	31st March 2003	2002/3185 (W.301)
Section 201 (partially)	31st March 2003	2002/3185 (W.301)
Sections 202 and 203	1st September 2003	2003/1718 (W.185)
Section 206	1st September 2003	2003/1718 (W.185)
Section 215 (partially)	19th December 2002	2002/3185 (W.301)
(partially)	31st March 2003	2002/3185 (W.301)
(partially)	1st August 2003	2003/1718 (W.185) and 2003/1667
(partially)	1st September 2003	2002/3185 (W.301) and 2003/1718 (W.185)
Schedule 1, paragraph 3 (partially)	1st September 2003	2003/1718 (W.185)
Schedule 3, paragraphs 1 to 5	1st September 2003	2003/1718 (W.185)
Schedule 5	19th December 2002	2002/3185 (W.301)
Schedule 10, paragraphs 1, 6, 11 and 15	19th December 2002	2002/3185 (W.301)
Schedule 11	1st October 2002	2002/2439
Schedule 12, paragraphs 1, 2, 4(1) and (3), 6 and 7,	19th December 2002	2002/3185 (W.301)
Paragraph 12(1) and (2)	31st March 2003	2002/3185 (W.301)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 13, paragraphs 1 to 3, 5, 6, 7(1) and (3) and 8	19th December 2002	2002/3185 (W.301)
Schedule 16, paragraphs 4 to 9	19th December 2002	2002/3185 (W.301)
Schedule 17, paragraphs 5(1) to (4), (6) and 6 to 8	19th December 2002	2002/3185 (W.301)
Schedule 18, paragraphs 1, 4, 5 and 7,	31st March 2003	2002/3185 (W.301)
Paragraph 8 (partially),	31st March 2003	2002/3185 (W.301)
Paragraphs 13 to 15,	31st March 2003	2002/3185 (W.301)
Paragraphs 2, 3, 6, 8 (fully), 9 to 12 and 16 to 18	1st September 2003	2002/3185 (W.301)
Schedule 19	1st September 2003	2003/1718 (W.185)
Schedule 20	1st September 2003	2003/1718 (W.185)
Schedule 21 (partially)	1st October 2002	2002/2439
(partially)	19th December 2002	2002/3185 (W.301)
(partially)	31st March 2003	2002/3185 (W.301)
(partially)	1st August 2003	2003/1667
(partially)	1st September 2003	2003/1718 (W.185)
Schedule 22 (partially)	1st October 2002	2002/2439
(partially)	9th December 2002	2002/3185 (W.301)
(partially)	31st March 2003	2002/3185 (W.301)
(partially)	1st August 2003	2003/1718 (W.185)
(partially)	1st September 2003	2002/3185 (W.301), 2003/1718 (W.185) and 2003/1667

Various provisions of the Education Act 2002 have been brought into force in relation to England by the following Statutory Instruments: [S.I. 2002/2002](#) (as amended by [S.I. 2002/2018](#)), [S.I. 2002/2439](#), [S.I. 2002/2952](#), [S.I. 2003/124](#), [S.I. 2003/1115](#), [S.I. 2003/1667](#) and [S.I. 2003/2071](#).