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WELSH STATUTORY INSTRUMENTS

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**2001 No. 1274 (W. 73 ) (C. 46 )**

**EDUCATION, WALES  
EMPLOYMENT AND TRAINING, WALES**

The Learning and Skills Act 2000 (Commencement  
No. 3 and Transitional Provisions) (Wales) Order 2001

Made - - - - 22nd March 2001

The National Assembly for Wales makes the following Order in exercise of powers conferred on it by section 154(2), (4), (7) and (8) of the Learning and Skills Act 2000<sup>(1)</sup>:

**Citation and interpretation and application**

1.—(1) This Order may be cited as the Learning and Skills Act 2000 (Commencement No. 3 and Transitional Provisions) (Wales) Order 2001.

(2) In this Order:

“the 1992 Act” (“*Deddf 1992*”) means the Further and Higher Education Act 1992<sup>(2)</sup>;

“the 2000 Act” (“*Deddf 2000*”) means the Learning and Skills Act 2000.

(3) This Order applies to Wales, and the provisions specified in the Schedule shall come into force in relation to Wales for all purposes unless otherwise specified.

**Provisions coming into force**

2.—(1) The provisions of the 2000 Act specified in Part I of the Schedule to this Order shall come into force on 1st April 2001.

(2) The provisions of the 2000 Act specified in Part II of the Schedule to this Order shall come into force on 1st September 2001.

**Transitional and Savings Provisions**

3.—(1) In this article-

“the old Council” (“*yr hen Gyngor*”) means the Further Education Funding Council for Wales;

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(1) 2000 c. 21.

(2) 1992 c. 13.

“the new Council” (“*y Cyngor newydd*”) means the National Council for Education and Training for Wales.

(2) Without prejudice to paragraph 11 of Schedule 10 to the 2000 Act any thing done before 1st April 2001 by the old Council pursuant to section 51 of the 1992 Act shall have effect as if done by the new Council.

(3) If any provision in the instrument or articles of government of any institution within the further education sector (within the meaning of section 91(3) of the 1992 Act) provides that anything should be done in accordance with requirements of the old Council or should comply with directions given by the old Council, such provision shall have effect, in relation to any requirement imposed or direction given on or after 1st April 2001, as if references to the old Council were references to the new Council.

(4) The powers contained in -

- (a) section 496 of the Education Act 1996 as applied in relation to the old Council by section 56(3) of the 1992 Act, and
- (b) section 57(3) and (4) of the 1992 Act,

shall continue to be exercisable in respect of any action (including failure to take any action) by the old Council before 1st April 2001 but any direction given under those powers shall be given to the new Council.

4. The amendment of section 41(10) of the 1992 Act made by paragraph 26 of Schedule 9 to the 2000 Act shall not have effect for the purpose of determining whether any contract entered into before 1st April 2001 was entered into in contravention of section 41 of the 1992 Act.

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

22nd March 2001

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

## SCHEDULE

Article 2

### PART I

#### **Provisions coming into force in relation to Wales on 1st April 2001**

Section 31.

Section 32.

Section 33.

Section 34.

Section 35.

Section 37.

Section 38.

Section 39.

Section 40.

Section 41.

Section 45.

Section 50.

Section 74.

Section 75.

Section 76.

Section 77.

Section 78.

Section 79.

Section 80.

Section 81.

Section 82.

Section 83.

Section 84.

Section 85.

Section 86.

Section 88.

Section 91.

Section 99.

Section 103(1), (2) and (3) insofar as necessary for the purposes of section 103(4)(b).

Section 103(4).

Section 110.

Section 111.

Section 112.

Section 123.

Section 124.

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Section 125.

Section 126.

Section 127.

Section 128.

Section 129.

Section 137.

Section 138.

Section 140(3).

Section 140(4), (5) and (6) insofar as necessary for the purposes of section 140(3).

Section 142.

Section 143.

Section 144.

Section 149 insofar as it relates to the provisions of Schedule 9 specified below.

Section 153 insofar as it relates to the provisions of Schedule 11 specified below.

In Schedule 9-

paragraph 5,

paragraph 6,

paragraph 7,

paragraph 8,

paragraph 9,

paragraph 10,

paragraph 12,

paragraph 13,

paragraph 15,

paragraph 16 ,

paragraph 17,

paragraph 20,

paragraph 21(a),

paragraph 22,

paragraph 23,

paragraph 24,

paragraph 25,

paragraph 26,

paragraph 27,

paragraph 28,

paragraph 29,

paragraph 30,

paragraph 32,

paragraph 33,

paragraph 40,

paragraph 44(1) and (2),  
paragraph 46,  
paragraph 51,  
paragraph 52(1) and (2),  
paragraph 53,  
paragraph 54,  
paragraph 55,  
paragraph 56,  
paragraph 59,  
paragraph 65,  
paragraph 66,  
paragraph 67 (5),  
paragraph 68,  
paragraph 72,  
paragraph 73,  
paragraph 74,  
paragraph 75(a) and (b), and (c) insofar as it relates to section 34 of the Learning and Skills Act 2000,  
paragraph 76,  
paragraph 77,  
paragraph 78,  
paragraph 79,  
paragraph 80,  
paragraph 94.

In Schedule 11 the repeals insofar as they relate to Wales of -

in the Superannuation Act 1972, Schedule 1, in the list of “Other Bodies” the words “Further Education Funding Council for Wales in receipt of remuneration.”,

in the House of Commons Disqualification Act 1975, in Part III of Schedule I the words “Any member of the Further Education Funding Council for Wales in receipt of remuneration.”,

in the Sex Discrimination Act 1975, section 25(6)(d),

in the Race Relations Act 1976, section 19(6)(d),

in the Education Reform Act 1988, in section 124(2)(b), the words “, as defined by section 15(6) and (7) of the Education Act 1996”,

in the Further and Higher Education Act 1992, sections 1 to 9, section 28(2)(b), section 32(2A), section 44(6), section 45(6), in section 52(1) the word “full-time”, in section 55 subsections (1) to (3) and paragraphs (a) and (b) of subsection (7), section 56, and Schedule 2 ,

in the Disability Discrimination Act 1995, section 19(6)(f) and section 30(2) to (4),

in the Education Act 1996, section 15, in section 509(1) paragraph (d) and the word “or” immediately preceding that paragraph, and paragraphs 70 and 112 of Schedule 37,

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in the Education Act 1997, in section 30, in subsection (1) the words “or by subsection (3)”, and subsection (3),

in the Audit Commission Act 1998, in the Table in section 36(1) the entry relating to a further education funding council, and in section 36(2) the words “or a further education funding council”,

in the Teaching and Higher Education Act 1998, section 26(1) and (2), in the definition of “publicly-funded institution” in section 28(1)(a) the words “5 or” and the words from “from a further” to “its costs”, and section 34,

in the School Standards and Framework Act 1998, paragraphs 41 and 42 of Schedule 30.

## **PART II**

### **Provisions coming into force in relation to Wales on 1st September 2001**

Section 96.

Section 100(2).

Section 102.

Section 103 (5).

Section 148.

Section 149 insofar as it relates to paragraph 57 of Schedule 9.

Section 153 insofar as it relates to the provisions of Schedule 11 specified below.

In Schedule 9, paragraph 57.

In Schedule 11, the repeals insofar as they relate to Wales of -

in the Education Act 1996, in section 403(1) the words “local education authority,”,

in the Education Act 1997, section 37(1)-(4), and in section 37(5) the words “, which are superseded by this section,”.

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## **EXPLANATORY NOTE**

*(This note does not form part of the Order)*

This Order brings into force on 1st April 2001 those provisions of the Learning and Skills Act 2000 specified in Part I of the Schedule to this Order. It also brings into force on 1st September 2001 those provisions of that Act specified in Part II of the Schedule to this Order. There are transitional provisions and in one case the commencement is subject to savings.

The effect of the provisions specified in Part I of the Schedule is explained below.

Sections 31 and 32 set out the main duties of the National Council for Education and Training for Wales in respect of education and training for persons aged 16 to 19 years, and over 19 years, respectively. Section 33 requires the Council to encourage individuals and employers to undertake, to participate in, and to contribute to the costs of, post-16 education and training. Sections 34, 35 and 37 set out the Council’s power to secure the provision of financial resources to certain providers

of post-16 education and training, give the Council the power to impose conditions in relation to such provision, and empower the Council to develop schemes of performance assessment and to undertake means tests. Section 38 empowers the Council to promote Individual Learning Accounts and sections 39 and 40 empower it to appoint members to the governing bodies of certain further education institutions, and to carry out research relating to any matter relevant to its functions. Section 41 requires the Council to have regard to the needs of persons with learning difficulties when discharging certain functions and section 45 requires it to have regard to information supplied to it by any body designated by the National Assembly for Wales for that purpose. Section 50 requires the Council to prepare an annual report after the end of each financial year and to send a copy of that report to the National Assembly.

Section 74 defines terms relevant to inspection. Sections 75 and 76 set out the extended remit and additional functions of Her Majesty's Chief Inspector for Education and Training in Wales. Section 77 imposes a duty on the Chief Inspector to inspect education and training brought within the Chief Inspector's remit by section 75, and section 78 confers various general advisory and reporting powers. Section 79 deals with the Chief Inspector's right of entry. Section 80 requires the production of an action plan by a provider of education following the publication of an inspection report.

Section 81 requires the Chief Inspector, at the request of the National Assembly for Wales, to inspect education, training or advisory services where those services are provided by bodies which also provide the careers service in Wales. Section 82 empowers the Chief Inspector, at the request of the National Assembly or the Secretary of State for Education and Employment or the Adult Learning Inspectorate in England, to inspect education and training in Wales provided in accordance with arrangements made under section 2 of the Employment and Training Act 1973.

Section 83 makes provision for area inspections, section 84 deals with action plans following such inspections, and section 85 empowers the National Assembly to direct the Chief Inspector to undertake studies across Wales, or outside Wales, on matters relating to post-16 education and training.

Section 86 requires the Chief Inspector to make an annual report to the National Assembly, and section 88 gives qualified privilege to certain reports of the Chief Inspector.

Section 91 provides for the dissolution of the Further Education Funding Council for Wales and for the vesting of all its property, rights and liabilities in the Council. 'The appointed day' referred to in section 91 is therefore 1st April 2001.

Section 99 authorises the National Assembly to approve external qualifications, or to confirm their approval by a designated body.

Section 103(4) amends the Education Act 1997 to allow the National Assembly to confer on the Qualifications, Curriculum and Assessment Authority for Wales powers in respect of the development, setting and administration of tests leading to the attainment of certain external qualifications. It also removes certain powers of that Authority which are no longer relevant.

Section 110 redefines secondary education to allow an institution providing only sixth form education to be maintained as a school. Sections 111 and 112 amend existing provisions to prevent sixth form schools being brought into the further education sector without the consent of the governing body and the local education authority.

Sections 123-129 make provision for a youth support service in Wales. Section 123 gives the National Assembly new powers to direct local authorities in Wales to provide, to secure the provision of, or to participate in the provision of, youth support services for all 11-25 year olds. Section 124 sets out the duties and powers necessary to enable local authorities to comply with those directions. Section 125 imposes on local authorities a duty to consult before complying with any direction. Section 126 imposes duties on various educational institutions to provide information to youth support service providers and to permit access to pupils and students. Sections 127 and 128 set out inspection arrangements and section 129 contains supplementary provisions.

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Section 137 amends section 508 of the Education Act 1996 to remove local education authorities' duty to provide services ancillary to their further education provision and to replace it with a power. This reflects the imposition of a duty to provide certain further education on the National Council for Education and Training for Wales instead of the local education authorities.

Section 138 enables certain listed public bodies to provide information about a young person to a local authority or other person or body involved in the provision of youth support, training or careers services in Wales.

Section 140(3) empowers the National Assembly to arrange for assessment of those under the age of 25 years who have learning difficulties and who are receiving, or likely to receive, post-16 education or training, or higher education.

Section 142 enables further education corporations to provide secondary education. Section 143 provides for the incorporation of the governing bodies of designated institutions. Section 144 imposes requirements on designated institutions in respect of disposal of land.

Schedules 9 and 11 respectively contain consequential amendments and repeals.

The effect of the provisions specified in Part II of the Schedule is explained below.

Section 96, in conjunction with section 103(5), prevents authorised bodies (defined in section 100 to include local education authorities and the National Council for Education and Training for Wales) from funding courses leading to external qualifications, unless those qualifications are approved. This restriction applies to courses for those under the age of 19 years provided by a school, institution or employer. (The restriction which it replaces applies only to courses for those of compulsory school age provided by a school.) Section 102 contains enforcement provisions.

Section 148 imposes a duty on local education authorities, head teachers and governing bodies to have regard to the National Assembly's guidance relating to sex education. Section 148 also requires the National Assembly to issue guidance designed to secure that children learn about the importance of marriage and are protected from inappropriate teaching materials.

Schedules 9 and 11 respectively contain a consequential amendment and repeals.

#### **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

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

The following provisions of the Learning and Skills Act 2000 have been, or will be, brought into force in relation to Wales by commencement orders made before the date of this Order.

<b>Provision</b>	<b>Date of Commencement</b>	<b>S.I. No</b>
Sections 104, 105, 107 and 108	3 August 2000	<a href="#">2000/2114 (C.56)</a>
Section 94 and section 149 insofar as it relates to paragraph 87 of Schedule 9. In schedule 9, paragraph 87.	1 September 2000	<a href="#">2000/2114 (C.56)</a>
Sections 30, 47, 49 and 51, and section 149 insofar as it relates to the paragraphs of Schedule 9 listed below. Schedule 4. In Schedule 9, paragraphs 3, 4 and 93.	19 September 2000	<a href="#">2000/2540 (W.163) (C.70)</a>



<b>Provision</b>	<b>Date of Commencement</b>	<b>S.I. No</b>
Sections 134-136 and 146, and section 149 insofar as it relates to paragraph 14 of Schedule 9.	1 October 2000	<a href="#">2000/2559 (C.73)</a>
In Schedule 9, paragraph 14. Sections 42, 43, 44, 46, 48, 73, 87, 93, 95, 139, 141 and 145. Section 149 insofar as it relates to the paragraphs of Schedule 9 listed below. Section 153 insofar as it relates to the repeals in Schedule 11 referred to below. Schedule 5. In Schedule 9, paragraphs 21(b), 34, 36, 44(3) and (4), 45, 64, 70, 81, 86, and 92. In Schedule 11 the repeals there specified in respect of- Further and Higher Education Act 1992, sections 18 and 60A, and Schedule 5A, Education Act 1996, paragraph 113 of Schedule 37, Teaching and Higher Education Act 1998, sections 19 and 22, School Standards and Framework Act 1998, sections 125 and 126, and Schedule 27, Government of Wales Act 1998, section 104(4).	1 January 2001	<a href="#">2000/3230 (W.213) (C.103)</a>
Section 149 insofar as it relates to the paragraphs of Schedule 9 listed below. Section 153 insofar as it relates to the repeals in Schedule 11 referred to below. In Schedule 9, paragraphs 11, 35, 37-39, 41-43, 47-50, 52(3), 83 and 88.	1 April 2001	<a href="#">2001/654(C.25)</a>
In Schedule 10, Part IV. In Schedule 11, the repeals there specified in respect of- Further and Higher Education Act 1992, section 91(2), School Standards and Framework, Act 1998, section 142 (1).		