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WELSH STATUTORY INSTRUMENTS

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**2002 No. 3184 (W.300)**

**EDUCATION, WALES**

**The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002**

*Made* - - - - *18th December 2002*

*Coming into force* - - *19th December 2002*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by section 214 of the Education Act 2002(1).

**Name, commencement and application**

1.—(1) These Regulations are called the Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 and shall come into force on 19th December 2002.

(2) These Regulations apply to Wales.

**Interpretation**

2.—(1) In these Regulations—

“the 1996 Act” (“*Deddf 1996*”) means the School Inspections Act 1996(2);

“the 1998 Act” (“*Deddf 1998*”) means the School Standards and Framework Act 1998(3);

“the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002;

“an inspector’s report” (“*adroddiad arolygydd*”) means a report made under section 5(2)(b), section 13 or section 14 of the 1996 Act.

(2) In these regulations references to sections and Schedules are references to, respectively, sections of and Schedules to the 2002 Act.

**Modifications relating to schools causing concern**

3. Where an inspector’s report has been made before 19th December 2002:

(a) section 15(4) and (6) of the 1998 Act shall have effect as if the amendments made by section 55 had not come into force;

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(1) 2002 c. 32.  
(2) 1996 c. 57.  
(3) 1998 c. 31.

- (b) the National Assembly for Wales may exercise any of the powers conferred on it by sections 18(1) or 19(1) of the 1998 Act as if the report had been prepared after that date and a notice had been given under section 16A(2)(4) of the 1996 Act;
- (c) a local education authority may exercise the powers conferred on it by sections 14(2)(a) or (b), 16 or 17 of the 1998 Act as if the report had been prepared after that date and a notice had been given under section 16A(2) of the 1996 Act.

#### **Modification of provision relating to financing of schools**

4. Section 41(2) shall have effect as though there were substituted for the words “subsection (1)” the words “subsection (2)”.

#### **Modification of provisions relating to the Curriculum**

5.—(1) In this regulation references to the modification period are references to the period beginning on 19th December 2002 and ending on the day when sections 102, 104 and 108(2) come into force.

(2) During the modification period sections 99(1), 100(1)(a), (2)(a) and (3), 111(1), 114(1) and (5) and 115(4)(a) shall have effect as if the words “or maintained nursery school” were omitted, and section 111(3) shall have effect as if the words “or a maintained nursery school” were omitted.

(3) During the modification period section 100 shall have effect as if there were substituted for paragraph (4) (b)—

“(b) functions relating to religious education and religious worship.”

(4) During the modification period section 101 shall have effect as if there were substituted for paragraph (1)(b)—

“(b) a curriculum for all registered pupils at the school of compulsory school age (known as “the National Curriculum for Wales”),”.

(5) During the modification period section 108 shall have effect as though these were omitted—

- (a) in subsection (1)(b) the words “the foundation stage and”;
- (b) in subsection (4), “(2) or”, “the foundation stage or”, “educational programme or” and “(or the timetables of any person providing funded nursery education)”;
- (c) in subsection (5) “(2) or”;
- (d) in subsection (8) “(2)(b) (iii) or” ;
- (e) in subsection (10) “(6) or” and “or, as the case may be, premises on which the funded nursery education is being provided”; and
- (f) in subsection (11) “(2)(b)(iii) or” and “(6) or”.

(6) Paragraph 6(1) of Schedule 1 to the Education Act 1996<sup>(5)</sup> shall have effect as though there were substituted for the words “section 351(1)” the words “section 78(1) or 99(1) of the Education Act 2002”.

#### **Modification of provisions relating to teachers**

6.—(1) During the period beginning on 19th December 2002 and ending on the day on which regulations under section 132 come into force, that section shall have effect as though there were substituted for subsection (1)—

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(4) Inserted by section 54.

(5) 1996 c. 56.

“A reference in the Education Acts to a “qualified teacher” is to a qualified teacher within the meaning of section 218(2) of the Education Reform Act 1988(6).”

(2) During the period beginning on the date on which section 122(3)(d) comes into force(7) and ending on the day on which regulations under section 133 come into force, section 122(3)(d) shall not apply.

7.—(1) During the period beginning on 31st March 2003 and ending on the day on which paragraph 3(3) of Schedule 12 comes into force, section 134(1) shall have effect as though the words “with full registration” were omitted.

(2) During the period beginning on 31st March 2003 and ending on the day on which regulations under section 134(1) come into force, the new section 12(2)(b) of the Teaching and Higher Education Act 1998 substituted by paragraph 81(a) of Schedule 21 shall have effect as though there were substituted therefor—

“(b) required as a consequence of their employment to be so registered by virtue of section 218(1)(aa)(8) of the Education Reform Act 1988.”.

#### **Modification of provision relating to child care**

8. Paragraph (c) of section 113(3E) of the Police Act 1997(9) shall have effect as though there were substituted for the words from “for child minding” until “that Act” the words “for child minding or providing day care under section 71 of the Children Act 1989”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(10)

18th December 2002

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

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(6) 1988 c. 40.

(7) Section 122(3)(d) comes into force on a date appointed by the Secretary of State — see section 216(2). No date has been appointed yet.

(8) Inserted by section 11 of the Teaching and Higher Education Act 1998.

(9) 1997 c. 50. This section is also amended by paragraph 7 of Schedule 13 to the 2002 Act.

(10) 1998 c. 38.

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

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## EXPLANATORY NOTE

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

These Regulations make modifications to provisions of the Education Act 2002 (“the Act”) specified for a transitional period to facilitate the bringing into force of other provisions of the Act on a date earlier than those other provisions of that Act are to be brought into force. They also make transitional provisions in relation to the Act. In particular—

1. The powers of intervention in schools causing concern which have been amended by the Act are applied in relation to inspectors' reports made before 19th December 2002, which is the date when the new provisions are brought into force (regulation 3).

2. An amendment is made to the School Standards and Framework Act 1998 to correct an incorrect cross reference in the amendment made by section 41(2) of the Act (regulation 4).

3. Part 7 of the Act (The Curriculum in Wales), parts of which are brought into force by the Education Act 2002 (Commencement No. 1) (Wales) Order 2002 (“the Commencement Order”), is modified pending the bringing into force of the provisions of that Part relating to the new foundation stage, maintained nursery schools and nursery education (regulation 5(1) to (5)). An amendment is also made to the Education Act 1996 so as to refer to the new curriculum provisions in the Act (regulation 5(6)).

4. The new definition of “qualified teacher” in section 132 of the Act (which refers to “a person who satisfies requirements specified in regulations”) which is brought into force by the Commencement Order is modified pending the coming into force of regulations under that section (regulation 6(1)).

5. Section 122(3)(d) of the Act (definition of “school teacher” for the purposes of that section), which refers to a person who carries out work of a kind specified by regulations under section 133(1) and will be brought into force by an Order of the Secretary of State (for both England and Wales), is disapplied pending the coming into force of those regulations (regulation 6(2)).

6. A reference to provisional registration with the General Teaching Council in section 134 of the Act (requirement to be registered with the General Teaching Council) is modified pending the bringing into force of the provisions of Schedule 12 to the Act relating to such provisional registration (regulation 7(1)). Similarly a consequential amendment in Schedule 21 to that Act brought into force by that Commencement Order which refers to section 134 of the Act is modified pending the coming into force of regulations under that section (regulation 7(2)).

7. An amendment is made to the Police Act 1997 so as to refer correctly to the Children Act 1989 (regulation 8).