
WELSH STATUTORY INSTRUMENTS

2008 No. 1429 (W.148) (C.64)

EDUCATION, WALES

**The Education and Inspections Act 2006 (Commencement
No.1 and Saving Provisions) (Wales) Order 2008**

Made - - - -

4 June 2008

The Welsh Ministers, in exercise of the powers conferred upon the National Assembly for Wales by sections 181 and 188(3) of the Education and Inspections Act 2006⁽¹⁾, and now vested in them⁽²⁾, make the following Order:

Title and interpretation

1. The title of this Order is the Education and Inspections Act 2006 (Commencement No. 1 and Saving Provisions) (Wales) Order 2006.

2.—(1) In this Order —

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

“the 2006 Act” (“*Deddf 2006*”) means the Education and Inspections Act 2006.

(2) In this Order, unless otherwise stated, references to sections and Schedules are references to sections of and Schedules to the 2006 Act.

Appointed days

3.—(1) The provisions of the 2006 Act specified in Part 1 of the Schedule to this Order are to come into force on 30 June 2008 in relation to Wales.

(2) The provisions specified in Part 2 of the Schedule to this Order are to come into force on 30 June 2008.

(3) The provisions specified in Part 3 of the Schedule to this Order are to come into force on 1 September 2008 in relation to Wales.

(1) 2006 c. 40.

(2) By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(3) 1998 c. 31.

Saving of current Codes of Practice

4.—(1) Despite the coming into force of section 40 of the 2006 Act and the amendments which that section makes to section 84 of the 1998 Act, the School Admissions Code of Practice⁽⁴⁾ and section 84 of the 1998 Act as originally enacted in relation to that Code are to continue in force until the date appointed by the Welsh Ministers for the coming into force of a code for school admissions to replace that Code.

(2) Despite the coming into force of section 40 of the 2006 Act and the amendments which that section makes to section 84 of the 1998 Act, the School Admission Appeals Code of Practice⁽⁵⁾ and section 84 of the 1998 Act as originally enacted in relation to that Code are to continue in force —

- (a) until the date appointed by the Welsh Ministers for the coming into force of a code for school admission appeals to replace that Code, and
- (b) in relation to any appeal made under section 94 of the 1998 Act where a notice of appeal has been given before the date appointed by the Welsh Ministers for the coming into force of a code for school admission appeals to replace that Code.

4 June 2008

Jane Hutt
Minister for Children, Education, Lifelong
Learning and Skills, one of the Welsh Ministers

(4) The School Admissions Code of Practice came into force on 1 April 1999, isbn – 07504 23331.

(5) The School Admission Appeals Code of Practice came into force on 1 September 1999, isbn – 07504 23528.

SCHEDULE

Article 3

PART 1

Provisions coming into force on 30 June 2008 in relation to Wales

<i>Provision</i>	<i>Subject Matter</i>
Section 1	Duties in relation to high standards and fulfilment of potential
Section 37(1) and (2)(a)	Staff at foundation or voluntary schools with religious character
Section 39	General restriction on selection by ability
Section 43	Duty of governing body to implement decisions relating to admissions
Section 44	Prohibition on interviews
Section 45	Admission arrangements for schools with religious character; consultation and objections
Section 47	Objections to admission arrangements
Section 53	Schools with pre-1998 arrangements for selection by ability or aptitude
Section 166	Collaboration arrangements:— maintained schools and further education bodies
Section 184 in so far as it relates to the provisions of Schedule 18 below	Repeals
In Schedule 18, in Part 6 the repeal of— School Standards and Framework Act 1998, section 5, section 58(4) in section 89, in subsection (2) the word “and” at the end of paragraph (c), section 90(6), (7) and (10) section 99(1)	Repeals

PART 2

Provisions coming into force on 30 June 2008

<i>Provision</i>	<i>Subject Matter</i>
Section 156	Removal of HMICA’s duty to inspect performance of Welsh Ministers' functions relating to family proceedings
Section 175	Miscellaneous amendments relating to Wales
Section 184 in so far as it extends to the provisions of Schedule 18 below	Repeals

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

<i>Provision</i>	<i>Subject Matter</i>
Schedule 17	Miscellaneous amendments relating to Wales
In Schedule 18, in Part 5 the repeal of— Children Act 2004, section 38.	Repeals

PART 3

Provisions coming into force on 1 September 2008 in relation to Wales

<i>Provision</i>	<i>Subject Matter</i>
Section 38	General duties of governing bodies of maintained school
Section 40	Code for school admissions
Section 184 in so far as it extends to the provisions of Schedule 18 below	Repeals
In Schedule 18, in Part 6 the repeal of— School Standards and Framework Act 1998, in section 84(5), the words “of practice”, in each place where they occur, in section 85(1), the words “of practice”.	Repeals

EXPLANATORY NOTE

(This note is not part of the Order)

This is the first commencement order made by the Welsh Ministers under the Education and Inspections Act 2006 (the 2006 Act).

The Order brings the provisions described briefly below into force on 30 June 2008 and 1 September 2008. In what follows, references to sections and Schedules are to sections of, and Schedules, to, the 2006 Act.

The effect of the provisions specified in Part 1 of the Schedule to the Order which come into force on 30 June 2008 in relation to Wales is as follows—

Section 1 re-enacts section 13A of the Education Act 1996 which requires local education authorities to promote high standards, adding a requirement that they exercise their functions with a view to promoting the fulfilment of every child’s educational potential.

Section 37 amends section 58 of the School Standards and Framework Act 1998 so as to remove the prohibition on the head teacher of a foundation or voluntary controlled school being a reserved teacher. A reserved teacher is a teacher who is appointed, specifically to teach religious education in accordance with the school’s religious ethos.

Section 39 re-enacts the prohibition on selection for admission to a maintained school on the basis of a pupil’s ability, subject to certain exceptions.

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Section 43 amends section 88 of the School Standards and Framework Act 1998 so as to require a community or voluntary controlled school to implement a decision to admit a child taken by a local education authority which is the school's admission authority. This does not affect a governing body's right to appeal where the decision relates to a child who has been twice permanently excluded.

Section 44 inserts a new section 88A into the School Standards and Framework Act 1998 which prohibits interviewing as part of a school's admission arrangements, save in relation to boarding places and where the school has a permitted form of selection arrangements, for the purpose of ascertaining a pupil's aptitude.

Section 45 amends section 89 of the School Standards and Framework Act 1998 so that the governing body of a foundation or voluntary aided school with a religious character must, before determining their admission arrangements, consult any body or person representing the religion or denomination in question as are set out in regulations.

Section 47 amends section 90 of the School Standards and Framework Act 1998, which relates to objections to admission arrangements. Where an objection is referred to the Welsh Ministers, they may consider any aspect of the school's admission arrangements. There are new requirements in relation to the publication of a decision report, and the Welsh Ministers' decisions are binding and must be implemented.

Section 53 amends section 100 of the School Standards and Framework Act 1998, so that if a school with pre-existing partially selective admission arrangements reduces the proportion of selective admissions, it cannot subsequently increase that proportion.

Section 166 enables the Welsh Ministers to make regulations which will allow the governing bodies of maintained schools and further education bodies to make collaboration arrangements for the joint discharge of their functions.

Section 184 and Schedule 18 (which are commenced in part) contain consequential repeals.

The effect of the provisions specified in Part 2 of the Schedule to the Order which come into force on 30 June 2008 is as follows—

Sections 156, 184 (in part) and Schedule 18 (in part) repeals section 38 of the Children Act 2004. There is no longer to be a requirement on Her Majesty's Inspectorate of Court Administration, when requested to do so by the Welsh Ministers, to inspect and report on the functions of the Welsh Ministers under Part 4 of the Children Act 2004 (advisory and support services for family proceedings).

Section 175 and Schedule 17 contain miscellaneous amendments relating to schools in Wales.

The effect of the provisions specified in Part 3 of the Schedule to the Order which come into force on 1 September 2008 in relation to Wales is as follows—

Section 38 amends section 21 of the Education Act 2002 so as to require governing bodies of maintained schools, when discharging their functions relating to the conduct of the school, to promote the well-being of pupils at the school and to have regard to any relevant children and young people's plan. It also amends section 28 of the Education Act 2002 so as to require governing bodies of maintained schools, when exercising their powers to provide community facilities, to have regard to any relevant children and young people's plan.

Section 40 amends sections 84 and 85 of the School Standards and Framework Act 1998 so that the code for school admissions is no longer a code of practice containing practical guidance to which bodies must have regard, but is a code that may contain requirements or guidelines and which bodies must act in accordance with. Admission forums are included as bodies to whose functions the code applies.

Article 4 of the Order contains saving provisions in relation to the code for school admissions and the code for admission appeals.

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Various provisions of the 2006 Act have been brought into force in relation to England by the following Statutory Instruments: S.I.2006/2990 as amended by S.I. 2008/54, S.I. 2006/3400, S.I. 2007/935 (as amended by S.I. 2007/1271), S.I. 2007/1271, S.I. 2007/1801 and S.I. 2007/3074.

See also section 188(1) and (2) for the provisions that came into force on 8 November 2006 (date of Royal Assent) and 8 January 2007 (two months thereafter).