

ACCOMPANYING DOCUMENTS

Explanatory Notes and an Explanatory Memorandum are printed separately.

**Proposed Education (Wales) Measure
2011**

[AS PASSED]

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Proposed Education (Wales) Measure 2011

[AS PASSED]

A Measure of the National Assembly for Wales to make provision for collaboration between local authorities, governing bodies of maintained schools and further education institutions; to make provision for the federation of maintained schools, the training of governors and clerks to governing bodies of maintained schools and the provision of such clerks; to make provision prohibiting new foundation schools; and for connected purposes.

PART 1

COLLABORATION BY EDUCATION BODIES

1 Education bodies

For the purposes of this Part, an “education body” means—

- (a) a local authority in Wales;
- (b) the governing body of a maintained school in Wales;
- (c) a further education corporation (as defined by section 17(1) of the Further and Higher Education Act 1992) in Wales;
- (d) the governing body of a designated institution (as defined by section 28(4) of that Act) in Wales, which—
 - (i) is a body incorporated by virtue of section 143(5) of the Learning and Skills Act 2000, and
 - (ii) is exclusively or mainly providing full-time education for persons who are above compulsory school age but who have not attained the age of 19.

2 The collaboration objective

- (1) The objective of this Part is the effective and efficient use of public resources by an education body in respect of the provision of education and training suitable to the requirements of persons who have not attained the age of 19.
- (2) This objective is referred to in this Part as “the collaboration objective”.

3 Duty of education body to collaborate

- (1) An education body must consider from time to time whether the exercise of its powers of collaboration would further the collaboration objective in the exercise of its other functions.
- (2) If an education body concludes that the exercise of a power of collaboration would further the collaboration objective in the exercise of its functions, it must seek to exercise, or cause to be exercised, the power.

- (3) The duty in subsection (1) applies to the bodies mentioned in paragraphs (c) and (d) of section 1 in so far as it relates to the provision of secondary and further education suitable to the requirements of persons who have not attained the age of 19.
- (4) The duty in subsection (1) is without prejudice to the duties in—
 - (a) section 33K of the Learning and Skills Act 2000 (delivery of local curriculum entitlements for students aged 16 to 18: joint working);
 - (b) section 116J of the Education Act 2002 (delivery of local curriculum entitlements for pupils in Key Stage 4: joint working);
 - (c) section 12 of the Local Government (Wales) Measure 2009 (duty to consider the exercise of powers of collaboration for the purpose of duties under that Measure).

4 Meaning of “powers of collaboration”

For the purposes of this Part, “powers of collaboration” means—

- (a) the powers in section 5;
- (b) in the case of a local authority—
 - (i) its power to authorise a person (or the person’s employees) to exercise a function on the authority’s behalf under an order made under section 70 of the Deregulation and Contracting Out Act 1994;
 - (ii) its power under section 101(1)(b) and (5) of the Local Government Act 1972 (arrangements for the discharge of local authority functions);
 - (iii) a power of the executive of the authority (or a committee or specified member of the executive) to make arrangements for the discharge of their functions under regulations made under section 19(1) of the Local Government Act 2000 (arrangements for the discharge of functions of the executive of a local authority by another local authority etc);
 - (iv) a power of the authority to make arrangements for the discharge of its functions under regulations made under section 19(2) of the Local Government Act 2000 (arrangements for the discharge of functions of a local authority by the executive etc of another local authority).

5 Powers to collaborate

- (1) An education body has the powers in subsection (2) for the purpose of discharging or facilitating the discharge of—
 - (a) its duty under section 3,
 - (b) its duty under section 33K of the Learning and Skills Act 2000,
 - (c) its duty under section 116J of the Education Act 2002, or
 - (d) the duty of another education body under those provisions.
- (2) The powers are—
 - (a) to provide financial assistance (whether by way of grant or loan) to any person;

- (b) to enter into arrangements or agreements with any person;
 - (c) to co-operate with, or facilitate or co-ordinate the activities of, that person;
 - (d) to exercise on behalf of any person any functions of that person (whether alone or jointly);
 - (e) to make arrangements for any of the education body's functions to be carried out with one or more other education bodies, or by one or more other education bodies;
 - (f) to make arrangements for any of the education body's functions to be carried out by joint committees of two or more education bodies;
 - (g) to provide staff, goods, services or accommodation to any person;
 - (h) to share and use information for the purpose of exercising any powers of collaboration.
- (3) These powers are –
- (a) without prejudice to any other powers of an education body, and
 - (b) subject to provision made under section 6.

6 Regulations about the power to collaborate

- (1) Regulations may provide for –
- (a) the circumstances in which the duty in section 3(1) does not apply;
 - (b) the circumstances in which an education body is not required to, or is not permitted to, exercise powers of collaboration;
 - (c) the functions of an education body which may not be delegated under paragraphs (d), (e) and (f) of section 5(2);
 - (d) conditions that must be met for the exercise of powers of collaboration;
 - (e) the manner in which functions are to be discharged under collaboration arrangements;
 - (f) any other matters that are relevant to the exercise of powers of collaboration.
- (2) Regulations may provide for –
- (a) the establishment by education bodies of a joint committee of those bodies for the purpose of arrangements under section 5(2)(f) (“a joint committee”);
 - (b) the appointment of persons to serve on a joint committee (including provision as to the restrictions or other requirements relating to any such appointments) and their removal from office;
 - (c) the appointment of a clerk to a joint committee (including provision as to the restrictions or other requirements relating to any such appointment) and the removal of the clerk from office;
 - (d) the appointment by a joint committee of one of their number to act as clerk for the purposes of a meeting where the clerk fails to attend;
 - (e) rights of persons to attend meetings of a joint committee;
 - (f) restrictions on persons taking part in the proceedings of a joint committee;

- (g) the dissolution of joint committees;
 - (h) sub-committees of joint committees (including provision for the exercise of functions of the joint committee by a sub-committee and provision in relation to sub-committees that may be made in relation to a joint committee under this section);
 - (i) other matters relating to the constitution or procedure of a joint committee.
- (3) The power in subsection (4) applies in relation to—
- (a) the functions of the education bodies which are to be discharged under paragraphs (d), (e) and (f) of section 5(2);
 - (b) the education bodies by whom those functions are to be discharged.
- (4) Regulations may provide that any enactment is to have effect subject to all necessary modifications in its application in relation to those functions and the bodies by whom they are to be discharged.

7 Guidance

In exercising its functions under this Part, an education body must have regard to guidance given from time to time by the Welsh Ministers.

8 Interpretation of this Part

In this Part—

“collaboration arrangements” (*“trefniadau cydlafurio”*) means an activity performed in the exercise of an education body’s powers of collaboration;

“collaboration objective” (*“amcan y cydlafurio”*) has the meaning given by section 2;

“education body” (*“corff addysg”*) has the meaning given by section 1;

“functions” (*“swyddogaethau”*) means powers and duties, and in the case of a local authority means powers and duties that are education functions;

“maintained school” (*“ysgol a gynhelir”*) means a community, foundation or voluntary school, a community or foundation special school, a maintained nursery school or a pupil referral unit;

“powers of collaboration” (*“pwerau cydlafurio”*) has the meaning given by section 4.

9 Minor and consequential amendments

- (1) In section 57(5A) of the Further and Higher Education Act 1992, for “make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies” substitute “exercise powers under section 5(2)(b) to (f) and (h) of the Education (Wales) Measure 2011 to collaborate with such persons”.
- (2) In section 33K(5) of the Learning and Skills Act 2000—

- (a) after paragraph (b) insert –
 - “(ba) arrangements made in exercise of the powers of collaboration described in section 4 of the Education (Wales) Measure 2011.”;
 - (b) omit paragraphs (c) and (d).
- (3) In the Education Act 2002 –
- (a) in section 26(a), after “schools” insert “in England”;
 - (b) in section 116J(5) –
 - (i) after paragraph (a) insert –
 - “(aa) arrangements made in exercise of the powers of collaboration described in section 4 of the Education (Wales) Measure 2011.”;
 - (ii) omit paragraphs (b) and (c).
- (4) In section 166(6) of the Education and Inspections Act 2006 –
- (a) in the definition of “further education body” –
 - (i) after “(c.13)” insert “in England”;
 - (ii) after “section 28(4) of that Act” insert “in England”;
 - (b) in the definition of “maintained school” after “means” insert “a school in England which is”;
 - (c) in the definition of “regulations” omit “or the Assembly (in relation to Wales)”.

PART 2

SCHOOL GOVERNANCE

CHAPTER 1

FEDERATION OF MAINTAINED SCHOOLS

10 Federation of schools by governing bodies

- (1) This section applies to the governing bodies –
 - (a) of two or more maintained schools,
 - (b) of an existing federation and one or more maintained schools, or
 - (c) of two or more existing federations.
- (2) Governing bodies may provide for their respective schools to be federated.
- (3) This power is subject to –
 - (a) compliance with any prescribed conditions, and
 - (b) the exercise of the power in accordance with any prescribed procedure.

11 Proposals by local authorities to federate schools

- (1) A local authority may make proposals for the federation –
 - (a) of two or more maintained schools;
 - (b) of an existing federation and one or more maintained schools;
 - (c) of two or more existing federations.
- (2) A local authority must publish proposals made under this section.
- (3) A local authority must, in accordance with regulations, consult the following persons on the published proposals –
 - (a) the governing bodies of the schools or federations to be federated;
 - (b) the staff of the schools;
 - (c) one or more bodies (if any) appearing to the authority to represent the interests of the staff of the schools;
 - (d) in so far as is practicable, registered pupils at the schools and their parents.
- (4) Subsections (2) and (3) do not apply in relation to a proposal for a federation consisting only of small schools.
- (5) In relation to a proposal for a federation consisting only of small schools the local authority must, in accordance with regulations, consult the governing bodies of the schools concerned.
- (6) A “small school” in subsections (4) and (5) means a maintained school that, on the date that the proposal is made under subsection (1), is a small maintained school as defined in an order under section 15.
- (7) A local authority must, in accordance with regulations, determine whether to –
 - (a) confirm proposals, with or without modification or subject to the occurrence of an event, or
 - (b) withdraw them.
- (8) A local authority may make proposals for a federation that includes a maintained school that it does not maintain only if the local authority that maintains the school gives its consent.
- (9) A local authority may make proposals for a federation that includes a foundation or voluntary school only if the following persons give their consent –
 - (a) in the case of a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - (b) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (10) Regulations may make further provision about proposals under this section and may (among other things) make provision about –
 - (a) obtaining consent from prescribed persons to the making, publication or confirmation of proposals;
 - (b) the information to be included in, or provided in relation to, the proposals;

- (c) the publication of proposals;
- (d) consultation on the proposals;
- (e) the making of objections to or comments on the proposals;
- (f) withdrawal or modification of the proposals;
- (g) confirmation of the proposals by the local authority.

12 Implementation of proposals under section 11

- (1) This section applies to proposals under section 11.
- (2) Confirmed proposals must be implemented by the persons mentioned in subsection (3), respectively, to such extent (if any) as the proposals provide for each of them to do so.
- (3) The persons are –
 - (a) the local authority that maintains a school subject to the proposals;
 - (b) the governing body of a school subject to the proposals;
 - (c) such other persons as may be prescribed.
- (4) Confirmed proposals are to be implemented in the form in which they were confirmed, subject to the following subsections.
- (5) At the request of prescribed persons, the local authority that made proposals –
 - (a) may modify the proposals after consulting such persons as may be prescribed, and
 - (b) if any confirmation was given subject to the occurrence of a specified event, may specify a later date by which the event in question must occur.
- (6) A local authority that made the proposals may determine that subsection (2) is to cease to apply to the proposals if it is satisfied –
 - (a) that implementation of the proposals would be unreasonably difficult, or
 - (b) that the circumstances have so altered since confirmation was given that implementation would be inappropriate.
- (7) If required to do so by regulations, a local authority must consult or obtain the consent of such persons as may be prescribed before making a determination under subsection (6).

13 Single governing body for federations

A federation must –

- (a) have a single governing body constituted under a single instrument of government;
- (b) in prescribed cases, be treated as a single school for the purposes of such enactments as may be prescribed, other than any enactment contained in Chapter 2 of Part 2 of the School Standards and Framework Act 1998 (establishment, alteration or discontinuance of school) or in Part 3 of that Act (school admissions).

14 Regulations in relation to federations

- (1) Regulations may make provision –
 - (a) as to the dissolution of governing bodies on the formation of a federation;
 - (b) enabling the governing body of a federation to continue in existence as a body corporate when one or more schools join or leave the federation;
 - (c) as to the circumstances in which and manner in which a federation may be dissolved, or one or more schools may leave a federation;
 - (d) enabling the governing body of a federation that is dissolved to be replaced either by governing bodies for each of the constituent schools or by governing bodies which include the governing body of a new federation;
 - (e) as to the transition from one governing body to another;
 - (f) as to the transfer of property, rights and liabilities between governing bodies, or between local authorities and governing bodies;
 - (g) as to such other matters relating to federations, federated schools or the formation or dissolution of federations as the Welsh Ministers consider appropriate.
- (2) Regulations made by virtue of subsection (1)(f) in relation to the transfer of property, rights and liabilities may –
 - (a) provide for prescribed matters to be determined by the Welsh Ministers,
 - (b) apply with modifications any provision of Schedule 10 to the Education Reform Act 1988 (supplementary provisions with respect to transfers under that Act), or
 - (c) make provision equivalent to that made by any provision of that Schedule.

15 Identification of small maintained schools in Wales for the purposes of this Chapter

- (1) The Welsh Ministers may make provision by order for the definition of a small maintained school by reference to a specified number of pupils registered at a school on a specified date in any year.
- (2) An order under this section applies for the purposes of provision under this Chapter.
- (3) In this section, “specified” means specified in an order made by the Welsh Ministers.

16 Federation of schools causing concern by direction of the Welsh Ministers

- (1) The School Standards and Framework Act 1998 is amended as follows.
- (2) In section 14(3), after paragraph (a) insert –

“(aa) the Welsh Ministers have exercised in relation to the school their powers under section 18B (power to direct federation of schools); or”.

(3) After section 18A insert –

“18B Power of Welsh Ministers to direct federation of schools

- (1) A maintained school is a “school causing concern” for the purpose of this section if, at any time –
- (a) section 15 applies to the school by virtue of subsection (4) or (6) of that section, or
 - (b) the Welsh Ministers are satisfied that –
 - (i) the standards of performance of pupils at the school are unacceptably low and are likely to remain so unless they exercise their powers under this section, or
 - (ii) that there has been a serious breakdown in the way the school is managed or governed which is prejudicing, or likely to prejudice, such standards of performance, or
 - (iii) that the safety of pupils or staff of the school is threatened (whether by a breakdown of discipline or otherwise), or
 - (iv) that the governing body has failed to comply with a provision of an order under section 122 of the Education Act 2002 (teachers' pay and conditions) that applies to a teacher at the school, or
 - (v) that the governing body has failed to secure that the head teacher of the school complies with such a provision.
- (2) For the purposes of subsection (1)(b) the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following –
- (a) the standards that the pupils might in all the circumstances reasonably be expected to attain,
 - (b) where relevant, the standards previously attained by them, or
 - (c) the standards attained by pupils at comparable schools.
- (3) The Welsh Ministers may direct any one or more of the following persons, as appropriate, to provide for one or more of the arrangements set out in subsection (4) –
- (a) a local authority;
 - (b) a governing body of a maintained school;
 - (c) a governing body of a federation.
- (4) The arrangements are –
- (a) the federation of the school causing concern and one or more maintained schools;
 - (b) the federation of the school causing concern and an existing federation;

- (c) the federation of the school causing concern and an existing federation and one or more maintained schools;
 - (d) where the school causing concern is part of a federation, the federation of that federation and one or more maintained schools;
 - (e) where the school causing concern is part of a federation, the federation of that federation and another existing federation;
 - (f) where the school causing concern is part of a federation, the federation of that federation and an existing federation and one or more maintained schools;
 - (g) where the school causing concern is part of a federation, for the school to leave that federation.
- (5) Before giving a direction under subsection (3), the Welsh Ministers must consult—
- (a) the local authority,
 - (b) the governing bodies concerned,
 - (c) in the case of a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - (d) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (6) A person subject to a direction under this section must comply with it.
- (7) A direction under this section—
- (a) must be in writing,
 - (b) must be published,
 - (c) may be varied or revoked by further direction, and
 - (d) is enforceable by mandatory order on application by the Welsh Ministers to the High Court.
- (8) In this section “federation” has the meaning given by section 21(1) of the Education (Wales) Measure 2011.”

17 Guidance given by the Welsh Ministers

In exercising their functions under this Chapter, a local authority and a governing body of a maintained school must have regard to guidance given from time to time by the Welsh Ministers.

18 Federations: supplementary provisions

- (1) Regulations may make provision for the purposes of this Chapter modifying any provision contained in—
- (a) Chapter 4 of Part 1 of the School Standards and Framework Act 1998 (intervention in schools in Wales causing concern), or
 - (b) sections 49 to 51 of, and Schedule 15 to, that Act (financial delegation),
- in the application of the provision to federated schools or their governing bodies.

- (2) The modifications that may be made by virtue of subsection (1) include, among other things, modifications –
 - (a) enabling powers conferred by the provisions referred to in that subsection to be exercised in relation to all the schools in a federation even though the circumstances by reference to which the powers are exercisable exist only in relation to one or more of those schools, and
 - (b) requiring the apportionment of any costs or expenses incurred by the governing body of a federation.
- (3) Regulations may make provision modifying any enactment which relates to schools within a particular category, or to the governing bodies of schools within a particular category, in the application of the enactment to schools forming part of a federation or to the governing bodies of federations.
- (4) In subsection (3), references to categories of maintained schools are references to the categories set out in section 20(1) of the School Standards and Framework Act 1998.

19 Minor and consequential amendments to the Education Act 2002

- (1) The Education Act 2002 is amended as follows.
- (2) In section 19 –
 - (a) in subsection (8), before “Subsection (1)” insert “In relation to maintained schools in England,”;
 - (b) after subsection (8), insert –
 - “(9) In relation to maintained schools in Wales, subsection (1) has effect subject to Chapter 1 of Part 2 of the Education (Wales) Measure 2011; and regulations under this section may include provision with respect to the governing bodies of federations (within the meaning of section 21(1) of that Measure).”
- (3) In section 20 –
 - (a) in subsection (4), before “Subsection (1)” insert “In relation to maintained schools in England,”;
 - (b) after subsection (4), insert –
 - “(4A) In relation to maintained schools in Wales, subsection (1) has effect subject to Chapter 1 of Part 2 of the Education (Wales) Measure 2011; and regulations under subsection (2) may include provision with respect to instruments of government for federations (within the meaning of section 21(1) of that Measure).”
- (4) In section 24 –
 - (a) in subsection (1)(a), after “schools” insert “in England”;
 - (b) in subsection (1)(b), after “schools” insert “in England”;
 - (c) in subsection (2), after “schools” insert “in England”;
 - (d) in subsection (4)(g) omit “, or as the case may be the National Assembly for Wales,”;

- (e) in subsection (5)(a) omit “or the National Assembly for Wales”.
- (5) In section 25(1) –
 - (a) omit paragraph (a);
 - (b) in paragraph (b), after “federated schools” insert “in England”.
- (6) In section 39(1), after “federated school” insert “in relation to England”.
- (7) In paragraph 5 of Schedule 1, after sub-paragraph (1) insert –
 - “(1A) Sub-paragraph (1) does not apply if –
 - (a) the school is a federated school in Wales, and
 - (b) immediately after the discontinuance date, there will be more than one other school remaining in the federation.
 - (1B) “Federation” in sub-paragraph (1A) means a group of schools that are federated by virtue of Chapter 1 of Part 2 of the Education (Wales) Measure 2011 or were federated by virtue of section 24 before the coming into force of that Chapter, and “federated school” means a school forming part of a federation.”

20 Minor and consequential amendments to the Education Act 2005

In section 68 of the Education Act 2005 for “section 24(2) of the Education Act 2002” substitute “section 21(1) of the Education (Wales) Measure 2011”.

21 Interpretation of this Chapter

- (1) In this Chapter –
 - “federation” (*ffederasiwn*) means a group of schools in Wales that are federated by virtue of this Chapter or were federated by virtue of section 24 of the Education Act 2002 before the coming into force of this Chapter, and “federated school” (*ysgol ffederal*) means a school forming part of a federation;
 - “local authority” (*awdurdod lleol*) means a local authority in Wales;
 - “maintained school” (*ysgol a gynhelir*) means a school in Wales which is a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.
- (2) In any enactment –
 - (a) any reference to the governing body or governors of a school is to be construed, in relation to a federated school, as a reference to the governing body or governors of the federation, and
 - (b) any reference to the instrument of government of a school is to be construed, in relation to a federated school, as a reference to the instrument of government of the federation.

CHAPTER 2**TRAINING FOR GOVERNORS AND CLERKS AND PROVISION OF CLERKS****22 Information and training for governors of maintained schools**

- (1) A local authority in Wales must secure that every governor is provided, free of charge, with such information as it considers appropriate in connection with the discharge of a governor's functions.
- (2) This duty applies to the extent that the local authority is not otherwise required to secure the provision of such information.
- (3) Regulations may require a local authority in Wales to secure the provision, free of charge, of prescribed training to prescribed governors of maintained schools.
- (4) Training may be prescribed by reference to a document published, as specified in the regulations, by the Welsh Ministers.
- (5) The requirements of regulations under subsection (3) are without prejudice to the following duty.
- (6) A local authority in Wales must secure that there is made available to every governor, free of charge, such training as it considers necessary for the effective discharge of the governor's functions.
- (7) In this section, "governor" means a governor of a maintained school in the local authority's area.
- (8) In section 22 of the Education Act 2002, after "authority" insert "in England".

23 Duty of local authorities to provide clerks to the governing bodies of maintained schools

- (1) A local authority in Wales must inform, from time to time, each body that is required to appoint a clerk to the governing body of a maintained school in the local authority's area under section 23 of the Education Act 2002 that the body may request the authority to provide a person for appointment as a clerk.
- (2) Regulations may require a local authority in Wales to provide a person for appointment if a request is made.
- (3) The regulations may (among other things) –
 - (a) confer power on a local authority to charge a fee for the provision of a person (including a power to charge different fees in different cases);
 - (b) prescribe the person by whom the fee must be paid;
 - (c) provide for exceptions and exemptions.

24 Training for clerks to the governing bodies of maintained schools

- (1) Subsection (2) applies in relation to a body that is required to appoint a clerk to the governing body of a maintained school in Wales under section 23 of the Education Act 2002.

- (2) Regulations may require the body to ensure that a person appointed as clerk has completed prescribed training to a prescribed standard.
- (3) The regulations may –
 - (a) prohibit the appointment of person who has not completed the training to the required standard;
 - (b) provide for a person appointed as a clerk who has not completed the training to complete the training to the required standard within a prescribed period;
 - (c) provide for termination of the appointment of a clerk who does not complete the training to the required standard within that period;
 - (d) prescribe training and standards by reference to a document published, as specified in the regulations, by the Welsh Ministers;
 - (e) provide for exceptions and exemptions.

25 Duty of local authorities to secure availability of training for clerks

- (1) A local authority in Wales must secure that there is made available to every person appointed as a clerk such training as the authority considers necessary to enable the body that appointed the clerk under section 23 of the Education Act 2002 to comply with any requirement under section 24 of this Measure.
- (2) A local authority in Wales may charge a fee for any training provided (and may charge different fees in different cases).
- (3) In this section, “clerk” means a clerk to the governing body of a maintained school in the local authority’s area.

PART 3

FOUNDATION SCHOOLS

26 Prohibition of establishment of new foundation schools

- (1) The School Standards and Framework Act 1998 is amended as follows.
- (2) In section 28 –
 - (a) in subsection (1)(a), omit “or foundation school”;
 - (b) in subsection (2)(a), omit “foundation or”;
 - (c) after subsection (2) insert –

“(2A) A local authority or promoters may not publish proposals for the establishment of a new foundation school in Wales.”
- (3) In paragraph 13(1) of Schedule 6, for “such” substitute “voluntary controlled”.
- (4) In section 113A(4)(a) of the Learning and Skills Act 2000, omit “foundation,”.

27 Prohibition of change of category to foundation school

- (1) Schedule 8 to the School Standards and Framework Act 1998 (changes of category of school) is amended as follows.

- (2) In paragraph 1 –
- (a) omit sub-paragraph (1);
 - (b) omit paragraph (b) of sub-paragraph (2);
 - (c) after sub-paragraph (2) insert –
 - “(2A) A foundation school may in accordance with this Schedule become a school within any of the following categories in pursuance of proposals published by the governing body –
 - (a) a community school;
 - (b) a voluntary aided school;
 - (c) a voluntary controlled school.”
- (3) In paragraph 3 –
- (a) in sub-paragraph (2), omit “If the proposals are published during the period mentioned in section 35(2),”;
 - (b) omit sub-paragraph (3).

28 Savings: proposals to establish new foundation schools

- (1) Subsections (2) and (3) apply to a proposal by a local authority or any other person to establish a new foundation school where the proposal –
- (a) has been published under section 28 of the School Standards and Framework Act 1998 before the coming into force of section 26, and
 - (b) has not been implemented in accordance with Schedule 6 to that Act before the coming into force of section 26.
- (2) Nothing in section 26 affects the operation of the provisions of Parts 2 and 3 of Schedule 6 to the School Standards and Framework Act 1998 in relation to the proposal.
- (3) Paragraph 13(1) of Schedule 6 to the School Standards and Framework Act 1998 has effect as if the amendment at section 26(3) had not been enacted.

29 Savings: proposals to change category to foundation school

- (1) Subsection (2) applies to a proposal by a local authority or a governing body of a maintained school to change the category of a maintained school to a foundation school where the proposal –
- (a) has been published under paragraph 2 of Schedule 8 to the School Standards and Framework Act 1998 before the coming into force of section 27, and
 - (b) has not been implemented in accordance with regulations made under paragraph 5 of Schedule 8 to that Act before the coming into force of section 27.
- (2) Schedule 8 to the School Standards and Framework Act 1998 has effect as if the amendments at section 27 had not been enacted.
- (3) In this section, “maintained school” means –
- (a) a community school,

- (b) a voluntary aided school, or
- (c) a voluntary controlled school.

30 Supplementary powers

- (1) The Welsh Ministers may at any time by order make—
 - (a) supplementary, incidental or consequential provision, or
 - (b) transitional, transitory or saving provision.
- (2) The Welsh Ministers may only make such provision if they consider it necessary or expedient for the purposes of, in consequence of, or for giving full effect to, sections 26 to 29.
- (3) An order may, among other things, make provision amending or revoking any subordinate legislation (within the meaning of the Interpretation Act 1978) made before the passing of this Measure.

PART 4

GENERAL

31 General interpretation

- (1) In this Measure—
 - “enactment” (*“deddfiad”*) means any of the following, whenever passed or made—
 - (a) an Act of Parliament;
 - (b) a Measure or Act of the National Assembly for Wales;
 - (c) subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, including subordinate legislation made under any Measure or Act of the National Assembly for Wales;
 - (d) a provision of any such Act or Measure or subordinate legislation;
 - “prescribed” (*“rhagnodedig”*) means prescribed in regulations;
 - “regulations” (*“rheoliadau”*) means regulations made by the Welsh Ministers.
- (2) Subject to subsection (3), the Education Act 1996 and the provisions of this Measure are to be read as if those provisions were contained in the Education Act 1996.
- (3) Where an expression is given for the purposes of any provision of this Measure a meaning different from that given to it for the purposes of the Education Act 1996, the meaning given for the purposes of that provision is to apply instead of the one given for the purposes of that Act.

32 Orders and regulations

- (1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.
- (2) Any power of the Welsh Ministers to make an order or regulations under this Measure includes power –
 - (a) to make different provision for different cases or classes of case, different areas or different purposes;
 - (b) to make provision generally or subject to specified exemptions or exceptions or only in relation to specific cases or classes of case;
 - (c) to make such incidental, supplementary, transitory, transitional or saving provision as the Welsh Ministers think fit.
- (3) Any statutory instrument containing regulations made under this Measure or an order made under section 15 or 30 is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

33 Commencement

- (1) The following provisions of this Measure come into force at the end of a period of two months beginning on the day on which this Measure is approved by Her Majesty in Council –
 - (a) sections 26 to 32;
 - (b) this section;
 - (c) section 34.
- (2) The remaining provisions of this Measure come into force in accordance with provision made by the Welsh Ministers by order.

34 Short title and inclusion of Measure within the Education Acts

- (1) This Measure may be cited as the Education (Wales) Measure 2011.
- (2) This Measure is to be included in the list of Education Acts set out in section 578 of the Education Act 1996.