

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2005 No. (W.)

EDUCATION, WALES

The National Council for Education
and Training for Wales (Transfer of
Functions to the National Assembly
for Wales and Abolition) Order
2005

EXPLANATORY NOTE

(This note is not part of the Order)

Section 28 of the Government of Wales Act 1998 gives the National Assembly for Wales (“the National Assembly”) powers with respect to the structure of certain public bodies in Wales listed in Schedule 4 to that Act.

It provides that the National Assembly may transfer the functions of some of those bodies to another such body, to a Welsh local authority or to itself; and that it may abolish such bodies where all their functions have been transferred.

This Order transfers the functions of the National Council for Education and Training for Wales (“the Council”) to the National Assembly, provides for the transfer of staff from the Council to the National Assembly and makes appropriate consequential, incidental, transitional and supplementary provisions.

Article 2 provides for the transfer of the Council’s functions to the National Assembly.

Article 3 provides for the transfer of the Council’s staff and applies the Transfer of Undertakings (Protection of Employment) Regulations 1981.

Article 4 provides for the transfer of property, rights and liabilities.

Article 5 provides for continuity in the exercise of functions.

Article 6 provides that upon the transfer of the functions, the Council is abolished.

Articles 7 and 8 make certain transitional provisions including in relation to the preparation by the National Assembly of accounts for the Council for the financial year 2005 - 2006.

Article 9 provides for consequential amendments to primary and subordinate legislation.

A regulatory appraisal has been prepared and copies are available from the National Assembly for Wales, Cathays Park, Cardiff.

2005 No. (W.)

EDUCATION, WALES

**The National Council for Education
and Training for Wales (Transfer of
Functions to the National Assembly
for Wales and Abolition) Order
2005**

Made 2005

Coming into force 1 April 2006

The National Assembly for Wales, in accordance with the powers conferred upon it by section 28 of and Schedule 4 to the Government of Wales Act 1998(1), makes the following Order:

Title, commencement and interpretation

1.—(1) This Order is called the National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 and comes into force on 1 April 2006.

(2) In this Order:

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

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“transfer date” (“*dyddiad trosglwyddo*”) means 1 April 2006.

Transfer of Functions of the Council to the National Assembly

2. Subject to article 9, on the transfer date all the functions of the Council are transferred to the National Assembly.

(1) 1998 c.38. Schedule 4 amended by Section 149 of Learning and Skills Act 2000 (c.21).

Transfer of staff

3. For the purposes of the Transfer of Undertaking (Protection of Employment) Regulations 1981⁽¹⁾ —

- (a) the transfer of functions effected by article 2 is to be treated as a transfer of an undertaking;
- (b) each person who was, immediately before the transfer date, employed by the Council under a contract of employment is to be treated as employed in the undertaking immediately before the transfer date.

Transfer of property, rights and liabilities

4.—(1) On the transfer date, all property, rights and liabilities to which the Council was entitled or subject immediately before the transfer date are transferred to the National Assembly.

(2) A certificate issued by the National Assembly that any property, rights or liabilities has been transferred by paragraph (1) shall be conclusive evidence of the transfer.

(3) The reference in paragraph (1) to rights and liabilities does not include rights and liabilities under a contract of employment transferred by virtue of article 3.

(4) Paragraph (1) has effect in relation to property, rights and liabilities —

- (a) despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer otherwise than by this order;
- (b) without any instrument or other formality being required.

Provision for continuity in the exercise of functions

5. Anything done by or in relation to the Council which has effect immediately before the transfer date shall so far as it is required for continuing its effect on and after the transfer date have effect as if done by or in relation to the National Assembly.

Abolition of the Council

6. On the transfer date the Council ceases to exist.

Transitional Provisions

7.—(1) Nothing in this Order affects the validity of anything done by or in relation to the Council before the transfer date.

⁽¹⁾ S.I. 1981/1794: amended by S.I. 1987/442.

(2) There may be continued by or in relation to the National Assembly anything (including legal proceedings) which is in the process of being done by or in relation to the Council before the transfer date.

(3) On or after the transfer date so far as is necessary or appropriate, references to the Council in any instruments, contracts or legal proceedings are to be treated as references to the National Assembly.

Accounts

8.—(1) The National Assembly must —

- (a) prepare a statement of accounts for the period from the date of the last statement of accounts prepared by the Council to the transfer date;
- (b) send a copy of the statement to the Auditor General for Wales before the end of the period 6 months beginning with the transfer date.

(2) The Auditor General for Wales must —

- (a) examine, certify and report on the statement received under this article;
- (b) lay a copy of the report on the statement before the National Assembly.

Consequential amendments to Acts and other legislation

9.—(1) The Acts specified in Schedule 1 are amended in accordance with that Schedule.

(2) The subordinate legislation specified in Schedule 2 is amended in accordance with that Schedule.

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

Date

The Presiding Officer of the National Assembly

(1) 1998 c.38.

SCHEDULE 1

Article 9(1)

Consequential Amendments to Primary Legislation

Superannuation Act 1972 (c.11)

1. In Schedule 1 to the Superannuation Act 1972 (kinds of employment, etc, referred to in section 1) omit “National Council for Education and Training for Wales.”.

House of Commons Disqualification Act 1975 (c.24)

2. In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership) omit “Any member of the National Council for Education and Training for Wales in receipt of remuneration.”.

Sex Discrimination Act 1975 (c.65)

3. The Sex Discrimination Act 1975 is amended as follows.

4. In section 23A (discrimination by Further Education and Higher Education Funding Councils):

- (a) omit “the National Council for Education and Training for Wales”;
- (b) insert “and for the National Assembly for Wales in carrying out its functions under Part 2 of the Learning and Skills Act 2000” after “2000”.

5. In section 25A (general duty: post-16 education and training etc.) —

- (a) in subsection (1) for “and the National Council for Education and Training for Wales” substitute “and the National Assembly for Wales”;
- (b) in subsection (2) for “or the National Council for Education and Training for Wales” substitute “or the National Assembly for Wales by virtue of its functions under Part 2 of the Learning and Skills Act 2000” .
- (c) for subsection (3) substitute —

“(3) The provisions of section 25 of the Learning and Skills Act 2000 shall be the only sanction for breach of the general

duty in subsection (1) by the Learning and Skills Council for England.”

(4) There shall be no sanction for breach of the general duty in subsection (1) by the National Assembly for Wales.

(5) Subsections (3) and (4) are without prejudice to the enforcement of section 23A under section 66 or otherwise (where the breach is also a contravention of that section).”

Race Relations Act 1976 (c.74)

6. The Race Relations Act 1976 is amended as follows.

7. In section 18A (Further Education and Higher Education Funding Councils), omit “the National Council for Education and Training for Wales,”.

8. In Schedule 1A (bodies and other persons subject to general statutory duty) in Part 2 omit “The National Council for Education and Training for Wales.”

Education (Fees and Awards) Act 1983 (c.40)

9. In section 1(3)(g) of the Education (Fees and Awards) Act 1983 (fees at universities and further education establishments) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

Disabled Persons (Services, Consultation and Representation) Act 1986 (c.33)

10. In section 5(9) of the Disabled Persons (Services, Consultation and Representation) Act 1986 (disabled persons leaving special education) in the definition of “the responsible authority” —

- (a) in paragraph (c), for “the National Council for Education and Training for Wales” substitute “the National Assembly for Wales”;
- (b) at the end of paragraph (c) insert “or the National Assembly as the case may be”.

Employment Act 1988 (c.19)

11. In section 26(1A) of the Employment Act 1988 (status of trainees etc), for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

Education Reform Act 1988 (c.40)

12. In section 128(1)(b)(v) of the Education Reform Act 1988 (dissolution of higher education corporations) for “National Council for Education and

Training for Wales” substitute “National Assembly for Wales”.

Further and Higher Education Act 1992 (c.13)

13. The Further and Higher Education Act 1992 is amended as follows.

14. In section 19 (supplementary powers of a further education corporation) —

- (a) in subsection (4B) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales in the discharge of its functions under Part 2 of the Learning and Skills Act 2000”;
- (b) in subsection (4C) for “concerned” substitute “or the National Assembly for Wales (as the case may be)”;
- (c) in subsection (5) for “appropriate council” substitute “appropriate body”.

15. In section 22 (subsequent instruments and articles) —

- (a) in subsection (1) for “appropriate council” substitute “appropriate body”;
- (b) in subsection (3)(b) for “appropriate council” substitute “appropriate body”;
- (c) after subsection (6) insert —
“(7)Nothing in this section requires the National Assembly for Wales to consult itself.”.

16. In section 27 (dissolution of further education corporations) —

- (a) for subsection (3)(a) substitute —
“(a) the Learning and Skills Council for England, in the case of a further education corporation in England”;
- (b) in subsection (7)(b) in both places for “council” substitute “body”;
- (c) after subsection (7) insert —
“(8)Nothing in this section requires the National Assembly to consult itself.”

17. In section 29(7A)(b) (government and conduct of designated institutions) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

18. In section 31(2A)(b) (designated institutions conducted by companies) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

19. In section 34 (making additional property available for use) —

- (a) in subsection (3)(b) for “appropriate council” substitute “appropriate body”;
- (b) after subsection (6) insert —
“(7) Nothing in this section requires the National Assembly to consult itself.”.

20. In section 38(2) (payments by council in respect of loan liabilities) for “A council” substitute “The Learning and Skills Council for England”.

21. In section 51 (publication of proposals) —

- (a) in subsection (1) for “A council” substitute “The Learning and Skills Council for England”;
- (b) in subsection (2)(b) for “the Council” substitute “the Learning and Skills Council for England”;
- (c) in subsection (3)(a) for “a council” substitute “the Learning and Skills Council for England”;
- (d) in subsection (3)(b) for “a council” substitute “the council”.

22. In section 52 (duty to provide for named individuals) —

- (a) in subsection (2) for “A council” substitute “The Learning and Skills Council for England or the National Assembly for Wales”;
- (b) in subsection (3) —
 - (i) for “a council” substitute “the Learning and Skills Council for England or the National Assembly for Wales”;
 - (ii) for “that council” substitute “the council or (as the case may be) the National Assembly for Wales”.

23. In section 54(1) (duty to give information) —

- (a) for “a council” substitute “the Learning and Skills Act Council for England or the National Assembly for Wales”;
- (b) for “they may require” substitute “the council or (as the case may be) the National Assembly for Wales may require”;
- (c) for “their functions” substitute “the functions of the council or (as the case may be) the National Assembly for Wales.”

24. In section 61A (references to councils) —

- (a) in the heading, for “councils” substitute “appropriate bodies”;
- (b) omit subsection (1);

- (c) in subsection (2) for “council” substitute “body”;
- (d) in subsection (2)(b) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
- (e) in subsection (2)(c) for “council” in both places substitute “body”.

25. In section 82 (joint exercise of functions) —

- (a) in subsections (1) and (2) for “councils” substitute “relevant authorities”;
- (b) in subsection (3)(a) for “council” substitute “authority”;
- (c) for subsection (3)(a) substitute—
“(a) “relevant authority” means a higher education funding council, the Learning and Skills Council for England, the National Assembly for Wales to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000 or the Scottish Higher Education Funding Council, and”.

26. In section 83 (efficiency studies) —

- (a) in subsection (1), for “A learning and skills council” substitute “The Learning and Skills Council for England, the National Assembly for Wales or a higher education funding council”;
- (b) in subsection (2), for “council” substitute “, the Learning and Skills Council for England, the National Assembly for Wales or a higher education funding council”.

27. In section 90 (interpretation) —

- (a) omit subsection (2A);
- (b) omit subsection (2B).

28. In Schedule 4 (instruments and articles for government for further education corporations) in paragraph 1A for “the National Council for Education and Training for Wales” substitute “the National Assembly for Wales”.

Welsh Language Act 1993 (c.38)

29. In section 6(1) of the Welsh Language Act 1993 (meaning of “public body”) omit paragraph (j).

Value Added Tax Act 1994 (c.23)

30. In Item 5A of Group 6 of Part 2 of Schedule 9 to the Value Added Tax Act 1994 (exemptions) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

Education Act 1996 (c.56)

31. The Education Act 1996 is amended as follows.

32. In section 13(2) (general responsibility for education) —

- (a) in paragraph (a) omit “or the National Council for Education and Training for Wales, or”;
- (b) after paragraph (a) insert —
 - (aa) “the National Assembly for Wales under Part 2 of the Learning and Skills Act 2000, or”.

33. In section 509(1B) (provision of transport etc.), for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

34. In section 509AA(2)(d) (provision of transport etc for persons of sixth form age) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

35. In section 509AB(6)(c) (further provision about transport policy statements) omit “or the National Council for Education and Training for Wales (in the case of a local education authority in Wales)”.

36. In section 509AC(3) (interpretation of sections 509AA and 509AB) —

- (a) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
- (b) for “that Council” substitute “the Assembly”.

School Standards and Framework Act 1998 (c.31)

37. The School Standards and Framework Act 1998 is amended as follows.

38. In section 19(2)(ca) (power of Secretary of State to direct closure of school) omit “or the National Council for Education and Training for Wales (if the school is in Wales)”.

39. In section 30(3) (notice by governing body to discontinue foundation of voluntary school) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

40. In sub-paragraph 5(1)(a) of Schedule 22 (disposals of land in cases of certain schools and disposals on continuance) after “adopted” insert “, confirmed”.

Government of Wales Act 1998 (c.38)

41. The Government of Wales Act 1998 is amended as follows.

42. In section 118(2) of the Government of Wales Act 1998 (meaning of “Welsh public records”) omit paragraph (ha).

43. In section 145B(1) (studies at request of educational bodies) in the second column of the table for “the National Council for Education and Training for Wales” substitute “the Assembly”.

44. In Part 1 of Schedule 4 (public bodies subject to reform by Assembly) omit paragraph 5.

Care Standards Act 2000 (c.14)

45. The Care Standards Act 2000 is amended as follows.

46. In Schedule 2A (persons subject to review by the Children’s Commissioner for Wales under section 72B of that Act), omit paragraph 4.

47. In Schedule 2B (persons whose arrangements are subject to review by the Children’s Commissioner for Wales under section 73 of that Act), omit paragraph 5.

Learning and Skills Act 2000 (c.21)

48. The Learning and Skills Act 2000 is amended as follows.

49. For the heading for Part 2, substitute “Further Education and Sixth Form Education: Wales”.

50. Omit section 30 (the Council) and the cross heading immediately preceding it .

51. In section 31 (education and training for persons aged 16 to 19) —

- (a) in subsection (1) for “Council” substitute “National Assembly for Wales (the National Assembly)”;
- (b) in subsection (3) for “Council” in each place substitute “National Assembly”;
- (c) omit subsection (3)(e);
- (d) omit subsection (4).

52. In section 32 (education and training for persons over 19) —

- (a) in subsection (1) for “Council” substitute “National Assembly”;
- (b) omit subsection (2);
- (c) in subsection (3) in each place for “Council” substitute “National Assembly”;
- (d) omit subsection 3(e);
- (e) omit subsection (4).

53. In section 33 (encouragement of education and training) for “Council” substitute “National Assembly”.

54. In section 34 (provision of financial resources) —

- (a) in subsections (1) and (3) for “Council” substitute “National Assembly”;
- (b) in subsection (2) for “Council” in both places substitute “National Assembly”.

55. In section 35 (financial resources: conditions) —

- (a) in subsection (1) —
 - (i) for “Council” substitute “National Assembly”;
 - (ii) after “financial resources” insert “under section 34”; and
- (b) in subsection (2) —
 - (i) for “Council” in both places substitute “National Assembly”;
 - (ii) after “its functions” insert “under this Part”;
- (c) in subsection (5) for “Council” in each place substitute “National Assembly”.

56. In section 36(1) (funding of school sixth forms) for “Council” substitute “National Assembly”.

57. In section 37 (assessment and means tests) in subsections (1) to (4) for “Council” substitute “National Assembly”.

58. In section 38 (qualifying accounts and arrangements) —

- (a) in subsection (1) for “Council” substitute “National Assembly”;
- (b) omit subsection (2).

59. In section 39(1) (further education: governors) for “Council” substitute “National Assembly”.

60. In section 40 (research and information) —

- (a) omit subsections (1) to (4);
- (b) in subsections (5) and (6) for “Council” substitute “National Assembly”.

61. In section 41 (persons with learning difficulties) —

- (a) in subsection (1) for “Council” substitute “National Assembly”;
- (b) in subsections (2), (3) and (4) for “Council” in both places substitute “National Assembly”.

62. Omit sections 42 to 51 (general provisions relating to the Council).

63. In section 74(1) (some defined terms) omit the definition of “Council”.

64. In section 75(1) (the extended remit of the Chief Inspector for Wales) in both places for “Council” substitute “National Assembly in the discharge of its functions under Part 2”.

65. In section 77(5) (inspections) omit paragraph (b).

66. In section 83 (area inspections) in subsections (3) and (6) for “Council” substitute “National Assembly.”

67. In section 84 (action plans following section 83 inspections) —

- (a) omit subsection (2);
- (b) in subsection (4) omit “the Council or”.

68. Omit section 91 (dissolution of FEFC for Wales).

69. Omit section 93 (transfers: Wales).

70. In section 94 (stamp duty) —

- (a) in subsection (1) omit “or 91”;
- (b) in subsection (2) for “,92 or 93” substitute “or 92”.

71. In section 95 (contracts of employment) —

- (a) in subsection (1)(a) omit “or 91”;
- (b) in subsection (1)(b) for “,92 or 93” substitute “or 92”.

72. In section 100(2) (authorised bodies) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

73. In section 113A (restructuring of sixth-form education) —

- (a) in subsection (2) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
- (b) after subsection (4) insert —
“(4A) Proposals under this section are to be published.”;
- (c) In subsection (5) for “under this section are to be published and” substitute “under subsection (1) are to be”;
- (d) after subsection (5) insert —
“(5A) In respect of proposals under subsection (2), the relevant authority shall, in accordance with regulations made under subsection (9), determine whether to —

- (a) confirm them, with or without modification or subject to the occurrence of any event; or

- (b) withdraw them.”;
- (e) in subsection (7) omit “and the National Council for Education and Training for Wales”;
- (f) in subsection (8) for “this section” substitute “subsection (1)”;
- (g) in subsection (9)(f) for “the proposals” substitute “proposals under subsection (1)”;
- (h) after subsection (9)(f) insert—
 - “(g) confirmation of proposals under subsection (2) by the relevant authority”;
- (i) in subsection (11) —
 - (i) in the definition of “regulations” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
 - (ii) in the definition of “relevant authority” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

74. In section 125(2) (consultation and co-ordination) omit paragraph (b).

75. In section 126(3)(f) (educational institutions: information and access) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales in the discharge of its functions under Part 2”.

76. In section 138(3) (Wales: provision of information by public bodies), for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

77. In section 144 (designated institutions: disposal of land, & c.) —

- (a) in subsection (3) for “council” substitute “authority”;
- (b) in subsection (4) in both places for “council” substitute “authority”;
- (c) in subsection (4)(b) for “by the Secretary of State” substitute —
 - “—
 - (i) if the land is in England, the Secretary of State;
 - (ii) if the land is in Wales, by an arbitrator to be appointed (the expense of which shall be borne equally by the trustees and the National Assembly for Wales) in default of agreement, by the President of the Chartered Institute of Arbitrators”;
- (d) in subsection (9) —

- (i) for “council” substitute “authority”;
- (ii) in paragraph (b) omit “National Council for Education and Training for Wales” and substitute “National Assembly for Wales”.

78. In section 150(4)(a) (Wales) after “134” insert “, 144”.

79. In section 151 (transitional provisions) —

- (a) in subsection (1)(a) for “Parts 1 and 2” substitute “Part 1” and for “contain” substitute “contains”;
- (b) in subsection (1)(b) omit “and the National Council for Education and Training for Wales”.

80. Omit Schedule 4 (National Council for Education and Training for Wales).

81. Omit Schedule 5 (committees (Wales)).

82.—(1) Schedule 7 is amended as follows.

(2) In paragraph 20 —

- (a) in sub-paragraph (1) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
- (b) in sub-paragraph (3) —
 - (i) for “Council” substitute “National Assembly for Wales”;
 - (ii) omit “, having regard to any guidance issued by the National Assembly for Wales,”.

(3) In paragraph 21 —

- (a) omit sub-paragraph (1);
- (b) for sub-paragraph (2) substitute —

“(2) In the case of a community or foundation special school, the National Assembly for Wales shall send a copy of the published proposals to such persons as may be prescribed.”

(4) In paragraph 28 —

- (a) in sub-paragraph (1) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
- (b) in sub-paragraph (3) —
 - (i) for “Council” substitute “National Assembly for Wales”;
 - (ii) omit “,having regard to any guidance issued by the National Assembly for Wales,”.

(5) In paragraph 29 —

- (a) omit sub-paragraph (1);

(b) for sub-paragraph (2) substitute —

“(2) In the case of a community or foundation special school, the National Assembly for Wales shall send a copy of the published proposals to such persons as may be prescribed.”

(6) In paragraph 39(2) omit the definition of “the Council”.

(7) In Paragraph 40 —

(a) for “any of the following” substitute “the National Assembly”;

(b) omit sub-paragraphs (a) and (b).

(8) In paragraph 42 —

(a) for sub-paragraphs (1) and (2) substitute —

“(1) After the expiry of the period mentioned in paragraph 41, the National Assembly shall determine whether to —

(a) withdraw the proposals;

(b) confirm them without modification; or

(c) confirm them subject to modifications.

(2) In making a determination under sub-paragraph (1), the National Assembly shall have regard to any objections made in accordance with paragraph 41 and not withdrawn.”;

(b) in sub-paragraph (3) for “approving” substitute “confirming”;

(c) in sub-paragraph (4) —

(i) for “An approval” substitute “A confirmation”;

(ii) for “the proposals shall fall to be considered afresh” substitute “the National Assembly shall reconsider its determination”;

(d) for sub-paragraph (5) substitute —

“(5) The National Assembly may withdraw its proposals at any time before a determination is made under this paragraph.”

(9) In paragraph 43 —

(a) in sub-paragraph (1) for “approved” substitute “confirmed”;

(b) in sub-paragraphs (2)(b) and (c) for “approved” substitute “confirmed”;

(c) omit sub-paragraph (3);

(d) in sub-paragraph (4) for “the Council” substitute “the National Assembly for Wales”.

83. Paragraph 1 of Schedule 7A is amended as follows:

(a) in sub-paragraph (1) and (2) after “approved” insert “or confirmed”;

(b) in sub-paragraph (3)(b) and (4)(b) after “approval” insert “or confirmation”.

84. In Schedule 10 (transitional provisions) omit Part 2.

Freedom of Information Act 2000 (c.36)

85. In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) omit “The National Council for Education and Training For Wales.”

Education Act 2002 (c.32)

86. The Education Act 2002 is amended as follows.

87. In section 131(7) (appraisal) —

(a) in paragraph (c) after “in Wales,” insert “and”;

(b) omit paragraph (e) and the word “and” immediately preceding it.

88. In section 183(2) (transfer of functions relating to allowances under section 181 of that Act) omit paragraph (a).

Children Act 2004 (c.31)

89. The Children Act 2004 is amended as follows.

90. In section 25(4) (co-operation to improve well-being: Wales) for paragraph (f) substitute —

“(f) the Assembly to the extent that it is discharging functions under Part 2 of the Learning and Skills Act 2000”.

91. In subsection 29(7) (information databases: Wales) for sub-paragraph (b) substitute —

“(b) the National Assembly for Wales to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000”.

Public Services Ombudsman (Wales) Act 2005 (c.10)

92. The Public Services Ombudsman (Wales) Act 2005 is amended as follows.

93. In Schedule 2 (excluded matters) omit paragraph 7.

94. In Schedule 3 (listed authorities) omit “The National Council for Education and Training for Wales”.

Education Act 2005 (c.18)

95. The Education Act 2005 is amended as follows.

96. In section 28(4)(a) (duty to arrange regular inspections of certain schools) after “adopted” insert “, confirmed”.

97. In section 38(6) (destination of reports: maintained schools) for “National Council for Education and Training for Wales” substitute “Assembly”.

98. In section 92(2) (joint exercise of functions) for “National Council for Education and Training for Wales” substitute “the Assembly to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000”.

Consequential amendments to statutory instruments

The Income Support (General) Regulations 1987 (S.I. 1987/1967)

1. In the Income Support (General) Regulations 1987:

(1) In regulation 61(1) —

- (a) in sub-paragraphs (a), (b) and (b)(ii) in the definition of “full-time course of advanced education” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
- (b) in sub-paragraphs (a), (b) and (b)(ii) in the definition of “full-time course of study” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”;

(2) In Schedule 1B, in paragraph 28 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”

The Housing Benefit (General) Regulations 1987 (S.I. 1987/1971)

2. In regulation 46(1) of the Housing Benefit (General) Regulations 1987, in paragraphs (a), (b) and (b)(ii) in the definition of “full-time course of study” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”

The Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814)

3. In regulation 38(1) of the Council Tax Benefit (General) Regulations 1992, in paragraphs (a), (b) and (b)(ii) in the definition of “full-time course of study” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”

The Education (Government of Further Education Corporations) (Former Sixth Form Colleges) Regulations 1992 (S.I. 1992/1957)

4. In the Education (Government of Further Education Corporations) (Former Sixth Form Colleges) Regulations 1992:

(1) in Schedule 1 —

- (a) in paragraph 1(a)

- (i) in the definition of “business member” for “TEC member” substitute “NAW member”;
- (ii) omit the definition of “TEC member”;
- (iii) insert a definition ““NAW member” means a person nominated by the National Assembly for Wales”;
- (b) in paragraph 4(1)(d) for “TEC member” substitute “NAW member”;
- (c) in paragraph 23
 - (i) in paragraph (2)(b) for “appropriate Further Education Funding Council” substitute “National Assembly for Wales”;
 - (ii) in paragraph (4) for “appropriate Further Education Funding Council” substitute “National Assembly for Wales.”

(2) in Schedule 2, in paragraph 15 for “appropriate Further Education Funding Council” substitute “National Assembly for Wales”.

The Education (Government of Further Education Corporations) (Former Further Education Colleges) Regulations 1992 (SI 1992/1963)

5. In the Education (Government of Further Education Corporations) (Former Further Education Colleges) Regulations 1992:

- (1) in Schedule 1
 - (a) in paragraphs 21(2)(b) and 21(4) for “appropriate Further Education Funding Council” substitute “National Assembly for Wales”;

(2) in Schedule 2 in paragraph 16 for “appropriate Further Education Funding Council” substitute “National Assembly for Wales”.

The Education (Designated Institutions in Further Education) (Wales) Order 1993 (S.I. 1993/215)

6. In article 2 of the Education (Designated Institutions in Further Education) (Wales) Order 1993 paragraph (1) for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”.

The Coleg Menai (Government) Regulations 1994 (S.I. 1994/1450)

7. In the Coleg Menai (Government) Regulations 1994:

- (1) in Schedule 1 in paragraphs 21(2)(b) and 21(4) for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”;

(2) in Schedule 2 paragraph 16 for “Further Education Funding Council” substitute “National Assembly for Wales”.

The Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207)

8. In the Jobseeker’s Allowance Regulations 1996:

(1) In regulation 1(3) —

- (a) in sub-paragraphs (a), (b) and (b)(ii) in the definition for “full-time course of advanced education” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;
- (b) in sub-paragraphs (b)(i), (b)(ii) and (b)(ii)(bb) in the definition for “full-time student” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In regulation 11(3) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”;

(3) In regulation 57(1), in the definition of “training” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”;

(4) In regulation 75(1)(b)(i), for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”;

(5) In regulation 170(2), for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”;

(6) In Schedule A1, in paragraph 16 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales.”.

The Housing Renewal Grants Regulations 1996 (S.I. 1996/2890)

9. In regulation 41 of the Housing Renewal Grants Regulations 1996: —

(1) in sub-paragraph (d) in the definition of “access funds” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) in sub-paragraphs (a), (b) and (b)(ii) in the definition of “full-time course of study” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(3) omit the definition “the NCETW means the National Council for Education and Training in Wales”.

The Local Education Authority (Behaviour Support Plans) Regulations 1998 (S.I. 1998/644)

10. In regulation 3(2)(m) of the Local Education Authority (Behaviour Support plans) Regulations 1998 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The Education (Publication of Local Education Authority Inspection Reports) Regulations 1998 (S.I. 1998/880)

11. In regulation 4(1)(d) of the Local Education Authority (Publication of Local Education Authority Inspection Reports) Regulations 1998 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The Education (School Inspection) (Wales) Regulations 1998 (S.I. 1998/1866)

12. In the Education (School Inspection) (Wales) Regulations 1998:

(1) In regulation 5(1)(g) and 5(1)(i) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In regulation 6(c)(ii) and 6(d)(iv) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(3) In regulation 8(3)(b) and 8(3)(c) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The General Teaching Council for Wales (Constitution) Regulations 1999 (S.I. 1999/1619)

13. In Part 2 of the Schedule to the General Teaching Council for Wales (Constitution) Regulations 1999 omit “National Council for Education and Training for Wales”.

The Education (Maintained Special Schools) (Wales) Regulations 1999 (S.I. 1999/1780)

14. In regulation 7(2)(a) of the Education (Maintained Special Schools) (Wales) Regulations 1999 omit “the National Council for Education and Training for Wales, if the proposals affect the provision of education to which section 31(1) of the Learning and Skills Act 2000 applies”.

The Education (School Information) (Wales) Regulations 1999 (S.I. 1999/1812)

15. In the Education (School Information) (Wales) Regulations 1999:

(1) In regulation 6(9) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In paragraph 20 in Part 2 in Schedule 1, for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The Further Education Corporations (Yale College) (Modification of Instrument of Government) Order 1999

16. In article 20(2) of the Further Education Corporations (Yale College) (Modification of Instrument of Government) Order 1999 for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”.

The Further Education Corporations (Yale College) (Modification of Instrument of Government) Order (No.2) 1999

17. In the Further Education Corporations (Yale College) (Modification of Instrument of Government) Order (No.2) 1999:

(1) In articles 3(2) and 5(2) for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”;

(2) In article 5(3) —

(a) for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”;

(b) omit “pursuant to the fulfilment of the Council’s statutory functions”;

(3) In article 6 —

(a) for “Further Education Funding Council for Wales” substitute “National Assembly for Wales”;

(b) omit “from that Council”.

The National Council for Education and Training for Wales (Interim Functions) Order 2000 (S.I. 2000/2539) (W.162)

18. The National Council for Education and Training for Wales (Interim Functions) Order 2000 is revoked.

The Whole of Government Accounts (Designation of Bodies) Order 2000 (S.I. 2000/3357)

19. In the Schedule to the whole of Government Accounts (Designation of Bodies) Order 2000 omit “National Council for Education and Training for Wales”.

The Education (Publication of Draft Proposals and Orders) (Further Education Corporations) (Wales) Regulations 2001 (S.I. 2001/2069) (W.141)

20. The Education (Publication of Draft Proposal and Orders) (Further Education Corporations) (Wales) Regulations 2001 are revoked.

The Inspection of Education and Training (Wales) Regulations 2001 (S.I. 2001/2501) (W.204)

21. In regulation 4(3)(c) of the Inspection of Education and Training (Wales) Regulations 2001 omit “the National Council for Education and Training for Wales”.

The Race Relations Act 1976 (Statutory Duties) Order 2001 (S.I. 2001/3458)

22. In the Race relations Act 1976 (Statutory Duties) Order 2001:

(1) In Schedule 1 omit “The National Council for Education and Training for Wales”.

(2) In Part 4 of Schedule 2 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The Whole of Government Accounts (Designation of Bodies) Order 2002 (S.I. 2002/454)

23. In Schedule 2 to the Whole of Government Accounts (Designation of Bodies) Order 2002 omit “National Council for Education and Training in Wales”.

The Local Authorities (Goods and Services) (Public Bodies) (Wales) Order 2002 (S.I. 2002/1729) (W.163)

24. In the Schedule to the Local Authorities (Goods and Services) (Public Bodies) (Wales) Order 2002 omit “The National Council for Education and Training for Wales”.

The Child Tax Credit Regulations 2002 (S.I. 2002/2007)

25. In regulation 2 of the Child Tax Credit Regulations 2002 in the definition “relevant training

programme” in paragraph (aa) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The Education (Teacher Student Loans) (Repayment etc) Regulations 2002 (S.I. 2002/2086)

26. In the Education (Teacher Student Loans) (Repayment etc) Regulations 2002:

(1) In regulation 2 in the definition of “specialist college” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In regulation 4(3)(d) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The Freedom of Information (Additional Public Authorities) Order 2002 (S.I. 2002/2623)

27. In Schedule 1 of the Freedom of Information (Additional Public Authorities) Order 2002 omit “The National Council for Education and Training for Wales”.

The National Assembly for Wales (Disqualification) Order 2003 (S.I. 2003/437)

28. In Part 1 of the Schedule to the National Assembly for Wales (Disqualification) Order 2003 omit “The National Council for Education and Training for Wales”.

The Whole of Government Accounts (Designation of Bodies) Order 2003 (S.I. 2003/489)

29. In the Schedule Whole of Government Accounts (Designation of Bodies) Order 2003 omit “National Council for Education and Training for Wales”.

The Child Benefit (General) Regulations 2003 (S.I. 2003/493)

30. In regulation 1 of the Child Benefit (General) Regulations 2003 in the definition of “relevant training programme” in paragraph (b) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The Individual Learning Accounts Wales Regulations 2003 (S.I. 2003/918) (W.119)

31. In regulation 1(2) of the Individual Learning Accounts Wales Regulations 2003 in the definition of “learning accounts administrator” (“*gweinyddydd cyfrifon dysgu*”) after “these regulations” add “or the National Assembly for Wales”.

The Education (School Organisation Plans) (Wales) Regulations 2003 (S.I. 2003/1732) (W.190)

32. In regulation 5(1)(viii) of the Education (School Organisation Plans) Regulations 2003 omit “the National Council for Education and Training for Wales”.

The Education (Teacher Student Loans) (Repayment etc) Regulations 2003 (S.I. 2003/1917)

33. In the Education (Teacher Student Loans) (Repayment etc) Regulations 2003:

(1) In regulation 2 in the definition for “specialist college” for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In regulation 4(3)(d) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The Schools Forums (Wales) Regulations 2003 (S.I. 2003/2909) (W.275)

34. In the Schools Forums (Wales) Regulations 2003:

(1) In regulation 1 in the definition of “relevant body” (“*corff perthnasol*”) add “)” after “and the authority itself” and omit “but excluding the National Council for Education and Training for Wales”;

(2) In regulation 6(4) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The LEA Budget, Schools Budget and Individual Schools Budget (Wales) Regulations 2003 (S.I. 2003/3118) (W.296)

35. In regulation 2(8)(a) of the LEA Budget, Schools Budget and Individual Schools Budget (Wales) Regulations 2003 for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”.

The Education (Information About Individual Pupils) (Wales) Regulations 2003 (S.I. 2003/3237) (W.317)

36. In the Education (Information About Individual Pupils) (Wales) Regulations 2003:

(1) In regulation 2 in the definition of “learning activity reference” (“*cyfeirnod gweithgaredd dysgu*”) for “National Council for Training and Education for Wales” substitute “National Assembly for Wales”;

(2) In regulation 4(2)(b) omit “the National Council for Training and Education for Wales”.

The Inspection of Youth Support Services in Wales Regulations 2004 (S.I. 2004/679) (W.67)

37. In regulation 2(3) of the Inspection of Youth Support Services in Wales Regulations 2004 omit “(c) the National Council for Education and Training in Wales”.

The Schools Budget Shares (Wales) Regulations 2004 (S.I. 2004/2506)(W.224)

38. In the Schools Budget Shares (Wales) Regulations 2004:

(1) In regulation 2 omit “the National Council (“*y Cyngor Cenedlaethol*”) means the National Council for Education and Training for Wales”;

(2) In regulation 7(3) omit “or the National Council”;

(3) In regulation 8(2) for “National Council” substitute “National Assembly”;

(4) In regulation 14(2) for “National Council” substitute “National Assembly”;

(5) In the heading at Regulation 15 for “National Council” substitute “National Assembly”;

(6) In regulation 15 for “National Council” substitute “National Assembly”.

The School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004 (S.I. 2004/1576) (W.162)

39. In the School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004:

(1) In the title of the Regulations for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(2) In regulation 1(1) for “National Council for Education and Training for Wales” substitute “National Assembly for Wales”;

(3) In regulation 2 omit “the Council (“*y Cyngor*”) means the National Council for Education and Training for Wales”;

(4) In regulation 4 for “Council” (“*y Cyngor*”) substitute “National Assembly” (“*y Cynulliad Cenedlaethol*”);

(5) In regulation 5 —

(a) in paragraphs (1), (2) and (3) for “Council” substitute “National Assembly”;

(b) in paragraph (4) and sub-paragraph (f) for “Council” substitute “National Assembly”;

(c) in paragraph (4) omit “(a) the National Assembly”;

- (d) in paragraph (5) and (6) for “Council” substitute “National Assembly”.
- (6) In regulation 6 for “the council” substitute “the National Assembly for Wales”.
- (7) Regulation 7 is revoked.
- (8) Regulation 8 is revoked.
- (9) Insert the following after Regulation 6:
 - “8A. Determination by the National Assembly**
 - (1) After the expiry of the period mentioned in regulation 6, the National Assembly shall determine whether to —
 - (a) withdraw the proposals,
 - (b) confirm them without modification; or
 - (c) confirm them subject to modifications.
 - (2) In making a determination under paragraph (1), the National Assembly shall have regard to any objections made in accordance with regulation 6 and not withdrawn.
 - (3) Before confirming the proposals subject to modifications the National Assembly shall consult such persons as it considers appropriate.
 - (4) A confirmation under sub-paragraph (1)(b) or (c) may be subject to the occurrence by a specified time of a specified event which is of a prescribed kind; and if the event does not occur by the specified time the National Assembly shall reconsider its determination under paragraph (1).
 - (5) The National Assembly may withdraw its proposals at any time before a determination is made under this regulation.
- (10) In regulation 9 —
 - (a) in paragraph (1) omit “(a) the Council”;
 - (b) in paragraph (2)(a) insert “National” after the words “appears to the” and for “Council” substitute “National Assembly”;
 - (c) paragraph (3) is revoked.
- (11) In regulation 10 —
 - (a) paragraph (1) is revoked;
 - (b) in paragraph (2) —
 - (i) omit “(a) the Council”;
 - (ii) after “been approved” insert “or confirmed”.
- (12) Regulation 13 is revoked.
- (13) In regulation 14 —
 - (a) in paragraph (1) for “Council” substitute “National Assembly”;

(b) in paragraph (2) for “Council” substitute “National Assembly” and after “proposals” insert “and any other relevant information”.

(14) In regulation 16(1) for “that approval” substitute “that confirmation”.

(15) In regulation 17 omit “(a) the Council”.

(16) In Schedule 1 —

(a) in paragraph 1 for “Council” substitute “National Assembly”;

(b) omit paragraph 12.

(17) In Schedule 2, in paragraph 1 for “Council” substitute “National Assembly”.

(18) Schedule 3 is revoked.

(19) In Schedule 4 —

(a) in paragraph 1 after “approved” insert “or confirmed”;

(b) in paragraph 4:

(i) for “Council” substitute “the National Assembly”;

(ii) delete “, having any regard to any guidance issued by the National Assembly,”;

(c) omit paragraph 5;

(d) in paragraph 6 for “the Council” substitute “the National Assembly”.

The Whole of Government Accounts (Designation of Bodies) Order 2005 (S.I. 2005/486)

40. In Schedule 1 to the Whole of Government Accounts (Designation of Bodies) Order 2005 omit “National Council for Education and Training for Wales”

The St David’s Catholic College Incorporation Order 2005 (S.I. 2005/2293)

41. In the St David’s Catholic College Incorporation Order 2005:

(1) In article 2 omit the definition of “the Council”.

(2) In article 7:

(a) in paragraph (1) for “consent of the Council” substitute “consent of the Assembly”;

(b) in paragraph (3) for “by the Council” substitute “by the Assembly”.

(3) In article 9 for “and the Council” substitute “and the Assembly”.

(4) In article 10:

(a) for paragraph (2)(a) substitute —

“(a) property acquired or enhanced in value wholly or partly by means of financial assistance provided by:

- (i) the Assembly under section 34 of the Learning and Skills Act 2000 from 1 April 2006;
 - (ii) the National Council for Education and Training for Wales under section 34 of the Learning and Skills Act between 1 April 2001 and 31 March 2006;
 - (iii) the Further Education Funding Council for Wales under section 5 of the Further and Higher Education Act 1992 before 1 April 2001.”;
- (b) in paragraph (2)(a) for “vest in the Council” substitute “vest in the Assembly”.

To: Business Committee
From: Jane Davidson AM
Minister for Education and Lifelong Learning

EXPLANATORY MEMORANDUM

EDUCATION, WALES

THE NATIONAL COUNCIL FOR EDUCATION AND TRAINING FOR WALES (TRANSFER OF FUNCTIONS TO THE NATIONAL ASSEMBLY FOR WALES AND ABOLITION) ORDER 2005

Summary

This Order will transfer the functions (together with any property, rights and liabilities) of the National Council for Training and Education for Wales (ELWa) to the National Assembly for Wales; provides for the transfer of staff from ELWa to the National Assembly for Wales; makes appropriate consequential, incidental, transitional and supplementary provisions; and abolishes ELWa.

ELWa is responsible for planning, funding, promoting and quality assuring post-16 education and training in Wales, with the exception of higher education. This includes further education, private and voluntary sector training provision, adult and community learning and school sixth forms.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005, in accordance with Standing Order 24.6.
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Power

3. The powers enabling this Instrument to be made are contained in Section 28 and Schedule 4 of the Government of Wales Act 1998, which has been delegated to the Minister for Education and Lifelong Learning.

Effect

4. This Order will transfer the functions (together with any property, rights and liabilities) of the National Council for Training and Education for Wales (ELWa) to the National Assembly for Wales; provides for the transfer of staff from ELWa to the National Assembly for Wales; makes appropriate consequential, incidental, transitional and supplementary provisions; and abolishes ELWa.
5. ELWa is responsible for planning, funding, promoting and quality assuring post-16 education and training in Wales, with the exception of higher education. This includes further education, private and voluntary sector training provision, adult and community learning and school sixth forms.

6. The decision to abolish ELW_a and transfer its functions into the NAW is part of the wider Welsh Assembly Government agenda (Making the Connections: Delivering Better Services to Wales) to deliver quality public services.
7. In particular, it will help create a core of a Welsh public service which will:
 - be more democratically accountable;
 - be more commercial and innovative;
 - have greater strategic capacity at the centre of Welsh Government;
 - be simpler and more joined up;
 - give more opportunity for staff to develop skills and careers;
 - be more streamlined and efficient with more resources going in to front line services; and
 - generate better value for money in the provision of shared services.

Target Implementation

8. It is intended that the Instrument be made on 22 November 2005 and come into force on 1 April 2006. Should these target dates not be met the formal merger of the functions of ELW_a with the National Assembly for Wales will not take place as planned. Because the intention of the merger process is to cause minimal disruption to service delivery the main impact of failure to merge on the intended date would be uncertainty and disruption for the staff of the merging bodies. There would also be uncertainty for the education and training community in Wales and some delay in implementing the improvements to services that it is envisaged the merger will facilitate.

Financial Implications

9. Any costs resulting from the formal merger of the functions of ELW_a with the National Assembly for Wales, which fall on external stakeholders are likely to be minimal. It is intended that existing services should be delivered to a continuing high standard and, where possible, improved upon. There may be some minor costs such as changing signage or stationery, but it is unlikely that these costs will be significant.
10. Initial estimates indicate that ASPB mergers could produce ongoing recurring savings of some £10 million per annum from 2009. These savings are largely the result of bringing together service delivery functions in the Welsh Assembly Government, removing ASPB boards, reducing the number of senior management posts and integrating corporate support services and systems.

Regulatory Appraisal

11. A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

Consultation

With Stakeholders

12. The draft Order was subject to wide public consultation with stakeholders between 24 May 2005 and 15 July 2005. No responses were received. A list of those consulted is at Annex A to the Regulatory Appraisal.

With Subject Committee

13. The Education and Lifelong Learning Committee was notified of the Order via the list of forthcoming legislation on 11 May 2005 (ELL2 05-05(p.6), item no: 36-05) and has remained on the list ever since. The Minister for Education and Lifelong Learning also updated the Committee on the ELWa and ACCAC mergers and legislative process as part of her Minister's Report to the Committee on 29 June 2005 (ELL2 08-05(p.1))..
14. A draft of the National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 was submitted to the Education and Lifelong Learning Committee for consideration on 21 September 2005.

Recommended Procedure

15. Subject to the views of the Business Committee, I recommend that this Order proceeds to Plenary under the Standard procedure.

Compliance

16. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 Section 120);
- be compatible with the Assembly's scheme for sustainable development (Section 121);
- be compatible with Community law (Section 106);
- be compatible with the Assembly's human rights legislation (Section 107);
- be compatible with any international obligations binding the UK Government and the Assembly (Section 108).

17. The information in this Memorandum has been cleared with the Directorate of Legal Services (DLS) and the Assembly Compliance Officer (ACO).

17. Drafting lawyer: Helen Lentle, Ext 6315.

18. Head of division: Neil Thomas, Ext 5881.

19. Drafting Policy Official: Jo Williams, Ext 6053.

JANE DAVIDSON
MINISTER FOR EDUCATION AND LIFELONG LEARNING

[MONTH] 2005

REGULATORY APPRAISAL

EDUCATION, WALES

THE NATIONAL COUNCIL FOR EDUCATION AND TRAINING FOR WALES (TRANSFER OF FUNCTIONS TO THE NATIONAL ASSEMBLY FOR WALES AND ABOLITION) ORDER 2005

Background

1. The decision to merge the functions of the National Council for Education and Training for Wales (ELWa) into the National Assembly for Wales is part of a wider agenda of the Welsh Assembly Government to deliver quality public services which are more joined-up, more responsive to people and businesses, and more efficient.
2. The broad aims of the proposed mergers are to help create the core of Welsh public service which will:
 - be more democratically accountable;
 - be more commercial and innovative;
 - have greater strategic capacity at the centre of Welsh Government;
 - be simpler and more joined up;
 - give more opportunity for staff to develop skills and careers;
 - be more streamlined and efficient with more resources going in to front line services; and
 - generate better value for money in the provision of shared services.

Purpose and intended effect of the measure

3. This Order will transfer the functions (together with any property, rights and liabilities) of the National Council for Training and Education for Wales (ELWa) to the National Assembly for Wales; provides for the transfer of staff from ELWa to the National Assembly for Wales; makes appropriate consequential, incidental, transitional and supplementary provisions; and abolishes ELWa.
4. ELWa is responsible for planning, funding, promoting and quality assuring post-16 education and training in Wales, with the exception of higher education. This includes further education, private and voluntary sector training provision, adult and community learning and school sixth forms.

Risk Assessment

5. The purpose of the legislation is not about addressing risks or hazards. The probability of any significant risk or harm arising as a result of this legislation proceeding or not is likely to be minimal. It is intended that existing functions should continue and, where possible, improvements to the services made.

Options

6. In order to achieve the desired objectives ELWa needs to be merged into the same organisational structure as the Assembly. Currently ELWa is constituted as an arms-length body with its own executive board and specified functions. Therefore, legislation is the only practical option for bringing the functions of ELWa in to the National Assembly for Wales. Options on how services will be managed and delivered are for consideration by the relevant Minister, subject to the necessary delegations, and are not issues for the relevant legislation.

Benefits

7. The key benefits to external stakeholders are that the core of Welsh public service will:
- be more democratically accountable;
 - be more commercial and innovative;
 - have greater strategic capacity at the centre of Welsh Government;
 - be simpler and more joined up;
 - give more opportunity for staff to develop skills and careers;
 - be more streamlined and efficient with more resources going in to front line services; and
 - generate better value for money in the provision of shared services.
8. In short, the changes are intended to deliver a high quality public service which are more joined-up, more responsive to people, particularly in the education and training community, and more efficient.

Costs

9. Any costs resulting from the formal merger of the functions of ELW_a with the National Assembly for Wales, which fall on external stakeholders are likely to be minimal. It is intended that existing ELW_a services should be delivered to a continuing high standard and, where possible, improved upon. There may be some minor costs such as changing signage or stationery but it is unlikely that these costs will be significant.
10. Initial estimates indicate that ASPB mergers could produce ongoing recurring savings of some £10 million per annum from 2009. These savings are largely the result of bringing together service delivery functions in the Welsh Assembly Government, removing ASPB boards, reducing the number of senior management posts and integrating corporate support services and systems.

Competition Assessment

11. The competition filter was applied and no effects were identified. Increased regulation is neither an objective nor a foreseeable outcome of the merger.

ConsultationWith Stakeholders

12. The draft Order was subject to wide public consultation with stakeholders between 24 May 2005 and 15 July 2005. No responses were received. A list of those consulted is at Annex A.

With Subject Committee

13. The Education and Lifelong Learning Committee was notified of the Order via the list of forthcoming legislation on 11 May 2005 (ELL2 05-05(p.6), item no: 36-05) and has remained on the list ever since. The Minister for Education and Lifelong Learning also updated the Committee on the ELW_a and ACCAC mergers and legislative process, as part of her Minister's Report to the Committee on 29 June 2005 (ELL2 08-05(p.1)).

Summary

14. The aim of the change is to bring ELW_a's functions under more direct ministerial control to deliver policy in education, training and related matters more efficiently and effectively. In order to achieve this, the proposed change to the relevant legislation is necessary. It is not anticipated that there will be any significant compliance costs imposed on external

stakeholders who should see improvements in the services delivered. No adverse competition effects are anticipated.

Consultation on Draft Transfer of Functions and Abolition Orders	
List of Consultees	
Contact	Organisation
David Harris A/Director	ACAS Wales
Wyn Mears	ACCA Wales
John Valentine Williams	ACCAC Wales
Chief Executive	Accountants Constructing Excellence
Chief Executive	Aerospace Wales Forum
Chief Executive	Age Concern Cymru
Chief Executive	Agricultural Dwelling House Advisory Committee
Bill Goldworthy	Agri-Food Partnership
Chief Executive	All Wales Saheli Association
Dafydd Wyn Jones Managing Director	Antur Dwyryd Llyn
Lynne Walters Managing Director	Antur Teifi
Menna Jones	Antur Waunfawr
Rev. Dr. Barry Morgan	Archbishop of Wales & Bishop of Llandaff
Chief Executive	Arena Network
Chief Executive	Arthritis Care in Wales
Chief Executive	Arts Council for Wales
Dr Pauline Peregrine	Asset Skills Wales
Chief Executive	Association of Chief Police Officers
Salem Kidwai	Association of Muslim Professionals
Graham Hoyle	Association of Learning Providers
Chief Executive	Association of Voluntary Organisations in Wrexham
Neill Sullivan	Asylum Seekers Project
Chief Executive	Audit Commission in Wales
Jeremy Colman	Auditor General for Wales
Director	Automobile Association
Helen Taylor	Automotive Skills Council
Abdul Latiff Mohamed Farook	AWEMA
Chief Executive	AWETU
Sue Camper	Bank of England Agency for Wales
Rhianon Pratley	Basic Skills Agency
Mutale Nyoni	BAWSO
Peter A Smith	BHA Wales Committee
Chief Executive	Biffa Waste Services Ltd
Ceri Doyle	Big Lottery Fund
Chief Executive	Black Environmental Network
Clive Sefia	Black Voluntary Sector Network Wales

Robin Morrison	Blaenau Gwent County Borough Council
Chief Executive	BP International
Chief Executive	Brecon Beacons National Park Authority
Chief Executive	Bridgend Association of Voluntary Organisations
I Keri Lewis	Bridgend County Borough Council
Mrs. Roz Pritchard	British Holiday and Homeparks Association
Chief Executive	British Waterways Board
Dr Olga Kelly	British Council Wales
Jeff Collins	British Red Cross
	Brynbras Castle
Chief Executive	BTCV Cymru
Graham Morris Managing Director	Business Connect Neath Port Talbot
Gareth Bray Executive Director	Business in Focus
Malcolm James	Business North Wales
Chief Executive	CADW
Malgwyn Davies	Caerphilly County Borough Council
Chief Executive	Capital Region Tourism
Den Bannister (Secretariat)	Caravan and Camping Forum for Wales
Annie Thompsett	Carbon Trust Wales
	Cardiff Bay / Cathays Park Libraries
Mark Freeman	Careers Wales Cardiff & Vale
Ms Trinia Neilson	Careers Wales Gwent
Mr Wayne Feldon	Careers Wales Mid Glamorgan
Mrs Joyce M'Caw	Careers Wales North East
Dr John Llewelyn	Careers Wales North West
Ray Collier	Careers West Wales
Chief Executive	Cardiff Chamber of Commerce
Byron Davies	Cardiff County Council
Jon Horne	Cardiff International Airport
Noad Hashimi	Cardiff Somali Women & Youth
Mutale Nyoni (Chair)	Care Council for Wales
Chief Executive	Carmarthenshire Association of Voluntary Services
Geoffrey Williams (Chair)	Carmarthenshire Local Access Forum
Mark James	Carmarthenshire County Council
Tim Giles	Carmarthenshire Tourist Association
David Rosser	CBI Wales
Chief Executive	Ceredigion Association of Voluntary Organisations
R. Owen Watkin	Ceredigion County Council
Kieth Edwards	Chartered Institute of Housing Wales

Peter Clark	Childrens Commissioner
Ruth Marks	Chwarae Teg
Mike Bialyj	CITB
Chief Executive	Citizens Advice Bureau
Chief Executive	City and County of Swansea
Chief Executive	CLAW
Sofie Evan	Coastal Cottages of Pembrokeshire
Chief Executive	Coed Cadw (the Woodland Trust)
David & Sue Morgan	Coedmor-fach Cottages
Robert Chappell	Cogent SSC Ltd
Chris Myant	Commission for Racial Equality
Chief Executive	Community Development Cymru
Shannon Robinson	Community Enterprise Wales
Linda Groom (Chair)	Conwy County Borough Council
Ken Simms	Conwy Enterprise
Derek Barker	Conwy Local Education Authority
Chief Executive	Conwy Voluntary Services Council
Karen Wilkie	Co-operative Party
John Raisman CBE (President)	Council for Education in World Citizenship
Jackie Bennet Senior Policy Advisor	Council for Mortgage Lenders
Chief Executive	Countryside Council for Wales
Cathi Marcus	Creative & Cultural Industries
Veronica Wilson	CWVYS
Chief Executive	Cyberium
Merfyn Williams	Cynnal Cymru
Geraint Edwards	Cyngor Sir Ynys Mon / Aglesey County Council
Alan Brown	D'Arcy Development Ltd
Del Morgan	
Tessa Jowel MP	Department for Culture Media and Sport
Ian Miller	Denbighshire County Council
Brian Thomas	Denbighshire Enterprise
Chief Executive	Denbighshire Voluntary Services Council
	Department for Education and Skills Consultation Unit
Carole Ann Davies	Design Commission Wales
William Bee	Disability Rights Commission (Wales)
Rhian Davies	Disability Wales
Chief Executive	Disabled Persons Transport Advisory Committee
Rev. Aled Edwards	Displaced People in Action

Peter Williams	DTA
Chief Executive	Dulas Engineering
Chief Executive	Dyfed Powys Police
Chris James	Elmar Investments Ltd
Elizabeth Raikes	ELWa
Jon Waters	ELWa - Corporate Strategy & Planning Team
Jane Mackenzie	Energy & Utility Skills
Martin Bibey	Engineering Employers Federation
	Environment Agency Wales
Kate Bennet	Equal Opportunities Commission
Delyth Knight, Secretariat	ESTYN
Arwyn Owen	Farmers Union of Wales
Paul Nielson	FDA
Chair	Federation of Awarding Bodies
Geoff Bridgeman	Federation of Master Builders
Russell Lawson	Federation of Small Businesses
John Graystone, Chief Executive	Fforwm
Brian Howes	Finance Wales
Philip McGreevy	Flintshire County Council
Mike Eden	Flintshire Enterprise
Chief Executive	Flintshire Local Voluntary Council
Chief Executive	Food Standards Agency
Mike Theodoulou	Foothold Youth Enterprise
Chief Executive	Forestry Commission
Chief Executive	Forum for the Future
Chief Executive	Funky Dragon
Ian Gallagher	Freight Transport Association
Jerry MacKinlay	Go Skills
Sue Price	Groundwork Wales
Group Captain Neil Bale BSc Mlitt FCIM RAF (Ret'd)	
Chief Executive	Gwent Association of Voluntary Organisations
Harry Thomas	Gwynedd County Council
Hilary Neagle, Chief Executive	Health Professions Wales
	Health Promotion Library
	Herian Partnership
Jennifer Stewart	Heritage Lottery Fund
Professor Philip Gummett	Higher Education Funding Council for Wales
Paul Byard	Hills Industries
Mark Walker	Hilton Cardiff and Cardiff Hoteliers Association
James Hervey-bathurst (President)	Historic Houses Association

Chief Executive	House Builders Federation
	House of Commons Library
	House of Lords Library
Howard & Anne Marie Street	St. Hilary Hotel,
David Lerman Wales Manager	ICAEW: Wales Business Centre
Huw Rees	Improve
	Information Link Libraries (40 copies)
David Lerman	Institute of Chartered Accountants in England & Wales
Roger Young	Institute of Directors
Alice Earp	Institute of Rural Health
	Institution of Civil Engineers
Chief Executive	Interlink
Chief Executive	InvestE Limited
Jeff Rees	
Christine Davies	JobCentre Plus Wales
Chief Executive	JMU Partnership
Michael Carey	KPMG
Chief Executive	LA sustainable development co-ordinators
David Williams	Llandudno Hospitality Association
Duncan Gardner	Lantra
Janet Paraskeva	Law Society
Chief Executive	Lesbian, Gay, Bisexual Forum
Guto Lewis	Lewis Consulting
Bob Hardwick	Lifelong Learning
Mrs S G Smith(Chair)	Local Government Boundary Commission
Chief Executive	Local Government Procurement Unit
Kate Saunders	LWT Marketing Services
Chief Executive	Machynlleth Town Council
Marie Mehigan	
Chief Executive	Mantel Gwynedd
Chief Executive	Mantell Gwynedd
Mary Jones	
Chief Executive	Medrwn Mon
Glyn Howells	Meat Promotoion Wales
Chief Executive	MENCAP Cymru
Chief Executive	Menter a Busnes
Gerallt Llewelyn Jones	Menter Mon
Chief Executive	Merched y Wawr
Alister Neill	Merthyr Tydfil County Borough Council
Justin Baird-Murray	Metropole Hotel
Yolanda Sokirimunn	Mewn Cymru
D M Thomas	Mid Wales Partnership
Valerie Hawkins	Mid Wales Tourism

Terry Threadgold	Migration Asylum Refugee Group
Colin Berg (Acting CEO)	Monmouthshire County Council
Lydia Green	NAFTHE Wales
Anna Brychan	National Association of Head Teachers
Stuart Dandy	National Asylum Support Service
Chief Executive	National Audit Office
Steve Cranston	National Energy Action
Andrew Green	National Library of Wales
Michael Houlihan	National Museums and Galleries of Wales
Paul Loveluck	National Museums and Galleries of Wales
Terry Jones (chair)	National Training Federation Wales
Ruth Williams	National Trust
James Knight	National Union of Students
Geraint Davies	NASUWT
Gaynor Richards	Neath Port Talbot Council for Voluntary Service
Ken Sawyers (Chief Executive)	Neath Port Talbot County Borough Council
Jeremy Newton CE	NESTA
David Russ	Newport & Gwent Enterprise
Chris Freegard (Managing Director)	Newport City Council
Graham Moore	Newport Unlimited
Barbara Bale	NLIAH
E Meurig Royles	North Wales Economic Forum
Susheela Lowrie	North Wales Race Equality Council
Adrian Barsby	North Wales Tourism
	Northern Ireland Assembly
Dr Heledd Hayes	NUT
Chief Executive	Oakwood
Iwan Richards, CEO	One Voice Wales
John Bennett	Pack-It Group
Tim Arthur	PC Holidays
	PCS
Chief Executive	Pembrokeshire Association of Voluntary Services
Richard Packman	Pembrokeshire Business Initiative
D Bryn Parry-Jones (Chief Executive)	Pembrokeshire County Council
Kefin Wakefield	Pembrokeshire County Council
Chief Executive	Pembrokeshire National Park Authority
Karen Long	People 1st
	Peter McGowan
Chief Executive	Planed

Director of Wales	Planning Inspectorate
Chief Executive	Powys Association of Voluntary Organisations
Constance Adams	Powys Association of Voluntary Organisations
Mark Kerr	Powys County Council
Chief Executive	Powys Environment Agency
Peter Heard	Preseli Tourist Association
Chief Executive	PREN
Tom Davies	Princes Trust Cymru
Alan Hearsam	Process & Manufacturing SSC
Deborah Simpson	Professional Association of Teachers
Chief Executive	Prospect Cymru
	Publications Centre Archive
	Publications Centre Stock
	Rail Passengers Committee
Jazz Iheanacho	Race Equality First
J Cliffe (Air Officer Wales)	RAF
Ralph Bettany	Ralph Bettany Associates Ltd
Vanessa Bucolli	Refugee Media Group
Chief Executive	Constructing Excellence in Wales
Kim Ryley (Chief Executive)	Rhondda Cynon Taff County Borough Council
Richard Essex	RICS
Chief Executive	Royal National Institute for the Blind
Chief Executive	Royal National Institute for the Deaf
Chief Executive	Royal Soc of Architects in Wales
Chief Executive	Royal Town Planning Institute in Wales
Amanda Townsend	Royal Welsh College of Music & Drama
Chief Executive	RSPB
Chief Executive	RSPCA
Rob Holt	Ryder Cup Wales Ltd
Chief Executive	SCOVO
Chief Executive	SDCC
Christopher Duff	Sector Skills Development Agency
Brian Rowlands	Secondary Heads Association
Bill Peaper	SEMTA
Chief Executive	Shotton Paper
	Skill Wales
Richard Tobutt	skillsActive
Michelle Sayers	Skills Council for Financial Services
Joanne Thomas	Skillfast UK
Jacky Drysdale	Skills for Care & Development SSC
Sally Ambrose	Skills for Justice SSC
Katherine Whittall	Skillsmart
Gwawr Hughes	Skillset

Maria Whittaker	Skills for Health
Jane Colthup	Skills for Logistics
Chief Executive	Snowdonia National Park
Byron Davies	SOLACE
John Sheppard	South East Wales Economic Forum
Dave Phillips	South East Wales Race Equality Council
Richard Crawshaw	South West Wales Economic Forum
Gary Davies Regional Strategy Director	South West Wales Tourism Partnership
Huw Davies	Southside United Travel
Huw G Jones (Chief Executive)	Sports Council for Wales
Derek Walker	Stonewall Cymru
Kathryn Morgan	Summit Skills
Chief Executive	Sustainable Development Commission Wales
Chief Executive	Sustainable Gwynedd Gynladwy (SGG)
Chief Executive	Sustainable Wales
Chief Executive	Sustrans
Taha Idris	Swansea Bay Race Equality Council
Chief Executive	Swansea Council for Voluntary Service
Tim Thorogood	Swansea County Council
Elaine Ballard	Taff Housing Association
Chief Executive	Tai Eryri
Martin J Taylor	Teaching & leadership Division
Chief Executive	Tearfund
John McDowell, Chair & Peter Trevitt CE	Techniquet
Lowrie Morgan Manager Wales	The Law Society
Chief Executive	The Pedestrians Association
Chief Executive	The Welsh Consumer Council
Peter Durkin (Acting CEO)	Torfaen County Borough Council
Chief Executive	Torfaen Voluntary Alliance
Dee Reynolds Regional Strategy Director	Tourism Partnership Mid Wales
Dewi Davies	Tourism Partnership North Wales
Diana James	Tourism Training Forum for Wales
TR Murphy	
Felicity Williams, General Secretary	Trades Union Congress
Paul Watts	TSCP1
Sarah Jones	Ufl
Chief Executive	UNISON
Sue Price	Unit 7 Business
Anthony Chapman, Senior Vice Chancellor	University of Wales

Melanie Bent	University of Wales Institute Cardiff
Margaret Davies	Trinity College Carmarthen
Judith Watkins	University of Glamorgan
Rachel Connor (Executive Director)	Vale Centre for Voluntary Services
John Maitland Evans	Vale of Glamorgan Council
Ron Davies	Valleys Race Equality Council
Chief Executive	Venture Wales
	Visit Britain
Chief Executive	Voluntary Action Cardiff
Chief Executive	Voluntary Action Centre
Chief Executive	Voluntary Action Merthyr Tydfil
Ian Rutherford	Wales Association of Visitor Attractions (WAVA)
Lyn Llewellyn (Director)	Wales Association of Community and Town Councils
Chief Executive	Wales Association of Self Catering Operators
Tim Williams	Wales Automotive Forum
Chief Executive	Wales Centre for Health
Simon Harris	Wales Co-operative Centre Ltd
Chief Executive	Wales Council for the Blind
Chief Executive	Wales Council for the Deaf
Phil Jarrold	Wales Council for Voluntary Action
Ruth Marks	Wales Employment Advisory Panel
Chief Executive	Wales Enterprise
Gareth Hall	Wales European Centre
Derek Roberts	Wales Official Tourist Guides Association
Chris Ward	Wales Management Council
Chief Executive	Wales Social Partners Unit Ltd
Julian Burrell	Wales Tourism Alliance
Jonathan Jones	Wales Tourist Board
Tim Gorin	Wales Trade International
Derek Walker	Wales TUC Cymru
Mary Slatter	Wales Women's National Coalition
Karin Pittick	WDA
Wendy Boddington	WDA North Wales, Innovation & Technology Manager
Dafydd Williams	WDA, Media & Communications Executive
Bethan Jones	WDA Analyst (International)
	WDA, Environmental Goods and Services Team
Chief Executive	Welsh Anti-Nuclear Alliance
NJ Wheeler	Welsh Association of National Park

	Authorities
Chris Jackson	Welsh Association of Visitor Attractions
Andrew Jones	Welsh Collaboration for Health & the Environment
Chief Executive	Welsh Consumer Council
Gareth Hall	Welsh Development Agency
Chief Executive	Welsh Electronics Forum
Valerie Barrett	Welsh Industrial Development Advisory Board
Gareth Pierce	Welsh Joint Education Committee
Mari Huws	Welsh Language Board
Steve Thomas	Welsh Local Government Association
Chief Executive	Welsh Procurement Initiative
David Farnsworth	Welsh Refugee Council
Joan Ashby	Wales Rural Development Network
William Gruffydd Roberts	
Tim Hooper Policy Officer (Regeneration)	WLGA
Chief Executive	Womens Workshop, Cardiff Training Centre
Isobel Garner (Chief Executive)	Wrexham County Borough Council
Howard Thomas	WNACC
Yanov Isaovich	
Ioan Jenkins	Young Enterprise Wales
Anne Wesson (Board Secretariat)	WDA Board Members
Kathy Barker (Board Secretariat)	Finance Wales Board
Laura Brown (Board Secretariat)	WTB Board Members
Tania Contino (Board Secretariat)	ELWa Board Members