

**2011 No. 1947 (W. 213)**

**EDUCATION, WALES**

The National Curriculum  
(Assessment Arrangements on  
Entry to the Foundation Phase)  
(Wales) Order 2011

**EXPLANATORY NOTE**

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

Under section 108(2)(b)(iii) of the Education Act 2002 the Welsh Ministers may specify, by order, such assessment arrangements as they consider appropriate for the foundation phase. This Order sets out those arrangements. The provisions of this Order come into force on 1 September 2011 for those pupils taught the foundation phase in a maintained school or a maintained nursery school, and on 1 September 2012 for all other pupils taught the foundation phase in a different foundation phase setting (article 2).

This Order provides that a foundation phase assessment must be carried out by a practitioner in relation to each pupil in the foundation phase, other than a pupil who has been assessed in accordance with the Education (Baseline Assessment) (Wales) Regulations 1999. This Order sets out the purpose of such assessments (article 3) and sets time limits for carrying out the assessments (article 4).

This Order enables the Welsh Ministers to make provision giving effect to or otherwise supplementing the provisions made by this Order (article 5).

This Order also sets out the duties of the proprietor of a foundation phase setting (article 6 and the Schedule), the duties of the responsible person (article 7 and the Schedule) and of relevant local authorities (article 8 and the Schedule) in relation to the assessment arrangements.

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**EDUCATION, WALES**

The National Curriculum  
(Assessment Arrangements on  
Entry to the Foundation Phase)  
(Wales) Order 2011

*Made* 29 July 2011

*Laid before the National Assembly for Wales*  
*August 2011*

*Coming into force in accordance with*  
*article 1(2)*

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 108(2)(b)(iii), (5), (6), (9) and (11) and 210 of the Education Act 2002<sup>(1)</sup> and now vested in them<sup>(2)</sup>, make the following Order:

**Title and commencement**

1.—(1) The title of this Order is the National Curriculum (Assessment Arrangements on Entry to the Foundation Phase) (Wales) Order 2011.

(2) This Order comes into force on—

- (a) 1 September 2011 for maintained schools in Wales and maintained nursery schools in Wales; and
- (b) 1 September 2012 for establishments in Wales where nursery education is provided under the arrangements mentioned in section 98(2)(b) of the 2002 Act at which the foundation phase is taught.

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(1) 2002 c.32. Subsection (2) of section 108 was amended by section 21(1) and (7)(a) of the Education (Wales) Measure 2009 (nawm 5). Subsection (6) of section 108 was amended by S.I. 2010/1158 and subsection (11) was amended by paragraphs 11 to 13 of the Schedule to the Learning and Skills (Wales) Measure 2009 (nawm 1).

(2) The functions of the Secretary of State under those sections were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

## Interpretation

### 2. In this Order—

“the 2002 Act” (“*Deddf 2000*”) means the Education Act 2002;

“the assessment document” (“*y ddogfen asesu*”) means the “Foundation Phase child development assessment profile Record Form” document published by the Welsh Ministers in May 2011;

“developmental areas” (“*meysydd datblygiadol*”) means the following developmental areas set out in the profile document—

- (i) personal, social and emotional;
- (ii) speaking and listening;
- (iii) reading and writing;
- (iv) sort, order and number;
- (v) approach to learning, thinking and reasoning; and
- (vi) physical;

“foundation phase assessment” (“*asesiad cyfnod sylfaen*”) means an assessment by a practitioner of a pupil’s attainment based upon the practitioner’s observation, including an assessment of the child’s level of attainment in relation to the developmental areas;

“foundation phase setting” (“*lleoliad cyfnod sylfaen*”) means a maintained school, a maintained nursery school or an establishment where nursery education is provided under the arrangements mentioned in section 98(2)(b) of the 2002 Act and at which the foundation phase is taught;

“practitioner” (“*addysgwr*”) means any person who teaches the foundation phase in a foundation phase setting;

“the profile document” (“*y ddogfen proffil*”) means the “Foundation Phase child development assessment profile”(1) published by the Welsh Ministers in May 2011;

“proprietor” (“*perchennog*”) means—

- (a) where the foundation phase setting is a maintained school or a maintained nursery school, the governing body of that school; and
- (b) in relation to any other foundation phase setting, the person or body responsible for the management of the foundation phase setting;

“relevant local authority” (“*awdurdod lleol perthnasol*”) means the local authority in Wales by which a foundation phase setting is maintained or funded;

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(1) ISBN numbers 978 0 7504 6158 0 and 978 0 7504 6159 7.

“responsible person” (“*person cyfrifol*”) means the head teacher of a maintained school or maintained nursery school or the person responsible for the provision of nursery education in the foundation phase setting under the arrangements mentioned in section 98(2)(b) of the 2002 Act;

“unique pupil number” (“*rhif unigryw’r disgybl*”) means a combination of numbers allocated to a pupil by use of a formula determined by the Welsh Ministers and are particular to that pupil; and

“working day” (“*diwrnod gwaith*”) means any day other than a Saturday, Sunday or a day which is a bank holiday within the meaning of section 1 of the Banking and Financial Dealings Act 1971(1).

### **Foundation phase assessment**

3.—(1) The responsible person must make arrangements for a foundation phase assessment to be carried out by a practitioner in relation to each pupil in the foundation phase (subject to paragraph (2)).

(2) The duty in paragraph (1) does not apply in relation to a pupil who has been assessed in accordance with the Education (Baseline Assessment) (Wales) Regulations 1999(2).

(3) The purpose of the assessment is to determine the pupil’s level of attainment in relation to each of the developmental areas.

(4) The results of the assessment must be recorded by the practitioner in an assessment document and a record of attainment.

(5) The record of attainment must consist of the results of the foundation phase assessment together with a brief statement by the practitioner of the pupil’s level of attainment in relation to the developmental areas.

### **Timing of assessment**

4.—(1) Where a pupil entered the foundation phase after the coming into force of this Order, the foundation phase assessment must be completed—

- (a) before the end of 30 working days after the pupil first enters the foundation phase; or
- (b) as soon as reasonably practicable, if exceptionally and for reasons outside the control of the responsible person, the assessment cannot be completed within the period defined in sub-paragraph (a).

(2) Where a pupil first entered the foundation phase before the coming into force of this Order, the

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(1) 1971 c.80.

(2) S.I. 1999/1188 as amended by S.I. 2010/1142 (W.101).

foundation phase assessment for that pupil must be completed as soon as reasonably practicable.

#### **Supplementary powers of the Welsh Ministers**

5. The Welsh Ministers may make such provision giving full effect to or otherwise supplementing the provisions of this Order (other than provision conferring or imposing functions as mentioned in section 108(6) of the 2002 Act) as appears to them to be expedient.

#### **Duties of the proprietor**

6. The proprietor of a foundation phase setting has the duties set out in Part 1 of the Schedule to this Order.

#### **Duties of responsible persons**

7. The responsible person of a foundation phase setting has the duties set out in Part 2 of the Schedule to this Order.

#### **Duties of relevant local authorities**

8. Every relevant local authority has the duties set out in Part 3 of the Schedule to this Order.

*Leighton Andrews*

Minister for Education and Skills, one of the Welsh Ministers.

29 July 2011

# SCHEDULE

Articles 6, 7 and 8

## Duties in relation to assessments

### Part 1

#### Duties of proprietors

1. In so far as duties in connection with assessments carried out in accordance with articles 3 and 4 are conferred or imposed on the responsible person, the proprietor must exercise that person's functions generally with a view to securing that any requirements imposed upon the responsible person by this Order are complied with.

### Part 2

#### Duties of responsible persons

2. The responsible person must provide to the parent of every pupil in relation to whom a foundation phase assessment has been carried out at that foundation phase setting—

- (a) a copy of the record of attainment; and
- (b) where the parent requests it, a copy of the assessment document.

3. The responsible person must notify the relevant local authority in writing of—

- (a) in respect of each pupil in the foundation phase setting who is assessed in accordance with articles 3 and 4, that the foundation phase assessment has been carried out and the results of that assessment; and
- (b) in respect of each pupil in the foundation phase setting for whom a foundation phase assessment in accordance with articles 3 and 4 has not been carried out that, that the assessment has not been carried out and the reason for its not having been carried out.

4.—(1) This paragraph applies where a pupil who has been assessed in accordance with articles 3 and 4 ceases to attend one foundation phase setting (“the old foundation phase setting”) and starts to attend another foundation phase setting (“the new foundation phase setting”).

(2) The responsible person of the new foundation phase setting must notify the responsible person of the old foundation phase setting in writing that the pupil has ceased to attend the old foundation phase setting, and must give the address of the new foundation phase setting.

(3) On receipt of the notification, the responsible person of the old foundation phase setting must notify the responsible person of the new foundation phase setting of the following matters in writing—

- (a) the results of any foundation phase assessment carried out in relation to the pupil in the old foundation phase setting in accordance with articles 3 and 4; or
- (b) if no foundation phase assessment was carried out in relation to the pupil in the old foundation phase setting in accordance with those articles, the reason why no such assessment was carried out.

5.—(1) A notification required by paragraph 3 must be given no later than 10 working days after the date the assessment required by articles 3 and 4 is carried out.

(2) A notification required by paragraph 4(2) must be given no later than 15 working days after the pupil starts to attend the new foundation phase setting.

(3) A notification required by paragraph 4(3) must be given no later than 15 working days after notification is received from the new foundation phase setting.

(4) Any notification that is not given in accordance with the relevant requirements in sub-paragraphs (1), (2) or (3) must be given as soon as reasonably practicable afterwards.

6. A notification required by paragraph 3(a) or by paragraph 4(3)(a) must contain the following information in respect of the assessment to which it relates—

- (a) the name and address of the foundation phase setting; and
- (b) the number of the school (where applicable).

7. A notification required by paragraph 3(a) or paragraph 4(3)(a) must contain the following information relating to the pupil to whom it relates—

- (a) first name;
- (b) further name or names (if applicable);
- (c) surname;
- (d) unique pupil number (if known);
- (e) sex;
- (f) date of birth;
- (g) the month and year of the assessment;
- (h) the results of the foundation phase assessment carried out in accordance with articles 3 and 4 in each of the developmental areas (but such information must not include a copy of the assessment document); and

- (i) the date the pupil first entered the foundation phase.

**8.—**(1) This paragraph applies where a responsible person is required to give a notification under paragraph 3(b) or paragraph 4(3)(b) that a foundation phase assessment has not been carried out in respect of a pupil.

(2) If the responsible person has been notified that a foundation phase assessment has been carried out in respect of a pupil at a previous foundation phase setting, the responsible person must include a copy of that earlier notification unless sub-paragraph (3) applies.

(3) This sub-paragraph applies only where—

- (a) the notification is required by paragraph 3(b), and
- (b) the foundation phase setting in relation to which the notification is required is, and at the time of the assessment of the pupil the previous foundation phase setting was, a foundation phase setting maintained or funded by the same local authority.

**9.—**(1) The responsible person must offer to the parent of a pupil in relation to whom an assessment has been carried out at the foundation phase setting a reasonable opportunity for the parent to discuss the results of the assessment with a practitioner at the foundation phase setting.

(2) The offer must be made before the end of the school term in which the foundation phase assessment was carried out and the responsible person must secure that any resulting discussion takes place during that term or as soon as is reasonably practicable after the end of that term.

### Part 3

#### Duties of relevant local authorities

**10.** Every relevant local authority must receive and keep the notifications made to them under Parts 1 and 2 of this Schedule.

**11.** Within 14 working days of receiving a request in writing from the Welsh Ministers, a relevant local authority must provide to the Welsh Ministers, in machine readable format, through a secure internet website provided for that purpose by the Welsh Ministers, such of the notifications made to it under Parts 1 and 2 of this Schedule as the Welsh Ministers request.