Education Act 2002

2002 CHAPTER 32

An Act to make provision about education, training and childcare. [24th July 2002]

B E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)

C1 Act applied (1.4.2005) by The Central Sussex College (Government) Regulations 2005 (S.I. 2005/397), **Sch. 2 para. 2**

C2 Act modified (7.4.2005) by Education Act 2005 (c. 18), **s. 96(2)**

C3 Education Acts modified (temp.) (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 6 para. 3(3)**; S.I. 2007/935, art. 5(bb)

PART 1

PROVISION FOR NEW LEGAL FRAMEWORKS

CHAPTER 1

POWERS TO FACILITATE INNOVATION

1 Purpose and interpretation of Chapter 1

(1) The purpose of this Chapter is to facilitate the implementation by qualifying bodies of innovative projects that may—

(a) in the opinion of the Secretary of State, contribute to the raising of **[**[F1]educational standards**]** in England, or

(b) in the opinion of the National Assembly for Wales, contribute to the raising of **[**[F2]educational standards**]** in Wales.

Status: *This version of this Act contains provisions that are prospective.*
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(2) In forming an opinion as to whether a project may contribute to the raising of **[**F3educational standards**]** in England or Wales, the Secretary of State or the National Assembly for Wales shall—

(a) have regard to the need for the curriculum for any school affected by the project to be a balanced and broadly based curriculum which promotes the spiritual, moral, cultural, mental and physical development of children and of society, and

(b) consider the likely effect of the project on all the **[**F4pupils or students**]** who may be affected by it.

(3) In this Chapter—

"the Chief Inspector" means—

(a) in relation to England, **[**F5Her Majesty's Chief Inspector of Education, Children's Services and Skills**]** , and

(b) in relation to Wales, Her Majesty's Chief Inspector of Education and Training in Wales;

"children" means persons under the age of nineteen;

"education legislation" means—

(a) the Education Acts (as defined by section 578 of the Education Act 1996 (c. 56)),

(b) the Learning and Skills Act 2000 (c. 21), and

(c) any subordinate legislation made under any of those Acts;

[F6"maintained school" means—

(a) a community, foundation or voluntary school,

(b) a community or foundation special school, or

(c) a maintained nursery school;**]**

[F7"qualifying body" means—

(a) a **[**F8local authority**]**,

(b) an Education Action Forum,

(c) a qualifying foundation,

(d) the governing body of a maintained school,

(e) the head teacher of a maintained school,

(f) the proprietor of an Academy, a city technology college or a city college for the technology of the arts,

(g) the proprietor of any special school that is not maintained by a **[**F8local authority**]** but is for the time being approved by the Secretary of State F9... under section 342 of the Education Act 1996, or

(h) the governing body of an institution within the further education sector;**]**

[F10"qualifying foundation" means the foundation, as defined by subsection (3)(a) of section 21 of the School Standards and Framework Act 1998, of any foundation or foundation special school that for the purposes of that section has a foundation established otherwise than under that Act;**]**

F11...

"subordinate legislation" has the same meaning as in the Interpretation Act 1978 (c. 30).

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Textual Amendments

F1 Words in s. 1(1)(a) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 1(2)**

F2 Words in s. 1(1)(b) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 1(2)**

F3 Words in s. 1(2) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 1(3)(a)**

F4 Words in s. 1(2)(b) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 1(3)(b)**

F5 Words in s. 1(3) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 71**; S.I. 2007/935, art. 5(gg)

F6 Words in s. 1(3) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 1(4)(a)**

F7 Words in s. 1(3) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 1(4)(b)**

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F9 Words in s. 1(3) omitted (1.9.2021) by virtue of The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021 (S.I. 2021/861), regs. 1, **5(2)**

F10 Words in s. 1(3) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 1(4)(c)**

F11 Words in s. 1(3) repealed (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), Sch. 16 para. 1(4)(d), **Sch. 18 Pt. 1**

Commencement Information

I1 S. 1 partly in force; s. 1 not in force at Royal Assent, see s. 216; s. 1 in force (except for the words "(b) a maintained nursery school" in the list of qualifying schools in s. 1(3)) for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in Sch.)

I2 S. 1 in force at 1.9.2003 so far as not already in force except in relation to W. by S.I. 2003/1667, **art. 4**

I3 S. 1 in force at 27.2.2015 for W. by S.I. 2015/381, **art. 2**

2 Power to suspend statutory requirements etc.

(1) On the application of one or more qualifying bodies ("the applicant"), the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may for the purpose of this Chapter by order make provision—

(a) conferring on the applicant exemption from any requirement imposed by education legislation;

(b) relaxing any such requirement in its application to the applicant;

(c) enabling the applicant to exercise any function conferred by education legislation on any other qualifying body (either concurrently with or in place of that other body);

(d) making such modifications of any provision of education legislation, in its application to the applicant or any other qualifying body, as are in the opinion of the Secretary of State or the Assembly consequential on any provision made by virtue of any of paragraphs (a) to (c).

[F12(1A) Where the applicant is or includes a qualifying foundation, references in paragraphs (a) to (d) of subsection (1) to the applicant (so far as they would otherwise be read as

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references to the qualifying foundation) are to be read as references to the governing bodies of all or any of the foundation or foundation special schools in respect of which the applicant is the foundation.**]**

(2) An order under this section shall have effect during a period specified in the order which, subject to section 3(2), must not exceed three years.

(3) Before making an order under this section, the Secretary of State or the National Assembly shall, if he or it considers it appropriate to do so, consult the Chief Inspector.

(4) No order under this section which relates to sections 119 to 129 may be made by the National Assembly for Wales without the consent of the Secretary of State.

(5) The Secretary of State or the National Assembly for Wales shall refuse an application for an order under this section if it appears to the Secretary of State or the Assembly that the proposed order would be likely to have a detrimental effect on the education of **[**F13—

(a) in relation to England, children with special educational needs, or

(b) in relation to Wales, persons under 25 with special educational needs.**]**

(6) The Secretary of State or the National Assembly for Wales may from time to time give guidance as to the matters which the Secretary of State or the Assembly will take into account in determining whether to grant applications for orders under this section.

F14(7) . . . . . .

F14(8) . . . . . .

F15(9) . . . . . .

Textual Amendments

F12 S. 2(1A) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 2(2)**

F13 S. 2(5)(a)(b) substituted for words (1.9.2021) by The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021 (S.I. 2021/861), regs. 1, **5(3)**

F14 S. 2(7)(8) repealed (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), Sch. 16 para. 2(3), **Sch. 18 Pt. 1**

F15 S. 2(9) repealed (8.1.2007) by Legislative and Regulatory Reform Act 2006 (c. 51), s. 33, **Sch.** (with s. 30(2)-(5))

Commencement Information

I4 S. 2 partly in force; s. 2 not in force at Royal Assent, see s. 216; s. 2 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I5 S. 2 in force at 27.2.2015 for W. by S.I. 2015/381, **art. 2**

3 Variation or revocation of orders under section 2

(1) The power conferred on the Secretary of State and the National Assembly for Wales by section 2 includes—

(a) power by a further order made under that section on an application made for the purposes of that section by one or more qualifying bodies, to amend any order previously made under that section so as to extend—

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(i) the requirements or functions in relation to which the order applies,

(ii) the qualifying bodies to which it applies, or

(iii) subject to subsection (2), the period during which it has effect, and

(b) power by a further order under that section, which may be made without any application from a qualifying body, to revoke any order previously made under that section.

(2) An order made under section 2 by virtue of subsection (1)(a)(iii) of this section may, on one occasion only, extend the period for which a previous order under that section has effect by a period of not more than three years from the end of the period originally specified in the previous order.

Commencement Information

I6 S. 3 partly in force; s. 3 not in force at Royal Assent, see s. 216; s. 3 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I7 S. 3 in force at 27.2.2015 for W. by S.I. 2015/381, **art. 2**

4 Applications for orders under section 2

(1) An application for the purposes of section 2 **[**F16("an application for an order") **]** must be in such form, and contain such information, as may be required by the Secretary of State or, as the case may be, the National Assembly for Wales.

[F17(1A) No application for an order may be made by the head teacher of a maintained school without the consent of the governing body of the school.**]**

(2) Before making **[**F18an application for an order**]** , the qualifying body shall—

(a) in the case of an Education Action Forum, consult each **[**F8local authority**]** by whom any participating school, as defined by section 10(6)(b) of the School Standards and Framework Act 1998 (c. 31), is maintained,

[F19(aa) in the case of a qualifying foundation, consult the governing body of each foundation or foundation special school to which the application relates and the **[**F8local authority**]** who maintain the school,**]**

[F20(b) in the case of the governing body of a maintained school, consult—

(i) the **[**F8local authority**]** who maintain the school, and

(ii) where the school is a foundation school with a qualifying foundation, that foundation, and**]**

(c) in any case, consult such persons (or other persons) as appear to the qualifying body to be appropriate, having regard to any guidance given from time to time by the Secretary of State or, as the case may be, the National Assembly for Wales.

(3) The Secretary or State or the National Assembly for Wales may with the consent of the applicant include in an order under section 2 provisions different from those requested in the application.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

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F16 Words in s. 4(1) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 3(2)**

F17 S. 4(1A) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 3(3)**

F18 Words in s. 4(2) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 3(4)(a)**

F19 S. 4(2)(aa) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 3(4)(b)**

F20 S. 4(2)(b) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 16 para. 3(4)(c)**

Commencement Information

I8 S. 4 partly in force; s. 4 not in force at Royal Assent, see s. 216; s. 4 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I9 S. 4 in force at 27.2.2015 for W. by S.I. 2015/381, **art. 2**

5 Annual report

(1) Where the Secretary of State has made any order under section 2 in any academic year, he shall—

(a) prepare a report on all the orders made by him under that section in that academic year, and

(b) lay a copy of the report before each House of Parliament.

(2) Where the National Assembly for Wales has made any order under section 2 in any academic year, the Assembly shall prepare and publish a report on all the orders made by the Assembly under that section in that academic year.

(3) In this section "academic year" means a period beginning with 1st August and ending with the next 31st July.

Commencement Information

I10 S. 5 partly in force; s. 5 not in force at Royal Assent, see s. 216; s. 5 in force for E. at 1.10.2002 by (S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I11 S. 5 in force at 27.2.2015 for W. by S.I. 2015/381, **art. 2**

PROSPECTIVE

CHAPTER 2

EXEMPTIONS RELATED TO SCHOOL PERFORMANCE

6 Interpretation of Chapter 2

(1) For the purposes of this Chapter a maintained school is a "qualifying school" at any time if it is a school of a prescribed description which satisfies prescribed criteria relating to one or more of the following—

(a) the performance of the school,

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(b) the quality of the leadership in the school, and

(c) the quality of the management of the school.

(2) The criteria prescribed for the purposes of subsection (1) may include criteria referring to the opinion of the Chief Inspector, the Secretary of State or the National Assembly for Wales.

(3) For the purposes of this Chapter a school teacher is "employed" at a school if he works at the school under a contract falling within paragraphs (b), (c) and (d) of section 122(3).

(4) In this Chapter—

"the Chief Inspector" has the meaning given by section 1(3);

"curriculum provision" means—

(a) in relation to a maintained school maintained by a **[**F8local authority**]** in England, any provision of the National Curriculum for England, and

(b) in relation to a maintained school maintained by a **[**F8local authority**]** in Wales, any provision of the National Curriculum for Wales;

"maintained school" means a community, foundation or voluntary school or a community or foundation special school;

"pay and conditions provision" means any provision of an order under section 122;

"school teacher" has the same meaning as in section 122.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

7 Exemptions available to qualifying schools

(1) Regulations may for the purposes of this section—

(a) designate any curriculum provision or pay and conditions provision as attracting exemption as of right,

(b) designate any curriculum provision or pay and conditions provision as attracting discretionary exemption,

(c) designate modifications of any curriculum provision or pay and conditions provision as being available as of right, and

(d) designate modifications of any curriculum provision or pay and conditions provision as being available on a discretionary basis.

(2) On the application of the governing body of a qualifying school, the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may by order—

(a) provide that any pay and conditions provision which is designated under subsection (1)(a) or (b) and specified in the order is not to apply in relation to school teachers employed at the school,

(b) provide that any pay and conditions provision which is designated under subsection (1)(c) or (d) is to apply in relation to school teachers employed at the school with modifications which are specified in the order and fall within

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the modifications designated as being available as of right or available on a discretionary basis,

(c) provide that any curriculum provision which is designated under subsection (1)(a) or (b) and specified in the order is not to apply in relation to the school,

(d) provide that any curriculum provision which is designated under subsection (1)(c) or (d) is to apply in relation to the school with modifications which are specified in the order and fall within the modifications designated as being available as of right or available on a discretionary basis, or

(e) revoke or vary any order previously made under this subsection.

(3) Where an application under subsection (2) by a qualifying school—

(a) relates only to exemption from provisions that are designated under subsection (1)(a) as attracting exemption as of right or to modifications that fall within the modifications designated under subsection (1)(c) as being available as of right (or only to such exemption and such modifications), and

(b) does not relate to the revocation or variation of an order previously made under subsection (2),

the Secretary of State or, as the case may be, the National Assembly for Wales shall make the order requested.

(4) The Secretary of State or the National Assembly for Wales may from time to time give guidance as to the matters which the Secretary of State or the Assembly will take into account in determining whether to grant applications under subsection (2) which relate to—

(a) provisions which are designated under subsection (1)(b) as attracting discretionary exemption, or

(b) modifications which fall within the modifications designated under subsection (1)(d) as being available on a discretionary basis.

F21(5) . . . . . .

Textual Amendments

F21 S. 7(5) omitted (30.9.2018) by virtue of The Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644), arts. 1(2), **39(1)**

8 Applications for orders under section 7(2)

(1) An application for the purposes of section 7(2) must be in such form, and contain such information, as may be required by the Secretary of State or, as the case may be, the National Assembly for Wales.

(2) Before making such an application, the governing body shall—

(a) consult the **[**F8local authority**]**,

(b) where the application relates to a curriculum provision, consult the parents of registered pupils at the school,

(c) where the application relates to a pay and conditions provision, consult each school teacher employed at the school, and

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(d) in any case, consult such other persons as appear to them to be appropriate, having regard to any guidance given from time to time by the Secretary of State or, as the case may be, the National Assembly for Wales.

(3) The Secretary of State or the National Assembly for Wales may with the consent of the applicant include in an order under section 7(2) provisions different from those requested in the application.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

9 Removal of exemptions

Where—

(a) the Secretary of State or the National Assembly for Wales has made an order under subsection (2) of section 7 in relation to a school ("the exemption order"), and

(b) since the making of the exemption order, the school has ceased to be a qualifying school,

the Secretary of State or the Assembly may, without any application by the governing body, make an order under that subsection which revokes the exemption order or varies the exemption order so as to restrict any exemption conferred by it.

10 Determination of pay and conditions during and after exemption

(1) Where an order under section 7(2) which relates to a pay and conditions provision is in force in relation to a school—

(a) the governing body shall determine the remuneration and other conditions of employment of each school teacher employed at the school, to the extent that by virtue of the order the pay and conditions provisions do not apply to him,

(b) the **[**F8local authority**]** shall do anything necessary to give effect to the governing body's determination under paragraph (a), and

(c) pending a determination under paragraph (a), the terms on which a school teacher is employed at the school shall remain unchanged (irrespective of any new order under section 122 except so far as applying to him despite the effect of the order under section 7(2)).

(2) The Secretary of State may make regulations about the application of section 122(2) where an order under section 7(2) is revoked or the exemption conferred by it is restricted.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

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Modifications etc. (not altering text)

C4 S. 10(2): functions transferred (30.9.2018) by The Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644), arts. 1(2), **39(2)**

CHAPTER 3

POWERS TO FORM COMPANIES ETC

11 Powers of governing bodies to form or invest in companies to provide services etc.

(1) The governing body of a maintained school may form, or participate in forming, companies—

(a) to provide services or facilities for any schools,

(b) to exercise relevant **[**F8local authority**]** functions, or

(c) to make, or facilitate the making of, arrangements under which facilities or services are provided for any schools by other persons.

(2) The governing body of a maintained school may, with a view to securing or facilitating—

(a) the provision by a company of services or facilities for any schools,

(b) the exercise by a company of relevant **[**F8local authority**]** functions, or

(c) the making by any person of arrangements of the kind referred to in subsection (1)(c),

invest in the company which is to provide the services or facilities or exercise the functions or by which the arrangements are to be made or facilitated.

(3) The governing body of a maintained school may form, or participate in forming, companies to purchase services or facilities for that school and other participating schools.

(4) The governing body of a maintained school may, with a view to securing or facilitating the purchase by a company of services or facilities for that school and other participating schools, become a member of the company.

(5) The governing body of a maintained school may provide staff to any company in relation to which they have exercised a power conferred by any of subsections (1) to (4).

(6) Subsections (1) to (4) have effect subject to section 12.

(7) In exercising the power conferred by subsection (5) the governing body of a maintained school shall have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales.

(8) This section is without prejudice to any powers of the governing body of a maintained school exercisable otherwise than by virtue of this section.

(9) In this section and section 12—

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"company" means a company registered under **[**F22the Companies Act 2006**]** as a company limited by shares or a company limited by guarantee;

"relevant **[**F8local authority**]** functions", in relation to a company, means **[**F23the education functions**]** of any **[**F8local authority**][**F24that are or may become**]** exercisable by the company in accordance with an authorisation given or direction made by virtue of any enactment;

"facilities" includes the provision of (or of the use of) premises, goods, materials, vehicles, plant or apparatus;

"maintained school" means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

"participating school", in relation to a company, means a school whose governing body is, or is to be, a member of the company.

(10) References in this section and section 12 to investing in a company include references to becoming a member of the company and to investing in it by the acquisition of any assets, securities or rights or otherwise.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F22 Words in s. 11(9) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 198(2)** (with art. 10)

F23 Words in s. 11(9) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 11(4)(a)**

F24 Words in s. 11(9) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 11(4)(b)**

Commencement Information

I12 S. 11 partly in force; s. 11 not in force at Royal Assent, see s. 216; s. 11 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in Sch.)

I13 S. 11 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2**

12 Limits on powers conferred by section 11

(1) The governing body of a maintained school may not exercise any power conferred by any of subsections (1) to (4) of section 11 except—

(a) with the consent of the **[**F8local authority**]**, and

(b) at a time when the school has a delegated budget (within the meaning of Part 2 of the School Standards and Framework Act 1998 (c. 31)).

(2) A governing body—

(a) may not exercise any of those powers in relation to a company unless the company satisfies any applicable requirements of regulations under subsection (3), and

(b) may not, by virtue of section 11, remain a member of a company at any time when the company fails to satisfy any such requirements.

(3) Regulations—

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(a) shall provide that, except in such cases as may be prescribed, the company must be prohibited by its constitution from admitting to its membership any person who is not of a prescribed description, and

(b) may impose requirements with respect to—

(i) the constitution of the company, and

(ii) any other matter connected with the company's affairs.

(4) Without prejudice to the generality of paragraph (b) of subsection (3), regulations under that paragraph may require that the company be prohibited by its constitution from borrowing money, except with the consent of a prescribed person.

(5) Regulations shall—

(a) provide that where one or more governing bodies have invested in a company by virtue of section 11, a **[**F8local authority**]** shall be designated as the supervising authority for the company,

(b) specify the persons by whom and the manner in which the power of designation is, or is in specified circumstances, exercisable,

(c) make provision about the duties of a **[**F8local authority**]** who are for the time being designated as the supervising authority for a company.

(6) Regulations may also—

(a) require that where a **[**F8local authority**]** are for the time being designated as the supervising authority for a company the company shall provide prescribed information relating to its financial affairs to them at such times and in such manner as may be prescribed,

(b) provide that in prescribed circumstances a **[**F8local authority**]** who are for the time being so designated may direct any participating governing body to cease to be a member of the company or to take any other prescribed action in relation to the company, and

(c) prescribe the procedure for making such a direction.

(7) In subsection (6)(b) "participating governing body", in relation to a company, means any governing body of a maintained school who are a member of the company.

(8) Regulations may restrict the circumstances in which a **[**F8local authority**]** may refuse to give any consent applied for under subsection (1).

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I14 S. 12 partly in force; s. 12 not in force at Royal Assent, see s. 216; s. 12 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in Sch.)

I15 S. 12 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2**

13 General powers of Secretary of State in relation to companies

(1) The Secretary of State may, if he considers it expedient to do so for purposes connected with any function of his relating to education—

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(a) form, or participate in forming, companies to carry on any activities which he considers likely to secure or facilitate the achievement of those purposes, or

(b) invest in any company which is to carry on such activities.

(2) In this section "education" includes—

(a) vocational training (including the preparation of young people for employment in general), and

(b) social and physical training (including the promotion of the development of young children),

but does not include higher education.

(3) In this section "company" means a company **[**[F25]as defined in section 1(1) of the Companies Act 2006**]**.

(4) The reference in subsection (1) to investing in a company includes a reference to becoming a member of the company and to investing in it by the acquisition of any assets, securities or rights or otherwise.

(5) This section is without prejudice to any powers of the Secretary of State exercisable otherwise than by virtue of this section.

Textual Amendments

F25 Words in s. 13(3) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 198(3)** (with art. 10)

PART 2

FINANCIAL ASSISTANCE FOR EDUCATION AND **[**[F26]CHILDREN ETC**]**

Textual Amendments

F26 Words in Pt. 2 heading substituted (15.11.2004) by Children Act 2004 (c. 31), **ss. 59(5)**, 67(7)(g)

14 Power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or **[**[F27]children etc**]**

(1) The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may give, or make arrangements for the giving of, financial assistance to any person for or in connection with any of the purposes mentioned in subsection (2).

(2) Those purposes are—

(a) the provision, or proposed provision, in the United Kingdom or elsewhere, of education or of educational services;

(b) the provision, or proposed provision, in the United Kingdom or elsewhere, of childcare or of services related to childcare;

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(c) enabling any person to undertake any course of education, or any course of higher education provided by an institution within the further education sector;

[F28(ca) enabling any person to receive any training for teachers or for non-teaching staff;**]**

(d) providing for a person's maintenance while he undertakes such a course;

(e) the promotion of learning or research;

(f) the promotion of the use of educational buildings or facilities for purposes other than those of education;

(g) the provision of any form of training for teachers or for non-teaching staff;

(h) the promotion of the recruitment or retention of teachers or non-teaching staff;

(i) the remuneration of, or provision of other benefits to, teachers or non-teaching staff.

[F29(j) the promotion of the welfare of children and their parents;

(k) the provision of support for parenting (including support for prospective parents).**]**

[F30(2ZA) In subsection **[**F31(2)**]**, "training for teachers or for non-teaching staff" includes—

(a) any training or education (whether or not constituting higher education) with the object of fitting persons to be teachers or non-teaching staff, or better teachers or non-teaching staff, and

(b) any assessment related to the award of a qualification or status to teachers or non-teaching staff, or prospective teachers or non-teaching staff.**]**

[F32(2A) In subsection (2)(j), "children" means persons under the age of twenty.**]**

(3) In this section—

"education" includes—

(a) vocational training (including the preparation of young people for employment in general), and

(b) social and physical training (including the promotion of the development of young children),

but **[**F33, except in subsection (2ZA)(a),**]** does not include higher education, and "educational" shall be construed accordingly;

"educational services" includes administrative, advisory, organisational, training or information services related to education;

"non-teaching staff" means persons who are not teachers but who—

(a) are employed at, or otherwise engaged to work at, a school or an institution within the further education sector,

(b) are employed by, or engaged to provide services for, a **[**F8local authority**][**F34for purposes connected with the authority's education function**]**, or

(c) are employed by any person in connection with the provision of education or childcare;

[F35"teacher" does not include a teacher at an institution within the wider higher education sector, unless, in relation to a registered higher education provider within the meaning given by section 3(10) of the Higher Education and Research Act 2017, the institution is also an institution within the further education sector.**]**

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Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F27 Words in s. 14 heading substituted (15.11.2004) by Children Act 2004 (c. 31), **ss. 59(4)**, 67(7)(g)

F28 S. 14(2)(ca) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 15(2)(a)**, 82(3); S.I. 2012/924, art. 2

F29 S. 14(2)(j)(k) inserted (15.11.2004) by Children Act 2004 (c. 31), **ss. 59(2)**, 67(7)(g)

F30 S. 14(2ZA) inserted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), **Sch. 14 para. 23(2)**

F31 Word in s. 14(2ZA) substituted (1.4.2012) by Education Act 2011 (c. 21), **ss. 15(2)(b)**, 82(3); S.I. 2012/924, art. 2

F32 S. 14(2A) inserted (15.11.2004) by Children Act 2004 (c. 31), **ss. 59(3)**, 67(7)(g)

F33 Words in s. 14(3) inserted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), **Sch. 14 para. 23(3)**

F34 Words in s. 14(3) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 11(5)**

F35 Words in s. 14(3) substituted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **8(2)**

Modifications etc. (not altering text)

C5 S. 14: functions made exercisable jointly (1.4.2018) by Higher Education and Research Act 2017 (c. 29), **ss. 113(3)(e)**, 124(5); S.I. 2018/241, reg. 2(m)

Commencement Information

I16 S. 14 wholly in force at 31.3.2003; s. 14 not in force at Royal Assent, see s. 216; s. 14 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in Sch.); s. 14 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I17 S. 14 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

15 Forms of assistance under section 14

(1) Financial assistance under section 14 may be given in any form.

(2) Assistance may, in particular, be given by way of—

(a) grants,

(b) loans,

(c) guarantees,

(d) incurring expenditure on the provision of equipment for the benefit of the person assisted, or

(e) incurring other expenditure for the benefit of the person assisted.

(3) Assistance given under section 14 to a local authority may not be given by way of loan or guarantee.

[[F36](4) In subsection (3) "local authority" includes a non-metropolitan district council for an area for which there is a country council.**]**

Textual Amendments

F36 S. 15(4) added (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 11(6)**

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Commencement Information

I18 S. 15 wholly in force at 31.3.2003; s. 15 not in force at Royal Assent, see s. 216; s. 15 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I19 S. 15 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

16 Terms on which assistance under section 14 is given

(1) Financial assistance under section 14 may be given on such terms as the Secretary of State (or, as the case may be, the National Assembly for Wales) considers appropriate, subject to **[**F37—

(a) subsection (2B) (which relates to institutions within the higher education sector), and

(b) section 175(3B) (which relates to institutions in England that provide further education).**]**

(2) The terms may, in particular, include provisions as to—

(a) circumstances in which the assistance is to be repaid, or otherwise made good, to the Secretary of State (or the National Assembly for Wales), and the manner in which that is to be done;

(b) the giving by the person receiving assistance of financial assistance to other persons on such terms as that person or the Secretary of State (or the Assembly) considers appropriate**[**F38, subject to subsection (2B)**]**;

(c) circumstances in which any payments made by virtue of terms included by virtue of paragraph (b) are to be repaid, or otherwise made good, to the person receiving assistance from the Secretary of State (or the Assembly), and the manner in which that is to be done;

(d) the keeping, and making available for inspection, of accounts and other records.

[F39(2A) Subsection (2B) applies to—

(a) financial assistance given under section 14 to an institution within the **[**F40wider**]** higher education sector, **[**F41unless the institution is also an institution within the further education sector,**]** and

(b) financial assistance required by virtue of subsection (2)(b) to be given to **[**F42an institution within the wider higher education sector, unless, in relation to a registered higher education provider within the meaning given by section 3(10) of the Higher Education and Research Act 2017, the institution is also an institution within the further education sector**]**.

(2B) The terms on which the assistance is given may not be framed by reference to criteria for the selection and appointment of staff or the admission of students.**]**

(3) The person receiving assistance must comply with the terms on which it is given, and compliance may be enforced by the Secretary of State (or, as the case may be, the National Assembly for Wales).

(4) Section 15(2) applies to financial assistance required by virtue of subsection (2)(b) as it applies to financial assistance given under section 14.

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Textual Amendments

F37 S. 16(1)(a)(b) substituted for words in s. 16(1) (29.6.2021) by Education and Training (Welfare of Children) Act 2021 (c. 16), **ss. 1(2)**, 3(2)

F38 Words in s. 16(2)(b) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 15(3)(b)**, 82(3); S.I. 2012/924, art. 2

F39 S. 16(2A)(2B) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 15(3)(c)**, 82(3); S.I. 2012/924, art. 2

F40 Word in s. 16(2A)(a) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **8(3)(a)(i)**

F41 Words in s. 16(2A)(a) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **8(3)(a)(ii)**

F42 Words in s. 16(2A)(b) substituted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **8(3)(b)**

Commencement Information

I20 S. 16 wholly in force at 31.3.2003; s. 16 not in force at Royal Assent, see s. 216; s. 16 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I21 S. 16 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

17 Delegation

(1) Arrangements under section 14 may provide for assistance to be given, or other functions relating to assistance to be exercised, otherwise than by the Secretary of State or the National Assembly for Wales.

(2) Arrangements under section 14 which so provide may make provision for the functions concerned to be so exercised—

(a) either wholly or to such extent as may be specified in the arrangements, and

(b) either generally or in such cases or circumstances as may be so specified,

but shall not prevent the functions concerned from being exercised by the Secretary of State or, as the case may be, the National Assembly for Wales.

Commencement Information

I22 S. 17 wholly in force at 31.3.2003; s. 17 not in force at Royal Assent, see s. 216; s. 17 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I23 S. 17 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

18 Repeal of specific grant-making powers

(1) The following enactments (which confer on the Secretary of State or the National Assembly for Wales specific powers that are superseded by the power in section 14) shall cease to have effect—

(a) section 4 of the Education Act 1967 (c. 3) (loans for capital expenditure for the purposes of colleges of education),

(b) section 1(1)(b) of the Education Act 1986 (c. 40) (grants to Further Education Unit),

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(c) section 50(1)(b) of the Education (No. 2) Act 1986 (c. 61) (grants to facilitate training of persons other than teachers),

(d) section 210 of the Education Reform Act 1988 (c. 40) (grants to further education institutions for education of travellers and displaced persons),

(e) section 211 of that Act (grants in respect of special provision for immigrants),

(f) section 1 of the Nursery Education and Grant-Maintained Schools Act 1996 (c. 50) (arrangements for making grants in respect of nursery education),

(g) sections 486 to 488 and section 490 of the Education Act 1996 (c. 56) (which confer miscellaneous grant-making powers),

(h) section 491 of that Act (payment of school fees and expenses), and

(i) section 3 of the School Standards and Framework Act 1998 (c. 31) (payment of grant in connection with reductions in infant class sizes).

(2) The power to pay grants under section 484 of the Education Act 1996 (education standards grants) shall be exercisable only in relation to Wales.

Commencement Information

I24 S. 18 partly in force; s. 18 not in force at Royal Assent, see s. 216; s. 18(2) in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I25 S. 18(1) in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

I26 S. 18(1)(a)-(f)(h)(i)(2) in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4** (with art. 7)

I27 S. 18(1)(g) in force at 1.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 4**

I28 S. 18(1)(g) in force at 6.11.2006 so far as not already in force except in relation to W. by S.I. 2006/2895, **art. 2**

I29 S. 18(2) in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

PART 3

MAINTAINED SCHOOLS

CHAPTER 1

GOVERNMENT OF MAINTAINED SCHOOLS

19 Governing bodies

(1) Each maintained school shall have a governing body, which shall be a body corporate constituted in accordance with regulations.

[F43(1A) Regulations must provide for a governing body of a maintained school in England to consist of—

(a) persons elected or appointed as parent governors,

(b) the head teacher of the school,

(c) a person elected as a staff governor,

(d) a person appointed as a local authority governor,

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(e) in the case of a foundation school, a foundation special school or a voluntary school, persons appointed as foundation governors or partnership governors, and

(f) such other persons as may be prescribed.**]**

(2) Regulations shall provide for a governing body **[**F44of a maintained school in Wales**]** to consist of—

(a) persons elected or appointed as parent governors,

(b) persons elected or appointed as staff governors,

(c) persons appointed as **[**F8local authority**]** governors,

(d) except in the case of a voluntary aided school, persons appointed as community governors,

(e) in the case of a foundation schoolF45... or a voluntary school, persons appointed as foundation governors or partnership governors, and

(f) such other persons as may be prescribed.

(3) Regulations may make provision as to—

(a) the number of governors, or of governors falling within any category,

(b) the person or persons by whom, and the manner in which, governors are to be elected or appointed,

(c) eligibility for election or appointment as governors of any category, or for voting in an election of such governors,

(d) the term of office of governors,

(e) resignation or removal from office of governors,

(f) the payment of allowances to governors,

(g) meetings and proceedings of governing bodies,

(h) the election by the governors of a chairman and vice chairman of the governing body,

(i) the establishment by a governing body of committees,

(j) the appointment of persons other than governors to serve on committees of governing bodies,

(k) the delegation of functions by governing bodies, and

(l) other matters relating to the constitution or procedure of governing bodies.

(4) Regulations made by virtue of subsection (3)(a) must secure that the majority of the governors of a voluntary aided school are persons appointed as foundation governors.

[F46(4A) Regulations made by virtue of subsection (3)(c) in relation to a maintained school in England may include provision for eligibility criteria for the school's local authority governor to be such as may be specified by the school's governing body.

(4B) Regulations made by virtue of subsection (3)(e) in relation to a maintained school in England may include provision allowing the head teacher of the school to resign from office as a governor (and to withdraw any such resignation).**]**

(5) Subsection (3)(k) has effect subject to the provisions of any scheme under section 48 of the School Standards and Framework Act 1998 (c. 31) (**[**F47local authorities**]**' financial schemes) which relates to the school.

(6) Schedule 1 (which contains general provisions relating to the governing body as a body corporate) shall have effect.

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(7) In discharging any function conferred by regulations under this section, a **[**[F8]local authority**]** or the governing body of a maintained school shall have regard to any guidance given from time to time—

(a) in relation to England, by the Secretary of State, or

(b) in relation to Wales, by the National Assembly for Wales.

(8) **[**[F48]In relation to maintained schools in England,**]** subsection (1) has effect subject to section 24; and regulations under this section may include provision with respect to the governing bodies of federations.

[[F49](9) In relation to maintained schools in Wales, subsection (1) has effect subject to Chapter 1 of Part 2 of the Education (Wales) Measure 2011; and regulations under this section may include provision with respect to the governing bodies of federations (within the meaning of section 21(1) of that Measure).**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F43 S. 19(1A) inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 38(2)**, 82(3); S.I. 2012/1087, art. 3 (with art. 5)

F44 Words in s. 19(2) inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 38(3)**, 82(3); S.I. 2012/1087, art. 3 (with art. 5)

F45 Words in s. 19(2)(e) omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(2)**; S.I. 2013/1800, art. 3(j)

F46 S. 19(4A)(4B) inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 38(4)**, 82(3); S.I. 2012/1087, art. 3 (with art. 5)

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F48 Words in s. 19(8) inserted (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), **ss. 19(2)(a)**, 33(2); S.I. 2014/1066, art. 2

F49 S. 19(9) inserted (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), **ss. 19(2)(b)**, 33(2); S.I. 2014/1066, art. 2

Modifications etc. (not altering text)

C6 S. 19(1) excluded (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **2(a)**

C7 S. 19(6) applied (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 11**

Commencement Information

I30 S. 19(1) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4** (with Sch. para. 4)

I31 S. 19(1)-(5)(7) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

I32 S. 19(2)-(5)(7) in force at 1.3.2003 except in relation to W. by S.I. 2003/124, **art. 2**

I33 S. 19(6) in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I34 S. 19(6) in force at 1.9.2003 for specified purposes for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I35 S. 19(6) in force at 31.10.2005 for W. so far as not already in force by S.I. 2005/2910, art. 4, **Sch.**

I36 S. 19(8) in force at 1.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 4**

I37 S. 19(8) in force at 1.9.2003 so far as not already in force except in relation to W. by S.I. 2003/1667, **art. 4**

I38 S. 19(8) in force at 12.4.2010 for W. by S.I. 2010/707, **art. 3(a)**

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20 Instruments of government

(1) For every maintained school there shall be an instrument (known as the instrument of government) which determines the constitution of the governing body and other matters relating to the school.

(2) Regulations shall make provision with respect to the making of instruments of government, the matters to be dealt with in such instruments, the form of such instruments, and the review and variation of such instruments.

(3) Regulations under subsection (2) may require any person responsible for the making, review or variation of an instrument of government to have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales.

(4) **[**F50In relation to maintained schools in England,**]** subsection (1) has effect subject to section 24; and regulations under subsection (2) may include provision with respect to instruments of government for federations.

[F51(4A) In relation to maintained schools in Wales, subsection (1) has effect subject to Chapter 1 of Part 2 of the Education (Wales) Measure 2011; and regulations under subsection (2) may include provision with respect to instruments of government for federations (within the meaning of section 21(1) of that Measure).**]**

(5) The governing body of a maintained school shall not conduct the school under a name other than the one for the time being set out in the school's instrument of government.

Textual Amendments

F50 Words in s. 20(4) inserted (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), **ss. 19(3)(a)**, 33(2); S.I. 2014/1066, art. 2

F51 S. 20(4A) inserted (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), **ss. 19(3)(b)**, 33(2); S.I. 2014/1066, art. 2

Modifications etc. (not altering text)

C8 S. 20(1) excluded (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **2(b)**

Commencement Information

I39 S. 20(1)(5) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I40 S. 20(1)-(3)(5) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

I41 S. 20(2)(3) in force at 1.3.2003 except in relation to W. by S.I. 2003/124, **art. 2**

I42 S. 20(4) in force at 1.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 4**

I43 S. 20(4) in force at 1.9.2003 so far as not already in force except in relation to W. by S.I. 2003/1667, **art. 4**

I44 S. 20(4) in force at 12.4.2010 for W. by S.I. 2010/707, **art. 3(b)**

21 General responsibility for conduct of school

(1) Subject to any other statutory provision, the conduct of a maintained school shall be under the direction of the school's governing body.

(2) The governing body shall conduct the school with a view to promoting high standards of educational achievement at the school.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3 Regulations may—

(a) set out terms of reference for governing bodies of maintained schools,

(b) define the respective roles and responsibilities in relation to the conduct of a maintained school (whether generally or with respect to particular matters) of—

(i) the **[**F8local authority**]**,

(ii) the governing body, and

(iii) the head teacher, and

(c) confer functions on governing bodies and head teachers of such schools.

(4) The governing body of a maintained school shall, in discharging their functions, comply with—

(a) the instrument of government, and

(b) (subject to any other statutory provision) any trust deed relating to the school.

[F52(5) The governing body of a maintained school shall, in discharging their functions relating to the conduct of the school—

(a) promote the well-being of pupils at the school, and

(b) in the case of a school in England, promote community cohesion.

(6) The governing body of a maintained school shall, in discharging those functions, have regard to any relevant children and young people's plan.

(7) In discharging those functions, the governing body of a maintained school in England shall also have regard to any views expressed by parents of registered pupils.

(8) In this section "well-being"—

(a) in relation to a pupils at a school in England, means their well-being so far as relating to the matters mentioned in section 10(2) of the Children Act 2004, and

(b) in relation to pupils at a school in Wales, means their well-being so far as relating to the matters mentioned in section 25(2) of that Act.

(9) In this section "relevant children and young people's plan" means—

[F53(a) in relation to a school in England, any plan published by the relevant Children's Trust Board under section 17 of the Children Act 2004 (children and young people's plans: England),**]** and

[F54(b) in relation to a school in Wales, a local well-being plan published under section 39 **[**F55, 44(5) or 47(6) or (11)**]** of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) by a public services board of which the local authority is a member.**]**

[In subsection (9)(a), "the relevant Children's Trust Board" means the Children's Trust
F56(10) Board established by arrangements made under section 10 of the Children Act 2004 by the **[**F8local authority**]**F57...**]]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Status: *This version of this Act contains provisions that are prospective.*
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F52 S. 21(5)-(9) inserted (25.5.2007 for E. for specified purposes, 1.9.2007 for E. in force in so far as not already in force, 1.9.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 38(1)**, 188(3); S.I. 2007/1271, art. 2; S.I. 2007/1801, art. 3(a); S.I. 2008/1429, art. 3(3), Sch. Pt. 3

F53 S. 21(9)(a) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 194(9)(a)**, 269(4); S.I. 2010/303, art. 3, Sch. 2 (with art. 12)

F54 S. 21(9)(b) substituted (1.4.2016) by Well-being of Future Generations (Wales) Act 2015 (anaw 2), s. 56(2), **Sch. 4 para. 7**; S.I. 2016/86, art. 3

F55 Words in s. 21(9)(b) substituted (E.W.) (20.3.2021) by Local Government and Elections (Wales) Act 2021 (asc 1), s. 175(3)(q), **Sch. 14 para. 3**

F56 S. 21(10) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 194(9)(b)**, 269(4); S.I. 2010/303, art. 3, Sch. 2 (with art. 12)

F57 Words in s. 21(10) repealed (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 11(7), **Sch. 3 Pt. 1** (with Sch. 4 para. 2)

Modifications etc. (not altering text)

C9 S. 21 modified (temp.) (1.9.2004) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2004 (S.I. 2004/1743), regs. 1(3), **3**

C10 S. 21(1) modified (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **3(e)**

C11 S. 21(2) modified (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **3(f)**

C12 S. 21(5)-(9) applied (with modifications) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 12**

Commencement Information

I45 S. 21 in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

I46 S. 21(1)(2)(4) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I47 S. 21(3) in force at 1.3.2003 except in relation to W. by S.I. 2003/124, **art. 2**

22 Training and support of governors

The **[**[F8]local authority**][**[F58]in England**]** shall—

(a) (to the extent that they are not otherwise required to secure the provision of such information) secure that every governor is provided, free of charge, with such information as they consider appropriate in connection with the discharge of his functions as governor, and

(b) secure that there is made available to every governor, free of charge, such training as they consider necessary for the effective discharge of those functions.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F58 Words in s. 22 inserted (22.8.2013) by Education (Wales) Measure 2011 (nawm 7), **ss. 22(8)**, 33(2); S.I. 2013/2090, art. 2

Commencement Information

I48 S. 22 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I49 S. 22 in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

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Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

23 Clerk to the governing body

Regulations may make provision—

(a) requiring the appointment of a clerk to the governing body of a maintained school and authorising or requiring the appointment of clerks to committees of the governing body;

(b) prescribing the body by whom any such appointment is to be made and any restrictions or other requirements relating to any such appointment;

(c) as to the dismissal of any such clerk and the procedure to be followed in connection with his dismissal;

(d) authorising the governing body or a committee of the governing body, where the clerk fails to attend a meeting of theirs, to appoint one of their number to act as clerk for the purposes of the meeting.

Commencement Information

I50 S. 23 in force at 1.3.2003 except in relation to W. by S.I. 2003/124, **art. 2**

I51 S. 23 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

[F59 23A Parent councils

(1) A school is for the purposes of this section a "qualifying school" if—

(a) it is a foundation or foundation special school in England,

(b) it has a foundation established otherwise than under the School Standards and Framework Act 1998, and

(c) the instrument of government for the school provides that the majority of governors are to be foundation governors.

(2) The governing body of any qualifying school must establish in accordance with regulations a body to be known as a parent council.

(3) The purpose of a parent council is to advise the governing body on matters relating to the conduct of the school and the exercise by the governing body of their powers under section 27.

(4) Regulations may make provision as to—

(a) the person or persons by whom, and the manner in which, members of a parent council are to be elected or appointed,

(b) eligibility for election or appointment,

(c) the duration of membership, and

(d) meetings and proceedings of a parent council.

(5) Regulations—

(a) must require the majority of members of a parent council to be parent members, and

(b) may enable a person who is not the parent of a registered pupil to be a member of a parent council if appointed in accordance with the regulations by the parent members.

(6) Regulations may confer functions relating to parent councils on the governing bodies of qualifying schools.

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(7) The governing body of a qualifying school must, in exercising their functions under this section with respect to the school's parent council, have regard to any guidance given from time to time by the Secretary of State.

(8) The reference in subsection (1)(b) to a foundation is to be read in accordance with section 21 of the School Standards and Framework Act 1998.

(9) In this section "parent member", in relation to a parent council, means a member of the council who is the parent of a registered pupil at the school.**]**

Textual Amendments

F59 S. 23A inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), **ss. 34**, 188(3); S.I. 2007/935, art. 7(i)

24 Federations of schools

(1) In prescribed cases, the governing bodies—

(a) of two or more maintained schools **[**F60in England**]**,

(b) of an existing federation and of one or more maintained schools **[**F61in England**]**, or

(c) of two or more existing federations,

may, after complying with prescribed conditions and in accordance with prescribed procedure, provide for their respective schools to be federated for the purposes of this Chapter.

(2) In this Chapter "federation" means a group of schools **[**F62in England**]** that are federated by virtue of this section, and "federated school" means a school forming part of a federation.

(3) Where any schools are federated by virtue of this section, they shall—

(a) have a single governing body constituted under a single instrument of government, and

(b) in prescribed cases, be treated as a single school for the purposes of such enactments as may be prescribed, other than any enactment contained in Chapter 2 of Part 2 of the School Standards and Framework Act 1998 (c. 31) (establishment, alteration or discontinuance of schools) or in Part 3 of that Act (school admissions).

(4) Regulations may make provision—

(a) as to the dissolution of governing bodies on the formation of a federation,

(b) enabling the governing body of a federation to continue in existence as a body corporate when one or more schools join or leave the federation,

(c) as to the circumstances in which and manner in which a federation may be dissolved, or one or more schools may leave a federation,

(d) enabling the governing body of a federation that is dissolved to be replaced either by governing bodies for each of the constituent schools or by governing bodies which include the governing body of a new federation,

(e) as to the transition from one governing body to another,

(f) as to the transfer of property, rights and liabilities between governing bodies, or between **[**F47local authorities**]** and governing bodies, and

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(g) as to such other matters relating to federations, federated schools or the formation or dissolution of federations as the Secretary of State[F63]... considers appropriate.

(5) Regulations made by virtue of subsection (4)(f) in relation to the transfer of property, rights and liabilities may—

(a) provide for prescribed matters to be determined by the Secretary of State[F64]...,

(b) apply with modifications any provision of Schedule 10 to the Education Reform Act 1988 (c. 40) (supplementary provisions with respect to transfers under that Act), or

(c) make provision equivalent to that made by any provision of that Schedule.

(6) In any enactment—

(a) any reference to the governing body or governors of a school is to be construed, in relation to a federated school, as a reference to the governing body or governors of the federation, and

(b) any reference to the instrument of government of a school is to be construed, in relation to a federated school, as a reference to the instrument of government of the federation.

Textual Amendments

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F60 Words in s. 24(1)(a) inserted (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), **ss. 19(4)(a)**, 33(2); S.I. 2014/1066, art. 2

F61 Words in s. 24(1)(b) inserted (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), **ss. 19(4)(b)**, 33(2); S.I. 2014/1066, art. 2

F62 Words in s. 24(2) inserted (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), **ss. 19(4)(c)**, 33(2); S.I. 2014/1066, art. 2

F63 Words in s. 24(4)(g) omitted (28.4.2014) by virtue of Education (Wales) Measure 2011 (nawm 7), **ss. 19(4)(d)**, 33(2); S.I. 2014/1066, art. 2

F64 Words in s. 24(5)(a) omitted (28.4.2014) by virtue of Education (Wales) Measure 2011 (nawm 7), **ss. 19(4)(e)**, 33(2); S.I. 2014/1066, art. 2

Commencement Information

I52 S. 24 in force at 12.4.2010 for W. by S.I. 2010/707, **art. 3(c)**

I53 S. 24(1) in force at 1.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 4**

I54 S. 24(1) in force at 1.9.2003 so far as not already in force except in relation to W. by S.I. 2003/1667, **art. 4**

I55 S. 24(2)-(6) in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

25 Federations: supplementary provisions

(1) Regulations may make provision modifying any provision contained in—

[[F65](za) Part 4 of the Education and Inspections Act 2006 (schools causing concern: England),**]**

[F66](a) . . . . . .

(b) sections 49 to 51 of, and Schedule 15 to, that Act (financial delegation),

in the application of the provision to federated schools **[**[F67] in England**]** or their governing bodies.

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(2) The modifications that may be made by virtue of subsection (1) include, in particular, modifications—

(a) enabling powers conferred by the provisions referred to in that subsection to be exercised in relation to all the schools in a federation even though the circumstances by reference to which the powers are exercisable exist only in relation to one or more of those schools, and

(b) requiring the apportionment of any costs or expenses incurred by the governing body of a federation.

(3) If regulations made by virtue of section 24 allow the formation of a federation comprising schools within different categories, the regulations may make provision modifying any enactment which relates to schools within a particular category, or to the governing bodies of schools within a particular category, in the application of the enactment to schools forming part of such a federation or to the governing bodies of such federations.

(4) In subsection (3) references to categories of maintained schools are references to the categories set out in section 20(1) of the School Standards and Framework Act 1998.

Textual Amendments

F65 S. 25(1)(za) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 19(a)**; S.I. 2007/935, art. 5(cc)

F66 S. 25(1)(a) omitted (28.4.2014) by virtue of Education (Wales) Measure 2011 (nawm 7), **ss. 19(5)(a)**, 33(2); S.I. 2014/1066, art. 2

F67 Words in s. 25(1)(b) inserted (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), **ss. 19(5)(b)**, 33(2); S.I. 2014/1066, art. 2

Commencement Information

I56 S. 25 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I57 S. 25 in force at 12.4.2010 for W. by S.I. 2010/707, **art. 3(d)**

26 Collaboration between schools

Regulations may—

(a) enable the governing bodies of two or more maintained schools **[**F68in England**]** to arrange for any of their functions to be discharged jointly or by a joint committee of theirs,

(b) provide for the appointment by two or more governing bodies of a joint committee of those governing bodies for the purposes of discharging any functions in pursuance of any such arrangements, and

(c) provide that any enactment relating to those functions or the governing bodies by whom they are to be discharged is to have effect subject to all necessary modifications in its application in relation to those functions and the governing bodies by whom they are to be discharged.

Textual Amendments

F68 Words in s. 26(a) inserted (16.11.2012) by Education (Wales) Measure 2011 (nawm 7), **ss. 9(3)(a)**, 33(2); S.I. 2012/2656, art. 2

Status: *This version of this Act contains provisions that are prospective.*
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Commencement Information

I58 S. 26 in force at 1.3.2003 except in relation to W. by S.I. 2003/124, **art. 2**

I59 S. 26 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

27 Power of governing body to provide community facilities etc.

(1) The governing body of a maintained school shall have power to provide any facilities or services whose provision furthers any charitable purpose for the benefit of—

(a) pupils at the school or their families, or

(b) people who live or work in the locality in which the school is situated.

(2) The power under subsection (1) includes, in particular, power for a governing body to—

(a) incur expenditure,

(b) enter into arrangements or agreements with any person,

(c) co-operate with, or facilitate or co-ordinate the activities of, any person, and

(d) provide staff, goods, services and accommodation to any person.

(3) Subject to the provisions of Chapter 3 of Part 6 of the Education Act 1996 (c. 56) (charges in connection with education), a governing body may charge for any services or facilities provided under this section.

(4) This section has effect subject to section 28.

Modifications etc. (not altering text)

C13 S. 27 modified (temp. from 2.9.2002) by The Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002 (S.I. 2002/2113), **reg. 3(1)**; s. 27 modified (E.) (temp. from 1.10.2002) by S.I. 2002/2316, **reg. 3(1)**

C14 S. 27 applied (with modifications) (10.7.2003) by New Schools (General) (England) Regulations 2003 (S.I. 2003/1558), regs. 1, **31**

C15 S. 27 applied (with modifications) (31.10.2005) by The New Maintained Schools (Wales) Regulations 2005 (S.I. 2005/2912), regs. 1(1), **30(1)** (with reg. 30(2))

C16 S. 27 applied (with modifications) (25.5.2007) by The School Governance (New Schools) (England) Regulations 2007 (S.I. 2007/958), regs. 1, **30**

C17 S. 27 applied (with modifications) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 13**

Commencement Information

I60 S. 27 partly in force; s. 27 not in force at Royal Assent, see s. 216; s. 27 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4** (as amended by S.I. 2002/2018, arts. 2-4)

I61 S. 27 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

28 Limits on power to provide community facilities etc.

(1) Section 27(1) does not enable a governing body to do anything which they are unable to do by virtue of any prohibition, restriction or limitation on their powers which is contained in—

(a) the school's instrument of government, or

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(b) any scheme under section 48 of the School Standards and Framework Act 1998 (c. 31) (**[**F47local authorities**]**' financial schemes) which relates to the school.

(2) Regulations may make provision preventing governing bodies from doing, by virtue of section 27(1), anything which is specified, or is of a description specified, in the regulations.

(3) A governing body shall exercise the power conferred by section 27(1) only if and to the extent that they are satisfied that anything which they propose to do will not to a significant extent interfere with the performance of any duty imposed on them by section 21(2) or by any other provision of the Education Acts.

(4) Before exercising the power under section 27(1) **[**F69the governing body of a maintained school in Wales**]**—

(a) shall consult—

(i) the **[**F8local authority**]**,

(ii) the staff of the school, and

(iii) the parents of registered pupils of the school,

(b) where the proposed exercise of the power would affect registered pupils of the school and the governing body consider it appropriate in view of their age and understanding to consult all or some of them, shall consult the registered pupils or such of them as the governing body consider it appropriate to consult, and

(c) shall consult such other persons as the governing body consider appropriate.

[F70(4A) In exercising the power under section 27(1), the governing body of a maintained school shall have regard to any relevant children and young people's plan.

(4B) In subsection (4A) "relevant children and young people's plan" has the meaning given by section 21(9).**]**

F71(4C) . . . . . .

(5) In exercising the power under section 27(1) or consulting under subsection (4), **[**F72the governing body of a maintained school in Wales**]** shall have regard—

(a) to any guidance given from time to time F73... by the National Assembly for Wales, and

(b) to any advice given to them from time to time by the **[**F8local authority**]**.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F69 Words in s. 28(4) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 88(2)**, 139(6); S.I. 2014/889, art. 5(d)

F70 S. 28(4A)-(4C) inserted (25.5.2007 for E., 1.9.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 38(2)**, 188(3); S.I. 2007/1271, art. 3; S.I. 2008/1429, art. 3(3), Sch. Pt. 3

F71 S. 28(4C) omitted (13.5.2014) by virtue of Children and Families Act 2014 (c. 6), **ss. 88(3)**, 139(6); S.I. 2014/889, art. 5(d)

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F72 Words in s. 28(5) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 88(4)(a)**, 139(6); S.I. 2014/889, art. 5(d)

F73 Words in s. 28(5)(a) omitted (13.5.2014) by virtue of Children and Families Act 2014 (c. 6), **ss. 88(4)(b)**, 139(6); S.I. 2014/889, art. 5(d)

Modifications etc. (not altering text)

C18 S. 28 applied (with modifications) (10.7.2003) by New Schools (General) (England) Regulations 2003 (S.I. 2003/1558), regs. 1, **31**

C19 S. 28 applied (with modifications) (31.10.2005) by The New Maintained Schools (Wales) Regulations 2005 (S.I. 2005/2912), regs. 1(1), **30(1)** (with reg. 30(2))

C20 S. 28 applied (with modifications) (25.5.2007) by The School Governance (New Schools) (England) Regulations 2007 (S.I. 2007/958), regs. 1, **30**

C21 S. 28(3) modified (temp. from 2.9.2002) by The Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002 (S.I. 2002/2113), **reg. 3(2)**

C22 S. 28(5) applied (with modifications) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 13**

Commencement Information

I62 S. 28 in force at 2.9.2002 for E. by S.I. 2002/2002, **art. 4** (as amended by S.I. 2002/2018, arts. 2-4)

I63 S. 28 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

[F74 28A Power of governing body to provide higher education

(1) Subject to subsection (2), the governing body of a maintained school shall have power to arrange the provision to pupils at the school (whether by teachers at the school or other persons) of courses falling within paragraph 1(g) or (h) of Schedule 6 to the Education Reform Act 1988 (courses in preparation for professional examinations at a higher level or providing education at a higher level).

(2) A governing body may exercise the power under subsection (1) in relation to a particular pupil only if they are satisfied that the provision to that pupil of the course in question will not to any significant extent interfere with the other education with which he is being provided at the school.

(3) The National Assembly for Wales may give, or make arrangements for the giving of, financial assistance to any person in connection with the provision of courses mentioned in subsection (1) by the governing body of a maintained school in Wales.

(4) Sections 15 and 16 apply to financial assistance given under subsection (3) as they apply to financial assistance given under section 14.

(5) This section has effect notwithstanding section 1(4) of the Education Act 1996 (functions not conferred with respect to higher education).**]**

Textual Amendments

F74 S. 28A inserted (1.9.2005 for E. for specified purposes, 1.9.2006 for W.) by Education Act 2005 (c. 18), **ss. 105**, 125(4); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1

29 Additional functions of governing body

(1) The governing body of a maintained school shall—

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(a) establish procedures for dealing with all complaints relating to the school or to the provision of facilities or services under section 27, other than complaints falling to be dealt with in accordance with any procedures required to be established in relation to the school by virtue of a statutory provision other than this section, and

(b) publicise the procedures so established.

(2) In establishing or publicising procedures under subsection (1), the governing body shall have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales.

(3) The governing body of a maintained school may require **[**F75registered pupils**]** to attend at any place outside the school premises for the purposes of receiving any instruction or training included in the secular curriculum for the school.

(4) In subsection (3) "maintained school" does not include a maintained nursery school.

(5) The governing body and head teacher of—

(a) a community or voluntary controlled school,

(b) a community special school, or

(c) a maintained nursery school,

shall comply with any direction given to them by the **[**F8local authority**]** concerning the health and safety of persons on the school's premises or taking part in any school activities elsewhere.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F75 Words in s. 29(3) substituted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), **ss. 115**, 125(4); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1

Modifications etc. (not altering text)

C23 S. 29(1)(2)(3) applied (with modifications) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 14**

C24 S. 29(3) applied (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), reg. 1(1), **Sch. 1 para. 7**

C25 S. 29(3) applied (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), **reg. 1(1)**, **Sch. 1 para. 7**

C26 S. 29(3) modified (W.) (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), **6(1)(d)**

C27 S. 29(5) applied (with modifications) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 15**

Commencement Information

I64 S. 29 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I65 S. 29 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[F76 29A Power of governing body in England: educational provision for improving behaviour

(1) The governing body of a maintained school in England may require any registered pupil to attend at any place outside the school premises for the purpose of receiving educational provision which is intended to improve the behaviour of the pupil.

(2) In subsection (1) "maintained school" does not include a maintained nursery school.

(3) Regulations must make provision—

(a) requiring prescribed persons to be given prescribed information relating to the imposition of any requirement under subsection (1), and

(b) requiring the governing body of the school to keep under review the imposition of any such requirement.

(4) Regulations under this section may also make provision—

(a) requiring a governing body exercising functions under subsection (1) or under the regulations to have regard to any guidance given from time to time by the Secretary of State,

(b) prohibiting a governing body from exercising the power conferred by subsection (1) in such a way that any pupil is required to receive educational provision outside the school premises for a greater number of days in a school year than is specified in the regulations,

(c) requiring the governing body to request prescribed persons to participate in any review of the imposition of a requirement under subsection (1),

(d) about the time within which the first review must be held and the intervals at which subsequent reviews must be held, and

(e) in relation to any other matter relating to the exercise of the power conferred by subsection (1).**]**

Textual Amendments

F76 S. 29A inserted (30.3.2010 for specified purposes, 1.9.2010 in so far as not already in force) by Education and Skills Act 2008 (c. 25), **ss. 154**, 173(4); S.I. 2010/1093, arts. 2(d), 3

30 Governors' reports [F77(Wales)] and other information

(1) Once in every school year the governing body of a maintained school **[**F78in Wales**]** shall prepare a report (a "governors' report") dealing with such matters, and otherwise complying with such requirements, as may be specified in regulations.

(2) Regulations may—

(a) impose requirements on the governing body of a maintained school **[**F79in Wales**]** with respect to—

(i) the giving of copies of a governors' report to such persons as may be prescribed, and

(ii) making such copies available for inspection at the school;

(b) make provision for—

(i) enabling the governing body to determine the language or languages in which a governors' report is to be produced and the form or forms in which it is to be produced;

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(ii) requiring them to comply with any direction given by the **[**F8local authority**]** with respect to any additional language to be used or with respect to any additional form in which the report is to be produced;

(c) enable the governors' report to be combined with any other document whose preparation by the governing body is required by or under any enactment.

[F80(2A) The governing body of a maintained school in Wales must include in a governors' report information about the action taken to promote healthy eating and drinking by pupils of the school.**]**

(3) The governing body of a maintained school **[**F81(in England or Wales)**]** shall provide the **[**F8local authority**]** with such reports in connection with the discharge of the functions of the governing body as the authority may require (either on a regular basis or from time to time) for the purposes of the exercise of any of the authority's **[**F82education**]** functions.

(4) The head teacher of a maintained school **[**F83(in England or Wales)**]** shall provide the governing body or (as the case may be) the **[**F8local authority**]** with such reports in connection with the discharge of his functions as **[**F84may be required (either on a regular basis or from time to time)—

(a) by the governing body for the purposes of the exercise of any of their functions;

(b) by the authority for the purposes of the exercise of any of their education functions.**]**

(5) Where a requirement under subsection (4) is imposed on the head teacher by the authority—

(a) the authority shall notify the governing body of that requirement, and

(b) the head teacher shall give the governing body a copy of any report made by him in complying with it.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F77 Word in s. 30 heading inserted (1.9.2005) by Education Act 2005 (c. 18), **ss. 103(1)(c)**, 125(4); S.I. 2005/2034, art. 5 (with Sch. para. 2)

F78 Words in s. 30(1) inserted (1.9.2005) by Education Act 2005 (c. 18), **ss. 103(1)(a)**, 125(4); S.I. 2005/2034, art. 5 (with Sch. para. 2)

F79 Words in s. 30(2)(a) inserted (1.9.2005) by Education Act 2005 (c. 18), **ss. 103(1)(a)**, 125(4); S.I. 2005/2034, art. 5 (with Sch. para. 2)

F80 S. 30(2A) inserted (2.9.2013) by Healthy Eating in Schools (Wales) Measure 2009 (nawm 3), **ss. 2**, 12(3); S.I. 2013/1985, art. 2(b)

F81 Words in s. 30(3) inserted (1.9.2005) by Education Act 2005 (c. 18), **ss. 103(1)(b)**, 125(4); S.I. 2005/2034, art. 5 (with Sch. para. 2)

F82 Word in s. 30(3) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 11(8)(a)**

F83 Words in s. 30(4) inserted (1.9.2005) by Education Act 2005 (c. 18), **ss. 103(1)(b)**, 125(4); S.I. 2005/2034, art. 5 (with Sch. para. 2)

F84 Words in s. 30(4) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 11(8)(b)**

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Modifications etc. (not altering text)

C28 S. 30 modified (temp. from 1.10.2002) by The Education Act 2002 (Modification of Provisions) (England) Regulations 2002 (S.I. 2002/2316), **reg. 3(1)**

C29 S. 30 modified (temp.) (1.9.2004) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2004 (S.I. 2004/1743), regs. 1(3), **3**

C30 S. 30(1) excluded (5.11.2004) by The New Relationship with Schools (Governors Annual Report) Order 2004 (S.I. 2004/2683), arts. 1(1), **2(a)**

C31 S. 30(1) excluded (1.12.2004) by The New Relationship with Schools (Governors Annual Report) (No 2) Order 2004 (S.I. 2004/2810), arts. 1(1), **2(a)**

C32 S. 30(1)(2): power to repeal conferred (1.9.2005) by Education Act 2005 (c. 18), **ss. 103(3)**, 125(4); S.I. 2005/2034, art. 5

C33 S. 30(4) applied (with modifications) (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), reg. 1(1), **Sch. 1 para. 8**

C34 S. 30(4) applied (with modifications) (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), **reg. 1(1)**, **Sch. 1 para. 8**

C35 S. 30(4) applied (with modifications) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 16**

Commencement Information

I66 S. 30 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I67 S. 30 in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

[F85]30A School profiles

. . . . . .

Textual Amendments

F85 S. 30A repealed (1.2.2012) by Education Act 2011 (c. 21), **ss. 32(1)**, 82(3); S.I. 2012/84, art. 3

31 Control of school premises

Regulations may make provision relating to the control by the governing body of a maintained school of the occupation and use of school premises.

Commencement Information

I68 S. 31 in force at 2.1.2008 for specified purposes for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

I69 S. 31 in force at 31.3.2008 for W. so far as not already in force by S.I. 2007/3611, art. 4(2), **Sch. Pt. 2**

32 [F86Responsibility for fixing dates of terms and holidays and times of sessions: England]

(1) In the case of a community, voluntary controlled or community special school [F87in England] or a maintained nursery school [F87in England]—

(a) the [F8local authority] shall determine the dates when the school terms and holidays are to begin and end, and

(b) F88...the governing body shall determine the times of the school sessions.

Status: *This version of this Act contains provisions that are prospective.*
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(2) In the case of a foundation, voluntary aided or foundation special school **[**F89in England**]** the governing body shall determine—

(a) the dates and times when the school terms and holidays are to begin and end, and

(b) F90... the times of the school sessions.

(3) Regulations may make provision—

(a) as to the procedure to be followed where the governing body of a school within subsection (1) propose to make any change in the time of the school sessions;

(b) as to the implementation of any such proposal;

(c) for enabling the **[**F8local authority**]** to determine, for any purposes of the regulations, whether any person is to be treated as a parent of a registered pupil at the school.

(4) In this section "the times of the school sessions" means the times at which each of the school sessions (or, if there is only one, the school session) is to begin and end on any day.

F91(5) . . . . . .

F91(6) . . . . . .

F91(7) . . . . . .

F91(8) . . . . . .

F91(9) . . . . . .

F91(10) . . . . . .

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F86 S. 32 heading substituted (14.7.2014) by Education (Wales) Act 2014 (anaw 5), s. 50(4), **Sch. 3 para. 1(2)(d)**; S.I. 2014/1605, art. 2(d)

F87 Words in s. 32(1) inserted (14.7.2014) by Education (Wales) Act 2014 (anaw 5), s. 50(4), **Sch. 3 para. 1(2)(a)(i)**; S.I. 2014/1605, art. 2(d)

F88 Words in s. 32(1)(b) omitted (14.7.2014) by virtue of Education (Wales) Act 2014 (anaw 5), s. 50(4), **Sch. 3 para. 1(2)(a)(ii)**; S.I. 2014/1605, art. 2(d)

F89 Words in s. 32(2) inserted (14.7.2014) by Education (Wales) Act 2014 (anaw 5), s. 50(4), **Sch. 3 para. 1(2)(b)(i)**; S.I. 2014/1605, art. 2(d)

F90 Words in s. 32(2)(b) omitted (14.7.2014) by virtue of Education (Wales) Act 2014 (anaw 5), s. 50(4), **Sch. 3 para. 1(2)(b)(ii)**; S.I. 2014/1605, art. 2(d)

F91 S. 32(5)-(10) omitted (14.7.2014) by virtue of Education (Wales) Act 2014 (anaw 5), s. 50(4), **Sch. 3 para. 1(2)(c)**; S.I. 2014/1605, art. 2(d)

Modifications etc. (not altering text)

C36 S. 32 applied (with modifications) (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), reg. 1(1), **Sch. 1 para. 9**

C37 S. 32 applied (with modifications) (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), **reg. 1(1)**, **Sch. 1 para. 9**

C38 S. 32 applied (with modifications) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 17**

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C39 S. 32(1)(b) modified (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **3(g)**

Commencement Information

I70 S. 32 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I71 S. 32 in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

[F92 32A Responsibility for fixing term and holiday dates in Wales

(1) A local authority in Wales must determine the term dates for each community, voluntary controlled or community special school or maintained nursery school in its area.

(2) A governing body of a foundation or voluntary aided school in Wales (a "relevant governing body") must determine the term dates for its school.

(3) In exercising its functions under subsection (1), a local authority must co-operate and co-ordinate with—

(a) each relevant governing body in its area, and

(b) every other local authority in Wales,

to ensure that the term dates determined are the same (or as similar as can be) for every maintained school in Wales.

(4) In exercising its functions under subsection (2), a relevant governing body must co-operate and co-ordinate with—

(a) the local authority, and

(b) every other relevant governing body in the local authority's area,

to ensure that the term dates determined are the same (or as similar as can be) for every maintained school in Wales.

(5) Each local authority in Wales must notify the Welsh Ministers of the term dates which have been determined for a school year in respect of all the maintained schools in its area.

(6) The Welsh Ministers may by regulations make provision about the requirements of notification under subsection (5) including, in particular, provision about—

(a) the form and content of notifications;

(b) the period in which notification must be given;

(c) the procedure for notification.

(7) A local authority or a relevant governing body may alter the term dates which have been notified to the Welsh Ministers only if all the parties mentioned in subsection (8) agree to the alteration.

(8) The parties are—

(a) the local authority,

(b) each relevant governing body in the local authority's area, and

(c) the Welsh Ministers.

(9) In this section—

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"maintained school" means a school in Wales which is a community, foundation or voluntary school, a community special school or a maintained nursery school;

"term dates" means the dates on which the school terms and holidays are to begin and end.

Textual Amendments

F92 Ss. 32A-32C inserted (12.5.2014 for specified purposes, 14.7.2014 in so far as not already in force) by Education (Wales) Act 2014 (anaw 5), **ss. 42**, 50(2); S.I. 2014/1605, art. 2(a)

32B Welsh Ministers' power to direct determination of term dates

(1) The Welsh Ministers may direct a local authority in Wales or a relevant governing body to determine such term dates for a maintained school in Wales as may be specified in the direction.

(2) A direction under subsection (1) may, in particular—

(a) require different dates to be determined for different schools;

(b) be made in respect of such descriptions of schools as may be specified in the direction (for example, all community schools or all schools within a specified area);

(c) require the determination of different dates from those already determined or altered under section 32A.

(3) Before making a direction under subsection (1) the Welsh Ministers must carry out such consultation as they consider appropriate.

(4) The Welsh Ministers may, by regulations, make such further provision about such consultation as they consider necessary or expedient.

(5) The Welsh Ministers must publish a direction under subsection (1) electronically.

(6) In this section—

"maintained school" has the same meaning as in section 32A(9);

"relevant governing body" means the governing body of a foundation or voluntary aided school in Wales;

"term dates" means the dates on which the school terms and holidays are to begin and end.

Textual Amendments

F92 Ss. 32A-32C inserted (12.5.2014 for specified purposes, 14.7.2014 in so far as not already in force) by Education (Wales) Act 2014 (anaw 5), **ss. 42**, 50(2); S.I. 2014/1605, art. 2(a)

32C Responsibility for fixing times of school sessions in Wales

(1) Except in the circumstances described in subsection (2), a governing body of a maintained school must determine the times of the school sessions for the school.

(2) The circumstances are—

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(a) that the local authority in whose area the school is situated have given notice to the governing body that the times of the school sessions are to be determined in accordance with subsection (4), and

(b) that the notice has not been withdrawn by the local authority.

(3) A local authority must not give a notice under this section unless they consider that a change in the times of the school sessions is necessary or expedient in order to—

(a) promote the use of sustainable modes of travel within the meaning of section 11 of the Learner Travel (Wales) Measure 2008 (nawm 2), or

(b) improve the effectiveness or efficiency of travel arrangements made, or to be made, by the authority under that Measure.

(4) In the circumstances described in subsection (2)—

(a) where there are 2 sessions on the relevant school day—

(i) the local authority must determine the time each day at which the first school session starts and the second school session ends, and

(ii) the governing body must determine the time each day at which the first school session ends and the second school session starts,

(b) where there is one school session on the relevant school day the local authority must determine the time each day at which the school session starts and ends.

(5) The Welsh Ministers may by regulations make provision—

(a) as to the procedure to be followed where the governing body of a community, voluntary controlled or community special school or maintained nursery school proposes to make any change in the time of the school sessions;

(b) as to the implementation of any such proposal;

(c) for enabling the local authority to determine, for any purposes of the regulations, whether any person is to be treated as a parent of a registered pupil at the school;

(d) as to the procedure to be followed where the local authority propose to give a notice under this section;

(e) as to the form and content of such a notice;

(f) as to the implementation of a determination made under subsection (4).

(6) A local authority must have regard to any guidance given by the Welsh Ministers when giving a notice under subsection (2) or discharging any function conferred by this section or regulations made under it.

(7) In this section—

"maintained school" means a school in Wales which is a community, foundation or voluntary school, a community special school or a maintained nursery school;

"the times of the school sessions" means the times at which each of the school sessions or, if there is only one, the school session, is to begin and end on any day.**]**

Textual Amendments

F92 Ss. 32A-32C inserted (12.5.2014 for specified purposes, 14.7.2014 in so far as not already in force) by Education (Wales) Act 2014 (anaw 5), **ss. 42**, 50(2); S.I. 2014/1605, art. 2(a)

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[F94]33 Annual parents' meetings[[F93]: Wales]

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Textual Amendments

F93 Word in s. 33 heading inserted (1.9.2005) by Education Act 2005 (c. 18), **ss. 103(2)(b)**, 125(4); S.I. 2005/2034, art. 5

F94 S. 33 repealed (4.5.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), **ss. 95**, 100(3)

34 Arrangements for government of new schools

(1) Where proposals for the establishment of a maintained school fall to be implemented under any enactment, the **[**[F8]local authority**]** shall make arrangements providing for the constitution of a temporary governing body for the school.

(2) Once constituted in accordance with arrangements made under subsection (1), the temporary governing body shall continue in existence until such time as the governing body are constituted for the school under an instrument of government.

(3) The **[**[F8]local authority**]** shall secure that the governing body are so constituted before such date as may be determined in accordance with regulations.

(4) The requirement for there to be an instrument of government for a school (imposed by section 20) shall take effect in relation to a school falling within subsection (1) above as from the date determined under subsection (3).

(5) Regulations may make provision with respect to—

(a) the making and termination of arrangements for the constitution of temporary governing bodies, including such arrangements made in anticipation of proposals falling to be implemented as mentioned in subsection (1),

(b) the constitution, meetings and proceedings of temporary governing bodies, the payment of allowances to temporary governors, and the appointment of clerks to such bodies,

(c) the exercise by a temporary governing body before the school opening date of the powers conferred by section 27,

(d) the transition from a temporary governing body to a governing body constituted under an instrument of government, and

(e) such other matters relating to temporary governing bodies as the Secretary of State, or as the case may be the National Assembly for Wales, considers appropriate.

(6) Regulations under subsection (5) may, in connection with any matters falling within that subsection—

(a) modify any provision made under any of sections 19, 20 or 23 or by Schedule 1;

(b) apply any such provision with or without modifications;

(c) make provision corresponding or similar to any such provision.

(7) Subject to subsection (8), the temporary governing body of a school shall be treated for the purposes of the Education Acts as if they were the governing body during the period—

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(a) beginning with the school opening date, and

(b) ending with the time when the governing body are constituted for the school under an instrument of government;

and for the purposes of section 30(3) of this Act and sections 495 to 498 of the Education Act 1996 (c. 56) (general default powers of the Secretary of State) **[**F95and Chapter 1 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in conduct of maintained schools in Wales)**]** the temporary governing body of a school shall also be so treated at any time falling before the school opening date.

(8) Despite subsection (7), nothing in any of the following provisions, namely—

(a) section 20(1),

(b) (subject to any regulations made under subsection (5)) Schedule 1, or

(c) (subject to any regulations made under subsection (5)) regulations made under section 19, 20 or 23,

applies to any temporary governing body.

(9) In this section "school opening date", in relation to a new maintained school, means the date when the school first admits pupils.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F95 Words in s. 34(7) inserted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(2)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

I72 S. 34 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I73 S. 34 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

35 Staffing of community, voluntary controlled, community special and maintained nursery schools

(1) This section applies to—

(a) community schools,

(b) voluntary controlled schools,

(c) community special schools, and

(d) maintained nursery schools.

(2) Any teacher or other member of staff who is appointed to work under a contract of employment at a school to which this section applies is to be employed by the **[**F8local authority**]**.

(3) The teaching staff of any school to which this section applies shall include—

(a) a person appointed as head teacher, or

(b) a person appointed to carry out the functions of the head teacher of the school—

(i) pending the appointment of a head teacher, or

(ii) in the absence of the head teacher.

Status: *This version of this Act contains provisions that are prospective.*
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(4) Regulations may make further provision with respect to the staffing of schools to which this section applies.

(5) Regulations under subsection (4) may, in particular—

(a) make provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff,

(b) make provision with respect to the appointment of teachers and other staff to work at a school otherwise than under a contract of employment,

(c) make provision with respect to staff employed, or engaged otherwise than under a contract of employment, wholly or partly for the purposes of—

(i) the provision of facilities and services under section 27, or

(ii) any other activities which are not school activities but are carried on on the school premises under the management or control of the governing body, and

(d) confer functions on **[**F47local authorities**]**, governing bodies and head teachers.

(6) In relation to teachers at a voluntary controlled school who are reserved teachers within the meaning of section 58 of the School Standards and Framework Act 1998 (c. 31) (appointment and dismissal of certain teachers at schools with a religious character), regulations under subsection (4) shall have effect subject to the provisions of that section.

(7) If at any time a school to which this section applies does not have a delegated budget by virtue of any suspension underF96... Schedule 15 to, the School Standards and Framework Act 1998**[**F97, or section 66 of the Education and Inspections Act 2006**[**F98, or section 8 of the School Standards and Organisation (Wales) Act 2013**]**, **]**—

(a) regulations under subsection (4) shall not apply, and

(b) the provisions of Part 1 of Schedule 2 shall apply instead.

(8) **[**F99In discharging any function conferred by regulations under subsection (4), a **[**F8local authority**][**F100in Wales**]** or the governing body or head teacher of a maintained school **[**F101in Wales**]** shall have regard to any guidance given from time to time—

F102(a) . . . . . .

(b) F103...by the National Assembly for Wales.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F96 Words in s. 35(7) omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(3)(a)**; S.I. 2014/178, art. 2(f) (with art. 3)

F97 Words in s. 35(7) inserted (1.2.2012) by Education Act 2011 (c. 21), **ss. 19(1)**, 82(3); S.I. 2012/84, art. 3

F98 Words in s. 35(7) inserted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(3)(b)**; S.I. 2014/178, art. 2(f) (with art. 3)

F99 S. 35(8) ceases to have effect (E.) (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 4(1)**; S.I. 2015/1732, art. 3(a)

F100 Words in s. 35(8) inserted (1.1.2016) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 4(2)(a)**; S.I. 2015/1732, art. 3(a)

Status: *This version of this Act contains provisions that are prospective.*
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F101 Words in s. 35(8) inserted (1.1.2016) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 4(2)(b)**; S.I. 2015/1732, art. 3(a)

F102 S. 35(8)(a) and word omitted (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 4(2)(c)**; S.I. 2015/1732, art. 3(a)

F103 Words in s. 35(8)(b) omitted (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 4(2)(d)**; S.I. 2015/1732, art. 3(a)

Modifications etc. (not altering text)

C40 S. 35(7) applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 17A (as inserted (1.4.2013) by The Pupil Referral Units (Miscellaneous Amendments) (No.2) (England) Regulations 2012 (S.I. 2012/3158), regs. 1, **3(2)**)

Commencement Information

I74 S. 35 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

I75 S. 35(1)-(3)(6)-(8) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I76 S. 35(4)(5) in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

36 Staffing of foundation, voluntary aided and foundation special schools

(1) This section applies to—

(a) foundation schools,

(b) voluntary aided schools, and

(c) foundation special schools.

(2) Except as provided by regulations under subsection (4), any teacher or other member of staff who is appointed to work under a contract of employment at a school to which this section applies is to be employed by the governing body of the school.

(3) The teaching staff of any school to which this section applies shall include—

(a) a person appointed as head teacher, or

(b) a person appointed to carry out the functions of the head teacher of the school—

(i) pending the appointment of a head teacher, or

(ii) in the absence of the head teacher.

(4) Regulations may make further provision with respect to the staffing of schools to which this section applies.

(5) Regulations under subsection (4) may, in particular—

(a) make provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff,

(b) make provision with respect to the appointment of teachers and other staff to work at a school otherwise than under a contract of employment,

(c) make provision with respect to staff employed, or engaged otherwise than under a contract of employment, wholly or partly for the purposes of—

(i) the provision of facilities and services under section 27, or

(ii) any other activities which are not school activities but are carried on on the school premises under the management or control of the governing body,

(d) enable teachers and other staff to be employed by the **[**F8local authority**]** in prescribed cases, and

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(e) confer functions on **[**F47local authorities**]**, governing bodies and head teachers.

(6) Regulations under subsection (4) shall have effect subject to section 58 of the School Standards and Framework Act 1998 (c. 31) (appointment and dismissal of certain teachers at schools with a religious character).

(7) If at any time a school to which this section applies does not have a delegated budget by virtue of any suspension underF104... Schedule 15 to, the School Standards and Framework Act 1998**[**F105, or section 66 of the Education and Inspections Act 2006**[**F106, or section 8 of the School Standards and Organisation (Wales) Act 2013**],]** regulations under subsection (4) shall have effect subject to the provisions of Part 2 of Schedule 2.

(8) **[**F107In discharging any function conferred by regulations under subsection (4), a **[**F8local authority**][**F108in Wales**]** or the governing body or head teacher of a maintained school **[**F109in Wales**]** shall have regard to any guidance given from time to time—

F110(a) . . . . . .

(b) F111... by the National Assembly for Wales.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F104 Words in s. 36(7) omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(4)(a)**; S.I. 2014/178, art. 2(f) (with art. 3)

F105 Words in s. 36(7) inserted (1.2.2012) by Education Act 2011 (c. 21), **ss. 19(2)**, 82(3); S.I. 2012/84, art. 3

F106 Words in s. 36(7) inserted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(4)(b)**; S.I. 2014/178, art. 2(f) (with art. 3)

F107 S. 36(8) ceases to have effect (E.) (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 5(1)**; S.I. 2015/1732, art. 3(a)

F108 Words in s. 36(8) inserted (1.1.2016) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 5(2)(a)**; S.I. 2015/1732, art. 3(a)

F109 Words in s. 36(8) inserted (1.1.2016) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 5(2)(b)**; S.I. 2015/1732, art. 3(a)

F110 S. 36(8)(a) and word omitted (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 5(2)(c)**; S.I. 2015/1732, art. 3(a)

F111 Words in s. 36(8)(b) omitted (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 5(2)(d)**; S.I. 2015/1732, art. 3(a)

Commencement Information

I77 S. 36 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

I78 S. 36(1)-(3)(6)-(8) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I79 S. 36(4)(5) in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

37 Payments in respect of dismissal, etc.

(1) It shall be for the governing body of a maintained school to determine—

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(a) whether any payment should be made by the **[**F8local authority**]** in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school, and

(b) the amount of any such payment.

(2) Subsection (1) does not, however, apply in relation to a payment which the **[**F8local authority**]** are required to make—

(a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned, or

(b) under any statutory provision.

(3) The **[**F8local authority**]** —

(a) shall take such steps as may be required for giving effect to any determination of the governing body under subsection (1), and

(b) shall not make, or agree to make, a payment in relation to which that subsection applies except in accordance with such a determination.

(4) Subject to subsection (7), costs incurred by the **[**F8local authority**]** in respect of any premature retirement of a member of the staff of a maintained school shall be met from the school's budget share for one or more **[**F112funding periods**]** except in so far as the authority agree with the governing body in writing (whether before or after the retirement occurs) that they shall not be so met.

(5) Subject to subsection (7), costs incurred by the **[**F8local authority**]** in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school's budget share for any **[**F113funding period**]** except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.

(6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996 (c. 18).

(7) Where a **[**F8local authority**]** incur costs—

(a) in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or

(b) in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school who is employed for those purposes,

they shall recover those costs from the governing body except in so far as the authority agree with the governing body in writing (whether before or after the retirement, dismissal or resignation occurs) that they shall not be so recoverable.

[F114(7A) Any amount payable by virtue of subsection (7) by the governing body of a maintained school in England to the local authority may be met by the governing body out of the school's budget share for any funding period if and to the extent that the condition in subsection (7B) is met.

(7B) The condition is that the governing body are satisfied that meeting the amount out of the school's budget share will not to a significant extent interfere with the performance of any duty imposed on them by section 21(2) or by any other provision of the Education Acts.**]**

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(8) Any amount payable by virtue of subsection (7) by the governing body of a maintained school **[**F115 in Wales**]** to the **[**F8local authority**]** shall not be met by the governing body out of the school's budget share for any **[**F116funding period**]**.

(9) Where a person is employed partly for community purposes and partly for other purposes, any payment or costs in respect of that person is to be apportioned between the two purposes; and the preceding provisions of this section shall apply separately to each part of the payment or costs.

(10) Regulations may make provision with respect to the recovery from governing bodies of amounts payable by virtue of subsection (7).

(11) Subsections (1) to (6) do not apply to a maintained school at any time when the school does not have a delegated budget by virtue of any suspension under F117... Schedule 15 to, the School Standards and Framework Act 1998 (c. 31) **[**F118or section 8 of the School Standards and Organisation (Wales) Act 2013**]**.

[F119(12) In this section—

"community purposes" means the purposes of the provision of facilities or services under section 27;

"funding period" has the meaning given by section 45(1B) of the School Standards and Framework Act 1998.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F112 Words in s. 37(4) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 14(2)** (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(e)

F113 Words in s. 37(5) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 14(3)** (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(e)

F114 S. 37(7A)(7B) inserted (15.1.2012) by Education Act 2011 (c. 21), **ss. 47(2)**, 82(2)(c)

F115 Words in s. 37(8) inserted (15.1.2012) by Education Act 2011 (c. 21), **ss. 47(3)**, 82(2)(c)

F116 Words in s. 37(8) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 14(3)** (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(e)

F117 Words in s. 37(11) omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(5)(a)**; S.I. 2014/178, art. 2(f) (with art. 3)

F118 Words in s. 37(11) inserted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(5)(b)**; S.I. 2014/178, art. 2(f) (with art. 3)

F119 S. 37(12) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 14(4)** (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(e)

Modifications etc. (not altering text)

C41 S. 37 modified (E.) (temp. from 1.10.2002) by The Education Act 2002 (Modification of Provisions) (England) Regulations 2002 (S.I. 2002/2316), **reg. 3(1)**

C42 S. 37(1)-(7B) applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 17B (as inserted (1.4.2013) by The Pupil Referral Units (Miscellaneous Amendments) (No.2) (England) Regulations 2012 (S.I. 2012/3158), regs. 1, **3(2)**)

C43 S. 37(9) applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 17B (as inserted (1.4.2013) by The Pupil Referral Units (Miscellaneous Amendments) (No.2) (England) Regulations 2012 (S.I. 2012/3158), regs. 1, **3(2)**)

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C44 S. 37(11)(12) applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 17B (as inserted (1.4.2013) by The Pupil Referral Units (Miscellaneous Amendments) (No.2) (England) Regulations 2012 (S.I. 2012/3158), regs. 1, **3(2)**)

Commencement Information

I80 S. 37 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I81 S. 37 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

38 Communication with schools

(1) In considering whether to issue any guidance or other circular to the governing bodies or head teachers of maintained schools in the exercise of functions relating to education, the Secretary of State and the National Assembly for Wales shall have regard to—

(a) the desirability of providing information about good educational practice, while recognising the professional expertise of teachers,

(b) the benefits that are expected to result from the issue of the guidance or other circular, and

(c) the desirability of avoiding—

(i) the sending of excessive material to governing bodies or head teachers, and

(ii) the imposition of excessive administrative burdens on governing bodies or head teachers.

(2) In pursuance of the duty in subsection (1) the Secretary of State shall in respect of each academic year—

(a) prepare a report listing—

(i) documents sent by him during the year to all governing bodies of maintained schools in England or to all head teachers of such schools, and

(ii) documents (not falling within sub-paragraph (i)) sent by him during the year to all governing bodies of maintained schools in England of a particular kind or to all head teachers of such schools of a particular kind, and

(b) lay a copy of the report before each House of Parliament, and include within it comparative statistics in respect of each of the two preceding academic years on documents falling within this subsection sent out by him.

(3) In pursuance of the duty in subsection (1) the National Assembly for Wales shall in respect of each academic year prepare and publish a report listing—

(a) documents sent by the Assembly during the year to all governing bodies of maintained schools in Wales or to all head teachers of such schools, and

(b) documents (not falling within paragraph (a)) sent by the Assembly during the year to all governing bodies of maintained schools in Wales of a particular kind or to all head teachers of such schools of a particular kind.

(4) The documents referred to in subsections (2) and (3) do not include any document sent by the Secretary of State or the National Assembly for Wales—

(a) otherwise than in the exercise of functions relating to education, or

(b) at the request of the person to whom it is sent.

Status: *This version of this Act contains provisions that are prospective.*
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(5) Each document issued by the Secretary of State or the National Assembly for Wales and falling within subsection (2)(a)(i) or (ii) or (3)(a) or (b) shall list within it previous relevant documents issued by the Secretary of State or the National Assembly for Wales and shall state clearly those documents which are superseded by the current document.

(6) Each document issued by the Secretary of State or the National Assembly for Wales and falling within subsection (2)(a)(i) or (ii) or (3)(a) or (b) shall state clearly the persons for whom any advice and guidance is intended.

(7) In this section "academic year" means a period beginning with 1st August and ending with the next 31st July.

Commencement Information

I82 S. 38 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1** (with Sch. Pt para. 1)

I83 S. 38(1)(2)(4)-(7) in force at 1.10.2003 except in relation to W. by S.I. 2003/1667, **art. 5** (with Sch. para. 1, Sch. Sch. para. 1A) (which transitional provisions in Sch. para. 1 are revoked (1.4.2004) by S.I. 2004/571, art. 3, Sch.; and in Sch. para. 1A are inserted (10.9.2005) by S.I. 2005/2570, art. 2(a))

39 Interpretation of Chapter 1

(1) In this Chapter—

"budget share" has the same meaning as in Part 2 of the School Standards and Framework Act 1998 (c. 31);

"federation" and "federated school" **[**F120in relation to England **]** have the meaning given by section 24;

"maintained school" means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

"maintained nursery school" means a nursery school which is maintained by a **[**F8local authority**]** and is not a special school;

"statutory provision" means a provision contained in an Act or in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30).

(2) In this Chapter—

(a) references to a school having a delegated budget are references to the governing body of the school being entitled to manage the school's budget share, and

(b) where a school has a delegated budget the governing body are accordingly said to have a right to a delegated budget.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F120 Words in s. 39(1) inserted (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), **ss. 19(6)**, 33(2); S.I. 2014/1066, art. 2

Status: *This version of this Act contains provisions that are prospective.*
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Commencement Information

I84 S. 39 partly in force; s. 39 not in force at Royal Assent, see s. 216; s. 39(2) and the definition of "budget share" in s. 39(1) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I85 S. 39(1) in force at 1.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 4**

I86 S. 39(1) in force at 1.9.2003 so far as not already in force except in relation to W. by S.I. 2003/1667, **art. 4**

I87 S. 39(1) in force at 1.9.2004 for specified purposes for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

I88 S. 39(1) in force at 31.10.2005 for W. so far as not already in force by S.I. 2005/2910, art. 4, **Sch.**

I89 S. 39(2) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

40 Amendments of Part 2 of School Standards and Framework Act 1998

Schedule 3 (which contains amendments of Part 2 of the School Standards and Framework Act 1998 relating to the power conferred by section 27 and to the engagement of staff otherwise than as employees) shall have effect.

Commencement Information

I90 S. 40 partly in force; s. 40 not in force at Royal Assent, see s. 216; s. 40 in force for certain purposes for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I91 S. 40 in force at 1.9.2003 so far as not already in force except in relation to W. by S.I. 2003/1667, **art. 4**

I92 S. 40 in force at 1.9.2003 for specified purposes for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I93 S. 40 in force at 1.4.2006 for W. so far as not already in force by S.I. 2006/879, art. 4, **Sch.**

CHAPTER 2

FINANCING OF MAINTAINED SCHOOLS

Determination of budgets

41 Determination of specified budgets of [F8local authority]

(1) After section 45 of the School Standards and Framework Act 1998 there is inserted—

"45A Determination of specified budgets of [F8local authority]

(1) For the purposes of this Part, a **[**F8local authority**]**'s "**[**F8local authority**]** budget" for a financial year is the amount appropriated by the authority for meeting all expenditure by the authority in that year of a class or description prescribed for the purposes of this subsection.

(2) For the purposes of this Part, a **[**F8local authority**]**'s "schools budget" for a financial year is the amount appropriated by the authority for meeting all expenditure by the authority in that year of a class or description prescribed for the purposes of this subsection (which may include expenditure incurred otherwise than in respect of schools).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) For the purposes of this Part, a **[**F8local authority**]**'s "individual schools budget" for a financial year is the amount remaining after deducting from the authority's schools budget for that year such planned expenditure by the authority in respect of that year as they may determine should be so deducted in accordance with regulations.

(4) Regulations under subsection (3) may—

(a) prescribe classes or descriptions of expenditure which are authorised or required to be deducted from an authority's schools budget;

(b) provide, in relation to any prescribed class or description of expenditure specified in the regulations, that such expenditure may only be deducted subject to either or both of the following, namely—

(i) such limit or limits (however framed) as may be specified by or determined in accordance with the regulations, and

(ii) such other conditions as may be so specified or determined.

(5) Before the **[**F121schools budget deadline**]** in any financial year, a **[**F8local authority**]** shall—

(a) determine the proposed amount of their schools budget for the following financial year, and

(b) give notice of their determination to the Secretary of State and to the governing body of every school maintained by the authority.

[F122(6) For the purposes of this section and section 45B "the schools budget deadline" is—

(a) the end of December in the case of an authority in England, and

(b) the end of January in the case of an authority in Wales."**]**

F123(2) . . . . . .

(3) Section 46 of that Act (determination of **[**F8local authority**]**'s local schools budget and individual schools budget) shall cease to have effect.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F121 Words in s. 41 substituted (18.11.2003 for E., 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 7 para. 66(3)**; S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

F122 Words in s. 41 inserted (18.11.2003 for E., 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 7 para. 66(4)**; S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

F123 S. 41(2) repealed (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 4**; S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(f)

Commencement Information

I94 S. 41 partly in force; s. 41 not in force at Royal Assent, see s. 216; s. 41(1)(3) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I95 S. 41 in force at 4.12.2003 for W. by S.I. 2003/2961, art. 5, **Sch. Pt. II**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F124 42 Power of Secretary of State to set minimum schools budget

. . . . . .

Textual Amendments

F124 S. 42 repealed (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 4**; S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(f)

43 Schools forums

After section 47 of the School Standards and Framework Act 1998 (c. 31) there is inserted—

"Schools forums

47A Schools forums

(1) Every **[**F8local authority**]** shall in accordance with regulations establish for their area before such date as may be prescribed a body, to be known as a schools forum, representing the governing bodies and head teachers of schools maintained by the authority and, if the authority so determine, also representing such bodies as the authority may from time to time in accordance with regulations determine.

(2) Subsection (1) does not apply in relation to the Common Council of the City of London or the Council of the Isles of Scilly.

(3) The purpose of a schools forum is to advise the relevant authority on such matters relating to the authority's schools budget as may be prescribed by regulations under section 45A(3) or by regulations under this subsection.

(4) Regulations under section 45A(3) or under subsection (3) may include provision requiring a relevant authority to have regard to advice given by their schools forum, or requiring a relevant authority to consult their schools forum in relation to prescribed matters or before taking prescribed decisions.

(5) Regulations may make provision as to the constitution, meetings and proceedings of a schools forum.

(6) Regulations made by virtue of subsection (5) may include provision enabling the Secretary of State in prescribed circumstances to remove from membership of a schools forum any non-schools member.

(7) Regulations may make provision with respect to expenses of a schools forum.

(8) Except as provided by regulations, the expenses of a schools forum shall be defrayed by the relevant authority.

(9) In this section—

"non-schools member", in relation to a schools forum, means a member other than a schools member;

"relevant authority", in relation to a schools forum, means the **[**F8local authority**]** by whom the forum is established;

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"schools member", in relation to a schools forum, means a member elected to represent governing bodies or head teachers of schools maintained by the relevant authority."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I96 S. 43 partly in force; s. 43 not in force at Royal Assent, see s. 216; s. 43 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I97 S. 43 in force at 1.11.2003 for W. by S.I. 2003/1718, art. 6, **Sch. Pt. III**

Accounts and financial statements

44 Accounts of maintained schools

(1) Regulations may require the governing body of a maintained school—

(a) to keep prescribed accounts and prescribed records in relation to the accounts,

(b) to prepare prescribed financial statements or reports,

(c) to comply with prescribed conditions with respect to audit, and

(d) to send copies of the accounts, together with such financial statements or reports as may be prescribed, to the **[**F8local authority**]**.

(2) The regulations may—

(a) impose on the governing body requirements relating to—

(i) resources held by the governing body, and

(ii) other resources whose application is controlled by the governing body, and

(b) provide that for the purposes of the regulations any resources which, although not held by the governing body, appear to the **[**F8local authority**]** to be available for the purposes of the school or for the purposes of the maintenance of any part of the school premises are to be taken to fall within paragraph (a)(ii) unless the governing body satisfy the **[**F8local authority**]** that the governing body do not control the application of those resources.

(3) For the purposes of subsection (2), any powers exercisable by the head teacher are to be taken to be exercisable by the governing body.

(4) The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may require a **[**F8local authority**]** to give him or it copies of accounts or other documents received by the authority from a governing body in accordance with regulations under this section.

(5) The regulations may prescribe the form or manner in which, the period by reference to which, and the time within which, anything required by the regulations must be done.

(6) The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may—

Status: *This version of this Act contains provisions that are prospective.*
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(a) publish information provided in accordance with regulations under this section in such form and manner as he or it considers appropriate,

(b) make arrangements for such information to be published in such form and manner, and by such persons, as he or it may specify for the purposes of this section, and

(c) make regulations requiring **[**F47local authorities**]** to publish prescribed categories of such information, together with such supplementary information as may be prescribed, in such form and manner as may be prescribed.

(7) In this section "maintained school" has the same meaning as in Chapter 1.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I98 S. 44(1)-(6) in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I99 S. 44(7) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

45 Financial statements

(1) Section 52 of the School Standards and Framework Act 1998 (c. 31) (financial statements by **[**F8local authority**]**) is amended as follows.

(2) In subsection (2), the word "and" at the end of paragraph (b) is omitted and after paragraph (c) there is inserted "and

(d) accountable resources held, received or expended in the year by any person in relation to a school maintained by the authority."

(3) After subsection (2) there is inserted—

"(2A) In subsection (2)(d), "accountable resources", in relation to a maintained school, means any resources which are not provided by the **[**F8local authority**]** but in respect of which an obligation is imposed on the governing body of the school by virtue of regulations under section 44 of the Education Act 2002 (accounts of maintained schools)."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I100 S. 45 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

CHAPTER 3

ADMISSIONS, EXCLUSIONS AND ATTENDANCE

Admission arrangements

46 Admission forums

After section 85 of the School Standards and Framework Act 1998 there is inserted—

"Admission forums

85A Admission forums

(1) A **[**[F8]local authority**]** shall in accordance with regulations establish for their area a body, to be known as an admission forum, for the purpose of—

(a) advising the authority on such matters connected with the exercise of the authority's functions under this Chapter as may be prescribed, and

(b) advising the admission authorities for maintained schools in the area for which the forum is established on—

(i) such matters connected with the determination of admission arrangements, and

(ii) such other matters connected with the admission of pupils,

as may be prescribed.

(2) The authority may establish sub-committees of the forum.

(3) Regulations may make provision—

(a) as to the constitution, meetings and proceedings of an admission forum and of any such sub-committee,

(b) as to the manner in which advice is to be given by a forum, and

(c) as to the establishment by **[**[F47]local authorities**]** of joint admission forums.

(4) The bodies mentioned in paragraphs (a) and (b) of subsection (1) shall have regard, in carrying out their functions, to any relevant advice given to them by an admission forum under that subsection.

(5) The **[**[F8]local authority**]** shall make arrangements for the forum (and any sub-committee established under subsection (2)) to be provided with accommodation and with such services as the authority consider appropriate."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I101 S. 46 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

I102 S. 46 in force at 1.12.2003 for W. by S.I. 2003/2961, art. 4, **Sch. Pt. I**

47 Admission numbers

(1) For section 86(5) of the School Standards and Framework Act 1998 (c. 31) (no prejudice for the purposes of subsection (3)(a) to be taken to arise from the admission of a number of pupils not exceeding the relevant standard number or the admission number, whichever is greater) there is substituted—

"(5) No prejudice shall be taken to arise for the purposes of subsection (3)(a) from the admission to a maintained school in a school year of a number of pupils in a relevant age group which does not exceed the number determined under section 89 as the number of pupils in that age group that it is intended to admit to the school in that year; but this subsection does not apply if the conditions set out in subsection (5A) are met in relation to the school and the school year.

(5A) Those conditions are—

(a) that the school is one at which boarding accommodation is provided for pupils; and

(b) that the determination under section 89 by the admission authority of the admission arrangements which are to apply for that year includes the determinations mentioned in paragraphs (a) and (b) of section 89A(2).

(5B) Where the conditions set out in subsection (5A) are met in relation to a maintained school and a school year, no prejudice shall be taken to arise for the purposes of subsection (3)(a) from either of the following—

(a) the admission to the school in that year as boarders of a number of pupils in a relevant age group which does not exceed the number determined under section 89 as the number of pupils in that age group that it is intended to admit to the school in that year as boarders;

(b) the admission to the school in that year otherwise than as boarders of a number of pupils in a relevant age group which does not exceed the number determined under section 89 as the number of pupils in that age group that it is intended to admit to the school in that year otherwise than as boarders."

(2) After section 89 of that Act there is inserted—

"**89A Determination of admission numbers**

(1) A determination under section 89 by the admission authority for a maintained school of the admission arrangements which are to apply for a school year shall include a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year.

(2) Such a determination under section 89 may also, if the school is one at which boarding accommodation is provided for pupils, include—

(a) a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year as boarders, and

(b) a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year otherwise than as boarders.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) Regulations may make provision about the making of any determination required by subsection (1), and may in particular require the admission authority for a maintained school to have regard, in making any such determination, to—

(a) any prescribed method of calculation, and

(b) any other prescribed matter.

(4) References in this section to the determination of any number include references to the determination of zero as that number."

Commencement Information

I103 S. 47 partly in force; s. 47 not in force at Royal Assent, see s. 216; s. 47 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) (as amended (4.12.2003) by S.I. 2003/2992, arts. 1, **3**)

I104 S. 47 in force at 1.2.2006 for W. by S.I. 2006/172, art. 4, **Sch.**

48 Co-ordination of admission arrangements

After section 89A of the School Standards and Framework Act 1998 (c. 31) there is inserted—

"**89B Co-ordination of admission arrangements**

(1) Regulations may require a **[**F8local authority**]** —

(a) to formulate, for any academic year in relation to which prescribed conditions are satisfied, a qualifying scheme for co-ordinating the arrangements for the admission of pupils to maintained schools in their area, and

(b) to take prescribed action with a view to securing the adoption of the scheme by themselves and each governing body who are the admission authority for a maintained school in their area.

(2) Subject to subsection (3), the Secretary of State may make, in relation to the area of a **[**F8local authority**]** and an academic year, a scheme for co-ordinating the arrangements, or assisting in the co-ordination of the arrangements, for the admission of pupils to maintained schools in that area.

(3) A scheme may not be made under subsection (2) in relation to a **[**F8local authority**]** and an academic year if, before the prescribed date in the year preceding the year in which that academic year commences—

(a) a scheme formulated by the **[**F8local authority**]** in accordance with subsection (1) is adopted in the prescribed manner by the persons mentioned in paragraph (b) of that subsection, and

(b) the authority provide the Secretary of State with a copy of the scheme and inform him that the scheme has been so adopted.

(4) The Secretary of State may by regulations require **[**F47local authorities**]** to provide other **[**F47local authorities**]** with such information as may be required by them in connection with the exercise of any of their functions under this Chapter.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) Regulations may provide—

(a) that each **[**F8local authority**]** shall secure that, subject to such exceptions as may be prescribed, no decision made by any admission authority for a maintained school in their area to offer or refuse a child admission to the school shall be communicated to the parent of the child except on a single day, designated by the **[**F8local authority**]**, in each year, or

(b) that, subject to such exceptions as may be prescribed, a decision made by the admission authority for a maintained school to offer or refuse a child admission to the school shall not be communicated to the parent of the child except on a prescribed day.

(6) In this section—

"academic year" means a period commencing with 1st August and ending with the next 31st July;

"qualifying scheme" means a scheme that meets prescribed requirements.

89C Further provision about schemes adopted or made by virtue of section 89B

(1) Regulations may make provision about the contents of schemes under section 89B(2), including provision about the duties that may be imposed by such schemes on—

(a) **[**F47local authorities**]**, and

(b) the admission authorities for maintained schools.

(2) Regulations may provide that where a **[**F8local authority**]** or the governing body of a maintained school have, in such manner as may be prescribed, adopted a scheme formulated by a **[**F8local authority**]** for the purpose mentioned in section 89B(1)(a), sections 496 and 497 of the Education Act 1996 shall apply as if any obligations imposed on the **[**F8local authority**]** or governing body under the scheme were duties imposed on them by that Act.

(3) Regulations may provide that where any decision as to whether a child is to be granted or refused admission to a maintained school falls to be made in prescribed circumstances, the decision shall, if a scheme adopted or made by virtue of this section so provides, be made by the **[**F8local authority**]** regardless of whether they are the admission authority for the school.

(4) Before proposing a scheme for adoption under section 89B(1) a **[**F8local authority**]** shall comply with such requirements as to consultation as may be prescribed.

(5) Regulations under subsection (4) may in particular require consultations to be undertaken with a view to securing that the arrangements for the admission of pupils to maintained schools in the areas of different **[**F47local authorities**]** are, so far as is reasonably practicable, compatible with each other.

(6) Before making a scheme under section 89B(2) in relation to the area of any **[**F8local authority**]**, the Secretary of State shall consult—

(a) the **[**F8local authority**]**, and

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(b) any governing body who are the admission authority for a school which appears to the Secretary of State to be a school to which the scheme will apply.

(7) A scheme made under section 89B(2) may be varied or revoked by the Secretary of State."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I105 S. 48 partly in force; s. 48 not in force at Royal Assent, see s. 216; s. 48 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I106 S. 48 in force at 1.2.2006 for W. by S.I. 2006/172, art. 4, **Sch.**

49 Repeal of power to make certain special arrangements for preserving religious character

Section 91 of the School Standards and Framework Act 1998 (c. 31) (special arrangements to preserve religious character of foundation or voluntary aided school) shall cease to have effect.

Commencement Information

I107 S. 49 wholly in force at 19.12.2002; s. 49 not in force at Royal Assent, see s. 216; s. 49 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I** (with transitional provisions and savings in art. 7)

50 Admission appeals

In section 94 of the School Standards and Framework Act 1998 (appeal arrangements: general) for subsection (5) there is substituted—

"(5) An appeal pursuant to any arrangements made under this section shall be to an appeal panel constituted in accordance with regulations.

(5A) Regulations may make provision about the making of appeals pursuant to such arrangements, including provision—

(a) as to the procedure on such appeals,

(b) for the payment by the **[**F8local authority**]** of allowances to members of an appeal panel, and

(c) as to the grounds on which an appeal panel may, in the case of an appeal to which subsection (5B) applies, determine that a place is to be offered to the child concerned.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5B) This subsection applies to any appeal against a decision made on the ground that prejudice of the kind referred to in section 86(3)(a) would arise as mentioned in subsection (4) of that section.

(5C) Regulations made by virtue of subsection (5A)(b) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of an appeal panel."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I108 S. 50 partly in force; s. 50 not in force at Royal Assent, see s. 216; s. 50 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in Sch. para. 3)

I109 S. 50 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2** (with Sch. para. 3)

I110 S. 50 in force at 31.5.2005 for W. by S.I. 2005/1395, art. 4, **Sch.** (with art. 5(3))

51 Further amendments relating to admission arrangements

Schedule 4 (which contains further amendments relating to admission arrangements) shall have effect.

Commencement Information

I111 S. 51 partly in force; s. 51 not in force at Royal Assent, see s. 216; s. 51 in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with Sch.)

I112 S. 51 in force at 20.1.2003 so far as not already in force except in relation to W. by S.I. 2002/2952, **art. 2**

I113 S. 51 in force at 9.1.2004 for specified purposes for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

I114 S. 51 in force at 31.3.2004 for specified purposes for W. by S.I. 2004/912, art. 4, **Sch. Pt. 1**

I115 S. 51 in force at 31.5.2005 for specified purposes for W. by S.I. 2005/1395, art. 4, **Sch.**

I116 S. 51 in force at 1.2.2006 for W. so far as not already in force by S.I. 2006/172, art. 4, **Sch.**

Exclusion of pupils

[F125 51A Exclusion of pupils: England

(1) The head teacher of a maintained school in England may exclude a pupil from the school for a fixed period or permanently.

(2) The teacher in charge of a pupil referral unit in England may exclude a pupil from the unit for a fixed period or permanently.

(3) Regulations must make provision—

(a) requiring prescribed persons to be given prescribed information relating to any exclusion under subsection (1) or (2);

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(b) requiring the responsible body, in prescribed cases, to consider whether the pupil should be reinstated;

(c) requiring the local authority to make arrangements enabling a prescribed person to apply to a review panel for a review, in any prescribed case, of a decision of the responsible body not to reinstate a pupil;

(d) about the constitution of a review panel;

(e) about the procedure to be followed on a review under paragraph (c).

(4) On an application by virtue of subsection (3)(c), the review panel may—

(a) uphold the decision of the responsible body,

(b) recommend that the responsible body reconsiders the matter, or

(c) if it considers that the decision of the responsible body was flawed when considered in the light of the principles applicable on an application for judicial review, quash the decision of the responsible body and direct the responsible body to reconsider the matter.

(5) Regulations may provide for the panel to have supplementary powers, and in particular may provide that the panel has the power to make a direction about the effect on an excluded pupil of a recommendation under subsection (4)(b) or a direction under subsection (4)(c).

(6) In a case where the panel gives a direction under subsection (4)(c) to the governing body of a maintained school, the panel may, in prescribed circumstances, order an adjustment of the school's budget share for a funding period.

(7) Regulations must make provision about—

(a) how the amount of the adjustment is to be determined;

(b) the effect of the adjustment on the budget shares of other maintained schools for the funding period.

(8) Regulations under this section may also make provision—

(a) for the payment by the local authority of allowances to members of the review panel;

(b) requiring a person or body exercising functions under subsection (1) or (2) or under the regulations to have regard to any guidance given from time to time by the Secretary of State;

(c) requiring local authorities to give prescribed information to the Secretary of State;

(d) in relation to any other matter relating to the exercise of the powers conferred by subsections (1) and (2).

(9) Regulations made by virtue of subsection (8)(a) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of a review panel.

(10) In this section—

"budget share" and "funding period" have the same meaning as in Part 2 of the School Standards and Framework Act 1998;

"exclude", in relation to the exclusion of a pupil from a school or pupil referral unit, means exclude on disciplinary grounds (and "exclusion" is to be construed accordingly);

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Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

"maintained school" has the same meaning as in Chapter 1;

"the responsible body" means—

(a) in relation to exclusion from a maintained school, the governing body of the school;

(b) in relation to exclusion from a pupil referral unit, such person as may be prescribed.

(11) In relation to any time when no responsible body is prescribed in relation to permanent exclusion from a pupil referral unit, subsection (3) has effect in relation to such an exclusion as if—

(a) paragraph (b) were omitted, and

(b) the decision referred to in paragraph (c) were the decision of the teacher in charge of the unit permanently to exclude the pupil.

(12) Regulations may make provision for this section and regulations made under it to apply, with prescribed modifications, in relation to Academies or a description of Academy.**]**

Textual Amendments

F125 S. 51A inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 4(2)**, 82(3); S.I. 2012/1087, art. 3 (with art. 4)

Modifications etc. (not altering text)

C45 S. 51A applied (with modifications) (1.9.2012) by The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 (S.I. 2012/1033), regs. 1(1), **21** (with reg. 1(2))

52 Exclusion of pupils[F126: Wales]

(1) The head teacher of a maintained school **[**F127in Wales**]** may exclude a pupil from the school for a fixed period or permanently.

(2) The teacher in charge of a pupil referral unit **[**F128in Wales**]** may exclude a pupil from the unit for a fixed period or permanently.

(3) Regulations shall make provision—

(a) requiring prescribed persons to be given prescribed information relating to any exclusion under subsection (1) or (2),

(b) requiring the responsible body, in prescribed cases, to consider whether the pupil should be reinstated,

(c) requiring the **[**F8local authority**]** to make arrangements for enabling a prescribed person to appeal, in any prescribed case, to a panel constituted in accordance with the regulations against any decision of the responsible body not to reinstate a pupil, and

(d) as to the procedure on appeals.

(4) Regulations under this section may also make provision—

(a) for the payment by the **[**F8local authority**]** of allowances to members of a panel constituted in accordance with the regulations,

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(b) requiring a person or body exercising functions under subsection (1) or (2) or under the regulations to have regard to any guidance given from time to time F129... by the National Assembly for Wales,

(c) requiring **[**F47local authorities**]** to give prescribed information to F130... the Assembly, F130... and

(d) in relation to any other matter relating to the exercise of the powers conferred by subsections (1) and (2).

(5) In subsection (3), "the responsible body" means—

(a) in relation to exclusion from a maintained school, the governing body of the school, and

(b) in relation to exclusion from a pupil referral unit, such person as may be prescribed;

and, in relation to any time when no responsible body is prescribed in relation to permanent exclusion from a pupil referral unit, subsection (3) shall have effect in relation to such an exclusion with the omission of paragraph (b) and as if the decision referred to in paragraph (c) were the decision of the teacher in charge of the unit permanently to exclude the pupil.

(6) Regulations made by virtue of subsection (4)(a) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (c. 70) **[**F131or (in relation to Wales) Part 8 of the Local Government (Wales) Measure 2011**]** (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of a panel constituted in accordance with regulations under this section.

(7) Regulations shall make provision enabling a prescribed person, in any prescribed case, to appeal to a panel constituted in accordance with the regulations against any decision made after 31st August 1994 under paragraph 7 of Schedule 1 to the Education Act 1996 (c. 56), or any enactment repealed by that Act, in relation to the permanent exclusion of a pupil from a pupil referral unit; and the provision that may be made by regulations made by virtue of this subsection in relation to any such decision includes any provision that could after the commencement of subsections (2) to (4) be made in relation to a decision falling within subsection (3)(c).

(8) Regulations under this section which—

(a) relate to exclusions from pupil referral units (whether before or after the passing of this Act), and

(b) are made before the repeal by this Act of the existing enactments is fully in force,

may provide for any provision made by or under the existing enactments to have effect in relation to exclusions from pupil referral units with such modifications as may be prescribed.

(9) In subsection (8) "the existing enactments" means sections 64(2) and (3) and 65 to 67 of, and Schedule 18 to, the School Standards and Framework Act 1998 (c. 31).

(10) In this section "exclude", in relation to the exclusion of a child from a school or pupil referral unit, means exclude on disciplinary grounds (and "exclusion" shall be construed accordingly).

(11) In this section "maintained school" has the same meaning as in Chapter 1.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F126 Word in s. 52 heading and colon inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 4(3)(d)**, 82(3); S.I. 2012/1087, art. 3 (with art. 4)

F127 Words in s. 52(1) inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 4(3)(a)**, 82(3); S.I. 2012/1087, art. 3 (with art. 4)

F128 Words in s. 52(2) inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 4(3)(b)**, 82(3); S.I. 2012/1087, art. 3 (with art. 4)

F129 Words in s. 52(4)(b) omitted (1.9.2012) by virtue of Education Act 2011 (c. 21), **ss. 4(3)(c)(i)**, 82(3); S.I. 2012/1087, art. 3 (with art. 4)

F130 Words in s. 52(4)(c) omitted (1.9.2012) by virtue of Education Act 2011 (c. 21), **ss. 4(3)(c)(ii)**, 82(3); S.I. 2012/1087, art. 3 (with art. 4)

F131 Words in s. 52(6) inserted (30.4.2012) by Local Government (Wales) Measure 2011 (nawm 4), s. 178(3), **Sch. 3 para. 6**; S.I. 2012/1187, art. 2(1)(q)

Modifications etc. (not altering text)

C46 S. 52 modified (E.) (temp. from 20.1.2003) by The Education Act 2002 (Modification of Provisions) (No. 2) (England) Regulations 2002 (S.I. 2002/2953), **reg. 5**

C47 S. 52 modified (19.11.2003) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (No.2) (Wales) Regulations 2003 (S.I. 2003/2959), regs. 1(1), **6**

C48 S. 52 modified (W.) (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), **8(b)**

C49 S. 52(2) restricted (9.1.2004) by The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003 (S.I. 2003/3246), regs. 1(1), **4**

C50 S. 52(5)(a) modified (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **3(h)**

Commencement Information

I117 S. 52(7)-(10) in force at Royal Assent, see s. 216(1)

I118 S. 52(1)-(6) in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2** (with Sch. para. 4)

I119 S. 52(1)-(6) in force at 9.1.2004 for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

I120 S. 52(11) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I121 S. 52(11) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

Attendance targets

53 Attendance targets

(1) Section 63 of the School Standards and Framework Act 1998 (power to make regulations for targets relating to unauthorised absences) is amended as follows.

(2) In subsections (1) and (3), the word "unauthorised" is omitted.

(3) After subsection (3) there is inserted—

"(3A) Provision made by regulations under this section may relate to—

(a) absences which are authorised pursuant to regulations under section 434 of the Education Act 1996, or

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(b) absences which are not so authorised, or

(c) both."

(4) In subsection (4), the definition of "unauthorised absence" is omitted.

Commencement Information

I122 S. 53 in force at 1.6.2004 except in relation to W. by S.I. 2004/1318, **art. 2**

I123 S. 53 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

PART 4

POWERS OF INTERVENTION

Schools causing concern

F132 54 Duty to notify where inspection shows school causing concern

. . . . . .

Textual Amendments

F132 S. 54 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F133 55 Cases in which powers of intervention exercisable

. . . . . .

Textual Amendments

F133 Ss. 55-59 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(6)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

I124 S. 55 wholly in force at 19.12.2002; s. 55 not in force at Royal Assent, see s. 216; s. 55 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4** and in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

F133 56 Power of Secretary of State to appoint additional governors or direct closure

. . . . . .

Textual Amendments

F133 Ss. 55-59 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(6)**; S.I. 2014/178, art. 2(f) (with art. 3)

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Commencement Information

I125 S. 56 wholly in force at 19.12.2002; s. 56 not in force at Royal Assent, see s. 216; s. 56 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4** and in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

F133 57 Power of [F8 local authority] to provide for governing body to consist of interim executive members

. . . . . .

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F133 Ss. 55-59 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(6)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

I126 S. 57 in force at 2.9.2002 for E. by S.I. 2002/2002, **art. 4**

I127 S. 57 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

F133 58 Power of Secretary of State to provide for governing body to consist of interim executive members

. . . . . .

Textual Amendments

F133 Ss. 55-59 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(6)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

I128 S. 58 in force at 2.9.2002 for E. by S.I. 2002/2002, **art. 4**

I129 S. 58 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

F133 59 Governing bodies consisting of interim executive members

. . . . . .

Textual Amendments

F133 Ss. 55-59 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(6)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

I130 S. 59 in force at 2.9.2002 for E. by S.I. 2002/2002, **art. 4**

I131 S. 59 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

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[F47 Local authorities]

60 Powers of Secretary of State to secure proper performance of [F8 local authority]'s functions

(1) Section 497A of the Education Act 1996 (c. 56) (power to secure proper performance of functions of **[**F8 local authority**]**) is amended as follows.

(2) For subsection (1) there is substituted—

"(1) This section applies to a **[**F8 local authority**]**'s functions under this Act and to other functions (of whatever nature) which are conferred on them in their capacity as a **[**F8 local authority**]**."

(3) In subsection (2), for "(3) or (4)" there is substituted " (4), (4A) or (4B) ".

(4) After subsection (2) there is inserted—

"(2A) The Secretary of State may also exercise his powers under subsection (4), (4A) or (4B) where—

(a) he has given a previous direction under subsection (4), (4A) or (4B) in relation to a **[**F8 local authority**]** in respect of any function to which this section applies, and

(b) he is satisfied that it is likely that if no further direction were given under subsection (4), (4A) or (4B) on the expiry or revocation of the previous direction the authority would fail in any respect to perform that function to an adequate standard (or at all)."

(5) Subsection (3) is omitted.

(6) For subsection (4) there is substituted—

"(4) The Secretary of State may under this subsection give the authority or an officer of the authority such directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed on behalf of the authority by such person as is specified in the direction; and such directions may require that any contract or other arrangement made by the authority with that person contains such terms and conditions as may be so specified."

(7) After subsection (4) there is inserted—

"(4A) The Secretary of State may under this subsection direct that the function shall be exercised by the Secretary of State or a person nominated by him and that the authority shall comply with any instructions of the Secretary of State or his nominee in relation to the exercise of the function.

(4B) The Secretary of State may under this subsection (whether or not he exercises the power conferred by subsection (4) or (4A) in relation to any function) give the authority or an officer of the authority such other directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed to an adequate standard."

(8) For subsection (5) there is substituted—

"(5) Where the Secretary of State considers it expedient that—

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(a) in the case of directions given under subsection (4), the person specified in the directions, or

(b) in the case of directions given under subsection (4A), the Secretary of State or a person nominated by him,

should perform other functions to which this section applies in addition to the function to which subsection (2) or (2A) applies, the directions under subsection (4) or (4A) may relate to the performance of those other functions as well; and in considering whether it is expedient that that person should perform any such additional functions, the Secretary of State may have regard to financial considerations."

(9) In subsection (6), for paragraph (b) there is substituted—

"(b) have effect for a period specified in the direction unless revoked earlier by the Secretary of State."

(10) In subsection (7), for "(3) or (4)" there is substituted " (4), (4A) or (4B) ".

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I132 S. 60 partly in force; s. 60 not in force at Royal Assent, see s. 216; s. 60 in force for E. at 26.7.2002 by S.I. 2002/2002, **art. 3**

I133 S. 60 in force at 1.8.2003 for W. by S.I. 2003/1718, art. 4, **Sch. Pt. I**

61 Power to secure proper performance: duty of authority where directions contemplated

After section 497A of the Education Act 1996 (c. 56) there is inserted—

"**497AA Power to secure proper performance: duty of authority where directions contemplated**

Where, in relation to any function to which section 497A applies, the Secretary of State—

(a) is satisfied as mentioned in subsection (2) or (2A)(b) of that section, and

(b) has notified the **[**F8local authority**]** that he is so satisfied and that he is contemplating the giving of directions under subsection (4) or (4A) of that section,

the authority shall give the Secretary of State, and any person authorised by him for the purposes of this section, all such assistance, in connection with the proposed exercise of the function by the Secretary of State or another person in pursuance of directions, as they are reasonably able to give."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Status: *This version of this Act contains provisions that are prospective.*
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Modifications etc. (not altering text)

C51 S. 61 modified (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 18(2)**

Commencement Information

I134 S. 61 in force at 26.7.2002 for E. by S.I. 2002/2002, **art. 3**

I135 S. 61 in force at 1.8.2003 for W. by S.I. 2003/1718, art. 4, **Sch. Pt. I**

62 Power to secure proper performance: further provisions

(1) Section 497B of the Education Act 1996 is amended as follows.

(2) In subsection (1), for the words from "section 497A(4)" to "those directions" there is substituted " section 497A(4) or (4A) to a **[**F8local authority**]** or to an officer of such an authority, the specified person ".

(3) After that subsection there is inserted—

"(1A) In this section "the specified person" means—

(a) in relation to directions under section 497A(4), the person specified in the directions, and

(b) in relation to directions under section 497A(4A), the Secretary of State or the person nominated by him."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Modifications etc. (not altering text)

C52 S. 62 modified (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 18(2)**

Commencement Information

I136 S. 62 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I137 S. 62 in force at 1.8.2003 for W. by S.I. 2003/1718, art. 4, **Sch. Pt. I**

[F134**62A Power to require [**F8**local authority] in England to obtain advisory services**

(1) This section applies where—

(a) one or more schools maintained by a **[**F8local authority**]** in England are for the purposes of Part 4 of the Education and Inspections Act 2006 (schools causing concern: England) eligible for intervention by virtue of either of the following provisions of that Act—

(i) section 61 (school requiring significant improvement), or

(ii) section 62 (school requiring special measures), and

(b) it appears to the Secretary of State that the **[**F8local authority**]** —

(i) have not been effective or are unlikely to be effective in eliminating deficiencies in the conduct of that school or those schools,

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(ii) are unlikely to be effective in eliminating deficiencies in the conduct of other schools which may in the future fall within paragraph (a), or

(iii) maintain a disproportionate number of schools falling within that paragraph.

[This section also applies where it appears to the Secretary of State that—

F135(1A) (a) a **[**F8local authority**]** in England maintain a disproportionate number of low-performing schools, and

(b) the authority—

(i) have not been effective or are unlikely to be effective in securing an improvement in the standards of performance of pupils at those schools, or

(ii) are unlikely to be effective in securing an improvement in the standards of performance of pupils at other schools which may in the future be low-performing schools.

(1B) In subsection (1A) "low-performing school" means a school at which the standards of performance of pupils are unacceptably low.

(1C) For the purposes of subsection (1B) the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following—

(a) the standards that the pupils might in all the circumstances reasonably be expected to attain;

(b) where relevant, the standards previously attained by them;

(c) the standards attained by pupils at comparable schools.**]**

(2) The Secretary of State may direct the **[**F8local authority**]** to enter into a contract or other arrangement with a person specified in the direction, or a person falling within a class so specified, for the provision to the authority or the governing body of any school maintained by them (or both) of specified services of an advisory nature.

(3) The direction may require the contract or other arrangement to contain specified terms and conditions.

(4) In this section

[F136 "pupil" has the same meaning as in the Education Act 1996 (see sections 3 and 19(5) of that Act);**]**

"school" means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.

(5) Any direction given under this section shall be enforceable, on an application made on behalf of the Secretary of State, by a mandatory order.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F134 S. 62A inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 20**; S.I. 2007/935, art. 5(cc)

F135 S. 62A(1A)-(1C) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 204(2)**, 269(4); S.I. 2009/3317, art. 2, Sch.

F136 Words in s. 62A(4) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 204(3)**, 269(4); S.I. 2009/3317, art. 2, Sch.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Modifications etc. (not altering text)

C53 S. 62A applied (with modifications) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 18(1)**

F138 63 Power to require [F8local authority][F137in Wales] to obtain advisory services

. . . . . .

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F137 Words in s. 63 heading inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 21(5)**; S.I. 2007/935, art. 5(cc)

F138 S. 63 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(6)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

I138 S. 63 partly in force; s. 63 not in force at Royal Assent, see s. 216; s. 63 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I139 S. 63 in force at 1.8.2003 for W. by S.I. 2003/1718, art. 4, **Sch. Pt. I**

64 Provisions supplementary to [F139sections 62A and 63]

(1) Where **[**F140section 62A F141...**]** applies in relation to a **[**F8local authority**]** and the Secretary of State F142... has notified the authority that he F143...is contemplating the giving of a direction under that section, the authority shall give the Secretary of StateF144..., and any person authorised by the Secretary of StateF144... for the purposes of this subsection, such assistance, in connection with the proposed contract or other arrangement, as the authority are reasonably able to give.

(2) Where a direction under **[**F145section 62AF146...**]** is given to a **[**F8local authority**]**, the relevant person shall be entitled, for the purposes of providing the advisory services, to exercise the powers conferred by subsections (3) to (6).

(3) The relevant person shall have at all reasonable times—

(a) a right of entry to the premises of the authority, and

(b) a right to inspect, and take copies of, any records or other documents kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the provision of the advisory services.

(4) Section 497B(3) of the Education Act 1996 (c. 56) (right of access to computers etc) applies in relation to the exercise by the relevant person of the right conferred by subsection (3) as it applies to the exercise by the specified person (within the meaning of that section) of the right conferred by section 497B(2) of that Act.

(5) Without prejudice to subsection (3), the authority shall give the relevant person all assistance in connection with the provision of the advisory services which they are reasonably able to give.

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(6) Subsection (3) applies in relation to any school maintained by the authority as it applies in relation to the authority; and without prejudice to that subsection (as it so applies)—

(a) the governing body of any such school shall give the relevant person all assistance in connection with the provision of the advisory services which they are reasonably able to give, and

(b) the governing body of any such school and the authority shall secure that all such assistance is also given by persons who work at the school.

(7) In this section—

"the advisory services" means the services to be provided in pursuance of the direction under **[**F147section 62A F148...**]**;

"documents" and "records" each include information recorded in any form;

"the relevant person" means—

(a) the person specified under **[**F149section 62A(2) F148...**]**, or

(b) where the direction specifies a class of persons, the person with whom the **[**F8local authority**]** enter into the contract or other arrangement required by the direction,

and includes any person assisting that person in the provision of the advisory services.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F139 Words in s. 64 heading substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 22(4)**; S.I. 2007/935, art. 5(cc)

F140 Words in s. 64(1) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 22(2)**; S.I. 2007/935, art. 5(cc)

F141 Words in s. 64(1) omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(7)(a)(i)**; S.I. 2014/178, art. 2(f) (with art. 3)

F142 Words in s. 64(1) omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(7)(a)(ii)**; S.I. 2014/178, art. 2(f) (with art. 3)

F143 Words in s. 64(1) omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(7)(a)(iii)**; S.I. 2014/178, art. 2(f) (with art. 3)

F144 Words in s. 64(1) omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(7)(a)(iv)**; S.I. 2014/178, art. 2(f) (with art. 3)

F145 Words in s. 64(2) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 22(2)**; S.I. 2007/935, art. 5(cc)

F146 Words in s. 64(2) omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(7)(b)**; S.I. 2014/178, art. 2(f) (with art. 3)

F147 Words in s. 64(7) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 22(3)(a)**; S.I. 2007/935, art. 5(cc)

F148 Words in s. 64(7) omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(7)(c)**; S.I. 2014/178, art. 2(f) (with art. 3)

F149 Words in s. 64(7) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 22(3)(b)**; S.I. 2007/935, art. 5(cc)

Commencement Information

I140 S. 64 partly in force; s. 64 not in force at Royal Assent, see s. 216; s. 64 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

Status: *This version of this Act contains provisions that are prospective.*
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I141 S. 64 in force at 1.8.2003 for W. by S.I. 2003/1718, art. 4, **Sch. Pt. I**

PART 5

SCHOOL ORGANISATION

Academies and city colleges

65 Academies

F150(1) . . . . . .

F151(2) . . . . . .

(3) Schedule 7 (which inserts a new Schedule into the Education Act 1996 (c. 56) to make provision about land in relation to Academies, and makes other supplementary provision about Academies) shall have effect.

Textual Amendments

F150 S. 65(1) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 14 para. 19**; S.I. 2012/84, art. 3 (with art. 5)

F151 S. 65(2) omitted (29.7.2010) by virtue of Academies Act 2010 (c. 32), s. 19(2), **Sch. 2 para. 12**; S.I. 2010/1937, art. 2, **Sch. 1**

F152 66 Arrangements for admission of pupils to Academies

. . . . . .

Textual Amendments

F152 S. 66 repealed (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 10 para. 2**; S.I. 2012/84, art. 3

F153 67 Conversion of city academies into Academies

. . . . . .

Textual Amendments

F153 S. 67 repealed (29.7.2010) by Academies Act 2010 (c. 32), s. 19(2), **Sch. 2 para. 13**; S.I. 2010/1937, art. 2, Sch. 1

F154 68 City colleges

. . . . . .

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Textual Amendments

F154 S. 68 repealed (29.7.2010) by Academies Act 2010 (c. 32), s. 19(2), **Sch. 2 para. 14**; S.I. 2010/1937, art. 2, Sch. 1

69 Uniform statutory trusts

In section 557 of the Education Act 1996 (uniform statutory trusts), in the definition of "relevant school" in subsection (10), after "means a relevant school" there is inserted " , Academy, city technology college or city college for the technology of the arts, ".

Proposals to establish, alter or discontinue schools

F155 70 Proposals for additional secondary schools

. . . . . .

Textual Amendments

F155 S. 70 repealed (1.9.2006) by Education Act 2005 (c. 18), ss. 66(14), 125(4), **Sch. 19 Pt. 2**; S.I. 2006/2129, art. 4 (with art. 6)

F156 71 Duty of [F47 local authorities] to secure proposals

. . . . . .

Textual Amendments

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F156 S. 71 repealed (1.9.2005) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 2**; S.I. 2006/2129, art. 4

F157 72 Proposals relating to sixth forms

. . . . . .

Textual Amendments

F157 S. 72 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(3)**; S.I. 2013/1800, art. 3(j)

F158 73 Proposals by governing bodies of community schools

. . . . . .

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Textual Amendments

F158 S. 73 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(q)

Commencement Information

I142 S. 73 in force at 1.6.2003 by S.I. 2003/1115, **art. 2**

F159 74 Proposals for establishment of federated school

. . . . . .

Textual Amendments

F159 S. 74 repealed (1.9.2005) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 2**; S.I. 2006/2129, art. 4

75 Changes to existing procedures

Schedule 10 (which makes amendments to the School Standards and Framework Act 1998 and the Learning and Skills Act 2000 in respect of the procedures for the establishment, alteration and discontinuance of certain maintained schools) shall have effect.

Commencement Information

I143 S. 75 in force at 19.12.2002 for certain purposes for W. by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I144 S. 75 in force at 1.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 4**

I145 S. 75 in force at 1.6.2003 so far as not already in force except in relation to W. by S.I. 2003/1115, **art. 3**

I146 S. 75 in force at 2.1.2008 for W. so far as not already in force by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

PART 6

THE CURRICULUM IN ENGLAND

Modifications etc. (not altering text)

C54 Pt. 6: power to amend conferred (1.4.2018) by Children and Social Work Act 2017 (c. 16), **ss. 35(4)(d)**, 70(2); S.I. 2018/346, reg. 4(f)

C55 Pt. 6: power to amend conferred (1.4.2018) by Children and Social Work Act 2017 (c. 16), **ss. 34(6)(d)**, 70(2); S.I. 2018/346, reg. 4(e)

C56 Pt. 6 modified (E.) (temp. from 1.10.2002) by The Education Act 2002 (Modification of Provisions) (England) Regulations 2002 (S.I. 2002/2316), **reg. 4**

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Preliminary

76 Interpretation of Part 6

[F160(1)**]** In this Part—

"assess" includes F161... test, and related expressions shall be construed accordingly;

[F162"assessment arrangements", in relation to a key stage, means the arrangements for assessing pupils in respect of that stage **[**F163for the specified purposes**]**;**]**

"attainment targets", in relation to a key stage, means the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of that stage;

F164...

"the foundation stage" has the meaning given by section 81;

"key stage", or references to a particular key stage, shall be construed in accordance with section 82;

"maintained school" means—

(a) any community, foundation or voluntary school maintained by a **[**F8local authority**]** in England, or

(b) except where otherwise stated, any community or foundation special school which is maintained by a **[**F8local authority**]** in England and is not established in a hospital;

"maintained nursery school" means a nursery school which is maintained by a **[**F8local authority**]** in England and is not a special school;

"programmes of study", in relation to a key stage, means matters, skills and processes which are required to be taught to pupils of different abilities and maturities by the end of that stage;

F164...

"school year", in relation to a school, means the period beginning with the first school term to begin after July and ending with the beginning of the first school term to begin after the following July; F165...

[F166(2) In subsection (1) "the specified purposes", in relation to assessment arrangements for a key stage, means—

(a) the purpose of ascertaining what pupils have achieved in relation to the attainment targets for that stage, and

(b) such other purposes as the Secretary of State may by order specify.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F160 S. 76(1): s. 76 renumbered as s. 76(1) (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 12 para. 32(2)**; S.I. 2010/1151, art. 2, Sch. 1

F161 Words in s. 76(1) repealed (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 32(3), **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1

F162 Words in s. 76 substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 1 para. 3(2)**; S.I. 2008/2261, art. 2 (with Sch. 1)

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F163 Words in s. 76(1) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 32(4); S.I. 2010/1151, art. 2, Sch. 1
F164 Words in s. 76 repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 3(3), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
F165 Words in s. 76 repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 3(4), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
F166 S. 76(2) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 12 para. 32(5)**; S.I. 2010/1151, art. 2, Sch. 1

F167 77 Meaning of "nursery education" and related expressions

. . . . . .

Textual Amendments
F167 S. 77 repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 4, **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

General duties in respect of the curriculum

78 General requirements in relation to curriculum

(1) The curriculum for a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—

(a) promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and

(b) prepares pupils at the school for the opportunities, responsibilities and experiences of later life.

F168(2) . . . . . .

Textual Amendments
F168 S. 78(2) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 5, **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

Commencement Information
I147 S. 78 wholly in force at 1.10.2002; s. 78 not in force at Royal Assent, see s. 216; s. 78 in force for certain purposes at 26.7.2002 by S.I. 2002/2002, **art. 2** and at 1.10.2002 insofar as not already in force by S.I. 2002/2439, art. 2 (with transitional provisions and savings in Sch.)

79 Duty to implement general requirements

[F169(1) The Secretary of State shall exercise his functions with a view to securing that the curriculum for every maintained school or maintained nursery school satisfies the requirements of section 78.

(2) Every **[**F8local authority**]** in England shall exercise their functions with a view to securing that the curriculum for every maintained school or maintained nursery school which they maintain satisfies the requirements of section 78.**]**

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(3) The governing body and head teacher of every maintained school or maintained nursery school shall exercise their functions with a view to securing that the curriculum for the school satisfies the requirements of section 78.

(4) The functions referred to in subsections (1) to (3) include in particular—

(a) functions conferred by this Part in relation to the National Curriculum for England, and

(b) except in relation to maintained nursery schools [F170]..., functions relating to religious education and religious worship.

[F171](5) . . . . . .

[[F172](6) In exercising any function which may affect the provision of sex education in maintained schools (whether or not as part of the education required to be provided under section 80(1)(d)), every local authority in England must have regard to relevant guidance issued by the Secretary of State under section 80A of this Act or section 403(1A) of the Education Act 1996.**]**

(7) Except to the extent provided in subsection (6), nothing in this section shall be taken to impose duties on a **[**[F8]local authority**]** with regard to sex education.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F169 S. 79(1)(2) substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 1 para. 6(2)**; S.I. 2008/2261, art. 2 (with Sch. 1)

F170 Words in s. 79(4)(b) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 6(3), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

F171 S. 79(5) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 6(4), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

F172 S. 79(6) substituted (1.9.2020) by The Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019 (S.I. 2019/924), reg. 1(2), **Sch. para. 6**

80 Basic curriculum for every maintained school in England

(1) The curriculum for every maintained school in England shall comprise a basic curriculum which includes—

(a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of Schedule 19 to the School Standards and Framework Act 1998 (c. 31) as apply in relation to the school),

(b) a curriculum for all registered pupils at the school **[**[F173]who have ceased to be young children for the purposes of Part 1 of the Childcare Act 2006**]** but are not over compulsory school age (known as "the National Curriculum for England"),

[[F174](c) provision for relationships education for all registered pupils at the school who are provided with primary education,

(d) provision for relationships and sex education for all registered pupils at the school who are provided with secondary education, and

(e) provision for health education for all registered pupils at the school.**]**

(2) Subsection (1)(a) does not apply—

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(a) in relation to **[**F175pupils who are under compulsory school age**]** , or

(b) in the case of a maintained special school (provision as to religious education in special schools being made by regulations under section 71(7) of the School Standards and Framework Act 1998).

[F176(2A) Subsection (1)(c) and (e) do not apply in relation to pupils who are under compulsory school age.**]**

(3) The Secretary of State may by order—

(a) amend subsection (1) so as to add further requirements (otherwise than in relation to religious education **[**F177relationships education, relationships and sex education or health education**]**),

(b) amend subsection (1)(b) by substituting for the reference to compulsory school age (or to any age specified there by virtue of this paragraph) a reference to such other age as may be specified in the order, and

(c) amend any provision included in subsection (1) by virtue of paragraph (a) of this subsection.

Textual Amendments

F173 Words in s. 80(1)(b) substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 1 para. 7(2)**; S.I. 2008/2261, art. 2 (with Sch. 1)

F174 S. 80(1)(c)-(e) substituted for s. 80(1)(c)(d) (1.9.2020) by The Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019 (S.I. 2019/924), reg. 1(2), **Sch. para. 7(2)**

F175 Words in s. 80(2)(a) substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 1 para. 7(3)**; S.I. 2008/2261, art. 2 (with Sch. 1)

F176 S. 80(2A) inserted (1.9.2020) by The Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019 (S.I. 2019/924), reg. 1(2), **Sch. para. 7(3)**

F177 Words in s. 80(3)(a) substituted (1.9.2020) by The Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019 (S.I. 2019/924), reg. 1(2), **Sch. para. 7(4)**

Modifications etc. (not altering text)

C57 S. 80 applied (in part) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 19** (as amended (1.9.2020) by The Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019 (S.I. 2019/924), reg. 1(2), **Sch. para. 9**)

[F178**80A Guidance about relationships, sex and health education**

(1) The Secretary of State must give guidance about the provision of education under section 80(1)(c), (d) and (e).

(2) In relation to education provided under section 80(1)(c) and (d), the guidance must be given with a view to ensuring that—

(a) the pupils learn about—

(i) the nature of marriage and civil partnership and their importance for family life and the bringing up of children,

(ii) safety in forming and maintaining relationships,

(iii) the characteristics of healthy relationships, and

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(iv) how relationships may affect physical and mental health and wellbeing, and

(b) the education is appropriate having regard to the age and the religious background of the pupils.

(3) The governing body of a maintained school must have regard to guidance under this section.

(4) The Secretary of State must review guidance under this section from time to time.

(5) In this section "maintained school" includes a community or foundation special school established in a hospital.**]**

Textual Amendments

F178 Ss. 80A, 80B inserted (1.9.2020) by The Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019 (S.I. 2019/924), reg. 1(2), **Sch. para. 8**

Modifications etc. (not altering text)

C58 Ss. 80A, 80B applied (with modifications) by S.I. 2007/2979, **Sch. 1 para. 19** (as substituted (1.9.2020) by The Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019 (S.I. 2019/924), reg. 1(2), **Sch. para. 9**)

[F178 80B Relationships education and relationships and sex education: statements of policy

(1) The governing body of a maintained school must—

(a) make, and keep up to date, a separate written statement of their policy with regard to the provision of education under each of paragraphs (1)(c) and (d) of section 80, and

(b) publish a copy of the statement on a website and provide a copy free of charge to anyone who asks for one.

(2) A statement under subsection (1) must include a statement of the effect of section 405(3) of the Education Act 1996 (exemption from sex education: England).

(3) The governing body must consult parents of registered pupils at the school before making or revising a statement under subsection (1).

(4) In this section "maintained school" includes a community or foundation special school established in a hospital.**]**

Textual Amendments

F178 Ss. 80A, 80B inserted (1.9.2020) by The Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019 (S.I. 2019/924), reg. 1(2), **Sch. para. 8**

Modifications etc. (not altering text)

C58 Ss. 80A, 80B applied (with modifications) by S.I. 2007/2979, **Sch. 1 para. 19** (as substituted (1.9.2020) by The Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019 (S.I. 2019/924), reg. 1(2), **Sch. para. 9**)

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The National Curriculum for England

F179 81 The foundation stage

. . . . . .

Textual Amendments

F179 S. 81 repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 8, **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

82 The key stages

(1) For the purposes of this Part, the key stages in relation to a pupil are—

(a) the period beginning at the same time as the school year in which he attains the age of six and ending at the same time as the school year in which the majority of pupils in his class attain the age of seven ("the first key stage"),

(b) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of eight and ending at the same time as the school year in which the majority of pupils in his class attain the age of eleven ("the second key stage"),

(c) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of twelve and ending at the same time as the school year in which the majority of pupils in his class attain the age of fourteen ("the third key stage"), and

(d) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of fifteen and ending at the same time as the school year in which the majority of pupils in his class cease to be of compulsory school age ("the fourth key stage").

(2) The head teacher of a school may elect, in relation to a particular pupil and a particular subject, that subsection (1) shall have effect as if any reference to the school year in which the majority of pupils in that pupil's class attain a particular age were a reference to the school year in which that pupil attains that age.

(3) If at any time, in the case of a pupil of compulsory school age, subsection (1) does not, apart from this subsection, apply to determine the period within which that time falls, that subsection shall have effect as if—

(a) in the case of paragraphs (a) to (c), any reference to the school year in which the majority of pupils in that pupil's class attain a particular age were a reference to the school year in which that pupil attains that age, and

(b) in the case of paragraph (d), the period were a period beginning at the same time as the school year in which he attains the age of fifteen and ending when he ceases to be of compulsory school age.

(4) The Secretary of State may by order—

(a) provide that, in relation to any subject specified in the order, subsection (1) shall have effect as if for the ages of seven and eight there specified there were substituted such other ages (less than eleven and twelve respectively) as may be specified in the order, or

(b) amend subsections (1) to (3).

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(5) In this section "class", in relation to a particular pupil and a particular subject, means—

(a) the teaching group in which he is regularly taught in that subject, or

(b) where there are two or more such groups, such one of them as may be designated by the head teacher of the school.

[F180]83 Curriculum requirements for foundation stage

. . . . . .

Textual Amendments

F180 S. 83 repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 9, **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

84 Curriculum requirements for first, second and third key stages

(1) For the first, second and third key stages, the National Curriculum for England shall comprise the core and other foundation subjects specified in subsections (2) and (3), and shall specify attainment targets, programmes of study and assessment arrangements in relation to each of those subjects for each of those stages.

(2) The following are the core subjects for the first, second and third key stages—

(a) mathematics,

(b) English, and

(c) science.

(3) The following are the other foundation subjects for the first, second and third key stages—

(a) design and technology,

[[F181](b) computing,**]**

(c) physical education,

(d) history,

(e) geography,

(f) art and design,

(g) music,

[[F182](ga) in relation to the second key stage, a foreign language,**]** and

(h) in relation to the third key stage—

(i) citizenship, and

(ii) a modern foreign language.

[[F183](A4) In paragraph (ga) of subsection (3) "foreign language" means –

(a) a foreign language specified in an order made by the Secretary of State for the purposes of this subsection, or

(b) if the order provides that any foreign language is a foreign language for the purposes of this subsection, any foreign language;

(4) In sub-paragraph (ii) of subsection (3)(h) "modern foreign language" means –

(a) a modern foreign language specified in an order made by the Secretary of State for the purposes of this subsection, or

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(b) if the order provides that any modern foreign language is a modern foreign language for the purposes of this subsection, any modern foreign language.**]**

(5) An order under subsection **[**F184(A4) or**]** (4) may—

(a) specify circumstances in which a language is not to be treated as a foundation subject, and

(b) provide for the determination under the order of any question arising as to whether a particular language is a **[**F185foreign language or modern foreign language, as the case may be**]**.

(6) The Secretary of State may by order amend subsections (2) to (5).

Textual Amendments

F181 S. 84(3)(b) substituted (1.9.2014) by The Education (Amendment of the Curriculum Requirements) (England) Order 2013 (S.I. 2013/2092), arts. 1, **2**

F182 S. 84(3)(ga) inserted (1.9.2014) by The Education (Amendment of the Curriculum Requirements for Second Key Stage) (England) Order 2013 (S.I. 2013/2093), arts. 1, **2(a)**

F183 S. 84(A4)(4) substituted for s. 84(4) (1.9.2014) by The Education (Amendment of the Curriculum Requirements for Second Key Stage) (England) Order 2013 (S.I. 2013/2093), arts. 1, **2(b)**

F184 Words in s. 84(5) inserted (1.9.2014) by The Education (Amendment of the Curriculum Requirements for Second Key Stage) (England) Order 2013 (S.I. 2013/2093), arts. 1, **2(c)**

F185 Words in s. 84(5)(b) substituted (1.9.2014) by The Education (Amendment of the Curriculum Requirements for Second Key Stage) (England) Order 2013 (S.I. 2013/2093), arts. 1, **2(d)**

[F18785 Curriculum requirements for fourth key stage

(1) For the fourth key stage, the National Curriculum for England shall comprise the core and other foundation subjects and the elements referred to in subsection (5).

(2) The National Curriculum for England shall specify programmes of study in relation to each of the core and other foundation subjects for the fourth key stage.

(3) The following are the core subjects for the fourth key stage—

(a) mathematics,

(b) English, and

(c) science.

(4) The following are the other foundation subjects for the fourth key stage—

[F188(a) computing,**]**

(b) physical education, and

(c) citizenship.

(5) The elements for the fourth key stage referred to in subsection (1) are—

F189(a) . . . . . .

(b) in relation to any pupil who so elects, one subject from each of such one or more of the four entitlement areas specified below as the pupil may elect.

(6) Those entitlement areas are—

(a) arts, comprising—

(i) art and design,

(ii) music,

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(iii) dance,
(iv) drama, and
(v) media arts,

(b) design and technology (comprising only that subject),

(c) humanities, comprising—
(i) geography, and
(ii) history, and

(d) modern foreign languages, comprising any modern foreign language specified in an order made by the Secretary of State or, if the order so specifies, any modern foreign language.

(7) An order under subsection (6)(d) may—

(a) specify circumstances in which a language is not to be treated as falling within subsection (6)(d), and

(b) provide for the determination under the order of any question arising as to whether a particular language is a modern foreign language.

(8) A pupil in the fourth key stage shall, if he so elects, be entitled to follow a course of study in a subject within each of the four entitlement areas specified in subsection (6); but this entitlement is satisfied where one subject within each of those entitlement areas is made available to him by or on behalf of the school at which he is a registered pupil.

(9) In the exercise of their functions under this Part by virtue of this section, a **[**F8local authority**]**, governing body or head teacher shall have regard to any guidance relating to F190... the entitlement areas which is issued from time to time by the **[**F191Secretary of State**]**.

(10) In this section—

"course of study" means a course of education or training which leads to a qualification approved under section 98 of the Learning and Skills Act 2000 for the purposes of section 96 of that Act;

F192...**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F186 S. 85 amendment to earlier affecting provision 2006 c. 40 s. 74(1) (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 20(a)**; S.I. 2012/924, art. 2

F187 S. 85 substituted (E.) (15.11.2003) by Education (Amendment of the Curriculum Requirements for Fourth Key Stage) (England) Order 2003 (S.I. 2003/2946), arts. 1(2), **2** (with art. 3)

F188 S. 85(4)(a) substituted (1.9.2014) by The Education (Amendment of the Curriculum Requirements) (England) Order 2013 (S.I. 2013/2092), arts. 1, **3**

F189 S. 85(5)(a) omitted (1.9.2012) by virtue of The Education (Amendment of the Curriculum Requirements for Fourth Key Stage) (England) Order 2012 (S.I. 2012/2056), arts. 1, **2(a)**

F190 Words in s. 85(9) omitted (1.9.2012) by virtue of The Education (Amendment of the Curriculum Requirements for Fourth Key Stage) (England) Order 2012 (S.I. 2012/2056), arts. 1, **2(b)**

F191 Words in s. 85(9) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 12**; S.I. 2012/924, art. 2

F192 Words in s. 85(10) omitted (1.9.2012) by virtue of The Education (Amendment of the Curriculum Requirements for Fourth Key Stage) (England) Order 2012 (S.I. 2012/2056), arts. 1, **2(c)**

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Modifications etc. (not altering text)

C59 S. 85 applied by 1989 c. 41, Sch. 2 para. 19(6) (as amended (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 72(b)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o) (as amended (15.10.2005) by S.I. 2005/2897, art. 14(3)))

C60 S. 85 modified (temp.) (1.4.2007) by Education and Inspections Act 2006 (c. 40), **ss. 74(4)**, 188(3) (with s. 74(5)); S.I. 2007/935, art. 5(k)

C61 S. 85(9) modified (temp.) by 2009 c. 22 Sch. 12 para. 33 (as amended) (30.3.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Commencement No. 3 and Transitional and Transitory Provisions) and (Commencement No. 2 (Amendment)) Order 2010 (S.I. 2010/1151), art. 21

86 Power to alter or remove requirements for fourth key stage

The Secretary of State may by order—

(a) amend any provision of section 85, or

(b) provide that, while the order remains in force, that section is not to have effect.

87 Establishment of the National Curriculum for England by order

[F193(1) The Secretary of State shall so exercise the powers conferred by subsection (3) as to revise the National Curriculum for England whenever he considers it necessary or expedient to do so.**]**

F194(2) . . . . . .

(3) In respect of the first, second and third key stages and (subject to section 86) the fourth key stage, the Secretary of State may by order specify in relation to each of the foundation subjects—

(a) such attainment targets,

(b) such programmes of study, and

(c) such assessment arrangements,

as he considers appropriate for that subject.

(4) An order under subsection F195... (3) may not require—

(a) the allocation of any particular period or periods of time during F196... any key stage to the teaching of any F196... programme of study or any matter, skill or process forming part of it, or

(b) the making in school timetables F197... of provision of any particular kind for the periods to be allocated to such teaching during any such stage.

(5) An order under subsection F198... (3) may, instead of containing the provisions to be made, refer to provisions in a document **[**F199published by a person, and in the manner, specified**]** in the order and direct that those provisions are to have effect or, as the case may be, are to have effect as amended by the order.

F200(6) . . . . . .

[F201(6A) Before making an order under subsection (3)(c) the Secretary of State—

(a) shall consult the Office of Qualifications and Examinations Regulation, and

(b) may consult such other persons as the Secretary of State considers appropriate.**]**

(7) An order under subsection (3)(c) may confer or impose such functions on—

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(a) the governing body and head teacher, F202...

(b) the **[**F8local authority**]**,

[F203(c) F204... and

(d) any other person with whom the Secretary of State has made arrangements in connection with the development, implementation or monitoring of assessment arrangements,**]**

as appear to the Secretary of State to be required.

(8) An order under subsection F205... (3)(c) may specify such assessment arrangements as may for the time being be made by a person specified in the order.

[F206(8A) An order under subsection (3)(c) which includes provision made by virtue of subsection (8) shall provide that before making or revising the assessment arrangements the person specified in the order—

(a) shall consult the Office of Qualifications and Examinations Regulation, and

(b) may consult such other persons as that person considers appropriate.**]**

F207(9) . . . . . .

(10) **[**F208The duties that may be imposed by virtue of subsection (7)(a) or (b) include, in relation to persons exercising any function in connection with the moderation or monitoring of assessment arrangements, the duty to permit them—**]**

(a) to enter premises of the school F209...,

(b) to observe implementation of the arrangements, and

(c) to inspect, and take copies of, documents and other articles.

[F210(11) An order under subsection (3)(c) may authorise a person specified in the order to make delegated supplementary provisions in relation to such matters as may be specified in the order.

(12) In this section "delegated supplementary provisions" means such provisions (other than provisions conferring or imposing functions as mentioned in subsection (7)(a) or (b)) as appear to the authorised person to be expedient for giving full effect to, or otherwise supplementing, the provisions made by the order.

[F211(12A) An order under subsection (3)(c) which authorises a person to make delegated supplementary provisions shall provide that before making, amending or revoking any such provisions the person so authorised—

(a) shall consult the Office of Qualifications and Examinations Regulation, and

(b) may consult such other persons as that person considers appropriate.**]**

(13) An order under subsection (3)(c) authorising the making of delegated supplementary provisions may provide that such provisions may be made only with the approval of the Secretary of State.

(14) Any delegated supplementary provisions shall, on being published as specified in the order under which they are made, have effect for the purposes of this Part as if made by the order.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

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F193 S. 87(1) substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 1 para. 10(2)**; S.I. 2008/2261, art. 2 (with Sch. 1)
F194 S. 87(2) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 10(3), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
F195 Words in s. 87(4) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 10(4)(a), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
F196 Words in s. 87(4)(a) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 10(4)(b), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
F197 Words in s. 87(4)(b) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 10(4)(c), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
F198 Words in s. 87(5) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 10(5), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
F199 Words in s. 87(5) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 12 para. 35(2)**; S.I. 2010/1151, art. 2, Sch. 1
F200 S. 87(6) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 10(6), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
F201 S. 87(6A) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 159(2)**, 269(4); S.I. 2010/1151, art. 2, Sch. 1 (with arts. 5-20)
F202 Word in s. 87(7)(a) repealed (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 35(3)(a), **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1
F203 S. 87(7)(c)(d) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 12 para. 35(3)(b)**; S.I. 2010/1151, art. 2, Sch. 1
F204 S. 87(7)(c) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 13**; S.I. 2012/924, art. 2
F205 Words in s. 87(8) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 10(7), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
F206 S. 87(8A) inserted (1.4.2010 for specified purposes) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 159(3)**, 269(4); S.I. 2010/1151, art. 2, Sch. 1 (with arts. 5-20)
F207 S. 87(9) repealed (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 35(4), **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1
F208 Words in s. 87(10) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 12 para. 35(5)**; S.I. 2010/1151, art. 2, Sch. 1
F209 Words in s. 87(10)(a) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 10(8)(b), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
F210 S. 87(11)-(14) substituted for s. 87(11) (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 12 para. 35(6)**; S.I. 2010/1151, art. 2, Sch. 1
F211 S. 87(12A) inserted (1.4.2010 for specified purposes) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 159(4)**, 269(4); S.I. 2010/1151, art. 2, Sch. 1 (with arts. 5-20)

88 Implementation of the National Curriculum for England in schools

[F212(1)**]** In relation to any maintained school and any school year—

(a) the **[**F8local authority**]** and the governing body shall exercise their functions with a view to securing, and

(b) the head teacher shall secure,

that the National Curriculum for England as subsisting at the beginning of that year is implemented.

[F213This subsection does not apply in relation to assessment arrangements.**]**

[F214(1A) In relation to any maintained school—

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(a) the **[**F8local authority**]** and the governing body must exercise their functions with a view to securing, and

(b) the head teacher must secure,

that the assessment arrangements specified for the time being in the National Curriculum for England are implemented.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F212 S. 88(1): s. 88 renumbered as s. 88(1) (26.11.2008) by Education and Skills Act 2008 (c. 25), **ss. 156(1)**, 173(1)(b)

F213 Words in s. 88(1) inserted (26.11.2008) by Education and Skills Act 2008 (c. 25), **ss. 156(1)**, 173(1)(b)

F214 S. 88(1A) inserted (26.11.2008) by Education and Skills Act 2008 (c. 25), **ss. 156(2)**, 173(1)(b)

F215 89 Implementation in respect of nursery schools etc.

. . . . . .

Textual Amendments

F215 S. 89 repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 11, **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

The National Curriculum for England: special cases

90 Development work and experiments

(1) For the purpose of enabling development work or experiments to be carried out, the Secretary of State may direct in respect of a particular maintained school F216... that, for such period as may be specified in the direction, the National Curriculum for England—

(a) shall not apply, or

(b) shall apply with such modifications as may be specified in the direction.

(2) A direction under subsection (1) may apply either generally or in such cases as may be specified in the direction.

(3) In the case of a community, voluntary controlled or community special school F217..., a direction shall not be given under subsection (1) except on an application—

(a) by the governing body with the agreement of the **[**F8local authority**]**, **[**F218 or**]**

(b) by the **[**F8local authority**]** with the agreement of the governing body, F219...

F219(c) . . . . . .

(4) In the case of a foundation, voluntary aided or foundation special school, a direction shall not be given under subsection (1) except on an application by the governing bodyF220....

(5) The Secretary of State may make it a condition of a direction under subsection (1) that any person by whom or with whose agreement the request for the direction was made

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should, when so directed or at specified intervals, report on any matters specified by the Secretary of State to—

(a) the Secretary of State, or

[F221(b) a person designated for the purposes of this subsection by the Secretary of State.**]**

[F222(5A) If required by the Secretary of State to do so **[**F223a person designated for the purposes of this subsection by the Secretary of State**]** shall keep under review development work or experiments carried out following a direction given under subsection (1).

F224(5B) . . . . . .

(5C) A designation under **[**F225subsection (5)(b) or (5A)**]** may make different provision for different purposes.**]**

(6) The Secretary of State may by a direction under this subsection vary or revoke a direction under subsection (1).

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F216 Words in s. 90(1) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 12(2), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

F217 Words in s. 90(3) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 12(3), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

F218 Word in s. 90(3) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 14(2)(a)**; S.I. 2012/924, art. 2

F219 S. 90(3)(c) and word omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 14(2)(b)**; S.I. 2012/924, art. 2

F220 Words in s. 90(4) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 14(3)**; S.I. 2012/924, art. 2

F221 S. 90(5)(b) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 14(4)**; S.I. 2012/924, art. 2

F222 S. 90(5A)-(5C) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 12 para. 36(4)**; S.I. 2010/1151, art. 2, Sch. 1

F223 Words in s. 90(5A) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 14(5)**; S.I. 2012/924, art. 2

F224 S. 90(5B) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 14(6)**; S.I. 2012/924, art. 2

F225 Words in s. 90(5C) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 14(7)**; S.I. 2012/924, art. 2

Modifications etc. (not altering text)

C62 S. 90 applied (with modifications) (25.5.2007) by The School Governance (New Schools) (England) Regulations 2007 (S.I. 2007/958), regs. 1, **30**

C63 S. 90(3) modified (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **3(i)**

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91 Exceptions by regulations

Regulations may provide that the National Curriculum for England, or such of the provisions of the National Curriculum for England as may be specified in the regulations—

(a) shall not apply, or

(b) shall apply with such modifications as may be specified in the regulations,

in such cases or circumstances as may be specified in the regulations.

92 Pupils with [F226EHC plans]

The special educational provision for any pupil specified in **[**F227an EHC plan maintained for the pupil**]** may include provision—

(a) excluding the application of the National Curriculum for England, or

(b) applying the National Curriculum for England with such modifications as may be specified in **[**F228the plan**]**.

Textual Amendments

F226 Words in s. 92 substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 77(c)**; S.I. 2014/889, art. 7(a)

F227 Words in s. 92 substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 77(a)**; S.I. 2014/889, art. 7(a)

F228 Words in s. 92 substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 77(b)**; S.I. 2014/889, art. 7(a)

[F229**92A Pupils with Individual Development Plans**

The additional learning provision described in an individual development plan prepared or maintained by a local authority in Wales under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 may include provision—

(a) excluding the application of the National Curriculum for England, or

(b) applying the National Curriculum for England with such modifications as may be specified in the plan.**]**

Textual Amendments

F229 S. 92A inserted (1.9.2021) by The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021 (S.I. 2021/861), regs. 1, **5(4)**

93 Temporary exceptions for individual pupils

(1) Regulations may enable the head teacher of a maintained school F230..., in such cases or circumstances and subject to such conditions as may be prescribed, to direct in respect of a registered pupil at the school that, for such period as may be specified in the direction (the "operative period" of the direction), the National Curriculum for England—

(a) shall not apply, or

(b) shall apply with such modifications as may be specified in the direction.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) The conditions prescribed by the regulations shall, in particular, limit the operative period that may be specified in a direction to a maximum period specified in the regulations.

(3) Any maximum period specified (whether in relation to directions given under the regulations or in relation to directions given under the regulations in circumstances specified in the regulations) shall be either—

(a) a fixed period not exceeding six months, or

(b) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning.

(4) Any maximum period so specified may, without prejudice to the generality of section 210(7) (which provides that regulations under this Act may make different provision for different cases or circumstances etc.), differ according to whether or not the direction in question is given in respect of a period beginning—

(a) immediately after the end of the operative period of a previous direction, or

(b) within such period after the end of the operative period of a previous direction as may be specified in the regulations.

(5) The regulations may enable the head teacher of a maintained school [F231]..., in such cases or circumstances and subject to such conditions as may be prescribed—

(a) to revoke any direction given by him under the regulations, and

(b) to vary such a direction, except so as to extend its operative period.

(6) Before making any regulations under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.

Textual Amendments

F230 Words in s. 93(1) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 13, **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

F231 Words in s. 93(5) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 13, **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

94 Information concerning directions under section 93

(1) Where a head teacher gives or varies a direction under regulations made under section 93, he shall, in such manner as may be prescribed, give the information mentioned in subsection (2)—

(a) to the governing body, and

(b) to the **[**[F8]local authority**]** by whom the school is maintained,

and shall take such steps as may be prescribed to give that information also to a parent of the pupil concerned.

(2) That information is—

(a) the fact that he has taken the action in question, its effect and his reasons for taking it,

(b) the provision that is being or is to be made for the pupil's education during the operative period of the direction, and

(c) either a description of the manner in which he proposes to secure the full implementation of the National Curriculum for England in relation to the pupil

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after the end of that period, or an indication that he has the opinion mentioned in subsection (3).

(3) That opinion is that the pupil has or probably has special educational needs **[**F232and the responsible authority ought to be required to secure an EHC needs assessment for the pupil under section 36 of the Children and Families Act 2014 (or, if an EHC plan is maintained for the pupil, a re-assessment under section 44 of that Act).**]**

(4) Where—

(a) the head teacher of a maintained school F233... includes an indication of any such opinion in information given under subsection (1), and

(b) the **[**F8local authority**]** by whom the school is maintained are not the responsible authority in relation to the pupil in question,

the head teacher shall also give that information, in such manner as may be prescribed, to the responsible authority.

(5) Where the responsible authority receive information given to them under subsection (1) or (4) which includes an indication that the head teacher has the opinion mentioned in subsection (3), they shall **[**F234make a determination in respect of the pupil under section 36(3) of the Children and Families Act 2014 (or, if an EHC plan is maintained for the pupil, under that section as it applies to re-assessments by virtue of regulations under section 44(7)). **]**

(6) In this section "the responsible authority", in relation to a pupil, means the **[**F8local authority**]** responsible for him for the purposes of **[**F235Part 3 of the Children and Families Act 2014 (see section 24 of that Act)**]**.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F232 Words in s. 94(3) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 78(2)**; S.I. 2014/889, art. 7(a)

F233 Words in s. 94(4)(a) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 14, **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

F234 Words in s. 94(5) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 78(3)**; S.I. 2014/889, art. 7(a)

F235 Words in s. 94(6) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 78(4)**; S.I. 2014/889, art. 7(a)

95 Appeals against directions under section 93 etc.

(1) Where a head teacher—

(a) gives, revokes or varies a direction under regulations made under section 93,

(b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed by the regulations, by the parent of a registered pupil at the school, or

(c) following the making of such a request, fails within such period as may be prescribed by the regulations to give, revoke or vary such a direction in accordance with the request,

the parent of the pupil concerned may appeal to the governing body.

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(2) On such an appeal, the governing body may—

(a) confirm the head teacher's action, or

(b) direct the head teacher to take such action authorised by the regulations as they consider appropriate in the circumstances.

(3) The head teacher shall comply with any directions of the governing body given under subsection (2)(b).

(4) The governing body shall notify the appellant and the head teacher in writing of their decision on such an appeal.

Modifications etc. (not altering text)

C64 S. 95 modified (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **3(j)**

Supplementary provisions

[F236 96 Procedure for making certain orders and regulations

(1) This section applies where the Secretary of State proposes to make—

(a) an order under section 82(4), 84(6) or 87(3)(a) or (b), or

(b) regulations under section 91.

(2) The Secretary of State must give notice of the proposal to such of the following as appear to the Secretary of State to be concerned with the proposal—

(a) associations of local authorities,

(b) bodies representing the interests of school governing bodies, and

(c) organisations representing school teachers.

(3) The Secretary of State must also give notice of the proposal to any other persons with whom consultation appears to the Secretary of State to be desirable.

(4) The Secretary of State must give the bodies and other persons mentioned in subsections (2) and (3) a reasonable opportunity of submitting evidence and representations as to the issues arising from the proposal.

(5) After considering any evidence and representations submitted in pursuance of subsection (4), the Secretary of State must publish, in such manner as, in the Secretary of State's opinion, is likely to bring them to the notice of persons with a special interest in education—

(a) a draft of the proposed order or regulations and any associated document, and

(b) a summary of the views expressed during the consultation.

(6) The Secretary of State must allow a period of at least one month beginning with the publication of the draft of the proposed order or regulations for the submission of any further evidence and representations as to the issues arising.

(7) When the period allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.**]**

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Textual Amendments

F236 S. 96 substituted (15.1.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 15**; S.I. 2012/84, art. 2

PART 7

THE CURRICULUM IN WALES

Preliminary

97 Interpretation of Part 7

In this Part—

"assess" includes examine and test, and related expressions shall be construed accordingly;

"assessment arrangements" means—

(a) in relation to the foundation **[**F237phase**]** , the arrangements for assessing pupils in respect of that **[**F237phase**]** for the purpose of ascertaining what they have achieved in relation to the desirable outcomes; and

(b) in relation to a key **[**F237phase**]** , the arrangements for assessing pupils in respect of that **[**F237phase**]** for the purpose of ascertaining what they have achieved in relation to the attainment targets for that **[**F237phase**]** ;

"attainment targets", in relation to a key stage, means the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of that stage;

[F238"course of study" means a course of education or training that—

(a) leads to a form of qualification or set of forms of qualification approved under Part 4 of the Qualifications Wales Act 2015 or designated under Part 5 of that Act, or

(b) is designated by the Welsh Ministers under section 34(8) of that Act;**]**

"desirable outcomes", in relation to the **[**F239foundation phase**]** , has the meaning given by section 104;

"the foundation **[**F240phase**]**" has the meaning given by section 102;

"key stage", or references to a particular key stage, shall be construed in accordance with section 103;

[F241"local curriculum" and "local curricula" are to be construed in accordance with section 116A and, in relation to a pupil's school, "local curriculum" means–

(a) where the **[**F8local authority**]** by which the school is maintained has formed a single local curriculum under section 116A, that local curriculum; or

(b) where the **[**F8local authority**]** by which the school is maintained has formed more than one local curriculum under section 116A, the local curriculum in respect of which the school is designated under section 116C(2);**]**

"maintained school" means—

(a) any community, foundation or voluntary school maintained by a **[**F8local authority**]** in Wales, or

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(b) except where otherwise stated, any community [F242]... special school which is maintained by a **[**[F8]local authority**]** in Wales and is not established in a hospital;

"maintained nursery school" means a nursery school which is maintained by a **[**[F8]local authority**]** in Wales and is not a special school;

[[F243]"maintained secondary school", in sections 116A to 116K, means a maintained school which is a secondary school unless it is a community [F244]... special school which is maintained by a **[**[F8]local authority**]** in Wales;**]**

"programmes of study", in relation to a key stage, means matters, skills and processes which are required to be taught to pupils of different abilities and maturities by the end of that stage;

"pupil" includes a child for whom funded nursery education is provided;

[[F245]"regulations" means regulations made by the Welsh Ministers;**]**

[[F245]"school", in sections 116E to 116H, in relation to a pupil, means the maintained secondary school of which he or she was a registered pupil when he or she made an election under section 116D(1);**]**

"school year", in relation to a school, means the period beginning with the first school term to begin after July and ending with the beginning of the first school term to begin after the following July; and has a corresponding meaning in relation to the provision of funded nursery education otherwise than at a school.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F237 Word in s. 97 substituted (1.9.2011) by Education (Wales) Measure 2009 (nawm 5), **ss. 21(2)(a)**, 26(3); S.I. 2011/1951, art. 2

F238 Words in s. 97 substituted (1.5.2016) by The Qualifications Wales Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/236), regs. 1, **3**

F239 Words in s. 97 substituted (1.9.2011) by Education (Wales) Measure 2009 (nawm 5), **ss. 21(2)(b)**, 26(3); S.I. 2011/1951, art. 2

F240 Word in s. 97 substituted (1.9.2011) by Education (Wales) Measure 2009 (nawm 5), **ss. 21(2)(c)**, 26(3); S.I. 2011/1951, art. 2

F241 Words in s. 97 inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 1(3)**, 49(2); S.I. 2009/3174, art. 2(1)(a)

F242 Words in s. 97 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(4)(a)**; S.I. 2013/1800, art. 3(j)

F243 Words in s. 97 inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 1(4)**, 49(2); S.I. 2009/3174, art. 2(1)(a)

F244 Words in s. 97 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(4)(b)**; S.I. 2013/1800, art. 3(j)

F245 Words in s. 97 inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 1(5)**, 49(2); S.I. 2009/3174, art. 2(1)(a)

98 Meaning of "nursery education" and related expressions

(1) In this Part "nursery education" means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere).

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(2) For the purposes of this Part, nursery education is "funded nursery education" in relation to a child if—

(a) it is provided in a maintained school or a maintained nursery school, or

(b) it is provided, by a person other than the governing body of any such school, under arrangements made with that person by a **[**F8local authority**]** in Wales in pursuance of the duty imposed on the authority by section 118 of the School Standards and Framework Act 1998 (c. 31) and in consideration of financial assistance provided by the authority under those arrangements.

(3) For the purposes of this Part, funded nursery education provided in relation to a child otherwise than at a maintained school or maintained nursery school is to be taken to be provided by the person with whom the arrangements referred to in subsection (2)(b) are made by the **[**F8local authority**]**.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

General duties in respect of the curriculum

99 General requirements in relation to curriculum

(1) The curriculum for a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—

(a) promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and

(b) prepares pupils at the school for the opportunities, responsibilities and experiences of later life.

(2) The curriculum for any funded nursery education provided otherwise than at a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—

(a) promotes the spiritual, moral, cultural, mental and physical development of the pupils for whom the funded nursery education is provided and of society, and

(b) prepares those pupils for the opportunities, responsibilities and experiences of later life.

Modifications etc. (not altering text)

C65 S. 99(1) modified (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 5(1)(2)**

Commencement Information

I148 S. 99(1) in force at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I149 S. 99(2) in force at 1.8.2008 by S.I. 2008/1728, art. 3, **Sch. Pt. 1**

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100 Duty to implement general requirements

(1) **[**F246The Welsh Ministers shall exercise their functions**]** with a view to securing—

(a) that the curriculum for every maintained school or maintained nursery school satisfies the requirements of section 99, and

(b) that the curriculum for any funded nursery education provided otherwise than at a maintained school or maintained nursery school satisfies the requirements of that section.

(2) Every **[**F8local authority**]** in Wales shall exercise their functions with a view to securing—

(a) that the curriculum for every maintained school or maintained nursery school which they maintain satisfies the requirements of section 99, and

(b) that the curriculum for any funded nursery education provided, under arrangements made by them, otherwise than at a maintained school or maintained nursery school, satisfies the requirements of section 99.

(3) The governing body and head teacher of every maintained school or maintained nursery school shall exercise their functions with a view to securing that the curriculum for the school satisfies the requirements of section 99.

(4) The functions referred to in subsections (1) to (3) include in particular—

(a) functions conferred by this Part in relation to the National Curriculum for Wales, F247...

(b) except in relation to maintained nursery schools or the provision of funded nursery education otherwise than at a maintained school or maintained nursery school, functions relating to religious education and religious worship **[**F248, and**]**

[F249(c) functions conferred by this Part in relation to the local curriculum or curricula for a **[**F8local authority**]**'s area.**]**

(5) Any person providing funded nursery education under the arrangements mentioned in section 98(2)(b) shall secure that the curriculum for that funded nursery education satisfies the requirements of section 99.

(6) In exercising any function which may affect the provision of sex education in maintained schools, every **[**F8local authority**]** in Wales shall have regard to the guidance issued by the **[**F250Welsh Ministers**]** under section 403(1A) of the Education Act 1996 (c. 56).

(7) Except to the extent provided in subsection (6), nothing in this section shall be taken to impose duties on a **[**F8local authority**]** with regard to sex education.

(8) In exercising any function which may affect the provision in maintained schools of education of a kind required by virtue of an order under section 101(3)(a), a **[**F8local authority**]** in Wales or the governing body of a maintained school shall have regard to any guidance from time to time given by the **[**F251Welsh Ministers**]**.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F246 Words in s. 100(1) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 14**; S.I. 2009/3174, art. 2(1)(r)

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F247 Word in s. 100(4)(a) omitted (1.1.2010) by virtue of Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 2(2)**, 49(2); S.I. 2009/3174, art. 2(2)(a)

F248 Word in s. 100(4)(b) inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 2(2)**, 49(2); S.I. 2009/3174, art. 2(2)(a)

F249 S. 100(4)(c) inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 2(3)**, 49(2); S.I. 2009/3174, art. 2(2)(a)

F250 Words in s. 100(6) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

F251 Words in s. 100(8) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

Modifications etc. (not altering text)

C66 S. 100 modified (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 5(1)(3)**

C67 S. 100(1)(a)(2)(a)(3) modified (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 5(1)(2)**

Commencement Information

I150 S. 100(1)(a)(2)(a)(3)(4)(6)-(8) in force at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I151 S. 100(1)(b)(2)(b)(5) in force at 1.8.2008 by S.I. 2008/1728, art. 3, **Sch. Pt. 1**

101 Basic curriculum for every maintained school in Wales

(1) The curriculum for every maintained school in Wales shall comprise a basic curriculum which includes—

(a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of Schedule 19 to the School Standards and Framework Act 1998 (c. 31) as apply in relation to the school),

(b) a curriculum for all registered pupils at the school who have attained the age of three but are not over compulsory school age (known as "the National Curriculum for Wales"),

[F252(ba) provision for personal and social education for all registered pupils at the school who are of compulsory school age,**]**

[F253(bb) provision for work-related education for all registered pupils at the school **[**F254during the third and fourth key stages**],]**

(c) in the case of a secondary school, provision for sex education for all registered pupils at the school, F255...

[F256(ca) in the case of a secondary school, provision for education which satisfies the entitlements of registered pupils at the school under section 116E, and**]**

(d) in the case of a special school, provision for sex education for all registered pupils at the school who are provided with secondary education.

(2) Subsection (1)(a) does not apply—

(a) in relation to a nursery class in a primary school, or

(b) in the case of a maintained special school (provision as to religious education in special schools being made by regulations under section 71(7) of the School Standards and Framework Act 1998 (c. 31)).

(3) The **[**F257Welsh Ministers**]** may by order—

(a) amend subsection (1) so as to add further requirements (otherwise than in relation to religious education or sex education),

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(b) amend subsection (1)(b)—

(i) by substituting for the reference to the age of three (or to any age specified there by virtue of this sub-paragraph) a reference to such other age as may be specified in the order, or

(ii) by substituting for the reference to compulsory school age (or to any age specified there by virtue of this sub-paragraph) a reference to such other age as may be specified in the order, and

(c) amend any provision included in subsection (1) by virtue of paragraph (a) of this subsection.

Textual Amendments

F252 S. 101(1)(ba) inserted (1.9.2003) by Basic Curriculum for Wales (Amendment) Order 2003 (S.I. 2003/932), arts. 1(2), **2(2)**

F253 S. 101(1)(bb) inserted (1.9.2004) by The Basic Curriculum for Wales (Amendment) Order 2003 (S.I. 2003/932), arts. 1(3), **2(3)**

F254 Words in s. 101(1)(bb) substituted (1.8.2008) by The School Curriculum in Wales (Miscellaneous Amendments) Order 2008 (S.I. 2008/1899), arts. 1, **2**

F255 Word in s. 101(1)(c) omitted (1.1.2010) by virtue of Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 3(2)**, 49(2); S.I. 2009/3174, art. 2(2)(b)

F256 S. 101(1)(ca) inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 3(3)**, 49(2); S.I. 2009/3174, art. 2(2)(b)

F257 Words in s. 101(3) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

Modifications etc. (not altering text)

C68 S. 101 modified (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 5(1)(4)**

C69 S. 101: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(3)**)

C70 S. 101(1): power to disapply conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 7** (with ss. 88-90)

C71 S. 101(1)(d) applied (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), **reg. 1(1)**, **Sch. 1 para. 10**

Commencement Information

I152 S. 101 partly in force; s. 101 not in force at Royal Assent, see s. 216; s. 101 (except for s. 101(3)(b)) in force at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I153 S. 101(3)(b) in force at 1.8.2008 by S.I. 2008/1728, art. 3, **Sch. Pt. 1**

The National Curriculum for Wales

102 The [F258foundation phase]

For the purposes of this Part, the **[**F258foundation phase**]** in relation to a pupil is such period as may be specified in an order made by the **[**F259Welsh Ministers**]** .

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Textual Amendments

F258 Words in s. 102 substituted (1.9.2011) by Education (Wales) Measure 2009 (nawm 5), **ss. 21(3)**, 26(3); S.I. 2011/1951, art. 2

F259 Words in s. 102 substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

Modifications etc. (not altering text)

C72 S. 102 applied (1.8.2014) by The National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014 (S.I. 2014/1999), arts. 1(1), **2(2)**

Commencement Information

I154 S. 102 in force at 1.8.2008 by S.I. 2008/1728, art. 3, **Sch. Pt. 1**

103 The key stages

(1) For the purposes of this Part, the key stages in relation to a pupil are—

F260(a) . . . . . .

(b) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of eight and ending at the same time as the school year in which the majority of pupils in his class attain the age of eleven ("the second key stage"),

(c) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of twelve and ending at the same time as the school year in which the majority of pupils in his class attain the age of fourteen ("the third key stage"), and

(d) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of fifteen and ending at the same time as the school year in which the majority of pupils in his class cease to be of compulsory school age ("the fourth key stage").

(2) The head teacher of a school may elect, in relation to a particular pupil and a particular subject, that subsection (1) shall have effect as if any reference to the school year in which the majority of pupils in that pupil's class attain a particular age were a reference to the school year in which that pupil attains that age.

(3) If at any time, in the case of a pupil of compulsory school age, subsection (1) does not, apart from this subsection, apply to determine the period within which that time falls, that subsection shall have effect as if—

(a) in the case of paragraphs (a) to (c), any reference to the school year in which the majority of pupils in that pupil's class attain a particular age were a reference to the school year in which that pupil attains that age, and

(b) in the case of paragraph (d), the period were a period beginning at the same time as the school year in which he attains the age of fifteen and ending when he ceases to be of compulsory school age.

(4) The **[**F261Welsh Ministers**]** may by order—

(a) provide that, in relation to any subject specified in the order, subsection (1) shall have effect as if for the ages of seven and eight there specified there were substituted such other ages (less than eleven and twelve respectively) as may be specified in the order, or

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(b) amend subsections (1) to (3).

(5) In this section "class", in relation to a particular pupil and a particular subject, means—

(a) the teaching group in which he is regularly taught in that subject, or

(b) where there are two or more such groups, such one of them as may be designated by the head teacher of the school.

Textual Amendments

F260 S. 103(1)(a) omitted (1.9.2011) by virtue of Education (Wales) Measure 2009 (nawm 5), **ss. 21(4)**, 26(3); S.I. 2011/1951, art. 2

F261 Words in s. 103(4) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

Modifications etc. (not altering text)

C73 S. 103(1)(b)(c) applied (1.8.2014) by The National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014 (S.I. 2014/1999), arts. 1(1), **2(3)**

104 Curriculum requirements for [F262foundation phase]

For the foundation stage, the National Curriculum for Wales shall specify areas of learning, and may specify in relation to them—

(a) the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of the foundation stage (referred to in this Part as "desirable outcomes"),

(b) the matters, skills and processes which are required to be taught to pupils of different abilities and maturities during the foundation stage (referred to in this Part as "educational programmes"), and

(c) assessment arrangements.

Textual Amendments

F262 Words in s. 104 substituted (1.9.2011) by Education (Wales) Measure 2009 (nawm 5), **ss. 21(5)**, 26(3); S.I. 2011/1951, art. 2

Commencement Information

I155 S. 104 in force at 1.8.2008 by S.I. 2008/1728, art. 3, **Sch. Pt. 1**

105 Curriculum requirements for F263... second and third key stages

(1) For the first, second and third key stages, the National Curriculum for Wales shall comprise the core and other foundation subjects specified in subsections (2) and (3) and shall specify attainment targets, programmes of study and assessment arrangements in relation to each of those subjects for each stage.

(2) The following are the core subjects for the first, second and third key stages—

(a) mathematics,

(b) English,

(c) science, and

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(d) in relation to Welsh-speaking schools, Welsh.

(3) The following are the other foundation subjects for the first, second and third key stages—

(a) **[**F264design and**]** technology,

(aa) **[**F265information and communication technology,**]**

(b) physical education,

(c) history,

(d) geography,

(e) art **[**F266and design**]** ,

(f) music,

(g) Welsh, if the school is not a Welsh-speaking school, and

(h) in relation to the third key stage, a modern foreign language.

(4) In this section "modern foreign language" means a modern foreign language specified in an order made by the **[**F267Welsh Ministers**]** or, if the order so provides, any modern foreign language.

(5) An order under subsection (4) may—

(a) specify circumstances in which a language is not to be treated as a foundation subject for the third key stage, and

(b) provide for the determination under the order of any question arising as to whether a particular language is a modern foreign language.

(6) The **[**F268Welsh Ministers**]** may by order amend subsections (2) to (5).

(7) For the purposes of this section a school is Welsh-speaking if more than one half of the following subjects are taught (wholly or partly) in Welsh—

(a) religious education, and

(b) the subjects other than English and Welsh which are foundation subjects in relation to pupils at the school.

(8) In this section "school" includes part of a school.

Textual Amendments

F263 Words in s. 105 omitted (1.9.2011) by virtue of Education (Wales) Measure 2009 (nawm 5), **ss. 21(6)**, 26(3); S.I. 2011/1951, art. 2

F264 Words in s. 105(3)(a) inserted (1.8.2008) by The School Curriculum in Wales (Miscellaneous Amendments) Order 2008 (S.I. 2008/1899), arts. 1, **3(a)**

F265 S. 105(3)(aa) inserted (1.8.2008) by The School Curriculum in Wales (Miscellaneous Amendments) Order 2008 (S.I. 2008/1899), arts. 1, **3(b)**

F266 Words in s. 105(3)(e) inserted (1.8.2008) by The School Curriculum in Wales (Miscellaneous Amendments) Order 2008 (S.I. 2008/1899), arts. 1, **3(c)**

F267 Words in s. 105(4) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

F268 Words in s. 105(6) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

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Modifications etc. (not altering text)

C74 S. 105(1)-(3) disapplied (1.8.2010 for specified purposes, 1.8.2011 for specified purposes) by The Education (Disapplication of the National Curriculum for Wales at Key Stage 1) (Wales) Regulations 2008 (S.I. 2008/1736), regs. 1(2), **3**

C75 S. 105(2) disapplied (1.8.2010 for specified purposes, 1.8.2011 for specified purposes) by The Education (Disapplication of the National Curriculum for Wales at Key Stage 1) (Wales) Regulations 2008 (S.I. 2008/1736), regs. 1(2), **3**

C76 S. 105(3) disapplied (1.8.2010 for specified purposes, 1.8.2011 for specified purposes) by The Education (Disapplication of the National Curriculum for Wales at Key Stage 1) (Wales) Regulations 2008 (S.I. 2008/1736), regs. 1(2), **3**

106 Curriculum requirements for fourth key stage

(1) For the fourth key stage, the National Curriculum for Wales shall comprise the core and other foundation subjects and specify attainment targets, programmes of study and assessment arrangements in relation to each of them.

(2) The following are the core subjects for the fourth key stage—

(a) mathematics,

(b) English,

(c) science, and

(d) in relation to Welsh-speaking schools, Welsh.

(3) The following are the other foundation subjects for the fourth key stage—

(a) physical education, and

(b) Welsh, if the school is not a Welsh-speaking school.

(4) For the purposes of this section a school is Welsh-speaking if more than one half of the following subjects are taught (wholly or partly) in Welsh—

(a) religious education, and

(b) the subjects other than English and Welsh which are foundation subjects in relation to pupils at the school.

(5) In this section "school" includes part of a school.

107 Power to alter or remove requirements for fourth key stage

[[F269](1)**]** The **[**[F270]Welsh Ministers**]** may by order—

(a) amend any provision of section 106, or

(b) provide that, while the order remains in force, that section is not to have effect.

[[F271](2) Such an order may make such amendments of this Act as appear to the Welsh Ministers to be necessary or expedient in connection with the provision made under subsection (1).**]**

Textual Amendments

F269 S. 107(1): s. 107 renumbered as s. 107(1) (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 19(2)**, 49(2); S.I. 2009/3174, art. 2(2)(n)

F270 Words in s. 107(1) substituted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 19(2)**, 49(2); S.I. 2009/3174, art. 2(2)(n)

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F271 S. 107(2) inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 19(3)**, 49(2); S.I. 2009/3174, art. 2(2)(n)

108 Establishment of the National Curriculum for Wales by order

(1) The **[**F272Welsh Ministers**]** shall so exercise the powers conferred by subsections (2) and (3) as to—

(a) establish a complete National Curriculum for Wales for the **[**F273foundation phase**]** as soon as is reasonably practicable, and

(b) revise the National Curriculum for Wales for the **[**F273foundation phase**]** and the key stages whenever **[**F274the Welsh Ministers consider**]** it necessary or expedient to do so.

(2) In respect of the **[**F273foundation phase**]** , the **[**F272Welsh Ministers**]**—

(a) shall by order specify the areas of learning, and

(b) may by order specify in relation to each of those areas—

(i) such desirable outcomes,

(ii) such educational programmes, and

(iii) such assessment arrangements,

as the Assembly considers appropriate for that area.

(3) In respect of the F275... second and third key stages and (subject to section 107) the fourth key stage, the **[**F272Welsh Ministers**]** may by order specify in relation to each of the foundation subjects—

(a) such attainment targets,

(b) such programmes of study, and

(c) such assessment arrangements,

as **[**F276the Welsh Ministers consider**]** appropriate for that subject.

(4) An order under subsection (2) or (3) may not require—

(a) the allocation of any particular period or periods of time during the **[**F273foundation phase**]** or any key stage to the teaching of any educational programme or programme of study or any matter, skill or process forming part of it, or

(b) the making in school timetables (or the timetables of any person providing funded nursery education) of provision of any particular kind for the periods to be allocated to such teaching during any such stage.

(5) An order under subsection (2) or (3) may, instead of containing the provisions to be made, refer to provisions in a document published as specified in the order and direct that those provisions are to have effect or, as the case may be, are to have effect as amended by the order.

(6) An order under subsection (2)(b)(iii) may confer or impose such functions on—

(a) the governing body and head teacher of a maintained school or a maintained nursery school,

(b) a person providing funded nursery education under the arrangements mentioned in section 98(2)(b),

(c) an early years development and childcare partnership, and

(d) a **[**F8local authority**]**,

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as appear to the **[**[F277]Welsh Ministers**]** to be required.

(7) An order under subsection (3)(c) may confer or impose such functions on—

(a) the governing body and head teacher, and

(b) the **[**[F8]local authority**]**,

as appear to the **[**[F278]Welsh Ministers**]** to be required.

(8) An order under subsection (2)(b)(iii) or (3)(c) may specify such assessment arrangements as may for the time being be made by a person specified in the order.

(9) Provision shall be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements are made; and any such provision may be made by or under the order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves.

(10) The duties that may be imposed by virtue of subsection (6) or (7) include, in relation to persons exercising any power in pursuance of provision made by virtue of subsection (9), the duty to permit them—

(a) to enter premises of the school or, as the case may be, premises on which the funded nursery education is being provided,

(b) to observe implementation of the arrangements, and

(c) to inspect, and take copies of, documents and other articles.

(11) An order under subsection (2)(b)(iii) or (3)(c) may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provision conferring or imposing functions as mentioned in subsection (6) or (7)) as appear to the **[**[F279]Welsh Ministers**]** to be expedient; and any provisions made under such an order shall, on being published as specified in the order, have effect for the purposes of this Part as if made by the order.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F272 Words in s. 108(1)-(3) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

F273 Words in s. 108 substituted (1.9.2011) by Education (Wales) Measure 2009 (nawm 5), **ss. 21(7)(a)**, 26(3); S.I. 2011/1951, art. 2

F274 Words in s. 108(1) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 15**; S.I. 2009/3174, art. 2(1)(r)

F275 Word in s. 108(3) omitted (1.9.2011) by virtue of Education (Wales) Measure 2009 (nawm 5), **ss. 21(7)(b)**, 26(3); S.I. 2011/1951, art. 2

F276 Words in s. 108(3) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 15**; S.I. 2009/3174, art. 2(1)(r)

F277 Words in s. 108(6) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

F278 Words in s. 108(7) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

F279 Words in s. 108(11) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

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Modifications etc. (not altering text)

C77 S. 108 modified (W.) (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 5(1)(5)**

C78 S. 108: power to modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 7** (with ss. 88-90)

Commencement Information

I156 S. 108(1)(b)(3)-(5)(7)-(11) in force at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I157 S. 108(1)(a)(2)(6) in force at 1.8.2008 by S.I. 2008/1728, art. 3, **Sch. Pt. 1**

109 Implementation of the National Curriculum for Wales in schools

In relation to any maintained school and any school year—

(a) the **[**F8local authority**]** and the governing body shall exercise their functions with a view to securing, and

(b) the head teacher shall secure,

that the National Curriculum for Wales as subsisting at the beginning of that year is implemented.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Modifications etc. (not altering text)

C79 S. 109: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ea) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C80 S. 109: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

110 Implementation in respect of nursery schools etc.

(1) In relation to any maintained nursery school and any school year—

(a) the **[**F8local authority**]** and the governing body shall exercise their functions with a view to securing, and

(b) the head teacher shall secure,

that the National Curriculum for Wales as subsisting at the beginning of that year (so far as it relates to the **[**F280foundation phase**]**) is implemented.

(2) In relation to any school year, any person providing funded nursery education under the arrangements mentioned in section 98(2)(b) shall secure that the National Curriculum for Wales as subsisting at the beginning of that year is implemented (so far as it relates to the **[**F280foundation phase**]**) in respect of the pupils for whom the funded nursery education is provided.

(3) The **[**F8local authority**]** with whom the arrangements mentioned in section 98(2)(b) are made and the early years development and childcare partnership for the area of the authority shall exercise their respective functions with a view to securing that any

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person (other than the governing body of a maintained school or maintained nursery school) who provides funded nursery education complies with the obligation imposed by subsection (2).

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F280 Words in s. 110 substituted (1.9.2011) by Education (Wales) Measure 2009 (nawm 5), **ss. 21(8)**, 26(3); S.I. 2011/1951, art. 2

Modifications etc. (not altering text)

C81 S. 110: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(eb) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C82 S. 110: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

Commencement Information

I158 S. 110 in force at 1.8.2008 by S.I. 2008/1728, art. 3, **Sch. Pt. 1**

The National Curriculum for Wales: special cases

111 Development work and experiments

(1) For the purpose of enabling development work or experiments to be carried out, the **[**F281Welsh Ministers**]** may direct in respect of a particular maintained school or maintained nursery school that, for such period as may be specified in the direction, the National Curriculum for Wales—

(a) shall not apply, or

(b) shall apply with such modifications as may be specified in the direction.

(2) A direction under subsection (1) may apply either generally or in such cases as may be specified in the direction.

(3) In the case of a community, voluntary controlled or community special school or a maintained nursery school, a direction shall not be given under subsection (1) except F282... —

(a) **[**F283on an application**]** by the governing body with the agreement of the **[**F8local authority**]**,

(b) **[**F284on an application**]** by the **[**F8local authority**]** with the agreement of the governing body, or

(c) **[**F285on a proposal by the **[**F286Welsh Ministers**]** with**]** the agreement of both the **[**F8local authority**]** and the governing body.

(4) In the case of a foundation **[**F287or voluntary aided**]** school, a direction shall not be given under subsection (1) except on an application by the governing body or F288... with the agreement of the governing body.

(5) The **[**F289Welsh Ministers**]** may make it a condition of a direction under subsection (1) that any person by whom or with whose agreement the request for the direction

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was made should, when so directed or at specified intervals, report to **[**F290the Welsh Ministers**]** on any matters **[**F291specified by them**]**.

(6) The **[**F292Welsh Ministers**]** may by a direction under this subsection vary or revoke a direction under subsection (1).

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F281 Words in s. 111(1) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

F282 Words in s. 111(3) omitted (1.4.2006) by virtue of The Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), **Sch. 1 para. 32(a)(i)** (with art. 7)

F283 Words in s. 111(3)(a) inserted (1.4.2006) by The Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), **Sch. 1 para. 32(a)(ii)** (with art. 7)

F284 Words in s. 111(3)(b) inserted (1.4.2006) by The Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), **Sch. 1 para. 32(a)(ii)** (with art. 7)

F285 Words in s. 111(3)(c) substituted (1.4.2006) by The Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), **Sch. 1 para. 32(a)(iii)** (with art. 7)

F286 Words in s. 111(3) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

F287 Words in s. 111(4) substituted (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(5)**; S.I. 2013/1800, art. 3(j)

F288 Words in s. 111(4) omitted (1.4.2006) by virtue of The Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), **Sch. 1 para. 32(b)** (with art. 7)

F289 Words in s. 111(5) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

F290 Words in s. 111(5) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 16**; S.I. 2009/3174, art. 2(1)(r)

F291 Words in s. 111(5) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 17**; S.I. 2009/3174, art. 2(1)(r)

F292 Words in s. 111(6) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

Modifications etc. (not altering text)

C83 S. 111(1) modified (W.) (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 5(1)(2)**

C84 S. 111(3) modified (W.) (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 5(1)(2)**

112 Exceptions by regulations

Regulations may provide that the National Curriculum for Wales, or such of the provisions of the National Curriculum for Wales as may be specified in the regulations—

(a) shall not apply, or

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(b) shall apply with such modifications as may be specified in the regulations,

in such cases or circumstances as may be specified in the regulations.

113 Pupils with statements of special educational needs

The special educational provision for any pupil specified in a statement under section 324 of the Education Act 1996 (c. 56) of his special educational needs may include provision—

(a) excluding the application of the National Curriculum for Wales, or

(b) applying the National Curriculum for Wales with such modifications as may be specified in the statement.

114 Temporary exceptions for individual pupils

(1) Regulations may enable the head teacher of a maintained school or maintained nursery school, in such cases or circumstances and subject to such conditions as may be prescribed, to direct in respect of a registered pupil at the school that, for such period as may be specified in the direction (the "operative period" of the direction), the National Curriculum for Wales—

(a) shall not apply, or

(b) shall apply with such modifications as may be specified in the direction.

(2) The conditions prescribed by the regulations shall, in particular, limit the operative period that may be specified in a direction to a maximum period specified in the regulations.

(3) Any maximum period specified (whether in relation to directions given under the regulations or in relation to directions given under the regulations in circumstances specified in the regulations) shall be either—

(a) a fixed period not exceeding six months, or

(b) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning.

(4) Any maximum period so specified may, without prejudice to the generality of section 210(7) (which provides that regulations under this Act may make different provision for different cases or circumstances etc.), differ according to whether or not the direction in question is given in respect of a period beginning—

(a) immediately after the end of the operative period of a previous direction, or

(b) within such period after the end of the operative period of a previous direction as may be specified in the regulations.

(5) The regulations may enable the head teacher of a maintained school or maintained nursery school, in such cases or circumstances and subject to such conditions as may be prescribed—

(a) to revoke any direction given by him under the regulations, and

(b) to vary such a direction, except so as to extend its operative period.

(6) Before making any regulations under this section, the **[**[F293]Welsh Ministers**]** shall consult with any persons with whom consultation **[**[F294]appears to them**]** to be desirable.

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Textual Amendments

F293 Words in s. 114(6) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

F294 Words in s. 114(6) substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 18**; S.I. 2009/3174, art. 2(1)(r)

Modifications etc. (not altering text)

C85 S. 114(1)(5) modified (W.) (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 5(1)(2)**

115 Information concerning directions under section 114

(1) Where a head teacher gives or varies a direction under regulations made under section 114, he shall, in such manner as may be prescribed, give the information mentioned in subsection (2)—

(a) to the governing body, and

(b) to the **[**F8local authority**]** by whom the school is maintained,

and shall take such steps as may be prescribed to give that information also to a parent of the pupil concerned.

(2) That information is—

(a) the fact that he has taken the action in question, its effect and his reasons for taking it,

(b) the provision that is being or is to be made for the pupil's education during the operative period of the direction, and

(c) either a description of the manner in which he proposes to secure the full implementation of the National Curriculum for Wales in relation to the pupil after the end of that period, or an indication that he has the opinion mentioned in subsection (3).

(3) That opinion is that the pupil has or probably has special educational needs by virtue of which the responsible authority would be required to determine the special educational provision that should be made for him (whether initially or on a review of any statement of his special educational needs which the authority are for the time being required under section 324 of the Education Act 1996 (c. 56) to maintain).

(4) Where—

(a) the head teacher of a maintained school or maintained nursery school includes an indication of any such opinion in information given under subsection (1), and

(b) the **[**F8local authority**]** by whom the school is maintained are not the responsible authority in relation to the pupil in question,

the head teacher shall also give that information, in such manner as may be prescribed, to the responsible authority.

(5) Where the responsible authority receive information given to them under subsection (1) or (4) which includes an indication that the head teacher has the opinion mentioned in subsection (3), they shall consider whether any action on their part is required in the case of the pupil concerned under section 323 of the Education Act 1996 (c. 56) (assessment of special educational needs).

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(6) In this section "the responsible authority", in relation to a pupil, means the **[**F8local authority**]** responsible for him for the purposes of Part 4 of the Education Act 1996.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Modifications etc. (not altering text)

C86 S. 115(4)(a) modified (W.) (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 5(1)(2)**

116 Appeals against directions under section 114 etc.

(1) Where a head teacher—

(a) gives, revokes or varies a direction under regulations made under section 114,

(b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed by the regulations, by the parent of a registered pupil at the school, or

(c) following the making of such a request, fails within such period as may be prescribed by the regulations to give, revoke or vary such a direction in accordance with the request,

the parent of the pupil concerned may appeal to the governing body.

(2) On such an appeal, the governing body may—

(a) confirm the head teacher's action, or

(b) direct the head teacher to take such action authorised by the regulations as they consider appropriate in the circumstances.

(3) The head teacher shall comply with any directions of the governing body given under subsection (2)(b).

(4) The governing body shall notify the appellant and the head teacher in writing of their decision on such an appeal.

[F295 The local curricula

Textual Amendments

F295 S. 116A and cross-heading inserted (7.12.2009 for specified purposes, 1.1.2010 in so far as not already in force) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 4**, 49(2); S.I. 2009/3174, art. 2(1)(b)(2)(c)

116A Formation of local curricula for pupils in Key Stage 4

(1) Each **[**F8local authority**]** in Wales must form for its area one or more local curricula for pupils in the fourth key stage.

(2) A local curriculum must consist of suitable courses of study each of which—

(a) falls within a category in subsection (3) (the "learning domains"); and

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(b) is from time to time selected by a **[**F8local authority**]** to form part of that local curriculum.

(3) The learning domains are—

(a) mathematics, science and technology;
(b) business, administration and law;
(c) services for people;
(d) arts, media, culture and languages;
(e) humanities, social sciences and preparation for life and work.

(4) Subject to any regulations made under subsection (5), a **[**F8local authority**]** may form a local curriculum as it sees fit.

(5) Regulations may make provision as to the formation of a local curriculum, including in particular provision—

(a) requiring a minimum number of courses of study to be included within—
(i) a local curriculum; or
(ii) a particular learning domain of a local curriculum;
(b) specifying—
(i) a minimum proportion of vocational courses of study (as compared with other courses of study) that must be included within a local curriculum; or
(ii) a minimum number of vocational courses of study that must be included within a local curriculum;
(c) preventing during a specified period any alteration to the contents of a local curriculum.

(6) For the purposes of this section—

(a) a course of study is suitable if it is designated as suitable for inclusion in local curricula by direction given by the Welsh Ministers;
(b) a vocational course of study is a course of study designated as such by direction given by the Welsh Ministers;
(c) a course of study falls within a particular learning domain if a direction of the Welsh Ministers so provides.

(7) Regulations under subsection (5) may make different provision in relation to local curricula formed by different **[**F47local authorities**].]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

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C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

[F296 116B Local curricula: Welsh language

(1) Each **[**F8 local authority**]** must exercise their functions in relation to local curricula so as to promote access to and availability of courses of study which are taught through the medium of the Welsh language.

(2) In the discharge of its duty under subsection (1), a **[**F8 local authority**]** must have regard to any guidance given by the Welsh Ministers.

(3) Guidance under subsection (2) may be given to a particular authority, or to authorities of a particular class or to authorities generally.

(4) Within two months of the end of each academic year, a **[**F8 local authority**]** must, in accordance with any instructions given by the Welsh Ministers, provide the Welsh Ministers with a report which—

(a) describes the courses of study included within local curricula established by the authority for that academic year which were to be taught through the medium of Welsh;

(b) describes how many pupils elected to follow such courses under section 116D and how many pupils were entitled to follow such courses under section 116E;

(c) explains what the authority plans to do in academic years following that to which the report relates so that registered pupils of schools maintained by the authority are given the opportunity to follow local curricula courses of study which are taught through the medium of Welsh.

(5) For the purposes of subsection (4), "academic year" means the period of 12 months beginning on 1 September.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F296 S. 116B inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 5**, 49(2); S.I. 2009/3174, art. 2(2)(d) (with art. 3)

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

[F297 116C Authorities with more than one local curriculum

(1) This section applies where a **[**F8 local authority**]** forms more than one local curriculum under section 116A.

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(2) In relation to each local curriculum, the **[**[F8]local authority**]** must designate the maintained secondary schools whose registered pupils are to be entitled to elect under section 116D to follow courses of study included within the curriculum.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F297 S. 116C inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 6**, 49(2); S.I. 2009/3174, art. 2(2)(e)

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

[[F298]116D Pupils' choices of local curriculum courses

(1) A registered pupil of a maintained secondary school has the right to elect to follow, during the fourth key stage, a course or courses of study included within the local curriculum for the pupil's school. But this is subject to regulations made under subsection (2).

(2) Regulations may make provision as to the making of elections under this section, including in particular provision—

(a) specifying the maximum number of courses of study of a particular type that a pupil has the right to elect to follow;

(b) identifying points to be allotted to courses of study and preventing a pupil from having the right to elect to follow a combination of courses of study if their aggregate points exceed a specified amount;

(c) as to the period during which elections are to be made.**]**

Textual Amendments

F298 S. 116D inserted (7.12.2009 for specified purposes, 1.1.2010 in so far as not already in force) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 7**, 49(2); S.I. 2009/3174, art. 2(1)(c)(2)(f)

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

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[F299 116E Pupils' local curriculum entitlements

(1) During the fourth key stage, a pupil who has made an election under section 116D(1) is entitled to follow the elected course of study unless—

(a) the pupil ceases to be a registered pupil of the school at which he or she was registered when he or she elected under section 116D(1) to follow the course of study; or

(b) before the beginning of the fourth key stage, the head teacher of the pupil's school has decided under section 116F that the pupil is not entitled to follow the course of study.

(2) Where a pupil is entitled to follow a course of study, it is for the head teacher of the pupil's school to decide upon which date during the fourth key stage the course is to begin.**]**

Textual Amendments

F299 S. 116E inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 8**, 49(2); S.I. 2009/3174, art. 2(2)(g)

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

[F300 116F Head teacher's decision as to entitlement

(1) If the head teacher of a pupil's school is satisfied that any of the grounds in subsection (2) apply, the head teacher may decide that the pupil is not entitled to follow a course of study which the pupil has elected to follow under section 116D(1).

(2) The grounds referred to in subsection (1) are that—

(a) as a result of the pupil's level of educational attainment, the course of study is not suitable for him or her;

(b) as a result of other elections made by the pupil under section 116D(1), it is not reasonably practicable for him or her to follow the course of study;

(c) the amount of time likely to be spent travelling to the place at which the course of study is likely to be delivered would be detrimental to the pupil's education;

(d) disproportionate expenditure would be incurred if the pupil were to follow the course of study;

(e) the pupil's or another person's health or safety would be placed unacceptably at risk if the pupil were to follow the course of study.

(3) Regulations may make provision connected with the making of decisions under subsection (1), including in particular provision—

(a) as to the time or date by which decisions are to be made;

(b) as to the procedure to be followed in connection with the making of decisions;

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(c) for appeals against decisions to be made to the governing body of a pupil's school or another person specified in the regulations;

(d) as to the time or date by which appeals are to be determined;

(e) as to the procedure to be followed in connection with the determination of an appeal.

(4) A head teacher and governing body or other person charged with determining appeals under regulations made under subsection (3) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under this section.

(5) The Welsh Ministers may by order—

(a) amend or omit any paragraph of subsection (2);

(b) add additional paragraphs to that subsection;

(c) amend or omit such additional paragraphs.**]**

Textual Amendments

F300 S. 116F inserted (7.12.2009 for specified purposes, 1.1.2010 in so far as not already in force) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 9**, 49(2); S.I. 2009/3174, art. 2(1)(d)(2)(h)

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

[F301**116G Delivery of local curriculum entitlements**

Where a pupil is entitled to follow a course of study under section 116E(1), the governing body of the pupil's school must ensure that during the fourth key stage the course is made available to the pupil by or on behalf of the governing body.**]**

Textual Amendments

F301 S. 116G inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 10**, 49(2); S.I. 2009/3174, art. 2(2)(i)

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

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[F302 116H Head teacher's decision to remove entitlement

(1) If the head teacher of a pupil's school is satisfied that any of the grounds in subsection (2) apply, the head teacher may decide that a pupil is no longer entitled to follow a course of study that the pupil was entitled to follow under section 116E.

(2) The grounds referred to in subsection (1) are that—

(a) the pupil's or another person's health or safety would be placed unacceptably at risk if the pupil were to continue to follow the course of study;

(b) disproportionate expenditure would be incurred if the pupil were to continue to follow the course of study.

(3) Regulations may make provision connected with the making of decisions under subsection (1) including in particular provision—

(a) as to the procedure to be followed in connection with the making of decisions;

(b) for appeals against decisions to be made to the governing body of a pupil's school or another person specified in the regulations;

(c) as to the effect of a decision pending determination of an appeal;

(d) as to the procedure to be followed in connection with the determination of an appeal.

(4) A head teacher and governing body or other person charged with determining appeals under regulations made under subsection (3) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under this section.

(5) The Welsh Ministers may by order—

(a) amend or omit any paragraph of subsection (2);

(b) add additional paragraphs to that subsection;

(c) amend or omit such additional paragraphs.**]**

Textual Amendments

F302 S. 116H inserted (7.12.2009 for specified purposes, 1.1.2010 in so far as not already in force) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 11**, 49(2); S.I. 2009/3174, art. 2(1)(e)(2)(j)

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

[F303 116I Planning the local curriculum

(1) The following persons must assist a **[**F8local authority**]** in planning the local curriculum or curricula for its area—

(a) the governing body and head teacher of any maintained secondary school maintained by the authority;

(b) the governing body and principal or other head of an institution within the further education sector in the authority's area.

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(2) In subsection (1), "planning the local curriculum or curricula" means the process by which a **[**F8local authority**]** decides under section 116A which courses of study to include in the local curriculum or curricula for its area.

[F304(3) The persons mentioned in paragraphs (a) and (b) of subsection (1) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under that subsection.

(4) The persons mentioned in paragraph (a) of subsection (1) must comply with any direction given by the Welsh Ministers as to the exercise of their functions under that subsection.**]]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F303 S. 116I inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 12**, 49(2); S.I. 2009/3174, art. 2(1)(f)

F304 S. 116I(3)(4) substituted for s. 116I(3) (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 6(3)**, 11(2); S.I. 2014/1706, art. 3(f)

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

[F305116J Delivery of local curriculum entitlements: joint-working

(1) The objective of this section is to maximise the availability of courses of study included in a local curriculum formed under section 116A.

(2) In relation to the local curriculum or curricula for the area of a **[**F8local authority**]**, the persons mentioned in subsection (4) must take all reasonable steps in order to achieve the objective of this section.

(3) The duty under subsection (2) includes, but is not limited to, a duty to seek to enter into cooperation arrangements where, having considered whether it would further the objective of this section to do so, the persons mentioned in subsection (4) have concluded that entering into such arrangements would further that objective.

(4) The persons are—

(a) the **[**F8local authority**]**;

(b) the governing body of a secondary school maintained by the authority; and

(c) the governing body of an institution within the further education sector which is situated within the area of the authority.

(5) In this section and section 116K "co-operation arrangements" means—

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(a) arrangements under which any person provides, on behalf of the governing body of a maintained secondary school, a course of study included within the relevant local curriculum for the school;

[F306(aa) arrangements made in exercise of the powers of collaboration described in section 4 of the Education (Wales) Measure 2011.**]**

F307(b) . . . . . .

F307(c) . . . . . .

(6) For the purposes of this section, in relation to a maintained secondary school, "relevant local curriculum" means—

(a) where the **[**F8local authority**]** by which the school is maintained has formed a single local curriculum for its area, that curriculum; or

(b) where the **[**F8local authority**]** by which the school is maintained has formed more than one local curriculum for its area, the curriculum in respect of which the school is designated under section 116C(2).**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F305 S. 116J inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 13**, 49(2); S.I. 2009/3174, art. 2(1)(g)

F306 S. 116J(5)(aa) inserted (16.11.2012) by Education (Wales) Measure 2011 (nawm 7), **ss. 9(3)(b)(i)**, 33(2); S.I. 2012/2656, art. 2

F307 S. 116J(5)(b)(c) omitted (16.11.2012) by virtue of Education (Wales) Measure 2011 (nawm 7), **ss. 9(3)(b)(ii)**, 33(2); S.I. 2012/2656, art. 2

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

[F308**116K Joint-working: guidance and directions**

(1) A **[**F8local authority**]**, a governing body of a maintained secondary school and the governing body of an institution within the further education sector in Wales must have regard to any guidance given from time to time by the Welsh Ministers as to the discharge of their duties under section 116J.

(2) Guidance given under subsection (1) may relate to the content of co-operation arrangements.

(3) **[**F309A local authority and a governing body of a maintained secondary school**]** must comply with any direction given by the Welsh Ministers as to the entering into of co-operation arrangements.

(4) A direction under subsection (3)—

(a) may require persons to enter into specified arrangements;

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(b) may specify the terms upon which arrangements are to be entered into (whether generally or in respect of specified arrangements);

(c) in the case of a direction to enter into specified arrangements with a person who is not mentioned in subsection (1), must not be given unless that person consents to the direction.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F308 S. 116K inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 14**, 49(2); S.I. 2009/3174, art. 2(1)(h)

F309 Words in s. 116K(3) substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 6(4)**, 11(2); S.I. 2014/1706, art. 3(f)

Modifications etc. (not altering text)

C87 Ss. 116A-116K: power to disapply conferred (temp.) by 2020 c. 7, Sch. 17 para. 7(5)(ec) (with ss. 88-90) (as inserted (23.6.2020) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), **2(b)**)

C88 Ss. 116A-116K: power to modify conferred (temp.) by 2020 c. 7, Sch. 17 para. 7 (as amended (26.8.2020) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), **2(4)**)

[F310 116L Power to amend learning domains

The Welsh Ministers may by order—

(a) amend or omit any paragraph of subsection (3) of section 116A;

(b) add additional paragraphs to that subsection;

(c) amend or omit such additional paragraphs.**]**

Textual Amendments

F310 S. 116L inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 15**, 49(2); S.I. 2009/3174, art. 2(2)(k)

[F311 116M Application of local curriculum provisions to children who are not registered pupils

(1) Regulations may apply the provisions of sections 116A to 116K and the provisions of any regulations made under section 46 of the Learning and Skills (Wales) Measure 2009 in respect of a person falling within subsection (3).

(2) The regulations may apply those provisions with such modifications as appear to the Welsh Ministers to be necessary or expedient.

(3) A person falls within this subsection if he or she—

(a) is of compulsory school age;

(b) is not a registered pupil of a maintained school; and

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(c) receives all, or the majority of, his or her education at, or under arrangements made by the governing body of, an institution within the further education sector in Wales.**]**

Textual Amendments

F311 S. 116M inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 16**, 49(2); S.I. 2009/3174, art. 2(2)(l)

[F312 116N Application of local curriculum provisions to children who are registered pupils of special schools

(1) Regulations may apply the provisions of sections 116A to 116K and the provisions of any regulations made under section 46 of the Learning and Skills (Wales) Measure 2009 in respect of a person falling within subsection (3).

(2) The regulations may apply those provisions with such modifications as appear to the Welsh Ministers to be necessary or expedient.

(3) A person falls within this subsection if he or she—

(a) is of compulsory school age; and

(b) is a registered pupil of a community F313... special school which is maintained by a **[**F8local authority**]** in Wales and is not established in a hospital.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F312 S. 116N inserted (1.1.2010) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 17**, 49(2); S.I. 2009/3174, art. 2(2)(m)

F313 Words in s. 116N(3)(b) omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(6)**; S.I. 2013/1800, art. 3(j)

[F314 116O Local curriculum: directions

Any direction given by the Welsh Ministers under sections 116A(6), 116I(3) and 116K(3) may be varied or revoked by a further direction.**]**

Textual Amendments

F314 S. 116O inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 18**, 49(2); S.I. 2009/3174, art. 2(1)(i)

Supplementary provisions

117 Procedure for making certain orders and regulations

Where **[**F315the Welsh Ministers propose**]** to make—

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(a) an order under section 103(4), 105(6), 108(2)(a) or (b)(i) or (ii) or (3)(a) or (b), or

(b) regulations under section 112,

[[F316]the Welsh Ministers**]** shall make such arrangements for consultation about the proposals as **[**[F317]the Welsh Ministers consider**]** appropriate.

Textual Amendments

F315 Words in s. 117 substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 19(a)**; S.I. 2009/3174, art. 2(1)(r)

F316 Words in s. 117 substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 19(b)**; S.I. 2009/3174, art. 2(1)(r)

F317 Words in s. 117 substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 19(c)**; S.I. 2009/3174, art. 2(1)(r)

118 Programmes of research etc in relation to Wales

The **[**[F318]Welsh Ministers**]** may incur expenses in connection with the commissioning by **[**[F319]the Welsh Ministers**]** of such work, including programmes of research, development and dissemination, as **[**[F320]they may require**]** to be carried out for the purpose of facilitating the discharge of any of **[**[F321]the Welsh Ministers'**]** functions under sections 102 to 108.

Textual Amendments

F318 Words in s. 118 substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), Sch. paras. 12, **13**; S.I. 2009/3174, art. 2(1)(r)

F319 Words in s. 118 substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 16**; S.I. 2009/3174, art. 2(1)(r)

F320 Words in s. 118 substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 20(a)**; S.I. 2009/3174, art. 2(1)(r)

F321 Words in s. 118 substituted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), s. 49(2), **Sch. para. 20(b)**; S.I. 2009/3174, art. 2(1)(r)

PART 8

TEACHERS

Teachers' pay and conditions

119 School Teachers' Review Body

(1) The body established under section 1 of the School Teachers' Pay and Conditions Act 1991 (c. 49) (review body)—

(a) shall continue to exist, and

(b) shall be known as the School Teachers' Review Body.

(2) The Prime Minister shall appoint the chairman of the Review Body.

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(3) The Secretary of State shall appoint other members of the Review Body.

(4) Schedule 11 (which makes provision about the Review Body) shall have effect.

120 Review Body: function

(1) The School Teachers' Review Body shall consider any matter which is referred to them by the Secretary of State and which relates to—

(a) the remuneration of school teachers, or

(b) other conditions of employment of school teachers which relate to their professional duties or working time.

(2) In subsection (1) "school teacher" means a person who is a school teacher for the purposes of the Secretary of State's power under section 122 to make orders about remuneration and other conditions of employment.

(3) Following consideration of a matter under subsection (1) the Review Body shall report to the Prime Minister and the Secretary of State in accordance with any direction of the Secretary of State about—

(a) a consideration to which they are to have particular regard,

(b) matter on which they are to make a recommendation, or

(c) the time within which they are to report.

(4) Where the Prime Minister and the Secretary of State receive a report under subsection (3) they shall arrange for it to be published.

(5) A direction under subsection (3) may be varied or revoked.

Commencement Information

I159 S. 120 partly in force; s. 120 not in force at Royal Assent, see s. 216; s. 120(1)(3)-(5) in force at 1.10.2002 by S.I. 2002/2439, **art. 2** (with transitional provisions and savings in Sch.)

I160 S. 120(2) in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

121 Consultation by Review Body

(1) Before reporting on a matter referred to them under section 120(1) the School Teachers' Review Body shall—

(a) notify each relevant body,

(b) give each relevant body an opportunity to submit evidence and make representations, and

(c) give the Secretary of State an opportunity to submit evidence and make representations.

(2) In relation to a matter referred to the Review Body "relevant body" means such of the following as appear to the Review Body to be appropriate to consult about the matter—

(a) associations of **[**F47local authorities**]**,

(b) **[**F47local authorities**]**,

(c) bodies representing the interests of governing bodies of schools, and

(d) bodies representing the interests of teachers.

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(3) The Review Body may—

(a) determine the manner in which each relevant body is permitted to submit evidence or make representations, and

(b) may make different determinations in respect of different relevant bodies.

Textual Amendments

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

122 Power to prescribe pay and conditions

(1) The Secretary of State may by order make provision for the determination of—

(a) the remuneration of school teachers;

(b) other conditions of employment of school teachers which relate to their professional duties or working time.

(2) Where an order under this section applies to a school teacher—

(a) his remuneration shall be determined and paid in accordance with any provision of the order which applies to him,

(b) a provision of the order which relates to a condition of employment other than remuneration and which applies to him shall have effect as a term of his contract of employment, and

(c) a term of that contract shall have no effect in so far as it makes provision which is prohibited by the order or which is otherwise inconsistent with a provision of the order.

(3) A person is a school teacher for the purposes of this section if—

(a) he is a qualified teacher,

(b) he provides primary or secondary education under a contract of employment or for services,

(c) the other party to the contract is a **[**[F8]local authority**]** or the governing body of a foundation, voluntary aided or foundation special school, and

(d) the contract requires him to carry out work of a kind which is specified by regulations under section 133(1).

(4) A person is also a school teacher for the purposes of this section if he serves as the head teacher of a school maintained by a **[**[F8]local authority**]**.

(5) A person is also a school teacher for the purposes of this section if his case satisfies paragraphs (b), (c) and (d) of subsection (3) and—

(a) he possesses a prescribed qualification,

(b) he provides education of a prescribed kind or in prescribed circumstances (or both),

(c) he is undertaking training of a prescribed kind, or obtaining experience of a prescribed kind, with a view to becoming a qualified teacher,

(d) he is within a prescribed class of persons awaiting assessment for the purpose of becoming a qualified teacher, or

(e) he is within a prescribed class of persons awaiting the award of a qualification.

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(6) A person providing education in an establishment maintained by a local authority in the exercise of a social services function is not a school teacher for the purposes of this section.

(7) In the application of subsection (2)—

(a) it is immaterial whether someone other than the party mentioned in subsection (3)(c) provides or is responsible for providing all or part of a teacher's remuneration,

(b) it is immaterial whether someone other than the party mentioned in subsection (3)(c) is treated wholly or partly as a teacher's employer for some or all purposes by virtue of an enactment, and

(c) in relation to a person who provides education under a contract for services, a reference to his contract of employment is a reference to the contract for services.

(8) In this section "prescribed" means prescribed by an order under this section.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Modifications etc. (not altering text)

C89 Ss. 122-124: functions transferred (30.9.2018) by The Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644), arts. 1(2), **39(3)**

C90 S. 122(1) excluded (3.9.2018) by The School Teachers Incentive Payments (England) Order 2018 (S.I. 2018/933), arts. 1(1), **2**

C91 S. 122(3)(d) excluded (W.) (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 6(2)**

Commencement Information

I161 S. 122 in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

123 Order under section 122: scope

(1) An order under section 122 may, in particular—

(a) confer discretion on a **[**F8local authority**]** or a governing body;

(b) confer a function (which may include the administration of a test or assessment, the exercise of a discretion or the exercise of a supervisory or appellate jurisdiction) on the Secretary of State or on a specified person who has agreed with the Secretary of State to perform that function;

(c) require a discretion or function conferred under paragraph (a) or (b) to be exercised having regard to guidance given by the Secretary of State or another specified person;

(d) make provision for the determination of a teacher's remuneration by reference to any matter including, in particular, his qualifications, experience, duties, aptitude or previous salary;

(e) make provision for a right of appeal specified by or determined in accordance with the order;

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(f) limit the aggregate amount of an allowance, or of a number of allowances, payable to teachers in a school;

(g) set a lower or upper limit on the number or proportion of teachers in a school who are paid on a specified scale;

(h) set a lower or upper limit on the number or proportion of teachers in a school who are paid a specified allowance;

(i) provide for special provisions to apply in relation to a description of school specified by or determined in accordance with the order;

(j) provide for the determination of a question of the interpretation or application of a provision of the order.

(2) Provision under subsection (1)(e) or (j) may—

(a) confer jurisdiction on a court, tribunal, person or body;

(b) provide for a matter to be settled by agreement between, or in a manner agreed between, teachers and **[**[F47]local authorities**]** or teachers and governing bodies.

(3) An order under section 122 may make retrospective provision, but not so as to—

(a) reduce remuneration in respect of a period wholly or partly before the making of the order, or

(b) alter a condition of employment to the detriment of a teacher in respect of a period wholly or partly before the making of the order.

(4) The Secretary of State may by order provide—

(a) that a payment or entitlement of a specified kind is or is not to be treated as remuneration for the purpose of section 122(1);

(b) that a specified matter is or is not to be treated for that purpose as relating to the professional duties of school teachers;

(c) that a specified matter is or is not to be treated for that purpose as relating to the working time of school teachers.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Modifications etc. (not altering text)

C89 Ss. 122-124: functions transferred (30.9.2018) by The Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644), arts. 1(2), **39(3)**

Commencement Information

I162 S. 123 in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

124 Order under section 122: supplemental

(1) An order under section 122 may—

(a) make provision which applies generally or only in a specified case or in specified circumstances;

(b) make different provision for different cases or circumstances;

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(c) make transitional provision.

(2) An order under section 122 may make provision by reference to the exercise of another power under this Act.

(3) An order under section 122 may make provision by reference to a document; and—

(a) an order which makes provision by reference to a document must include provision about publication of the document, and

(b) a reference in this section to an order includes a reference to a document referred to by an order.

Modifications etc. (not altering text)

C89 Ss. 122-124: functions transferred (30.9.2018) by The Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644), arts. 1(2), **39(3)**

Commencement Information

I163 S. 124 in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

125 Reference to Review Body

(1) An order under section 122 may make provision about a matter only if the Secretary of State has—

(a) referred the matter to the School Teachers' Review Body under section 120, and

(b) considered their report.

(2) But subsection (1) shall not apply—

(a) to subsidiary provision, or

(b) in a case where the Secretary of State has consulted the chairman of the Review Body about disapplying that subsection.

(3) Provision is subsidiary for the purpose of subsection (2)(a) if the Secretary of State thinks that it—

(a) concerns only the criteria for entry into or exit from a particular class of teachers for purposes of remuneration,

(b) concerns only the criteria for moving from one scale of remuneration to another,

(c) concerns only the implementation or application of a system or principle on which the Review Body has reported,

(d) prescribes a matter for the purpose of section 122(5),

(e) is made under section 123(4), or

(f) is minor, consequential, temporary, transitional or designed to resolve an anomaly.

(4) The Secretary of State may by order provide that provision of a specified kind (which may be described wholly or partly by reference to an opinion of the Secretary of State or another person)—

(a) shall be subsidiary for the purpose of subsection (2)(a), or

(b) shall cease to be subsidiary for that purpose.

Status: *This version of this Act contains provisions that are prospective.*
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(5) An order under subsection (4) may amend subsection (3).

Modifications etc. (not altering text)

C92 S. 125 excluded (30.9.2018) by The Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644), arts. 1(2), **39(4)**

Commencement Information

I164 S. 125 in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

126 Consultation by Secretary of State

The Secretary of State may not make an order under section 122 or 125(4)(a) unless he has consulted such of the following as appear to him to be appropriate to consult having regard to the content of the order—

(a) associations of **[**F47local authorities**]**,

(b) **[**F47local authorities**]**,

(c) bodies representing the interests of governing bodies of schools, and

(d) bodies representing the interests of teachers.

Textual Amendments

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Modifications etc. (not altering text)

C93 S. 126: functions transferred (30.9.2018) by The Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644), arts. 1(2), **39(3)**

Commencement Information

I165 S. 126 in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

127 Guidance

(1) The Secretary of State may issue guidance about the procedure to be followed in applying provision of an order under section 122.

(2) The following shall have regard to guidance under subsection (1)—

(a) a **[**F8local authority**]**, and

(b) the governing body of a school.

(3) Where an employer fails to follow guidance under subsection (1)—

(a) the failure shall not give rise to civil liability, but

(b) a court or tribunal may take the failure into account in any proceedings.

(4) The Secretary of State may not issue guidance under subsection (1) unless he has consulted such of the following as appear to him to be appropriate to consult having regard to the nature of the guidance—

(a) associations of **[**F47local authorities**]**,

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(b) **[**[F47]local authorities**]**,
(c) bodies representing the interests of governing bodies of schools, and
(d) bodies representing the interests of teachers.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Modifications etc. (not altering text)

C94 S. 127: functions transferred (30.9.2018) by The Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644), arts. 1(2), **39(3)**

Commencement Information

I166 S. 127 in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

128 Education action zone

(1) This section applies to a school which forms part of an education action zone for the purposes of Chapter 3 of Part 1 of the School Standards and Framework Act 1998 (c. 31).

(2) On the application of the governing body of a school, the Secretary of State may by order provide that section 122(2) shall not apply to any school teacher at the school.

(3) Where an order under subsection (2) is in force in respect of a school—
(a) the governing body shall determine the remuneration and other conditions of employment of each school teacher at the school,
(b) the **[**[F8]local authority**]** shall do anything necessary to give effect to the governing body's determination, and
(c) pending a determination under paragraph (a), the terms on which a school teacher works at the school shall remain unchanged (irrespective of any new order under section 122).

(4) A governing body may not make an application under subsection (2) unless they have consulted each school teacher at the school.

(5) An application under subsection (2) must specify a date for commencement of the order sought; and—
(a) the date specified must not precede the expiry of the period of three months beginning with the date on which the application is made, and
(b) an order made on the application must provide that it comes into force on the date specified in the application or on a later date which is agreed between the Secretary of State and the governing body and which is specified in the order.

(6) The Secretary of State may make regulations about the application of section 122(2) where an order under subsection (2) above—
(a) is revoked, or
(b) lapses (in whole or in part) because one or more schools to which the order relates cease to form part of an education action zone.

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(7) In this section "school teacher" has the same meaning as in section 122.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I167 S. 128 in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

129 Transfer of employment

(1) Section 122(2) shall not apply to a person if—

(a) a maintained school is established in place of an independent school in pursuance of proposals published under **[**F322the relevant school organisation provisions (as defined by subsection (6))**]**, and

(b) the person becomes a school teacher in the maintained school in accordance with the **[**F323Transfer of Undertakings (Protection of Employment) Regulations 2006**]**.

(2) But if the school teacher gives a notice in writing under this subsection to his new employer, section 122(2) shall apply to him in respect of the period beginning with—

(a) a date specified in the notice,

(b) if no date is specified under paragraph (a), a date agreed between the teacher and the new employer, or

(c) if no date is specified under paragraph (a) or agreed under paragraph (b), the date on which the employer receives the notice.

(3) Where the governing body of a foundation, voluntary aided or foundation special school receive a notice under subsection (2), they shall inform the **[**F8local authority**]**.

(4) In this section "school teacher" has the same meaning as in section 122.

(5) In subsection (1) "maintained school" means—

(a) a community school,

(b) a foundation school,

(c) a voluntary school,

(d) a community special school,

(e) a foundation special school, or

(f) a maintained nursery school.

[F324(6) In subsection (1)(a) "the relevant school organisation provisions" means—

(a) in relation to England, section 28, 28A or 31 of the School Standards and Framework Act 1998, section 66 of the Education Act 2005 or section 7 or 11 of the Education and Inspections Act 2006, and

(b) in relation to Wales, section 28 or 31 of the School Standards and Framework Act 1998 **[**F325or Part 3 of the School Standards and Organisation (Wales) Act 2013**]**.**]**

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Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F322 Words in s. 129(1)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 47(2)**; S.I. 2007/935, art. 7(o)

F323 Words in s. 129(1)(b) substituted (with application in accordance with reg. 21(1) of the amending S.I.) by The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), reg. 1(2), **Sch. 2 para. 1(h)**

F324 S. 129(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 47(3)**; S.I. 2007/935, art. 7(o)

F325 Words in s. 129(6)(b) inserted (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(7)**; S.I. 2013/1800, art. 3(j)

Commencement Information

I168 S. 129 in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

130 Repeal of School Teachers' Pay and Conditions Act 1991

The School Teachers' Pay and Conditions Act 1991 (c. 49) shall cease to have effect.

Commencement Information

I169 S. 130 partly in force; s. 130 not in force at Royal Assent, see s. 216; s. 130 in force for certain purposes at 1.10.2002 by S.I. 2002/2439, **art. 2** (with transitional provisions and savings in Sch.); Act repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 130, 216(2), Sch. 22 Pt. 1; S.I. 2002/2439, **art. 2**

I170 S. 130 in force at 1.8.2003 in so far as not already in force by S.I. 2003/1667, **art. 2**

School teachers' appraisal

131 Appraisal

(1) Regulations may require the appraisal of the performance of teachers—

(a) in a manner specified by the regulations, and

(b) at times specified by or determined in accordance with the regulations.

(2) The regulations may impose a duty on—

(a) a **[**F8local authority**]**;

(b) the governing body of a school or institution;

(c) the head teacher of a school or the principal of an institution.

(3) The regulations may—

(a) require or permit an appraisal to be carried out in a manner which confers a discretion on a person specified by or chosen or determined in accordance with the regulations;

(b) permit a person on whom a duty is imposed under subsection (2) to delegate that duty in whole or in part.

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(4) The regulations may require or permit a person listed in subsection (2) to have regard to the results of an appraisal in the performance of a function specified by the regulations.

(5) The results of an appraisal may be used in determining a teacher's remuneration.

(6) Before making regulations under this section the Secretary of State shall consult such of the following as appear to him to be appropriate—

(a) associations of **[**F47local authorities**]** in England,

(b) **[**F47local authorities**]** in England,

(c) bodies representing the interests of governing bodies in England,

(d) bodies representing the interests of teachers in England, F326...

F326(e) . . . . . .

(7) Before making regulations under this section the National Assembly for Wales shall consult such of the following as appear to it to be appropriate—

(a) associations of **[**F47local authorities**]** in Wales,

(b) **[**F47local authorities**]** in Wales,

(c) bodies representing the interests of governing bodies in Wales, **[**F327and**]**

(d) bodies representing the interests of teachers in Wales, F328...

F328(e) . . . . . .

(8) Section 49 of the Education (No. 2) Act 1986 (c. 61) (appraisal) shall cease to have effect.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F326 S. 131(6)(e) and word repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 46, **Sch. 2 Pt. 1** (with art. 2(3))

F327 Word in s. 131(7)(c) inserted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 87(a)** (with art. 7)

F328 S. 131(7)(e) and word omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 87(b)** (with art. 7)

Commencement Information

I171 S. 131 wholly in force at 19.12.2002; s. 131 not in force at Royal Assent, see s. 216; s. 131 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); s. 131 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

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Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

School teachers' qualifications

132 Qualified teacher status

(1) A reference in the Education Acts to a "qualified teacher" is to a person who satisfies requirements specified in regulations.

(2) A requirement of regulations under this section may relate to—

(a) the possession of a specified qualification or experience of a specified kind;

(b) participation in or completion of a specified programme or course of training;

(c) compliance with a specified condition;

(d) an exercise of discretion by the Secretary of State, the National Assembly for Wales or another specified person.

F329(3) . . . . . .

(4) The National Assembly for Wales shall consult the **[**F330Education Workforce Council**]** before making regulations under this section which make provision by reference to—

(a) the content of a course or programme, or

(b) the standard of education or training provided through a course or programme.

Textual Amendments

F329 S. 132(3) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 2 para. 19(2)**; S.I. 2012/924, art. 2

F330 Words in s. 132 substituted (1.4.2015) by Education (Wales) Act 2014 (anaw 5), s. 50(4), **Sch. 3 para. 1(4)**; S.I. 2015/29, art. 3(w)

Modifications etc. (not altering text)

C95 S. 132 amended (W.) (temp. from 19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 6(1)**

Commencement Information

I172 S. 132 partly in force; s. 132 not in force at Royal Assent, see s. 216; s. 132 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I173 S. 132 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

133 Requirement to be qualified

(1) Regulations may provide that specified work may not be carried out by a person in a school **[**F331in England**]** unless he—

(a) is a qualified teacher, or

(b) satisfies specified requirements.

(2) Regulations specifying work for the purpose of this section may make provision by reference to—

(a) one or more specified activities, or

(b) the circumstances in which activities are carried out.

(3) Provision by virtue of subsection (2) may, in particular, be made by reference to an activity specified in a document of the kind mentioned in section 124(3).

Status: *This version of this Act contains provisions that are prospective.*
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(4) A requirement of regulations under this section may, in particular, relate to—

(a) the possession of a specified qualification or experience of a specified kind;

(b) participation in or completion of a specified programme or course of training;

(c) compliance with a specified condition;

(d) an exercise of discretion by the Secretary of State, the National Assembly for Wales, another specified person or another person of a specified description.

(5) Regulations may limit the period of time during which work may be carried out by a person in reliance on subsection (1)(b).

(6) In this section "school" means—

(a) a school maintained by a **[**F8local authority**]**, or

(b) a special school not so maintained.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F331 Words in s. 133(1) inserted (1.4.2015) by Education (Wales) Act 2014 (anaw 5), s. 50(4), **Sch. 3 para. 1(5)**; S.I. 2015/29, art. 3(w)

Commencement Information

I174 S. 133 partly in force; s. 133 not in force at Royal Assent, see s. 216; s. 133 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I175 S. 133 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

F333134 Requirement to be registered[F332: teachers in Wales]

. . . . . .

Textual Amendments

F332 Words in s. 134 heading inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 2 para. 19(3)(d)**; S.I. 2012/924, art. 2

F333 S. 134 repealed (1.4.2015) by Education (Wales) Act 2014 (anaw 5), s. 50(4), **Sch. 3 para. 3**; S.I. 2015/29, art. 3(x) (with art. 4)

Commencement Information

I176 S. 134 partly in force; s. 134 not in force at Royal Assent, see s. 216; s. 134(1)(4)(5) in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

135 Head teachers

(1) Regulations may provide that a person may serve as the head teacher of a school only if he is a qualified teacher.

(2) Regulations may provide that a person may serve as the head teacher of a school only if he has a specified qualification (in addition to any qualification required by virtue of subsection (1)).

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(3) A provision of regulations under subsection (2) shall not apply to a person who has been appointed as the head teacher of a school before the commencement of the provision.

(4) Regulations under subsection (2) shall not prevent a person from carrying out the functions of the head teacher of a school—

(a) pending the appointment of a head teacher, or

(b) in the absence of the head teacher.

(5) In this section "school" means—

(a) a school maintained by a **[**F8local authority**]**, or

(b) a special school not so maintained.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I177 S. 135 partly in force; s. 135 not in force at Royal Assent, see s. 216; s. 135 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I178 S. 135 in force at 1.10.2003 except in relation to W. by S.I. 2003/1667, **art. 5**

*I*F334*Induction periods: teachers in England*

Textual Amendments

F334 Ss. 135A-135C and cross-heading inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 9**, 82(3); S.I. 2012/924, art. 2

135A Requirement to serve induction period: teachers in England

(1) Regulations may make provision for, and in connection with, requiring persons employed as teachers at relevant schools in England, subject to such exceptions as may be provided by or under the regulations, to have satisfactorily completed an induction period of not less than three school terms in—

(a) a relevant school,

(b) in such circumstances as may be prescribed, a nursery school that—

(i) is not maintained by a local authority, and

(ii) is not a special school,

(c) in such circumstances as may be prescribed, an independent school **[**F335or an alternative provision Academy that is not an independent school**]**, or

(d) in such circumstances as may be prescribed, an institution within the further education sector (or an institution within the further education sector of a prescribed description) **[**F336or a 16 to 19 Academy**]** .

(2) Regulations under this section may, in particular, make provision—

(a) as to the length of the induction period in any prescribed circumstances;

(b) as to periods of employment which are to count towards the induction period;

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(c) as to the number of induction periods that a person may serve, and the circumstances in which a person may serve more than one induction period;

(d) precluding a relevant school, in such circumstances as may be prescribed, from being one at which an induction period may be served;

(e) as to supervision and training during a person's induction period;

(f) authorising the Secretary of State to determine the standards against which a person is to be assessed for the purpose of deciding whether the person has satisfactorily completed an induction period;

(g) requiring the appropriate body to decide whether a person—

(i) has achieved those standards and has accordingly satisfactorily completed his or her induction period, or

(ii) should have his or her induction period extended by such period as may be determined by the appropriate body, or

(iii) has failed satisfactorily to complete his or her induction period;

(h) requiring the head teacher of a school to make a recommendation to the appropriate body as to whether a person has achieved the standards mentioned in paragraph (f);

(i) requiring the appropriate body to inform the Secretary of State of any decision under paragraph (g);

(j) requiring the employer of a person employed as a teacher at a relevant school to secure—

(i) the termination of that person's employment as a teacher, or

(ii) that the person only undertakes such teaching duties as may be determined in accordance with the regulations,

in such circumstances following a decision that the person has failed satisfactorily to complete his or her induction period as may be prescribed;

(k) authorising or requiring the appropriate body to exercise such other functions as may be prescribed (which may include functions with respect to the provision of assistance to schools **[**F337institutions within the further education sector or 16 to 19 Academies**]** or of training for teachers);

(l) authorising the appropriate body in such circumstances as may be prescribed to make such reasonable charges in connection with the exercise of its functions under the regulations as it may determine;

(m) requiring any person or body exercising any prescribed function under the regulations to have regard to any guidance given from time to time by the Secretary of State as to the exercise of that function.

(3) Regulations under subsection (1)(d) may, in particular—

(a) provide that an induction period may not be begun without approval of the appropriate body for the serving of that induction period;

(b) provide for approval to be general or specific;

(c) make provision (including transitional provision) about the withdrawal of approval;

(d) impose conditions or limitations on the appropriate body's power to give or withhold approval.

(4) In this section—

"the appropriate body" means such person or body (including a local authority) as may be prescribed by, or determined by the Secretary of State in accordance with, regulations under this section (and such regulations may

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provide for an appropriate body which is not a local authority to include a representative of such an authority);

"relevant school" means a school maintained by a local authority or a special school not so maintained.

(5) In the application of this section to an institution within the further education sector **[**[F338]or a 16 to 19 Academy**]** —

(a) a reference to a school term is to be read as a reference to a term of the institution;

(b) a reference to the head teacher of a school is to be read as a reference to the principal of the institution.

Textual Amendments

F335 Words in s. 135A(1)(c) inserted (1.4.2012) by The Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 (S.I. 2012/976), art. 1, **Sch. para. 12** (with art. 3)

F336 Words in s. 135A(1)(d) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 13(2)(a)**; S.I. 2012/924, art. 2

F337 Words in s. 135A(2)(k) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 13(2)(b)**; S.I. 2012/924, art. 2

F338 Words in s. 135A(5) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 13(2)(c)**; S.I. 2012/924, art. 2

135B Induction periods: appeals

(1) Regulations under section 135A must include provision conferring on a person aggrieved by a decision under subsection (2)(g) of that section a right to appeal against the decision to the Secretary of State.

(2) A decision on an appeal made by virtue of subsection (1) is to be final.

(3) Regulations under section 135A made in pursuance of subsection (1) may make provision for, or for the determination in accordance with the regulations of, such matters relating to appeals as the Secretary of State considers necessary or expedient.

135C Induction periods: supplementary

(1) During the induction period which a person is required to serve by virtue of regulations under section 135A, the provisions of section 131 (appraisal of teachers' performance) and regulations under that section do not apply to the person.

(2) Where, in accordance with a requirement imposed by virtue of subsection (2)(j)(ii) of section 135A, a teacher employed at a school maintained by a local authority—

(a) continues to be employed at the school, but

(b) is not undertaking his or her normal teaching duties there,

any costs incurred by the local authority in respect of the teacher's emoluments are not to be met from the school's budget share for any funding period except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.

Nothing in this subsection applies to a maintained school at any time when the school does not have a delegated budget.

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(3) In subsection (2)—

(a) the references to a school's budget share and to a school not having a delegated budget have the same meaning as in Part 2 of the School Standards and Framework Act 1998;

(b) "funding period", in relation to a school's budget share, has the same meaning as in that Part.

(4) Sections 496 and 497 of the Education Act 1996 (default powers of Secretary of State) have effect in relation to the duties imposed and powers conferred by virtue of section 135A as if the bodies to which those sections apply included—

(a) the governing body of a special school that is not maintained by a local authority;

(b) the governing body (within the meaning given by section 90(1) of the Further and Higher Education Act 1992) of an institution within the further education sector;

(c) the appropriate body (within the meaning of section 135A).**]**

Further education

136 Provision of education

Regulations may—

(a) **[**F339prohibit the provision of education at a further education institution **[**F340in Wales**]** by a person who does not have a specified qualification;**]**

(b) **[**F341prohibit the provision of education at a further education institution **[**F342in Wales**]** by a person unless he is serving or has served a probationary period;**]**

(c) specify conditions to be complied with by or in respect of persons providing education at a further education institution.

Textual Amendments

F339 S. 136(a) ceases to have effect (E.) (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 8(1)(a)**

F340 Words in s. 136(a) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 8(2)(a)**

F341 S. 136(b) ceases to have effect (E.) (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 8(1)(b)**

F342 Words in s. 136(b) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 8(2)(b)**

Commencement Information

I179 S. 136 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I180 S. 136 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

137 Principals of further education institutions

[F343(1) Regulations may provide that a person may serve as the principal of a further education institution **[**F344in Wales**]** only if he has a specified qualification.

Status: *This version of this Act contains provisions that are prospective.*
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(2) Regulations under subsection (1) shall not prevent a person from serving as the principal of an institution while he is following a course or programme which—

(a) is of a kind specified in the regulations, and

(b) is designed to lead to the award of a qualification specified under subsection (1).

[F345(2A) Regulations under subsection (1) may limit the period of time during which a person may serve as the principal of an institution in reliance on subsection (2).**]**

(3) A provision of regulations **[**F346made under subsection (1) by the Welsh Ministers in relation to Wales**]** shall not apply to a person who has been appointed as the principal of an institution **[**F347in England or Wales "**]** before the commencement of the provision.

(4) Regulations under subsection (1) shall not prevent a person from carrying out the functions of the principal of an institution—

(a) pending the appointment of a principal, or

(b) in the absence of the principal.**]**

Textual Amendments

F343 S. 137 ceases to have effect (E.) (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 8(1)(c)**

F344 Words in s. 137(1) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 8(2)(c)**

F345 S. 137(2A) inserted (23.12.2007 for E.) by Further Education and Training Act 2007 (c. 25), **ss. 23(2)**, 32(4); S.I. 2007/3505, art. 2(d)

F346 Words in s. 137(3) substituted (23.12.2007 for E.) by Further Education and Training Act 2007 (c. 25), **ss. 23(3)(a)**, 32(4); S.I. 2007/3505, art. 2(d)

F347 Words in s. 137(3) inserted (23.12.2007 for E.) by Further Education and Training Act 2007 (c. 25), **ss. 23(3)(b)**, 32(4); S.I. 2007/3505, art. 2(d)

Commencement Information

I181 S. 137 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I182 S. 137 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

138 Training in provision of further education

[F348(1) This section applies to a course which is designed to lead to the award of a qualification specified under section 136 or 137(1).

F349(2) . . . . . .

(3) The National Assembly for Wales may by regulations—

(a) prohibit the provision by a further or higher education institution in Wales of a course to which this section applies without the approval of the National Assembly;

(b) enable the National Assembly to determine the number of persons who may undertake a specified course to which this section applies at a further or higher education institution in Wales;

(c) enable the National Assembly to determine the number of persons in different categories who may undertake a specified course to which this section applies at a further or higher education institution in Wales.**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F348 S. 138 ceases to have effect (E.) (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 8(1)(d)**

F349 S. 138(2) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 8(2)(d)**

Commencement Information

I183 S. 138 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I184 S. 138 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

F350 139 Wales: provision of higher education

. . . . . .

Textual Amendments

F350 S. 139 omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 7**, 11(2); S.I. 2014/1706, art. 3(g)

Commencement Information

I185 S. 139 in force at 1.9.2003 by S.I. 2003/1718, art. 5, **Sch. Pt. II**

140 Further education: general

(1) Regulations under any of sections 136 to 139 may provide that a specified provision of the regulations shall not apply where a specified condition (which may refer to the opinion of a specified person) is satisfied.

(2) Regulations under any of sections 136 to 139 may impose a function on—

(a) a **[**F8local authority**]**, or

(b) the governing body of a further or higher education institution.

(3) In sections 136 to 139—

"education" includes vocational, social, physical and recreational training,

"further education institution" means an institution which—

(a) provides further education and is maintained by a **[**F8local authority**]**, or

(b) is within the further education sector, and

"higher education institution" means an institution which—

(a) is within the higher education sector, and

(b) receives financial support under section 65 of the Further and Higher Education Act 1992 (c. 13) (administration of funds by higher education funding councils).

[F351(4) For the purposes of section 138(3), a university to which an approved plan relates is to be treated (in any case where it would not be so treated but for this subsection) as being a higher education institution.

(5) "Approved plan", in subsection (4), has the meaning given in section 7 of the Higher Education (Wales) Act 2015.**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F351 S. 140(4)(5) inserted (1.8.2017) by Higher Education (Wales) Act 2015 (anaw 1), s. 59(2), **Sch. para. 6**; S.I. 2017/239, art. 2

Commencement Information

I186 S. 140 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I187 S. 140 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

Health and fitness

141 Health and fitness

(1) Regulations may provide that an activity to which this section applies may be carried out only by a person who satisfies specified conditions as to health or physical capacity.

(2) This section applies to an activity of a prescribed kind performed in the course of the provision of education at—

(a) a school, or

(b) a further education institution.

(3) This section also applies to an activity of a prescribed kind performed in the course of the provision of education by a person—

(a) otherwise than in a school or a further education institution, and

(b) under a contract of employment or for services where the other party is a **[**[F8]local authority**]** or a person exercising a function relating to the provision of education on behalf of a **[**[F8]local authority**]**.

(4) This section also applies to an activity of a prescribed kind (other than the provision of education) where—

(a) the activity is carried out by a person under a contract of employment or for services,

[[F352](b) the other party to the contract is—

(i) a local authority which entered into the contract for purposes connected with any of their education functions,

(ii) the governing body of a school, or

(iii) a further education institution,**]**

(c) the activity regularly brings the person into contact with children.

(5) In this section—

"child" means a person who has not attained the age of 18 years,

"education" includes vocational, social, physical and recreational training,

"further education institution" has the meaning given by section 140, and

"school" means—

(a) a school maintained by a **[**[F8]local authority**]**, or

(b) a special school not so maintained.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F352 S. 141(4)(b) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 11(9)**

Commencement Information

I188 S. 141 partly in force; s. 141 not in force at Royal Assent, see s. 216; s. 141 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I189 S. 141 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

[F353 Teacher misconduct etc: England

Textual Amendments

F353 Ss. 141A-141E and cross-heading inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 8(1)**, 82(3); S.I. 2012/924, art. 2

141A Teachers to whom sections 141B to 141E apply

(1) Sections 141B to 141E apply to a person who is employed or engaged to carry out teaching work at—

(a) a school in England,

(b) a sixth form college in England,

[a 16 to 19 Academy,**]**

F354(ba)

(c) relevant youth accommodation in England, or

(d) a children's home in England.

(2) In subsection (1)—

"children's home" has the same meaning as in the Care Standards Act 2000;

"teaching work" means work of a kind specified in regulations under this section (and such regulations may make provision by reference to specified activities or by reference to the circumstances in which activities are carried out).

Textual Amendments

F354 S. 141A(1)(ba) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 13(3)**; S.I. 2012/924, art. 2

141B Investigation of disciplinary cases by Secretary of State

(1) The Secretary of State may investigate a case where an allegation is referred to the Secretary of State that a person to whom this section applies—

(a) may be guilty of unacceptable professional conduct or conduct that may bring the teaching profession into disrepute, or

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(b) has been convicted (at any time) of a relevant offence.

(2) Where the Secretary of State finds on an investigation of a case under subsection (1) that there is a case to answer, the Secretary of State must decide whether to make a prohibition order in respect of the person.

(3) Schedule 11A (regulations about decisions under subsection (2)) has effect.

(4) In this section—

a "prohibition order" means an order prohibiting the person to whom it relates from carrying out teaching work;

"teaching work" has the same meaning as in section 141A(1);

"relevant offence", in relation to a person, means—

(a) in the case of a conviction in England and Wales, a criminal offence other than one having no material relevance to the person's fitness to be a teacher, and

(b) in the case of a conviction elsewhere, an offence which, if committed in England and Wales, would be within paragraph (a).

141C List of persons prohibited from teaching etc

(1) The Secretary of State must keep a list containing—

(a) the names of persons in relation to whom a prohibition order has effect, and

(b) the names of persons who have begun, but have failed satisfactorily to complete, an induction period under section 135A in such circumstances as may be prescribed.

(2) The Secretary of State may include on the list the name of any person who has been prohibited from teaching in Wales, Scotland or Northern Ireland that the Secretary of State thinks appropriate to include on the list.

(3) The Secretary of State must secure that, where the name of a person is included on the list because an interim prohibition order has effect in respect of the person, there is an indication on the list to that effect.

(4) The Secretary of State must secure that, where the name of a person is included on the list because the person has failed satisfactorily to complete an induction period under section 135A, there is an indication on the list to that effect.

(5) The list may contain such other information in relation to the persons whose names are included on it as the Secretary of State considers appropriate.

(6) The list must be available for inspection by members of the public.

(7) In this section—

"prohibition order" has the same meaning as in section 141B;

"interim prohibition order" means an order made by virtue of paragraph 3 of Schedule 11A.

141D Supply of information following dismissal, resignation etc

(1) This section applies where a relevant employer has ceased to use the services of a teacher because the teacher has been guilty of serious misconduct.

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(2) This section also applies where a relevant employer might have ceased to use the services of a teacher as mentioned in subsection (1) had the teacher not ceased to provide those services.

(3) The employer must consider whether it would be appropriate to provide prescribed information about the teacher to the Secretary of State.

(4) In this section—

"relevant employer" means—

(a) a local authority;

(b) a person exercising a function relating to the provision of education on behalf of a local authority;

(c) the proprietor of a school **[**F355or 16 to 19 Academy**]**;

(d) a sixth form college corporation;

(e) a person who employs a person to teach in a children's home or in relevant youth accommodation;

"education" includes vocational, social, physical and recreational training;

"children's home" has the same meaning as in the Care Standards Act 2000;

"services" includes professional and voluntary services;

"teacher" means a person within section 141A(1).

Textual Amendments

F355 Words in s. 141D(4) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 13(4)**; S.I. 2012/924, art. 2

141E Supply of information by contractor, agency etc

(1) This section applies where arrangements have been made by a person (the "agent") for a teacher to carry out work at the request of or with the consent of a relevant employer (whether or not under a contract) and the agent has terminated the arrangements because the teacher has been guilty of serious misconduct.

(2) This section also applies where the agent—

(a) might have terminated the arrangements as mentioned in subsection (1) had the teacher not terminated them, or

(b) might have refrained from making new arrangements because of the teacher's serious misconduct had the teacher not ceased to be available for work.

(3) The agent must consider whether it would be appropriate to provide prescribed information about the teacher to the Secretary of State.

(4) In this section "relevant employer" and "teacher" have the same meanings as in section 141D.**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[F356 Allegations of offences committed by teachers in England and Wales: reporting restrictions

Textual Amendments

F356 Ss. 141F-141H and cross-heading inserted (1.10.2012) by Education Act 2011 (c. 21), **ss. 13(1)**, 82(3); S.I. 2012/2213, art. 3

141F Restrictions on reporting alleged offences by teachers

(1) This section applies where a person who is employed or engaged as a teacher at a school is the subject of an allegation falling within subsection (2).

(2) An allegation falls within this subsection if—

(a) it is an allegation that the person is or may be guilty of a relevant criminal offence, and

(b) it is made by or on behalf of a registered pupil at the school.

(3) No matter relating to the person is to be included in any publication if it is likely to lead members of the public to identify the person as the teacher who is the subject of the allegation.

(4) Any person may make an application to a magistrates' court for an order dispensing with the restrictions imposed by subsection (3).

(5) The court may make an order dispensing with the restrictions, to the extent specified in the order, if it is satisfied that it is in the interests of justice to do so, having regard to the welfare of—

(a) the person who is the subject of the allegation, and

(b) the victim of the offence to which the allegation relates.

(6) The power under subsection (5) may be exercised by a single justice.

(7) In the case of a decision to make or refuse to make an order under subsection (5), a person mentioned in subsection (8) may, in accordance with Criminal Procedure Rules—

(a) appeal to the Crown Court against the decision, or

(b) appear or be represented at the hearing of such an appeal.

(8) The persons referred to in subsection (7) are—

(a) a person who was a party to the proceedings on the application for the order;

(b) any other person with the leave of the Crown Court.

(9) On an appeal under subsection (7), the Crown Court may—

(a) make such order as is necessary to give effect to its determination of the appeal, and

(b) make such incidental or consequential orders as appear to it to be just.

(10) The restrictions in subsection (3) cease to apply once proceedings for the offence have been instituted.

(11) The restrictions in subsection (3) also cease to apply if—

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(a) the Secretary of State publishes information about the person who is the subject of the allegation in connection with an investigation or decision under section 141B (investigation of disciplinary cases by Secretary of State) relating to the same allegation, or

(b) the General Teaching Council for Wales publishes information about the person who is the subject of the allegation in connection with an investigation, hearing or determination under Schedule 2 to the Teaching and Higher Education Act 1998 (investigation of disciplinary cases by the General Teaching Council for Wales) relating to the same allegation.

(12) The restrictions in subsection (3) also cease to apply if—

(a) the person who is the subject of the allegation includes a matter in a publication, or

(b) another person includes a matter in a publication with the written consent of the person who is the subject of the allegation;

and, in either case, the inclusion of the matter in the publication would otherwise be in breach of subsection (3).

(13) Written consent is to be ignored for the purposes of subsection (12)(b) if it is proved that any person interfered unreasonably with the peace or comfort of the person giving the consent, with intent to obtain it.

(14) In this section—

"publication" includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose, every relevant programme shall be taken to be so addressed), but does not include—

(a) an indictment or other document prepared for use in particular legal proceedings, or

(b) a document published by the regulator of a profession of which the person who is the subject of the allegation is a member in connection with disciplinary proceedings in relation to the person;

"relevant criminal offence", in relation to a person employed or engaged as a teacher at a school, means an offence against the law of England and Wales where the victim of the offence is a registered pupil at the school;

"relevant programme" means a programme included in a programme service, within the meaning of the Broadcasting Act 1990.

(15) For the purposes of this section, proceedings for an offence are instituted at the earliest of the following times—

(a) when a justice of the peace issues a summons or warrant under section 1 of the Magistrates' Courts Act 1980 in respect of the offence;

(b) when a **[**F357relevant prosecutor**]** issues a written charge and requisition **[**F358or single justice procedure notice**]** in respect of the offence;

(c) when a person is charged with the offence after being taken into custody without a warrant;

(d) when a bill of indictment is preferred by virtue of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933.

F359(16) **[** In subsection (15) "relevant prosecutor", "requisition", "single justice procedure notice" and "written charge" have the same meaning as in section 29 of the Criminal Justice Act 2003.**]**

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Textual Amendments

F357 Words in s. 141F(15)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 11 para. 19(2)(a)**; S.I. 2015/778, art. 3, Sch. 1 para. 77

F358 Words in s. 141F(15)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 11 para. 19(2)(b)**; S.I. 2015/778, art. 3, Sch. 1 para. 77

F359 S. 141F(16) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 11 para. 19(3)**; S.I. 2015/778, art. 3, Sch. 1 para. 77

141G Offence of breach of reporting restrictions

(1) This section applies if a publication includes any matter in breach of section 141F (3).

(2) Where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical is guilty of an offence.

(3) Where the publication is a programme included in a programme service (within the meaning of the Broadcasting Act 1990), the following are guilty of an offence—

(a) any body corporate engaged in providing the programme service in which the programme is included, and

(b) any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(4) In the case of any other publication, any person publishing it is guilty of an offence.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) If an offence committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of, or

(b) to be attributable to any neglect on the part of,

an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) In subsection (6), "officer" means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(8) If the affairs of a body corporate are managed by its members, "director" in subsection (7) means a member of that body.

(9) Schedule 11B contains supplementary provision relating to an offence under this section.

141H Defences

(1) Where a person is charged with an offence under section 141G, it is a defence for the person to prove either of the matters mentioned in subsection (2).

(2) The matters are—

(a) that, at the time of the alleged offence, the person was not aware, and neither suspected nor had reason to suspect, that the publication included the matter in question;

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(b) that, at the time of the alleged offence, the person was not aware, and neither suspected nor had reason to suspect, that the allegation in question had been made.**]**

Misconduct etc.

142 Prohibition from teaching, etc.

[F360(1) The Secretary of State, in relation to England, or the Secretary of State and the National Assembly for Wales concurrently, in relation to Wales, may direct that a person—

(a) may not carry out work to which this section applies;

(b) may carry out work to which this section applies only in circumstances specified in the direction;

(c) may carry out work to which this section applies only if conditions specified in the direction are satisfied.

(2) This section applies to—

(a) providing education at a school,

(b) providing education at a further education institution,

(c) providing education under a contract of employment or for services where the other party to the contract is a **[**F8local authority**]** or a person exercising a function relating to the provision of education on behalf of a **[**F8local authority**]**, and

(d) taking part in the management of an independent school.

(3) This section also applies to work of a kind which—

(a) brings a person regularly into contact with children, and

(b) is carried out at the request of or with the consent of a relevant employer (whether or not under a contract).

(4) A direction under this section may be given in respect of a person only—

(a) on the grounds that the person is included (otherwise than provisionally) in the list kept under section 1 of the Protection of Children Act 1999 (c. 14) (list of individuals considered unsuitable to work with children),

(b) on the grounds that the person is unsuitable to work with children,

(c) on grounds relating to the person's misconduct,

(d) on grounds relating to the person's health, or

(e) in the case of a direction given by virtue of subsection (2)(d), on grounds relating to the person's professional incompetence (or on a ground mentioned in any of paragraphs (a) to (d)).

(5) The Secretary of State, in relation to England, or the Secretary of State and the National Assembly for Wales concurrently, in relation to Wales, may by regulations prescribe the procedure for giving a direction under this section (including provision about notification of persons who are subject to directions).

(6) The Secretary of State, in relation to England, or the Secretary of State and the National Assembly for Wales concurrently, in relation to Wales, may vary or revoke a direction under this section except in a case where—

(a) the direction was given on the grounds that a person is unsuitable to work with children, and

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(b) the person claims that he is no longer unsuitable to work with children.

(7) The Secretary of State, in relation to England, or the Secretary of State and the National Assembly for Wales concurrently, in relation to Wales, may by regulations prescribe the grounds on which a person subject to a direction under this section may seek to have it varied or revoked under subsection (6).

(8) Where a person is subject to a direction under this section, a relevant employer shall not use the person to carry out work in contravention of the direction.

(9) In this section—

"child" means a person who has not attained the age of 18 years,

"education" includes vocational, social, physical and recreational training,

"further education institution" has the meaning given by section 140,

"relevant employer" means—

(a) **[**F8local authority**][**F361exercising an education function**]**,

(b) a person exercising a function relating to the provision of education on behalf of a **[**F8local authority**]**,

(c) the proprietor of a school, or

(d) the governing body of a further education institution, and

"school" includes an independent school.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F360 Ss. 142-144 repealed (12.10.2009 for specified purposes) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 4

F361 Words in s. 142(9)(a) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 11(10)(a)**

Modifications etc. (not altering text)

C96 S. 142 modified by 1998 c. 30, s. 15 (as inserted (31.3.2003 for W., 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 83** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3)

Commencement Information

I190 S. 142 partly in force; s. 142 not in force at Royal Assent, see s. 216; s. 142 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I191 S. 142 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I192 S. 142 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

143 Directions under section 142: contractor, agency, etc.

[F360(1) A person shall not arrange for an individual who is subject to a direction under section 142 to carry out work in contravention of the direction.

(2) If the Secretary of State thinks that a person is likely to fail to comply with the duty under this section in relation to work in England, the Secretary of State may direct the person to take or refrain from taking specified steps with a view to securing compliance with that duty.

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(3) If the National Assembly for Wales thinks that a person is likely to fail to comply with the duty under this section in relation to work in Wales, the National Assembly may direct the person to take or refrain from taking specified steps with a view to securing compliance with that duty.

(4) A direction under subsection (2) shall be enforceable, on the application of the Secretary of State, by a mandatory order.

(5) A direction under subsection (3) shall be enforceable, on the application of the National Assembly, by a mandatory order.**]**

Textual Amendments

F360 Ss. 142-144 repealed (12.10.2009 for specified purposes) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 4

Commencement Information

I193 S. 143 partly in force; s. 143 not in force at Royal Assent, see s. 216; s. 143 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I194 S. 143 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I195 S. 143 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

144 Directions under section 142: appeal

[F360(1) A person in respect of whom a direction has been given under section 142 may appeal to the **[**F362First-tier Tribunal**]** —

(a) against the decision to give the direction;

(b) against a decision not to vary or revoke the direction.

(2) In a case to which subsection (3) applies, the Tribunal may, on an application for a review of a direction under section 142, revoke the direction.

(3) This subsection applies to a case where—

(a) the direction was given on the grounds that the applicant is unsuitable to work with children,

(b) the applicant has obtained the leave of the Tribunal to apply for a review of the direction, and

(c) the Tribunal is satisfied that the applicant is no longer unsuitable to work with children.

(4) The Secretary of State, in relation to England, or the Secretary of State and the National Assembly for Wales concurrently, in relation to Wales, may by regulations—

(a) provide that the Tribunal may not entertain an appeal under this section in so far as the appellant's case is inconsistent with his having been convicted of an offence;

(b) prescribe circumstances in which the Tribunal shall allow an appeal under this section;

(c) prescribe the powers available to the Tribunal on allowing an appeal under this section;

(d) prescribe circumstances in which the Tribunal shall grant an application for leave under this section;

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(e) prescribe circumstances in which the Tribunal shall grant an application for a review under this section;

(f) prescribe the powers available to the Tribunal on revoking a direction.**]**

Textual Amendments

F360 Ss. 142-144 repealed (12.10.2009 for specified purposes) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 4

F362 Words in s. 144(1) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 193**

Commencement Information

I196 S. 144 partly in force; s. 144 not in force at Royal Assent, see s. 216; s. 144 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I197 S. 144 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I198 S. 144 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

Sections 132 to 140: general

145 Specification of qualification or course

(1) A power under sections 132 to 140 to make provision by reference to a specified qualification, a specified course of education or training or a specified programme includes power to make provision—

(a) by reference to a class or description of qualification, course or programme;

(b) by reference to the institution, or class or description of institution, which awards the qualification or provides the course or programme;

(c) which confers discretion on the Secretary of State, **F363**... **F364**... the National Assembly for Wales, the Higher Education Funding Council for Wales, the General Teaching Council for Wales or another specified person.

(2) A discretion under subsection (1)(c) may, in particular, refer to approval or accreditation of a qualification, course, programme or institution.

(3) Regulations made by virtue of subsection (1) may impose a duty on **F365**... the Higher Education Funding Council for Wales.

Textual Amendments

F363 Words in s. 145(1)(c) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 5 para. 17(a)**; S.I. 2012/924, art. 2

F364 Words in s. 145(1)(c) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 2 para. 19(4)**; S.I. 2012/924, art. 2

F365 Words in s. 145(3) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 5 para. 17(b)**; S.I. 2012/924, art. 2

Commencement Information

I199 S. 145 partly in force; s. 145 not in force at Royal Assent, see s. 216; s. 145 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I200 S. 145 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

146 Repeal of sections 218 and 218A of Education Reform Act 1988

Sections 218 and 218A of the Education Reform Act 1988 (c. 40) (school and further and higher education regulations) shall cease to have effect.

Commencement Information

I201 S. 146 in force at 31.3.2003 for specified purposes for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I202 S. 146 in force at 31.3.2003 for specified purposes for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I203 S. 146 in force at 1.6.2003 for specified purposes except in relation to W. by S.I. 2003/1115, **art. 3**

I204 S. 146 in force at 1.8.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 3** (with Sch. para ss. 2, 3)

I205 S. 146 in force at 1.9.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 4**

I206 S. 146 in force at 1.10.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 5**

I207 S. 146 in force at 6.11.2006 so far as not already in force except in relation to W. by S.I. 2006/2895, **art. 2**

I208 S. 146 in force at 2.1.2008 for W. so far as not already in force by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1** (with Sch. Pt paras. 2, 3)

1999 Pay Document

147 Application of pay-scale

(1) This section—

(a) applies to the construction of paragraph 18 of the document referred to in article 3 of the Education (School Teachers' Pay and Conditions) (No. 2) Order 1999 (S.I. 1999/2160) (classroom teachers: criteria for position on pay spine) as it had effect from 1st September 1999 to 31st March 2000, and

(b) shall be treated as having come into force on 1st September 1999 (for all purposes including the calculation of pensions).

(2) Where a person is awarded one or more points, he shall be paid the salary shown for the spine point which equates to the number of points awarded.

(3) Where a person is not awarded a point, he shall be paid the salary shown for the lowest spine point.

(4) In paragraph 18.1.1 (good honours degree)—

(a) paragraph (a) shall be ignored,

(b) paragraph (b) shall be treated as applying irrespective of the date of a person's appointment to his first post following qualification as a teacher, and

(c) in paragraph (c) the words "before 1st September has been employed as a qualified teacher and who" shall be ignored.

General Teaching Councils for England and Wales

148 The General Teaching Councils for England and Wales

Schedule 12 (which contains amendments relating to the General Teaching Council for England and the General Teaching Council for Wales) shall have effect.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I209 S. 148 partly in force; s. 148 not in force at Royal Assent, see s. 216; s. 148 in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); s. 148 in force for certain purposes for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I** and for certain further purposes for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I210 S. 148 in force at 31.3.2003 for specified purposes for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I211 S. 148 in force at 1.8.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 3**

I212 S. 148 in force at 31.5.2006 for specified purposes for W. by S.I. 2006/1336, art. 4, **Sch. Pt. 1**

I213 S. 148 in force at 6.11.2006 so far as not already in force except in relation to W. by S.I. 2006/2895, **art. 2**

PART 9

CHILDCARE AND NURSERY EDUCATION

Childcare

149 Duties of [F8local authority] in respect of childcare

F366(1) . . . . . .

(2) Section 19(1) and (2) of the Children Act 1989 (c. 41) (duty of local authorities in England and Wales to conduct periodic reviews of child care) shall cease to have effect.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F366 S. 149(1) repealed (1.4.2007 for E.) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 3 Pt. 2**; S.I. 2007/1019, art. 3

Commencement Information

I214 S. 149 wholly in force at 31.3.2003; s. 149 not in force at Royal Assent, see s. 216; s. 149 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I215 S. 149 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

150 Early years development and childcare partnerships and plans

F367(1) . . . . . .

F368(2) . . . . . .

F368(3) . . . . . .

F368(4) . . . . . .

(5) Early years development partnerships are renamed "early years development and childcare partnerships" F369...; accordingly in Part 5 of that Act after "early years development" (in each place it occurs) there is inserted " and childcare ".

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Textual Amendments

F367 S. 150(1) repealed (1.9.2008 for E.) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 3 Pt. 2**; S.I. 2008/2261, art. 2 (with Sch. 1)

F368 S. 150(2)-(4) repealed (1.3.2005 for E., 1.9.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 1**; S.I. 2005/394, art. 2(1)(l); S.I. 2006/885, art. 3(b)

F369 Words in s. 150(5) repealed (1.3.2005 for E., 1.9.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 1**; S.I. 2005/394, art. 2(1)(l); S.I. 2006/885, art. 3(b)

Commencement Information

I216 S. 150 wholly in force at 31.3.2003; s. 150 not in force at Royal Assent, see s. 216; s. 150 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I217 S. 150 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

151 Childcare functions of Her Majesty's Chief Inspector and National Assembly for Wales

(1) The Secretary of State may by order confer on **[**[F370]Her Majesty's Chief Inspector of Education, Children's Services and Skills**]** such additional functions specified in the order as the Secretary of State considers necessary or expedient to enable Her Majesty's Chief Inspector to approve persons in accordance with criteria determined by or under a scheme made under the Tax Credits Act 2002 (c. 21) for the approval of persons who are to be regarded as providing child care for the purposes of working tax credit.

(2) The National Assembly for Wales shall have any additional function specified in an order made by it which it considers necessary or expedient to enable it to approve persons as mentioned in subsection (1); but the order may only specify a function corresponding to a function which, by virtue of that subsection, is exercisable by **[**[F371]Her Majesty's Chief Inspector of Education, Children's Services and Skills**]** .

Textual Amendments

F370 Words in s. 151(1) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 72**; S.I. 2007/935, art. 5(gg)

F371 Words in s. 151(2) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 72**; S.I. 2007/935, art. 5(gg)

Commencement Information

I218 S. 151(1) in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.);

I219 S. 151(1) in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

152 Regulation of child minding and day care

Schedule 13 (which makes provision about the regulation of child minding and day care) shall have effect.

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Commencement Information

I220 S. 152 in force at 2.9.2002 for specified purposes for E. by S.I. 2002/2002, **art. 4**
S. 152 in force at 1.10.2002 for specified purposes for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.);
S. 152 in force at 19.12.2002 for specified purposes for W. by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I221 S. 152 in force at 2.1.2008 for W. so far as not already in force by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Nursery education

153 Powers of [F8local authority] in respect of funded nursery education

(1) This section applies where a **[**F8local authority**][**F372 in Wales**]**, in pursuance of the duty imposed on them by section 118 of the School Standards and Framework Act 1998 (c. 31) (duty of **[**F8local authority**]** as respects availability of nursery education), makes arrangements with a person (other than the governing body of a maintained school) for the provision by that person of nursery education in consideration of financial assistance provided by the authority under the arrangements.

(2) The **[**F8local authority**]**—

(a) must, in making the arrangements, have regard to any guidance given from time to time by F373... the National Assembly for Wales, as to provision to be made in such arrangements in respect of the requirements to be met by the provider of the nursery education, and

[F374(ab) must make provision in the arrangements requiring the provider of the nursery education to have regard to any relevant guidance included in the code on additional learning needs issued under section 4 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, and**]**

(b) must exercise their functions with a view to securing that the provider meets any requirements imposed on him by the arrangements.

(3) Subject to any guidance given under subsection (2)(a), the requirements imposed by the arrangements may, in particular, if any specified conditions are not satisfied, require the repayment of the whole or any part of any financial assistance provided by the **[**F8local authority**]** under the arrangements.

(4) In this section—

"maintained school" means a community, foundation or voluntary school, a community F375... special school or a maintained nursery school;

"nursery education" means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere).

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F372 Words in s. 153(1) inserted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 41(a)**; S.I. 2008/2261, art. 2 (with Sch. 1)

F373 Words in s. 153(2)(a) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 41(b), **Sch. 3 Pt. 2**; S.I. 2008/2261, art. 2 (with Sch. 1)

Status: *This version of this Act contains provisions that are prospective.*
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F374 S. 153(2)(ab) inserted (1.9.2021) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 9(2)**; S.I. 2021/373, art. 8(j)(xxi)

F375 Words in s. 153(4) omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(8)**; S.I. 2013/1800, art. 3(j)

Commencement Information

I222 S. 153 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

F376 154 Establishment or alteration of maintained nursery schools

. . . . . .

Textual Amendments

F376 S. 154 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(9)**; S.I. 2013/1800, art. 3(j)

155 Inspection of nursery education

Schedule 14 (which makes provision about the inspection of nursery education) shall have effect.

Commencement Information

I223 S. 155 partly in force; s. 155 not in force at Royal Assent, see s. 216; s. 155 in force for certain purposes for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**; s. 155 in force for certain further purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I224 S. 155 in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

156 Meaning of "nursery school" and "primary education"

(1) In section 6(1) of the Education Act 1996 (c. 56) (meaning of "nursery school"), after "used" there is inserted " wholly or ".

(2) For section 2(1) of that Act there is substituted—

"(1) In this Act "primary education" means—

(a) full-time or part-time education suitable to the requirements of children who have attained the age of two but are under compulsory school age;

(b) full-time education suitable to the requirements of junior pupils of compulsory school age who have not attained the age of 10 years and six months; and

(c) full-time education suitable to the requirements of junior pupils who have attained the age of 10 years and six months and whom it is expedient to educate together with junior pupils within paragraph (b)."

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Commencement Information

I225 S. 156 not in force at Royal Assent, see s. 216; s. 156 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I226 S. 156 in force at 31.3.2004 for W. by S.I. 2004/912, art. 4, **Sch. Pt. 1**

PART 10

INDEPENDENT SCHOOLS

CHAPTER 1

REGULATION OF INDEPENDENT SCHOOLS

Standards

[F377 156AA Application of Chapter to alternative provision Academies that are not independent schools

(1) This Chapter applies to alternative provision Academies that are not independent schools as it applies to independent schools in England.

(2) Accordingly, references in this Chapter to independent schools (apart from those that are independent schools in Wales) are to be read as including references to alternative provision Academies that are not independent schools.**]**

Textual Amendments

F377 S. 156AA inserted (1.4.2012) by The Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 (S.I. 2012/976), art. 1, **Sch. para. 13** (with art. 3)

[F378 156AA Application of Chapter to schools in Wales only

(1) References in this Chapter to an independent school are to an independent school in Wales.

(2) For provision regulating independent schools in England, see Chapter 1 of Part 4 of the Education and Skills Act 2008.**]**

Textual Amendments

F378 S. 156A inserted (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 15** (with s. 139); S.I. 2014/3364, art. 2(z) (with art. 4)

157 Independent school standards

(1) For the purposes of this Chapter, regulations shall prescribe standards about the following matters—

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(a) the quality of education provided at independent schools;
(b) the spiritual, moral, social and cultural development of pupils at independent schools;
(c) the welfare, health and safety of pupils at independent schools;
(d) the suitability of proprietors of and staff at independent schools;
(e) the premises of and accommodation at independent schools;
(f) the provision of information by independent schools;
(g) the manner in which independent schools handle complaints.

F379(1A) . . . . . .

[F380(2) In this Chapter "independent school standards" means—
(a) the standards for the time being prescribed under this section, F381...**]**
F382(b) . . . . . .

Textual Amendments

F379 S. 157(1A) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 16, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F380 S. 157(2) substituted (1.9.2008) by Childcare Act 2006 (c. 21), **ss. 47(2)**, 109(2); S.I. 2008/2261, art. 2 (with Sch. 1)

F381 Word in s. 157(2) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 2**; S.I. 2014/3364, art. 2(aa) (with art. 4)

F382 S. 157(2)(b) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 16, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

Commencement Information

I227 S. 157 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I228 S. 157 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

Requirement of registration

158 The registers

(1) There shall continue to be—
F383(a) . . . . . .
(b) a register of independent schools in Wales.

F384(2) . . . . . .

(3) The register of independent schools in Wales shall be kept by **[**F385the Welsh Ministers**]**.

[F386(4) The Welsh Ministers must publish a list of the schools included in the register of independent schools in Wales, as amended from time to time.

(5) If the Welsh Ministers have been provided with the necessary information by the proprietor of the school, the published list must specify the type or types of additional learning provision made by a school on the list for pupils with additional learning needs (if any).**]**

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Textual Amendments

F383 S. 158(1)(a) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 17(a), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F384 S. 158(2) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 17(a), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F385 Words in s. 158(3) substituted (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 17(b)** (with s. 139); S.I. 2014/3364, art. 2(z) (with art. 4)

F386 S. 158(4)(5) inserted (2.11.2020 for specified purposes, 1.9.2021 in so far as not already in force) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), **ss. 54(2)**, 100(3); S.I. 2020/1182, reg. 3(1)(e); S.I. 2021/373, art. 8(c)

Commencement Information

I229 S. 158 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

I230 S. 158(1)(2) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I231 S. 158(3) in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

159 Unregistered schools

(1) A person who conducts an independent school which is not a registered school is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to—

(a) a fine not exceeding level 5 on the standard scale, or

(b) imprisonment for a term not exceeding six months,

or to both.

F387(3) . . . . . .

(4) Where the Chief Inspector has reasonable cause to believe that an offence under subsection (1) is being committed on any premises, he may at any reasonable time—

(a) enter and inspect the premises, and

(b) inspect and take copies of any records or other documents which he has reasonable cause to believe may be required for the purposes of proceedings in relation to such an offence.

(5) **[**F388Section 58 of the Education Act 2005**]** (computer records) applies in relation to the inspection of records or other documents under subsection (4)(b).

(6) It is an offence wilfully to obstruct the Chief Inspector in the exercise of his functions under subsection (4).

(7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Textual Amendments

F387 S. 159(3) repealed (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 172(3), 188(2), **Sch. 18 Pt. 2**

F388 Words in s. 159(5) substituted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 9 para. 29**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I232 S. 159 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I233 S. 159 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

Registration procedure

160 Applications for registration

(1) An application to enter an independent school in the register must—

(a) contain the prescribed information, and

(b) be made to the registration authority by the proprietor of the school in the prescribed manner.

(2) The information prescribed under subsection (1)(a) shall include information as to the following matters relating to the school—

(a) the age range of pupils;

(b) the maximum number of pupils;

(c) whether the school is for male or female pupils or both;

(d) whether the school provides accommodation for pupils;

[F389(e) the type or types of additional learning provision made by the school for pupils with additional learning needs (if any).**]**

(3) Where the proprietor of an independent school makes an application to the registration authority under this section, the authority shall notify the Chief Inspector.

(4) The Chief Inspector shall then inspect the school and report to the registration authority on the extent to which the independent school standards are met, and are likely to continue to be met, in relation to the school.

Textual Amendments

F389 S. 160(2)(e) substituted (2.11.2020 for specified purposes, 1.9.2021 in so far as not already in force) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), **ss. 54(3)**, 100(3); S.I. 2020/1182, reg. 3(1)(e); S.I. 2021/373, art. 8(c)

Commencement Information

I234 S. 160 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I235 S. 160 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

161 Determination of applications for registration

(1) Where a school has been inspected under section 160, the registration authority shall, taking into account—

(a) the report of the Chief Inspector under that section, and

(b) any other evidence relating to the independent school standards,

determine whether those standards are met, and are likely to continue to be met, in relation to the school.

(2) The registration authority shall notify the proprietor of a school of any determination made by the authority under this section in relation to the school.

Status: *This version of this Act contains provisions that are prospective.*
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(3) If the registration authority determines under this section that the independent school standards are met, and are likely to continue to be met, in relation to a school, the authority shall enter the school in the register.

(4) An entry in the register for a school shall include —

(a) the name and address of the school,

(b) the name of the proprietor of the school, and

(c) the information supplied pursuant to section 160(2)(a) to (e).

Commencement Information

I236 S. 161 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I237 S. 161 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

Enforcement of standards after registration

162 Changes to registered details

(1) The registration authority may remove a school from the register if—

(a) there is a material change in relation to the school, and

(b) the change has not been approved under this section or section 167.

(2) For the purposes of subsection (1), "material change", in relation to a school, means—

(a) a change of proprietor,

(b) a change of address, or

(c) a change to the school in respect of any of the matters referred to in section 160(2)(a) to (e).

(3) Applications for approval under this section must be made in writing and, in the case of approval of a change of proprietor, must be made by the proposed new proprietor.

(4) Where an application for approval is made under this section, the registration authority may require the Chief Inspector to—

(a) inspect the school, and

(b) report to the authority on the extent to which, if the change is made, any relevant standard is likely to continue to be met in relation to the school.

(5) In subsection (4), "relevant standard" means any of the independent schools standards specified by the authority for the purposes of that subsection.

(6) The registration authority shall, where an application for approval is made under this section—

(a) approve the change, if the condition in subsection (7) is satisfied, and

(b) in any other case, refuse to approve it.

(7) The condition in this subsection is that the authority is satisfied that, taking into account—

(a) any report under subsection (4), and

(b) any other evidence relating to the independent school standards,

those standards will continue to be met in relation to the school.

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Modifications etc. (not altering text)

C97 S. 162 modified (1.1.2004) by The Independent Schools (Provision of Information) (Wales) Regulations 2003 (S.I. 2003/3230), regs. 1(1), **9**

Commencement Information

I238 S. 162 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I239 S. 162 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

[F390]162A Power to inspect registered schools in England

. . . . . .

Textual Amendments

F390 S. 162A repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 18, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

[F391]162B Inspections under section 162A: supplementary

. . . . . .

Textual Amendments

F391 S. 162B repealed (1.9.2009 for specified purposes, 5.1.2015 in so far as not already in force) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 18, **Sch. 2** (with s. 139); S.I. 2009/1606, art. 3 (with art. 6); S.I. 2014/3364, art. 2(z) (with art. 4)

[F393]163 Power to inspect registered schools[F392]...

(1) The registration authority may at any time—

(a) require the Chief Inspector[F394]... to inspect any registered school[F394]..., or to secure its inspection by one or more registered inspectors, or

(b) arrange for the inspection of any registered school by a body approved by the registration authority for the purposes of this subsection.

(2) The inspection of a school under this section shall relate to—

(a) such of the independent school standards as are, at the time of the inspection, specified by the registration authority for the purposes of this section in relation to any category of school into which that school falls, or

(b) if the registration authority so determines, such of the independent school standards as the registration authority may specify in relation to that school.

(3) A person who conducts an inspection under this section shall—

(a) make a report to the registration authority on the extent to which the school meets the standard or standards to which the inspection relates, and

(b) if the registration authority so requires, arrange for the publication of the report in the prescribed manner.

Status: *This version of this Act contains provisions that are prospective.*
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(4) A report published under subsection (3) is privileged for the purposes of the law of defamation unless the publication is shown to be made with malice (but without prejudice to any privilege subsisting apart from this subsection).

(5) In this section and section 164—

F395 …

"registered inspector" means a person registered under section 25 of the Education Act 2005.

Textual Amendments

F392 Words in s. 163 title omitted (5.1.2015) by virtue of Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 19(a)** (with s. 139); S.I. 2014/3364, art. 2(z) (with art. 4)

F393 Ss. 163, 164 substituted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 8 para. 3**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1

F394 Words in s. 163(1)(a) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 19(b), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F395 Words in s. 163(5) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 19(c), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

164 Inspections under section 163: supplementary

(1) This section applies to the inspection of a school which is conducted by the Chief Inspector[F396]... or a registered inspector under section 163(1)(a).

(2) If the inspection is conducted by a registered inspector—

(a) he may, by agreement with the Chief Inspector[F397]..., be assisted by the Chief Inspector[F397]..., and

(b) he may be assisted by such one or more persons enrolled in the list kept under paragraph 4 of Schedule 4 to the Education Act 2005 as he may determine, subject to paragraph 3(5) of that Schedule and subsection (3) below.

(3) If the Chief Inspector[F398]... so requires, a registered inspector shall be assisted by at least one person enrolled in the list referred to in subsection (2)(b)—

(a) who is without personal experience in the management of any school or the provision of education in any school (otherwise than as a governor or in any other voluntary capacity, and disregarding any experience which it is reasonable to regard as insignificant), and

(b) whose primary function in the inspection is not that of providing financial or business expertise.

(4) If the inspection is conducted by a registered inspector, it may be monitored by the Chief Inspector[F399]....

(5) The person conducting the inspection, any person assisting him pursuant to subsection (2) or (3) and any person monitoring the inspection shall have at all reasonable times—

(a) a right of entry to the premises of the school, and

(b) a right to inspect and take copies of any records kept by the school and any other documents containing information relating to the school which are required for the purposes of the inspection.

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(6) Section 58 of the Education Act 2005 (computer records) applies in relation to the inspection of records or other documents under subsection (5)(b).

(7) It is an offence intentionally to obstruct a person in the exercise of his functions in relation to the inspection.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(9) The proprietor of the school shall pay the Chief Inspector[F400]..., in respect of the inspection, a fee of such amount, and by such time, as may be specified in or determined under regulations.

(10) Where the proprietor fails to comply with subsection (9), the registration authority may remove the school from the register.

(11) The Chief Inspector[F401]... shall pay the amount of any fee received under subsection (9) into the Consolidated Fund.

(12) Subsection (11) has effect subject to paragraph 4 of Schedule 6 to the Government of Wales Act 1998 (Treasury power to direct that requirement for payment into Consolidated Fund not to apply in relation to specified sums received by the Chief Inspector[F402]...).**]**

Textual Amendments

F393 Ss. 163, 164 substituted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 8 para. 3**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1

F396 Words in s. 164(1) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 20, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F397 Words in s. 164(2)(a) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 20, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F398 Words in s. 164(3) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 20, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F399 Words in s. 164(4) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 20, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F400 Words in s. 164(9) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 20, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F401 Words in s. 164(11) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 20, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F402 Words in s. 164(12) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 20, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

165 Failure to meet standards

(1) This section applies where, taking into account—

(a) a report under section [F403]... 163 in respect of a registered school, or

(b) any other evidence in respect of a registered school,

the registration authority is satisfied that any one or more of the independent school standards is or are not being met in relation to the school.

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(2) If the registration authority considers that there is a risk of serious harm to the welfare of pupils at the school, the authority may determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.

(3) Where the registration authority does not make a determination under subsection (2), it shall serve a notice on the proprietor of the school—

(a) identifying the standard or standards in question, and

(b) requiring the proprietor to submit an action plan to the authority before the date specified in the notice (or such later date as the authority may specify after service of the notice).

(4) For the purposes of this section, an action plan is a plan specifying—

(a) the steps that will be taken to meet a standard or standards, and

(b) the time by which each step will be taken.

(5) Where an action plan is submitted in accordance with subsection (3) the registration authority may—

(a) reject it, or

(b) approve it, with or without modifications.

(6) Where an action plan is required under subsection (3) but is not submitted in accordance with that subsection, or is so submitted but rejected, the registration authority may—

(a) determine that the school is to be removed from the register on such date after the appeal period as the authority may determine, or

(b) make an order under subsection (8).

(7) Where an action plan has been approved under subsection (5), but any step specified in the plan is not taken by the date specified in the plan (whether as originally approved or as varied under paragraph (a)), the registration authority may—

(a) substitute a later date for the taking of that step,

(b) make an order under subsection (8), or

(c) determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.

(8) An order under this subsection is an order requiring the proprietor of the school to do one or more of the following no later than such date after the appeal period as may be specified in the order—

(a) to cease using any part of the school premises for all purposes or purposes specified in the order;

(b) to close any part of the school's operation;

(c) to cease to admit any new pupils, or new pupils of a description specified in the order.

(9) If the proprietor of a school fails to comply with an order under subsection (8)—

(a) he is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both, and

(b) e registration authority may determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.

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(10) Where the proprietor of a school in respect of which an order is made under subsection (8) applies to the registration authority for the order to be varied or revoked, the authority shall—

(a) vary or revoke the order as requested in the application, if it is satisfied that it is appropriate to do so because of any change of circumstance, and

(b) in any other case, refuse to do so.

(11) The variation or revocation of an order under subsection (10) shall take effect as from the date on which the proprietor of the school is notified of it.

(12) Where the registration authority has made a determination under this section to remove a school from the register on a particular date and no appeal is made against the determination under section 166, the authority shall remove the school from the register on that date.

(13) For the purposes of this Chapter, the "appeal period" in relation to a determination or order is the period within which an appeal against it may be made under section 166.

Textual Amendments

F403 Words in s. 165(1)(a) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 21, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

Modifications etc. (not altering text)

C98 S. 165 restricted (19.11.2003) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (No.2) (Wales) Regulations 2003 (S.I. 2003/2959), regs. 1(1), **8(1)**

Commencement Information

I240 S. 165 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4** (with Sch. para. 6)

I241 S. 165 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

166 Appeals

(1) The proprietor of a registered school may appeal to the **[**[F404]First-tier Tribunal**]** against—

(a) a refusal under section 162 to approve a material change,

(b) a determination under section 165 to remove the school from the register,

(c) an order under section 165(8) requiring the taking of specified action, or

(d) a refusal under section 165(10) to vary or revoke such an order.

(2) An appeal under subsection (1) must be made within the period of 28 days beginning with the day on which notice of the refusal, determination or order is served on the proprietor.

(3) Where an appeal is made under subsection (1)(b) against a determination under section 165—

(a) if the appeal is withdrawn or otherwise disposed of before it is determined by the tribunal under section 167, the registration authority may remove the school from the register on such date after the appeal period as it may determine, and

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(b) in any other case the registration authority may only remove the school pursuant to the determination in accordance with section 167.

(4) Where an appeal is made under subsection (1)(c) against an order under section 165(8), the order shall not have effect in relation to any time before the appeal is determined by the tribunal under section 167 or withdrawn or otherwise disposed of.

(5) In the case of an appeal against a determination under section 165(2), if at any time the tribunal considers that there is a risk of serious harm occurring to the welfare of pupils before the determination of the appeal, it may by order provide that the school is to be regarded as not registered for the purposes of section 159 until the tribunal determines the appeal under section 167 (or revokes the order before so determining the appeal).

Textual Amendments

F404 Words in s. 166(1) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 194**

Modifications etc. (not altering text)

C99 S. 166(2): power to modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 7** (with ss. 88-90)

Commencement Information

I242 S. 166 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I243 S. 166 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

167 Determination of appeals

(1) This section applies where an appeal is made under section 166 to the **[**[F405]First-tier Tribunal**]**.

(2) In the case of an appeal against a refusal under section 162 to approve a material change, the tribunal may—

(a) uphold the refusal to approve, or

(b) itself approve the change.

(3) In the case of an appeal against a determination under section 165 to remove the school from the register, the tribunal may—

(a) uphold the determination, or

(b) revoke the determination.

(4) Where under subsection (3)(a) the tribunal upholds a determination, the registration authority shall remove the school from the register on such date as the tribunal may specify or, if it does not specify a date, on such date as the registration authority may determine.

(5) Where under subsection (3)(b) the tribunal revokes a determination, it may order the proprietor of the school to do one or more of the following by such time as may be specified in the order—

(a) to cease using any part of the school premises for all purposes or purposes specified in the order;

(b) to close any part of the school's operation;

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(c) to cease to admit any new pupils, or new pupils of a description specified in the order.

(6) In the case of an appeal against an order under section 165(8) requiring the taking of specified action, the tribunal may—

(a) uphold the order,

(b) vary the order, or

(c) strike down the order.

(7) In the case of an appeal against a refusal under section 165(10) to vary or revoke an order under section 165(8), the tribunal may—

(a) uphold the refusal, or

(b) if in any case it is satisfied that it is appropriate to do so because of any change of circumstance after the making of the order—

(i) vary the order in such manner as it thinks fit, or

(ii) revoke the order.

(8) The tribunal may, on the application of the proprietor of a registered school, vary or revoke any order made by it under subsection (5) in relation to the school where it is satisfied that it is appropriate to do so because of any change of circumstance.

(9) If the proprietor of a school fails to comply with an order of the tribunal under subsection (5)—

(a) he is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both, and

(b) the tribunal may, on the application of the registration authority, authorise the registration authority to remove the school from the register on such date as the tribunal may determine.

Textual Amendments

F405 Words in s. 167(1) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 195**

Commencement Information

I244 S. 167 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I245 S. 167 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

F406 Prohibition on participation in management of independent schools

Textual Amendments

F406 Ss. 167A-167D and cross-heading inserted (12.10.2009 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 169**, 188(3); S.I. 2009/2545, art. 3(1)(a)

167A Prohibition on participation in management of independent schools

(1) The appropriate authority may direct that a person—

(a) may not take part in the management of an independent school;

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(b) may take part in the management of an independent school only in circumstances specified in the direction;

(c) may take part in the management of an independent school only if conditions specified in the direction are satisfied.

(2) A direction under this section may be given in respect of a person only on one or more prescribed grounds connected with the suitability of persons to take part in the management of an independent school.

(3) Regulations may prescribe the procedure for giving a direction under this section (including provision about notification of persons who are subject to directions).

(4) The appropriate authority may vary or revoke a direction under this section in prescribed cases.

(5) Regulations may prescribe the grounds on which a person subject to a direction under this section may seek to have it varied or revoked under subsection (4).

(6) In this section and sections 167B to 167D, "appropriate authority" means—

F407(a) . . . . . .

(b) F408... the registration authority or such other public authority as may be prescribed.

Textual Amendments

F407 S. 167A(6)(a) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 22(a), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

F408 Words in s. 167A(6)(b) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 22(b), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

167B Directions under section 167A: appeals

(1) A person in respect of whom a direction has been given under section 167A may appeal to the **[**F409First-tier Tribunal**]**—

(a) against the decision to give the direction;

(b) against a decision not to vary or revoke the direction.

(2) Regulations may—

(a) provide that the Tribunal may not entertain an appeal under this section insofar as the appellant's case is inconsistent with his having been convicted of an offence;

(b) prescribe circumstances in which the Tribunal shall allow an appeal under this section;

(c) prescribe the powers available to the Tribunal on allowing an appeal under this section.

Textual Amendments

F409 Words in s. 167B substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833, art. 1(1), **Sch. 3 para. 196**

Status: *This version of this Act contains provisions that are prospective.*
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[F410 167C Directions under section 167A: information

(1) Where the appropriate authority is a public authority other than the Welsh Ministers, the Welsh Ministers may provide to that authority any information relating to a person which is held by the Welsh Ministers in connection with the Welsh Ministers' functions under this Chapter.

(2) The Secretary of State may provide to the appropriate authority any information relating to a person which is held by the Secretary of State and which appears to the Secretary of State to be relevant to the exercise of the appropriate authority's functions under section 167A or by virtue of section 167B.

(3) The Chief Inspector may provide to the appropriate authority any information relating to a person which appears to the Chief Inspector to be relevant to the exercise of the appropriate authority's functions under section 167A or by virtue of section 167B.

(4) The Independent Barring Board may provide to the appropriate authority any information relating to a person which is held by the Board in connection with its functions and which appears to it to be relevant to the exercise of the appropriate authority's functions under section 167A or by virtue of section 167B.

(5) The appropriate authority may provide to the Independent Barring Board, the General Teaching Council for Wales, the Chief Inspector, the Secretary of State or, where the appropriate authority is a public authority other than the Welsh Ministers, the Welsh Ministers, any information relating to a person which is held by the appropriate authority in connection with its functions under section 167A.**]**

Textual Amendments

F410 S. 167C substituted (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 23** (with s. 139); S.I. 2014/3364, art. 2(z) (with art. 4)

[F411 167D Directions under section 167A: notification

Where the appropriate authority gives a direction under section 167A(1), or varies or revokes any such direction, it must notify—

(a) the registration authority (unless the appropriate authority is the registration authority), and

(b) the Secretary of State and (if different) the appropriate authority for the purposes of sections 128 to 131 of the Education and Skills Act 2008 (prohibition on participation in management of independent educational institutions in England).**]]**

Textual Amendments

F411 S. 167D substituted (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 23** (with s. 139); S.I. 2014/3364, art. 2(z) (with art. 4)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Supplementary

168 Provision of information

(1) Regulations may make provision for requiring the proprietor of a registered school to provide the registration authority, when the authority so requests, with such particulars relating to the school as may be prescribed.

(2) Regulations under this section may in particular—

[F412(a) require the provision of such information as is required for the purposes of determining whether the school is—

(i) a children's home in England (within the meaning of the Care Standards Act 2000), or

(ii) a provider of a care home service (within the meaning of the Regulation and Inspection of Social Care (Wales) Act 2016);**]**

(b) provide for the registration authority to remove from the register any school in respect of which any requirement imposed by or under the regulations is not complied with;

(c) provide that a person who fails to comply with any specified provision of the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Textual Amendments

F412 S. 168(2)(a) substituted (2.4.2018) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2018 (S.I. 2018/195), regs. 2(1), **18**

Commencement Information

I246 S. 168 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I247 S. 168 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

[F413168A Proceedings for offences

No proceedings for an offence under this Chapter shall be instituted except by or with the consent of the registration authority.

Textual Amendments

F413 Ss. 168A-168C inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 172(2)**, 188(2) (with s. 172(4))

168B Offences by bodies corporate

(1) Where an offence under this Chapter committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) any director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

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he (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as it applies to a director of a body corporate.

Textual Amendments

F413 Ss. 168A-168C inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 172(2)**, 188(2) (with s. 172(4))

168C Offences by unincorporated bodies

(1) Proceedings for an offence alleged to have been committed under this Chapter by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.

(2) A fine imposed on an unincorporated body on its conviction of an offence under this Chapter is to be paid out of the funds of that body.

(3) If an unincorporated body is charged with an offence under this Chapter, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure on charge of an offence against a corporation) apply as they do in relation to a body corporate.

(4) Where an offence under this Chapter committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, he as well as the body is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) Where an offence under this Chapter committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.**]**

Textual Amendments

F413 Ss. 168A-168C inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 172(2)**, 188(2) (with s. 172(4))

169 Unsuitable persons

The registration authority may remove a registered school from the register where it is satisfied that any person who, in relation to the school, carries out

[[F414]work of a prescribed kind is subject to a direction, order or decision of a prescribed description made under any prescribed enactment having effect in any part of the United Kingdom.**]**

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Textual Amendments

F414 Words in s. 169 substituted (12.10.2009 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 170(1)**, 188(3); S.I. 2009/2545, art. 3(1)(b)

Commencement Information

I248 S. 169 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I249 S. 169 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

170 Service of notice etc.

(1) The registration authority must serve on the proprietor of a registered school notice of—

(a) any decision made by the authority under section 162 in relation to the school;

(b) any determination or order made by the authority under section 165 in relation to the school;

(c) any decision made by the authority under subsection (10) of that section in relation to the school.

(2) For the purposes of this Chapter, any notice, order or other document required to be given to or served on the proprietor of a registered school may be given to or served on him by delivering it to the registered address of the school.

Commencement Information

I250 S. 170 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I251 S. 170 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

171 Interpretation of Chapter 1

In this Chapter—

"appeal period" has the meaning given by section 165;

"Chief Inspector" means—

(a) **F415**...

(b) **F416**... Her Majesty's Chief Inspector of Education and Training in Wales;

F417...

"independent school standards" has the meaning given by section 157;

"the register" means—

(a) **F418**...

(b) **F419**... the register of independent schools in Wales;

"registered" means entered in the register;

F420...

"registration authority" means **[**F421 the Welsh Ministers**]**.

Textual Amendments

F415 Words in s. 171 repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 24(2)(a), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

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F416 Words in s. 171 repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 24(2)(b), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)
F417 Words in s. 171 repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 24(3), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)
F418 Words in s. 171 repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 24(4)(a), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)
F419 Words in s. 171 repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 24(4)(b), **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)
F420 Words in s. 171 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 8 para. 5, **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
F421 Words in s. 171 substituted (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 24(5)** (with s. 139); S.I. 2014/3364, art. 2(z) (with art. 4)

Commencement Information
I252 S. 171 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**
I253 S. 171 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

CHAPTER 2

CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

172 Alteration to definition of "independent school"

For section 463 of the Education Act 1996 (c. 56) (meaning of "independent school") there is substituted—

"**463 Meaning of "independent school"**

(1) In this Act "independent school" means any school at which full-time education is provided for—

(a) five or more pupils of compulsory school age, or

(b) at least one pupil of that age for whom a statement is maintained under section 324, or who is looked after by a local authority (within the meaning of section 22 of the Children Act 1989),

and which is not a school maintained by a **[**F8local authority**]** or a special school not so maintained.

(2) For the purposes of subsection (1)(a) and (b) it is immaterial if full-time education is also provided at the school for pupils under or over compulsory school age."

Textual Amendments
F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information
I254 S. 172 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**
I255 S. 172 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

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173 Right of access of [F8local authority]

In section 327 of the Education Act 1996 (c. 56) (**[**F8local authority**]** to have access to certain schools to monitor provision made for child with special educational needs), in subsection (1)(b) (schools to which section applies), at the end there is inserted "or at an independent school".

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I256 S. 173 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I257 S. 173 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

F422174 Consent to placement

. . . . . .

Textual Amendments

F422 S. 174 omitted (1.9.2021) by virtue of Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 9(3)**; S.I. 2021/373, art. 8(j)(xxi)

PART 11

MISCELLANEOUS AND GENERAL

*General duties of **[**F47local authorities**]** and governing bodies*

175 Duties F423... in relation to welfare of children

(1) A **[**F8local authority**]** shall make arrangements for ensuring that **[**F424their education functions**]** are exercised with a view to safeguarding and promoting the welfare of children.

(2) The governing body of a maintained school shall make arrangements for ensuring that their functions relating to the conduct of the school are exercised with a view to safeguarding and promoting the welfare of children who are pupils at the school.

(3) The governing body of an institution within the further education sector shall make arrangements for ensuring that their functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the institution.

[F425(3A) The proprietor of a 16 to 19 Academy must make arrangements to ensure that the proprietor's functions relating to the conduct of the Academy are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the Academy.

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(3B) The Secretary of State may not—

(a) enter into an agreement with the proprietor of an institution in England for the provision of further education, unless the agreement requires the proprietor to comply with the safeguarding duties, or

(b) give financial assistance under section 14 to the proprietor of an institution in England for the provision of further education unless the assistance is given on terms requiring the proprietor to comply with the safeguarding duties,

but this subsection does not restrict the Secretary of State's powers to enter into an agreement with, or give financial assistance to, an institution to which subsection (3) or (3A) applies.

(3C) "The safeguarding duties" are—

(a) a duty to make arrangements to ensure that the proprietor's functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the institution, and

(b) a duty to have regard to any guidance given from time to time by the Secretary of State in considering what arrangements are required.**]**

(4) **[**[F426]A person**]** mentioned in any of subsections (1) to **[**[F427](3A)**]** shall, in considering what arrangements are required to be made by them under that subsection, have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales.

(5) In this section—

"child" means a person under the age of eighteen;

"governing body", in relation to an institution within the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13);

"maintained school" means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.

[[F428]"proprietor", in relation to an institution that is not a school, means the person or body of persons responsible for the management of the institution.**]**

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F423 Words in s. 175 heading omitted (29.6.2021) by virtue of Education and Training (Welfare of Children) Act 2021 (c. 16), **ss. 1(6)**, 3(2)

F424 Words in s. 175(1) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 11(11)**

F425 S. 175(3A)-(3C) inserted (29.6.2021) by Education and Training (Welfare of Children) Act 2021 (c. 16), **ss. 1(3)**, 3(2)

F426 Words in s. 175(4) substituted (29.6.2021) by Education and Training (Welfare of Children) Act 2021 (c. 16), **ss. 1(4)(a)**, 3(2)

F427 Word in s. 175(4) substituted (29.6.2021) by Education and Training (Welfare of Children) Act 2021 (c. 16), **ss. 1(4)(b)**, 3(2)

F428 Words in s. 175(5) inserted (29.6.2021) by Education and Training (Welfare of Children) Act 2021 (c. 16), **ss. 1(5)**, 3(2)

Status: *This version of this Act contains provisions that are prospective.*
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Modifications etc. (not altering text)

C100 S. 175(2)(4) applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 19A (as inserted (1.4.2013) by The Pupil Referral Units (Miscellaneous Amendments) (No.2) (England) Regulations 2012 (S.I. 2012/3158), regs. 1, **3(3)**)

Commencement Information

I258 S. 175 in force at 1.6.2004 except in relation to W. by S.I. 2004/1318, **art. 2**

I259 S. 175 in force at 1.9.2006 for W. by S.I. 2006/172, **art. 5**

[F429]176 Consultation with pupils

. . . . . .

Textual Amendments

F429 S. 176 repealed (1.4.2011) by Children and Families (Wales) Measure 2010 (nawm 1), ss. 12(3), 75(3), **Sch. 2**; S.I. 2010/2582, art. 2, Sch. 1 (with Sch. 2, Sch. 3)

Commencement Information

I260 S. 176 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I261 S. 176 in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

Education and training outside schools

177 Meaning of "secondary education"

(1) Section 2 of the Education Act 1996 (c. 56) (definition of primary, secondary and further education) is amended as follows.

(2) In subsection (2B) (which extends "secondary education" to include education received partly at a school and partly at another institution)—

(a) in paragraph (b), after "another institution" there is inserted " or any other establishment ", and

(b) after "other institution" there is inserted " or establishment ".

(3) After subsection (6) there is inserted—

"(6A) In the context of the definitions of secondary education and further education, references in this section to education include vocational, social, physical and recreational training."

(4) The Education Acts shall have effect in their application to persons receiving secondary education within section 2(2B) of the Education Act 1996 (c. 56) with such modifications as may be specified in an order under this subsection.

(5) The power to make an order under subsection (4) is exercisable—

(a) in relation to England, by the Secretary of State, and

(b) in relation to Wales, by the National Assembly for Wales.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I262 S. 177 not in force at Royal Assent, see s. 216; s. 177 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I263 S. 177 in force at 1.8.2004 for W. by S.I. 2004/912, art. 5, **Sch. Pt. 2**

178 Training and education provided in the workplace for 14 to 16 year olds

(1) The Learning and Skills Act 2000 (c. 21) is amended as follows.

F430(2) . . . . . .

F431(3 . . . . . .

(4) In section 83 (area inspections in Wales)—

(a) in subsection (1)(a) for "16" there is substituted " 15 ", and

(b) after subsection (10) there is inserted—

"(11) In subsection (1)(a) "persons who are aged 15" includes persons for whom education is being provided at a school who will attain that age in the current school year; and for this purpose "school" and "school year" have the same meaning as in the Education Act 1996."

Textual Amendments

F430 S. 178(2) repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 47, **Sch. 2 Pt. 1** (with art. 2(3))

F431 S. 178(3) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(ii)

Commencement Information

I264 S. 178(1)(2) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I265 S. 178(1)(4) in force at 1.8.2003 for W. by S.I. 2003/1718, art. 4, **Sch. Pt. I**

I266 S. 178(2) in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

I267 S. 178(3) in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in Sch.)

I268 S. 178(4) in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

F432179 Rights of entry in relation to inspections

. . . . . .

Textual Amendments

F432 S. 179 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Status: *This version of this Act contains provisions that are prospective.*
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180 Inspections of [F47local authorities]: rights of entry etc.

For section 40 of the Education Act 1997 (c. 44) (inspector's rights of entry etc.) there is substituted—

"**40 Inspector's rights of entry etc.**

(1) This section applies where a **[**F8local authority**]** are inspected under section 38.

(2) The inspector, and any person assisting him, shall have at all reasonable times a right of entry to—

(a) the premises of the **[**F8local authority**]**,

(b) the premises of any school maintained by the authority, and

(c) any other premises at which relevant section 19 education is provided, other than premises which are or form part of a private dwelling house but are not a school.

(3) The inspector, and any person assisting him, shall also have at all reasonable times a right to inspect and take copies of—

(a) any records kept by, and any other documents containing information relating to, the **[**F8local authority**]** or any school maintained by the authority, and

(b) any records kept by a person who provides relevant section 19 education that relate to the provision of that education, and any other documents containing information that so relates;

which he considers relevant to the exercise of his functions.

(4) Section 42 of the School Inspections Act 1996 (inspection of computer records) shall apply for the purposes of subsection (3) as it applies for the purposes of Part 1 of that Act.

(5) Without prejudice to subsections (2) and (3), the **[**F8local authority**]** and the governing body of any school maintained by the authority—

(a) shall give the inspector and any person assisting him, all assistance in connection with the exercise of his functions which they are reasonably able to give, and

(b) shall secure that all such assistance is also given by persons who work at the school.

(6) It shall be an offence wilfully to obstruct the inspector or any person assisting him in the exercise of his functions in relation to the inspection.

(7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(8) In this section—

"document" and "records" each include information recorded in any form; and

"relevant section 19 education" means education provided to a child by virtue of arrangements made by the **[**F8local authority**]** under section 19 of the Education Act 1996 (exceptional provision of education at schools or otherwise)."

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I269 S. 180 wholly in force at 19.12.2002; s. 180 not in force at Royal Assent, see s. 216; s. 180 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); s. 180 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

Allowances in respect of education or training

181 Allowances in respect of education or training

(1) Regulations may make provision authorising or requiring the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) to pay an allowance to or in respect of any eligible person who is over compulsory school age, in connection with his undertaking education or training of a prescribed description.

(2) The relevant education or training must not be higher education.

(3) Regulations may, in particular, make provision—

(a) for determining whether a person is an eligible person in relation to any allowance,

(b) prescribing information that must be supplied by or on behalf of any person before any allowance can be paid or continue to be paid to or in respect of him,

(c) prescribing the period by reference to which any allowance of a periodic nature is to be paid,

(d) prescribing the maximum allowance payable to or in respect of any person in respect of any period,

(e) prescribing the maximum period during which an allowance may be payable to or in respect of any person,

(f) where the amount of an allowance may vary to any extent according to a person's circumstances, for determining, or providing for the determination by the Secretary of State or the National Assembly for Wales of, the amount required or authorised to be paid to or in respect of him,

(g) specifying whether any allowance in respect of any person is to be paid to him, to a parent of his or to any other person,

(h) for any allowance under this section to be made available on such terms and conditions as may be prescribed, or determined under the regulations by the Secretary of State or the National Assembly for Wales, including terms and conditions requiring repayments to be made in circumstances so prescribed or determined,

(i) requiring the payment of an allowance to be suspended or terminated in any such circumstances,

(j) for appeals with respect to matters arising under the regulations (including provision for determining, or enabling the determination of, the procedure to be followed in connection with appeals),

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Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(k) imposing obligations on the governing body of any maintained school or institution within the further education sector in relation to cases where the school or institution is providing the education or training referred to in subsection (1).

(4) In this section and section 182—

"governing body"—

(a) in relation to a pupil referral unit, means the **[**[F8]local authority**]** who maintain the unit, and

(b) in relation to an institution within the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13);

"maintained school" means a community, foundation or voluntary school, a community or foundation special school or a pupil referral unit.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I270 S. 181 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I271 S. 181 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

182 Learning agreements

(1) For the purposes of this section, a "learning agreement" is a document which—

(a) specifies conditions which—

(i) relate to the attendance or conduct of, or completion of assigned tasks by, a person to whom an allowance is or may become payable (in this section referred to as "the student"), and

(ii) are either prescribed by regulations or, if regulations so provide, determined in accordance with any prescribed requirements by the person providing the relevant education or training,

(b) contains a declaration by the student relating to compliance with those conditions, and

(c) deals with such other matters as may be prescribed.

(2) Regulations may require a learning agreement—

(a) to be in the prescribed form, and

(b) to be signed by the student and by or on behalf of such other persons as may be prescribed.

(3) Without prejudice to the generality of section 181(3)(h), regulations may provide—

(a) that a person is not eligible to receive an allowance unless the person providing the relevant education or training holds a learning agreement signed by him, and

(b) that payment of an allowance is conditional on the person providing the relevant education or training from time to time determining that the student

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has complied with the learning agreement or has done so to a prescribed extent or in prescribed respects.

(4) Regulations may—

(a) enable or require a learning agreement to specify targets relating to the attendance, conduct or attainments of the student, and

(b) enable or require the Secretary of State or the National Assembly for Wales, in any case where the person providing the relevant education or training determines that targets have been met, to make additional payments of allowance to or in respect of the student.

(5) Without prejudice to the generality of section 181(3)(k), regulations may impose obligations relating to learning agreements on—

(a) the governing body of a maintained school, or

(b) the governing body of an institution within the further education sector.

(6) Regulations may contain provision for determining the person by whom any relevant education or training is to be treated for the purposes of this section as being provided.

(7) A learning agreement shall not be capable of creating any obligation in respect of whose breach any liability arises in contract or in tort.

(8) In this section—

"allowance" means an allowance under section 181;

"relevant education or training" means the education or training referred to in that section.

Commencement Information

I272 S. 182 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I273 S. 182 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

183 Transfer of functions relating to allowances under section 181

(1) If the Secretary of State so determines, any function exercisable by him by virtue of regulations made by virtue of section 181 shall, to such extent as is specified in his determination, be exercisable instead by—

F433(a) . . . . . .

(aa) F434... F435...

(b) **[**F8local authority**]**.

(2) If the National Assembly for Wales so determines, any function exercisable by the Assembly by virtue of regulations made by virtue of section 181 shall, to such extent as is specified in the Assembly's determination, be exercisable instead by—

F436(a) . . . . . .

(b) a **[**F8local authority**]**.

(3) A **[**F437person or**]** body by whom any function is for the time being exercisable by virtue of subsection (1) or (2) shall comply with any directions given by the Secretary of State, or as the case may be the National Assembly for Wales, as to the exercise of that function.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) Where any function is so exercisable by a **[**[F8]local authority**]**, the function shall be taken to be a function of that authority—

(a) for the purposes of section 70 of the Deregulation and Contracting Out Act 1994 (c. 40) (contracting out of functions of local authorities),

(b) for the purposes of Part 2 of the 2000 Act (arrangements with respect to executives etc.), and

(c) subject to the provisions of section 13 of the 2000 Act, for the purposes of section 101 of the Local Government Act 1972 (c. 70) (arrangements for discharge of functions by local authorities).

(5) In this section "the 2000 Act" means the Local Government Act 2000 (c. 22).

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F433 S. 183(1)(a) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(g), **Sch. 14 para. 46(a)**

F434 S. 183(1)(aa) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 16 para. 19**; S.I. 2012/924, art. 2

F435 Word in s. 183(1)(aa) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(g), **Sch. 14 para. 46(b)**

F436 S. 183(2)(a) omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 88** (with art. 7)

F437 Words in s. 183(3) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 48(b)** (with art. 2(3))

Commencement Information

I274 S. 183 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I275 S. 183 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

184 Delegation of functions relating to allowances

(1) The Secretary of State or the National Assembly for Wales may make arrangements for any person or body specified in the arrangements to exercise on his or its behalf, to such extent as is so specified, any function exercisable by him or the Assembly by virtue of regulations made by virtue of section 181 (including any such function in relation to appeals).

(2) Any arrangements made under subsection (1) shall not prevent the Secretary of State, or as the case may be the National Assembly for Wales, from exercising the function in question himself or itself.

Commencement Information

I276 S. 184 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I277 S. 184 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

185 Supplementary provisions relating to transfer or delegation of functions

(1) The Secretary of State or the National Assembly for Wales may make provision for enabling appeals—

(a) to be made with respect to such matters arising out of the exercise by virtue of section 183(1) or (2) or 184(1) by any person or body of any function of the Secretary of State or the Assembly as he or it may determine, and

(b) to be so made to a person or body appointed for the purpose by the Secretary of State or the Assembly.

(2) The Secretary of State or the National Assembly for Wales may pay to any body or person by whom any function of his, or as the case may be of the Assembly, is exercisable by virtue of section 183(1) or (2) or 184(1)—

(a) such amounts as the Secretary of State or the Assembly considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that body or person—

(i) in paying allowances under section 181, or

(ii) by way of administrative expenses,

in, or in connection with, the exercise of that function;

(b) in a case where the function is exercisable by virtue of section 184(1), such remuneration as the Secretary of State or the Assembly may determine.

(3) Any payment under subsection (2)(a) may be made subject to such terms and conditions as the Secretary of State or the National Assembly for Wales may determine; and any such conditions may in particular—

(a) require the provision of returns or other information before any such payment is made;

(b) relate to the use of the amount paid or require the repayment in specified circumstances of all or part of the amount paid.

(4) The Secretary of State or the National Assembly for Wales may pay to any person or body appointed by him or it under subsection (1) such remuneration or administrative expenses (or both) as he or it may determine.

(5) In relation to any function which, by virtue of section 183(1) or (2) or 184(1) is exercisable to a specified extent, references in section 183(3) and (4) and this section to the exercise of that function are accordingly to its exercise to that extent.

Commencement Information

I278 S. 185 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I279 S. 185 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

Student loans

186 Student loans

(1) Regulations may make provision for—

(a) the repayment by the Secretary of State of amounts payable in respect of loans mentioned in paragraph (a), (b) or (c) of subsection (2);

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(b) reducing or extinguishing the amounts payable in respect of loans mentioned in paragraph (a) or (b) of subsection (2).

(2) The loans are—

(a) loans received under arrangements made under section 1 of the Education (Student Loans) Act 1990 (c. 6) by eligible persons who fulfil prescribed conditions;

(b) loans received under arrangements made under section 22 of the Teaching and Higher Education Act 1998 (c. 30) by eligible persons who fulfil prescribed conditions;

(c) loans received for educational purposes under such other arrangements as may be prescribed by the regulations, including arrangements made outside England and Wales, by eligible persons who fulfil prescribed conditions.

(3) The regulations may, in particular, make provision—

(a) for determining whether a person is eligible for the purposes of the regulations;

(b) prescribing the circumstances and manner in which, and the times at which, payments are to be made, or amounts are to be reduced or extinguished;

(c) allowing retrospective adjustments for the purposes of the regulations, including provision allowing the Secretary of State to require reimbursement of repayments, or to alter the amounts reduced or extinguished;

(d) for imposing on employers, or such other persons or bodies as may be prescribed, requirements with respect to information to be given to the Secretary of State;

(e) for the reimbursement by the Secretary of State of costs incurred by persons or bodies in complying with any such requirements;

(f) for appeals with respect to matters arising under the regulations (including provision for determining, or enabling the determination of the procedure to be followed in connection with the appeals).

(4) The Secretary of State may make arrangements for any person or body specified in the arrangements to exercise on his behalf, to such extent as is so specified, any function exercisable by him by virtue of the regulations (including any such function in relation to appeals).

(5) Any arrangements made under subsection (4) shall not prevent the Secretary of State from exercising the function in question himself.

(6) The Secretary of State may pay to any person or body by whom any function is exercisable by virtue of subsection (4) such amounts as he considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that person or body in, or in connection with, the exercise of that function.

(7) Any payment under subsection (6) may be made subject to such terms and conditions as the Secretary of State may determine.

(8) Such conditions may in particular—

(a) require the provision of returns or other information before any such payment is made;

(b) relate to the use of the amount paid or require the repayment in specified circumstances of all or part of the amount paid.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(9) In this section—

"prescribed" means prescribed by regulations;

"regulations" means regulations made under this section by the Secretary of State.

Modifications etc. (not altering text)

C101 S. 186: functions made exercisable concurrently (30.9.2018) by The Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644), arts. 1(2), **39(5)** (with art. 39(6))

Education action zones

187 Education action zones

Schedule 15 (which makes provision in relation to education action zones and Education Action Forums) shall have effect.

Commencement Information

I280 S. 187 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I281 S. 187 in force at 1.9.2003 so far as not already in force except in relation to W. by S.I. 2003/1667, **art. 4**

I282 S. 187 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

School inspections

[F438]188 School inspections

. . . . . .

Textual Amendments

F438 S. 188 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Qualifications

189 Amendments of Part 5 of Education Act 1997

Schedule 17 (which contains amendments of Part 5 of the Education Act 1997 (c. 44) relating to the Qualifications and Curriculum Authority and the Qualifications, Curriculum and Assessment Authority for Wales) shall have effect.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I283 S. 189 partly in force; s. 189 not in force at Royal Assent, see s. 216; s. 189 in force for certain purposes at 1.10.2002 by S.I. 2002/2439, **art. 2** (with transitional provisions and savings in Sch.); s. 189 in force for certain further purposes at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

190 [F8Local authority] functions: qualifications

(1) A **[**F8local authority**]** may award or authenticate academic and vocational qualifications, and may in particular—

(a) devise and administer a qualification or a course leading to a qualification,

(b) register candidates,

(c) set, administer and moderate examinations or other assessments, and

(d) require the payment of fees in respect of the exercise of the power.

(2) A **[**F8local authority**]** may secure the exercise by any other person of such of the authority's powers under subsection (1) as the authority may specify.

(3) A **[**F8local authority**]** may exercise their powers under this section by forming, or participating in forming, or being a member of, a body corporate.

(4) The powers under this section shall be regarded as always having been within the powers of a **[**F8local authority**]**; and this section is without prejudice to the generality of the powers of a **[**F8local authority**]**.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Special educational needs: Wales

F439191 Regional provision for special educational needs in Wales

. . . . . .

Textual Amendments

F439 Ss. 191-193 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(10)**; S.I. 2013/1800, art. 3(j)

F439192 Directions to bring forward proposals to secure regional provision

. . . . . .

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F439 Ss. 191-193 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(10)**; S.I. 2013/1800, art. 3(j)

F439 193 Powers of Assembly to make proposals to secure regional provision

. . . . . .

Textual Amendments

F439 Ss. 191-193 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(10)**; S.I. 2013/1800, art. 3(j)

194 Welsh [F47local authorities]' powers to make regional provision

(1) In section 14 of the Education Act 1996 (c. 56) (functions in respect of provision of primary and secondary schools), after subsection (4) there is inserted—

"(4A) A **[**F8local authority**]** for an area in Wales may secure that regional schools for providing—

(a) primary education, and

(b) education that is secondary education by virtue of section 2(2)(a),

are available for Wales or any part of Wales that includes the area of the authority.

(4B) For this purpose a "regional school", in relation to a **[**F8local authority**]**, is a school maintained by that authority which provides education to meet both—

(a) the needs of pupils with particular special educational needs in their area, and

(b) the needs of such pupils in the rest, or any other part, of Wales,

whether or not the institution also provides education suitable to the requirements of other pupils."

(2) In section 318 of that Act (provision of goods and services in connection with special educational needs)—

F440(a) . . . . . .

(b) after subsection (3A) there is inserted—

"(3B) A **[**F8local authority**]** in Wales may supply goods and services to any authority in Wales or other person (other than a governing body within subsection (1)) for the purpose of assisting them in making for a child any special educational provision which any learning difficulty of the child calls for."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Status: *This version of this Act contains provisions that are prospective.*
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F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F440 S. 194(2)(a) omitted (1.9.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 16(4)(b)**; S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505)

195 The Special Educational Needs Tribunal for Wales

Schedule 18 (the Special Educational Needs Tribunal for Wales) shall have effect.

Commencement Information

I284 S. 195 partly in force; s. 195 not in force at Royal Assent, see s. 216; s. 195 in force for certain purposes at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II** and for certain further purposes at 1.9.2003 by S.I. 2002/3185, art. 6, **Sch. Pt. III**

I285 S. 195 in force at 31.3.2003 for specified purposes by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I286 S. 195 in force at 1.9.2003 for specified purposes by S.I. 2002/3185, art. 6, **Sch. Pt. III**

Other provisions relating only to Wales

196 Publication and provision of material

(1) A **[**F8local authority**]** in Wales shall publish any qualifying material which the National Assembly for Wales provides to the authority for the purposes of this subsection.

(2) A **[**F8local authority**]** in Wales shall provide to such persons as the Assembly may specify any qualifying material which the Assembly provides to the authority for the purposes of this subsection.

(3) The governing body of any school maintained by a **[**F8local authority**]** in Wales shall provide to such persons as the Assembly may specify any qualifying material which the Assembly provides to the body for the purposes of this subsection.

(4) For the purposes of this section, "qualifying material" is material the Assembly considers likely to—

(a) assist parents in choosing schools for their children,

(b) increase public awareness of the quality of education provided at schools, or a school, and of the educational standards achieved there, or

(c) assist in assessing the degree of efficiency with which the financial resources of schools, or a school, are managed.

(5) No material published or provided under this section may name any individual to whom it relates.

(6) The publication or provision of material by a **[**F8local authority**]** or governing body under this section shall be in such form and manner as may be prescribed.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

197 Partnership agreements and statements

(1) The National Assembly for Wales may by regulations require any **[**F8local authority**]** in Wales to enter into a partnership agreement with the governing body of each school maintained by that authority, or each such school of a prescribed class.

(2) For the purposes of this section, a partnership agreement is an agreement about how a **[**F8local authority**]** and the governing body of a school are to discharge their respective functions in relation to the school as regards—

(a) such matters as may be prescribed, and

(b) such other matters as the authority and the governing body may agree.

(3) Where a **[**F8local authority**]** fail to reach agreement with the governing body of a school for the purposes of subsection (1), the authority may draw up a statement setting out how they and the governing body are to discharge their respective functions in relation to the school as regards the matters prescribed under subsection (2)(a).

(4) Regulations under this section may—

(a) require the parties to a partnership agreement to review the agreement, and

(b) require a **[**F8local authority**]** that has drawn up a statement under this section and the governing body to which that statement relates to review the statement,

at such intervals, or in such circumstances, as may be prescribed.

(5) Following a review of a partnership agreement, the parties may agree—

(a) not to change the agreement,

(b) to amend the agreement in such a manner that it remains a partnership agreement, or

(c) to replace the agreement with a new partnership agreement,

but, where they fail to do so, subsection (3) applies as it applies where a **[**F8local authority**]** and governing body fail to reach agreement for the purposes of subsection (1).

(6) Following a review of a statement under subsection (3), the **[**F8local authority**]** and governing body in question may agree to replace the statement with a partnership agreement, but, where they fail to do so, the authority may amend the statement or draw up a new one (provided the amended or replacement statement is one that could have been drawn up under subsection (3)).

(7) Regulations under this section may make provision for the time by which a **[**F8local authority**]** or governing body must comply with any requirement imposed on them by or under the preceding provisions of this section.

(8) In the discharge of their functions in relation to a school maintained by a **[**F8local authority**]** in Wales—

(a) the authority, and

(b) the governing body and head teacher of the school,

must have regard to any partnership agreement or statement under this section which for the time being has effect in relation to the school.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I287 S. 197 in force at 1.9.2003 by S.I. 2003/1718, art. 5, **Sch. Pt. II**

198 Transition from primary to secondary school

(1) The National Assembly for Wales may require—

(a) the governing body of each secondary school maintained by a **[**F8local authority**]** in Wales, or of each such secondary school belonging to a class specified in the requirement, and

(b) the governing body of each of its feeder primary schools maintained by such an authority,

jointly, to draw up plans to facilitate the transition from primary school to secondary school of pupils at those primary schools who are admitted to the secondary school.

(2) In determining whether, for the purposes of this section, a particular school is to be regarded as a feeder primary school, in relation to a particular secondary school, regard is to be had to any guidance given, from time to time, by the Assembly.

(3) Regulations may—

(a) provide for the Assembly to determine any disputes as to whether a particular school is a feeder primary school of a particular secondary school for the purposes of this section; and

(b) make provision about plans under this section, including provision which specifies the period within which such plans are to be drawn up and provision about the content, review and amendment of such plans.

(4) In carrying out any functions conferred on them by or under this section, governing bodies must have regard to any guidance given, from time to time, by the Assembly.

(5) In the discharge of their functions under any enactment, the governing body of a school maintained by a **[**F8local authority**]** in Wales, and the head teacher of that school, must have regard to any plans drawn up by the governing body under this section which for the time being have effect.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I288 S. 198 in force at 31.3.2004 by S.I. 2004/912, art. 4, **Sch. Pt. 1**

Provision of services

199 Transport for persons over compulsory school age

Schedule 19 (transport for persons over compulsory school age) shall have effect.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I289 S. 199 partly in force; s. 199 not in force at Royal Assent, see s. 216; s. 199 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in Sch.)

I290 S. 199 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2**

I291 S. 199 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

200 Remission of charges relating to residential trips

In section 457 of the Education Act 1996 (c. 56) (charges and remissions policies), in subsection (4) (entitlement to complete remission of charges in respect of board and lodging on a residential trip), for paragraph (b) there is substituted—

"(b) the pupil's parent is—

(i) in receipt of income support,

(ii) in receipt of an income-based jobseeker's allowance (payable under the Jobseekers Act 1995), or

(iii) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed,

in respect of any period wholly or partly comprised in the time spent on the trip."

Commencement Information

I292 S. 200 partly in force; s. 200 not in force at Royal Assent, see s. 216; s. 200 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I293 S. 200 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I294 S. 200 in force at 6.4.2003 except in relation to W. by S.I. 2003/124, **art. 5**

201 [F8Local authority] functions concerning school lunches, milk etc.

(1) For section 512 of the Education Act 1996 (provision of meals etc. at schools maintained by [F47local authorities]) there is substituted—

[F8"Local authority] functions concerning provision of meals, etc.

(1) A [F8local authority] may provide—

(a) registered pupils at any school maintained by the authority,

(b) other persons who receive education at such a school, and

(c) children who receive relevant funded nursery education,

with milk, meals and other refreshments.

(2) Where provision is made under subsection (1), it shall be made—

(a) in a case within paragraph (a) or (b) of that subsection, either on the school premises or at any other place where education is being provided, and

(b) in a case within paragraph (c) of that subsection, at any place where education is being provided.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) A **[**F8local authority**]** shall exercise their power under subsection (1) to provide school lunches for any person within paragraph (a) or (c) of that subsection if—

(a) any prescribed requirements are met,

(b) a request for the provision of school lunches has been made by or on behalf of that person to the authority, and

(c) either—

(i) that person is eligible for free lunches (within the meaning of section 512ZB(2)), or

(ii) in the case of a person within subsection (1)(a), it would not be unreasonable for the authority to provide the lunches.

(4) Subject to section 114(2) of the School Standards and Framework Act 1998 (c. 31) (lunches provided by **[**F47local authorities**]** to meet nutritional standards), any school lunches provided by a **[**F8local authority**]** pursuant to subsection (3) may take such form as the authority think fit.

(5) A **[**F8local authority**]** shall provide at any school maintained by them such facilities as they consider appropriate for the consumption of any meals or other refreshment brought to the school by registered pupils.

(6) In this section—

"prescribed" means prescribed by the Secretary of State by order;

"relevant funded nursery education", in relation to a **[**F8local authority**]**, means education provided by a person other than the governing body of a maintained school (within the meaning of section 20(7) of the School Standards and Framework Act 1998) or a maintained nursery school—

(a) under arrangements made with that person by the authority in pursuance of the duty imposed on the authority by section 118 of that Act (duty of **[**F8local authority**]** to secure sufficient nursery education), and

(b) in consideration of financial assistance provided by the authority under those arrangements;

"school lunch"—

(a) in relation to a pupil, means food made available for consumption by the pupil as his midday meal on a school day, and

(b) in relation to a child receiving relevant funded nursery education at an establishment other than a school, means food made available for consumption by the child as his midday meal on a day on which he receives that education,

whether involving a set meal or the selection of items by him or otherwise;

and references, in relation to a **[**F8local authority**]**, to a school maintained by the authority are to a community, foundation or voluntary school, a community or foundation special school, a maintained nursery school or a pupil referral unit maintained by the authority.

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512ZA Duty to charge for meals etc.

(1) A **[**F8local authority**]** shall charge for anything provided by them under subsection (1) or (3) of section 512.

(2) A **[**F8local authority**]** shall charge every person the same price for the same quantity of the same item.

(3) This section is subject to section 512ZB.

512ZB Provision of free school lunches and milk

(1) Where the **[**F8local authority**]** provide a school lunch in accordance with section 512(3) to a person who is eligible for free lunches, the authority shall provide the meal free of charge.

(2) For this purpose a person is eligible for free lunches if—

(a) he is within subsection (4), and

(b) a request that the school lunches be provided free of charge has been made by him or on his behalf to the authority.

(3) Where a **[**F8local authority**]** exercise their power under subsection (1) of section 512 to provide a person within paragraph (a) or (c) of that subsection with milk, the authority shall provide the milk free of charge if—

(a) the person is within subsection (4), and

(b) a request that the milk be provided free of charge has been made by him or on his behalf to the authority.

(4) A person is within this subsection if—

(a) his parent is—

(i) in receipt of income support,

(ii) in receipt of an income-based jobseeker's allowance (payable under the Jobseekers Act 1995 (c. 18)),

(iii) in receipt of support provided under Part 6 of the Immigration and Asylum Act 1999 (c. 33), or

(iv) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 (c. 21) or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed, or

(b) he, himself, is—

(i) in receipt of income support,

(ii) in receipt of an income-based jobseeker's allowance, or

(iii) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 (c. 21) or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed.

(5) In this section "prescribed" and "school lunch" have the same meaning as in section 512."

(2) In section 512A of that Act (transfer of functions under section 512 to governing bodies)—

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(a) in subsection (2)—

(i) in paragraph (a) for "section 512(1A) and (1B)" there is substituted " section 512(3) and (4) ",

(ii) in paragraph (b) for "section 512(3)(a)" there is substituted " section 512ZB(1) ", and

(iii) in paragraph (c) for "section 512(3)(b)" there is substituted " section 512ZB(3) ", and

(b) in subsection (6) for "section 512(2)(b)" there is substituted " section 512ZA(2) ".

(3) In section 114 of the School Standards and Framework Act 1998 (c. 31) (nutritional standards for school lunches for pupils at schools maintained by **[**F47local authorities**]**) —

(a) in subsection (1), after "lunches for" there is inserted " (a) " and after "authorities" there is inserted ", or

(b) other persons who are provided with school lunches free of charge in accordance with section 512ZB of the Education Act 1996;",

(b) in subsection (2), after "a school" there is inserted " or for such other persons who are provided with school lunches free of charge ", and

(c) in subsection (3)(b), at the beginning there is inserted " in the case of lunches provided to registered pupils at schools maintained by **[**F47local authorities**]**, ".

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I295 S. 201 partly in force; s. 201 not in force at Royal Assent, see s. 216; s. 201(1) in force for certain purposes and s. 201(2)(3) in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I296 S. 201 in force at 6.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 5** (with art. 6)

I297 S. 201(1) in force at 31.3.2003 for specified purposes for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I298 S. 201(2)(3) in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

Miscellaneous

202 Further education institutions: records

(1) Regulations may make provision about the compilation, retention and disclosure of educational records of further education institutions.

(2) The regulations may, in particular, impose a function on—

(a) a **[**F8local authority**]**, or

(b) the governing body of a further education institution.

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(3) The regulations may, in particular, make a duty to provide a copy of a record conditional on the payment of a charge which does not exceed the cost of providing the copy.

(4) In this section "further education institution" has the same meaning as in section 140.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I299 S. 202 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

I300 S. 202 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

203 Further education institutions: hazardous material, etc.

(1) The Secretary of State may by regulations require the governing body of a further education institution in England to prevent the use in the institution of specified equipment or specified materials without the approval of the Secretary of State.

[F441(1A) The Secretary of State may by regulations require the proprietor of a 16 to 19 Academy to prevent the use in the Academy of specified equipment or specified materials without the approval of the Secretary of State.**]**

(2) The Secretary of State may specify equipment or materials under this section only if he thinks the equipment or materials might endanger a person's health or safety.

(3) The National Assembly for Wales may by regulations require the governing body of a further education institution in Wales to prevent the use in the institution of specified equipment or specified materials without the approval of the Assembly.

(4) The National Assembly for Wales may specify equipment or materials under this section only if it thinks the equipment or materials might endanger a person's health or safety.

(5) In this section "further education institution" means an institution within the further education sector **[**F442and "proprietor" has the same meaning as in the Education Act 1996**]**.

Textual Amendments

F441 S. 203(1A) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 13(5)(a)**; S.I. 2012/924, art. 2

F442 Words in s. 203(5) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 13(5)(b)**; S.I. 2012/924, art. 2

Commencement Information

I301 S. 203 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

I302 S. 203 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

Status: *This version of this Act contains provisions that are prospective.*
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204 Baseline assessments

Chapter 1 of Part 4 of the Education Act 1997 (c. 44) (baseline assessments) shall cease to have effect.

Commencement Information

I303 S. 204 in force at 2.9.2002 for E. by S.I. 2002/2002, **art. 4**

I304 S. 204 in force at 1.9.2011 for W. by S.I. 2011/1952, **art. 2(a)**

205 Application of Part 5 of Education Act 1996 to nursery education

Section 410 of the Education Act 1996 (c. 56) (which excludes the application of Part 5 of that Act in relation to a nursery school or in relation to a nursery class at a primary school) shall cease to have effect.

Commencement Information

I305 S. 205 partly in force; s. 205 not in force at Royal Assent, see s. 216; s. 205 in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I306 S. 205 in force at 1.8.2008 for W. by S.I. 2008/1728, art. 3, **Sch. Pt. 2**

206 Nuisance or disturbance on educational premises

Schedule 20 (nuisance or disturbance on educational premises) shall have effect.

Commencement Information

I307 S. 206 partly in force; s. 206 not in force at Royal Assent, see s. 216; s. 206 in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I308 S. 206 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

207 Recoupment: adjustment between [F47local authorities]

(1) Regulations may provide, in relation to cases where any provision for education to which this section applies is made by a **[**F8local authority**]** (in this section referred to as "the providing authority") in respect of a person who belongs to the area of another **[**F8local authority**]**, for requiring or authorising the other authority (in this section referred to as the "home authority") to pay to the providing authority—

(a) such amount as the authorities may agree, or

(b) failing agreement, such amount as may be determined by or under the regulations.

(2) This section applies to **[**F443—

(a) primary education;

(b) secondary education;

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(c) education provided under section 562C of the Education Act 1996 (detention of persons with special educational needs: appropriate special educational provision).**]**

(3) The regulations may provide for the amounts payable by one authority to another—

(a) to reflect the whole or any part of the average costs incurred by **[**F47local authorities**]** in the provision of education (whether in England and Wales as a whole or in any particular area or areas), and

(b) to be based on figures for average costs determined by such body or bodies representing **[**F47local authorities**]**, or on such other figures relating to costs so incurred, as the Secretary of State, or as the case may be the National Assembly for Wales, considers appropriate.

(4) Regulations made under this section in relation to Wales by the National Assembly for Wales may provide for the amounts so payable, in such cases as may be specified in or determined in accordance with the regulations, to be such amounts as may be determined—

(a) where the providing authority and the home authority are both in Wales, by the National Assembly for Wales, or

(b) where the providing authority is in Wales and the home authority is in England, by the Assembly with the consent of the Secretary of State.

(5) Any dispute between **[**F47local authorities**]** in Wales as to whether one of them is entitled to be paid any amount by another under the regulations shall be determined by the National Assembly for Wales.

(6) Any dispute between a providing authority in Wales and a home authority in England as to whether the providing authority is entitled to be paid any amount by the home authority under the regulations shall be determined by the National Assembly for Wales with the consent of the Secretary of State.

(7) In this section references to provision for education include provision of any benefits or services for which provision is made by or under this Act or any other enactment relating to education.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F443 Words in s. 207(2) substituted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 2 para. 14**; S.I. 2010/303, art. 6, Sch. 5

Commencement Information

I309 S. 207 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I310 S. 207 in force at 9.1.2004 for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

208 Recoupment: special cases

(1) In section 493 of the Education Act 1996 (c. 56) (recoupment: cross-border provisions) for subsection (2) there is substituted—

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"(2) Subsection (3) of section 207 of the Education Act 2002 (recoupment: adjustment between **[**[F47]local authorities**]**) shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the reference to the National Assembly for Wales.

(2A) The regulations may provide for the amounts payable by one authority to another, in such cases as may be specified by or under the regulations, to be such amounts as may be determined by the Secretary of State."

(2) The function of making regulations under section 494 of the Education Act 1996 (recoupment: excluded pupils), so far as exercisable in relation to Wales, is hereby transferred to the National Assembly for Wales.

(3) The function mentioned in subsection (2) is to be treated as having been transferred to the National Assembly for Wales by an Order in Council under section 22 of the Government of Wales Act 1998 (c. 38); and, accordingly, the transfer may be revoked or varied by an Order in Council under that section.

Textual Amendments

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I311 S. 208 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I312 S. 208 in force at 9.1.2004 for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

[F445][F444]208A Recoupment: adjustment between [F47local authorities] and the YPLA

. . . . . .

Textual Amendments

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F444 S. 208A inserted (1.4.2010 for E., 1.4.2011 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3)(4), **Sch. 6 para. 55**; S.I. 2010/303, art. 3, Sch. 2; S.I. 2011/829, art. 2(e)

F445 S. 208A omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 16 para. 20**; S.I. 2012/924, art. 2

[F446]209 Paid chairmen for local learning and skills councils

. . . . . .

Textual Amendments

F446 S. 209 repealed (21.2.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), **Sch. 2**; S.I. 2008/313, art. 2(j)

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Commencement Information

I313 S. 209 in force at 1.4.2003 by S.I. 2003/124, **art. 3**

General

210 Orders and regulations

(1) Subject to subsection (2), any power of the Secretary of State or **[**F447the Welsh Ministers**]** to make an order or regulations under this Act is exercisable by statutory instrument.

(2) Subsection (1) does not apply to any order under—

(a) section 165 or 192, or

(b) paragraph 3(6) or 5 of Schedule 1.

(3) No order shall be made by the Secretary of State under—

(a) section 80(3),

(b) section 82(4)(b),

F448(c) . . . . . .

(d) section 84(6),

(e) section 86, or

(f) section 125(4),

unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.

(4) Subject to subsections (5) and (6), a statutory instrument which contains any order or regulations made under this Act by the Secretary of State and is not subject to the requirement in subsection (3) that a draft of the instrument be laid before and approved by a resolution of each House of Parliament, is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Subsection (4) does not apply to an order under—

(a) section 7(2),

(b) section **[**F449 87(3)(c)**]** ,

(c) section 128(2), or

(d) section 216.

(6) If an order under section 122 contains only provisions which in the opinion of the Secretary of State give effect without significant modification to recommendations of the School Teachers' Review Body—

(a) the order shall contain a statement to that effect, and

(b) subsection (4) shall not apply.

[F450(6A) Any statutory instrument containing regulations **[**F451 or an order**]** made under section **[**F452 32C(5)**]** F453... **[**F454 or Part 7**]** by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales **[**F455 unless the instrument contains an order mentioned in subsection (6AB)**]** .

[F456(6AB) No order shall be made by the Welsh Ministers under section 101(3), 103(4)(b), 105(6), 107, 116F(5), 116H(5) or 116L unless a draft of the statutory instrument

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containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.**]**

(6B) Paragraphs 33 to 35 of Schedule 11 to the Government of Wales Act 2006 make provision about the National Assembly for Wales procedures that apply to any statutory instrument containing regulations or an order made in exercise of functions conferred upon the National Assembly for Wales by this Act that have been transferred to the Welsh Ministers by virtue of paragraph 30 of that Schedule.**]**

(7) Any power of the Secretary of State or **[**F457the Welsh Ministers**]** to make an order or regulations under this Act includes power—

(a) to make different provisions for different cases or areas,

(b) to make provision generally or only in relation to specific cases, and

(c) to make such incidental, supplemental, saving or transitional provisions as the Secretary of State or **[**F458the Welsh Ministers think**]** fit.

(8) Nothing in this Act shall be regarded as affecting the generality of subsection (7).

Textual Amendments

F447 Words in s. 210(1) substituted (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 21(3)(a)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

F448 S. 210(3)(c) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 16(a), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

F449 Words in s. 210(5)(b) substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 1 para. 16(b)**; S.I. 2008/2261, art. 2 (with Sch. 1)

F450 S. 210(6A)(6B) inserted (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 21(3)(b)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

F451 Words in s. 210(6A) inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 20(2)(a)**, 49(2); S.I. 2009/3174, art. 2(1)(j)

F452 Word in s. 210(6A) substituted (14.7.2014) by Education (Wales) Act 2014 (anaw 5), s. 50(4), **Sch. 3 para. 1(6)**; S.I. 2014/1605, art. 2(d)

F453 Words in s. 210(6A) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 16 para. 21**; S.I. 2012/924, art. 2

F454 Words in s. 210(6A) inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 20(2)(b)**, 49(2); S.I. 2009/3174, art. 2(1)(j)

F455 Words in s. 210(6A) inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 20(2)(c)**, 49(2); S.I. 2009/3174, art. 2(1)(j)

F456 S. 210(6AB) inserted (7.12.2009) by Learning and Skills (Wales) Measure 2009 (nawm 1), **ss. 20(3)**, 49(2); S.I. 2009/3174, art. 2(1)(j)

F457 Words in s. 210(7) substituted (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 21(3)(c)(i)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

F458 Words in s. 210(7)(c) substituted (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 21(3)(c)(ii)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

211 Wales

(1) Subsection (2) applies where—

(a) this Act confers a function (in this section referred to as "the new function") on the Secretary of State by amendment of another Act, and

(b) any functions under that Act have before the passing of this Act been transferred to the National Assembly for Wales by an Order in Council

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under section 22 of the Government of Wales Act 1998 (c. 38) (transfer of Ministerial functions).

(2) The new function, so far as exercisable in relation to Wales, is to be treated as having been transferred to the National Assembly for Wales by an Order in Council under section 22 of the Government of Wales Act 1998 and, accordingly, the transfer may be varied or revoked by an Order in Council under that section.

(3) For the purposes of section 22 of the Government of Wales Act 1998, an Order in Council made by virtue of subsection (2) or section 208(3) is to be treated as if it were revoking or varying a previous Order in Council.

(4) Subsection (2) does not apply in relation to the amendment made by section 208(1).

212 General interpretation

(1) In this Act, unless the context otherwise requires—

"contract of employment" has the meaning given by section 230(2) of the Employment Rights Act 1996 (c. 18);

[F459"local authority" has the same meaning as in the Education Act 1996 (see section 579(1) of that Act);**]**

"the **[**F8local authority**]**", in relation to a school maintained (or proposed to be maintained) by a **[**F8local authority**]**, means that authority;

"prescribed" means prescribed by regulations;

"regulations" means regulations made under this Act by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales).

(2) Subject to subsection (4), the Education Act 1996 (c. 56) and the provisions of this Act specified in subsection (3) are to be construed as if those provisions were contained in that Act.

(3) The provisions of this Act referred to in subsection (2) are—

(a) Part 1 (provision for new legal frameworks),
(b) Part 2 (financial assistance for education and childcare),
(c) Part 3 (maintained schools),
(d) Part 5 (school organisation), except section 72 and Schedule 9,
(e) Parts 6 and 7 (the curriculum),
(f) in Part 8, sections 119 to 146,
(g) in Part 9, section 153,
(h) Part 10 (independent schools), and
(i) in this Part, sections 175 and 176, sections 181 to 185, sections 190 to 198 and section 207.

(4) Where an expression is given for the purposes of any provision falling within subsection (3) a meaning different from that given to it for the purposes of the Education Act 1996 (c. 56), the meaning given for the purposes of that provision is to apply instead of the one given for the purposes of that Act.

(5) Unless the context otherwise requires, any reference in this Act or in any Act amended by this Act to a community, foundation or voluntary school or a community or foundation special school is to such a school within the meaning of the School Standards and Framework Act 1998 (c. 31).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F459 Words in s. 212(1) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 11(12)**

213 Financial provisions

(1) There shall be paid out of money provided by Parliament—

(a) any expenditure incurred by the Secretary of State by virtue of this Act, and

(b) any increase attributable to this Act in the sums which by virtue of any other Act are payable out of money provided by Parliament.

(2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

214 Transitional provisions etc.

(1) Regulations may at any time make such incidental, consequential, transitional or supplementary provision as appears to the Secretary of State, or as the case may be the National Assembly for Wales, to be necessary or expedient for the general purposes, or any particular purposes, of this Act or in consequence of any of its provisions or for giving full effect to it.

(2) Regulations under subsection (1) may, in particular, make provision—

(a) for any provision of this Act which comes into force before—

(i) another such provision has come into force, or

(ii) anything falling to be done under another such provision has been done,

to have effect, until that other provision has come into force or (as the case may be) that thing has been done, with such modifications as are specified in the regulations;

(b) for amending, repealing or revoking (with or without savings) any statutory provision passed or made before the passing of this Act, for applying any such provision (with or without modification) and for making savings or additional savings from the effect of any amendment or repeal made by this Act.

(3) The amendments that may be made under subsection (2)(b) shall be in addition (and without prejudice) to those made by any other provision of this Act.

(4) Nothing in this Act shall be read as prejudicing the generality of subsection (1).

(5) In this section "statutory provision" has the same meaning as in Chapter 1 of Part 3.

215 Minor and consequential amendments and repeals

(1) Schedule 21 (which contains minor and consequential amendments) shall have effect.

(2) The enactments specified in the first column of Schedule 22 (which include spent provisions) are repealed to the extent specified in the second column.

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Commencement Information

I314 S. 215 partly in force; s. 215 not in force at Royal Assent, see s. 216; s. 215(2) in force for certain purposes for E. at 26.7.2002 by S.I. 2002/2002, **art. 3**; s. 215 in force for certain further purposes for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**; s. 215 in force for certain purposes at 1.10.2002 by S.I. 2002/2439, **arts. 2**, 3 (with Sch.); s. 215 in force for certain further purposes for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with art. 3, Sch.); s. 215(1) in force for certain purposes for W. and s. 215(2) in force for certain purposes at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I** (with art. 7)

I315 S. 215 in force at 20.1.2003 for specified purposes except in relation to W. by S.I. 2002/2952, **art. 2**

I316 S. 215 in force at 31.3.2003 for specified purposes for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I317 S. 215 in force at 1.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 4**

I318 S. 215 in force at 1.6.2003 for specified purposes except in relation to W. by S.I. 2003/1115, **art. 3**

I319 S. 215 in force at 1.8.2003 for specified purposes by S.I. 2003/1667, **art. 2**

I320 S. 215 in force at 1.8.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 3**

I321 S. 215 in force at 1.9.2003 for specified purposes for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I322 S. 215 in force at 1.9.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 4**

I323 S. 215 in force at 1.10.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 5**

I324 S. 215 in force at 4.12.2003 for specified purposes for W. by S.I. 2003/2961, art. 5, **Sch. Pt. II**

I325 S. 215 in force at 1.1.2004 for specified purposes for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

I326 S. 215 in force at 9.1.2004 for specified purposes for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

I327 S. 215 in force at 31.3.2004 for specified purposes for W. by S.I. 2004/912, art. 4, **Sch. Pt. 1**

I328 S. 215 in force at 1.8.2004 for specified purposes for W. by S.I. 2004/912, art. 5, **Sch. Pt. 2**

I329 S. 215 in force at 1.9.2004 for specified purposes for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

I330 S. 215 in force at 31.5.2005 for specified purposes for W. by S.I. 2005/1395, art. 4, **Sch.**

I331 S. 215 in force at 31.10.2005 for specified purposes for W. by S.I. 2005/2910, art. 4, **Sch.**

I332 S. 215 in force at 1.4.2006 for specified purposes for W. by S.I. 2006/879, art. 4, **Sch.**

I333 S. 215 in force at 6.11.2006 for specified purposes except in relation to W. by S.I. 2006/2895, **art. 2**

I334 S. 215 in force at 2.1.2008 for specified purposes for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

I335 S. 215 in force at 1.8.2008 in so far as relating to the provisions of Schedules 21 and 22 for specified purposes for W. by S.I. 2008/1728, art. 3, **Sch. Pt. 2**

I336 S. 215(1) in force at 1.3.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 2**

I337 S. 215(1) in force at 1.8.2004 for specified purposes for W. by S.I. 2004/1728, art. 4, **Sch. Pt. 1**

I338 S. 215(2) in force at 6.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 5**

I339 S. 215(2) in force at 1.8.2003 for specified purposes for W. by S.I. 2003/1718, art. 4, **Sch. Pt. I**

I340 S. 215(2) in force at 1.9.2003 for specified purposes by S.I. 2002/3185, art. 6, **Sch. Pt. III**

I341 S. 215(2) in force at 1.2.2006 for specified purposes for W. by S.I. 2006/172, art. 4, **Sch.**

I342 S. 215(2) in force at 31.3.2008 for specified purposes for W. by S.I. 2007/3611, art. 4(2), **Sch. Pt. 2**

I343 S. 215(2) in force at 1.9.2011 for specified purposes for W. by S.I. 2011/1952, **art. 2(b)**

216 Commencement

(1) The following provisions shall come into force on the day on which this Act is passed—

section 13,
section 52(7) to (10),
section 147,
section 186,
section 190,
sections 210 to 214, and
this section and section 217.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) The following provisions shall come into force in accordance with provision made by the Secretary of State by order—

sections 65 to 69 and Schedule 7,

section 70 and Schedule 8,

section 71,

section 73,

Part 6,

sections 119 to 130 and Schedule 11,

section 209,

[[F460]paragraphs 1 to 4 and 9 of Schedule 17, and section 189 so far as relating to those paragraphs,**]**

paragraphs 14, 17, 18, 56, 91 and 119 of Schedule 21, and section 215(1) so far as relating to those paragraphs, and

Part 1 of Schedule 22, and section 215(2) so far as relating to that Part.

(3) The following provisions shall come into force in accordance with provision made by the National Assembly for Wales by order—

Part 7,

section 139,

sections 191 to 198 and Schedule 18,

paragraphs 5 to 8 of Schedule 17, and section 189 so far as relating to those paragraphs, and

Part 2 of Schedule 22, and section 215(2) so far as relating to that Part.

(4) Subject to subsections (1) to (3), this Act shall come into force—

(a) except in relation to Wales, in accordance with provision made by the Secretary of State by order, and

(b) in relation to Wales, in accordance with provision made by the National Assembly for Wales by order.

(5) An order under this section may—

(a) make provision generally or for specified purposes only,

(b) make different provision for different purposes, and

(c) contain such transitional provisions and savings as the person making the order thinks fit.

Subordinate Legislation Made

P1 S. 216(4) power partly exercised: different dates appointed for specified provisions and certain purposes by {S.I. 2002/2002}, arts. 2-4 (as amended by S.I. 2002/2018); s. 216(4) power partly exercised 1.10.2002 appointed for specified provisions and certain purposes by S.I. 2002/2439, **arts. 2**, 3 (with transitional and saving provisions in Sch.); s. 216(4) power partly exercised: 20.1.2003 appointed for specified provisions and certain purposes by {S.I. 2002/2952}, art. 2 (with transitional and saving provisions in Sch.); s. 216(4) power partly exercised: different dates appointed for specified provisions and certain purposes by {S.I. 2002/3185}, arts. 4-6, Sch. (with transitional provisions and savings in art. 7)

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F460 Words in s. 216(2) repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a)

217 Short title and extent

(1) This Act may be cited as the Education Act 2002.

(2) This Act shall be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).

(3) Any amendment or repeal in this Act has the same extent as the provision amended or repealed.

(4) Except as provided by subsection (3), this Act extends to England and Wales only.

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SCHEDULES

SCHEDULE 1

Section 19(6)

INCORPORATION AND POWERS OF GOVERNING BODY

Modifications etc. (not altering text)

C102 Sch. 1 modified (E.) (temp. from 1.10.2002) by The Education Act 2002 (Modification of Provisions) (England) Regulations 2002 (S.I. 2002/2316), **reg. 3(1)(2)**

C103 Sch. 1 applied (with modifications) (10.7.2003) by New Schools (General) (England) Regulations 2003 (S.I. 2003/1558), regs. 1, **32**

C104 Sch. 1 applied (with modifications) (31.10.2005) by The New Maintained Schools (Wales) Regulations 2005 (S.I. 2005/2912), regs. 1(1), **31**

C105 Sch. 1 applied (with modifications) (31.10.2005) by The New Maintained Schools (Wales) Regulations 2005 (S.I. 2005/2912), regs. 1(1), **30(1)** (with reg. 30(2))

C106 Sch. 1 applied (with modifications) (25.5.2007) by The School Governance (New Schools) (England) Regulations 2007 (S.I. 2007/958), regs. 1, **30**

C107 Sch. 1 applied (with modifications) (25.5.2007) by The School Governance (New Schools) (England) Regulations 2007 (S.I. 2007/958), regs. 1, **31**

Introductory

1 In the following paragraphs of this Schedule—

"the 1998 Act" means the School Standards and Framework Act 1998 (c. 31);

"the governing body" means the governing body of a maintained school incorporated under section 19(1).

Commencement Information

I344 Sch. 1 para. 1 partly in force; Sch. 1 para. 1 not in force at Royal Assent, see s. 216; Sch. 1 para. 1 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I345 Sch. 1 para. 1 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

Name and seal of governing body

2 (1) The governing body shall be known as "The governing body of...." with the addition of the name of the school as for the time being set out in the school's instrument of government.

(2) The application of the seal of the governing body must be authenticated by the signature—

(a) of the chairman of the governing body, or

(b) of some other member authorised either generally or specially by the governing body to act for that purpose,

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together with the signature of any other member.

(3) Every document purporting to be an instrument made or issued by or on behalf of the governing body and—

(a) to be duly executed under the seal of the governing body, or

(b) to be signed or executed by a person authorised by the governing body to act in that behalf,

shall be received in evidence and treated, without further proof, as being so made or issued unless the contrary is shown.

Commencement Information

I346 Sch. 1 para. 2 partly in force; Sch. 1 para. 2 not in force at Royal Assent, see s. 216; Sch. 1 para. 2 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I347 Sch. 1 para. 2 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

Powers of governing body

3 (1) The governing body may do anything which appears to them to be necessary or expedient for the purposes of, or in connection with—

(a) the conduct of the school, or

(b) the provision of facilities or services under section 27.

(2) The governing body may provide advice or assistance to—

(a) the governing body of any other maintained school, whether or not maintained by the same **[**F8local authority**]**, or

(b) any **[**F8local authority**]**.

[F461(2A) The governing body of a maintained school in England (other than the governing body of a maintained nursery school) may provide advice and assistance to the proprietor of an Academy.

(2B) The governing body of a maintained school in England may be a member of the foundation of another maintained school in England.

In this sub-paragraph "foundation" has the meaning given by section 21(3) of the 1998 Act, except that it does not include a foundation established under that Act.**]**

(3) The powers conferred by sub-paragraphs (1) **[**F462, (2) and (2A)**]** include, in particular, power—

(a) to borrow such sums as the governing body think fit and, in connection with such borrowing, to grant any mortgage, charge or other security over any land or other property of the governing body,

(b) to acquire and dispose of land and other property,

(c) to enter into contracts,

(d) to invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on,

(e) to accept gifts of money, land or other property and apply it, or hold and administer it on trust, for any of those purposes, and

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(f) to do anything incidental to the conduct of the school, the provision of advice or assistance under sub-paragraph (2) **[**F463 or (2A)**]** , or the provision of facilities and services under section 27.

(4) The power to borrow money and grant security mentioned in sub-paragraph (3)(a) may only be exercised with the written consent—

(a) of the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales), or

(b) if an order under sub-paragraph (5) so provides, of the **[**F8local authority**]**;

and any such consent may be given for particular borrowing or for borrowing of a particular class.

(5) The Secretary of State or the National Assembly for Wales may by order make provision for any of his or its functions under sub-paragraph (4) to be instead exercisable—

(a) in the case of all maintained schools, or

(b) in the case of any class of such schools specified in the order,

by the **[**F47local authorities**]** by whom those schools are maintained.

(6) In exercising those functions those authorities shall comply with any directions contained in an order made by the Secretary of State or the National Assembly for Wales.

(7) Where the school is a foundation, voluntary aided or foundation special school, the power to enter into contracts mentioned in sub-paragraph (3)(c) includes power to enter into contracts for the employment of teachers and other staff, but no such contracts may be entered into by the governing body of a community, voluntary controlled or community special school or of a maintained nursery school.

(8) Sub-paragraphs (1) to (3) have effect subject to—

(a) any provisions of the school's instrument of government, and

(b) any provisions of a scheme under section 48 of the 1998 Act (**[**F47local authorities**]**' financial schemes) which relates to the school.

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

F461 Sch. 1 para. 3(2A)(2B) inserted (19.7.2010) by Children, Schools and Families Act 2010 (c. 26), **ss. 6(2)**, 29(5) (with s. 27); S.I. 2010/1817, art. 2

F462 Words in Sch. 1 para. 3(3) substituted (19.7.2010) by Children, Schools and Families Act 2010 (c. 26), **ss. 6(3)(a)**, 29(5) (with s. 27); S.I. 2010/1817, art. 2

F463 Words in Sch. 1 para. 3(3)(f) inserted (19.7.2010) by Children, Schools and Families Act 2010 (c. 26), **ss. 6(3)(b)**, 29(5) (with s. 27); S.I. 2010/1817, art. 2

Modifications etc. (not altering text)

C108 Sch. 1 para. 3 modified (temp. from 2.9.2002) by The Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002 (S.I. 2002/2113), **reg. 3(1)(3)**

C109 Sch. 1 para. 3(1)(2) applied (with modifications) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 20**

Status: *This version of this Act contains provisions that are prospective.*
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C110 Sch. 1 para. 3(1)-(6) applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 20 (as inserted (1.4.2013) by The Pupil Referral Units (Miscellaneous Amendments) (No.2) (England) Regulations 2012 (S.I. 2012/3158), regs. 1, **3(4)**)

C111 Sch. 1 para. 3(8) applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 20 (as inserted (1.4.2013) by The Pupil Referral Units (Miscellaneous Amendments) (No.2) (England) Regulations 2012 (S.I. 2012/3158), regs. 1, **3(4)**)

Commencement Information

I348 Sch. 1 para. 3(1) except para. (a) in force at 2.9.2002 for E. by S.I. 2002/2002, **art. 4**
Sch. 1 para. 3(3)-(8) in force at 2.9.2002 for specified purposes for E. by S.I. 2002/2002, **art. 4**
Sch. 1 para. 3 in force at 1.10.2002 insofar as not already in force for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I349 Sch. 1 para. 3(1)(a)(2) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

I350 Sch. 1 para. 3(1)(b) in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I351 Sch. 1 para. 3(3)-(8) in force at 1.9.2003 for specified purposes for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I352 Sch. 1 para. 3(3)-(8) in force at 31.10.2005 for W. so far as not already in force by S.I. 2005/2910, art. 4, **Sch.**

4 Regulations may make further provision—

(a) as to the general powers of the governing body, and

(b) as to other matters relating to it as a body corporate.

Commencement Information

I353 Sch. 1 para. 4 partly in force; Sch. 1 para. 4 not in force at Royal Assent, see s. 216; Sch. 1 para. 4 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I354 Sch. 1 para. 4 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

Dissolution of governing body

5 (1) If the school is discontinued, the governing body are dissolved by virtue of this paragraph—

(a) on the discontinuance date, or

(b) on such later date as the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may specify by order made before the discontinuance date.

[F464(1A) Sub-paragraph (1) does not apply if—

(a) the school is a federated school in Wales, and

(b) immediately after the discontinuance date, there will be more than one other school remaining in the federation.

(1B) "Federation" in sub-paragraph (1A) means a group of schools that are federated by virtue of Chapter 1 of Part 2 of the Education (Wales) Measure 2011 or were federated by virtue of section 24 before the coming into force of that Chapter, and "federated school" means a school forming part of a federation.**]**

[F465(1A) Sub-paragraph (1) does not apply if—

(a) the school is a federated school in England, and

(b) immediately after the discontinuance date, there will be more than one other school remaining in the federation.

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(1B) "Federation" and "federated school" have the meanings given by section 24(2).**]**

(2) In this paragraph "the discontinuance date" means—

(a) in relation to a school in England, whichever of the following is relevant—

(i) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 2 to the Education and Inspections Act 2006 [F466]...,

(ii) the date on which the school is discontinued under section 30 of the 1998 Act, [F467]...

(iii) the date specified in a direction given under section 17(1) or 68(1) of the Education and Inspections Act 2006**[**[F468], or

(iv) the date on which a local authority are required to cease to maintain the school under section 6(2) of the Academies Act 2010;**]**

(b) in relation to a school in Wales, whichever of the following is relevant—

[[F469](i) the date on which proposals for discontinuing the school are implemented under Part 3 of the School Standards and Organisation (Wales) Act 2013,

(ii) the date on which the school is discontinued under section 80 of the School Standards and Organisation (Wales) Act 2013, or

(iii) the date specified in a direction given under section 16(2) or 81(1) of the School Standards and Organisation (Wales) Act 2013**]**

Textual Amendments

F464 Sch. 1 para. 5(1A)(1B) inserted (W.) (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), **ss. 19(7)**, 33(2); S.I. 2014/1066, art. 2

F465 Sch. 1 para. 5(1A)(1B) inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 39**, 82(3); S.I. 2012/1087, art. 3

F466 Words in Sch. 1 para. 5(2)(a)(i) repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 49, **Sch. 2 Pt. 1** (with art. 2(3))

F467 Word in Sch. 1 para. 5(2)(a) omitted (29.7.2010) by virtue of Academies Act 2010 (c. 32), s. 19(2), **Sch. 2 para. 15**; S.I. 2010/1937, art. 2, Sch. 1

F468 Sch. 1 para. 5(2)(a)(iv) and word inserted (29.7.2010) by Academies Act 2010 (c. 32), s. 19(2), **Sch. 2 para. 15**; S.I. 2010/1937, art. 2, Sch. 1

F469 Sch. 1 para. 5(2)(a)(i)-(iii) substituted (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 21(11); S.I. 2013/1800, art. 3(j)

Commencement Information

I355 Sch. 1 para. 5 partly in force; Sch. 1 para. 5 not in force at Royal Assent, see s. 216; Sch. 1 para. 5 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I356 Sch. 1 para. 5 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULE 2

Sections 35(7) and 36(7)

EFFECT ON STAFFING OF SUSPENSION OF DELEGATED BUDGET

PART 1

COMMUNITY, VOLUNTARY CONTROLLED, COMMUNITY SPECIAL AND MAINTAINED NURSERY SCHOOLS

Modifications etc. (not altering text)
C112 Sch. 2 Pt. 1 applied (W.) (1.4.2006) by The Staffing of Maintained Schools (Wales) Regulations 2006 (S.I. 2006/873), regs. 1(1), **38**

1 The arrangements for the staffing of the school shall be determined by the **[**F8local authority**]**.

Textual Amendments
F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Modifications etc. (not altering text)
C113 Sch. 2 paras. 1-3 applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 20A (as inserted (1.4.2013) by The Pupil Referral Units (Miscellaneous Amendments) (No.2) (England) Regulations 2012 (S.I. 2012/3158), regs. 1, **3(5)**)

Commencement Information
I357 Sch. 2 para. 1 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

2 The authority may appoint, suspend and dismiss teachers and other staff at the school as the authority think fit.

Modifications etc. (not altering text)
C113 Sch. 2 paras. 1-3 applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 20A (as inserted (1.4.2013) by The Pupil Referral Units (Miscellaneous Amendments) (No.2) (England) Regulations 2012 (S.I. 2012/3158), regs. 1, **3(5)**)

Commencement Information
I358 Sch. 2 para. 2 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

3 The authority shall, in connection with the exercise of their functions under paragraph 2, consult the governing body to such extent as the authority think fit.

Modifications etc. (not altering text)
C113 Sch. 2 paras. 1-3 applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 20A (as inserted (1.4.2013) by The Pupil Referral Units (Miscellaneous Amendments) (No.2) (England) Regulations 2012 (S.I. 2012/3158), regs. 1, **3(5)**)

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Commencement Information
I359 Sch. 2 para. 3 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

4 In relation to teachers at a voluntary controlled school who are reserved teachers within the meaning of section 58 of the School Standards and Framework Act 1998 (c. 31) (appointment and dismissal of certain teachers at schools with a religious character), paragraph 2 shall have effect subject to the provisions of that section.

Commencement Information
I360 Sch. 2 para. 4 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

PART 2

FOUNDATION, VOLUNTARY AIDED AND FOUNDATION SPECIAL SCHOOLS

Modifications etc. (not altering text)
C114 Sch. 2 Pt. 2 applied (1.9.2003) by School Staffing (England) Regulations 2003 (S.I. 2003/1963), regs. 1(2), **37**
C115 Sch. 2 Pt. 2 applied (W.) (1.4.2006) by The Staffing of Maintained Schools (Wales) Regulations 2006 (S.I. 2006/873), regs. 1(1), **39**

5 The arrangements for the staffing of the school shall be determined by the **[**F8local authority**]**.

Textual Amendments
F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information
I361 Sch. 2 para. 5 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

6 Except with the consent of the authority, the governing body shall not—
(a) appoint any teacher to work at the school, or
(b) dismiss any teacher at the school.

Commencement Information
I362 Sch. 2 para. 6 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

7 The authority may give the governing body directions—
(a) as to the educational qualifications of the teachers to be appointed for giving secular education, or
(b) requiring them to dismiss any teacher at the school;
but the authority shall not give any directions under paragraph (a) except after consulting the governing body.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information
I363 Sch. 2 para. 7 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

8 The authority may give directions to the governing body as to the number and conditions of service of persons employed at the school for the purposes of the care and maintenance of the school premises.

Commencement Information
I364 Sch. 2 para. 8 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

9 Where the trust deed relating to the school provides for a person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control authorised by regulations under section 31) the use of those premises is or would be under the control of any such person, the reference in paragraph 8 to the governing body shall be read as a reference to that person.

Commencement Information
I365 Sch. 2 para. 9 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.** (with art. 5)

10 Paragraphs 6 and 7 have effect subject to section 58 of the School Standards and Framework Act 1998 (c. 31).

Commencement Information
I366 Sch. 2 para. 10 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

[F470 11 Paragraph 8 has effect subject to—

(a) any provision made by an order under section 231(2)(a) or 233(2)(a) of the Apprenticeships, Skills, Children and Learning Act 2009;

(b) any provision made by an order under section 233(2)(d) or 234(2)(b) or (4)(b) of that Act, where the order provides that it is to have effect for determining the conditions of employment of persons to whom it applies.**]**

Textual Amendments
F470 Sch. 2 para. 11 inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 237(7)**, 269(4); S.I. 2009/3317, art. 2, Sch.

Status: *This version of this Act contains provisions that are prospective.*
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SCHEDULE 3

Section 40

AMENDMENTS OF PART 2 OF SCHOOL STANDARDS AND FRAMEWORK ACT 1998

Introductory

1 In this Schedule "the 1998 Act" means the School Standards and Framework Act 1998.

Commencement Information

I367 Sch. 3 para. 1 partly in force; Sch. 3 para. 1 not in force at Royal Assent, see s. 216; Sch. 3 para. 1 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I368 Sch. 3 para. 1 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

Expenditure incurred for community purposes

2 (1) Section 48 of the 1998 Act (**[**F47local authorities**]**' financial schemes) is amended as follows.

(2) In subsection (1) after "by the authority" there is inserted " or the exercise by the governing bodies of those schools of the power conferred by section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.) ".

(3) In subsection (2) after paragraph (d) there is inserted—

"(dd) the imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the exercise of the power mentioned in subsection (1), including conditions prescribing financial controls and procedures;".

Textual Amendments

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I369 Sch. 3 para. 2 partly in force; Sch. 3 para. 2 not in force at Royal Assent, see s. 216; Sch. 3 para. 2 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I370 Sch. 3 para. 2 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

3 In section 50 of the 1998 Act (effect of financial delegation), in subsection (4) (meaning of "purposes of the school") before paragraph (a) there is inserted—

"(za) facilities and services under section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.),".

Commencement Information

I371 Sch. 3 para. 3 partly in force; Sch. 3 para. 3 not in force at Royal Assent, see s. 216; Sch. 3 para. 3 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I372 Sch. 3 para. 3 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

Status: *This version of this Act contains provisions that are prospective.*
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4 After section 51 of the 1998 Act there is inserted—

"Expenditure incurred for community purposes

51A Expenditure incurred for community purposes

51A 51A Expenditure incurred for community purposes

(1) Expenditure incurred by the governing body of a maintained school in the exercise of the power conferred by section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.) shall, as against third parties, be treated as part of the expenses of maintaining the school under section 22, but if met by the **[**F8local authority**]** may be recovered by them from the governing body.

(2) Except as provided by regulations under section 50(3)(b), no expenditure incurred by the governing body of a maintained school in the exercise of the power referred to in subsection (1) shall be met from the school's budget share for any financial year.

(3) Subsection (2) applies at a time when the school does not have a delegated budget by virtue of any suspension under section 17 or Schedule 15, as well as a time when it does have a delegated budget."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I373 Sch. 3 para. 4 partly in force; Sch. 3 para. 4 not in force at Royal Assent, see s. 216; Sch. 3 para. 4 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I374 Sch. 3 para. 4 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

5 In Schedule 15 to the 1998 Act (suspension of financial delegation), in paragraph 1(1) (cases where **[**F8local authority**]** may suspend governing body's right to a delegated budget) the word "or" at the end of paragraph (a) is omitted and at the end of paragraph (b) there is inserted "or

(c) are not managing in a satisfactory manner any expenditure, or sums received, in the exercise of the power conferred by section 27 of the Education Act 2002 (power to provide community facilities etc.)."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I375 Sch. 3 para. 5 partly in force; Sch. 3 para. 5 not in force at Royal Assent, see s. 216; Sch. 3 para. 5 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I376 Sch. 3 para. 5 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

Status: *This version of this Act contains provisions that are prospective.*
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Teachers engaged otherwise than as employees

6 (1) Section 58 of the 1998 Act (appointment and dismissal of certain teachers at a school with a religious character) is amended as follows.

(2) In subsection (2)—

(a) for "the teaching staff of" there is substituted " teachers at ", and

(b) for "the teaching staff shall" there is substituted " the teachers shall ".

(3) In subsection (3), for "the number of the teaching staff", in both places where it occurs, there is substituted " the total number of teachers ".

(4) In subsection (4), for "while holding the post of" there is substituted " while he remains ".

(5) In subsection (6), for the words from "may" to the end there is substituted "may—

(a) in the case of a teacher who is an employee, require the appropriate body to dismiss him from employment as a reserved teacher at the school, and

(b) in the case of a teacher who is engaged otherwise than under a contract of employment, require the governing body to terminate his engagement.".

(6) In subsection (9), in the definition of "reserved teacher", after "employed" there is inserted " or engaged ".

Commencement Information

I377 Sch. 3 para. 6 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I378 Sch. 3 para. 6 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

7 In section 59 of the 1998 Act (staff at community, secular foundation or voluntary, or special school), in subsection (2)(b), after "employed" there is inserted " or engaged ".

Commencement Information

I379 Sch. 3 para. 7 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I380 Sch. 3 para. 7 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

8 (1) Section 60 of the 1998 Act (staff at foundation or voluntary school with religious character) is amended as follows.

(2) In subsection (5)(b), after "employment" there is inserted " or engagement ".

(3) In subsection (6), after "employed" there is inserted " or engaged ".

Commencement Information

I381 Sch. 3 para. 8 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I382 Sch. 3 para. 8 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

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SCHEDULE 4

Section 51

ADMISSION ARRANGEMENTS

1 In this Schedule "the 1998 Act" means the School Standards and Framework Act 1998 (c. 31).

Commencement Information

I383 Sch. 4 para. 1 partly in force; Sch. 4 para. 1 not in force at Royal Assent, see s. 216; Sch. 4 para. 1 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I384 Sch. 4 para. 1 in force at 9.1.2004 for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

Meaning of "appeal panel"

2 In section 84(6) of the 1998 Act (interpretation of Chapter 1 of Part 3), in the definition of "appeal panel", for "under Schedule 24 or 25" there is substituted " in accordance with regulations under section 94(5) or 95(3) ".

Commencement Information

I385 Sch. 4 para. 2 partly in force; Sch. 4 para. 2 not in force at Royal Assent, see s. 216; Sch. 4 para. 2 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in Sch. paras. 2, 3)

I386 Sch. 4 para. 2 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2** (with Sch. para. 3)

I387 Sch. 4 para. 2 in force at 31.5.2005 for W. by S.I. 2005/1395, art. 4, **Sch.** (with art. 5(3)(4))

Parental preferences

3 (1) Section 86 of the 1998 Act (parental preferences) is amended as follows.

F471(2) . . . . . .

(3) After subsection (2) there is inserted—

"(2A) Arrangements made under subsection (1) may allow the parent of a child to express preferences for more than one school; but nothing in this section requires the admission authority for a maintained school for which a child's parent has expressed a preference to offer the child admission to the school if, in accordance with a scheme adopted or made by virtue of section 89B, the child is offered admission to a different school for which the parent has also expressed a preference."

(4) In subsection (3)—

(a) at the end of paragraph (a) there is inserted " or ", and

(b) paragraph (b) is omitted.

F472(5) . . . . . .

(6) Subsection (6) shall cease to have effect.

F473(7) . . . . . .

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(8) In subsection (9), for "provide for all pupils admitted to the school" there is substituted " , or arrangements such as are mentioned in subsection (3B), provide for all pupils selected under the arrangements ".

Textual Amendments

F471 Sch. 4 para. 3(2) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), **Sch. 2**; S.I. 2014/3364, art. 2(aa) (with art. 4)

F472 Sch. 4 para. 3(5) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), **Sch. 2**; S.I. 2014/3364, art. 2(aa) (with art. 4)

F473 Sch. 4 para. 3(7) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), **Sch. 2**; S.I. 2014/3364, art. 2(aa) (with art. 4)

Commencement Information

I388 Sch. 4 para. 3 partly in force; Sch. 4 para. 3 not in force at Royal Assent, see s. 216; Sch. 4 para. 3 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) (as amended (4.12.2003) by S.I. 2003/2992, arts. 1, **3**)

I389 Sch. 4 para. 3(1)-(5) (7)(8) in force at 31.5.2005 for W. by S.I. 2005/1395, art. 4, **Sch.** (with art. 5(1))

I390 Sch. 4 para. 3(6) in force at 1.2.2006 for W. by S.I. 2006/172, art. 4, **Sch.**

Children permanently excluded from two or more schools

4 In section 87 of the 1998 Act (no requirement to admit children permanently excluded from two or more schools) for subsection (4) there is substituted—

"(4) However, a child who has been permanently excluded from a school shall not be treated for the purposes of this section as having been so excluded if—

(a) he was reinstated as a pupil at the school following the giving of a direction to that effect by the relevant authority in accordance with regulations under subsection (3)(b) or (c) of section 52 of the Education Act 2002,

(b) on a review of his exclusion carried out in accordance with regulations under subsection (3)(b) of that section or an appeal made pursuant to regulations under subsection (3)(c) of that section, the relevant authority decided—

(i) that it would not be practical to give a direction requiring his reinstatement as a pupil at the school, but

(ii) that it would otherwise have been appropriate to give such a direction, or

(c) he was so excluded at a time when he had not attained compulsory school age.

(4A) In subsection (4) "the relevant authority" means—

(a) the responsible body as defined by subsection (5) of section 52 of the Education Act 2002, or

(b) a panel constituted in accordance with regulations under subsection (3)(c) of that section."

Status: *This version of this Act contains provisions that are prospective.*
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Commencement Information

I391 Sch. 4 para. 4 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2**

I392 Sch. 4 para. 4 in force at 9.1.2004 for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

Procedure for determining admission arrangements

5 (1) Section 89 of the 1998 Act (procedure for determining admission arrangements) is amended as follows.

(2) For subsection (2) there is substituted—

"(2) Before determining the admission arrangements which are to apply for a particular school year, the admission authority shall consult the following about the proposed arrangements, namely—

(a) whichever of the governing body and the **[**[F8]local authority**]** are not the admission authority,

(b) the admission authorities for all other maintained schools in the relevant area or for such class of such schools as may be prescribed,

(c) the governing bodies for all community and voluntary controlled schools in the relevant area (so far as not falling within paragraph (a) or (b)), and

(d) the admission authorities for maintained schools of any prescribed description.

(2A) Subsection (2) does not apply in relation to the proposed admission arrangements for a particular school year if—

(a) the admission authority are the school's governing body, and

(b) prescribed conditions are satisfied in relation to that year."

(3) In subsections (4), (5) and (6), for "bodies whom they consulted under subsection (2)" there is substituted " appropriate bodies ".

(4) In subsection (8), after paragraph (f) there is inserted—

"(fa) requiring an admission authority who have made a determination of a prescribed description under this section to publish such information relating to the determination (including information as to the authority's reasons for making the determination) as may be prescribed;".

(5) After that subsection there is inserted—

"(8A) The power under paragraph (fa) of subsection (8) to require an admission authority to publish information includes power to require them to publish it—

(a) by giving a notice containing the information to prescribed persons, or

(b) in any other prescribed manner."

(6) For subsection (9) there is substituted—

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"(9) Where the **[**[F8]local authority**]** are the admission authority for a community or voluntary controlled school, they shall consult the governing body before making any reference under subsection (5)."

(7) After that subsection there is inserted—

"(10) In this section "the appropriate bodies", in relation to an admission authority, means the bodies whom they were required to consult under subsection (2), or would but for subsection (2A) have been required so to consult."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I393 Sch. 4 para. 5 partly in force; Sch. 4 para. 5 not in force at Royal Assent, see s. 216; Sch. 4 para. 5 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I394 Sch. 4 para. 5 in force at 1.2.2006 for W. by S.I. 2006/172, art. 4, **Sch.**

Reference of objections

6 In section 90(1)(b) of the 1998 Act (reference of objections to adjudicator or Secretary of State), for "consulted by the admission authority under section 89(2)" there is substituted " who were, or would but for subsection (2A) of section 89 have been, required to be consulted by the admission authority under subsection (2) of that section ".

Commencement Information

I395 Sch. 4 para. 6 partly in force; Sch. 4 para. 6 not in force at Royal Assent, see s. 216; Sch. 4 para. 6 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I396 Sch. 4 para. 6 in force at 1.2.2006 for W. by S.I. 2006/172, art. 4, **Sch.**

Publication of information

7 For section 92 of the 1998 Act (publication of information about admissions) there is substituted—

"**92 Publication of information about admissions**

"**92 Publication of information about admissions**

Regulations may—

(a) require the publication by a **[**[F8]local authority**]** of such information relating to admissions as may be prescribed,

(b) require the publication by the governing body of a foundation or voluntary aided school of such information relating to admissions as may be prescribed,

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(c) require or allow the publication by the governing body of any school maintained by a **[**F8local authority**]**, or by the **[**F8local authority**]** on behalf of the governing body, of such information relating to the school as may be prescribed, and

(d) make provision as to the time by which, and the manner in which, information required to be published by virtue of this section is to be published."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I397 Sch. 4 para. 7 partly in force; Sch. 4 para. 7 not in force at Royal Assent, see s. 216; Sch. 4 para. 7 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I398 Sch. 4 para. 7 in force at 1.2.2006 for W. by S.I. 2006/172, art. 4, **Sch.**

Appeal arrangements: general

8 (1) Section 94 of the 1998 Act (appeal arrangements: general) is amended as follows.

(2) After subsection (1) there is inserted—

"(1A) A **[**F8local authority**]** shall make arrangements for enabling the parent of a child who has been admitted to a community or voluntary controlled school maintained by the authority to appeal against any decision made by or on behalf of the governing body refusing permission for the child to enter the school's sixth form."

(3) After subsection (2) there is inserted—

"(2A) The governing body of a foundation or voluntary aided school shall make arrangements for enabling the parent of a child who has been admitted to the school to appeal against any decision made by or on behalf of the governing body refusing permission for the child to enter the school's sixth form."

(4) In subsection (3), after "(2)" there is inserted " or (2A) ".

(5) In subsection (4), in paragraph (a), after "(1)" there is inserted " or (1A) " and in paragraph (b), after "(2)" there is inserted " or (2A) ".

(6) In subsection (6) for "under Schedule 24" there is substituted " pursuant to arrangements under this section ".

F474(7) . . . . . .

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F474 Sch. 4 para. 8(7) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), **Sch. 2**; S.I. 2014/3364, art. 2(aa) (with art. 4)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I399 Sch. 4 para. 8 partly in force; Sch. 4 para. 8 not in force at Royal Assent, see s. 216; Sch. 4 para. 8 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in Sch. paras. 2, 3)

I400 Sch. 4 para. 8 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2** (with Sch. para. 3)

I401 Sch. 4 para. 8 in force at 31.5.2005 for W. by S.I. 2005/1395, art. 4, **Sch.** (with art. 5(3))

Appeals relating to children to whom section 87 applies

9 In section 95 of the 1998 Act (appeals relating to children to whom section 87 applies), for subsection (3) there is substituted—

"(3) An appeal by the governing body pursuant to arrangements made under subsection (2) shall be to an appeal panel constituted in accordance with regulations.

(3A) Regulations may make provision about the making of appeals pursuant to arrangements under subsection (2), including provision—

(a) requiring prescribed information to be given to governing bodies in prescribed circumstances,

(b) as to the procedure on such appeals,

(c) for the payment by the **[**F8local authority**]** of allowances to members of an appeal panel, and

(d) as to the matters to which an appeal panel is to have regard in considering an appeal.

(3B) Regulations made by virtue of subsection (3A)(c) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of an appeal panel."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I402 Sch. 4 para. 9 partly in force; Sch. 4 para. 9 not in force at Royal Assent, see s. 216; Sch. 4 para. 9 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in art. 3, Sch. paras. 2, 3)

I403 Sch. 4 para. 9 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2** (with Sch. para. 3)

I404 Sch. 4 para. 9 in force at 31.5.2005 for W. by S.I. 2005/1395, art. 4, **Sch.** (with art. 5(4))

Direction to admit child to specified school

10 In section 96(1) of the 1998 Act (direction to admit child to specified school) after "section" there is inserted " to the governing body of a school for which they are not the admission authority ".

Status: *This version of this Act contains provisions that are prospective.*
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Commencement Information

I405 Sch. 4 para. 10 partly in force; Sch. 4 para. 10 not in force at Royal Assent, see s. 216; Sch. 4 para. 10 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I406 Sch. 4 para. 10 in force at 31.5.2005 for W. by S.I. 2005/1395, art. 4, **Sch.** (with art. 5(2))

Procedure for giving direction under section 96

11 (1) Section 97 of the 1998 Act (procedure for giving direction under section 96) is amended as follows.

(2) For subsection (4) there is substituted—

"(4) On a reference under subsection (3) the Secretary of State may determine which school is to be required to admit the child, and if he does so—

(a) where the **[**F8local authority**]** referred to in subsection (1) are the admission authority for that school, they shall—

(i) admit the child to the school, and

(ii) give notice in writing to the governing body and head teacher of the school of the Secretary of State's determination, and

(b) in any other case, that school shall be specified in the direction."

(3) For subsection (6) there is substituted—

"(6) A direction under section 96 shall be given by notice in writing; and a copy of the notice shall be given by the **[**F8local authority**]** to the head teacher of the school."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I407 Sch. 4 para. 11 partly in force; Sch. 4 para. 11 not in force at Royal Assent, see s. 216; Sch. 4 para. 11 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I408 Sch. 4 para. 11 in force at 31.5.2005 for W. by S.I. 2005/1395, art. 4, **Sch.** (with art. 5(2))

Nursery education, special schools and children with statements

12 (1) Section 98 of the 1998 Act (admission for nursery education etc) is amended as follows.

(2) For subsection (2) there is substituted—

"(2) The admission of children to a school for nursery education shall be disregarded—

(a) for the purposes of any determination under section 89 of the number of pupils in any relevant age group that it is intended to admit to a primary school in a school year, and

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(b) in determining for the purposes of section 89A what is a relevant age group in relation to a primary school."

(3) In subsection (3), after "Chapter" there is inserted " apart from subsections (4A) and (4B) ".

(4) After subsection (4) there is inserted—

"(4A) The person responsible for admitting, or refusing to admit, children to a maintained school for nursery education shall be the person who (by virtue of section 88(1)) is the admission authority for the school.

(4B) Regulations may make provision as to the person who is to be responsible for admitting, or refusing to admit, children to maintained nursery schools."

(5) In subsection (8) after "this section" there is inserted " , apart from subsections (4A) and (4B), ".

(6) For subsection (9) there is substituted—

"(9) Such children shall, in addition, be taken into account for the purposes of—

(a) the references in section 86(5), (5B) and (9) to a number of pupils, and

(b) any determination under section 89 of the number of pupils in a relevant age group that it is intended to admit, or to admit either as boarders or otherwise than as boarders, to a school in a school year."

Commencement Information

I409 Sch. 4 para. 12 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2** (with Sch. para. 2)

I410 Sch. 4 para. 12(1)(3)-(5) in force at 31.3.2004 for W. by S.I. 2004/912, art. 4, **Sch. Pt. 1** (with art. 7)

I411 Sch. 4 para. 12(2)(6) in force at 1.2.2006 for W. by S.I. 2006/172, art. 4, **Sch.**

F475 ...

F475 13. . . . . .

Textual Amendments

F475 Sch. 4 para. 13 and cross-heading repealed (29.6.2021) by Diocesan Boards of Education Measure 2021 (No. 1), **ss. 21(3)(c)**, 24(3) (with s. 23(8), Sch. 2 para. 6)

Education Act 1996

14 In section 439(2) of the Education Act 1996 (c. 56) (specification of school intended to be named in a school attendance order), for "fixed in accordance with section 93 of the School Standards and Framework Act 1998 (fixing admission numbers)" there is substituted " determined in accordance with section 89 of the School Standards and Framework Act 1998 (determination of admission numbers) ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I412 Sch. 4 para. 14 partly in force; Sch. 4 para. 14 not in force at Royal Assent, see s. 216; Sch. 4 para. 14 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in Sch.)

I413 Sch. 4 para. 14 in force at 1.2.2006 for W. by S.I. 2006/172, art. 4, **Sch.**

F476 SCHEDULE 5

Section 56(3)

. . . . . .

Textual Amendments

F476 Sch. 5 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(8)**; S.I. 2014/178, art. 2(f) (with art. 3)

F477 SCHEDULE 6

Section 59

GOVERNING BODIES CONSISTING OF INTERIM EXECUTIVE MEMBERS - SCHEDULE TO BE INSERTED IN SCHOOL STANDARDS AND FRAMEWORK ACT 1998 AS SCHEDULE 1A

Textual Amendments

F477 Sch. 6 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(8)**; S.I. 2014/178, art. 2(f) (with art. 3)

"SCHEDULE 1A

Section 19A

. . . . . .

SCHEDULE 7

Section 65

ACADEMIES: SUPPLEMENTARY

PART 1

LAND

1 In the Education Act 1996 (c. 56), the following Schedule is inserted after Schedule 35—

Status: *This version of this Act contains provisions that are prospective.*
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"SCHEDULE
35A

ACADEMIES: LAND

Transfer schemes

1 ***Transfer schemes***

(1) The Secretary of State may make a scheme in relation to land if these requirements are met—

(a) a **[**F8local authority**]** holds a freehold or leasehold interest in the land when the scheme is made;

(b) at any time in the period of eight years ending with the day on which the scheme is made the land was used wholly or mainly for the purposes of a county school or community school;

(c) at the time the scheme is made the land is no longer used as mentioned in paragraph (b) or the Secretary of State thinks it is about to be no longer so used;

(d) before making the scheme the Secretary of State consulted the authority.

(2) The Secretary of State may also make a scheme in relation to land if these requirements are met—

(a) a **[**F8local authority**]** holds a freehold or leasehold interest in the land when the scheme is made;

(b) the land forms the whole or part of a site specified in a notice published under section 70 of the Education Act 2002 (new schools to meet increased demand for secondary education) as a possible site for a new school;

(c) before making the scheme, the Secretary of State consulted the authority.

(3) These requirements must be met as regards a scheme under sub-paragraph (1) or (2)—

(a) the scheme must provide for a transfer of the authority's interest in the land or in such part of it as is specified in the scheme;

(b) the transfer must be to a person (the transferee) who is specified in the scheme and is concerned with the running of an Academy;

(c) the transfer must be made to the transferee for the purposes of the Academy;

(d) in the case of a scheme under sub-paragraph (2), the Academy must have been the subject of proposals published under section 70 of the Education Act 2002;

(e) the scheme must provide for the transfer to the transferee of any right or liability held by the authority as holder of the interest in the land or specified part concerned.

(4) In sub-paragraph (3) the reference to a right or liability—

(a) includes a reference to a right or liability as a trustee, but

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(b) excludes a reference to a liability in respect of the principal of or interest on a loan.

(5) A scheme may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.

(6) A scheme must be so expressed that it does not come into force while the land concerned is used as mentioned in sub-paragraph (1)(b).

(7) A scheme comes into force—

(a) on the day it specifies for it to come into force, or

(b) on the day it otherwise identifies as the day for it to come into force.

(8) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the interests, rights and liabilities to which it applies.

(9) A transfer made by virtue of a scheme is binding on all persons (as well as on the authority and the transferee) even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.

Restriction on disposal

2 ***Restriction on disposal***

(1) Sub-paragraph (2) applies if—

(a) a freehold or leasehold interest in land is held by a **[**F8local authority**]**,

(b) the authority proposes to make a disposal in respect of the interest, or to enter into a contract to make a disposal in respect of it, or to grant an option to make an acquisition in respect of it, and

(c) at any time in the period of eight years ending with the day on which the disposal, contract or option is proposed to be made, entered into or granted, the land was used wholly or mainly for the purposes of a county school or community school.

(2) Unless the Secretary of State consents, the authority must not make the disposal or enter into the contract or grant the option.

(3) Sub-paragraph (2) does not apply to a disposal made in pursuance of a contract made, or option granted, before the coming into force of this paragraph.

(4) Sub-paragraph (2) does not apply to—

(a) a disposal in favour of a person for the purposes of an Academy and for no consideration;

(b) a contract to make such a disposal;

(c) a grant of an option for a person to make an acquisition for the purposes of an Academy and for no consideration.

(5) A disposal or contract or grant is not invalid by reason only that it is made in contravention of sub-paragraph (2).

(6) A person acquiring an interest in land or entering into a contract to acquire it is not to be concerned to enquire whether consent required by sub-paragraph (2) has been given.

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3 (1) This paragraph applies if an authority makes a disposal or enters into a contract or grants an option in contravention of paragraph 2(2).

(2) In the case of a grant of an option, the Secretary of State may by notice served on the option holder repudiate the option at any time before it is exercised.

(3) In the case of a contract to make a disposal in respect of an interest, the Secretary of State may by notice served on the other party to the contract repudiate it at any time before a conveyance of the interest is executed.

(4) A repudiation under sub-paragraph (2) or (3) has effect—

(a) when the notice is served, and

(b) as if the repudiation were made by the authority.

(5) In the case of a disposal in respect of an interest (whether or not in pursuance of an option or contract falling within sub-paragraph (2) or (3)) the Secretary of State may purchase the interest concerned compulsorily.

(6) The Acquisition of Land Act 1981 (c. 67) is to apply in relation to the compulsory purchase of an interest under sub-paragraph (5).

(7) On completion of a compulsory purchase of an interest under sub-paragraph (5) the Secretary of State must transfer it to a person concerned with the running of an Academy.

(8) If the Secretary of State acquires an interest by compulsory purchase under sub-paragraph (5) he is entitled to recover from the authority an amount equal to the aggregate of—

(a) the compensation agreed or awarded in respect of the purchase,

(b) any interest payable by him in respect of the compensation, and

(c) the costs and expenses incurred by him in connection with the making of the compulsory purchase order.

(9) The authority must provide the Secretary of State with such information as he may require it to provide in connection with a compulsory purchase under sub-paragraph (5).

4 (1) For the purposes of paragraphs 2 and 3—

(a) references to a disposal in respect of an interest are to a disposal of the whole interest or of a lesser interest;

(b) references to an acquisition in respect of an interest are to an acquisition of the whole interest or of a lesser interest.

(2) If the disposal referred to in paragraph 3(3) or (5) is a disposal of a lesser interest, the reference there to the interest concerned is to the lesser interest.

Restriction on appropriation

5 ***Restriction on appropriation***

(1) Sub-paragraph (2) applies if—

(a) a freehold or leasehold interest in land is held by a **[**F8local authority**]**,

(b) the authority proposes to make an appropriation of the land under section 122 of the Local Government Act 1972 (c. 70), and

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(c) at any time in the period of eight years ending with the day on which the appropriation is proposed to be made the land was used wholly or mainly for the purposes of a county school or community school.

(2) Unless the Secretary of State consents, the authority must not make the appropriation.

6 (1) This paragraph applies if an authority makes an appropriation in contravention of paragraph 5(2).

(2) The Secretary of State may purchase the interest concerned compulsorily.

(3) Paragraph 3(6) to (9) apply to a compulsory purchase of an interest under sub-paragraph (2) above as they apply to a compulsory purchase of an interest under paragraph 3(5).

Duty to inform

7 ***Duty to inform***

(1) Sub-paragraph (2) applies if—

(a) a freehold or leasehold interest in land is held by a **[**F8local authority**]**,

(b) the authority proposes to change the use of the land in such a way that (were the change made) the land would cease to be capable of use wholly or mainly for the purposes of a school, and

(c) at any time in the period of eight years ending with the date of the proposed change of use the land was used wholly or mainly for the purposes of a county school or community school.

(2) The authority must inform the Secretary of State of the proposal.

Former Academies

8 ***Former Academies***

(1) This paragraph applies if—

(a) a freehold or leasehold interest in land is transferred from a **[**F8local authority**]** on or after 28th July 2000,

(b) the transfer is made to a person for the purposes of an Academy, and

(c) the first or the second condition set out below is satisfied.

(2) The first condition is that—

(a) the school concerned ceases to be an Academy, and

(b) immediately before the school ceases to be an Academy the interest is held by a person for the purposes of the Academy.

(3) The second condition is that, although the school concerned continues to be an Academy, the interest ceases to be held for the purposes of the Academy.

(4) This paragraph applies whether or not the transfer is made by virtue of a scheme under paragraph 1.

(5) Sub-paragraph (2) applies whether or not, on the school ceasing to be an Academy, it simultaneously ceases to function as a school.

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(6) The Secretary of State may make a scheme providing for the transfer of the interest—

(a) from the person holding it;

(b) to the authority from which the transfer mentioned in sub-paragraph (1)(a) was made.

(7) A scheme may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.

(8) A scheme comes into force on the day it specifies for it to come into force.

(9) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the interest to which it applies.

(10) A transfer made by virtue of a scheme is binding on all persons (as well as on the authority and the transferee) even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.

Disapplication of rule against perpetuities

9 ***Disapplication of rule against perpetuities***

Where—

(a) a freehold or leasehold interest in land is transferred for no consideration from a local authority to a person for the purposes of an Academy (whether or not by virtue of a scheme under paragraph 1), and

(b) at any time on or after the day on which this Schedule comes into force the authority is granted an option to make a re-acquisition of the interest (subject to whatever conditions),

the rule against perpetuities does not apply to the option.

Other Acts

10 ***Other Acts***

(1) Where a lease is granted by or transferred from a local authority to a person for the purposes of an Academy on or after the day on which this Schedule comes into force, section 153 of the Law of Property Act 1925 (c.20) (enlargement of leases granted for no rent etc) does not apply to permit that person to enlarge the term under the lease.

(2) Section 123(2) of the Local Government Act 1972 (c. 70) (disposal for consideration less than the best reasonably obtainable) does not apply to a disposal to a person for the purposes of an Academy.

(3) Section 123(2A) of that Act (disposal of open space requires certain procedures) does not apply to a disposal which is made—

(a) to a person for the purposes of an Academy, and

(b) for no consideration.

(4) Section 77(1) of the School Standards and Framework Act 1998 (c. 31) (restriction on disposal of playing fields) does not apply to a disposal which is made—

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(a) by a local authority (within the meaning of that section) to a person for the purposes of an Academy, and

(b) for no consideration.

Regulations

11 ***Regulations***

Regulations under this Schedule may in particular include—

(a) provision requiring a person to be appointed by the Secretary of State in connection with the proposed making of a scheme under paragraph 1;

(b) provision requiring the appointed person to identify the interests, rights and liabilities to be the subject of a scheme under paragraph 1;

(c) provision requiring the authority concerned to provide the appointed person with such documents as he may require in order to identify the interests, rights and liabilities to be the subject of a scheme under paragraph 1;

(d) provision requiring an authority whose interest is (or is to be) transferred by virtue of a scheme under paragraph 1 to execute instruments and deliver certificates for the purposes of the enactments relating to registered land;

(e) provision treating such an authority as having given acknowledgement in writing of the right to production of documents;

(f) provision that consent under paragraph 2 is to be sought in a specified way;

(g) provision that information is to be given under paragraph 7 in a specified way.

Class consents

12 ***Class consents***

For the purposes of paragraphs 2(2) and 5(2), the consent of the Secretary of State—

(a) may be given in relation to a particular case or class of case, and

(b) may be given subject to conditions.

Interpretation

13 ***Interpretation***

A dwelling-house used by an authority for occupation by a person employed to work at a school is to be treated for the purposes of this Schedule as used for the purposes of the school."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

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PART 2

MISCELLANEOUS

Environmental Protection Act 1990 (c. 43)

2 In section 98 of the Environmental Protection Act 1990 (definitions), in subsection (2)(e), for the words from "city academy" to "1996" there is substituted " Academy ".

F478 ...

F478 3. . . . . .

Textual Amendments

F478 Sch. 7 para. 3 and cross-heading repealed (29.6.2021) by Diocesan Boards of Education Measure 2021 (No. 1), **ss. 21(3)(d)**, 24(3) (with s. 23(8), Sch. 2 para. 6)

Further and Higher Education Act 1992 (c. 13)

4 In section 54 of the Further and Higher Education Act 1992 (duty to give information), in subsection (1)(b), for "city academy" there is substituted " Academy ".

F479 ...

F479 . . . . . .

Textual Amendments

F479 Sch. 7 para. 5 and cross-heading repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

Education Act 1996 (c. 56)

6 (1) The Education Act 1996 has effect subject to the following amendments.

(2) In section 2 (definition of "secondary education" etc), in subsection (2A)(a), after "**[**F8local authority**]**" there is inserted " or is an Academy ".

(3) In section 316 (children with special educational needs), in subsection (4)(b)(iii), for "a city academy" there is substituted " an Academy ".

(4) In section 483A (special educational needs)—

(a) in subsection (2)(b), for "a city academy" there is substituted " an Academy ", and

(b) subsection (7) shall cease to have effect.

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(5) In section 537 (power to require information), in subsection (7)(b), for "city academy" there is substituted " Academy ".

(6) In section 541 (power to require provision of information), in subsection (1)(b), for "city academy" there is substituted " Academy ".

(7) In section 550B (detention), in subsection (2)(c), for "city academy" there is substituted " Academy ".

(8) In section 580 (index), at the appropriate place in the table there is inserted—

"Academy	section 482"

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

School Inspections Act 1996 (c. 57)

F480 7 . . . . . .

Textual Amendments

F480 Sch. 7 para. 7 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Education Act 1997 (c. 44)

F481 8 . . . . . .

Textual Amendments

F481 Sch. 7 para. 8 omitted (1.9.2012) by virtue of Education Act 2011 (c. 21), **ss. 29(9)(b)**, 82(3); S.I. 2012/1087, art. 3

School Standards and Framework Act 1998 (c. 31)

F482 9 . . . . . .

Textual Amendments

F482 Sch. 7 para. 9 omitted (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 2(2)(c)**; S.I. 2015/2074, art. 2

Learning and Skills Act 2000 (c. 21)

F483 10 . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F483 Sch. 7 para. 10 repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 2**; S.I. 2014/3364, art. 2(aa) (with art. 4)

F484SCHEDULE 8

Section 70

. . . . . .

Textual Amendments

F484 Sch. 8 repealed (1.9.2006) by Education Act 2005 (c. 18), ss. 66(14), 125(4), **Sch. 19 Pt. 2**; S.I. 2006/2129, art. 4 (with art. 6)

F485SCHEDULE 9

Section 72

PROPOSALS RELATING TO SIXTH FORMS: IMPLEMENTATION

Textual Amendments

F485 Sch. 9 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(12)**; S.I. 2013/1800, art. 3(j)

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F486SCHEDULE 10

Section 75

. . . . . .

Textual Amendments

F486 Sch. 10 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(12)**; S.I. 2013/1800, art. 3(j)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULE 11

Section 119

SCHOOL TEACHERS' REVIEW BODY

Membership

1 There shall be not less than five or more than nine members of the Body (including the chairman).

2 A member shall hold and vacate office in accordance with the terms of his appointment (subject to the following provisions of this Schedule).

3 A member may resign by notice in writing to the Secretary of State.

4 The Secretary of State may by notice in writing dismiss a member if the member—

(a) is **[**F487made**]** bankrupt **[**F488or has a debt relief order made in respect of him (under Part 7A of the Insolvency Act 1986)**]**,

(b) enters into an arrangement with his creditors, or

(c) is, in the opinion of the Secretary of State, unable, unfit or unwilling to perform his duties whether by reason of physical or mental illness or otherwise.

Textual Amendments

F487 Word in Sch. 11 para. 4(a) substituted (6.4.2016) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481), reg. 1, **Sch. 1 para. 18**

F488 Words in Sch. 11 para. 4(a) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 47** (with art. 5)

5 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (disqualifying offices) for the entry relating to the body established under the School Teachers' Pay and Conditions Act 1991 (c. 49) there shall be substituted the following—

"Member, in receipt of remuneration, of the School Teachers' Review Body."

Chairman

6 The chairman may by notice in writing to the Prime Minister—

(a) resign as chairman, or

(b) resign as chairman and as a member of the Body.

7 Paragraph 4 shall apply to the chairman and for that purpose—

(a) a reference to the Secretary of State shall be taken as a reference to the Prime Minister, and

(b) the power may be exercised so as to dismiss the chairman only from that office or also from membership of the Body.

8 If the chairman ceases to be a member of the Body he also ceases to be chairman.

Deputy Chairman

9 The Secretary of State may appoint a member of the Body to act as deputy chairman.

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10 The deputy chairman may by notice in writing to the Secretary of State—

(a) resign as deputy chairman, or

(b) resign as deputy chairman and as a member of the Body.

11 If the deputy chairman ceases to be a member of the Body he also ceases to be deputy chairman.

Money

12 (1) This paragraph applies to—

(a) a member of the Body;

(b) the chairman;

(c) the deputy chairman.

(2) The Secretary of State may pay remuneration and allowances to a person to whom this paragraph applies.

(3) The Secretary of State may make payments to or in respect of a person to whom this paragraph applies by way of or in connection with—

(a) a pension;

(b) an allowance or gratuity on retirement or death.

(4) The Secretary of State may pay compensation to a person who ceases to be a member of the Body if the Secretary of State thinks it right by reason of special circumstances.

Proceedings

13 The Body shall determine their own proceedings (including any provision for a quorum).

14 The validity of proceedings of the Body shall not be affected by—

(a) a vacancy in the membership,

(b) a vacancy in the position of chairman, or

(c) a defect in the appointment of a member.

Transitional provision

15 An appointment made by the Prime Minister under section 1(1) of the School Teachers' Pay and Conditions Act 1991 (c. 49) shall continue to have effect, subject to paragraphs 3, 4 and 6 to 11, after the commencement of this Schedule.

[F489SCHEDULE 11A

Section 141B

REGULATIONS ABOUT DECISIONS UNDER SECTION 141B

Textual Amendments

F489 Sch. 11A inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 8(2)**, 82(3); S.I. 2012/924, art. 2

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Regulations: general

1 The Secretary of State must make regulations in accordance with the following provisions of this Schedule.

Procedure for decisions under section 141B(2)

2 (1) Regulations under paragraph 1 must make provision about the procedure to be followed by the Secretary of State in reaching a decision under section 141B(2).

(2) The regulations must not require a person to give evidence or produce any document or other material evidence which the person could not be compelled to give or produce in civil proceedings in any court in England and Wales.

(3) The regulations may make provision for any functions of the Secretary of State under section 141B to be excluded or restricted in such circumstances as may be specified in or determined under the regulations.

(4) The circumstances include, in particular, where the Secretary of State considers this to be appropriate taking into account the powers of the **[**[F490]Disclosure and Barring Service**]** under the Safeguarding Vulnerable Groups Act 2006.

Textual Amendments

F490 Words in Sch. 11A para. 2(4) substituted (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **13(1)**(2)(e) (with Pt. 4)

Interim prohibition orders

3 (1) Regulations under paragraph 1 may make provision for the Secretary of State to make an interim prohibition order, pending the Secretary of State's final decision under section 141B (2).

(2) Regulations about interim prohibition orders must provide that an interim prohibition order may be made only if the Secretary of State considers that it is necessary in the public interest to do so.

(3) Regulations about interim prohibition orders must provide that the Secretary of State must review an interim prohibition order—

(a) within six months of the order being made, and

(b) within each subsequent six month period,

if the person to whom the order relates makes an application to the Secretary of State for such a review.

Prohibition orders

4 (1) Regulations under paragraph 1 may make provision—

(a) about the service on a person to whom a prohibition order relates of notice of the order and of the right to appeal against the order under paragraph 5;

(b) about the publication of information relating to the case of a person to whom a prohibition order relates;

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(c) prescribing circumstances in which a person to whom a prohibition order relates may nevertheless carry out teaching work (within the meaning of section 141A).

(2) Regulations under paragraph 1 may also make provision—

(a) as to the time when a prohibition order takes effect;

(b) allowing a person to whom a prohibition order relates to apply to the Secretary of State for the order to be set aside;

(c) as to the minimum period for which a prohibition order must be in effect before such an application may be made;

(d) as to the procedure relating to such an application.

Appeals against prohibition orders

5 (1) Regulations under paragraph 1 must make provision conferring on a person to whom a prohibition order relates a right to appeal against the order to the High Court.

(2) The regulations must provide that an appeal must be brought within 28 days of the person being served with notice of the prohibition order.

(3) No appeal is to lie from any decision of the Court on such an appeal.

(4) In this paragraph, "prohibition order" does not include an interim prohibition order made by virtue of paragraph 3.

Supplementary provisions

6 (1) Regulations under paragraph 1 may make incidental and supplementary provision, including provision—

(a) where a prohibition order has effect in relation to a person, for the Secretary of State to serve notice of the order on the person's employer;

(b) requiring the employer of such a person to take such steps in consequence of the order (which may include dismissing the person) as may be prescribed;

(c) authorising the delegation of functions conferred by virtue of this Schedule and the determination of matters by any person or persons specified in the regulations.

(2) Regulations under paragraph 1 may also make provision—

(a) for the Secretary of State to make a decision in a particular case about the effect in England of an order prohibiting a person from teaching in schools in Wales, Scotland or Northern Ireland;

(b) about the effect in general in England of orders prohibiting a person from teaching in schools in Wales, Scotland or Northern Ireland.**]**

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[F491SCHEDULE 11B

Section 141G

OFFENCE UNDER SECTION 141G: SUPPLEMENTARY PROVISIONS

Textual Amendments

F491 Sch. 11B inserted (1.10.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 4**; S.I. 2012/2213, art. 3

Introduction

1 (1) This Schedule makes supplementary provision relating to an offence under section 141G (breach of reporting restrictions relating to alleged offences committed by teachers).

(2) **[**F492In this Schedule "the E-Commerce Directive" means**]** Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal MarketF493....

Textual Amendments

F492 Words in Sch. 11B para. 1(2) substituted (3.3.2021) by The Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021 (S.I. 2021/222), regs. 1(1), **2(2)(a)(i)**

F493 Words in Sch. 11B para. 1(2) omitted (3.3.2021) by virtue of The Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021 (S.I. 2021/222), regs. 1(1), **2(2)(a)(ii)**

Domestic service providers: extension of liability

F4942 . . . . . .

Textual Amendments

F494 Sch. 11B para. 2 omitted (3.3.2021) by virtue of The Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021 (S.I. 2021/222), regs. 1(1), **2(2)(b)**

Non-UK service providers: restriction on proceedings

F4953 . . . . . .

Textual Amendments

F495 Sch. 11B para. 3 omitted (3.3.2021) by virtue of The Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021 (S.I. 2021/222), regs. 1(1), **2(2)(b)**

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Exceptions for mere conduits

4 (1) A service provider is not guilty of an offence under section 141G in respect of anything done in the course of providing so much of an information society service as consists in—

(a) the provision of access to a communication network, or

(b) the transmission in a communication network of information provided by a recipient of the service,

if the following condition is satisfied.

(2) The condition is that the service provider does not—

(a) initiate the transmission,

(b) select the recipient of the transmission, or

(c) select or modify the information contained in the transmission.

(3) For the purposes of sub-paragraph (1)—

(a) the provision of access to a communication network, and

(b) the transmission of information in a communication network,

includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.

(4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Exception for caching

5 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.

(2) The service provider is not guilty of an offence under section 141G in respect of the automatic, intermediate and temporary storage of information so provided, if—

(a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and

(b) the following conditions are satisfied.

(3) The first condition is that the service provider does not modify the information.

(4) The second condition is that the service provider complies with any conditions attached to having access to the information.

(5) The third condition is that if the service provider obtains actual knowledge that—

(a) the information at the initial source of the transmission has been removed from the network,

(b) access to it has been disabled, or

(c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information,

the service provider expeditiously removes the information or disables access to it.

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Exception for hosting

6 (1) A service provider is not guilty of an offence under section 141G in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if the condition is met.

(2) The condition is that—

(a) the service provider had no actual knowledge when the information was provided that it contained offending material, or

(b) on obtaining actual knowledge that the information contained offending material, the service provider expeditiously removed the information or disabled access to it.

(3) "Offending material" means material the publication of which constitutes an offence under section 141G.

(4) This paragraph does not apply if the recipient of the service is acting under the authority or control of the service provider.

Interpretation

7 (1) In this Schedule—

"information society services"—

(a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and

(b) is summarised in recital 17 of the E-Commerce Directive as covering "any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service";

"recipient", in relation to a service, means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;

"service provider" means a person providing an information society service.

F496(2) . . . . .]

Textual Amendments

F496 Sch. 11B para. 7(2) omitted (3.3.2021) by virtue of The Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021 (S.I. 2021/222), regs. 1(1), **2(2)(c)**

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SCHEDULE 12

Section 148

THE GENERAL TEACHING COUNCILS FOR ENGLAND AND WALES

PART 1

AMENDMENTS OF TEACHING AND HIGHER EDUCATION ACT 1998

1 The Teaching and Higher Education Act 1998 (c. 30) is amended as follows.

Commencement Information

I414 Sch. 12 para. 1 wholly in force at 19.12.2002; Sch. 12 para. 1 not in force at Royal Assent, see s. 216; Sch. 12 para. 1 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 12 para. 1 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

2 In section 2 (which relates to the advisory functions of the General Teaching Council for England, and is applied by section 9 in relation to the General Teaching Council for Wales), in subsection (2) before the word "and" immediately following paragraph (e) there is inserted—

"(ee) the supply of teachers;

(ef) the retention of teachers within the teaching profession;

(eg) the standing of the teaching profession;".

Commencement Information

I415 Sch. 12 para. 2 wholly in force at 19.12.2002; Sch. 12 para. 2 not in force at Royal Assent, see s. 216; Sch. 12 para. 2 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 12 para. 2 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

3 (1) Section 3 (which relates to the registration of teachers with the General Teaching Council for England, and is applied by section 9 in relation to the General Teaching Council for Wales) is amended as follows.

(2) In subsection (1) for "a register of teachers" there is substituted " a register for the purposes of this Chapter ".

(3) In subsection (2), for "registration" there is substituted " full or provisional registration ".

(4) In subsection (3) for "registration", where first occurring and in paragraph (b), there is substituted " full registration ".

(5) After subsection (3) there is inserted—

"(3A) A person is eligible for provisional registration if he satisfies such conditions as may be prescribed.

(3B) A person is not eligible for provisional registration or full registration unless at the relevant time the Council are or were satisfied as to his suitability to be a teacher.

(3C) In subsection (3B) "the relevant time" means—

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(a) in relation to an applicant for provisional registration or an applicant for full registration who is already registered with provisional registration, the time of provisional registration, or

(b) in the case of an applicant for full registration who is not already registered with provisional registration, the time of full registration.

(3D) Regulations may provide that any prescribed description of person is, or is not, to be taken to be suitable to be a teacher."

(6) In subsection (4), for "registration" there is substituted " full registration ".

Commencement Information

I416 Sch. 12 para. 3(1) (2) (4) (6) in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

I417 Sch. 12 para. 3(1) in force at 31.5.2006 for W. by S.I. 2006/1336, art. 4, **Sch. Pt. 1**

I418 Sch. 12 para. 3(3) in force at 1.8.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 3**

I419 Sch. 12 para. 3(3) in force at 6.11.2006 so far as not already in force except in relation to W. by S.I. 2006/2895, **art. 2**

I420 Sch. 12 para. 3(5) in force at 31.5.2006 for specified purposes for W. by S.I. 2006/1336, art. 4, **Sch. Pt. 1** (with Sch. Pt. 2)

I421 Sch. 12 para. 3(5) in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

4 (1) Section 4 (which relates to regulations about the registration of teachers with the General Teaching Council for England, and is applied by section 9 in relation to the General Teaching Council for Wales) is amended as follows.

(2) In subsection (2), after paragraph (b) there is inserted—

"(ba) the service on applicants for registration of notice of the Council's decision to grant or refuse the application and, in the case of a refusal, of the grounds on which the decision was taken and (where applicable) of the applicant's right to appeal against the decision under section 4A;".

(3) After subsection (4) there is inserted—

"(4A) The Council, in exercising any power to fix fees authorised by virtue of subsection (4), shall have regard to the expenditure of the Council in exercising—

(a) their functions under this Act relating to registration, and

(b) all other functions conferred on them under this Act or any other enactment."

(4) After subsection (5) there is inserted—

"(6) In this section "registration" means full registration or provisional registration."

Commencement Information

I422 Sch. 12 para. 4 partly in force; Sch. 12 para. 4 not in force at Royal Assent, see s. 216; Sch. 12 para. 4(1) (3) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 12 para. 4(1)(3) in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I423 Sch. 12 para. 4(2) in force at 31.5.2006 for W. by S.I. 2006/1336, art. 4, **Sch. Pt. 1**

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I424 Sch. 12 para. 4(2) in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

I425 Sch. 12 para. 4(4) in force at 1.8.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 3**

I426 Sch. 12 para. 4(4) in force at 6.11.2006 so far as not already in force except in relation to W. by S.I. 2006/2895, **art. 2**

5 After section 4 there is inserted—

"**4A Appeals against refusal of registration**

"**4A "4A Appeals against refusal of registration**

(1) Regulations shall make provision for conferring on a person aggrieved by a decision made on relevant grounds to refuse an application made by him for registration under section 3 a right to appeal against the decision to the High Court within 28 days from the date on which notice of the decision is served on him.

(2) The reference in subsection (1) to a decision made on relevant grounds is to a decision made on the ground that at the relevant time the Council were not satisfied of the applicant's suitability to be a teacher.

(3) On such an appeal the Court may make any order which appears appropriate.

(4) No appeal shall lie from any decision of the Court on such an appeal."

Commencement Information

I427 Sch. 12 para. 5 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

6 After section 6 there is inserted—

"**6A Power to promote teaching profession**

"**6A "6A Power to promote teaching profession**

(1) The Council may undertake activities designed to promote the standing of the teaching profession.

(2) Without prejudice to the generality of subsection (1), such activities may include—

(a) giving advice,

(b) organising conferences and lectures, and

(c) arranging for the publication of material in any form."

Commencement Information

I428 Sch. 12 para. 6 wholly in force at 19.12.2002; Sch. 12 para. 6 not in force at Royal Assent, see s. 216; Sch. 12 para. 6 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 12 para. 6 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

F497 7 . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F497 Sch. 12 para. 7 omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 2 para. 19(5)**; S.I. 2012/924, art. 2

8 In section 12 (deduction of fees from salaries etc) in subsection (4), after "section —" there is inserted—

""registration" means full registration or provisional registration;".

Commencement Information

I429 Sch. 12 para. 8 in force at 1.8.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 3**

I430 Sch. 12 para. 8 in force at 6.11.2006 so far as not already in force except in relation to W. by S.I. 2006/2895, **art. 2**

9 In section 42 (orders and regulations), in subsection (2) (a) (orders subject to negative resolution procedure), after "section 7 or 8" there is inserted " or paragraph 18 of Schedule 1 ".

Commencement Information

I431 Sch. 12 para. 9 partly in force; Sch. 12 para. 9 not in force at Royal Assent, see s. 216; Sch. 12 para. 9 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

10 In section 43(1) (general interpretation), in the definition of "registered teacher" after "section 3" there is inserted " with full or provisional registration ".

Commencement Information

I432 Sch. 12 para. 10 in force at 1.8.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 3**

I433 Sch. 12 para. 10 in force at 6.11.2006 so far as not already in force except in relation to W. by S.I. 2006/2895, **art. 2**

11 In Schedule 1 (constitution etc. of General Teaching Council for England), after paragraph 17 there is inserted—

"**Power to amend Schedule**

18 (1) The Secretary of State may by order amend the preceding provisions of this Schedule for the purpose of removing or relaxing any control exercisable by him by virtue of any of the provisions of this Schedule specified in sub-paragraph (2).

(2) Those provisions are—

(a) paragraph 2(3),
(b) paragraph 4,
(c) paragraph 5,
(d) paragraph 6,
(e) paragraph 11

Status: *This version of this Act contains provisions that are prospective.*
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(f) paragraph 14(2).”

Commencement Information

I434 Sch. 12 para. 11 partly in force; Sch. 12 para. 11 not in force at Royal Assent, see s. 216; Sch. 12 para. 11 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

12 (1) Schedule 2 (disciplinary powers of Council) is amended as follows.

(2) For paragraph 4 (suspension orders) there is substituted—

“4 (1) Where a suspension order is made in relation to a person—

(a) he shall cease to be eligible for registration under section 3, and

(b) if he is a registered person at the time when the order is made, his name shall be removed from the register accordingly,

but, subject to sub-paragraph (2), he shall become so eligible again at the end of such period not exceeding two years as may be specified in the order.

(2) A suspension order may specify conditions to be complied with by the person to whom the order relates and where it does so—

(a) that person shall become eligible again for registration under section 3 at the end of the period specified under sub-paragraph (1) only if he has then complied with the conditions; and

(b) if he has not then complied with the conditions, he shall not become so eligible again until he has complied with the conditions.

(3) Sub-paragraphs (a) and (b) of paragraph 3(2) apply in relation to a suspension order as they apply in relation to a conditional registration order.

(4) A person in relation to whom conditions have been specified in a suspension order may, in accordance with regulations, apply to the Council for them to vary or revoke any of the conditions.”

(3) In paragraph 8 (interpretation), after sub-paragraph (1) there is inserted—

“(1A) References in this Schedule to registration under section 3 are references to registration under that section with full or provisional registration.”

Commencement Information

I435 Sch. 12 para. 12 partly in force; Sch. 12 para. 12 not in force at Royal Assent, see s. 216; Sch. 12 para. 12(1)(2) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 12 para. 12(1)(2) in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I436 Sch. 12 para. 12(1)(2) in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I437 Sch. 12 para. 12(3) in force at 1.8.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 3**

I438 Sch. 12 para. 12(3) in force at 6.11.2006 so far as not already in force except in relation to W. by S.I. 2006/2895, **art. 2**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F498 PART 2

AMENDMENTS OF OTHER ENACTMENTS

Textual Amendments

F498 Sch. 12 Pt. 2 repealed (6.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 7(f)

F498 13 . . . . . .

Commencement Information

I439 Sch. 12 para. 13 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

F498 14 . . . . . .

Commencement Information

I440 Sch. 12 para. 14 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

F498 15 . . . . . .

Commencement Information

I441 Sch. 12 para. 15 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

SCHEDULE 13

Section 152

REGULATION OF CHILD MINDING AND DAY CARE

Consent to checks on suitability

1 In section 79B of the Children Act 1989 (c. 41) (persons qualified for registration for child minding or day care), after subsection (5) there is inserted—

"(5A) Where, for the purposes of determining a person's qualification for registration under this Part—

(a) the registration authority requests any person ("A") to consent to the disclosure to the authority by another person ("B") of any information relating to A which is held by B and is of a prescribed description, and

(b) A does not give his consent (or withdraws it after having given it),

the registration authority may, if regulations so provide and it thinks it appropriate to do so, regard A as not suitable to look after children under the age of eight, or not suitable to be in regular contact with such children."

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I442 Sch. 13 para. 1 wholly in force at 19.12.2002; Sch. 13 para. 1 not in force at Royal Assent, see s. 216; Sch. 13 para. 1 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

Suspension of registration

2 In section 79H of that Act (suspension of registration), after subsection (2) there is inserted—

"(3) A person registered under this Part for child minding by the Chief Inspector shall not act as a child minder in England at a time when that registration is suspended in accordance with regulations under this section.

(4) A person registered under this Part for child minding by the Assembly shall not act as a child minder in Wales at a time when that registration is so suspended.

(5) A person registered under this Part for providing day care on any premises shall not provide day care on those premises at any time when that registration is so suspended.

(6) If any person contravenes subsection (3), (4) or (5) without reasonable excuse, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale."

Commencement Information

I443 Sch. 13 para. 2 wholly in force at 19.12.2002; Sch. 13 para. 2 not in force at Royal Assent, see s. 216; Sch. 13 para. 2 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

Rights of appeal in relation to registration

3 (1) Section 79M of that Act (appeals) is amended as follows.

(2) In subsection (1), after paragraph (b) there is inserted "or

(c) a determination made by the registration authority under this Part (other than one falling within paragraph (a) or (b)) which is of a prescribed description,".

(3) In subsection (2)(a), after "order" there is inserted " or determination ".

Commencement Information

I444 Sch. 13 para. 3 wholly in force at 19.12.2002; Sch. 13 para. 3 not in force at Royal Assent, see s. 216; Sch. 13 para. 3 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Inspections by Chief Inspector

4 (1) Section 79Q of that Act (inspection of childminding and day care) is amended as follows.

(2) In subsection (2), for the words from "secure" to the end there is substituted " at prescribed intervals inspect, or secure the inspection by a registered inspector of, any child minding provided in England by a registered person ".

(3) In subsection (3), for the words from "secure" to the end there is substituted " at prescribed intervals inspect, or secure the inspection by a registered inspector of, any day care provided by a registered person on any premises in England ".

Commencement Information

I445 Sch. 13 para. 4 in force at 2.9.2002 for E. by S.I. 2002/2002, **art. 4**

I446 Sch. 13 para. 4 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Rights of entry etc.

5 (1) Section 79U of that Act (rights of entry etc.) is amended as follows.

(2) In subsection (1), for "An authorised inspector" there is substituted " Any person authorised for the purposes of this subsection by the registration authority ".

(3) In subsection (2), for "an authorised inspector" there is substituted " a person who is authorised for the purposes of this subsection by the registration authority ".

(4) After that subsection there is inserted—

"(2A) Authorisation under subsection (1) or (2)—

(a) may be given for a particular occasion or period;

(b) may be given subject to conditions."

(5) In subsection (3), for the words from "An inspector" to "may-" there is substituted " A person entering premises under this section may (subject to any conditions imposed under subsection (2A)(b))— ".

(6) Subsection (5) shall cease to have effect.

(7) In subsection (9), the definition of "authorised inspector" shall cease to have effect.

Commencement Information

I447 Sch. 13 para. 5 wholly in force at 19.12.2002; Sch. 13 para. 5 not in force at Royal Assent, see s. 216; Sch. 13 para. 5 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**; Sch. 13 para. 5 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

Disqualification for registration

6 In paragraph 4 of Schedule 9A to that Act (disqualification for registration for child minding and day care), after sub-paragraph (3) there is inserted—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

"(3A) Regulations under this paragraph may provide for a person not to be disqualified for registration by reason of any fact which would otherwise cause him to be disqualified if—

(a) he has disclosed the fact to the registration authority, and

(b) the registration authority has consented in writing to his registration and has not withdrawn that consent."

Commencement Information

I448 Sch. 13 para. 6 wholly in force at 19.12.2002; Sch. 13 para. 6 not in force at Royal Assent, see s. 216; Sch. 13 para. 6 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

Disclosure of criminal record

F499 7 . . . . . .

Textual Amendments

F499 Sch. 13 para. 7 repealed (6.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 7(f)

F500 8 . . . . . .

Textual Amendments

F500 Sch. 13 para. 8 repealed (6.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 7(f)

SCHEDULE 14

Section 155

INSPECTION OF NURSERY EDUCATION

Conduct of inspections by Inspectorate

F501 1 . . . . . .

Textual Amendments

F501 Sch. 14 para. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Registration of inspectors

2 (1) Paragraph 8 of that Schedule (registration of inspectors) is amended as follows.

(2) In sub-paragraph (3), for "(5)(c)" there is substituted " (5B) ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) For sub-paragraphs (4) and (5) there is substituted—

"(4) Subject to that, the Chief Inspector shall register such persons as he considers appropriate.

(5) The factors which the Chief Inspector may take into account for the purposes of sub-paragraph (4) include the extent to which there is a need for registered inspectors in any part of England and Wales.

(5A) The Chief Inspector may require payment of a fee before registering a person under sub-paragraph (4).

(5B) Registration under sub-paragraph (4) may be subject to such conditions as the Chief Inspector considers it appropriate to impose."

(4) In sub-paragraphs (6) and (7), for "(5)(c)" there is substituted " (5B) ".

(5) Sub-paragraph (9) shall cease to have effect.

Commencement Information

I449 Sch. 14 para. 2 not in force at Royal Assent, see s. 216; Sch. 14 para. 2 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I450 Sch. 14 para. 2 in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

3 In paragraph 9 of that Schedule (removal from register), in sub-paragraphs (2)(c) and (4), for "paragraph 8(5)(c)" there is substituted " paragraph 8(5B) ".

Commencement Information

I451 Sch. 14 para. 3 not in force at Royal Assent, see s. 216; Sch. 14 para. 3 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I452 Sch. 14 para. 3 in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

4 In section 79P(3) of the Children Act 1989 (c. 41) (early years child care inspectorate), for "to (9)" there is substituted " to (8) ".

Commencement Information

I453 Sch. 14 para. 4 not in force at Royal Assent, see s. 216; Sch. 14 para. 4 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I454 Sch. 14 para. 4 in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

Appeals

F502 5 . . . . . .

Textual Amendments

F502 Sch. 14 paras. 5-7 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F502 6 . . . . . .

Textual Amendments

F502 Sch. 14 paras. 5-7 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F502 7 . . . . . .

Textual Amendments

F502 Sch. 14 paras. 5-7 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

SCHEDULE 15

Section 187

EDUCATION ACTION ZONES

Introductory

1 Chapter 3 of Part 1 of the School Standards and Framework Act 1998 (c. 31) is amended as follows.

Commencement Information

I455 Sch. 15 para. 1 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I456 Sch. 15 para. 1 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Establishment of education action zones

2 (1) In section 10, in subsection (1) for "maintained schools" there is substituted " eligible schools ".

(2) After that subsection there is inserted—

"(1A) For the purposes of subsection (1) "eligible school" means—

(a) a maintained school;

(b) a nursery school;

(c) a pupil referral unit; or

(d) an independent school."

(3) Subsection (3) of that section is omitted.

(4) In subsection (4) of that section, for ", (2) or (3)" there is substituted " or (2) ".

(5) In subsection (6) of that section, for paragraphs (a) and (b) there is substituted—

"(a) references to a governing body—

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(i) in relation to an independent school (other than an Academy, city technology college or city college for the technology of the arts), are to the proprietor of the school, and

(ii) in relation to a new school, include the temporary governing body of the school;

(b) "participating school", in relation to an education action zone, means one of the schools that—

(i) for the time being is included in the order under subsection (1), or

(ii) has been added to the zone by virtue of section 11B,

other than a school that has been removed from the zone in accordance with section 11C;

(c) "pupil referral unit" has the same meaning as in section 19 of the Education Act 1996 (c. 56);

(d) "new school" has the meaning given in section 72(3)."

(6) Subsection (7) of that section is omitted.

Commencement Information

I457 Sch. 15 para. 2 in force (except for the words "(b) a nursery school") at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I458 Sch. 15 para. 2 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

I459 Sch. 15 para. 2(2) in force at 1.9.2003 so far as not already in force except in relation to W. by S.I. 2003/1667, **art. 4**

Constitution of Education Action Forum

3 In section 11, the following provisions are omitted—

(a) in subsection (2) the words from "and" to the end, and

(b) subsection (3).

Commencement Information

I460 Sch. 15 para. 3 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I461 Sch. 15 para. 3 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

4 After that section there is inserted—

"**11A Constitution of Education Action Forum**

"**11A "11A Constitution of Education Action Forum**

(1) The members of an Education Action Forum must include—

(a) one person appointed by the governing body of each of the participating schools, unless the governing body of any such school choose not to make such an appointment, and

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(b) one or two persons appointed by the Secretary of State, unless he chooses not to make such appointments.

(2) Subject to that, an Education Action Forum—

(a) shall initially be constituted in accordance with the order under section 10(1), and

(b) may subsequently alter its membership (as set out in that order or as previously altered under this paragraph).

(3) In subsection (2) the references to altering the Forum's membership include—

(a) altering the number of members, and

(b) altering who may appoint members.

(4) An alteration may be made under subsection (2)(b) only if it is made—

(a) in accordance with any procedural requirements specified for the purposes of this section in regulations under Schedule 1, and

(b) with the consent of the Secretary of State."

Commencement Information

I462 Sch. 15 para. 4 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I463 Sch. 15 para. 4 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Expansion or reduction of zone

5 After section 11A (inserted by paragraph 4) there is inserted—

"**11B Expansion of zone**

"**11B Expansion of zone**

(1) An Education Action Forum established for an education action zone may add—

(a) any eligible school (within the meaning of section 10(1A)), or

(b) any new school which has a temporary governing body,

to the zone.

(2) But a school may be added under this section only if it is added—

(a) in accordance with any procedural requirements specified for the purposes of this section in regulations under Schedule 1, and

(b) with the consent of the governing body of the school and of the Secretary of State.

(3) For the purposes of this section references to a school being added to an education action zone are to it becoming one of the schools which constitute collectively the zone.

Status: *This version of this Act contains provisions that are prospective.*
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11C Removal from zone

11C Removal from zone

(1) An Education Action Forum established for an education action zone may remove a participating school from the zone.

(2) But a school may be removed under this section only if it is removed—

(a) in accordance with any procedural requirements specified for the purposes of this section in regulations under Schedule 1, and

(b) with the consent of the Secretary of State.

(3) For the purposes of this section references to a school being removed from an education action zone are to it ceasing to be one of the schools which constitute collectively the zone."

Commencement Information

I464 Sch. 15 para. 5 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I465 Sch. 15 para. 5 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Information relating to changes to zone or Forum

6 After section 11C (inserted by paragraph 5) there is inserted—

"**11D Information relating to a Forum and its zone**

"**11D Information relating to a Forum and its zone**

(1) An Education Action Forum established for an education action zone must provide the Secretary of State with details of—

(a) any alteration made to its constitution under section 11A(2)(b),

(b) any addition of a school to the zone under section 11B, and

(c) any removal of a school from the zone under section 11C.

(2) The Forum must also, on a request being made by any person, provide him with—

(a) the name of each member of the Forum and of the person or body that appointed him,

(b) the name of any other person or body entitled to appoint a member, and

(c) the name of each participating school in relation to the zone.

(3) But the duty under subsection (2) is subject, in such circumstances as the Forum may determine, to the payment by the person concerned of a reasonable fee determined by the Forum."

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I466 Sch. 15 para. 6 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I467 Sch. 15 para. 6 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Functions of Education Action Forum

7 After section 12(1) there is inserted—

"(1A) With the consent of the Secretary of State, a Forum may also carry on any other activities which it considers will promote the provision of, or access to, education whether in a participating school or otherwise."

Commencement Information

I468 Sch. 15 para. 7 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I469 Sch. 15 para. 7 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Transitional provision

8 (1) Any provision of an order under section 10 of the School Standards and Framework Act 1998 (c. 31) having effect immediately before the commencement of this Schedule which requires the Forum to include one or two persons appointed by the Secretary of State shall be read as if it were a provision having the same effect as section 11A(1)(b) of that Act.

(2) Any order under subsection (3) of section 10 of that Act which has effect immediately before the commencement of this Schedule shall continue to have effect on or after that time notwithstanding the repeal by this Act of that subsection.

(3) Until such time as section 67 of this Act comes into force, the reference in section 10(6)(a)(i) of the School Standards and Framework Act 1998 (c. 31) to an Academy shall be read as a reference to a city academy.

(4) Where before the commencement of this Schedule—

(a) an education action zone has been established by an order under section 10(1) of that Act, and

(b) the membership of the Forum set out in that order has been altered by virtue of section 14 of the Interpretation Act 1978 (c. 30),

the powers to alter the Forum's membership conferred by section 11A of the School Standards and Framework Act 1998 are powers to alter the membership as so amended.

Commencement Information

I470 Sch. 15 para. 8 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I471 Sch. 15 para. 8 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Status: *This version of this Act contains provisions that are prospective.*
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SCHEDULE 16

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SCHEDULE 17

Section 189

AMENDMENTS OF PART 5 OF EDUCATION ACT 1997

F503 …

F503 **F504** 1 . . . . . .

F503 **F504** 2 . . . . . .

F503 **F504** 3 . . . . . .

F503 **F504** 4 . . . . . .

Textual Amendments

F503 Sch. 17 paras. 1-4 and cross-heading repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a)

F504 Sch. 17 para. 1 repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a)

The Qualifications, Curriculum and Assessment Authority for Wales

5 (1) Section 29 of the Education Act 1997 (functions of the Qualifications, Curriculum and Assessment Authority for Wales in relation to curriculum and assessment) is amended as follows.

(2) In subsection (1) for the words from "with respect to" to the end there is substituted "with respect to—

(a) pupils at maintained schools in Wales who have not ceased to be of compulsory school age,

(b) pupils at maintained nursery schools in Wales, and

(c) children for whom funded nursery education is provided in Wales otherwise than at a maintained school or maintained nursery school."

(3) In subsection (2)—

(a) in paragraph (a), for "such schools" there is substituted " maintained schools or maintained nursery schools ", and

(b) paragraph (f) and the word "and" immediately preceding it are omitted.

(4) After subsection (2) there is inserted—

"(2A) In subsection (2) references to the curriculum for a maintained nursery school include references to the curriculum for any funded nursery education

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provided as mentioned in subsection (1)(c); and references to assessment in schools include references to assessment in funded nursery education."

(5) Subsections (3) and (4) are omitted.

F505(6) . . . . . .

6 In any order made before the commencement of this paragraph under section 30(1) of the Education Act 1997 (c. 44) (power to confer functions on Qualifications, Curriculum and Assessment Authority for Wales) any reference to functions falling within paragraph (f) of section 24(2) of that Act is to be taken to be a reference to those functions as extended by virtue of paragraph 2 of this Schedule.

F506 7 . . . . . .

F507 8 . . . . . .

Textual Amendments

F505 Sch. 17 para. 5(6) repealed (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 16 Pt. 4**; S.I. 2010/2413, art. 2(b)

F506 Sch. 17 para. 7 omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), Sch. 4 para. 4; W.S.I. 2015/1687, **arts. 2**, 3-12

F507 Sch. 17 para. 8 repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 2**; S.I. 2014/3364, **art. 2(aa)** (with art. 4)

Commencement Information

I472 Sch. 17 para. 5 partly in force; Sch. 17 para. 5 not in force at Royal Assent, see s. 216; Sch. 17 para. 5(1)-(4)(6) in force at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

F508 …

F508 . . . . . .

Textual Amendments

F508 Sch. 17 para. 9 and heading repealed (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1

SCHEDULE 18

Section 195

SPECIAL EDUCATIONAL NEEDS TRIBUNAL FOR WALES

Special Educational Needs

1 The Education Act 1996 (c. 56) is amended as follows.

Commencement Information

I473 Sch. 18 para. 1 in force at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

2 In section 313 (code of practice), for subsection (5) there is substituted—

"(5) In this Part (except sections 333 to 336), "the Tribunal", in relation to an appeal, means—

(a) where the **[**F8local authority**]** concerned is in England, the Special Educational Needs and Disability Tribunal,

(b) where the **[**F8local authority**]** concerned is in Wales, the Special Educational Needs Tribunal for Wales."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I474 Sch. 18 para. 2 in force at 1.9.2003 by S.I. 2002/3185, art. 6, **Sch. Pt. III**

3 In section 326A (unopposed appeals), for subsection (6) there is substituted—

"(6) In this section, "prescribed" means prescribed by regulations made—

(a) in relation to an appeal to the Special Educational Needs and Disability Tribunal, by the Secretary of State,

(b) in relation to an appeal to the Special Educational Needs Tribunal for Wales, by the National Assembly for Wales."

Commencement Information

I475 Sch. 18 para. 3 in force at 1.9.2003 by S.I. 2002/3185, art. 6, **Sch. Pt. III**

F509 4 . . . . . .

Textual Amendments

F509 Sch. 18 para. 4 repealed (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 228(k)**

F510 5 . . . . . .

Textual Amendments

F510 Sch. 18 para. 5 repealed (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 228(k)**

6 In section 336A, for subsection (2) there is substituted—

"(2) In subsection (1), "prescribed" means prescribed by regulations made—

(a) as to orders of the Special Educational Needs and Disability Tribunal, by the Secretary of State,

(b) as to orders of the Special Educational Needs Tribunal for Wales, by the National Assembly for Wales with the agreement of the Secretary of State."

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I476 Sch. 18 para. 6 in force at 1.9.2003 by S.I. 2002/3185, art. 6, **Sch. Pt. III**

Disability Discrimination

F511 7 . . . . . .

Textual Amendments

F511 Sch. 18 paras. 7-12 repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

F511 8 . . . . . .

Textual Amendments

F511 Sch. 18 paras. 7-12 repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

F511 9 . . . . . .

Textual Amendments

F511 Sch. 18 paras. 7-12 repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

F511 10 . . . . . .

Textual Amendments

F511 Sch. 18 paras. 7-12 repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

F511 11 . . . . . .

Textual Amendments

F511 Sch. 18 paras. 7-12 repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

F511 12 . . . . . .

Textual Amendments

F511 Sch. 18 paras. 7-12 repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

13 Section 10 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33) (consultation on appointments) is not to apply to appointments to the lay panel appointed for the **[**F512Education Tribunal for Wales under section 91(5) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018**]**.

Textual Amendments

F512 Words in Sch. 18 para. 13 substituted (1.9.2021) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 6(d)(v)**; S.I. 2021/373, art. 8(j)(xvi)

Commencement Information

I477 Sch. 18 para. 13 in force at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

Consequential amendments

14 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (disqualifying offices) there is inserted in the appropriate place—

"President of the Special Educational Needs Tribunal for Wales, or member of a panel of persons appointed to act as chairman or other member of that Tribunal."

Commencement Information

I478 Sch. 18 para. 14 in force at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

15 In Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) (bodies subject to the supervision of the Council), in paragraph 40B—

(a) the existing entry becomes sub-paragraph (a), and

(b) after that sub-paragraph there is inserted—

"(b) the Special Educational Needs Tribunal for Wales."

Commencement Information

I479 Sch. 18 para. 15 in force at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

16 In section 42 of the Special Educational Needs and Disability Act 2001 (c. 10), subsection (2) (National Assembly for Wales and functions under section 336 of the Education Act 1996 (c. 56)) is omitted.

Commencement Information

I480 Sch. 18 para. 16 in force at 1.9.2003 by S.I. 2002/3185, art. 6, **Sch. Pt. III**

Saving and transitional provision

17 The amendments made by any provision of this Schedule do not affect—

(a) appeals instituted under Part 4 of the Education Act 1996, or

(b) claims made under section 28I of the Special Educational Needs and Disability Act 2001,

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

before the coming into force of that provision.

Commencement Information
I481 Sch. 18 para. 17 in force at 1.9.2003 by S.I. 2002/3185, art. 6, **Sch. Pt. III**

18 Regulations made, or having effect as if made, under any of sections 326A and 333 to 336A of the Education Act 1996 in relation to the Special Educational Needs and Disability Tribunal have effect in relation to the Special Educational Needs Tribunal for Wales until superseded by regulations made in relation to that Tribunal, but as if references to the Secretary of State were references to the National Assembly for Wales.

Commencement Information
I482 Sch. 18 para. 18 in force at 1.9.2003 by S.I. 2002/3185, art. 6, **Sch. Pt. III**

SCHEDULE 19

Section 199

TRANSPORT FOR PERSONS OVER COMPULSORY SCHOOL AGE

1 The Education Act 1996 is amended as follows.

Commencement Information
I483 Sch. 19 partly in force; Sch. 19 not in force at Royal assent see s. 216; Sch. 19 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2**
I484 Sch. 19 para. 1 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2**
I485 Sch. 19 para. 1 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

F513 2 . . . . . .

Textual Amendments
F513 Sch. 19 para. 2 repealed (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), s. 28(2), **Sch. 2**; S.I. 2009/371, art. 2(2), Sch. Pt. 2

3 After section 509 there is inserted—

"**509AA Provision of transport etc. for persons of sixth form age**

"**509AA** "**509AA Provision of transport etc. for persons of sixth form age**

(1) A **[**F8local authority**]** shall prepare for each academic year a transport policy statement complying with the requirements of this section.

(2) The statement shall specify the arrangements for the provision of transport or otherwise that the authority consider it necessary to make for facilitating the attendance of persons of sixth form age receiving education or training—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(a) at schools,

(b) at any institution maintained or assisted by the authority which provides further education or higher education (or both),

(c) at any institution within the further education sector, or

(d) at any establishment (not falling within paragraph (b) or (c)) which is supported by the Learning and Skills Council for England or the National Council for Education and Training for Wales.

(3) The statement shall specify the arrangements that the authority consider it necessary to make for the provision of financial assistance in respect of the reasonable travelling expenses of persons of sixth form age receiving education or training at any establishment such as is mentioned in subsection (2).

(4) The statement shall specify the arrangements proposed to be made by the governing bodies of—

(a) schools maintained by the authority at which education suitable to the requirements of persons over compulsory school age is provided, and

(b) institutions within the further education sector in the authority's area,

for the provision of transport for facilitating the attendance of persons of sixth form age receiving education or training at the schools and institutions and for the provision of financial assistance in respect of the travelling expenses of such persons.

(5) Those governing bodies shall co-operate in giving the **[**F8local authority**]** any information and other assistance that is reasonably required by the authority for the performance of their functions under this section and section 509AB.

(6) The statement shall specify any travel concessions (within the meaning of Part 5 of the Transport Act 1985 (c. 67)) which are to be provided under any scheme established under section 93 of that Act to persons of sixth form age receiving education at any establishment such as is mentioned in subsection (2) above in the authority's area.

(7) The authority shall—

(a) publish the statement, in a manner which they consider appropriate, on or before 31st May in the year in which the academic year in question begins, and

(b) make, and secure that effect is given to, any arrangements specified under subsections (2) and (3).

(8) Nothing in this section prevents a **[**F8local authority**]** from making, at any time in an academic year, arrangements—

(a) which are not specified in the transport policy statement published by the authority for that year, but

(b) which they have come to consider necessary for the purposes mentioned in subsections (2) and (3).

(9) The Secretary of State may, if he considers it expedient to do so, direct a **[**F8local authority**]** to make for any academic year—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(a) arrangements for the provision of transport or otherwise for facilitating the attendance of persons of sixth form age receiving education or training at establishments such as are mentioned in subsection (2), or

(b) arrangements for providing financial assistance in respect of the reasonable travelling expenses of such persons,

which have not been specified in the transport policy statement published by the authority for that academic year.

(10) The Secretary of State may by order amend subsection (7)(a) by substituting a different date for 31st May."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I486 Sch. 19 partly in force; Sch. 19 not in force at Royal Assent, see s. 216; Sch. 19 in force for E. at 20.1.2003 by S.I. 2002/2953, **art. 2**

I487 Sch. 19 para. 3 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2**

I488 Sch. 19 para. 3 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

4 After section 509AA there is inserted—

"**509AB Further provision about transport policy statements**

"**509AB** "**509AB Further provision about transport policy statements**

(1) A statement prepared under section 509AA shall state to what extent arrangements specified in accordance with subsection (2) of that section include arrangements for facilitating the attendance at establishments such as are mentioned in that subsection of disabled persons and persons with learning difficulties.

(2) A statement prepared under that section shall—

(a) specify arrangements for persons receiving full-time education or training at establishments other than schools maintained by the **[**F8local authority**]** which are no less favourable than the arrangements specified for pupils of the same age attending such schools, and

(b) specify arrangements for persons with learning difficulties receiving education or training at establishments other than schools maintained by the authority which are no less favourable than the arrangements specified for pupils of the same age with learning difficulties attending such schools.

(3) In considering what arrangements it is necessary to make for the purposes mentioned in subsections (2) and (3) of section 509AA the **[**F8local authority**]** shall have regard (amongst other things) to—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(a) the needs of those for whom it would not be reasonably practicable to attend a particular establishment to receive education or training if no arrangements were made,

(b) the need to secure that persons in their area have reasonable opportunities to choose between different establishments at which education or training is provided,

(c) the distance from the homes of persons of sixth form age in their area of establishments such as are mentioned in section 509AA(2) at which education or training suitable to their needs is provided, and

(d) the cost of transport to the establishments in question and of any alternative means of facilitating the attendance of persons receiving education or training there.

(4) In considering whether or not it is necessary to make arrangements for those purposes in relation to a particular person, a **[**F8local authority**]** shall have regard (amongst other things)—

(a) to the nature of the route, or alternative routes, which he could reasonably be expected to take; and

(b) to any wish of his parent for him to be provided with education or training at a school, institution or other establishment in which the religious education provided is that of the religion or denomination to which his parent adheres.

(5) In preparing a statement under section 509AA a **[**F8local authority**]** shall have regard to any guidance issued by the Secretary of State under this section.

(6) In preparing a statement under that section a **[**F8local authority**]** shall consult—

(a) any other **[**F8local authority**]** that they consider it appropriate to consult,

(b) the governing bodies mentioned in subsection (4) of that section,

(c) the Learning and Skills Council for England (in the case of a **[**F8local authority**]** in England) or the National Council for Education and Training for Wales (in the case of a **[**F8local authority**]** in Wales), and

(d) any other person specified by the Secretary of State for the purposes of this section.

(7) In preparing a statement under that section a **[**F8local authority**]** shall also consult—

(a) where they are the **[**F8local authority**]** for a district in a metropolitan county, the Passenger Transport Authority for that county, and

(b) where they are the **[**F8local authority**]** for a London borough or the City of London, Transport for London."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I489 Sch. 19 partly in force; Sch. 19 not in force at Royal Assent, see s. 216; Sch. 19 in force for E. at 30.1.2003 by S.I. 2002/2952, **art. 2**

I490 Sch. 19 para. 4 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2**

I491 Sch. 19 para. 4 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

5 After section 509AB there is inserted—

"**509AC Interpretation of sections 509AA and 509AB**

"**509AC "509AC Interpretation of sections 509AA and 509AB**

(1) For the purposes of sections 509AA and 509AB a person receiving education or training at an establishment is of sixth form age if he is over compulsory school age but—

(a) is under the age of 19, or

(b) has begun a particular course of education or training at the establishment before attaining the age of 19 and continues to attend that course.

(2) References in section 509AA to an establishment supported by the Learning and Skills Council for England are to any establishment at which education or training is provided by a person to whom that Council secures the provision of financial resources in any of the ways mentioned in section 5(2) of the Learning and Skills Act 2000.

(3) References in section 509AA to an establishment supported by the National Council for Education and Training for Wales are to any establishment at which education or training is provided by a person to whom that Council secures the provision of financial resources in any of the ways mentioned in section 34(2) of the Learning and Skills Act 2000.

(4) References in section 509AB to persons with learning difficulties are to be construed in accordance with section 13(5) and (6) of the Learning and Skills Act 2000.

(5) In sections 509AA and 509AB and this section—

"academic year" means any period commencing with 1st August and ending with the next 31st July;

"disabled person" has the same meaning as in the Disability Discrimination Act 1995;

"establishment" means an establishment of any kind, including a school or institution;

"governing body", in relation to an institution within the further education sector, has the same meaning as in the Further and Higher Education Act 1992.

(6) The Secretary of State may by order amend the definition of "academic year" in subsection (5)."

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I492 Sch. 19 partly in force; Sch. 19 not in force at Royal Assent, see s. 216; Sch. 19 in force for E. at 30.1.2003 by S.I. 2002/2952, **art. 2**

I493 Sch. 19 para. 5 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2**

I494 Sch. 19 para. 5 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

6 In section 509A (travel arrangements for children receiving nursery education otherwise than at school), after subsection (4) there is inserted—

"(4A) Regulations may require a **[**F8local authority**]** to publish, at such times and in such manner as may be prescribed, such information as may be prescribed with respect to the authority's policy and arrangements relating to the making of provision under this section."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I495 Sch. 19 partly in force; Sch. 19 not in force at Royal Assent, see s. 216; Sch. 19 in force for E. at 30.1.2003 by S.I. 2002/2952, **art. 2**

I496 Sch. 19 para. 6 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2**

I497 Sch. 19 para. 6 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

SCHEDULE 20

Section 206

NUISANCE OR DISTURBANCE ON EDUCATIONAL PREMISES

1 (1) Section 547 of the Education Act 1996 (c. 56) (nuisance or disturbance on premises of a school maintained by a **[**F8local authority**]**) is amended in accordance with sub-paragraphs (2) to (6).

(2) In subsection (2), after paragraph (a) there is inserted—

"(aa) any special school not so maintained, and

(ab) any independent school."

(3) After that subsection there is inserted—

"(2A) This section also applies to any premises which are—

(a) provided by a **[**F8local authority**]** under section 508, and

(b) used wholly or mainly in connection with the provision of instruction or leadership in sporting, recreational or outdoor activities."

(4) In subsection (3)(b) for "a **[**F8local authority**]** have" there is substituted " the appropriate authority has ".

(5) For subsection (4) there is substituted—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

"(4) In subsection (3) "the appropriate authority" means—

(a) in relation to premises of a foundation, voluntary aided or foundation special school, a **[**F8local authority**]** or the governing body,

(b) in relation to—

(i) premises of any other school maintained by a **[**F8local authority**]**, and

(ii) premises provided by a **[**F8local authority**]** as mentioned in subsection (2A),

a **[**F8local authority**]**, and

(c) in relation to premises of a special school which is not so maintained or of an independent school, the proprietor of the school."

(6) For subsections (6) and (7) there is substituted—

"(6) No proceedings for an offence under this section shall be brought by any person other than—

(a) a police constable, or

(b) an authorised person.

(7) In subsection (6) "authorised person" means—

(a) in relation to an offence committed on premises of a foundation, voluntary aided or foundation special school, a **[**F8local authority**]** or a person whom the governing body have authorised to bring such proceedings,

(b) in relation to an offence committed—

(i) on premises of any other school maintained by a **[**F8local authority**]**, or

(ii) on premises provided by a **[**F8local authority**]** as mentioned in subsection (2A),

a **[**F8local authority**]**, and

(c) in relation to an offence committed on premises of a special school which is not so maintained or of an independent school, a person whom the proprietor of the school has authorised to bring such proceedings."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I498 Sch. 20 partly in force; Sch. 20 not in force at Royal Assent, see s. 216; Sch. 20 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I499 Sch. 20 para. 1 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

2 After section 85 of the Further and Higher Education Act 1992 (c. 13) there is inserted—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

"**85A Nuisance or disturbance on educational premises**

"**85A** "**85A Nuisance or disturbance on educational premises**

(1) Any person who without lawful authority is present on premises to which this section applies and causes or permits nuisance or disturbance to the annoyance of persons who lawfully use those premises (whether or not any such persons are present at the time) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) This section applies to premises, including playing fields and other premises for outdoor recreation, of—

(a) any institution (other than a school) which is maintained by a **[**F8local authority**]** and provides further education or higher education (or both), and

(b) any institution within the further education sector.

(3) If—

(a) a police constable, or

(b) a person whom the appropriate authority have authorised to exercise the power conferred by this subsection,

has reasonable cause to suspect that any person is committing or has committed an offence under this section, he may remove him from the premises in question.

(4) In subsection (3) "the appropriate authority" means—

(a) in relation to premises of an institution such as is mentioned in subsection (2)(a), a **[**F8local authority**]**, and

(b) in relation to premises of an institution within the further education sector, the governing body.

(5) No proceedings under this section shall be brought by any person other than—

(a) a police constable, or

(b) an authorised person.

(6) In subsection (5) "authorised person" means—

(a) in relation to an offence committed on premises of an institution such as is mentioned in subsection (2)(a), a **[**F8local authority**]**, and

(b) in relation to an offence committed on premises of an institution within the further education sector, a person whom the governing body have authorised to bring such proceedings."

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I500 Sch. 20 partly in force; Sch. 20 not in force at Royal Assent, see s. 216; Sch. 20 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

I501 Sch. 20 para. 2 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

SCHEDULE 21

Section 215(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

Local Government Act 1972 (c. 70)

1 In section 177 of the Local Government Act 1972 (provisions supplementary to sections 173 to 176 of that Act) for subsection (1A) there is substituted—

"(1A) Subsection (1) has effect without prejudice to the operation of—

(a) regulations made by virtue of section 94(5C) or 95(3B) of the School Standards and Framework Act 1998 (allowances for admission appeal panels);

(b) paragraph 3 of Schedule 4 to that Act (allowances for school organisation committees); and

(c) regulations made by virtue of section 52(6) of the Education Act 2002 (allowances for exclusion appeal panels)."

Commencement Information

I502 Sch. 21 para. 1 partly in force; Sch. 21 para. 1 not in force at Royal Assent, see s. 216; Sch. 21 para. 1 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in Sch.)

I503 Sch. 21 para. 1 in force at 9.1.2004 for specified purposes for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

I504 Sch. 21 para. 1 in force at 31.5.2005 for W. in so far as not already in force by S.I. 2005/1395, art. 4, **Sch.**

Local Government Act 1974 (c. 7)

2 In section 25(5) of the Local Government Act 1974 (certain bodies to which Part 3 of that Act applies)—

(a) for paragraph (c) there is substituted—

"(c) an admission appeal panel constituted in accordance with regulations under section 94(5) or 95(3) of that Act,",

and

(b) at the end of paragraph (d) there is inserted "and

(e) an exclusion appeal panel constituted in accordance with regulations under section 52 of the Education Act 2002."

Commencement Information

I505 Sch. 21 para. 21 partly in force; Sch. 21 para. 21 not in force at Royal Assent, see s. 216; Sch. 21 para. 2 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in art. 3, Sch.)

I506 Sch. 21 para. 2(a) in force at 31.5.2005 for W. by S.I. 2005/1395, art. 4, **Sch.** (with art. 5(3)(4))

I507 Sch. 21 para. 2(b) in force at 9.1.2004 for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F514 …

F514 . . . . . .

Textual Amendments

F514 Sch. 21 para. 3 and cross-heading repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

Public Passenger Vehicles Act 1981 (c. 14)

4 In section 46(3) of the Public Passenger Vehicles Act 1981 (fare-paying passengers on school buses), for the definition of "free school transport" there is substituted—

> ""free school transport" means transport provided by a **[**F8local authority**]** free of charge—
>
> (a) in pursuance of arrangements under section 509(1) or (1A) or section 509AA(7)(b) or (9)(a) of the Education Act 1996, or
>
> (b) otherwise, in the exercise of any function of the authority,
>
> for the purpose of facilitating the attendance of persons receiving education or training at any premises;".

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I508 Sch. 21 para. 4 partly in force; Sch. 21 para. 4 not in force at Royal Assent, see s. 216; Sch. 21 para. 4 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in art. 3, Sch.)

I509 Sch. 21 para. 4 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

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

5 In section 1 of the Education (Fees and Awards) Act 1983 (fees at further and higher education institutions), subsection (6) is omitted.

Commencement Information

I510 Sch. 21 para. 5 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

I511 Sch. 21 para. 5 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Building Act 1984 (c. 55)

6 In section 4 of the Building Act 1984 (exemption of educational buildings from building regulations), for subsection (1)(a)(ii) there is substituted—

> "(ii) particulars submitted and approved under regulations made under section 544 of the Education Act 1996,".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I512 Sch. 21 para. 6 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

I513 Sch. 21 para. 6 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Education Act 1986 (c. 40)

7 In section 1(1) of the Education Act 1986 (payment of grant) for "either of them" there is substituted " that body ".

Commencement Information

I514 Sch. 21 para. 7 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I515 Sch. 21 para. 7 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Education Reform Act 1988 (c. 40)

8 In section 124(1)(ba) of the Education Reform Act 1988 (power of higher education corporation to provide secondary education) for "to persons who would, if they were pupils at a school, be in the fourth key stage" there is substituted " suitable to the requirements of persons who have attained the age of fourteeen years ".

Commencement Information

I516 Sch. 21 para. 8 wholly in force at 19.12.2002; Sch. 21 para. 8 not in force at Royal Assent, see s. 216; Sch. 21 para. 8 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 8 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

Children Act 1989 (c. 14)

9 In Schedule 9A to the Children Act 1989 (child minding and day care for young children), for paragraph 4(2)(b) there is substituted—

"(b) he is subject to a direction under section 142 of the Education Act 2002, given on the grounds that he is unsuitable to work with children;".

Commencement Information

I517 Sch. 21 para. 9 partly in force; Sch. 21 para. 9 not in force at Royal Assent, see. s. 216; Sch. 21 para. 9 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I518 Sch. 21 para. 9 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I519 Sch. 21 para. 9 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

Environmental Protection Act 1990 (c. 43)

10 In section 98(2) of the Environmental Protection Act 1990 (definition of "educational institution"), paragraph (c)(ii) is omitted.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I520 Sch. 21 para. 10 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

I521 Sch. 21 para. 10 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Further and Higher Education Act 1992 (c. 13)

11 In section 18(1)(aa) of the Further and Higher Education Act 1992 (power of further education corporation to provide secondary education) for "to persons who would, if they were pupils at a school, be in the fourth key stage" there is substituted " suitable to the requirements of persons who have attained the age of fourteeen years ".

Commencement Information

I522 Sch. 21 para. 11 wholly in force at 19.12.2002; Sch. 21 para. 11 not in force at Royal Assent, see s. 216; Sch. 21 para. 11 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 11 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

12 In section 21 of the Further and Higher Education Act 1992 (initial instruments and articles), in subsection (3), for "Chapter III of Part II of the School Standards and Framework Act 1998" there is substituted " section 19 of the Education Act 2002 ".

Commencement Information

I523 Sch. 21 para. 12 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I524 Sch. 21 para. 12 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

13 Section 23(4)(b) of the Further and Higher Education Act 1992 (institutions maintained by **[**F47local authorities**]**: Secretary of State must approve exclusion of any property etc. from initial transfer to FE corporation) shall cease to have effect.

Textual Amendments

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I525 Sch. 21 para. 13 wholly in force at 19.12.2002; Sch. 21 para. 13 not in force at Royal Assent, see s. 216; Sch. 21 para. 13 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 16 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

14 In section 26 of the Further and Higher Education Act 1992 (transfer of staff to further education corporation), subsection (9) is omitted.

15 In section 37 of the Further and Higher Education Act 1992 (net expenditure of institution about to join further education sector), the following provisions are omitted—

(a) subsection (1)(b) and the word "or" immediately preceding it,

(b) subsection (8)(a), and

(c) subsection (9).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I526 Sch. 21 para. 15 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

I527 Sch. 21 para. 15 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

16 Sections 39 to 42 of the Further and Higher Education Act 1992 (restrictions on powers of local authorities to dispose of land etc. in period before institution becomes institution within the further education sector) shall cease to have effect.

Commencement Information

I528 Sch. 21 para. 16 wholly in force at 19.12.2002; Sch. 21 para. 16 not in force at Royal Assent, see s. 216; Sch. 21 para. 16 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

F515 17 . . . . . .

Textual Amendments

F515 Sch. 21 para. 17 repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 102, **Sch. 2 Pt. 2** (with art. 2(3))

18 Section 48 of the Further and Higher Education Act 1992 (transfer of institution to further education sector) shall cease to have effect.

19 (1) Section 52A of the Further and Higher Education Act 1992 (duty to safeguard pupils receiving secondary education) is amended as follows.

(2) In subsection (1)—

(a) for "persons who would, if they were pupils at a school, be in the fourth key stage" there is substituted " persons of compulsory school age ", and

(b) in paragraph (a), for "in pursuance of arrangements falling within section 18(1)(aa) of this Act" there is substituted " by virtue of section 18(1)(aa) or (ab) of this Act ".

(3) In subsection (2) for "such pupils" there is substituted " persons of compulsory school age ".

Commencement Information

I529 Sch. 21 para. 19 wholly in force at 19.12.2002; Sch. 21 para. 19 not in force at Royal Assent, see s. 216; Sch. 21 para. 19 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 19 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

20 In section 54(1) of the Further and Higher Education Act 1992 (duty of certain bodies to give to the Learning and Skills Council for England or National Council for Education and Training for Wales information required for the purposes of the exercise of their functions under Part 1 of that Act), for "this Part of this Act" there is substituted " any enactment ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I530 Sch. 21 para. 20 wholly in force at 19.12.2002; Sch. 21 para. 20 not in force at Royal Assent, see s. 216; Sch. 21 para. 20 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 20 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

21 Section 60 of the Further and Higher Education Act 1992 (saving as to persons detained by order of a court) shall cease to have effect.

Commencement Information

I531 Sch. 21 para. 21 wholly in force at 19.12.2002; Sch. 21 para. 21 not in force at Royal Assent, see s. 216; Sch. 21 para. 21 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 31 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

Tribunals and Inquiries Act 1992 (c. 53)

22 In paragraph 15 of Schedule 1 to the Tribunals and Inquiries Act 1992 (**[**F516tribunals to which that Act applies**]**) for paragraphs (b) and (c) there is substituted—

"(b) exclusion appeal panels constituted in accordance with regulations under section 52 of the Education Act 2002;

(c) admission appeal panels constituted in accordance with regulations under section 94(5) or 95(3) of the School Standards and Framework Act 1998;".

Textual Amendments

F516 Words in Sch. 21 para. 22 substituted (19.9.2013) by The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 23**

Commencement Information

I532 Sch. 21 para. 22 partly in force; Sch. 21 para. 22 not in force at Royal Assent, see s. 216; Sch. 21 para. 22 in force for E. at 20.1.2003 by S.I. 2002/2952, **art. 2** (with savings and transitional provisions in art. 3, Sch.)

I533 Sch. 21 para. 22 in force at 9.1.2004 for specified purposes for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

I534 Sch. 21 para. 22 in force at 31.5.2005 for W. in so far as not already in force by S.I. 2005/1395, art. 4, **Sch.**

Education Act 1994 (c. 30)

23 In section 4 of the Education Act 1994 (qualifying activities and eligible institutions), subsection (4) shall cease to have effect.

Commencement Information

I535 Sch. 21 para. 23 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I536 Sch. 21 para. 23 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

24 In section 14 of the Education Act 1994 (qualification of teachers, etc.), subsections (1), (3) and (4) are omitted.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I537 Sch. 21 para. 24 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

F517 25 . . . . . .

Textual Amendments

F517 Sch. 21 para. 25 repealed (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(b), **Sch. 19 Pt. 3**

Commencement Information

I538 Sch. 21 para. 25 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

F518 ...

F518 26 . . . . . .

Textual Amendments

F518 Sch. 21 paras. 26-29 and cross-heading repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

F518 27 . . . . . .

Textual Amendments

F518 Sch. 21 paras. 26-29 and cross-heading repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

F518 28 . . . . . .

Textual Amendments

F518 Sch. 21 paras. 26-29 and cross-heading repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

F518 29 . . . . . .

Textual Amendments

F518 Sch. 21 paras. 26-29 and cross-heading repealed (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2** (see S.I. 2010/2317, art. 2)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Employment Rights Act 1996 (c. 18)

30 In section 134(1) of the Employment Rights Act 1996 (teachers in aided schools) for "section 55(5) of the School Standards and Framework Act 1998" there is substituted " paragraph 7 of Schedule 2 to the Education Act 2002 ".

Commencement Information

I539 Sch. 21 para. 30 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I540 Sch. 21 para. 30 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

31 In section 139 of the Employment Rights Act 1996 (redundancy), in subsection (3), for "governors" there is substituted " governing bodies ".

Commencement Information

I541 Sch. 21 para. 31 wholly in force at 19.12.2002; Sch. 21 para. 31 not in force at Royal Assent, see s. 216; Sch. 21 para. 31 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 31 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

32 In section 218 of the Employment Rights Act 1996 (change of employer), in subsection (7) for "governors" (in both places) there is substituted " governing body ".

Commencement Information

I542 Sch. 21 para. 32 wholly in force at 19.12.2002; Sch. 21 para. 32 not in force at Royal Assent, see s. 216; Sch. 21 para. 32 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 32 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

Education Act 1996 (c. 56)

33 In section 2 of the Education Act 1996 (definition of primary, secondary and further education), in subsection (4), after "subsection (2)(b)" there is inserted " or (2A) ".

Commencement Information

I543 Sch. 21 para. 33 wholly in force at 19.12.2002; Sch. 21 para. 33 not in force at Royal Assent, see s. 216; Sch. 21 para. 33 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 33 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

34 (1) Section 3 of the Education Act 1996 (definition of pupil etc) is amended as follows.

(2) After subsection (1) there is inserted—

"(1A) A person is not for the purposes of this Act to be treated as a pupil at a school merely because any education is provided for him at the school in the exercise of the powers conferred by section 27 of the Education Act 2002 (power of governing body of maintained school to provide community facilities etc.)."

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) In subsection (3) for "Subsection (1) also applies" there is substituted " Subsections (1) and (1A) also apply ".

Commencement Information

I544 Sch. 21 para. 34 partly in force; Sch. 21 para. 34 not in force at Royal Assent, see s. 216; Sch. 21 para. 34 in force for E. at 2.9.2002 by S.I. 2002/2002, **art. 4**

I545 Sch. 21 para. 34 in force at 1.9.2003 for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

35 In section 29 of the Education Act 1996 (provision of information by **[**F47local authorities**]**), subsection (6) is omitted.

Textual Amendments

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I546 Sch. 21 para. 35 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I547 Sch. 21 para. 35 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

36 In section 313 of the Education Act 1996 (Code of Practice), in subsection (1), after "maintained schools" there is inserted " and maintained nursery schools ".

Commencement Information

I548 Sch. 21 para. 36 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I549 Sch. 21 para. 36 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

37 In section 315 of the Education Act 1996 (review of arrangements), in subsection (2) after "special schools" there is inserted " and maintained nursery schools ".

Commencement Information

I550 Sch. 21 para. 37 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I551 Sch. 21 para. 37 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

38 In section 316A of the Education Act 1996 (duty to educate children with special educational needs in mainstream school), in subsection (11)—

(a) in paragraph (a), after "maintained school" there is inserted " or maintained nursery school ", and

(b) in paragraph (b), the words "a maintained nursery school or" are omitted.

Commencement Information

I552 Sch. 21 para. 38 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I553 Sch. 21 para. 38 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

39 (1) Section 317 of the Education Act 1996 (duties in relation to pupils with special educational needs) is amended as follows.

(2) In subsection (1), for the words from the beginning to "shall" there is substituted " The governing body of a community, foundation or voluntary school or a maintained nursery school shall ".

(3) For subsection (2) there is substituted—

"(2) In subsection (1)(b) "the responsible person" means the head teacher or the appropriate governor (that is, the chairman of the governing body or, where the governing body have designated another governor for the purposes of this subsection, that other governor)."

(4) In subsection (3)—

(a) in paragraph (a), after "voluntary schools" there is inserted " and maintained nursery schools ", and

(b) paragraph (b) and the word "and" preceding it are omitted.

F519(5) . . . . . .

Textual Amendments

F519 Sch. 21 para. 39(5) repealed (1.9.2005) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 4**; S.I. 2005/2034, art. 5 (with Sch. para. 2)

Commencement Information

I554 Sch. 21 para. 39 partly in force; Sch. 21 para. 39 not in force at Royal Assent, see s. 216; Sch. 21 para. 39(5) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I555 Sch. 21 para. 39(1)-(4) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I556 Sch. 21 para. 39(1)(5) in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

I557 Sch. 21 para. 39(2)-(4) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

40 In section 317A(1) of the Education Act 1996 (duty to inform parent where special educational provision made), in paragraph (a)(i) after "school" there is inserted " or a maintained nursery school ".

Commencement Information

I558 Sch. 21 para. 40 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I559 Sch. 21 para. 40 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

41 (1) Section 318 of the Education Act 1996 (provision of goods and services in connection with special educational needs) is amended as follows.

(2) In subsection (1), after "voluntary schools" there is inserted " or maintained nursery schools ".

(3) In subsection (2), after "voluntary schools" there is inserted " , maintained nursery schools ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I560 Sch. 21 para. 41 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I561 Sch. 21 para. 41 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

42 In section 321 of the Education Act 1996 (general duty of **[**F8local authority**]** towards children for whom they are responsible), in subsection (3), in paragraphs (a) and (b), after "maintained school" there is inserted " or maintained nursery school ".

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I562 Sch. 21 para. 42 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I563 Sch. 21 para. 42 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

43 In section 324 of the Education Act 1996 (statement of special educational needs), in subsection (5)(b) after "maintained school" there is inserted " or maintained nursery school ".

Commencement Information

I564 Sch. 21 para. 43 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I565 Sch. 21 para. 43 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

44 In section 329A of the Education Act 1996 (review or assessment of educational needs at request of responsible body), in subsection (13)(a), the words "a maintained nursery school or" are omitted.

Commencement Information

I566 Sch. 21 para. 44 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I567 Sch. 21 para. 44 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

45 In section 402 of the Education Act 1996 (obligation to enter pupils for public examinations) in subsection (6), for "and" at the end of paragraph (a) there is substituted—

"(aa) "assessment arrangements" and "fourth key stage"—

(i) in relation to a school maintained by a **[**F8local authority**]** in England, have the same meaning as in Part 6 of the Education Act 2002 (the curriculum in England), and

(ii) in relation to a school maintained by a **[**F8local authority**]** in Wales, have the same meaning as in Part 7 of that Act (the curriculum in Wales); and".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I568 Sch. 21 para. 45 partly in force; Sch. 21 para. 45 not in force at Royal Assent, see s. 216; Sch. 21 para. 45 in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 45 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I569 Sch. 21 para. 45 in force at 1.3.2003 so far as not already in force except in relation to W. by S.I. 2003/124, **art. 2**

46 (1) Section 408 of the Education Act 1996 (provision of information) is amended as follows.

(2) In subsection (1)(a) after "the Learning and Skills Act 2000" there is inserted " or the relevant provisions of the Education Act 2002 ".

(3) Subsection (4)(a) is omitted.

(4 After subsection (4) there is inserted—

"(4A) For the purposes of subsection (1) the relevant provisions of the Education Act 2002 are—

(a) Part 6 (the curriculum in England), and

(b) sections 97 to 117 (the curriculum in Wales)."

(5 In subsection (6) for "this Part" there is substituted " Part 6 or 7 of the Education Act 2002 ".

(6) After subsection (8) there is inserted—

"(9) In this section "maintained school" includes a maintained nursery school."

Commencement Information

I570 Sch. 21 para. 46 partly in force; Sch. 21 para. 46 not in force at Royal Assent, see s. 216; Sch. 21 para. 46(1)-(3) in force for E. and Sch. 21 para. 46(4)(5) in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 46(1)-(5) in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I571 Sch. 21 para. 46(4)(5) in force at 1.3.2003 so far as not already in force except in relation to W. by S.I. 2003/124, **art. 2**

I572 Sch. 21 para. 46(6) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I573 Sch. 21 para. 46(6) in force at 1.8.2008 for W. by S.I. 2008/1728, art. 3, **Sch. Pt. 2**

47 (1) Section 409 of the Education Act 1996 (complaints and enforcement: maintained schools) is amended as follows.

(2) In subsection (1), the words "with the approval of the Secretary of State and" are omitted.

(3) In subsection (2), after "by the authority" there is inserted " , any maintained nursery school so maintained ".

(4) In subsection (3), before the "and" at the end of paragraph (a) there is inserted—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

"(aa) any provision which by virtue of section 408(4A) is a relevant provision of the Education Act 2002 for the purposes of section 408(1),".

Commencement Information

I574 Sch. 21 para. 47 partly in force; Sch. 21 para. 47 not in force at Royal Assent, see s. 216; Sch. 21 para. 47(1)(2)(4) in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I575 Sch. 21 para. 47(3) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

48 (1) Section 451 of the Education Act 1996 (prohibition of charges for provision of education) is amended as follows.

(2) In subsection (3)(b) for "section 357(1) (implementation of National Curriculum)" there is substituted " section 88 or 109 of the Education Act 2002 (implementation of National Curriculum for England or National Curriculum for Wales) ".

(3) In subsection (4)(b) for "section 357(1)" there is substituted " section 88 or 109 of the Education Act 2002 ".

Commencement Information

I576 Sch. 21 para. 48 partly in force; Sch. 21 para. 48 not in force at Royal Assent, see s. 216; Sch. 21 para. 48 in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 48 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I577 Sch. 21 para. 48 in force at 1.3.2003 so far as not already in force except in relation to W. by S.I. 2003/124, **art. 2**

49 (1) Section 484 of the Education Act 1996 (education standards grants) is amended as follows.

(2) For any reference to the Secretary of State there is substituted a reference to the National Assembly for Wales.

(3) In subsection (1), after " **[**F47local authorities**]** " there is inserted " in Wales ".

(4) In subsection (2) the words "England and" are omitted.

(5) Subsection (6) is omitted.

Textual Amendments

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I578 Sch. 21 para. 49 partly in force; Sch. 21 para. 49 not in force at Royal Assent, see. s. 216; Sch. 21 para. 49 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I579 Sch. 21 para. 49 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I580 Sch. 21 para. 49 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4** (with art. 7)

50 In section 499 of the Education Act 1996 (power to direct appointment of members of education committees) for subsection (9) there is substituted—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

"(9) In subsections (6) and (8)—

(a) "maintained school" means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school, and

(b) "parent governor" means a governor elected or appointed as a parent governor under regulations made under section 19 of the Education Act 2002 (governing bodies)."

Commencement Information

I581 Sch. 21 para. 50 in force at 1.9.2003 except in relation to W. by S.I. 2003/2071, **art. 2** (with art. 2(2))

I582 Sch. 21 para. 50 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

F520 51 . . . . . .

Textual Amendments

F520 Sch. 21 para. 51 repealed (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), s. 28(2), **Sch. 2**; S.I. 2009/371, art. 2(2), Sch. Pt. 2

52 In section 512A of the Education Act 1996 (transfer of functions under section 512 to governing bodies) in subsection (7) for the definitions of "delegated budget" and "maintained school" there is substituted—

""delegated budget" has the same meaning as in the School Standards and Framework Act 1998;

"maintained school" means a maintained school as defined by section 20(7) of the School Standards and Framework Act 1998 or a maintained nursery school;".

Commencement Information

I583 Sch. 21 para. 52 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I584 Sch. 21 para. 52 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

F521 53 . . . . . .

Textual Amendments

F521 Sch. 21 para. 53 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(q)

Commencement Information

I585 Sch. 21 para. 53 partly in force; Sch. 21 para. 53 not in force at Royal Assent, see s. 216; Sch. 21 para. 53 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I586 Sch. 21 para. 53 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

F522 54 . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F522 Sch. 21 para. 54 repealed (8.11.2006) by Education and Inspections Act 2006 (c. 40), s. 188(1), **Sch. 18 Pt. 1**

Commencement Information

I587 Sch. 21 para. 54 partly in force; Sch. 21 para. 54 not in force at Royal Assent, see. s. 216; Sch. 21 para. 54 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I588 Sch. 21 para. 54 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I589 Sch. 21 para. 54 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

55 In section 545 of the Education Act 1996 (exemption of educational buildings from building byelaws), in subsection (2)(a) the words "or section 218(7) of the Education Reform Act 1988" are omitted.

Commencement Information

I590 Sch. 21 para. 55 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

I591 Sch. 21 para. 55 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

56 In section 578 of the Education Act 1996 (meaning of "the Education Acts"), the reference to the School Teachers' Pay and Conditions Act 1991 is omitted.

Commencement Information

I592 Sch. 21 para. 56 in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

57 In section 579(1) of the Education Act 1996 (general interpretation)—

(a) after the definition of "local government elector" there is inserted—

> ""maintained nursery school" has the meaning given by section 22(9) of the School Standards and Framework Act 1998;",

(b) after the definition of "modifications" there is inserted—

> ""the National Curriculum" (without more) means—
>
> (a) in relation to England, the National Curriculum for England, and
>
> (b) in relation to Wales, the National Curriculum for Wales;",

and

(c) after the definition of "regulations" there is inserted—

> ""sex education" includes education about—
>
> (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus, and
>
> (b) any other sexually transmitted disease;".

Commencement Information

I593 Sch. 21 para. 57 partly in force; Sch. 21 para. 57 not in force at Royal Assent, see s. 216; Sch. 21 para. 57(b)(c) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings

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in art. 4, Sch.); Sch. 21 para. 57 (except sub-para. (a)) in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I594 Sch. 21 para. 57(a) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I595 Sch. 21 para. 57(a) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

58 In Schedule 27 to the Education Act 1996—

(a) in paragraph 3A(1), after the words "maintained school", in each place where they occur, there is inserted " or maintained nursery school ", and

(b) in paragraph 8(1)(a), after "maintained school" there is inserted " or maintained nursery school ".

Commencement Information

I596 Sch. 21 para. 58 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I597 Sch. 21 para. 58 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

School Inspections Act 1996 (c. 57)

F523 59 . . . . . .

Textual Amendments

F523 Sch. 21 paras. 59-68 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F523 60 . . . . . .

Textual Amendments

F523 Sch. 21 paras. 59-68 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F523 61 . . . . . .

Textual Amendments

F523 Sch. 21 paras. 59-68 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F523 62 . . . . . .

Textual Amendments

F523 Sch. 21 paras. 59-68 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F523 63 . . . . . .

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Textual Amendments

F523 Sch. 21 paras. 59-68 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F523 64 . . . . . .

Textual Amendments

F523 Sch. 21 paras. 59-68 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F523 65 . . . . . .

Textual Amendments

F523 Sch. 21 paras. 59-68 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F523 66 . . . . . .

Textual Amendments

F523 Sch. 21 paras. 59-68 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F523 67 . . . . . .

Textual Amendments

F523 Sch. 21 paras. 59-68 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F523 68 . . . . . .

Textual Amendments

F523 Sch. 21 paras. 59-68 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Education Act 1997 (c. 44)

69 **[**F524In section 26 of the Education Act 1997 (supplementary provisions relating to discharge by Qualifications and Curriculum Authority of their functions), in subsection (1)(c)(i) for "section 351 of the Education Act 1996" there is substituted " section 78 of the Education Act 2002 ".**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F524 Sch. 21 para. 69 repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a)

Commencement Information

I598 Sch. 21 para. 69 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I599 Sch. 21 para. 69 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

70 In section 32 of the Education Act 1997 (supplementary provisions relating to discharge by Qualifications, Curriculum and Assessment Authority for Wales of their functions) in subsection (1)(c)(i) for "section 351 of the Education Act 1996" there is substituted " section 99 of the Education Act 2002 ".

Commencement Information

I600 Sch. 21 para. 70 partly in force; Sch. 21 para. 70 not in force at Royal Assent, see s. 216; Sch. 21 para. 70 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I601 Sch. 21 para. 70 in force at 1.3.2003 except in relation to W. by S.I. 2003/124, **art. 2**

71 Section 49 of the Education Act 1997 (regulations about access to children) shall cease to have effect.

Commencement Information

I602 Sch. 21 para. 71 partly in force; Sch. 21 para. 71 not in force at Royal Assent, see. s. 216; Sch. 21 para. 71 in force for certain purposes for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I603 Sch. 21 para. 71 in force at 31.3.2003 for specified purposes for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I604 Sch. 21 para. 71 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

I605 Sch. 21 para. 71 in force at 2.1.2008 for W. so far as not already in force by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Police Act 1997 (c. 50)

F525 72 . . . . . .

Textual Amendments

F525 Sch. 21 para. 72 repealed (6.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 7(f)

F526 73 . . . . . .

Textual Amendments

F526 Sch. 21 para. 73 repealed (6.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 7(f)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Teaching and Higher Education Act 1998 (c. 30)

74 In section 1 of the Teaching and Higher Education Act 1998 (establishment and functions of General Teaching Council), subsection (8) is omitted.

Commencement Information

I606 Sch. 21 para. 74 partly in force; Sch. 21 para. 74 not in force at Royal Assent, see s. 216; Sch. 21 para. 74 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I607 Sch. 21 para. 74 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

75 **[**F527In section 2 of the Teaching and Higher Education Act 1998 (advisory functions of General Teaching Council), in subsection (4), for "by virtue of section 218(6) of the Education Reform Act 1988 (prohibition or restriction on employment of teachers)" there is substituted " under section 142 of the Education Act 2002 (prohibition from teaching, &c.) ".**]**

Textual Amendments

F527 Sch. 21 para. 75 repealed (12.10.2009 for specified purposes) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 4

Commencement Information

I608 Sch. 21 para. 75 partly in force; Sch. 21 para. 75 not in force at Royal Assent, see. s. 216; Sch. 21 para. 75 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I609 Sch. 21 para. 75 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I610 Sch. 21 para. 75 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

76 In section 3 of the Teaching and Higher Education Act 1998 (registration of teachers), in subsection (3)—

(a) the words "within the meaning of section 218(2) of the Education Reform Act 1988" are omitted, and

(b) **[**F528for paragraph (a) there is substituted—

"(a) subject to a direction under section 142(1)(a) of the Education Act 2002 (prohibition from teaching, &c.),".**]**

Textual Amendments

F528 Sch. 21 para. 76(b) repealed (12.10.2009 for specified purposes) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 4

Commencement Information

I611 Sch. 21 para. 76 partly in force; Sch. 21 para. 76 not in force at Royal Assent, see s. 216; Sch. 21 para. 76 (except sub-para. (b)) in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**; Sch. 21 para. 76 in force insofar as not already in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I612 Sch. 21 para. 76(a) in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

I613 Sch. 21 para. 76(b) in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I614 Sch. 21 para. 76(b) in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

77 In section 4 of the Teaching and Higher Education Act 1998 (regulations relating to registration with General Teaching Council), for subsection (3)(a) there is substituted—

"(a) a direction given under section 142 of the Education Act 2002 (prohibition from teaching, &c.),".

Commencement Information

I615 Sch. 21 para. 77 partly in force; Sch. 21 para. 77 not in force at Royal Assent, see. s. 216; Sch. 21 para. 77 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I616 Sch. 21 para. 77 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I617 Sch. 21 para. 77 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

78 In section 7 of the Teaching and Higher Education Act 1998 (additional functions of General Teaching Council), in subsection (3), for the words from "the exercise" to the end there is substituted " the specification of requirements of regulations under section 132 of the Education Act 2002 (qualified teacher status) ".

Commencement Information

I618 Sch. 21 para. 78 partly in force; Sch. 21 para. 78 not in force at Royal Assent, see s. 216; Sch. 21 para. 78 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I619 Sch. 21 para. 78 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

79 Section 10 of the Teaching and Higher Education Act 1998 (further functions of General Teaching Council for Wales in relation to teachers) shall cease to have effect.

Commencement Information

I620 Sch. 21 para. 79 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

I621 Sch. 21 para. 79 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

80 Section 11 of the Teaching and Higher Education Act 1998 (registration requirement for school teachers) shall cease to have effect.

Commencement Information

I622 Sch. 21 para. 80 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

I623 Sch. 21 para. 80 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

81 In section 12 of the Teaching and Higher Education Act 1998 (deduction from teachers' salaries of fees for registration with General Teaching Council)—

(a) for subsection (2)(b) there is substituted—

"(b) required to be registered in the register by virtue of section 134 of the Education Act 2002",

and

(b) in subsection (4), for the definition of "schools" there is substituted—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

""school" means a school maintained by a **[**F8local authority**]** or a special school not so maintained".

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I624 Sch. 21 para. 81 partly in force; Sch. 21 para. 81 not in force at Royal Assent, see s. 216; Sch. 21 para. 81 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I625 Sch. 21 para. 81 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

82 Section 13 of the Teaching and Higher Education Act 1998 (consultation about qualified teacher status) shall cease to have effect.

Commencement Information

I626 Sch. 21 para. 82 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

I627 Sch. 21 para. 82 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

83 For section 15 of the Teaching and Higher Education Act 1998 (supply of information relating to dismissal or resignation of teachers, &c.) there is substituted—

"**15 Supply of information following dismissal, resignation, &c.**

"**15** "**15 Supply of information following dismissal, resignation, &c.**

(1) This section applies where a relevant employer—

(a) has ceased to use a person's services on a ground mentioned in section 142 of the Education Act 2002, or

(b) might have ceased to use a person's services on a ground mentioned in that section had the person not ceased to provide those services.

(2) In the case of a person who was providing services to a relevant employer in England, the employer shall provide prescribed information to such of the following as may be prescribed—

(a) the Secretary of State, and

(b) where the person is a registered teacher, the Council.

(3) In the case of a person who was providing services to a relevant employer in Wales, the employer shall provide prescribed information to such of the following as may be prescribed—

(a) the National Assembly for Wales, and

(b) where the person is a registered teacher, the General Teaching Council for Wales.

(4) For the purposes of this section, a reference to a ground mentioned in section 142 of the Education Act 2002 shall be read as if subsection (4)(e) was not limited to the case of a direction given by virtue of subsection (2)(d).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) In this section—

"relevant employer" has the meaning given by section 142 of the Education Act 2002, and

"services" includes professional and voluntary services.

15A Supply of information by contractor, agency, &c.

15A 15A Supply of information by contractor, agency, &c.

(1) This section applies to arrangements made by one person (the "agent") for another person (the "worker") to carry out work at the request of or with the consent of a relevant employer (whether or not under a contract).

(2) Subsections (3) and (4) apply where an agent—

(a) has terminated the arrangements on a ground mentioned in section 142 of the Education Act 2002,

(b) might have terminated the arrangements on a ground mentioned in that section if the worker had not terminated them, or

(c) might have refrained from making new arrangements for a worker on a ground mentioned in that section if he had not ceased to make himself available for work.

(3) In the case of arrangements for a worker to carry out work in England, the agent shall provide prescribed information to such of the following as may be prescribed—

(a) the Secretary of State, and

(b) where the person is a registered teacher, the Council.

(4) In the case of arrangements for a worker to carry out work in Wales, the agent shall provide prescribed information to such of the following as may be prescribed—

(a) the National Assembly for Wales, and

(b) where the person is a registered teacher, the General Teaching Council for Wales.

(5) If the Secretary of State thinks that an agent has failed or is likely to fail to comply with a duty arising under subsection (3), the Secretary of State may direct the person to comply with the duty.

(6) If the National Assembly thinks that an agent has failed or is likely to fail to comply with a duty arising under subsection (4), the National Assembly may direct the person to comply with the duty.

(7) A direction under subsection (5) shall be enforceable, on the application of the Secretary of State, by mandatory order.

(8) A direction under subsection (6) shall be enforceable, on the application of the National Assembly, by a mandatory order.

(9) Subsections (4) and (5) of section 15 shall apply for the purposes of this section as they apply for the purposes of that section."

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I628 Sch. 21 para. 83 partly in force; Sch. 21 para. 83 not in force at Royal Assent, see. s. 216; Sch. 21 para. 83 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I629

I630 Sch. 21 para. 83 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

84 Section 18 of the Teaching and Higher Education Act 1998 (qualifications of head teachers) shall cease to have effect.

Commencement Information

I631 Sch. 21 para. 84 in force at 1.10.2003 except in relation to W. by S.I. 2003/1667, **art. 5**

I632 Sch. 21 para. 84 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

85 In section 19 of the Teaching and Higher Education Act 1998 (requirement for school teacher to serve induction period)—

(a) in subsection (7), for "section 49 of the Education (No. 2) Act 1986" there is substituted " section 131 of the Education Act 2002 ",

(b) in subsection (8), after " **[**F47local authorities**]** " there is inserted " in Wales ", and

(c) for subsection (10)(b) there is substituted—

"(b) "relevant school" means a school maintained by a **[**F8local authority**]** or a special school not so maintained,".

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

F47 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(3)**

Commencement Information

I633 Sch. 21 para. 85 partly in force; Sch. 21 para. 85 not in force at Royal Assent, see s. 216; Sch. 21 para. 85(a) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 85 (except for sub-para. (b)) in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**; Sch. 21 para. 85 in force insofar as not already in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I634 Sch. 21 para. 85(b) in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I635 Sch. 21 para. 85(b) in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I636 Sch. 21 para. 85(c) in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

86 (1) Schedule 2 to the Teaching and Higher Education Act 1998 (disciplinary powers of the General Teaching Council) is amended as follows.

(2) **[**F529In paragraph 1(4) for the words from "of any powers" to the end there is substituted

(a) on the grounds that a person is unsuitable to work with children, or

(b) on grounds relating to a person's misconduct or health."**]**

(3) Paragraph 1(5) is omitted.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F529 Sch. 21 para. 86(2) repealed (12.10.2009 for specified purposes) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 4

Commencement Information

I637 Sch. 21 para. 86 partly in force; Sch. 21 para. 86 not in force at Royal Assent, see. s. 216; Sch. 21 para. 86 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I638 Sch. 21 para. 86 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I639 Sch. 21 para. 86 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

School Standards and Framework Act 1998 (c. 31)

87 In section 1 of the School Standards and Framework Act 1998 (duty to set limit on infant class sizes), for "qualified teacher" there is substituted " school teacher ".

Commencement Information

I640 Sch. 21 para. 87 partly in force; Sch. 21 para. 87 not in force at Royal Assent, see s. 216; Sch. 21 para. 87 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I641 Sch. 21 para. 87 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

88 In section 4 of the School Standards and Framework Act 1998 (interpretation) for the definition of "qualified teacher" there is substituted—

> ""school teacher" means a person who is a school teacher for the purposes of section 122 of the Education Act 2002 (determination of school teachers' pay and conditions)".

Commencement Information

I642 Sch. 21 para. 88 partly in force; Sch. 21 para. 88 not in force at Royal Assent, see s. 216; Sch. 21 para. 88 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I643 Sch. 21 para. 88 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

89 In section 7 of the School Standards and Framework Act 1998 (approval, modification and review of statement of proposals) subsection (10) is omitted.

Commencement Information

I644 Sch. 21 para. 89 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

90 In section 12 of the School Standards and Framework Act 1998 (functions of Education Action Forum), in subsection (4) for the words from "under sections" to "Schedule 17," there is substituted " under sections 35 to 37 of, or Schedule 2 to, the Education Act 2002 or under regulations made under those sections, ".

Commencement Information

I645 Sch. 21 para. 90 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

I646 Sch. 21 para. 90 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

91 Section 13 of the School Standards and Framework Act 1998 (disapplication of school teachers' pay and conditions order) shall cease to have effect.

Commencement Information

I647 Sch. 21 para. 91 partly in force; Sch. 21 para. 91 not in force at Royal Assent, see s. 216; Sch. 21 para. 91 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

F530 92 . . . . . .

Textual Amendments

F530 Sch. 21 paras. 92-94 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(9)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

I648 Sch. 21 para. 92 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I649 Sch. 21 para. 92 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

F530 93 . . . . . .

Textual Amendments

F530 Sch. 21 paras. 92-94 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(9)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

I650 Sch. 21 para. 93 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I651 Sch. 21 para. 93 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

F530 94 . . . . . .

Textual Amendments

F530 Sch. 21 paras. 92-94 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(9)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

I652 Sch. 21 para. 94 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I653 Sch. 21 para. 94 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

95 In section 20 of the School Standards and Framework Act 1998 (new categories of maintained schools), in subsection (2)(b), for "section 28 or 31" there is substituted " any enactment ".

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Commencement Information

I654 Sch. 21 para. 95 partly in force; Sch. 21 para. 95 not in force at Royal Assent, see s. 216; Sch. 21 para. 95 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I655 Sch. 21 para. 95 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

96 (1) Section 22 of the School Standards and Framework Act 1998 (maintenance of schools) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b), the words "under section 28 or 31" are omitted, and

(b) in paragraph (c), the words "under section 28" are omitted.

(3) In subsection (4)(b), for the words from "under paragraph 2" to the end there is substituted " under any enactment of providing new premises for the school ".

(4) In subsection (5)(b), for the words from "under paragraph 4" to the end there is substituted " under any enactment of providing new premises for the school ".

Commencement Information

I656 Sch. 21 para. 96 partly in force; Sch. 21 para. 96 not in force at Royal Assent, see s. 216; Sch. 21 para. 96 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I657 Sch. 21 para. 96 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

F531 97 . . . . . .

Textual Amendments

F531 Sch. 21 para. 97 repealed (1.9.2005) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 2**; S.I. 2006/2129, art. 4

F532 98 . . . . . .

Textual Amendments

F532 Sch. 21 para. 98 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(13)**; S.I. 2013/1800, art. 3(j)

99 (1) Section 45 of the School Standards and Framework Act 1998 (budget shares of maintained schools) is amended as follows.

(2) After subsection (1) there is inserted—

"(1A) In this Chapter "maintained school" means—

(a) a community, foundation or voluntary school,

(b) a community or foundation special school, or

(c) a maintained nursery school."

(3) In subsection (3)—

(a) in paragraph (a), for the words from "schools which" to "section 20(7)" there is substituted " pupil referral units ", and

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(b) in paragraph (b)(i), for the words "section 28 or 31 or paragraph 5 of Schedule 7" there is substituted " any enactment ".

Commencement Information

I658 Sch. 21 para. 99 partly in force; Sch. 21 para. 99 not in force at Royal Assent, see s. 216; Sch. 21 para. 99(1)(3) (except sub-para. (b)) in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I659 Sch. 21 para. 99(1)(3)(b) in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I660 Sch. 21 para. 99(2) (3)(a) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4** (with Sch. para. 5)

I661 Sch. 21 para. 99(2)(3)(a) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

100 (1) Section 49 of the School Standards and Framework Act 1998 (maintained schools to have delegated budgets) is amended as follows.

(2) In subsection (4) for "local schools budget" there is substituted " **[**[F8]local authority**]** budget or schools budget ".

(3) In subsection (6)(b), for "or paragraph 14(2) of Schedule 6" there is substituted " , paragraph 14(2) of Schedule 6, paragraph 3(3) of Schedule 7A to the Learning and Skills Act 2000 or paragraph 8 of Schedule 8 to the Education Act 2002 ".

Textual Amendments

F8 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **art. 1**, **Sch. 2 para. 11(2)**

Commencement Information

I662 Sch. 21 para. 100 not in force at Royal Assent, see s. 216; Sch. 21 para. 100(1)(2) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I663 Sch. 21 para. 100(1)(2) in force at 4.12.2003 for W. by S.I. 2003/2961, art. 5, **Sch. Pt. II**

I664 Sch. 21 para. 100(3) in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I665 Sch. 21 para. 100(3) in force at 1.8.2004 for W. by S.I. 2004/1728, art. 4, **Sch. Pt. 1**

101 In section 50 of the School Standards and Framework Act 1998 (effect of financial delegation), in subsection (5) for the words from "under paragraph 6" onwards there is substituted " under section 19 of the Education Act 2002 (or, in the case of temporary governors of a new school, regulations under section 34(5) of that Act). "

Commencement Information

I666 Sch. 21 para. 101 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I667 Sch. 21 para. 101 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

102 In section 61 of the School Standards and Framework Act 1998 (responsibility of governing body and head teacher for discipline) after subsection (7) there is inserted—

"(8) In this section "maintained school" includes a maintained nursery school."

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I668 Sch. 21 para. 102 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I669 Sch. 21 para. 102 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

F533 103 . . . . . .

Textual Amendments

F533 Sch. 21 para. 103 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 6(9)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

I670 Sch. 21 para. 103 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I671 Sch. 21 para. 103 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

104 (1) Section 69 of the School Standards and Framework Act 1998 (duty to secure provision of religious education) is amended as follows.

(2) In subsection (1), for "section 352(1)(a) of the Education Act 1996" there is substituted " section 80(1)(a) or 101(1)(a) of the Education Act 2002 ".

(3) In subsection (2), for "section 352(1)(a)" there is substituted " section 80(1)(a) or 101(1)(a) ".

Commencement Information

I672 Sch. 21 para. 104 partly in force; Sch. 21 para. 104 not in force at Royal Assent, see s. 216; Sch. 21 para. 104 in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 104 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I673 Sch. 21 para. 104 in force at 1.3.2003 so far as not already in force except in relation to W. by S.I. 2003/124, **art. 2**

105 In section 71 of the School Standards and Framework Act 1998 (exceptions and special arrangements etc.) in subsection (2)(a) for "section 352(1)(a) of the Education Act 1996" there is substituted " section 80(1)(a) or 101(1)(a) of the Education Act 2002 ".

Commencement Information

I674 Sch. 21 para. 105 partly in force; Sch. 21 para. 105 not in force at Royal Assent, see s. 216; Sch. 21 para. 105 in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 105 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I675 Sch. 21 para. 105 in force at 1.3.2003 so far as not already in force except in relation to W. by S.I. 2003/124, **art. 2**

106 In section 72 of the School Standards and Framework Act 1998 (further provisions relating to new schools), in subsection (3)(a) for "section 44" there is substituted " section 34 of the Education Act 2002 ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I676 Sch. 21 para. 106 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I677 Sch. 21 para. 106 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

107 In section 81 of the School Standards and Framework Act 1998 (application of employment law during financial delegation), in subsection (1) for the words from "sections" to the end there is substituted " sections 35 to 37 of the Education Act 2002 or of regulations under those sections ".

Commencement Information

I678 Sch. 21 para. 107 in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

I679 Sch. 21 para. 107 in force at 1.4.2006 for W. by S.I. 2006/879, art. 4, **Sch.**

108 In section 82 of the School Standards and Framework Act 1998 (modification of trust deeds), in subsection (1), after "provision of this Act" there is inserted " , the Learning and Skills Act 2000 or the Education Act 2002 ".

Commencement Information

I680 Sch. 21 para. 108 wholly in force at 19.12.2002; Sch. 21 para. 108 not in force at Royal Assent, see s. 216; Sch. 21 para. 108 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

109 In section 101 of the School Standards and Framework Act 1998 (permitted selection), in subsection (4), for the words from "under" to the end there is substituted " , and fallen to be implemented, under any enactment ".

Commencement Information

I681 Sch. 21 para. 109 partly in force; Sch. 21 para. 109 not in force at Royal Assent, see s. 216; Sch. 21 para. 109 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I682 Sch. 21 para. 109 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

F534 110 . . . . . .

Textual Amendments

F534 Sch. 21 para. 110 omitted (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 32**; S.I. 2014/178, art. 2(g) (with art. 3)

111 In section 138 of the School Standards and Framework Act 1998 (orders and regulations) in subsection (4)(a), after "20(7)" there is inserted " 45C(2), ".

Commencement Information

I683 Sch. 21 para. 111 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I684 Sch. 21 para. 111 in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

112 In section 142 of the School Standards and Framework Act 1998 (general interpretation) in subsection (1) after the definition of "employment" there is inserted—

> ""exclude", in relation to the exclusion of a child from a school, means exclude on disciplinary grounds (and "exclusion" shall be construed accordingly);
>
> "foundation governor", in relation to a foundation school, a foundation special school or a voluntary school, means a person appointed as a foundation governor in accordance with regulations under section 19 of the Education Act 2002;".

Commencement Information

I685 Sch. 21 para. 112 in force at 1.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 4**

I686 Sch. 21 para. 112 in force at 1.9.2003 so far as not already in force except in relation to W. by S.I. 2003/1667, **art. 4**

I687 Sch. 21 para. 112 in force at 9.1.2004 for specified purposes for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

I688 Sch. 21 para. 112 in force at 31.10.2005 for W. so far as not already in force by S.I. 2005/2910, art. 4, **Sch.**

113 In section 143 of the School Standards and Framework Act 1998 (index)—

(a) in the entry beginning "exclude, exclusion (in relation to the exclusion of a child from a school)" for "section 64(4)" there is substituted " section 142(1) ",

(b) in the entry beginning "foundation governor", for "paragraph 2 of Schedule 9" there is substituted " section 142(1) ",

(c) in the entry beginning "individual schools budget", for "section 46(2)" there is substituted " section 45A(3) ",

F535(d) . . . . . .

(e) in the entry beginning "qualified teacher" for "qualified teacher" there is substituted " school teacher ",

(f) in the entry beginning "school opening date" for "section 44(9)" there is substituted " section 33(6) ", and

(g) after the entry beginning "school which has selective admission arrangements" there is inserted—

"schools budget (in Part 2)	section 45A(2)".

Textual Amendments

F535 Sch. 21 para. 113(d) repealed (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 3 Pt. 1**

Commencement Information

I689 Sch. 21 para. 113 partly in force; Sch. 21 para. 113 not in force at Royal Assent, see s. 216; Sch. 21 para. 113 (c)(d)(g) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 113 (except sub-paras. (a)-(d)(f)(g)) in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I690 Sch. 21 para. 113(a) in force at 9.1.2004 for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

I691 Sch. 21 para. 113(b) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**
I692 Sch. 21 para. 113(b)(f) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**
I693 Sch. 21 para. 113(c)(d)(g) in force at 4.12.2003 for W. by S.I. 2003/2961, art. 5, **Sch. Pt. II**
I694 Sch. 21 para. 113(e) in force at 1.8.2003 except in relation to W. by S.I. 2003/1667, **art. 3**

114 In Schedule 3 to the School Standards and Framework Act 1998 (funding of foundation, voluntary and foundation special schools), in paragraph 4(2)(a), for the words from "Part III" to "proposals)" there is substituted " any enactment ".

Commencement Information
I695 Sch. 21 para. 114 partly in force; Sch. 21 para. 114 not in force at Royal Assent, see s. 216; Sch. 21 para. 114 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**
I696 Sch. 21 para. 114 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

F536 115 . . . . . .

Textual Amendments
F536 Sch. 21 para. 115 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(13)**; S.I. 2013/1800, art. 3(j)

F537 116 . . . . . .

Textual Amendments
F537 Sch. 21 para. 116 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(13)**; S.I. 2013/1800, art. 3(j)

117 (1) Schedule 19 to the School Standards and Framework Act 1998 (required provision for religious education) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1), for "section 352(1)(a) of the Education Act 1996" there is substituted " section 80(1)(a) or 101(1)(a) of the Education Act 2002 ", and

(b) in sub-paragraph (2), for "that Act" there is substituted " the Education Act 1996 ".

(3) In sub-paragraph 4(4), for "section 352(1)(a) of the Education Act 1996" there is substituted " section 80(1)(a) or 101(1)(a) of the Education Act 2002 ".

Commencement Information
I697 Sch. 21 para. 117 partly in force; Sch. 21 para. 117 not in force at Royal Assent, see s. 216; Sch. 21 para. 117 in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 117 in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**
I698 Sch. 21 para. 117 in force at 1.3.2003 so far as not already in force except in relation to W. by S.I. 2003/124, **art. 2**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

118 (1) Schedule 22 to the School Standards and Framework Act 1998 (disposal of land) is amended as follows.

(2) In paragraph 1(1)(a) (disposals of land by governing body of foundation, voluntary or foundation special school), after "Schedule 6" there is inserted " (including that provision as applied by any enactment) ".

(3) In paragraph 2(1)(a) (disposals of land by foundation body)—

(a) after "Schedule 6" there is inserted " (including that provision as applied by any enactment) ", and

F538(b) . . . . . .

(4) In paragraph 3 (disposal of land by trustees)—

(a) in sub-paragraph (1)(a)—

(i) after "Schedule 6" there is inserted " (including that provision as applied by any enactment) ", and

F539(ii) . . . . . .

(b) in sub-paragraph (8)(b)(ii), for "section 28 or 31" there is substituted " any enactment ".

(5) In paragraph 5 (discontinuance of schools)—

(a) for sub-paragraph (1)(a) there is substituted—

"(a) proposals to discontinue a foundation, voluntary or foundation special school have been approved, adopted or determined to be implemented under any enactment, or",

and

(b) in sub-paragraph (4)(c) for "section 28 or 31 or paragraph 5 of Schedule 7" there is substituted " any enactment ".

(6) In paragraph 7 (disposal of property held by governing body of maintained school on their dissolution), in sub-paragraph (1) for "paragraph 4 of Schedule 10" there is substituted " paragraph 5 of Schedule 1 to the Education Act 2002 ".

Textual Amendments

F538 Sch. 21 para. 118(3)(b) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(q)

F539 Sch. 21 para. 118(4)(a)(ii) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(q)

Commencement Information

I699 Sch. 21 para. 118 partly in force; Sch. 21 para. 118 not in force at Royal Assent, see s. 216; Sch. 21 para. 118(6) in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.); Sch. 21 para. 118(1)(2)(3) (except sub-para. (b)) (4) (except sub-para. (a)(ii)) (5) in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**

I700 Sch. 21 para. 118(1)-(5) in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**

I701 Sch. 21 para. 118(6) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

119 In Schedule 32 to the School Standards and Framework Act 1998 (transitional provisions), paragraph 7 is omitted.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I702 Sch. 21 para. 119 in force at 1.8.2003 by S.I. 2003/1667, **art. 2**

Protection of Children Act 1999 (c. 14)

120 Section 5 of the Protection of Children Act 1999 (prohibiting or restricting employment of teachers, &c.) shall cease to have effect.

Commencement Information

I703 Sch. 21 para. 120 partly in force; Sch. 21 para. 120 not in force at Royal Assent, see. s. 216; Sch. 21 para. 120 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I704 Sch. 21 para. 120 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I705 Sch. 21 para. 120 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

F540 121 . . . . . .

Textual Amendments

F540 Sch. 21 para. 121 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 2 (with arts. 5-7) (as amended (30.3.2010) by S.I. 2010/1101, arts. 6-11)

122 In section 9(2) of the Protection of Children Act 1999 (proceedings of the Tribunal) —

F541 (a) . . . . . .

(b) at the end there is inserted "or

(") on an appeal under section 166 of the Education Act 2002;".

Textual Amendments

F541 Sch. 21 para. 122(a) repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 2 (with arts. 5-7) (as amended (30.3.2010) by S.I. 2010/1101, arts. 6-11)

Commencement Information

I706 Sch. 21 para. 122 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

I707 Sch. 21 para. 122(b) in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

F542 123 . . . . . .

Textual Amendments

F542 Sch. 21 para. 123 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 2 (with arts. 5-7) (as amended (30.3.2010) by S.I. 2010/1101, arts. 6-11)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Learning and Skills Act 2000 (c. 21)

124 (1) Section 7 of the Learning and Skills Act 2000 (funding of school sixth-forms by Learning and Skills Council for England) is amended as follows.

(2) In subsection (1)(a) for "local schools budget" there is substituted " schools budget ".

F543(3) . . . . . .

Textual Amendments

F543 Sch. 21 para. 124(3) repealed (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 4**; S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(f)

Commencement Information

I708 Sch. 21 para. 124 in force at 1.10.2002 for E. by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in art. 4, Sch.)

I709 Sch. 21 para. 124(1)(2) in force at 2.1.2008 for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

125 (1) Section 36 of the Learning and Skills Act 2000 (funding of school sixth-forms by National Council for Education and Training for Wales) is amended as follows.

(2) In subsection (1)(a) for "local schools budget" there is substituted " schools budget ".

F544(3) . . . . . .

Textual Amendments

F544 Sch. 21 para. 125(3) repealed (1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 4**; S.I. 2010/735, art. 2(f)

Commencement Information

I710 Sch. 21 para. 125 in force at 4.12.2003 for W. by S.I. 2003/2961, art. 5, **Sch. Pt. II**

I711 Sch. 21 para. 125 in force at 6.11.2006 except in relation to W. by S.I. 2006/2895, **art. 2**

F545126 . . . . . .

Textual Amendments

F545 Sch. 21 para. 126 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(13)**; S.I. 2013/1800, art. 3(j)

Freedom of Information Act 2000 (c. 36)

127 In Schedule 1 to the Freedom of Information Act 2000 (public authorities), for paragraph 52 there is substituted—

"52 The governing body of—

(a) a maintained school, as defined by section 20(7) of the School Standards and Framework Act 1998, or

(b) a maintained nursery school, as defined by section 22(9) of that Act."

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I712 Sch. 21 para. 127 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**

I713 Sch. 21 para. 127 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

Criminal Justice and Court Services Act 2000 (c. 43)

128 [F546(1) Section 35 of the Criminal Justice and Court Services Act 2000 (persons disqualified from working with children: offences) is amended as follows.

(2) For subsection (4)(b) there is substituted—

"(b) he is subject to a direction under section 142 of the Education Act 2002 (prohibition from teaching, &c.), given on the grounds that he is unsuitable to work with children,".

(3) Subsection (5) is omitted.]

Textual Amendments

F546 Sch. 21 para. 128 repealed (12.10.2009 for specified purposes) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, art. 4

Commencement Information

I714 Sch. 21 para. 128 partly in force; Sch. 21 para. 128 not in force at Royal Assent, see. s. 216; Sch. 21 para. 128 in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I715 Sch. 21 para. 128 in force at 31.3.2003 for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I716 Sch. 21 para. 128 in force at 1.6.2003 except in relation to W. by S.I. 2003/1115, **art. 3**

SCHEDULE 22

Section 215(2)

REPEALS

Commencement Information

I717 Sch. 22 in force at 20.1.2003 for specified purposes except in relation to W. by S.I. 2002/2952, **art. 2** (with Sch. para. 34)

I718 Sch. 22 in force at 1.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 4**

I719 Sch. 22 in force at 6.4.2003 for specified purposes except in relation to W. by S.I. 2003/124, **art. 5**

I720 Sch. 22 in force at 1.6.2003 for specified purposes except in relation to W. by S.I. 2003/1115, **art. 3**

PART 1

REPEALS COMING INTO FORCE IN ACCORDANCE WITH SECTION 216(2)

Commencement Information

I721 Sch. 22 Pt. 1 in force at 1.8.2003 in so far as not already in force by S.I. 2003/1667, **art. 2**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

I722 Sch. 22 Pt. 1 partly in force; Sch. 22 Pt. 1 not in force at Royal Assent, see s. 216; specified entries in Sch. 22 Pt. 1 in force at 1.10.2002 by S.I. 2002/2439, **art. 2** (with transitional provisions and savings in Sch.)

Short title and chapter	***Extent of repeal***
School Teachers' Pay and Conditions Act 1991 (c. 49).	The whole Act.
Further and Higher Education Act 1992 (c. 13).	Section 26(9). Section 48.
Education Act 1996 (c. 56).	In section 578, the reference to the School Teachers' Pay and Conditions Act 1991. In Schedule 37, paragraph 101.
Education Act 1997 (c. 44).	In section 23, in subsection (2), paragraph (f) and the word "and" immediately preceding it, and subsections (3) and (4). In section 26(3), the words "or approve" and the words "and subject to such conditions".
School Standards and Framework Act 1998 (c. 31).	Section 13. In Schedule 30, paragraphs 24 to 28, 44 and 214(a). In Schedule 32, paragraph 7.

PART 2

REPEALS COMING INTO FORCE IN ACCORDANCE WITH SECTION 216(3)

Commencement Information

I723 Sch. 22 Pt. 2 in force at 1.9.2003 for specified purposes by S.I. 2002/3185, art. 6, **Sch. Pt. III**

I724 Sch. 22 Pt. 2 partly in force; Sch. 22 Pt. 2 not in force at Royal Assent, see s. 216; specified entries in Sch. 22 Pt. 2 in force at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I**; further specified entries in Sch. 22 Pt. 2 in force at 1.9.2003 by S.I. 2002/3185, art. 6, **Sch. Pt. III**

Short title and chapter	***Extent of repeal***
Disability Discrimination Act 1995 (c. 50).	Section 28J(4).
Education Act 1997.	In section 29, in subsection (2), paragraph (f) and the word "and" immediately preceding it, and subsections (3) and (4). In section 32(3),the words "or approve" and the words "and subject to such conditions".
School Standards and Framework Act 1998.	In Schedule 30, paragraph 215.
Special Educational Needs and Disability Act 2001 (c. 10).	Section 42(2). In Schedule 8, paragraph 2.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

PART 3

REPEALS COMING INTO FORCE IN ACCORDANCE WITH SECTION 216(4)

Commencement Information

I725 Sch. 22 Pt. 3 partly in force; Sch. 22 Pt. 3 not in force at Royal Assent, see s. 216; Sch. 22 Pt. 3 in force for E. for specified purposes at 26.7.2002 by S.I. 2002/2002, art. 3; Sch. 22 Pt. 3 in force for E. for specified purposes at 2.9.2002 by S.I. 2002/2002, **art. 4**; Sch. 22 Pt. 3 in force for E. for specified purposes at 1.10.2002 by S.I. 2002/2439, **art. 3** (with Sch.); Sch. 22 Pt. 3 in force for E. for specified purposes at 20.1.2003 by S.I. 2002/2952, **art. 2** (with art. 3, Sch. paras. 2-4); Sch. 22 Pt. 3 in force for W. for specified purposes at 19.12.2002 by S.I. 2002/3185, art. 4, **Sch. Pt. I** (with art. 7)

I726 Sch. 22 Pt. 3 in force at 31.3.2003 for specified purposes for W. by S.I. 2002/3185, art. 5, **Sch. Pt. II**

I727 Sch. 22 Pt. 3 in force at 1.8.2003 for specified purposes for W. by S.I. 2003/1718, art. 4, **Sch. Pt. I**

I728 Sch. 22 Pt. 3 in force at 1.8.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 3** (with Sch. paras. 2, 3) (which transitional provisions in Sch. para. 2 are omitted (10.9.2005) by virtue of S.I. 2005/2570, art. 2(b))

I729 Sch. 22 Pt. 3 in force at 1.9.2003 for specified purposes for W. by S.I. 2003/1718, art. 5, **Sch. Pt. II**

I730 Sch. 22 Pt. 3 in force at 1.9.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 4**

I731 Sch. 22 Pt. 3 in force at 1.10.2003 for specified purposes except in relation to W. by S.I. 2003/1667, **art. 5**

I732 Sch. 22 Pt. 3 in force at 4.12.2003 for specified purposes for W. by S.I. 2003/2961, art. 5, **Sch. Pt. II**

I733 Sch. 22 Pt. 3 in force at 1.1.2004 for specified purposes for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

I734 Sch. 22 Pt. 3 in force at 9.1.2004 for specified purposes for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**

I735 Sch. 22 Pt. 3 in force at 31.3.2004 for specified purposes for W. by S.I. 2004/912, art. 4, **Sch. Pt. 1**

I736 Sch. 22 Pt. 3 in force at 1.8.2004 for specified purposes for W. by S.I. 2004/912, art. 5, **Sch. Pt. 2**

I737 Sch. 22 Pt. 3 in force at 1.9.2004 for specified purposes for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

I738 Sch. 22 Pt. 3 in force at 31.5.2005 for specified purposes for W. by S.I. 2005/1395, art. 4, **Sch.** (with art. 5(3)(4))

I739 Sch. 22 Pt. 3 in force at 31.10.2005 for specified purposes for W. by S.I. 2005/2910, art. 4, **Sch.**

I740 Sch. 22 Pt. 3 in force at 1.2.2006 for specified purposes for W. by S.I. 2006/172, art. 4, **Sch.**

I741 Sch. 22 Pt. 3 in force at 1.4.2006 for specified purposes for W. by S.I. 2006/879, art. 4, **Sch.**

I742 Sch. 22 Pt. 3 in force at 6.11.2006 for specified purposes except in relation to W. by S.I. 2006/2895, **art. 2** (with art. 3)

I743 Sch. 22 Pt. 3 in force at 2.1.2008 for specified purposes for W. by S.I. 2007/3611, art. 4(1), **Sch. Pt. 1** (with Sch. Pt paras. 2, 3)

I744 Sch. 22 Pt. 3 in force at 31.3.2008 for specified purposes for W. by S.I. 2007/3611, art. 4(2), **Sch. Pt. 2**

I745 Sch. 22 Pt. 3 in force at 1.8.2008 for the repeal of Education Act 1996, section 410 for specified purposes for W. by S.I. 2008/1728, art. 3, **Sch. Pt. 2**

I746 Sch. 22 Pt. 3 in force at 1.9.2011 for specified purposes for W. by S.I. 2011/1952, **art. 2(c)**

Short title and chapter	*Extent of repeal*
Education Act 1967 (c. 3).	The whole Act, so far as unrepealed.
Local Government Act 1974 (c. 7).	Section 25(5)(b).
Sex Discrimination Act 1975 (c. 65).	In Schedule 2, paragraph 4.
Local Government (Miscellaneous Provisions) Act 1982 (c. 30).	Section 40.
Education (Fees and Awards) Act 1983 (c. 40).	Section 1(6).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Education Act 1986 (c. 40).	Section 1(1)(b) and the word "and" immediately preceding it. Sections 2 to 4.
Education (No. 2) Act 1986 (c. 61).	Section 49. In section 50— (a) in subsection (1), paragraph (b) and the word "and" immediately preceding it, and (b) in subsection (3A), the words from "by the Secretary of State" to "teachers".
Education Reform Act 1988 (c. 40).	Section 160. Sections 210 and 211. Sections 218 and 218A.
Children Act 1989 (c. 41).	In section 19, subsections (1) and (2) and in subsection (4) the words "the two authorities or, in Scotland,". In section 79M(1), the word "or" at the end of paragraph (a). Section 79P(4)(d) and the preceding "and". In section 79U, subsection (5) and, in subsection (9), the definition of "authorised inspector".
Environmental Protection Act 1990 (c. 43).	Section 98(2)(c)(ii).
Further and Higher Education Act 1992 (c. 13).	In section 23(4), paragraph (b) and the word "and" immediately preceding it. In section 37, subsection (1)(b) and the word "or" immediately preceding it and subsections (8)(a) and (9). Sections 39 to 42. Section 60. In Schedule 8, paragraphs 46, 47, 49, 83 and 90.
Judicial Pensions and Retirement Act 1993 (c. 8).	In Schedule 5, the reference to "Chairman of an Independent Schools Tribunal". In Schedule 7, paragraph 5(5)(xxvii).
Education Act 1994 (c. 30).	Section 4(4). In section 14, subsections (1), (3) and (4). In Schedule 2, paragraph 8(4).
Disability Discrimination Act 1995 (c. 50).	Section 28Q(12). In Schedule 4A, in the Table in paragraph 1, paragraph 3.
Nursery Education and Grant-Maintained Schools Act 1996 (c. 50).	The whole Act so far as unrepealed.
Education Act 1996 (c. 56).	In section 2(3)(a) the words "(including vocational, social, physical and recreational training)". In section 4(1) the words "part-time education suitable to the requirements of junior pupils or".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Education Act 2002 is up to date with all changes known to be in force on or before 12 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

In section 5(1) the words "part-time education suitable to the requirements of junior pupils or".
Section 29(6).
In section 316A(11)(b) the words "a maintained nursery school or".
In section 317 subsection (3)(b) and the word "and" preceding it.
In section 318, in subsection (3A) paragraph (b) and the word "or" immediately preceding it.
In section 329A(13)(a), the words "a maintained nursery school or".
Sections 350 to 369.
Section 408(4)(a).
In section 409(1), the words "with the approval of the Secretary of State and".
Section 410.
Sections 464 to 478.
Section 483(3A).
Section 483A(7).
In section 484, in subsection (2) the words "England and" and subsection (6).
Sections 486 to 488.
Sections 490 to 492
Section 497A(3).
Section 509(6).
In section 509A(5)(b), sub-paragraph (ii) and the word "or" immediately preceding it.
Section 537(9) and (10).
In section 545(2)(a), the words "or section 218(7) of the Education Reform Act 1988".
In section 548(8), in paragraph (b), sub-paragraph (ii) and the word "or" preceding that sub-paragraph, and paragraph (c).
In section 568, in subsection (2) the words "sections 468, 471(1) and 474", in subsection (3) the words from "section 354(6)" to "401", and subsection (4).
In section 578, the entries relating to the Education Act 1967 and the Nursery Education and Grant-Maintained Schools Act 1996.
In section 580, the entries relating to—
city academy;
city college for the technology of the arts;
city technology college;
register, registration;
registered school;
Registrar of Independent Schools.
In Schedule 1, paragraph 7.

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	Schedule 34. In Schedule 37, paragraphs 13 and 55, in paragraph 65(2), paragraph (b) and the word "and" immediately preceding it, paragraph 76 and paragraph 131.
School Inspections Act 1996 (c. 57).	In section 3(3), the word "and" at the end of paragraph (a). In section 6(3), the word "and" at the end of paragraph (a). In section 10, subsection (3)(e) and, in subsection (4B), paragraph (f) and the preceding "or". In section 11(5), in paragraph (a), "(e)" and paragraph (b). In section 15(4)(c) the words "except where the school is a maintained nursery school". In section 16(3), the word "and" preceding paragraph (d). In section 20(3), paragraph (b) and the preceding "or". In section 21— in subsection (3)(b) the words "except in the case of a maintained nursery school", and in subsection (4), paragraph (b) and the preceding "or". In Schedule 3, in the definition of "appropriate authority" in paragraph 1, paragraph (b), and in paragraph (c), "(e)".
Education Act 1997 (c. 44).	Chapter 1 of Part 4. Section 49. In Schedule 7, paragraphs 8, 9(3), 14, 27, 28 and 36.
Police Act 1997 (c. 50).	In section 113— (a) in subsection (3A), paragraph (a)(ii) and (iii), and (b) in subsection (3B), paragraph (c) and the words from "and the reference" to the end. Section 115(6A)(a)(ii) and (iii).
Teaching and Higher Education Act 1998 (c. 30).	Section 1(8). In section 3— (a) the words "within the meaning of section 218(2) of the Education Reform Act 1988", and (b) subsection (3)(c). Section 10. Section 11. Section 13. Section 18. In Schedule 2, paragraph 1(5). In Schedule 3, paragraph 5.

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School Standards and Framework Act 1998 (c. 31).	Section 3. Section 7(10). Section 10(3) and (7). In section 11, in subsection (2) the words from "and" to the end, and subsection (3). Section 16(4) and (13). In section 22(1), in paragraph (b) the words "under section 28 or 31" and in paragraph (c) the words "under section 28". In section 33(1), the word "and" at the end of paragraph (b). Sections 36 to 44. Section 46. In section 52(2), the word "and" at the end of paragraph (b). Sections 54 to 57. In section 63, in subsections (1) and (3) the word "unauthorised" and, in subsection (4), the definition of "unauthorised absence". Sections 64 to 68. In section 84(6), the definition of "the relevant standard number". Section 86(3)(b) and (6). Section 91. Section 93. Section 115. In section 119(5), the word "and" at the end of paragraph (a). In section 120(2)(a), the words "of proposals" and "and". In section 121, in subsection (1), the words "the authority's statement of proposals" and in subsection (9) the words "early years development". Section 127(6)(e), (f), (h), (i) and (k). In section 138— (a) in subsection (2)(b), the words "paragraph 3(5) or 4 of Schedule 10", (b) in subsection (4)(b), the words "paragraph 4 or 8 of Schedule 23 or", and (c) in subsection (5), paragraph (a) (ii) and (iii) and, in paragraph (b)(ii), the word "46". In section 143, the entries relating to local schools budget and relevant standard number. In Schedule 4, paragraph 5(4)(e). In Schedule 6— in paragraph 3(2), the word "or" at the end of paragraph (b); in paragraph 4(3), the word "or" at the end of paragraph (d); in paragraph 4(5), the word "or" at the end of paragraph (a); in paragraph 5(9), the words "or (8)";

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	in paragraph 10(6), the words "or (5)". Schedules 9 to 13. Schedules 16 to 18. Schedules 23 to 25. In Schedule 26, in paragraph 1, sub-paragraph (1)(c) and the word "or" preceding it, and paragraphs 6(4), 8(9) and 15. In Schedule 28, paragraph 4(1) and Part 2. In Schedule 30— paragraph 3(3), paragraph 14, paragraph 17, paragraph 47(a), paragraph 56, in paragraph 74 sub-paragraphs (2) and (3) and in sub-paragraph (4) paragraph (b) and the word "and" preceding it, paragraphs 85 to 90, paragraph 133(b), paragraph 194(3)(a)(ii), paragraph 204(b).
Protection of Children Act 1999 (c. 14).	Section 5. In section 7— (a) subsection (1)(a)(ii) and (iii), (b) the word "and" immediately preceding subsection (2)(c), and (c) subsection (4). In section 9(2), the word "or" at the end of paragraph (d). In section 12(2), the definition of "the 1988 Act".
Employment Relations Act 1999 (c. 26).	Section 40.
Immigration and Asylum Act 1999 (c. 33).	In Schedule 14, paragraph 117.
Care Standards Act 2000 (c.14).	Section 100. In Schedule 4, paragraph 24.
Learning and Skills Act 2000 (c. 21).	Sections 130 to 132. Section 148(2). In Schedule 7, in paragraph 35(1), the word "or" at the end of paragraph (b). Schedule 8. In Schedule 9, paragraphs 18, 26, 30, 35 and 58, in paragraph 59, sub-paragraphs (6)(b), (7)(b) and (c) and (8), and paragraph 91.
Criminal Justice and Court Services Act 2000 (c. 43).	Section 35(5). In Schedule 7, paragraph 83.

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Changes and effects yet to be applied to :

- Pt. 7 omitted by 2021 asc 4 Sch. 2 para. 45
- s. 1(3) words substituted by 2008 c. 25 Sch. 1 para. 14
- s. 29 coming into force by S.I. 2002/2002 art. 4 (Effect not applied to legislation.gov.uk. The commencement of s. 29 is revoked (29.7.2002) by S.I. 2002/2018, art. 2)
- s. 29(1) words inserted by 2009 c. 22 s. 260(2) (This amendment not applied to legislation.gov.uk. S. 250 omitted (1.9.2012) by virtue of 2011 c. 21, s. 29(9)(d); S.I. 2012/1087, art. 3)
- s. 29(2) words substituted by 2009 c. 22 s. 260(3) (This amendment not applied to legislation.gov.uk. S. 250 omitted (1.9.2012) by virtue of 2011 c. 21, s. 29(9)(d); S.I. 2012/1087, art. 3)
- s. 32(1) omitted by 2015 c. 20 Sch. 16 para. 3(2)
- s. 32(2) words substituted by 2015 c. 20 Sch. 16 para. 3(3)
- s. 32(3)(a) words substituted by 2015 c. 20 Sch. 16 para. 3(4)
- s. 46 coming into force by S.I. 2003/2961 art. 5Sch. Pt. 2 (S. 46 was commenced wholly for W on 1.12.2003 by 2003 SI2961, art. 4, Sch. Pt. 1)
- s. 52(2) restricted by S.I. 2003/3246 reg. 4
- s. 86(a) words substituted by 2006 c. 40 s. 74(2)(a)
- s. 86(b) words substituted by 2006 c. 40 s. 74(2)(b)
- s. 88 amendment to earlier affecting provision 2006 c. 40 s. 74(3) by 2008 c. 25 Sch. 1 para. 87
- s. 88(1) s. 88 renumbered as s. 88(1) by 2006 c. 40 s. 74(3)
- s. 101(1)(ba)(bb) inserted by S.I. 2003/932 art. 2
- s. 101(1)(bb) text amended by S.I. 2008/1899 art. 2
- s. 105(1) disapplied by S.I. 2008/1736 reg. 3
- s. 105(2) disapplied by S.I. 2008/1736 reg. 3
- s. 105(3) disapplied by S.I. 2008/1736 reg. 3
- s. 105(3)(a) text amended by S.I. 2008/1899 art. 3(a)
- s. 105(3)(e) text amended by S.I. 2008/1899 art. 3(c)
- s. 105(3)(aa) inserted by S.I. 2008/1899 art. 3(b)
- s. 131(1) words inserted by 2014 anaw 5 Sch. 3 para. 1(3)
- s. 131(7) repealed by 2014 anaw 5 Sch. 3 para. 3
- s. 143 coming into force by S.I. 2003/2961 art. 5Sch. Pt. 2 (Effect not applied to legislation.gov.uk. S. 143 is already wholly in force for W. at 31.3.2003 by S.I. 2002/3185, art. 5, Sch. Pt. 2)
- s. 162 modified by S.I. 2003/3230 reg. 9
- s. 173 omitted by 2018 anaw 2 Sch. 1 para. 6(d)(i)
- s. 176(1) words substituted by 2008 c. 25 s. 158(c)
- s. 176(1)(a) words inserted by 2008 c. 25 s. 158(a)
- s. 176(1)(b) repealed by 2008 c. 25 s. 158(b)Sch. 2
- s. 176(3) words substituted by 2006 c. 21 Sch. 2 para. 42
- s. 194(2) omitted by 2018 anaw 2 Sch. 1 para. 6(d)(ii)
- s. 210(6A) words omitted by 2021 asc 4 Sch. 2 para. 46(2)(a)
- s. 210(6A) words omitted by 2021 asc 4 Sch. 2 para. 46(2)(b)
- s. 210(6AB) omitted by 2021 asc 4 Sch. 2 para. 46(3)
- Sch. 7 para. 6(3) omitted by 2018 anaw 2 Sch. 1 para. 6(d)(iii)

- Sch. 12 para. 15(2) repealed by 2003 c. 44 Sch. 37 Pt. 11
- Sch. 13 para. 8(2) repealed by 2003 c. 44 Sch. 37 Pt. 11
- Sch. 17 para. 1 cross-heading repealed by 2009 c. 22 Sch. 16 Pt. 4
- Sch. 17 para. 9 cross-heading repealed by 2009 c. 22 Sch. 16 Pt. 4
- Sch. 18 para. 1-3 omitted by 2018 anaw 2 Sch. 1 para. 6(d)(iv)
- Sch. 18 para. 6 omitted by 2018 anaw 2 Sch. 1 para. 6(d)(iv)
- Sch. 18 para. 15 omitted by 2018 anaw 2 Sch. 1 para. 6(d)(iv)
- Sch. 18 para. 17 and cross-heading omitted by 2018 anaw 2 Sch. 1 para. 6(d)(iv)
- Sch. 18 para. 18 omitted by 2018 anaw 2 Sch. 1 para. 6(d)(iv)
- Sch. 21 para. 36-44 omitted by 2018 anaw 2 Sch. 1 para. 6(d)(vi)
- Sch. 21 para. 58 omitted by 2018 anaw 2 Sch. 1 para. 6(d)(vi)
- Sch. 21 para. 6 repealed by 2004 c. 22 Sch.
- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1 by S.I. 2004/571 Sch.
- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1A and 2 by S.I. 2005/2570 art. 2

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 27(1A) inserted by 2010 c. 26 s. 4(1)
- s. 29(2A)-(2D) inserted by 2009 c. 22 s. 260(4) (This amendment not applied to legislation.gov.uk. S. 250 omitted (1.9.2012) by virtue of 2011 c. 21, s. 29(9)(d); S.I. 2012/1087, art. 3)
- s. 29B inserted by 2008 c. 25 s. 157
- s. 8585A substituted for s. 85 by 2006 c. 40 s. 74(1)
- s. 85A amendment to earlier affecting provision 2006 c. 40 s. 74(1) by 2011 c. 21 s. 31(2)
- s. 85A(5) words substituted by 2009 c. 22 Sch. 12 para. 34
- s. 86(1) s. 86 renumbered as s. 86(1) by 2006 c. 40 s. 74(2)(c)
- s. 86(2) inserted by 2006 c. 40 s. 74(2)(c)
- s. 88(2)-(7) inserted by 2006 c. 40 s. 74(3)
- s. 88(7) repealed by S.I. 2010/1080 Sch. 1 para. 45Sch. 2 Pt. 1 (This amendment not applied to legislation.gov.uk. The insertion of s. 88(2)-(7) by 2006 c. 40, s 74(3) was repealed without ever being brought into force.)
- s. 142(9)(b) words substituted by S.I. 2010/1158 Sch. 2 para. 11(10)(b)
- s. 210A inserted by 2008 c. 25 Sch. 1 para. 79