

SCHOOL STANDARDS AND ORGANISATION (WALES) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 - Standards

Chapter 2 - Intervention in Local Authorities

31. This Chapter sets out the circumstances in which the Welsh Ministers can intervene in the way a local authority is exercising its education functions (which are those functions set out in Schedule 36A to the Education Act 1996).

Section 21 – Grounds for intervention

32. This section sets out the grounds for intervention that must exist for the Welsh Ministers to intervene in a local authority. These grounds replace the grounds for intervention in local authorities set out in sections 496 to 497A of the Education Act 1996 for Wales. If one or more these grounds exist, the Welsh Ministers will be able to begin the process for intervention.
33. Sections 496 to 497A of the Education Act 1996 will now apply only to local authorities in England.

Section 22 – Warning notice

34. This section provides that if one or more of the three grounds set out in section 21 exist, the Welsh Ministers may issue a warning notice to the local authority and specifies what information a warning notice must contain. The warning notice must, among other things, explain why the Welsh Ministers consider the grounds for intervention exist and what the local authority must do to deal with them. A warning notice is generally the start of the intervention process by the Welsh Ministers in a local authority, and may lead to the Welsh Ministers' powers of intervention being exercised.

Section 23 – Power of Welsh Ministers to intervene

35. This section sets out the circumstances where the powers to intervene in a local authority may be exercised by the Welsh Ministers. The powers of intervention are set out in sections 24 to 28.
36. Where the Welsh Ministers are satisfied that one or more of grounds 1 to 3 exist, and they have complied with the warning notice procedure set out in section 22, then they may exercise their powers of intervention. However, if the Welsh Ministers believe that one or more of grounds 1 to 3 exist, and also believe there is a related risk to health and safety of any person that calls for urgent action, or that the local authority is unlikely to be able to comply or secure compliance with a warning notice, then they do not have to comply with the warning notice procedure before exercising their powers of intervention.

Section 24 – Power to require local authority to obtain advisory services

37. This section replaces the intervention power in section 63 of the Education Act 2002 and provides a power for the Welsh Ministers to direct the local authority to obtain advisory services from a third party.

Section 25 – Power to require performance of functions by other persons on behalf of authority

38. This section provides a power for Welsh Ministers to direct a local authority to use the services of a third party to carry out its functions.

Section 26 – Power to require performance of functions by Welsh Ministers or nominee

39. This section allows the Welsh Ministers to direct that a local authority's functions are carried out by the Welsh Ministers or by a person nominated by the Welsh Ministers.

Section 27 – Power to direct exercise of other education functions

40. **Section 27** enables the Welsh Ministers, when issuing directions under section 25 or 26, to include directions that relate to any of the local authority's education functions, and not just those functions to which the powers to intervene relate.

Section 28 – General power to give directions and take steps

41. Where the power to intervene exists this section provides a general power to give directions to a local authority and take steps in relation to it. The taking of steps enables Welsh Ministers to do other things they consider might help to deal with the grounds for intervention other than making a direction.

Section 30 – Duty to co-operate

42. This section, which requires local authorities and governing bodies to assist with the action required to comply with directions, replaces section 497AA of the Education Act 1996 (power to secure proper performance: duty of authority where directions contemplated) with some amendments.

Section 31 – Powers of entry and inspection

43. This section, which sets out rights of access in connection with the carrying out of directions, replaces section 497B of the Education Act 1996 (power to secure proper performance: further provisions) with some amendments.