



# Education Act 2002

## 2002 CHAPTER 32

### PART 11

#### MISCELLANEOUS AND GENERAL

##### *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 <sup>F1</sup>local authority], or
  - (b) the governing body of a further education institution.
- (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**

- F1** 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**

- I1** S. 202 in force at 1.8.2003 except in relation to W. by [S.I. 2003/1667](#), [art. 3](#)
- I2** S. 202 in force at 1.9.2003 for W. by [S.I. 2003/1718](#), [art. 5](#), [Sch. Pt. II](#)

*Changes to legislation: Education Act 2002, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 06 April 2024. 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*

### 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.

[<sup>F2</sup>(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 [<sup>F3</sup>and "proprietor" has the same meaning as in the Education Act 1996].

#### Textual Amendments

**F2** 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

**F3** 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

**I3** S. 203 in force at 1.8.2003 except in relation to W. by [S.I. 2003/1667](#), art. 3

**I4** S. 203 in force at 1.9.2003 for W. by [S.I. 2003/1718](#), art. 5, [Sch. Pt. II](#)

### 204 Baseline assessments

Chapter 1 of Part 4 of the Education Act 1997 (c. 44) (baseline assessments) shall cease to have effect.

#### Commencement Information

**I5** S. 204 in force at 2.9.2002 for E. by [S.I. 2002/2002](#), art. 4

**I6** 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.

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#### Commencement Information

- 17** 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.](#))
- 18** 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

- 19** 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.](#))
- 110** S. 206 in force at 1.9.2003 for W. by [S.I. 2003/1718](#), [art. 5](#), [Sch. Pt. II](#)

## 207 Recoupment: adjustment between [<sup>F4</sup>local authorities]

- (1) Regulations may provide, in relation to cases where any provision for education to which this section applies is made by a [<sup>F1</sup>local authority] (in this section referred to as “the providing authority”) in respect of a person who belongs to the area of another [<sup>F1</sup>local authority], for requiring or authorising the other authority (in this section referred to as the “home authority”) to pay to the providing authority—
- such amount as the authorities may agree, or
  - failing agreement, such amount as may be determined by or under the regulations.
- (2) This section applies to [<sup>F5</sup>—
- primary education;
  - secondary education;
  - 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—
- to reflect the whole or any part of the average costs incurred by [<sup>F4</sup>local authorities] in the provision of education (whether in England and Wales as a whole or in any particular area or areas), and
  - to be based on figures for average costs determined by such body or bodies representing [<sup>F4</sup>local 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—

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- (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 [<sup>F4</sup>local 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

- F1** 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\(2\)](#)
- F4** 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\(3\)](#)
- F5** 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

- I11** S. 207 in force at 1.4.2003 except in relation to W. by [S.I. 2003/124](#), [art. 4](#)
- I12** 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—
- “(2) Subsection (3) of section 207 of the Education Act 2002 (recoupment: adjustment between [<sup>F4</sup>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.

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**Textual Amendments**

- F4** 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**

- I13** S. 208 in force at 1.4.2003 except in relation to W. by [S.I. 2003/124](#), **art. 4**
- I14** S. 208 in force at 9.1.2004 for W. by [S.I. 2003/2961](#), **art. 7, Sch. Pt. IV**

**<sup>F7</sup><sup>F6</sup>208A Recoupment: adjustment between [<sup>F4</sup>local authorities] and the YPLA**

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**Textual Amendments**

- F4** 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)**
- F6** 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)
- F7** 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

**<sup>F8</sup>209 Paid chairmen for local learning and skills councils**

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**Textual Amendments**

- F8** 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)

**Commencement Information**

- I15** S. 209 in force at 1.4.2003 by [S.I. 2003/124](#), **art. 3**

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- 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](#)