



Education Act 2005

2005 CHAPTER 18

PART 4

MISCELLANEOUS

Maintained schools

101 Funding of maintained schools

Schedule 16 contains amendments relating to the funding by local education authorities of schools maintained by them.

102 LEA targets: England

- (1) The Secretary of State may by regulations require local education authorities in England to set annual targets in respect of the educational performance—
 - (a) of pupils at schools maintained by them, and
 - (b) of any persons of compulsory school age (whether or not pupils at such schools) who are or have been looked after by them.
- (2) Regulations under this section may in particular—
 - (a) specify the matters in respect of which targets are required to be set;
 - (b) require proposed targets to be notified to the Secretary of State by a prescribed time;
 - (c) authorise the Secretary of State—
 - (i) to modify any proposed target notified to him, or
 - (ii) to require a local education authority to modify the proposed targets and to notify him of the proposed targets as modified;
 - (d) require the targets to be set by a prescribed time;
 - (e) require local education authorities to publish, in such manner as may be specified in the regulations, any targets which they set.

Status: This is the original version (as it was originally enacted).

- (3) In subsection (1), “looked after” is to be read in accordance with section 22 of the Children Act 1989 (c. 41).

103 Removal of requirements for governors' reports and parents' meetings

- (1) In section 30 of the 2002 Act (governors' report and other information)—
- (a) in subsections (1) and (2)(a), after “maintained school” insert “in Wales”,
 - (b) in subsections (3) and (4), after “maintained school” insert “(in England or Wales)”, and
 - (c) in the heading, insert “(Wales)” after “reports”.
- (2) In section 33 of the 2002 Act (annual parents' meetings)—
- (a) in subsection (1), after “maintained school” insert “in Wales”, and
 - (b) in the heading, after “meetings” insert “: Wales”.
- (3) The Assembly may by order—
- (a) repeal either or both of the following provisions of the 2002 Act—
 - (i) section 30(1) and (2) (as amended by subsection (1)(a) of this section), and
 - (ii) section 33 (as amended by subsection (2) of this section), and
 - (b) make such amendments of any other enactment as appear to the Assembly to be necessary or expedient in consequence of any repeal made by virtue of paragraph (a).

104 School profiles

After section 30 of the 2002 Act insert—

“30A School profiles

- (1) The governing body of a maintained school in England shall prepare and publish a document (a “school profile”) containing—
- (a) such information as the Secretary of State may provide to the governing body for inclusion in the profile,
 - (b) information provided by the governing body about such matters relating to the school as the Secretary of State may specify for the purposes of this paragraph, and
 - (c) such other information about the school as may be prescribed (which may include information to be provided by persons other than the Secretary of State).
- (2) Regulations may—
- (a) specify the time by which the school profile must be published,
 - (b) require the school profile to contain statements by the governing body as to prescribed matters,
 - (c) prescribe the form of the school profile and the manner in which it is to be published,
 - (d) require the governing body to give copies of the school profile to such persons as may be prescribed, and

- (e) require the governing body to revise the school profile in accordance with the regulations at prescribed times and to publish the school profile as revised.
- (3) In exercising any function conferred by or under this section, a governing body shall have regard to any guidance given from time to time by the Secretary of State.”

105 Provision and funding of higher education in maintained schools

After section 28 of the 2002 Act insert—

“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).”

106 Admission arrangements to make special provision for looked-after children

In section 89 of the School Standards and Framework Act 1998 (c. 31) (procedure for determining admission arrangements) after subsection (1) insert—

- “(1A) Regulations may require the admission authorities for maintained schools to include in their admission arrangements such provision relating to the admission of children who are looked after by a local authority (within the meaning of section 22 of the Children Act 1989) as may be prescribed, which may in particular include provision for securing that, subject to sections 86(3) and (3A) and 87 (cases where duty to comply with parental preference does not apply), such children are to be offered admission in preference to other children.”

Status: This is the original version (as it was originally enacted).

107 Restrictions on disposal of land

Schedule 17 contains amendments of Schedule 22 to the School Standards and Framework Act 1998 (which makes provision as to the disposal of land held for the purposes of foundation, voluntary or foundation special schools and as to the property of maintained schools on their discontinuance).

Information

108 Supply of information: education maintenance allowances

- (1) This subsection applies to information which—
 - (a) is held for the purposes of functions relating to tax or tax credits—
 - (i) by the Commissioners of Inland Revenue, or
 - (ii) by a person providing services to the Commissioners of Inland Revenue, in connection with the provision of those services, or
 - (b) is held for the purposes of functions relating to social security—
 - (i) by the Secretary of State or a Northern Ireland department, or
 - (ii) by a person providing services to the Secretary of State or such a department, in connection with the provision of those services.
- (2) Information to which subsection (1) applies may be supplied to a person falling within subsection (3) for use for purposes relating to eligibility for education maintenance allowances.
- (3) The following persons fall within this subsection—
 - (a) the Secretary of State,
 - (b) the Learning and Skills Council for England,
 - (c) the Assembly,
 - (d) a Northern Ireland department,
 - (e) the Scottish Ministers, and
 - (f) any person providing services to the Secretary of State, the Learning and Skills Council for England, the Assembly, a Northern Ireland department or the Scottish Ministers.
- (4) Information received by virtue of subsection or this subsection (2) by a person other than the Scottish Ministers may be supplied to a person falling within subsection (5) for use for purposes relating to eligibility for education maintenance allowances.
- (5) The following persons fall within this subsection—
 - (a) the Assembly,
 - (b) a Northern Ireland department,
 - (c) the Scottish Ministers,
 - (d) any person by whom functions in relation to education maintenance allowances falling within subsection (8)(a) are exercisable by virtue of section 14 or 17 of the 2002 Act,
 - (e) any person by whom functions under regulations under section 181 of the 2002 Act are exercisable by virtue of section 183 or 184 of that Act, and
 - (f) any person providing services to the Assembly or a Northern Ireland department.

- (6) A person other than the Scottish Ministers may, in making any request for the supply to him of information by virtue of subsection (2) or (4), supply to any person who holds, or is to be supplied with, the information—
- (a) the name, address and date of birth of any person to whom the request relates (“the student”),
 - (b) the name, address and date of birth of—
 - (i) any parent of the student, or
 - (ii) any other person whose financial circumstances are relevant to the student’s eligibility for an education maintenance allowance, and
 - (c) any other information (whether relating to the student, any parent of his or any person falling within paragraph (b)(ii)) which is required for the purpose of determining the student’s eligibility for an education maintenance allowance.
- (7) This section does not limit the circumstances in which information may be supplied apart from this section.
- (8) In this section and section 109 “education maintenance allowance” means—
- (a) financial assistance under section 14 of the 2002 Act paid to or in respect of a person who is over compulsory school age in connection with his undertaking any course of education or training,
 - (b) an allowance under section 181 of the 2002 Act,
 - (c) an award under Article 51(1)(b) of the [Education and Libraries \(Northern Ireland\) Order 1986 \(No. 594/NI 3\)](#) paid to or in respect of a person who is over compulsory school age (within the meaning of that Order) in connection with his undertaking any course of education or training,
 - (d) an allowance under section 73(f) of the Education (Scotland) Act 1980 (c. 44) paid to or in respect of a relevant person attending a course of education, other than higher education, or
 - (e) financial assistance provided under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992 (c. 37).
- (9) In subsection (8)(d)—
- “higher education” has the same meaning as in Part 2 of the Further and Higher Education (Scotland) Act 1992;
- “relevant person” means a person who—
- (a) is deemed to have attained the age of 16 years under section 33 of the Education (Scotland) Act 1980, and
 - (b) has not, on the first day of the term of the course of education, attained the age of 20 years.

109 Unauthorised disclosure of information received under section 108

- (1) A person (“X”) who discloses information which he has received by virtue of subsection (2) or (4) of section 108 and which relates to a particular person commits an offence unless the information is disclosed—
- (a) in accordance with subsection (4) of that section,
 - (b) in the course of any duty X has in connection with the exercise of functions relating to eligibility for education maintenance allowances,
 - (c) in accordance with an enactment or an order of a court,

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- (d) for the purpose of instituting, or otherwise for the purposes of, civil or criminal proceedings, or
 - (e) with consent given by or on behalf of the person to whom the information relates.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that his disclosure was lawful.
- (3) A person guilty of an offence under subsection is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;
 - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
 - (c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.
- (4) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months.
- (5) The reference in subsection (1)(c) to an enactment includes a reference to an enactment comprised in, or in an instrument made under—
- (a) an Act of the Scottish Parliament, or
 - (b) any Northern Ireland legislation as defined in section 24(5) of the Interpretation Act 1978 (c. 30).

110 Supply of information: free school lunches etc.

- (1) This subsection applies to information held for the purposes of functions relating to tax credits—
- (a) by the Commissioners of Inland Revenue, or
 - (b) by a person providing services to them, in connection with the provision of those services.
- (2) This subsection applies to information held for the purposes of functions relating to social security—
- (a) by the Secretary of State, or
 - (b) by a person providing services to him, in connection with the provision of those services.
- (3) Information to which subsection (1) or (2) applies may be supplied—
- (a) to the Secretary of State, or any person providing services to him, or
 - (b) to the Assembly, or any person providing services to the Assembly,
- for use for the purpose of determining eligibility for free school lunches and milk.
- (4) Information to which subsection (2) applies may be supplied to a local education authority for use for that purpose.
- (5) Information received by virtue of subsection (3) may be supplied—
- (a) to another person to whom it could have been supplied under that subsection,
- or

- (b) to a local education authority,
for use for that purpose.
- (6) The references in subsections (4) and (5)(b) to a local education authority include references to any person exercising on behalf of such an authority functions relating to eligibility for free school lunches and milk.
- (7) For the purposes of this section, a person is eligible for free school lunches and milk if school lunches and milk are required to be provided for him, on request, free of charge—
 - (a) in accordance with section 512ZB(2) and (3) of the Education Act 1996 (c. 56),
 - (b) in accordance with regulations under section 342 of that Act (non-maintained special schools), or
 - (c) in accordance with an agreement under section 482 of that Act (Academies, etc.).
- (8) In this section, “school lunch” has the same meaning as in section 512 of the Education Act 1996.
- (9) This section does not limit the circumstances in which information may be supplied apart from this section.

111 Unauthorised disclosure of information received under section 110

- (1) A person (“X”) who discloses information which he has received by virtue of any of subsections (3) to (5) of section 110 and which relates to a particular person commits an offence unless the information is disclosed—
 - (a) in the case of information received by virtue of subsection (3) of that section, in accordance with subsection (5) of that section,
 - (b) in the course of any duty X has in connection with the exercise of functions relating to eligibility for free school lunches and milk,
 - (c) in accordance with an enactment or an order of a court, or
 - (d) with consent given by or on behalf of the person to whom the information relates.
- (2) In subsection (1)(b), “eligibility for free school lunches and milk” is to be read in accordance with section 110(7).
- (3) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that his disclosure was lawful.
- (4) A person guilty of an offence under subsection (1) is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both.
- (5) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (4)(b) to 12 months is to be read as a reference to 6 months.

Status: This is the original version (as it was originally enacted).

112 Power to provide that function of determining eligibility remains with LEA

In section 512A of the Education Act 1996 (c. 56) (transfer of functions under section 512 of that Act to governing bodies), in subsection (4), for paragraph (b) substitute—

- “(b) if the duty corresponds to the one mentioned in subsection (2)(b) or (c)—
- (i) the order may provide that, notwithstanding the other provisions of the order, the function of determining whether pupils at the school fall within section 512ZB(4) is to be exercisable by the local education authority, and
 - (ii) section 533(3) shall not apply to school lunches or milk provided by the governing body in pursuance of the order.”

113 Information about the school workforce: introductory

- (1) Subsections (2) and (3) apply for the purposes of section 114.
- (2) “Qualifying worker” means any person who—
 - (a) is employed at, or otherwise engaged to work at, a school,
 - (b) does not fall within paragraph (a) but provides, or assists in the provision of, education under a contract of employment or for services where the other party to the contract is—
 - (i) a children’s services authority in England or Wales, or
 - (ii) a person exercising a function relating to the provision of education on behalf of such an authority, or
 - (c) provides education at a further education institution.
- (3) “Qualifying trainee” means a person (other than a qualifying worker as defined in subsection (2)) for whom training as a member of the school workforce is being provided.
- (4) In this section—
 - “contract of employment” has the meaning given by section 230(2) of the Employment Rights Act 1996 (c. 18);
 - “further education institution” means an institution which is—
 - (a) an institution (other than a school) which provides further education, or
 - (b) an institution within the further education sector;
 - “member of the school workforce” has the same meaning as in Part 3.
- (5) In this section and section 114, “children’s services authority in England” and “children’s services authority in Wales” have the same meaning as in the Children Act 2004 (c. 31).

114 Supply of information about school workforce

- (1) Regulations may authorise or require—
 - (a) the proprietor of a school,
 - (b) a children’s services authority in England or Wales, or
 - (c) any prescribed person,

to supply to the relevant person (as defined by subsection (2)) prescribed information relating to persons who are or have been qualifying workers or qualifying trainees, for use by the relevant person for a qualifying purpose.

- (2) In subsection (1) “the relevant person” means one or more of the following—
 - (a) the Secretary of State,
 - (b) the Assembly, or
 - (c) any prescribed person.
- (3) Regulations may authorise the Secretary of State or the Assembly to supply to the other or to any prescribed person, for use for a qualifying purpose, prescribed information relating to persons who are or have been qualifying workers or qualifying trainees.
- (4) A person may not be prescribed for the purposes of subsection (1)(c), (2)(c) or (3) unless—
 - (a) in the case of subsection (1)(c) or (2)(c), he appears to the person making the regulations to be exercising functions of a public nature, or
 - (b) in the case of subsection (3), he appears to the person making the regulations to be exercising such functions or carrying out research which relates to education or training and may be expected to be of public benefit.
- (5) For the purposes of this section, information is supplied to a person for use for a qualifying purpose if it is supplied to him for use for—
 - (a) evaluation, planning, research or statistical purposes, or
 - (b) any other prescribed purpose.
- (6) Regulations may authorise a person falling within subsection (7) to supply to any prescribed person (“the recipient”) any information relating to persons who are or have been qualifying workers or qualifying trainees which—
 - (a) has been lawfully held by the recipient, or
 - (b) is information which another person was, or could have been, required (whether by virtue of regulations under this section or otherwise) to supply to the recipient.
- (7) The following persons fall within this subsection—
 - (a) the Secretary of State,
 - (b) the Assembly, and
 - (c) any prescribed person.
- (8) Regulations may—
 - (a) prohibit any person to whom information is supplied by virtue of this section from further disclosing the information otherwise than in prescribed circumstances, and
 - (b) provide that section 497 of the Education Act 1996 (c. 56) (default powers of Secretary of State or Assembly) is, in relation to the duties imposed by virtue of this section, to have effect as if—
 - (i) the reference in subsection (2)(a) of that section to a local education authority were a reference to a children’s services authority in England or Wales, and
 - (ii) any reference to a body to which that section applies included a reference to a prescribed person.

Status: This is the original version (as it was originally enacted).

(9) This section does not limit the circumstances in which information is authorised or required to be supplied apart from this section.

(10) In this section—

“prescribed” means prescribed by regulations;

“regulations” means—

- (a) in relation to England, regulations made by the Secretary of State, and
- (b) in relation to Wales, regulations made by the Assembly.

Attendance at alternative educational provision

115 Power of governing body to make alternative provision for excluded pupils

In section 29 of the 2002 Act (additional functions of governing body), in subsection (3) (power to require pupils to attend at other places for purpose of education) for “pupils in attendance at the school” substitute “registered pupils”.

116 Failure of parent to secure regular attendance of child at alternative provision

After section 444 of the Education Act 1996 insert—

“444ZA Application of section 444 to alternative educational provision

(1) Where, in the case of a child of compulsory school age who is not a registered pupil at any school—

- (a) a local education authority has made arrangements under section 19 for the provision of education for him otherwise than at a school or at his home, and
- (b) notice in writing of the arrangements has been given to the child’s parent,

subsections (1) to (7) of section 444 have effect as if the place at which the education is provided were a school and the child were a registered pupil at that school.

(2) Where—

- (a) a child of compulsory school age has been excluded from a relevant school,
- (b) he remains for the time being a registered pupil at the school,
- (c) he is required by the appropriate authority for the school to attend at a place outside the school premises for the purpose of receiving any instruction or training, and
- (d) notice in writing of the requirement has been given to the child’s parent,

subsections (1) to (7) of section 444 have effect as if the place at which the child is required to attend were a school and the child were a registered pupil at that school (and not at the school mentioned in paragraph (b)).

(3) In relation to a maintained school or a pupil referral unit—

- (a) the reference in subsection (2)(a) to exclusion is a reference to exclusion under section 52 of the Education Act 2002, and

- (b) the requirement referred to in subsection (2)(c) is a requirement imposed under section 29(3) of that Act.
- (4) A child shall not be taken to have failed to attend regularly—
 - (a) in a case falling within subsection (1), at the place at which education is provided for him, or
 - (b) in a case falling within subsection (2), at the place at which he is required to attend,unless he has failed to attend regularly since the giving of the notice mentioned in subsection (1)(b) or (2)(d).
- (5) Section 572, which provides for the methods by which notices may be served under this Act, does not preclude the notice mentioned in subsection (1)(b) or (2)(d) from being given to a child’s parent by any other effective method.
- (6) In proceedings for an offence under section 444 in a case falling within subsection (1) of this section, the parent shall be acquitted if he proves that the child is receiving suitable education otherwise than by regular attendance at a school or at the place mentioned in subsection (1).
- (7) In section 444 “leave”—
 - (a) in relation to a place at which education is provided as mentioned in subsection (1) of this section, means leave granted by any person authorised to do so by the local education authority;
 - (b) in relation to a place at which a child is required to attend as mentioned in subsection (2)(c) of this section, means leave granted by any person authorised to do so by the appropriate authority for the school.
- (8) In this section—
 - (a) “relevant school” means—
 - (i) a maintained school,
 - (ii) a pupil referral unit,
 - (iii) an Academy,
 - (iv) a city technology college, or
 - (v) a city college for the technology of the arts;
 - (b) “appropriate authority” means—
 - (i) in relation to a maintained school, the governing body,
 - (ii) in relation to a pupil referral unit, the local education authority, and
 - (iii) in relation to a school falling within paragraph (a)(iii), (iv) or (v), the proprietor of the school.”

Supplementary

117 Further amendments relating to Part 4

Schedule 18 contains further amendments related to the provisions of this Part.

118 Meaning of “the 2002 Act” in Part 4

In this Part “the 2002 Act” means the Education Act 2002 (c. 32).