

Draft Order laid before Parliament under section 77 of the Deregulation and Contracting Out Act 1994, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2002 No.

CONTRACTING OUT

**Contracting Out (Local Education
Authority Functions) (England) Order 2002**

Made - - - - 2002
Coming into force - - 1st April 2002

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament pursuant to section 77(2) of the Deregulation and Contracting Out Act 1994⁽¹⁾;

Whereas the Secretary of State has consulted such representatives of local authorities as she considers appropriate in accordance with section 70(3)(a) of that Act;

Now, therefore, the Secretary of State for Education and Skills, in exercise of the powers conferred on her by sections 70(2) and (4) and 77 of that Act, hereby makes the following Order—

Citation, commencement and extent

1.—(1) This Order may be cited as the Contracting Out (Local Education Authority Functions) (England) Order 2002 and shall come into force on 1st April 2002.

(2) This Order applies only in relation to England.

Interpretation

2. In this Order references to functions conferred by or under a section of any Act shall include any functions conferred by or under any order or regulation made under that section.

Contracting out of local education authority functions

3. Any function of a local education authority in England which is conferred by or under any of the provisions described in Schedule 1, 2 or 3 to this Order may be exercised by, or by employees of, such person as may be authorised in that behalf by the local education authority whose function it is.

(1) 1994 c. 40.

SCHEDULE 1

Article 3

FUNCTIONS CONFERRED BY OR UNDER THE EDUCATION ACT 1996(c. 56)

- (a) section 18 (power to arrange provision of education at non-maintained schools);
- (b) section 316 (children with special education needs normally to be educated in mainstream schools);
- (c) section 317 (duties of LEA in relation to pupils with special education needs in maintained nursery schools);
- (d) section 317A (duty to inform parent where special educational provision made)
- (e) section 318 (provision of goods and services in connection with special educational needs);
- (f) section 319 (special educational provision otherwise than in schools);
- (g) section 320 (provision of education outside England and Wales for certain children with special educational needs);
- (h) section 321 (general duty of local education authority to identify and assess special educational needs of children for whom they are responsible);
- (i) section 322 (power to request assistance from Health Authority or Local Authority in special educational needs provision)
- (j) section 323 and schedule 26 (assessment of educational needs);
- (k) section 324 and schedule 27 (statement of special educational needs);
- (l) section 325 (local education authority's duty to inform parents of a decision not to statement and their rights to appeal against decision not to statement);
- (m) section 326 (appeal against contents of statement)
- (n) section 326A (duty to take action where appeal not opposed)
- (o) section 328 (reviews of educational needs);
- (p) section 329 (assessment of educational needs at request of child's parent);
- (q) section 329A (assessment of educational needs at request of responsible body)
- (r) section 331 (assessment of educational needs of children under two);
- (s) section 332A (duty to provide advice and information to parent of a child with special educational needs and general duty to provide information on those services to all parents)
- (t) section 332B (duty to make arrangements to resolve disputes)
- (u) section 348 (provision of special education at non-maintained schools);
- (v) section 362 (development work and experiments);
- (w) section 390 (duty of local education authority to constitute a standing advisory council on religious education);
- (x) section 392 (advisory councils: supplementary provisions);
- (y) section 406 (prohibition on political indoctrination in maintained schools);
- (z) section 407 (duty to secure balanced treatment of political issues);
- (aa) section 408 (provision of information);
- (bb) section 409 (duty of the local education authority to make arrangements for the consideration and disposal of complaints);
- (cc) section 433 (time for admissions of pupils);
- (dd) section 435 (withdrawal of pupils from a primary school for secondary education);

- (ee) section 437 (school attendance orders);
- (ff) section 438 (choice of school in a school attendance order: child without statement of special education needs);
- (gg) section 439 (specification of schools in notices under section 438(2));
- (hh) section 440 (amendment of order at request of parent child without statement of special educational needs);
- (ii) section 441 (choice of school: child with statement of special educational needs);
- (jj) section 442 (revocation of order at request of parent);
- (kk) section 453 (examinations: prohibitions of charges and recovery of wasted fees);
- (ll) section 456 (regulation of permitted charges);
- (mm) section 458 (charges for board and lodging at boarding schools);
- (nn) section 499(6), (7), (8) & (9) (duty to arrange election of parent governor representatives onto local education authority committees);
- (oo) section 509 (provision of transport);
- (pp) section 509A (travel arrangements for children receiving nursery education otherwise than at school);
- (qq) section 510 (provision of clothing);
- (rr) section 511 (provisions supplementary to section 510);
- (ss) section 512 (provision of meals etc. at schools maintained by local education authorities);
- (tt) section 513 (provision of meals etc. at schools not maintained by local education authorities);
- (uu) section 514 (provision of board and lodging otherwise than at school);
- (vv) section 517 (payment of fees at schools not maintained by local education authority);
- (ww) section 518 (payment of school expenses, grant or scholarships etc.);
- (xx) section 526 (powers as to educational research);
- (yy) section 527 (powers as to educational conferences);
- (zz) section 528 (duty of local education authority to publish disability statements relating to further education);
- (aaa) section 542 (prescribed standards for school premises);
- (bbb) section 560 (work experience in last years of compulsory schooling); and
- (ccc) section 563 (educational records).

SCHEDULE 2

Article 3

FUNCTIONS CONFERRED BY OR UNDER THE SCHOOL STANDARDS AND FRAMEWORK ACT 1998(c. 31)

- (a) section 6 (duty to prepare an Education Development Plan) except to the extent that the local education authority shall not authorise another person to
 - (i) approve the plan, for the purpose of its submission to the Secretary of State or any Minister for his approval; or
 - (ii) adopt the plan (with or without modification).
- (b) section 14 (powers of intervention exercisable by local education authorities);

- (c) section 15 (cases where local education authorities may exercise powers of intervention);
- (d) section 16 (power of local education authorities appoint additional governors);
- (e) section 17 (power of local education authorities to suspend right to delegate budget);
- (f) section 26(1), (2), (3) & (4) (duty to prepare a draft Schools Organisation Plan and consult on it)
- (g) section 28(5) and paragraph 5, Schedule 6 (consultation on proposals to establish or alter a community or foundation school and implementation of approved proposals)
- (h) section 41 (responsibility for fixing dates of terms and holidays and times of sessions);
- (i) section 42 (governors' reports and other information);
- (j) section 44 (arrangements for government of new schools);
- (k) section 48 and paragraph 1(3) of Schedule 14 (duty to prepare and consult on a scheme for financing of maintained schools).
- (l) section 50 (effect of financial delegation);
- (m) section 51 and schedule 15 (suspension of financial delegation for mismanagement etc.);
- (n) section 52(1), (2), (3a), (4) (duty to prepare statements relating to local education authority's planned expenditure)
- (o) section 54(3), (4) and (5) (staffing of community, voluntary controlled and community special schools where delegated budget suspended);
- (p) section 55 (3) to (7) (staffing of foundation, voluntary aided and foundation special schools where delegated budget suspended);
- (q) section 62 (local education authority's reserve power to prevent a breakdown of discipline);
- (r) section 69 (duty to secure due provision of religious education);
- (s) section 70 and schedule 20 (requirements relating to collective worship);
- (t) section 71 (exceptions and special arrangements; provision for special schools);
- (u) section 80 (local Education Authority's power to consent to provision of further education in maintained schools);
- (v) section 86 (parental preferences);
- (w) section 87 (no requirement to admit children permanently excluded from two or more schools);
- (x) section 88 (admissions authorities and admission arrangements);
- (y) section 92 (publication of information about admission);
- (z) section 96 (direction to admit child to specified school);
- (aa) section 97 (procedure for giving direction under section 96); and
- (bb) section 105 (duty to provide information in relation to grammar school ballots);
- (cc) section 120 (duty to prepare an Early Years Development Plan) except to the extent that the local education authority shall not authorise another person to adopt the plan (with or without modification).

SCHEDULE 3

Article 3

FUNCTIONS CONFERRED BY OR UNDER MISCELLANEOUS ENACTMENTS

Functions conferred on a local education authority by or under any of the following provisions:

- (a) section 16 of the School Inspections Act 1996⁽²⁾ (duty of local education authority to make reports available to the public),
- (b) section 17 of the School Inspections Act 1996 (special measures by appropriate authority);
- (c) section 18 of the School Inspections Act 1996 (additional special measures by the local education authority);
- (d) section 20 of the School Inspections Act 1996 (destination of reports);
- (e) section 21 of the School Inspections Act 1996 (special measures by appropriate authority in the case of certain schools);
- (f) section 24 of the School Inspections Act 1996 (power to provide school inspection service)
- (g) section 25(1) of the School Inspections Act 1996 (power of LEA to inspect maintained school for specific purpose);
- (h) section 16 of the Education Act 1997⁽³⁾ (adoption and preparation of baseline assessment schemes);
- (i) section 18 of the Education Act 1997 (regulations in relation to assessments and pupils performance);
- (j) section 39 of the Education Act 1997 (reports of inspections under section 38 and action plan by LEA);
- (k) section 43 of the Education Act 1997 (provision of careers education in pupil referral units);
- (l) section 55 of the Further and Higher Education Act 1992⁽⁴⁾ (inspection and duty to review standards of local education authority institutions, other than schools);
- (m) section 23 of the Learning and Skills Act 2000⁽⁵⁾ (duty of local education authorities to provide education for residents over 19 in accordance with a section 22 plan);
- (n) section 65(8) of the Learning and Skills Act 2000 (area inspections);
- (o) section 67(3) of the Learning and Skills Act 2000 (action plans following section 65 inspection) except to the extent that the local education authority shall not authorise another person to adopt the plan (with or without modification);
- (p) section 113 and part I of schedule 7 of the Learning and Skills Act 2000 (inadequate sixth forms).
- (q) section 28C of the Disability Discrimination Act 1995⁽⁶⁾ (duty to ensure that disabled pupils are not substantially disadvantaged at schools)
- (r) Section 28D (1), (2), (3), (5) & (6) of the Disability Discrimination Act 1995 (duty to prepare an accessibility strategy in relation to schools) except to the extent that the local education authority shall not authorise another person to adopt the plan (with or without modification);
- (s) Section 28T of the Disability Discrimination Act 1995 (duty to ensure that disabled students in higher and further education are not substantially disadvantaged at their educational institutions).

(2) 1996 c. 57
(3) 1997 c. 44
(4) 1992 c. 13
(5) 2000 c. 21
(6) 1995 c. 50

EXPLANATORY NOTE

(This note is not part of the Order)

This Order enables a local education authority in England to authorise another person, or that person's employees, to exercise certain functions of local education authorities on behalf of that authority. Those functions are listed by reference to the statutory provisions which give local education authorities those functions in the 3 Schedules to this Order. Schedule 1 lists the functions conferred by the Education Act 1996, Schedule 2 lists the functions conferred by the School Standards and Framework Act 1998 and Schedule 3 lists the functions conferred by other enactments