



Education Act 1996

1996 CHAPTER 56

PART I

GENERAL

CHAPTER I

THE STATUTORY SYSTEM OF EDUCATION

Educational institutions

4 Schools: general.

[^{F1}(1) In this Act [^{F2}(subject to [^{F3}subsections (1A) to (1C)])] “school” means an educational institution which is outside the further education sector and the higher education sector and is an institution for providing—

- (a) primary education,
- (b) secondary education, or
- (c) both primary and secondary education,

whether or not the institution also provides [^{F4}part-time education suitable to the requirements of junior pupils or] further education.]

[^{F5}(1A) An institution which—

- (a) provides only early years provision (as defined by section 96(2) of the Childcare Act 2006), and
 - (b) is not a maintained nursery school,
- is not a school.]

[^{F6}(1B) A 16 to 19 Academy is not a school.

(1C) An alternative provision Academy is a school.]

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- (2) ^{F7}Nothing in subsection (1) shall be taken to preclude the making of arrangements under section 19(1) (exceptional educational provision) under which part-time education is to be provided at a school; and for] the purposes of this Act an educational institution that would fall within subsection (1) but for the fact that it provides part-time rather than full-time education shall nevertheless be treated as a school if that part-time education is provided under arrangements made under section 19(1) ^{F8}. . .
- (3) For the purposes of this Act an institution is outside the further education sector if it is not—
- (a) an institution conducted by a further education corporation established under section 15 or 16 of the ^{M1}Further and Higher Education Act 1992, or
 - (b) a designated institution for the purposes of Part I of that Act (defined in section 28(4) of that Act) ^{F9}, or
 - (c) a sixth form college]
- and references to institutions within that sector shall be construed accordingly.
- (4) For the purposes of this Act an institution is outside the higher education sector if it is not—
- (a) a university receiving financial support under section 65 of that Act,
 - (b) an institution conducted by a higher education corporation within the meaning of that Act, or
 - (c) a designated institution for the purposes of Part II of that Act (defined in section 72(3) of that Act) ^{F10}, or
 - (d) a university to which an approved plan, within the meaning given in section 7 of the Higher Education (Wales) Act 2015, relates.]
- and references to institutions within that sector shall be construed accordingly.

Annotations:

Amendments (Textual)

- F1** S. 4(1) substituted (1.9.1997) by 1997 c. 44, s. 51; S.I. 1997/1468, art. 2, **Sch. 1 Pt. II**
- F2** Words in s. 4(1) inserted (1.9.2008) by **Childcare Act 2006 (c. 21), ss. 95(2)**, 109(2); S.I. 2008/2261, art. 2 (with **Sch. 1**)
- F3** Words in s. 4(1) substituted (1.4.2012) by **Education Act 2011 (c. 21)**, s. 82(3), **Sch. 13 para. 9(2)(a)**; S.I. 2012/924, art. 2
- F4** Words in s. 4(1) repealed (1.10.2002 for E., 31.3.2004 for W.) by **Education Act 2002 (c. 32)**, s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 4, **Sch. Pt. 1**
- F5** S. 4(1A) inserted (1.9.2008) by **Childcare Act 2006 (c. 21), ss. 95(3)**, 109(2); S.I. 2008/2261, art. 2 (with **Sch. 1**)
- F6** S. 4(1B)(1C) inserted (1.4.2012) by **Education Act 2011 (c. 21)**, s. 82(3), **Sch. 13 para. 9(2)(b)**; S.I. 2012/924, art. 2
- F7** Words in s. 4(2) substituted (1.9.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 10(a)**; S.I. 1998/386, art. 2, **Sch. 1 Pt. IV**
- F8** Words in s. 4(2) repealed (1.9.1998) by 1997 c. 44, s. 57(1)(4), **Sch. 7 para. 10(b)**, **Sch. 8**; S.I. 1998/386, art. 2, **Sch. 1 Pt. IV**
- F9** S. 4(3)(c) and word 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. 97** (with art. 2(3))
- F10** S. 4(4)(d) and word inserted (1.8.2017) by **Higher Education (Wales) Act 2015 (anaw 1)**, s. 59(2), **Sch. para. 5**; S.I. 2017/239, art. 2

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Modifications etc. (not altering text)

C1 S. 4(1) restricted (1.9.2000 (E.) and 1.4.2001 (W.)) by 2000 c. 21, s. 110(3) (with s. 150); S.I. 2000/2114, art. 2(3), **Sch. Pt. III**; S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

Marginal Citations

M1 1992 c. 13.

5 Primary schools, secondary schools and middle schools.

(1) In this Act “primary school” means (subject to regulations under subsection (4)) a school for providing primary education, whether or not it also provides [^{F11}part-time education suitable to the requirements of junior pupils or] further education.

(2) In this Act “secondary school” means (subject to regulations under subsection (4)) a school for providing secondary education, whether or not it also provides further education.

[^{F12}(3) In this Act “middle school” means a school which, in pursuance of proposals published under any of the enactments specified in subsection (3A), has been established as, or altered so as to become, a school for providing full-time education suitable to the requirements of pupils who—

- (a) have attained a specified age below 10 years and six months, and
- (b) are under a specified age above 12 years.

(3A) The enactments mentioned in subsection (3) are—

- (a) in relation to England—
 - (i) section 28 or 28A of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998,
 - (ii) section 66 of, or paragraph 7 of Schedule 11 to, the Education Act 2005, and
 - (iii) section 7, 10, 11 or 19 of the Education and Inspections Act 2006;
- (b) in relation to Wales,
 - [^{F13}(i) section 28 of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998]^{F14}, and
 - (ii) section 48, 59 or 68 of the School Standards and Organisation (Wales) Act 2013]]

(4) The Secretary of State shall make regulations for determining, or enabling him to determine, whether a middle school is to be treated for the purposes of this Act and the other enactments relating to education as a primary school or as a secondary school.

(5) [^{F15}The powers conferred by the enactments mentioned in subsection (3) (so far as relating to the establishment of middle schools) and the powers conferred by subsection] (4) above are exercisable—

- (a) notwithstanding anything in this Act (and in particular section 1); but
- (b) without prejudice to the exercise of any other power conferred by this Act.

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Annotations:

Amendments (Textual)

- F11** Words in s. 5(1) repealed (1.10.2002 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), art. 3; [S.I. 2004/912](#), art. 4, Sch. Pt. 1
- F12** S. 5(3)(3A) substituted for s. 5(3) (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 7\(2\)](#); [S.I. 2007/935](#), art. 7(o)
- F13** Words in s. 5(3A)(b) renumbered as s. 5(3A)(b)(i) (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 17\(2\)\(a\)](#); [S.I. 2013/1800](#), art. 3(j)
- F14** S. 5(3A)(b)(ii) and word inserted (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 17\(2\)\(b\)](#); [S.I. 2013/1800](#), art. 3(j)
- F15** Words in s. 5(5) substituted (1.9.2006) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 12 para. 1\(3\)](#); [S.I. 2006/2129](#), art. 4

6 Nursery schools ^{F16}

- (1) A primary school is a nursery school if it is used [^{F17}wholly or] mainly for the purpose of providing education for children who have attained the age of two but are under [^{F18}compulsory school age].

^{F19}(2)

Annotations:

Amendments (Textual)

- F16** Words in s. 6 title omitted (1.9.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 3 para. 2\(3\)](#); [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](#)))
- F17** Words in s. 6(1) inserted (1.10.2002 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 156\(1\)](#), [216\(4\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), art. 3; [S.I. 2004/912](#), art. 4, Sch. Pt. 1
- F18** Words in s. 6(1) substituted (1.8.1998) by [1997 c. 44](#), s. 51(1), [Sch. 7 para. 11](#); [S.I. 1998/386](#), art. 2, [Sch. 1 Pt. III](#)
- F19** S. 6(2) omitted (1.9.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 3 para. 2\(2\)](#); [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](#)))

Changes to legislation:

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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. 17A functions made exercisable concurrently by S.I. 2014/1012 art. 12(1)Sch. 2 para. 3
- s. 17A functions made exercisable concurrently by S.I. 2014/863 Sch. 2 para. 4
- s. 17A functions made exercisable concurrently by S.I. 2014/865 Sch. 2 para. 3
- s. 17A functions made exercisable concurrently by S.I. 2016/653 Sch. 3 para. 3
- s. 17A-17D inserted by 2009 c. 22 s. 45
- s. 17B-17D applied by 2009 c. 22 s. 86(8)
- s. 29(4A) inserted by 2018 anaw 2 Sch. 1 para. 4(8)
- s. 403(1ZB) inserted by S.I. 2019/924 Sch. para. 2(3)
- s. 403(2A) inserted by S.I. 2019/924 Sch. para. 2(4)
- s. 404(1B) inserted by S.I. 2019/924 Sch. para. 3(2)
- s. 405(1) s. 405 renumbered as s. 405(1) by S.I. 2019/924 Sch. para. 4(2)
- s. 405(2)-(4) inserted by S.I. 2019/924 Sch. para. 4(3)
- s. 438(6)(c)(i)(ii) substituted for words by 2018 anaw 2 Sch. 1 para. 4(14)(b)
- s. 440(4)(i)(ii) substituted for words by 2018 anaw 2 Sch. 1 para. 4(15)(b)
- s. 441A inserted by 2018 anaw 2 Sch. 1 para. 4(17)
- s. 442(6) inserted by 2018 anaw 2 Sch. 1 para. 4(18)(b)
- s. 457(4)(i)-(iia) repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 457(4)(iii) words repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 458(6) inserted by 2018 anaw 2 Sch. 1 para. 4(19)(b)
- s. 512ZB(4)(a)(i)-(iia) repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 512ZB(4)(b)(i)-(iia) repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 512ZB(4)(c)(ii) and word repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 514(8) inserted by 2018 anaw 2 Sch. 1 para. 4(23)(b)
- s. 517(8)(9) inserted by 2018 anaw 2 Sch. 1 para. 4(24)(c)
- s. 537AA inserted by 2008 c. 25 Sch. 1 para. 8
- s. 548(7A)(7B) inserted by 2008 c. 25 Sch. 1 para. 9(5)
- s. 569(2BA)(2BB) inserted by 2018 anaw 2 Sch. 1 para. 4(30)(b)
- s. 578(1) words repealed by 2005 c. 18 Sch. 19 Pt. 1
- s. 579(3C) inserted by 2018 anaw 2 s. 95(c)
- Sch. 7 para. 11(b)(c) words substituted by 2002 c. 9 Sch. 11 para. 36(b) (This amendment not applied to legislation.gov.uk. Sch. 7 already repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 185, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1)