

EXPLANATORY NOTES

EDUCATION ACT 2002

INTRODUCTION

SUMMARY AND BACKGROUND

Territorial Coverage

PART 1: PROVISION FOR NEW LEGAL FRAMEWORKS

Chapter 1 of Part 1: Powers to facilitate innovation

Chapter 2 of Part 1: Exemptions related to school performance

Chapter 3 of Part 1: Powers to form companies etc.

PART 2: FINANCIAL ASSISTANCE FOR EDUCATION AND CHILDCARE

PART 3: MAINTAINED SCHOOLS

Chapter 1 of Part 3: Government of Maintained Schools

Chapter 2 of Part 3: Financing of Maintained Schools

Chapter 3 of Part 3: Admissions, Exclusions and Attendance

PART 4: POWERS OF INTERVENTION

PART 5: SCHOOL ORGANISATION

PART 6: THE CURRICULUM IN ENGLAND

PART 7: THE CURRICULUM IN WALES

PART 8: TEACHERS

PART 9: CHILDCARE AND NURSERY EDUCATION

PART 10: INDEPENDENT SCHOOLS

PART 11: MISCELLANEOUS AND GENERAL

OVERVIEW

COMMENTARY ON SECTIONS AND SCHEDULES

PART 1 – PROVISION FOR NEW LEGAL FRAMEWORKS

Chapter 1 – Powers to facilitate innovation

Sections 1 to 5

Sections 1-5: Powers to facilitate innovation

Chapter 2 – Exemptions related to school performance

Sections 6 to 10

Sections 6 to 10: Exemptions related to school performance

Chapter 3 – Powers to form companies etc.

Sections 11 to 13

Section 11: Powers of governing bodies to form or invest in companies to provide services etc.

Section 12: Limits on powers conferred by section 11

Section 13: General powers of Secretary of State in relation to companies

PART 2 – FINANCIAL ASSISTANCE FOR EDUCATION AND CHILDCARE

Sections 14 to 18

Sections 14 to 18: Financial assistance for education and childcare

PART 3 – MAINTAINED SCHOOLS

Chapter 1 – Government of maintained schools

Sections 19 to 40

Section 19 and Schedule 1: Governing Bodies

Section 20: Instruments of government

Section 21: General responsibility for conduct of school

Section 22: Training and support of governors

Section 23: Clerk to the governing body

Sections 24 and 25: Federations of schools and supplementary provisions

Section 26: Collaboration between schools

Sections 27 and 28: power of governing body to provide community facilities

Section 29: Additional functions of governing body

Section 30: Governors' reports and other information

Section 31: Control of school premises

Section 32: Responsibility for fixing dates of terms and holidays and times of sessions

Section 33: Annual parents' meeting

Section 34: Arrangements for government of new schools

Section 35: Staffing of community, voluntary controlled, community special and maintained nursery schools

Section 36: Staffing of foundation, voluntary aided and foundation special schools

Schedule 2 Part 1: Effect on staffing of suspension of delegated budget: Community, voluntary controlled, community special and maintained nursery schools

Schedule 2 Part 2: Effect on staffing of suspension of delegated budget: Foundation, voluntary aided and foundation special schools

Section 37: Payments in respect of dismissal, etc

Section 38: Communication with schools

Section 39: Interpretation of Chapter 1

Section 40: Amendments of Part 2 of School Standards and Framework Act 1998

Chapter 2 – Financing of maintained schools Determination of budgets

Sections 41 to 43

Sections 41 to 43: Determination of specified budgets of LEA, power of Secretary of State to set minimum schools budget and Schools Forums

Accounts and financial statements

Sections 44 and 45

Sections 44 and 45: Accounts of maintained schools and financial statements

Chapter 3 – Admissions, exclusions and attendance Admission arrangements

Sections 46 to 51

Section 46: Admission forums

Section 47: Admission numbers

Section 48: Co-ordination of admission arrangements

Section 49: Repeal of power to make certain special arrangements for preserving religious character

Section 50: Admission Appeals

Section 51: Further amendments relating to admission arrangements

Exclusion of pupils

Section 52

Section 52: Exclusion of pupils

Attendance targets

Section 53

Section 53: Attendance targets

PART 4 – POWERS OF INTERVENTION

Schools causing concern

Sections 54 to 59

Section 54: Duty to notify where inspection shows school causing concern

Section 55: Cases in which powers of intervention exercisable

Section 56: Power of the Secretary of State to appoint additional governors or direct closure

Schedule 5: Amendments consequential on sections 55 and 56

Section 57: Power of LEA to provide for governing body to consist of interim executive members

Section 58: Power of Secretary of State to provide for governing body to consist of interim executive members

Section 59: Governing Bodies consisting of interim executive members

Schedule 6: Governing Bodies consisting of interim executive members – to be inserted in the School Standards and Framework Act as Schedule 1A

Local education authorities

Sections 60 to 64

Section 60: Powers of Secretary of State to secure proper performance of LEA's functions

Section 61: Power to secure proper performance: duty of authority where directions contemplated

Section 62: Power to secure proper performance: further provisions

Section 63: Power to require LEA to obtain advisory service

Section 64: Provisions supplementary to section 63

PART 5 – SCHOOL ORGANISATION

Academies and city colleges

Sections 65 to 69

Section 65 and Schedule 7: Academies

Section 66: Arrangements for the admission of pupils to Academies

Section 67: Conversion of city academies into Academies

Section 68: City colleges

Section 69: Uniform statutory trusts

Proposals to establish, alter or discontinue schools

Sections 70 to 75

Section 70 and Schedule 8: Proposals for additional secondary schools

Section 71: Duty of LEAs to secure proposals

Section 72 and Schedule 9: Proposals relating to sixth forms

Section 73: Proposals by governing bodies of community schools

Section 74: Proposals for establishment of federated school

Section 75 and Schedule 10: Changes to existing procedures

PART 6 – THE CURRICULUM IN ENGLAND

Preliminary

Sections 76 and 77

Section 76: Interpretation of Part 6

Section 77: Meaning of ‘nursery education’ and related expressions

General duties in respect of the curriculum

Sections 78 to 80

Sections 78 and 79: General requirements in relation to curriculum and duty to implement general requirements

Section 80: Basic curriculum for every maintained school in England

The National Curriculum for England

Sections 81 to 89

Section 81 and 82: The foundation stage; The key stages

Section 83: Curriculum requirements for the foundation stage

These notes refer to the Education Act 2002 (c.32)

Sections 84 to 86: The key stages in England and the power to alter or remove requirements for the fourth key stage

Section 87: Establishment of the National Curriculum for England by order

Section 88: Implementation of the National Curriculum for England in schools

Section 89: Implementation in respect of nursery schools etc

The National Curriculum for England: special cases

Sections 90 to 95

Sections 90 to 95

Supplementary provisions

Section 96

Section 96: Procedure for making certain orders and regulations

PART 7 – THE CURRICULUM IN WALES

Preliminary

Sections 97 and 98

Sections 97 and 98: Interpretation of Part; meaning of “nursery education” and related expressions

General duties in respect of the curriculum

Sections 99 to 101

Sections 99 and 100: General requirements in relation to the curriculum and duty to implement general requirements

Section 101: Basic curriculum for every maintained school in Wales

The National Curriculum for Wales

Sections 102 to 110

Sections 102 and 103: The foundation stage; The key stages in Wales

Section 104: Curriculum requirements for the foundation stage

Sections 105 to 107: The key stages in Wales and the power to alter or remove requirements for the fourth key stage

Section 108: Establishment of the National Curriculum for Wales by order

Section 109: Implementation of the National Curriculum for Wales in schools

Section 110: Implementation in respect of nursery schools etc.

The National Curriculum for Wales: special cases

Sections 111 to 116

Sections 111 to 116

Supplementary provisions

Sections 117 and 118

Section 117: Procedure for making certain orders and regulations

Section 118: Programmes of research etc in relation to Wales

PART 8 – TEACHERS

Teachers' Pay and Conditions

Sections 119 to 130

Section 119 & Schedule 11: School Teachers' Review Body

Section 120: Review Body: function

Section 121: Consultation by Review Body

Section 122: Power to prescribe pay and conditions

Section 123: Order under section 122: scope

Section 124: Order under section 122: supplemental

Section 125: Reference to Review Body

Section 126: Consultation by the Secretary of State

Section 127: Guidance

Section 128: Education action zone

Section 129: Transfer of employment

Section 130: Repeal

School Teachers' Appraisal

Section 131

Section 131: Appraisal

School Teachers' qualifications

Sections 132 to 135

Section 132: Qualified teacher status

Section 133: Requirement to be qualified

These notes refer to the Education Act 2002 (c.32)

Section 134: Requirement to be registered

Section 135: Head teachers

Further education

Sections 136 to 140

Section 136: Provision of education

Section 137: Principals of further education institutions

Section 138: Training in provision of further education

Section 139: Wales: provision of higher education

Section 140: Further education: general

Health and fitness

Section 141

Section 141: Health and fitness

Misconduct etc.

Sections 142 to 144

Section 142: Prohibition from teaching etc.

Section 143: Directions under section 142: contractor, agency, etc

Section 144: Directions under section 142: appeal

Sections 132 to 140: general

Sections 145 and 146

Section 145: Specification of qualification

Section 146: Repeal of sections 218 and 218A of the Education Reform Act 1988

1999 Pay document

Section 147

Section 147: Application of pay-scale

General Teaching Councils for England and Wales

Section 148

Section 148 and Schedule 12: The General Teaching Councils

PART 9 – CHILDCARE AND NURSERY EDUCATION

Childcare

Sections 149 to 152

Sections 149 and 150: Duties of LEA in respect of childcare; Early years development partnerships and plans

Section 151: Childcare functions of HMCI and National Assembly for Wales

Section 152 and Schedule 13: Regulation of child minding and day care

Nursery Education

Sections 153 to 156

Section 153: Powers of LEA in respect of funded nursery education

Section 154: Establishment or alteration of maintained nursery schools

Section 155 and Schedule 14: Inspection of nursery education

Section 156: Meaning of “nursery school” and “primary education”

PART 10 – INDEPENDENT SCHOOLS

Chapter 1 – Regulation of independent schools

Sections 157-171 Standards

Section 157

Section 157: Independent school standards

Requirement of registration

Sections 158 and 159

Section 158: The registers

Section 159: Unregistered schools

Registration procedure

Sections 160 and 161

Sections 160 and 161: Applications for registration and Determination of applications for registration

Enforcement of prescribed standards after registration

Sections 162 to 167

Section 162: Changes to registered details

Section 163: Power to inspect registered schools

Section 164: Inspections: supplementary

These notes refer to the Education Act 2002 (c.32)

Section 165: Failure to meet standards

Sections 166 and 167: Appeals and determination of appeals

Supplementary

Sections 168 to 171

Section 168: Provision of information

Section 169: Unsuitable persons

Sections 170 to 171: Service of notice etc. and Interpretation of Chapter 1

Children with special educational needs

Sections 172 to 174

Section 172: Alteration to definition of “independent school”

Section 173: Right of access of LEA

Section 174: Consent to placement

PART 11 – MISCELLANEOUS AND GENERAL

General duties of LEAs and governing bodies

Sections 175 and 176

Section 175: Duties of LEAs and governing bodies in relation to the welfare of children

Section 176: Consultation with pupils

Education and training outside schools

Sections 177 to 178

Section 177: Meaning of “secondary education”

Section 178: Training and education provided in the workplace for 14 to 16 year olds

Section 179: Rights of entry in relation to inspections

Section 180: Inspections of LEAs: rights of entry etc.

Allowances in respect of education or training

Sections 181 to 185

Section 181 and 182: Allowances in respect of education or training; learning agreements

Sections 183 to 185: Transfer of functions relating to allowances under section 181; Delegation of functions relating to allowances; Supplementary provisions relating to transfer or delegation of functions

Student Loans

Section 186

Section 186: Student Loans

Education Action Zones

Section 187

Section 187 and Schedule 15: Education Action Zones

School Inspections

Section 188

Section 188: School Inspections and Schedule 16

Qualifications

Sections 189 and 190

Section 189: Amendments of Part 5 of Education Act 1997

Section 190: LEA functions: qualifications

Special Educational Needs: Wales

Sections 191 to 195

Section 191: Regional provision for special educational needs in Wales

Section 192: Directions to bring forward proposals to secure regional provision

Section 193: Powers of Assembly to make proposals to secure regional provision

Section 194: Welsh LEAs' powers to make regional provision

Section 195: The Special Educational Needs Tribunal for Wales

Other provisions relating only to Wales

Sections 196 to 198

Section 196: Publication and provision of material

Section 197: Partnership agreements and statements

Section 198: Transition from primary to secondary school

Provision of services

Sections 199 to 101

Section 199 and Schedule 19: Transport for persons over compulsory school age

Section 200: Remission of charges relating to residential trips

Section 201: LEA functions concerning school lunches, milk etc.

Miscellaneous

Sections 202 to 209

Section 202: Further education institutions: records

Section 203: Further education institution: hazardous material, etc.

Section 204: Baseline assessments

Section 206 and Schedule 20: Nuisance or disturbance on educational premises

Sections 207 and 208: Recoupment: adjustment between LEAs and special cases

Section 209: Paid chairmen for local learning and skills councils

General

Sections 210 to 217

Section 210: Orders and regulations

Section 211: Wales

Section 214: Transitional provisions etc.

Section 215: Minor and consequential amendments and repeals

Section 216: Commencement

HANSARD REFERENCES

ANNEX 1 – ENGLAND AND WALES APPLICATION BY PART

ANNEX 2 – GLOSSARY OF TERMS AND ABBREVIATIONS